PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

15 May 2002

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By authority of the Victorian Government Printer

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Wednesday, 15 May 2002

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.03 a.m. and read the prayer.

CRIMES (WORKPLACE DEATHS AND SERIOUS INJURIES) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

QUESTIONS WITHOUT NOTICE

Port of Melbourne: Westgate terminal

Hon. C. A. FURLETTI (Templestowe) — I refer the Minister for Ports to her answers to my questions yesterday relating to the proposed third terminal at Westgate. Given today's media reports confirming the withdrawal of bidders for the proposal, will the minister now admit that her inactivity and incompetence as Minister for Ports has led to a breach and the non-fulfilment of a key government promise to have a third port, as ascribed to her in *Hansard* on many occasions?

Hon. C. C. BROAD (Minister for Ports) — On the contrary, Mr President, the government has delivered on its commitment in full to test the market — —

Honourable members interjecting.

The PRESIDENT — Order! I cannot hear the minister. I ask both sides of the house to allow the minister's answer to be heard.

Hon. C. C. BROAD — Thank you, Mr President. As I was saying, on the contrary, the government has delivered on its election commitment in full. The government has facilitated the investigation of a third container operator in the port of Melbourne, and the short-listed proponents have determined that they are not in a position to enter the port and compete with the two existing operators at this time.

Notwithstanding that result, as I have outlined in this house as recently as last week, we are seeing ongoing substantial investment in the port of Melbourne. In addition to the government's commitment to furthering matters such as channel deepening and a budget commitment of more than $5 million, I was pleased last week to launch a new towage operator in the port of Melbourne. The two existing operators have continued to invest in the port to the tune of hundreds of millions of dollars, and the government will continue to facilitate investment in the port, in a way which was not occurring under the previous government, in the interests of not only the port but also of the whole of the state, given the important role the port of Melbourne plays in trade and the whole economy of the state of Victoria.

Supplementary question

Hon. C. A. FURLETTI (Templestowe) — I am very pleased to hear the minister say that she has delivered on her commitment, which was to bring a third stevedore to Melbourne. If that is the case, will the minister indicate why her answer yesterday was so deceptive and so misleading, when she knew at the time of giving her answer that this whole proposal had fallen through? How can the minister reconcile that with her charter, which says that the ministers in the Bracks government would lead by example in answering all questions specifically with the required detail to fully inform members of the Parliament of the issues raised. You lied yesterday!

Hon. M. M. Gould — On a point of order — —

The PRESIDENT — Order! The honourable member will withdraw that.

Hon. C. A. Furletti — I withdraw.

Hon. C. C. BROAD (Minister for Ports) — Mr President, I do understand that the honourable member opposite is upset that he did not ask the right question yesterday.

Honourable members interjecting.

Hon. C. C. BROAD — I answered the question that he asked yesterday accurately — —

Honourable members interjecting.

The PRESIDENT — Order! The minister has been asked a question and the house is entitled to be able to hear her answer. I ask both sides of the house to settle down to allow the minister to respond.

Hon. C. C. BROAD — I answered the question accurately. He missed an opportunity, and that is the way things will continue to go in this place.

Honourable members interjecting.

The PRESIDENT — Order! The Honourable Kaye Darveniza is listed to ask the next question. I am sure

the honourable member would like to ask that question; I ask other honourable members not to intervene.

Energy and greenhouse technologies centre

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Energy and Resources inform the house of any new Bracks government initiatives that deliver on the commitment to energy innovation and reducing Victoria's greenhouse gas emissions?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for her question and continuing interest in matters related to climate change and greenhouse issues. The energy sector in Victoria is responsible for the production of approximately 60 per cent of our greenhouse gas emissions, and at the same time the availability of abundant inexpensive energy has been essential in Victoria's economy, particularly for our strong manufacturing base.

The flawed privatisation of Victoria's energy supply infrastructure under the previous Kennett Liberal government has resulted in a lack of coordination and cohesion, not to say a lack of focus, in the research, development and uptake of technologies to improve the efficiency of the energy sector. By contrast, the 2002 budget by the Bracks government builds on the government's achievements to date in promoting innovation in energy technologies and, importantly, it invests in our future.

We are turning things around and the 2002–03 budget includes some $12 million for the centre for energy and greenhouse technologies. There is an abundance of research expertise in Victoria relating to specific energy technologies and there is also a demonstrated need within the energy industry for innovation. Capital is available both domestically and overseas for investment in worthwhile energy projects. What has been lacking is the bringing together of these critical elements in order to yield real results. That is why the Bracks government is establishing the centre for energy and greenhouse technologies — to turn this around and fix the mess that resulted from the privatisation effects on energy innovation.

The centre will address technologies and processes across the entire energy industry including renewable energy technologies, less greenhouse intensive combustion of Victoria's brown coal, appropriate natural gas technologies, co-generation — also known as combined heat and power — energy storage technologies, energy efficiency at end use, and transmission and distribution efficiency.

The new centre will fund research and development into cutting edge sustainable energy technology and support the demonstration and, importantly, the commercialisation of technologies to reduce the greenhouse impacts of energy end use in Victoria. The centre will employ existing facilities and expertise across Victoria, and as part of our commitment to growing the whole of the state the administrative centre will be based in the Latrobe Valley. The centre will also provide a platform for engaging industry and the commonwealth government, we hope, as funding partners for specific projects.

In short, the centre for energy and greenhouse technologies will provide the Victorian public with improved environmental outcomes in the form of greenhouse gas abatement, improved economic outcomes in the form of heightened investment in a critically important industry and improved social outcomes in the form of regional development opportunities.

The Bracks government, unlike the previous Kennett government, has a vision and a plan for energy innovation, which is building sustainability into everything we do. This initiative and the 2002–03 budget build on that vision and that plan.

Freedom of information: Infrastructure

Hon. D. McL. DAVIS (East Yarra) — I refer the Minister for Ports to the handling by the Department of Infrastructure of a freedom of information request concerning Recfind and to its initial acceptance of that request and subsequent unexplained reversal of its decision. On what date did the minister become aware of the department's reversal of the decision on Recfind?

Hon. C. C. BROAD (Minister for Ports) — We now know from reading the press that the honourable member will have the opportunity before the Victorian Civil and Administrative Tribunal to pursue these matters. This is an opportunity, which is a good deal more than would have been available under the previous Kennett government after it decimated freedom of information (FOI). This government is very proud of its restoration of the FOI system.

I expect that the honourable member will have the opportunity to pursue these matters and others which have been flagged in the press this morning. I do not have information before me in terms of the specific question the honourable member has asked this morning. I do not involve myself in FOI processes, and in relation to any notification of processes involving the

honourable member, that is not information that I have before me.

Hon. D. McL. Davis — On a point of order, Mr President, it was quite a specific question to the minister which she has chosen to ignore completely. The question was on what date did she become aware of it.

Hon. Bill Forwood — Supplementary question.

Hon. D. McL. Davis — No, I want to clarify this matter first. The minister must have become aware of this matter — was it today or was it at an earlier point? It is a simple question, and then I will come back to a supplementary question.

The PRESIDENT — Order! The nature of what the honourable member has said is really a supplementary question seeking information from the minister. As I understand it, the minister said she did not have that information with her. I do not uphold the point of order.

Mr Davis now has the opportunity to ask a supplementary question if that is what he wants to do.

Supplementary question

Hon. D. McL. DAVIS (East Yarra) — Again concerning the Recfind matter, did the Minister for Ports discuss at any time the management of the Recfind request with her chief of staff, Robyn McLeod, concerning the reversal of the Recfind freedom of information request?

Hon. C. C. BROAD (Minister for Ports) — As I have already indicated in my previous answer, I do not involve myself in freedom of information matters; they are matters for the department. I understand the honourable member intends to challenge the department's decisions in these matters before the Victorian Civil and Administrative Tribunal; that is his right. My answer to his previous question stands.

Skate parks: funding

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Sport and Recreation advise the house as to what steps the Bracks government has taken to ensure that young people in Victoria have access to quality skating opportunities?

Hon. I. J. Cover — Ice skating?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I appreciate that honourable members on the other side of the house would like a clear definition of 'skate'. In this sense I am using the term to refer to skateboarding facilities, which also incorporate facilities that relate to users of BMX bikes, in-line skates, those whizzy little scooters and also skateboards.

I am pleased to announce that over the last two financial years the government has assisted in the development — —

Honourable members interjecting.

The PRESIDENT — Order! The minister has been asked a question by a member of the government. I am sure the government wants the answer to be heard. I suggest government members do not help with their interjections and that opposition members should keep out of it while the minister is answering.

Hon. J. M. MADDEN — The government has developed about 25 skateboard facilities across Victoria with grants exceeding $1 million. That is significant because it has also required the cooperation and support of local government, which has assisted in financing the planning and development of these individual skate parks that are now scattered across the state.

To assist the development of those facilities the government has also been able to produce a planning guide for parks and skate parks called 'The skate facility guide'. This is important because of what it has been able to do in assisting community groups and local councils to get over the number of hurdles required to be got over to develop one of these facilities, because often there are many planning and development issues associated with them. Funding is now being distributed for skate parks right across the state: in rural hamlets, regional centres, inner city Melbourne, Melbourne suburbs, and the likes of Daylesford, Creswick, Lara, Hastings, Portarlington, Kerang, Myrtleford, Warrandyte, Morwell, Traralgon, Sunbury, Stonnington and Torquay, to name just a few — places in which these facilities will be or are now located.

I compliment my ministerial colleague the Minister for Education Services, who indicated recently that the government is encouraging young people to participate in their communities, with a major focus from a sport point of view on the planning and development of skate parks. It is a great example of an opportunity for young people to be involved in the planning of these facilities from a very early stage. The decision to build these facilities is often about young people using the local political process. In many cases young people are involved not only in the development of the planning

but the ongoing maintenance of the facilities, enabling them to develop further leadership skills.

Clearly the skateboard phenomena in Victoria reflects our belief that young people have a positive contribution to make to their local communities and to society as a whole, and that it should be supported in the structured way in which we are doing this as the government to help identify, focus and build upon young people's strengths and interests. This is relevant for the opposition: it should appreciate that sometimes structured recreation can lead to significant economic drivers, because skate park development in Victoria has also encouraged economic development.

I recently visited the headquarters of Globe International in Port Melbourne. The company designs and develops skateboards and skate wear that has been produced on the back of skateboard enthusiasts and facilities in Victoria. Sales for Globe in Australia for the 2002 financial year are expected to exceed $100 million, which again exemplifies that the government is committed to growing the whole of the state.

Education: Churchill precinct

Hon. P. R. HALL (Gippsland) — My question without notice is to the Minister for Education Services. The 2001–02 budget appropriated $10.5 million for an education precinct at Churchill in the Latrobe Valley, with $2.5 million of this to be spent in the 2001–02 financial year. How much of this $2.5 million has been spent to date?

Hon. M. M. GOULD (Minister for Education Services) — The Honourable Peter Hall has raised a question with respect to the Latrobe Valley precinct and how much has been spent. The question of the planning and allocation of funds for education is the responsibility of my ministerial colleague in another place the Minister for Education and Training, Lynne Kosky. I am happy to raise that matter with her and ask her to respond to the honourable member.

Supplementary question

Hon. P. R. HALL (Gippsland) — It bemuses me that the minister claims ignorance, or not to have responsibility for the issue, given the fact that she has answered questions about school facilities in this house prior to this question today. This is a school facility, a new facility — a proposal by the government to commit $10.5 million for a new school facility in the Latrobe Valley. If the minister does not have responsibility for physical infrastructure in schools, then I ask her to help me by explaining once again just what does she have responsibility for as Minister for Education Services?

Hon. M. M. GOULD (Minister for Education Services) — As I indicated to the honourable member in my previous answer, the planning and allocation of funds is the responsibility of the minister in the other place, the Honourable Lynne Kosky. With respect to the construction after planning decisions and the budget allocations have been made, the construction of those facilities is my responsibility.

E3 computer game expo

Hon. D. G. HADDEN (Ballarat) — I direct my question to the Minister for Information and Communication Technology. Last week the minister announced the Bracks government's support of Victorian companies attending the E3 2002 computer game expo in Los Angeles. Will the minister inform the house of what benefits are achieved for attendance at expos such as E3?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the honourable member for her question. E3 is the world's largest trade show exclusively for those in the computer game development and related products industry. It is acknowledged that if there is any expo you go to in relation to computer games, this is the event you go to.

The worldwide computer game industry is worth $20 billion. The Bracks government has supported the industry in Victoria, and that support has resulted in substantial growth over the past two years. This year the government is again supporting businesses going to E3 — it is supporting 16 Victorian companies to attend E3 this year. Prior to the expo, 5 of the 16 companies will also attend a two-day trade visit to Montreal, which is Canada's animation software development hub, to promote Victoria's publishing and development skills. The Bracks government is the only Australian government to have a presence at E3. This presence will enhance Victoria's reputation as a world leader in computer game development.

People in this house will recall that I spoke about Blue Tongue's development for Universal Interactive of Jurassic Park, a game that will be sold world wide. Blue Tongue will be one of the companies heading to the E3 expo.

The local computer game industry has secured nearly $10 million in export deals over they past two years as a direct result of its attendance at the E3 conference. At last year's event the Victorian industry received a huge boost with the deal between the Australian Football

League and the United States of America software giant Acclaim Entertainment. Last year the AFL went to E3 as part of its mission to look for a company to develop a new game for the AFL, and as a result there was an agreement to prepare a game for it. Sales of the AFL game are considered to be around $40 million in secured revenue. Those companies that went to E3 had an opportunity to talk with Acclaim Entertainment and were successful in securing a deal with Acclaim to develop the game. This is a game that could have been developed anywhere in the world, but the game on which it is based, football, has its home in Victoria, and it is good the see that the computer game which is being developed for the AFL is being developed in Victoria.

The Victorian computer game development industry received an estimated $4 million boost from this deal. The benefits of the Bracks government's sponsorship of the companies to go to E3 are evident, and I look forward to the outcomes of this year's event and to the future success of those companies that go to E3 and of the sector.

Freedom of information: Infrastructure

Hon. D. McL. DAVIS (East Yarra) — My question again refers to the list of reports and concerns Recfind. I refer to the banishment of the freedom of information officer of the Department of Infrastructure, Mr Don Coulson, from his duties in the department that followed his decision to release the Recfind documents and indexes under freedom of information, and the subsequent intervention of ministerial advisers, including Robyn McLeod, a move at odds with the decision of the independent Ombudsman. Is it the view of the Minister for Ports that open and accountable government is best served by the punishment of long-serving and experienced public servants when they make a decision the government does not agree with?

Hon. C. C. BROAD (Minister for Ports) — Honourable members opposite would know a great deal more about punishing public servants if one revisits the behaviour of the previous Kennett government and its acts.

Honourable members interjecting.

The PRESIDENT — Order! It is pointless for the minister to go on with her answer if no-one can hear because everyone is shouting. I ask honourable members to settle down and allow the minister to continue with her answer.

Hon. C. C. BROAD — The decimation of the public service under the Kennett government was a disgrace. This Bracks government is committed to rebuilding the capacity, skills and integrity of the public service in this state and will continue to do so. In line with my previous answer to an earlier question today I do not involve myself in freedom of information matters nor departmental decisions about allocating responsibilities to department officers. These are not matters in which I involve myself.

Supplementary question

Hon. D. McL. DAVIS (East Yarra) — My supplementary question to elucidate this tawdry answer from the minister is to draw her attention to an email from Lawrie Tooher in the Department of Infrastructure to Robyn McLeod, Maria Marshall, Lachlan McDonald and Phil Martin, ministerial advisers, seeking their views before a reversal of the freedom of information request decision and the subsequent quashing of it, and given the deep involvement of your chief of staff, Robyn McLeod, in this decision-making process within the Department of Infrastructure, and an attempt to subvert the Freedom of Information Act, will the minister allow her to attend the Victorian Civil and Administrative Tribunal and give evidence in the next few weeks?

Hon. C. C. BROAD (Minister for Ports) — As I have already indicated clearly, the honourable member is going to have his opportunity before the Victorian Civil and Administrative Tribunal to pursue these matters. He will be entitled to call whomsoever he wishes before VCAT provided, presumably, they are relevant to the case. That is an issue that will be very properly determined by VCAT. To my knowledge no-one has been called to date, so this is a hypothetical question. In my view the department and my office have acted absolutely properly in these matters and the honourable member will have the opportunity to pursue and question these matters further before VCAT if he wishes to do so.

Youth: rural seminar

Hon. E. C. CARBINES (Geelong) — Will the Minister for Youth Affairs inform the house of recent initiatives to address the issue of young people leaving regional areas to move to the city?

Hon. M. M. GOULD (Minister for Youth Affairs) — Last week the Youth Affairs Council of Victoria, known as Yacvic, held an important seminar in Shepparton called 'Reversing the Drift'. This seminar focused on the issues of the population decline in Victoria's rural and regional areas, particularly for young people who are most likely to leave the rural

areas for the bigger cities. The conference provided a forum for youth workers and young people to discuss a variety of ways to reverse the drift by supporting and improving rural and regional youth services. There was a great deal of energy and enthusiasm for developing creative solutions to these issues.

I was honoured to be present at the two-day seminar and to mention in my closing remarks the government's commitment to the Freeza program and additional funding for state school bus services. Both these initiatives that the government has introduced show its strong commitment to regional and rural areas and young people in particular. It is a fact that the government has doubled the funding to Freeza compared with the funding that was put up by the opposition when in government and for the first time there is ongoing current funding which has now secured Freeza into the future. Initiatives such as these can encourage young people to stay in regional areas. Otherwise they feel they have to move to the bigger towns and cities to get support and become involved in a community with interesting and meaningful activities.

I take this opportunity to congratulate Yacvic for the organising of the 'Reversing the Drift' summit which over 350 people attended. It is sad to remind this house that it was the opposition when in government which defunded Yacvic. It took away its budget because it did not care and did not want Yacvic to have the ability to organise seminars such as the one that was held last week. What the government did was to refund Yacvic so that it could organise seminars such as this to ensure that young people are heard by the government. While opposition members are only interested in who will be their leader, and do nothing amongst themselves — —

Hon. M. R. Thomson — Who will get Gembrook!

Hon. M. M. GOULD — And who is going to get Gembrook. While the opposition is doing that the Bracks government is getting on with the job and is turning the state around.

Port of Melbourne: Westgate terminal

Hon. BILL FORWOOD (Templestowe) — I refer the Minister for Ports to her evasive answers yesterday and today in relation to a number of issues including ports. I also refer to the ALP's 'Rebuilding the transport network' policy headed 'Competition and investment in our docks' which states:

> More stevedoring competition at the port of Melbourne will lead to greater infrastructure investment and lower shipping charges.
>
> Labor is committed to breaking the stevedoring duopoly at the port of Melbourne by encouraging a third stevedoring company to build and operate an international container terminal …

Given this policy promise will the minister now be honest enough to concede that she has failed?

Hon. C. C. BROAD (Minister for Ports) — It has been very interesting to see the notes being passed to the Leader of the Opposition by the Honourable Geoff Craige and the Honourable Mark Birrell, two ministers in the previous Kennett government who presided over the absolute debacle which resulted in protracted and bitter legal proceedings by each of the two existing operators, P & O and Patrick. The details of those proceedings and their settlement has never been revealed and the impacts are still being felt in the port of Melbourne in very adverse ways. For honourable members opposite to claim some credence in these matters is truly staggering, given the complete debacle that they presided over.

I am pleased to hear the Leader of the Opposition quoting Labor policy. As I previously indicated, I have honoured that election commitment. The government has sought to facilitate competition in the port of Melbourne. I am quite sure the honourable member would prefer the platform said something else, but this government has honoured the commitment in full. We have presided over a process with integrity and a process that has been run without political interference, unlike the process under the previous Kennett government, and it has been properly resolved by the market on the advice of the Melbourne Port Corporation.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — At the outset of my supplementary question let me make the point that the minister in her answer has again demonstrated that all she wishes to do is play with words and split hairs. She cannot get around the fact that Labor's policy was that it was committed and that she has failed. She has reiterated her comment that she has delivered in full on a promise which was that the Australian Labor Party would introduce greater competition through the introduction of a third operator. I ask the minister to elucidate her answer by explaining how the words, 'We are committed to delivering this third terminal' can be absolutely reconciled with 'We have delivered in full', when everybody knows that yesterday she admitted she had failed.

Hon. C. C. BROAD (Minister for Ports) — I reiterate my previous answers. The government has

honoured its commitment. We have acted properly in presiding over a process run with complete integrity by the Melbourne Port Corporation to seek to secure a third stevedoring operator in the port of Melbourne. The market has judged that it is not sustainable at this time because the short-listed proponents do not believe they can successfully compete with the two existing operators.

Sport: training facilities

Hon. G. D. ROMANES (Melbourne) — I refer my question to the Minister for Sport and Recreation.

Honourable members interjecting.

The PRESIDENT — Order! I am sure the house wants to hear the question. I ask both sides of the house to desist and allow the honourable member to be heard.

Hon. G. D. ROMANES — Will the minister advise the house what steps he has taken to promote Victoria's status as the training capital of Australia?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Following the positive experience of international athletes who prepared for the Sydney 2000 Olympics in Victoria many have chosen to return to Victoria in preparation for other major events in 2001 and 2002.

These athletes appreciate the assistance provided through the state government and local sporting organisations — and I compliment those sporting organisations — as well as the advantages of the training facilities in Victoria that are world-class, easy to access and that allow added opportunities for these international athletes with competition from local athletes. The Victorian Institute of Sport and the Melbourne Sports and Aquatic Centre provide valuable services and advice to visiting teams.

Hon. Bill Forwood interjected.

Hon. J. M. MADDEN — I would like to provide plenty of examples, Mr Forwood. The State Netball and Hockey Centre has been the choice of the men's and women's hockey teams from China and Korea with both teams having visited on more than one occasion. During December each year individual track and field athletes take advantage of events in Melbourne to use Olympic Park as a base for the grand prix series. In November each year a large group of distance runners from Kenya arrive here — —

Honourable members interjecting.

The PRESIDENT — Order! I ask opposition members to keep quiet to allow the minister to be heard.

Hon. J. M. MADDEN — We know that the shemozzle on the other side do not care. We know they are divided. We know they stand for nothing. We know they have no policy, so it might be of interest to them to listen to something positive for Victoria.

In November each year a large group of distance runners from Kenya arrive here to take advantage of the early season competition for the Zatopek Classic. They appreciate not only the surrounding parkland courses available close to the city but also the hospitality and friendliness of Victorians during their preparation for major events.

Other national groups to be seen at Olympic Park this year are from New Zealand, Wales, Japan, Ireland, Italy and England. The English cycling team has made Victoria a training base for several years utilising both local tracks and road circuits in Melbourne and parts of regional Victoria, which we know the former government ignored. Other sports prominent in attracting overseas visitors for many camps include badminton, sailing, fencing, weight-lifting, swimming and equestrian.

Several Commonwealth Games teams have already made inquiries about training camps for Melbourne in the lead-up to the 2006 Commonwealth Games. Officials from Great Britain have inspected facilities in Bendigo and Ballarat as well as Monash University with the possibility of over 500 athletes and officials attending a holding camp for three weeks prior to the opening of the games village in 2006.

The standard of facilities available and the good accommodation make training camps very attractive to all international sporting teams and individuals. Groups choose to stay close to Melbourne but need and require to stay from 3 to 14 weeks at their own expense. Honourable members can see that this will provide a significant economic impact to regional Victoria when these opportunities are taken up by international teams.

In the last 12 months the state government has attracted in the order of 500 athletes and officials to training camps and inspection tours. This provides tourism dollars and helps to contribute to the development of our own sporting facilities and expertise. It enhances Victoria's international reputation as a sports training and competition destination.

MOTIONS TO TAKE NOTE OF ANSWERS

Port of Melbourne: Westgate terminal

Hon. C. A. FURLETTI (Templestowe) — I move:

> The Council take note of the answers given by the Minister for Ports to questions without notice asked by the Honourables C. A. Furletti and Bill Forwood relating to a third port terminal operator.

It is interesting to note that the Minister for Ports has now left the chamber. It was about this point yesterday when the minister went to the media gallery to announce what I had put to her minutes before. The minister is dealing with two significant issues. The first is whether this is another of Labor's policy failures, but more significantly it is a question of the minister's conduct in dealing with questions put to her yesterday in this place. We have seen on an almost daily basis the behaviour and conduct of ministers of the government in this place dropping at an alarming rate. The respect for this place and the contempt in which they hold questions without notice and the adjournment debate is deplorable. Yesterday the conduct of the Minister for Ports dropped well below the plimsoll line.

When the minister responded to the questions put by me yesterday she knew about the result of the bidding process to which I had alluded yet intentionally she sought to either evade the question, to hide the fact or to deceive and misled not just the house but the industry she is supposed to be representing and looking after.

The minister has treated this place with contempt. Her conduct yesterday was a disgrace and she should be embarrassed to call herself a minister. More significantly, the contempt in which she holds the shipping and port industries and the way in which she has treated those industries is despicable. Hundreds of millions of dollars are invested in infrastructure in this very competitive field. It is a field where other states are vying desperately to attract investment from Victoria. This government's procrastination and failure to make decisions is not only off putting to prospective investors but is harming existing investment in the state. All it involved was a direct answer to a direct question. It was clear that the whole process had been going on for far too long. It was clear that the genuinely interested parties were starting to get cold feet and it was only a matter of asking the minister to ensure that those who were interested did not depart.

Today the minister indicated that I had asked the wrong question. It was a simple question which asked, 'Have the four short-listed tenderers withdrawn from the process of bidding for ports?'. The minister said, 'I will provide an answer in the very near future'. Who would expect that the very near future would be something less than half an hour after I asked the question. It is absolutely embarrassing that on the same day the minister went to the media and announced the withdrawal and the collapse of the bidding. When the minister was asked what she had done to try to avoid this, what answer did we get today? Harping and carping and seeking to deflect blame on to the previous government. It was an absolute disgrace. This is from the minister of a government who on 12 October 1999 signed a charter with the Independents which included a requirement that ministers actually answer questions during question time. I quote from the Premier's response to the Independents charter:

> As Premier in the Bracks Labor government I personally commit to the following:
>
> instructing all ministers to answer questions directly and in a manner that does not waste the time of the Parliament …

What a sham! It continues:

> … lead by example, by answering all question specifically with the required detail to fully inform members of the Parliament of the issues raised.

What a disgrace. Yesterday we saw and again today in the subsequent answers that the Minister for Ports is incompetent, evasive and deceptive, and Victoria is at risk as long as she remains the Minister for Ports in this government.

Hon. D. G. HADDEN (Ballarat) — The Minister for Ports should not be embarrassed by her tremendous leadership in her ministry. With respect to the nonsense that has been spoken about in the chamber by the Honourable Carlo Furletti, the minister, in my view, is the best Minister for Energy and Resources and Minister for Ports that this state has seen.

In relation to Labor Party policy, the government is committed to maintaining that any new container terminal will need to be financed by private capital and with the successful developer building and operating the terminal. The Bracks government will encourage a new investor through realistic ports charges taking into account the return on capital required by the new competition to operate successfully. That is the Labor Party policy and it is still Labor Party policy.

The third container stevedoring operation at the port of Melbourne is very important to the port's operations. As honourable members know, last year expressions of interest were called in developing a third stevedore in the port and that purpose was to gauge market interest in the proposal. As a result of the expressions of interest

process the market has determined that the port of Melbourne is not yet ready for a third stevedore operator. The minister is being responsible and is maintaining the government's position that it is absolutely crucial to port operations and for the state that we should be focusing on extensive redevelopment works at Victoria Dock as well as developing a blueprint for future developments at the Dynon precinct with the Department of Infrastructure and Vicroads.

Of course, as the minister has announced, the ports reform review and the completion of the freight and logistics strategy is absolutely crucial for the further improvement in the competitiveness of the port. In the last financial year the port of Melbourne handled 37 per cent of Australia's containerised cargo which is more containerised cargo than any other port in Australia; a record 8.5 million mass tonnes of overseas exports, representing growth of 16 per cent on the previous year; cargo worth $65 billion; 1.9 per cent more trade than the previous financial year; 51.1 per cent more dry bulk cargo; and more overseas exports than in any other year. Every year the port of Melbourne directly and indirectly creates employment for more than 18 000 people.

Hon. G. R. Craige interjected.

Hon. D. G. HADDEN — Mr Craige should be listening and taking it all in, because he obviously does not understand. The port of Melbourne also contributes around $6 billion to Victoria's gross state product.

This government is committed to a viable and attractive port of Melbourne for investment by the private sector. It is absolutely crucial that such investment be viable in the long term and not something that is not going to come to fruition. As I have said, this government is committed to $5 million in the recently announced state budget to carry out extensive studies into deepening the access channels to the port of Melbourne. The minister has maintained the government's position that throughout the process of the expressions of interest that commenced last year to develop a third stevedore to gauge the market interest proposal any move to deliver new competition in the port must be commercially viable and involve strong market support.

This government is delivering on its election promises to ensure that we do have a viable port operation at the port of Melbourne. We are committed to improving port efficiencies.

Hon. BILL FORWOOD (Templestowe) — This issue is about one thing above all else. It is about ministerial standards. It is about the behaviour of the Minister for Ports in this house. It is about a minister who does everything she can, despite the promises made by the Premier in his response to the Independents charter, to avoid accountability for her actions. Her performance in here over the last two days has been an absolute disgrace. Mr Furletti's questions yesterday were quite specific:

> Will the minister confirm or deny that the government's bidding process has been a dismal failure and the four short-listed tenderers have withdrawn from the process?

The minister's response to that was that she would be making an announcement about it in the very near future. She was asked a specific question in this place. She had the opportunity and the obligation to respond to the question that was asked of her. What did she do? She left this place, having said, 'I expect to be making an announcement in the near future', and went and made that announcement.

That in my view, any way you measure it, is a contempt of this place. It is a diminution of the standards of this place. It is ministerial behaviour that is reprehensible and should not be condoned at any time. Her performance in this place in response yesterday and today to questions from Mr Furletti and her responses to questions from Mr David Davis that we will be debating later today were appalling. Honourable members can go and read the policy themselves. It is obvious what it says. Labor is committed to breaking the stevedoring duopoly. The minister went on today to try to say that she has delivered in full on that.

There is no other way of describing her statement than as a deliberate falsehood. There is no way that she can come into this place and say that Labor will be producing the outcome that she said in her policy, committed to breaking the stevedoring duopoly, and claim it has been delivered in full when by her own mouth she is quoted on page 3 of today's *Age* Business section as going through the reasons why this has not happened. She said, 'The four determined not to do that' — in other words, not to build the terminal.

I am not surprised at this behaviour by the minister because she has serious form going back a very long time. You need only go to the then Labor government's list of ministerial advisers as at September 1986. Who were the advisers for the Minister for Conservation, Forests and Lands? Firstly, that well-known member of the Guilty Party, Tony Sheehan, and secondly, Candy Strahan, now known as Candy Broad. You can go to the *Victorian Government Directory* of May 1987 and see who the ministerial advisers were for the Minister for Conservation, Forests and Lands? They were Candy Strahan and Tony Sheehan. They switched the order,

but the minister has form going back to the 1980s. She was a member of the Guilty Party, and her behaviour in here today is absolute verification of the fact that she was guilty then and she is guilty today.

You can go to the government's list of advisers as at November 1988 under the education portfolio. The advisers to Joan Kirner were Kim Carr and Candy Broad. What a pair! Guilty again. Then you can go to the directory of May 1988 for the Minister for Conservation, Forests and Lands and see that it was Candy Strahan and Tony Sheehan — guilty still. What about the adviser to the Minister for Education in June 1989? Candy Broad — guilty still. And if you go to the directory of July 1990 for the Minister for Education you find the ministerial adviser is Candy Broad.

The Minister for Ports has a track record that goes back to the middle of the 1980s. She was unable to avoid the tag of guilty then.

The last one I need to refer to was the adviser to the then Premier, Joan Kirner, in March 1992. The principal adviser to the Premier was guess who? Candy Broad. Guess who was guilty in 1992? Candy Broad. And guess who else is listed on this page? Would you believe it? It is Gavin Jennings. What we know about this mob is they have got serious form. They were guilty then, and from the performance of the minister today they are guilty still.

Motion agreed to.

Education: Churchill precinct

Hon. P. R. HALL (Gippsland) — I move:

> That the Council take note of the answer given by the Minister for Education Services to a question without notice asked by the Honourable P. R. Hall relating to an education precinct at Churchill.

This is a project which I have had a great deal of interest and input into. As members of the government would know, for well over 12 months under the previous government I chaired a committee that looked into the establishment of an educational precinct at Churchill. I recognise the value of this project and I sincerely hope we can progress this project and that something good can come out of it for educational outcomes in the Latrobe Valley.

So it was with genuine concern and real interest that I raised this question today. I have to say I was doubly disappointed with the minister's response. I was disappointed firstly because the minister ducked the question, claiming that this project was not her responsibility but the responsibility of the Minister for Education and Training in another place.

I genuinely believe either the Minister for Education Services has misled this Parliament or she has just simply refused to accept responsibility for this project. One has to wonder what responsibilities the Minister for Education Services has. This was clarified by the minister herself in Parliament on Tuesday, 19 March, this year when she took over the role as the Minister for Education Services, and I paraphrase the words used by the minister in her answer to a question about exactly what her responsibilities were. In an answer she used these words, 'I will be involved in the implementing of agreed capital programs, building, equipment and information technology'. She was happy to answer a question about information technology in this house yesterday. Why is she not happy to answer a question about a capital works project, a building project today?

There is no doubt that this is a capital project. It is a building project. It was listed under the 2001–02 public sector asset investment program budget documents from last year — education precinct in Gippsland. And it lists $10.5 million, $2.5 million of it to be spent in the current financial year. My question is a genuine one. I genuinely also believe the minister has responsibility for this project, and she simply ducked the question today because she did not know the answer. It is a great disappointment that the minister is refusing to accept responsibility for what should be rightfully hers under her ministerial portfolio.

The next point I go to is my further disappointment at the lack of progress on this important project. I can answer the question that I put to the minister today. I asked her specifically how much of the $2.5 million has been spent in this financial year and the answer is zero. No money has been spent on this project in the current financial year. That is a great disappointment. Because of my genuine interest in the project, I am disappointed that the government has failed to deliver on its commitment to establish the educational precinct, get it going and spend $2.5 million in the current year. I am concerned about the government's commitment to the project, and if a response is forthcoming from the government today I would welcome an answer to the question of whether it remains committed to the project and what is going to happen with the money that was appropriated in last year's budget.

I wanted to ask a supplementary question to that effect because I want to know whether the government remains committed to this project; whether the $10.5 million appropriated in last year's budget remains; and if it has not been spent in this financial

year whether it will be carried forward into the 2002–03 financial year. In particular I want some help in interpreting and identifying whether this item is in the 2002–03 budget and where it sits. I seek assistance from government members as to exactly where this item is in the 2002–03 budget documents. It will help me, and it will help the people of Gippsland, if the government can identify the figure and show where it appears, so demonstrating its commitment to proceed with this most important project for the Latrobe Valley.

The minister's answer today was doubly disappointing. It is about time the minister accepted responsibility for educational services and answered questions about it.

Motion agreed to.

Freedom of information: Infrastructure

Hon. D. McL. DAVIS (East Yarra) — I move:

That the Council take note of the answer given by the Minister for Ports to a question without notice asked by the Honourable D. McL. Davis relating to a freedom of information request concerning the Recfind data system.

In doing so, I want to make the point that I was disappointed with the minister's answers. Today she had the opportunity to come clean on the matter, to tell the truth and to explain to the Parliament and the people of Victoria when she knew about the Recfind reversal and the involvement of her staff member. There is clear documentary evidence that Robyn McLeod has been closely involved in the decisions on Recfind, as have other ministerial advisers, including Maria Marshall, the adviser to the Deputy Premier. It is clear that those advisers jumped from on high to gazump a number of small and dedicated public servants who made fair and reasonable decisions that had been supported by the state's independent watchdog, the Ombudsman. The Ombudsman investigated this case last year and reported in December. He believed that the material ought to have been released.

There are two distinct issues. One relates to the release or not of the documents, and that is an empirical question that the Victorian Civil and Administrative Tribunal will settle shortly. It is not my place today to reflect on that specifically other than to comment that the Ombudsman has already ruled on it. More importantly, there is a question about the state's processes of governance and freedom of information. It is clear that we are facing a concerning situation in Victoria where freedom of information requests are routinely being blocked and stopped as this government tries to cover up and prevent fair and reasonable scrutiny.

The Recfind request is an important freedom of information request because it opens up freedom of information in an important way for members of the public, members of Parliament, journalists and members of the press. Essentially Recfind provides an indexing system that allows people to look closely to see what documents are held. It does not provide the actual documents; it just points to their existence. To that extent Recfind is like the catalogue in a library. To expect people to access a library without access to the catalogue is a very hard ask. You could wander up and down among the rows of books for a long time before you found the book you needed. In this respect, Recfind provides an easy, quick and precise form of access to required documents.

What has occurred here is that ministerial advisers, including in all probability Robyn McLeod and others such as Maria Marshall and Lachlan MacDonald, spent time in the department pressuring and imposing their wills on bureaucrats and senior freedom of information officers to ensure that the documents, which they believed were damaging to the government and which they believed — in the words of one of the ministerial advisers — would provide a shopping list for the opposition to examine materials, were not released.

This deliberate attempt to corrupt and subvert the freedom of information process is very concerning, as is the involvement of senior ministerial advisers in that process and the likely involvement of ministers. If ministers have been involved it is an offence that should see them step aside from their positions. If ministerial advisers have been involved in subverting the law of the land — the Freedom of Information Act — that is also an offence against the people of Victoria that ought to be severely dealt with.

It is clear to me that Robyn McLeod, Maria Marshall and Lachlan McDonald have been involved. The opposition has documentary evidence that is very clear. It is also clear that the Minister for Ports knew about the Recfind request from an early time. The opposition has the briefing notes and the precise briefings given to the Minister for Ports, and it has copies of the emails that have moved around the department that directly and closely implicate ministerial advisers in the process of gazumping and reversing a freedom of information process that ought legitimately have been allowed to proceed in the proper way under the law of the land. It is a disgrace, and the Minister for Ports provided no comfort today.

Hon. T. C. THEOPHANOUS (Jika Jika) — Once again the Honourable David Davis moves this kind of

motion. You have to start feeling sorry for Mr Davis because — —

Hon. D. McL. Davis — It is not a motion; it is a motion to take note.

Hon. T. C. THEOPHANOUS — It is a motion; that just shows what a fool you are. It is a motion to take note, which is a motion.

Hon. Bill Forwood — It is a take-note motion.

Hon. T. C. THEOPHANOUS — Thank you very much. I thank the Leader of the Opposition for concurring.

On becoming the shadow parliamentary secretary for these issues Mr Davis's first approach was to go around calling himself the parliamentary secretary and dropping 'shadow'. He goes around misleading people by providing misinformation about himself and then comes in here and tries to have some kind of credibility. Then he decided to go off and make application under freedom of information for a whole range of things that he knew absolutely nothing about in terms of their relevance. He has had his fingers burnt on a number of occasions. When he asked for FOI information about lunches and so forth that ministers and others might have been having, what did he find from the FOI statements? He found that the Leader of the Opposition was the worst offender with lunches!

That is how effective Mr Davis is. He has no credibility among his own side. He ought to have a good hard look at himself. Instead of going around presenting himself as something he is not, he ought to come in here with considered views and ask for information which is able to be sourced instead of taking this kind of scattergun approach he has decided to use, which simply uses up government resources, in the hope he might find something unforeseen.

The fact is that the Freedom of Information Act was nobbled by the previous government. This government has taken steps to restore FOI and to give Mr Davis the sorts of rights he is now seeking to pursue. And he can pursue those rights before the Victorian Civil and Administrative Tribunal (VCAT) — there is no difficulty in him doing that — in a way the government when in opposition was never able to under the regime of the previous government. The previous government was anti freedom of information, and Mr Davis was a part of that government. They were the ones that introduced fees for freedom of information requests; they were the ones that introduced a whole range of constraints on freedom of information. It was not this government, but the previous government, that did that. Mr Davis comes in here and whips up something about the supposed way in which this government has gone about providing information under FOI. Yet this government has provided more information under FOI than the previous government ever thought about giving out.

Hon. D. McL. Davis interjected.

Hon. T. C. THEOPHANOUS — What is disgraceful, Mr Davis, is your behaviour. When you start going around and having the honesty — —

Hon. Bill Forwood interjected.

Hon. T. C. THEOPHANOUS — And you, Mr Forwood, ought to be pulling him — —

The PRESIDENT — Order! I suggest the honourable member ignores the interjections and keeps going.

Hon. T. C. THEOPHANOUS — Mr Forwood should pull Mr Davis into line and tell him to go around calling himself the shadow parliamentary secretary and stop misleading people.

Hon. D. McL. Davis interjected.

Hon. T. C. THEOPHANOUS — Mr Davis, you have the right to make any application you want to make before VCAT, and it will be considered in due course.

Motion agreed to.

QUESTIONS ON NOTICE

Answers

Hon. M. R. THOMSON (Minister for Small Business) — I have answers to the following questions on notice: 2526, 2527, 2529–33 2538, 2540, 2542, 2544, 2550, 2551, 2554, 2556–8 2561, 2563, 2564, 2566, 2567, 2569–73 2578, 2580, 2582, 2584, 2590, 2591, 2594, 2596–8, 2601, 2603, 2604, 2752.

PAPERS

Laid on table by Clerk:

Altona Memorial Park — Report, 2001.

Geelong Cemeteries Trust — Report, 2001.

ADVENTURE ACTIVITIES PROTECTION BILL

Second reading

Hon. BILL FORWOOD (Templestowe) — I move:

That this bill be now read a second time.

There is a crisis in adventure activities and in adventure tourism in Victoria; a crisis which threatens the livelihood of people, towns and regions; a crisis which has already seen previously successful businesses close, jobs lost and lives shattered.

This is a very human crisis, not just an economic one; a crisis which, for some people, has seen the hard work of years lost forever; a crisis not of their making, but one caused by the extraordinary explosion in public liability insurance premiums. For example, one operator in the Mansfield district faces a public liability premium increase from 8 per cent of turnover to 25 per cent of turnover. Some operators have been quoted insurance premiums of more than $30 000 for the forthcoming year.

This is a crisis which affects not just those who have had claims against them in the past, but also those whose record is clear. This is a crisis which cannot be ignored. It must be addressed, and it must be addressed quickly, before further damage is done. To do nothing is not an option: action is needed, and is needed now.

This bill tackles this crisis head on. While it is brought to be debated in the Legislative Council by the Liberal Party, I wish to acknowledge that the Adventure Activities Protection Bill was developed and drafted by Peter Clark, SC, on behalf of the Mansfield public liability task force and the adventure tourism industry itself.

Honourable members will recall that on 14 March the town of Mansfield, in the Shire of Delatite, stopped and rallied in order to focus attention on the crisis in the industry. I am advised that a further rally, on a national basis and including Melbourne, has been scheduled for 1 June.

The Mansfield public liability task force must be congratulated for its efforts in taking the lead in trying to find fair solutions for this problem. While others have just wrung their hands in despair, the people of Mansfield and the Delatite shire, with others including the Victorian Tourism Operators Association (VTOA), have actively sought to both highlight the issue and find workable solutions.

The bill, in substantially the same form that is introduced today, was presented to the government by the Mansfield public liability task force in March. Despite the fact that the government has not acted, the opposition offers to work closely with it, in a bipartisan way, to ensure the quick passage of the bill, in the interests of operators, their clients, and the regions in which adventure activities take place throughout Victoria.

This bill does not deal with every activity which is being damaged by the public liability crisis. For example, it does not deal with the issues of junior football teams, or other such voluntary activities. The opposition would welcome the opportunity to work with the government on introducing legislation to address these types of matters as well.

The bill is built around the principle that people voluntarily undertaking inherently risky activities should not be able to sue for damages if something ‘minor’ goes wrong, but should have unfettered rights in cases of serious injury.

The Mansfield public liability task force advises that an analysis of the claims history against members of VTOA shows that 81 per cent of the claims can be classified as minor (being less than $50 000) which absorb 87 per cent of the dollar value of claims. Actuarial advice received by the task force is that operators could look forward to substantial premium relief if insurers were not at risk for minor claims.

The purpose of this emergency legislation is to put in place a scheme which should have the outcome of saving those communities dependent on adventure tourism for their existence.

The bill recognises that voluntary participants in many adventure and leisure activities do so with the knowledge that there is an inherent risk of injury. The bill provides that these participants should themselves bear the consequences of minor injury whilst retaining the right to seek damages where the injury is serious. Participants will be able, at their own expense, to take out personal accident insurance to cover any minor injury, offered at the farm gate, and envisaged to be part of the operator accreditation and approval process.

The bill contains three parts. Part 1 contains preliminary clauses, while part 2, adventure activity operators, provides for formal approval to be given to operate an adventure tourism activity. The bill provides for the Minister for Tourism to be the approval granting authority, but the task force intends that that responsibility should be delegated to an industry body.

The bill enables approval to be granted on terms and conditions, which may include a full accreditation process. Obviously, the accreditation and approval process must be rigorous to ensure that appropriate safety regimes are in place, staff possess the appropriate experience, training and qualifications and that risk management issues have been addressed.

It could be a requirement that an operator does not receive accreditation and approval from the minister or the minister's delegate unless that operator offers clients the opportunity to purchase personal insurance for minor injuries at the farm gate.

The schedule attached to the bill provides a list of 16 adventure tourism activities, but the bill is not limited to those activities. The minister has the capacity to include more under clause 8 of the bill. Individual pony clubs would have the capacity to seek approval from the minister.

Part 3, damages in respect of death or serious injury, adopts the TAC model as to the entitlement of a participant to recover damages in respect of an injury suffered whilst participating in an approved adventure activity. It provides for the court to give leave for proceedings, if it is satisfied that the injury is serious, even if the insurer has rejected the claim.

'Serious injury', as defined in the bill, is identical to the definition used in the Accident Compensation Act 1985.

This bill has the balance right.

This bill protects the rights of the seriously injured, but requires people voluntarily participating in inherently risky activities to assume minor risk themselves. It provides a way through the current difficulties which, if no action is taken, will see the rapid decline of a significant regional industry.

I commend the bill to the house.

Debate adjourned on motion of
Hon. T. C. THEOPHANOUS (Jika Jika).

Debate adjourned until next day.

DRUGS AND CRIME PREVENTION COMMITTEE

Incidence of crime

Hon. B. C. BOARDMAN (Chelsea) — I move:

That pursuant to the Parliamentary Committees Act 1968, the Drugs and Crime Prevention Committee be required to inquire into, consider and report on the following:

(1) Incidence of crime

(a) The incidence of crime according to municipal districts for the year ended 30 June 2002, compared with the previous four financial years, and to report to Parliament by the final sitting day of the spring 2002 session as part of its six-monthly report upon crime trends; and

(b) the report to include a breakdown of offences according to municipal district by crimes against persons, crimes against property, drug offences and other offences.

(2) Amphetamine and 'party drug' use

The use of amphetamines and 'party drugs' in Victoria. In particular, the committee is required to:

examine the nature, extent and culture of amphetamine and 'party drug' use;

determine the demographic profile of users;

examine the short and long-term consequences of amphetamine and 'party drug' use;

examine the relationship of amphetamine and 'party drug' use to other forms of licit and illicit substance use;

review the adequacy of existing strategies for dealing with amphetamine and 'party drug' use;

consider best practice strategies to address the issue of amphetamine and 'party drug' use, including regulatory, law enforcement, education and treatment responses;

examine national and international legislation, reports and materials relevant to the issue

and to report to Parliament on the first sitting day in 2003.

Those terms of reference should come as no surprise to any members of the house. The Drugs and Crime Prevention Committee has been in the process of reporting to the Parliament every six months in relation to crime trends in Victoria. So far that has resulted in the compilation of three reports.

The first two reports relate to benchmarks in crime trend data. The first one was in relation to the period 1995–96 to 1999–2000; the second, which was tabled in June 2001, was an update on the benchmarking of crime trend data to incorporate more recent figures. I will deal with both those inquiries separately and strongly justify why the house needs to support these inquiries being transformed into terms of reference for the Drugs and Crime Prevention Committee and why that is done without any great haste.

The first inquiry into instances of crime, as proposed, would be a follow-up to the six monthly reports — that is an obligation of the committee at the moment. I have

outlined why the committee has that obligation. It should be of no consequence to the house to support the motion and to allow the committee to report this type of information on municipal districts because the committee is on the public record as finding it almost implausible as to why Victoria Police has gone down the path of changing the reporting mechanisms for its crime statistics from the previous boundaries of 17 districts to its present operations under 5 regions. I will talk about that shortly.

Equally, the committee has placed on the public record for some time some of the difficulties it has encountered in obtaining statistical information from Victoria Police and has also stated that although this is not an overt criticism of Victoria Police personnel and management, the committee is concerned and is critical about the way statistics are collated, the technology that is used to collect and to categorise those statistics, and how Victoria Police represents them in a public fashion.

The committee has serious concerns about the way in which crime statistics are being reported and presented by Victoria Police. They are released only once a year to the public and by that stage they have gone through an extraordinary sorting process. The way the collation methods can be adopted to suit particular trend analyses and particular reporting methods is sometimes not in the public interest.

However, it must be noted that municipal crime statistics are quite readily available; in fact, on its web site Crime Prevention Victoria provides information to that extent. However, this information is somewhat limited and does not provide an adequate level of information that the public would find necessary and easy to interpret in circumstances that should warrant it.

For that reason, what the committee is seeking to do with these terms of reference is to have information provided, as it should be, on a municipal basis.

As I stated, in November 1999 Victoria Police changed its administrative and operational boundaries. Previously it had 17 districts made up of a delineation between urban and suburban and rural areas. That made comparisons among those 17 districts easy to interpret because they were specifically devised on geographical boundaries. It also meant the interpretation of statistics on a district level provided a valuable management and investigative tool. The problem now, which was highlighted in the June 2001 report, is that under the local priority policing strategy statewide management model those 17 districts have been transformed into five regions which do not have a lot in common.

On a broad analysis of the regions, region 1 has in it the Melbourne central business district. It follows a path along the south-east side of Port Phillip Bay down to Chelsea and includes police stations such as Collingwood, Malvern, St Kilda, Murrumbeena, Brighton, Mordialloc and Chelsea. Many of those regions have areas of different social demographics and other information sources, and to provide statistical reporting based on a regional level for that particular area does not give any great insight into the true and accurate levels of crime and the differences between those areas on a specific basis.

Similarly, and by comparison, regions 2, 3, 4 and 5 are made up of a conglomeration of both rural and urban areas. In some cases this makes it difficult and troublesome to get any accurate trend analysis. For example, take region 2, which starts in the western suburbs of Melbourne and goes to the South Australian border, to give a simplistic description. If the crime statistics for that region are provided on either a trend analysis or a per capita basis a town such as Horsham will have the same crime rate as Footscray. That does not provide any great meaning, explanation or analysis, and does not give the public what it should be receiving as publicly available crime statistics. There are clear and real problems in making meaningful comparisons between these regional structures as they present different demographic and policing challenges. For the reasons I have just stated comparisons between the regions I have mentioned are completely meaningless.

Victoria Police gives the impression that individual communities within a region share identical crime rates. Once again, to give the impression that rural cities like Horsham, Hamilton or Portland would have the same crime rate as Footscray, Broadmeadows, St Albans or whatever western suburb in Melbourne you wish to choose is complete nonsense. However, that is how Victoria Police publicly disseminates that information. It does not go down to a specific geographic basis because it does not have the capability to do that in its current reporting forms, although if expert analysis were made available, as the committee is anticipating if its work on these terms of reference are subsequently successful, then that can be achieved.

It is also problematic from the perspective that because some of the areas are highly urbanised they have different levels of user patterns and profiles of criminal activities, which again make it difficult to interpret what is accurate and what is not. For example, in region 1 the high level of itinerancy and the transient nature of the population in the Melbourne central business district — its work force and its resident population — would lead to a totally different picture of what is happening

insofar as crime and offences are concerned than would be gained for a suburb such as Moorabbin, and to compare that with a suburb such as Moorabbin, which is very urbanised, would not provide a great basis for an accurate trend analysis. It does not serve the best interests of the Victorian community. The committee is on the record as saying that, and for that reason it is important to go down this path.

The opposition has chosen to offer the committee the opportunity to record the information and report publicly on a municipal district basis because it seems to be the most easily interpretable method and is one that will probably serve to provide a better level of information dissemination for the public so it can interpret what is happening in a local area.

The municipal boundaries as they currently exist in Victoria have obvious community similarities. There is strong justification that the municipal boundaries are a way of determining what is accurate insofar as crime rates are concerned, and considering the responsibilities exercised at a municipal level through community action, drug and alcohol plans and community safety and crime prevention strategies, it is appropriate to go down that path. This will also enable the public, and importantly honourable members in this and the other chamber, to see what is happening at ground level to ascertain whether the responses at both the local and statewide levels are meeting their stated objectives.

A number of local initiatives that have become public in recent months, particularly in my area at Frankston, may or may not be serving the Frankston community's best interests, but without local statistics it is difficult to know. Certainly they are available from an internal perspective from Victoria Police, and local area commanders have the capacity to release that information on the basis of necessity. Unfortunately that information is usually released when it is of a positive nature and where there have been decreases in some crimes. It would be highly unusual that a local area commander would release information that would show an increase in crime because that would create a situation of the public being concerned and almost dissatisfied with the service they have been receiving from the police.

These terms of reference are seeking to use the four main classifications of crimes — crimes against persons, against property, drug offences and other offences — and to break those four classifications down into municipal districts. Probably if time and resources allow the committee may go into it on an offence-specific basis and determine what is happening at a local level. For that reason, it is important that the motion is supported.

Finally, I point out on this motion that the committee has also previously placed on the public record its concern with the law enforcement assistance program (LEAP), the information management system that Victoria Police uses. For some time now the committee has been lamenting the fact that the system is antiquated, cumbersome and difficult to use in a practical sense for members of Victoria Police. They are still required to handwrite reports and fax them to a central collation office, where they are then entered onto a terminal. That does not provide accuracy insofar as real-time information is concerned or the ability to follow up investigations instantly with the information being available at a terminal.

For that reason it is important that consideration be given to following what is happening in jurisdictions such as New South Wales, the Australian Capital Territory, the Northern Territory, South Australia and Western Australia, where they have computer data dispatch programs and the crime report is entered directly onto the information management system when the crime is detected. It is an important modern way of utilising crime management and provides an essential investigating tool that is being utilised the world over. It is therefore essential that consideration be given to that part of the committee's terms of reference to hopefully allow honourable members to see why it is essential to go down this path to, firstly, provide information at a local basis, and secondly, to try to highlight existing concerns.

I conclude by placing on the record that Victoria Police has commissioned the Australian Institute of Criminology to evaluate the LEAP program to determine whether it is meeting set objectives both for the community and for Victoria Police. That report was scheduled to be completed in December of last year. It has not been completed at this stage, which suggests the detail required in completing that report is immense. The committee is anxious that the report be completed relatively soon, and equally that it provides valuable information to Victoria Police management in determining how it will upgrade technology. I urge all honourable members to support that part of the motion.

The second part of the motion deals with amphetamine and party drug use. On a personal basis, I describe those drugs as probably the poorer cousins to opiates, particularly heroin and coca-based illicit substances like cocaine, insofar as their public profile and responses by governments are concerned. For many years the response from governments and government agencies

has been well and truly focused at trying to deal with the situation of heroin on the streets from both a law enforcement and rehabilitation perspective. Equally, education has been a vital component of that overarching strategy, but that has probably not been responsive to international trends, particularly with the current situation regarding the lack of supply of heroin on the streets. It is essential that consideration be given to all the environmental circumstances that deal with this particular issue.

Recently I received an extensive briefing from the United Nations Office for Drug Control and Crime Prevention that stated quite categorically — and it has quite strong evidence that confirms this fact — that because of the situation in Afghanistan and because the Taliban when in power ordered the destruction of the opium crops which were the main source of Afghanistan's gross domestic product (GDP) the international heroin supply had dried up almost instantly. That was because almost 70 per cent of the world's heroin was coming from Afghanistan and with that stopping almost overnight the world's heroin traffickers and distributors had to find alternative supplies. The alternatives were obviously in the South-East Asian countries of Laos, Thailand, Cambodia and particularly Myanmar — the world's second highest per volume producer of opiates — which found their product in strong demand in Europe and North America. Subsequently that is where the product went to try to fill the void left by Afghanistan.

This created the situation that most of the heroin that had formerly come into Australia from South-East Asia found a more lucrative market to the west of Asia where it was being produced. Subsequently we saw heroin in Australian streets drying up considerably. It was of a poorer quality than previously and its price accelerated as a result. Yet again the response from government at both the state and the national level has been primarily to deal with the heroin problem, taking the national consequences into consideration to some extent but not realising that these national consequences have led to increases in production and distribution of other illicit substances which require the same level of singular and individual response as has heroin in the past.

At the state level we have the Drug Policy Expert Committee, which is headed up by Peter Maher and is trying to work out whether or not the government's responses are adequate. It has produced a discussion paper entitled 'Heroin: facing the issues', and I note for the record that on Thursday, 4 April, the Minister for Health in another place announced the first quarterly survey of the Premier's Drug Prevention Council which highlighted the patterns of perception of drug use among young people. Some of the key findings of this report have quite tragically gone unnoticed. In its findings on heroin use it stated that of a sample set of 1500 young people surveyed in Melbourne and country homes, 2 per cent had tried heroin. That probably reflects the national average, but even more disturbing when it comes to amphetamines, with which these terms of reference deal specifically, 15 per cent of surveyed respondents had tried amphetamines. That could be amphetamines by way of speed, ecstasy or other hallucinogens, which I will mention in a broad definitional process.

Taking a basic interpretation of the result of that survey, which was produced by the government's own committee, only 2 per cent of those surveyed had tried heroin, of which the consequences are quite dramatic and have been well publicised, yet 15 per cent had tried amphetamines — almost a sevenfold increase on the number who had tried heroin — yet there has not been that dedicated response from government to amphetamine use or dependency in Victoria. On a national level we have the National Drug Strategy, which has been quite successful in highlighting user profiles and education and responses particularly at local and even at family levels, but once again it has been dealing predominantly with opiates and the exclusion of amphetamines is probably unjustifiable in the current circumstances.

In dealing with amphetamines it is important to understand what we are talking about. There is a lot of misconception about this type of illicit product and it is important that both the chemical names and the street names are placed on the record to ensure that honourable members understand the broad definition of amphetamine. It refers to amphetamine-based psychostimulants, which include amphetamine, dexamphetamine, and methylamphetamine, or its street name, methamphetamine, but it excludes amphetamine analogues such as MDMA, which is methylenedioxymethamphetamine, or ecstasy, which is its common street name. For that reason it is important that these terms of reference deal both with amphetamines and what we classify in broad terms as party drugs. Party drugs such as ecstasy are increasingly prevalent on the street and amongst young people particularly and it is important to examine just how tragic this situation is.

Some of the common names for those chemical names include speed, whiz, uppers and goey. Methamphetamines are simply known as meth. Crystalline methylamphetaminehydrochloride, which has recently hit Australian shores and is dramatic in its

prevalence among street users because of the heroin shortage, is commonly known as ice. Ice is one of those highly addictive substances that provides quite noticeable short-term effects and is quite attractive to young people particularly. As I have mentioned, MDMA — also known as ecstasy, adam, hug drug, eckie or Es — is one of those easily accessible and cost-competitive substances that some young people love to avail themselves of. It is important to realise that this is a broad classification of drugs; it does not deal with one particular substance only and provides an opportunity for the community to examine these types of psychotropic substances and determine just how prevalent they are within the Victorian community.

The terms of reference include to examine national and international legislation and reports and material relevant to the issue. None could be more relevant to the amphetamine situation than what is happening in the rest of the world. The Australian Illicit Drug Report 1997–98, published in March 1999 by the Australian Bureau of Criminal Intelligence, states:

> In South-East Asia there has been a change in drug trafficking in recent years. Traditional heroin producers are now producing methylamphetamine in dual-drug laboratories in countries such as Thailand, Burma and Vietnam.
>
> Long-established heroin networks and trafficking routes have facilitated the distribution of methylamphetamine by drug syndicates in the Golden Triangle. Laboratories are now smaller and very portable, preventing easy detection by authorities. This increase in methylamphetamine production is a consequence of increased demand for amphetamine in Asia.

The report goes on to state that most of the product coming into Asia and subsequently into Australia is from Europe particularly from the United Kingdom and the Netherlands. This is from an Interpol report that is part of an Australian illicit drug report which suggests that quite popular distribution routes for the trafficking of amphetamines into Australia are Frankfurt to Los Angeles to Auckland to Melbourne or Europe to Los Angeles to Sydney. There are a number of other ways they can get into the country but certainly Melbourne and Sydney, and to a second degree Perth, are the most popular ports for getting this type of product into Australia.

What is produced in Australia also presents a difficulty. For many years now particularly outlaw motorcycle gangs have been involved in the production and distribution of amphetamine-based products through clandestine laboratories. As the local product gets no cheaper to produce the importers, distributors and manufacturers are becoming more technologically competent using their established routes more effectively. Subsequently those importers are able to produce a more high quality product at a lower cost that is much more attractive to the Australian market providing great competitive incentive for outlaw motorcycle gangs to increase their production. It is quite a difficult situation to manage.

Other countries which are reported to be involved in the production and distribution of amphetamine-type products include Burma, Thailand, China, the Philippines, Indonesia, Malaysia and New Zealand. This is difficult in the Australian context because for so long heroin has been the drug of choice among the using population. The dramatic change on the supply side has provided commercial opportunities for those who would like to distribute and manufacture amphetamines. User profiles have changed considerably and this has given great marketing incentive and strategies for those who would like to use these types of products. It is problematic because it is also quite attractive to a new user demographic. Young people, particularly those who are involved in the street party, dance and rave scenes, have been able to avail themselves of this type of product because it is seen as in vogue; it is seen as trendy to use. It is cheap and available; it gives strong short-term effects and is becoming more attractive than other licit substances such as alcohol and tobacco simply because of its status as a trendy drug.

Also because of established distribution and trafficking networks in Australia, particularly those types of criminal syndicates linked to South-East Asia that traditionally might have been involved in heroin trafficking, the opportunity to change the product from heroin to amphetamines is quite real. This is undoubtedly happening in Yunan Province in China which has traditionally been the part of the country that has produced heroin and been involved in distributing it to Australian markets from Hong Kong. With the heroin no longer being as cost effective and as attractive as it used to be the opportunity to substitute amphetamines on established trafficking networks with the same personnel has become quite a lucrative technique.

This is backed up by recent seizures and criminal intelligence reports that the quantities of drugs being seized and detected change as consumption and dependency rates on the street change. In recent years heroin seizures have decreased, although that is not easily explainable because in 2001 there were quite considerable heroin detections as a result of a national coordinated campaign led by the Australian Federal Police predominantly concentrated in Fiji that skewed the figures. Nonetheless the figures on ecstasy and

amphetamine products have increased dramatically in recent years. Prior to 1988 there was virtually no ecstasy coming into Australia. However, since 1989 we have seen the number of individual cases of drug seizures by Australian customs rise: in 1989–90 there were 7 seizures, but in 1999–2000 there were 105 seizures. The raw volume of product coming into the country is considerably alarming to law enforcement agencies.

Furthermore the United Nations drug control programs highlighted that the Australian international drug policy is the best international model. This was based on UN criteria and because it met all of the key points such as demand reduction, law enforcement, education and prevention the Australia model is lauded as being the best possible model. It is backed up because the Australian government has recognised it as such and provided an additional $400 million to its national law enforcement strategy to coordinate this type of activity on an international level. Australia has become a regional leader and provides great insight into and extraordinary cooperation with other countries in dealing with this issue.

On an international and national basis that is undoubtedly essential, but what may be lacking is what is happening on a state basis and whether there is a role for state-based law enforcement agencies to be more internationally focused and work more cooperatively with national and international law enforcement bodies to deal with this situation. As I have already outlined, the United Nations has ascertained that there has been an increase in demand for amphetamine production in South-East Asia and Australia.

Thailand has quite interesting consumer profiles. Thailand, where previously there was little use of illicit substances among the population, is now seeing and recording percentages as high as 24 per cent of those aged 15 to 24 years who are regularly using amphetamines. The United Nations purports this is the highest level of illicit drug consumption anywhere in the world. It also identifies that amphetamines are now being produced in Burma by those who were previously in opium production and that the infiltration by gangs from south China into those vulnerable states such as Burma, Laos and Cambodia has seen an increase in the production of this type of product because the pseudoephedrine, the raw product necessary to produce amphetamines, is being produced in China itself.

That product is then being smuggled into these countries and with the backup of Chinese funding and technology it is being produced and subsequently distributed, as I said, through established routes.

I give an indication of how seriously this situation is being taken by international communities in contrast to what is occurring in Australia. There have been specific responses from those countries particularly coordinated by the United Nations on amphetamine-type stimulants in South-East Asia. That culminated at a conference in Tokyo, Japan, from 24 to 27 January 2000 which strengthened the networks, friendship and cooperation and the awareness of the problem and made it easier for these countries to deal with this situation.

I conclude by dealing with another part of the report, the short-term and long-term consequences of amphetamines and party drug use, and also to give an overall interpretation of the demographic profile of users. This is a difficult issue because the research is primitive in some instances, particularly medical research. Most of the information available is limited, although some strong research being conducted gives rise to further awareness and a greater ability in interpreting how problematic this situation is. A study of the use of illicit drugs in the population aged 14 years and over across all states and territories found that in Victoria 2.2 per cent of the population has a lifetime use of heroin, whereas the percentage rises to 8.7 per cent for amphetamines. We are dealing with amphetamines and ecstasy similarly but separately. The lifetime use of ecstasy in Victoria is 4.8 per cent, which meets the national average and indicates why this reference should be taken seriously.

I give a brief description of some of the effects of the these drugs. The immediate effects of taking amphetamines include the speeding up of bodily functions, more energy and alertness, reduced appetite and irritability. The positive effects for users would be different, but the long-term effects are serious and are similar to the long-term effects of the consumption of alcohol and benzodiazepines. They include malnutrition, psychosis, less resistance to infections, violence and brain damage. It is a serious product and requires an immediate response.

Ecstasy is a similar chemical compound to amphetamines and has additional products, particularly methylene, which gives it, as the street users say, the additional edge. Its immediate effects include increased heart rate, body temperature and blood pressure, increased confidence, jaw clenching, teeth grinding, feeling of wellbeing, nausea, feeling of closeness to others — hence the term ‘love drug’ — anxiety, loss of appetite and sweating. Some may be interpreted as positive effects, but nonetheless they have a health

consequence that needs to be identified and dealt with. If this product is consumed in greater quantities it leads to convulsions, vomiting, floating sensations, irrational and bizarre behaviour or hallucinations.

I conclude by indicating why this term of reference is necessary. There is little conclusive information about the long-term effects ecstasy has and considering that it is being used dramatically and alarmingly in some circles it is important that the research is conducted to determine whether there are appropriate responses by those in the medical and rehabilitative areas. The limited research indicates that few people use ecstasy for a long time. This is possibly due to the severity of the undesirable effects which tend to increase the longer ecstasy use continues. This is commensurate with the pleasurable effects decreasing. Simplistically, if someone uses ecstasy for a long period he or she may get some short-term benefits, but the more they use it the more unpleasant it becomes and this provides some confusion among medical researchers as to how this substance is addictive and whether the dependency patterns are similar to what happens with other illicit substances. Limited evidence suggests that ecstasy use causes some damage to the brain, although once again the research is inconclusive and needs to be dealt with in more detail.

These are important references for the Drugs and Crime Prevention Committee. The incidence of crime is important because it is essential that the Victorian public can gain a greater appreciation of the true levels of crime and the trends in crime on a localised level so they can determine whether the local priorities and initiatives, well publicised and lauded by the government, are meeting their stated objectives. It is in the public interest and should come as no surprise to anyone because in its past reports the committee has indicated it would go down this path. This reference will consolidate that initiative and is one that should be supported by all honourable members.

By direct comparison the amphetamines term of reference is equally important because there has been little dedicated research into amphetamines and party drug use in Victoria; and considering some of the facts I have stated, particularly the international situation and the opportunities the lack of heroin has given for those unscrupulous individuals who are involved in drug manufacturing and distribution, it is urgent and important that this situation is dealt with compellingly and sensibly.

I conclude by indicating that the Drugs and Crime Prevention Committee will table, hopefully on 13 June, the last day of the sitting, its report into volatile substances. In pre-empting the findings of that report I thank all of the staff involved in the completion of that report, which will be extremely well received by the Parliament and the public. I place on the record my thanks and sincere appreciation for the work of Sandy Cook, Pete Johnston, James Rowe, Michelle Heane and Chantel Churchus. They are exceptional members of the committee and have done a great job in producing these reports and no doubt their expertise and contribution will be valued with these terms of reference.

Hon. GAVIN JENNINGS (Melbourne) — I am happy to indicate that the government will not oppose the establishment of these terms of references, which is just as well, because otherwise the Honourable Cameron Boardman may be acutely embarrassed. I think he may have just provided the first interim report of these terms of reference. In his contribution in supporting his motion he has amply demonstrated that he has already undertaken extensive literature research and that there is a body of evidence that he will be able to quickly bring to the committee in consideration of these terms of reference, particularly the reference relating to the use of amphetamines and what are described as party drugs.

In giving that backhanded compliment to Mr Boardman and the contribution he has made today, I reiterate that in general the government supports the work he and his committee have done with the references they have undertaken, particularly the one relating to substance abuse and the use of inhalants. The government eagerly anticipates the receipt of that report which Mr Boardman has indicated will be tabled on 13 June. As recently as last week in the Parliament the government acknowledged the contribution of the Drugs and Crime Prevention Committee and urged at that time that the matter this house will be dealing with shortly, a private member's bill relating to inhalants and substance abuse, be referred to the committee because it is the government's view that the committee has a body of expertise and knowledge and has researched the field and would provide appropriate consideration about the scope, intent and implementation of the private member's bill if and when it should be enacted. It is clearly the government's view that it is its preferred position in the absence of that scrutiny and advice being received from the committee that the bill should be delayed until the report is received, but that is a matter that will be addressed shortly.

As a general rule the government is supportive of the references to the Drugs and Crime Prevention Committee that provide for greater accountability and

transparency in crime statistics and the use of those statistics to support community safety in Victoria.

Indeed the government has supported improvements to the information system and the information technology that is available to Victoria Police to undertake such an analysis into the future. The government's concern would be the inappropriate and provocative use of this material that we sometimes see percolate through the public domain and given some notoriety within the media, which adds to a climate of fear and intimidation within local communities rather than supporting initiatives to make the community feel safer.

The salutary warning of the government this morning is that we certainly believe there is value in communities having an appreciation of the crimes statistics in their local areas and we would be supportive of the appropriate use of that material, but certainly not if it is used to whip up hysteria or a degree of concern or would be used in a fashion which undermined the efforts made by the police and the local community to address those crimes issues, because that does not serve a positive purpose in achieving the turning around of crime statistics and improving the climate of community safety, which is something I would hope all members of the Parliament share as our long-term objective. We would be most concerned if the result of this important reference to the committee ever facilitated an hysterical discussion, either in the Victorian broadsheet media or used locally to whip up a climate of hysteria, but rather should be used responsibly to support community safety initiatives.

That is the alert the government puts on these terms of reference. The government is also concerned that a reference that has been given to the committee over a longstanding period of time to deal with white-collar crime has not been considered by the committee. The committee has not indicated its intention to provide the Parliament with a report on that reference. That is a concern of the government. We hope the committee addresses in a timely fashion that reference that has been on the books for the committee for an extensive period of time and reports on that matter to the Parliament. As Mr Boardman indicated in his contribution, the government is supportive of a range of measures to deal with the abuse of inhalants and opiates within our community with the establishment of the Drug Prevention Council. The government is actively pursuing advice throughout the Victorian community on ways to address the use and abuse of illicit substances within our community and the subsequent cost that that brings to bear for individuals, their families, the health system and the ultimate costs that we all pay through the abuse of those substances.

Within that overview of the government's commitment to going down any burrow to pursue an outcome on behalf of the community, the government is comfortable with supporting this reference to the committee and encourages it to report in a timely fashion. With those brief words I indicate to the house this morning that the government will support the establishment of these terms of reference to the committee.

Hon. P. R. HALL (Gippsland) — I would like to indicate that the National Party, too, supports these references being given to the Drugs and Crime Prevention Committee. Listening to the words of the Honourable Gavin Jennings, we also agree with the views expressed by the government in regard to this. I will comment briefly upon those during the course of my brief contribution.

When considering the allocation of references to any parliamentary committee, we have to consider two criteria. First of all, we have to consider whether there is value in a committee undertaking the reference to which it is being assigned. Secondly, we need to consider the workload of our parliamentary committees to ensure that the task can be undertaken efficiently and effectively within the other duties that the committee currently has.

I understand the Drugs and Crime Prevention Committee currently has four references before it. One is the inquiry into the incidence of crime. That is an ongoing reference role for the committee that is required to report on a six-monthly basis to the Parliament. It seems to me that the first of these additional references to that committee will simply enhance that role about reporting on the incidence of crime.

The second current reference before the Drugs and Crime Prevention Committee relates to the inquiry into volatile substances for the purposes of intoxication. As the chairman of the committee has reported in his contribution today, it is expected that the final report on this inquiry will be tabled on 13 June in this house, which will mean the completion of that particular inquiry. That is one the Parliament looks forward to as it will help relieve the workload, I am sure, of the committee.

The third inquiry is into motor vehicle theft. This is important work that is currently in progress by the committee. The fourth one is the inquiry into white-collar crime. My understanding from the progress reports given to the Parliament is that further definition of the terms of references are being sought on

that particular inquiry and it has yet to be commenced. In an assessment, therefore, of the workload of the committee, it appears from the National Party's point of view that the committee is quite capable of undertaking these additional references today, and I am sure it will do them well, particularly as the first of the references just enhances the work it is doing already in regard to reporting on the incidence of crime.

I understand from the comments by the chairman, the Honourable Cameron Boardman, that this particular reference is consistent with the views previously expressed by committee members and may well form part of an additional aspect of a report anyway. I believe there is some logic in having crime statistics reported on a more localised basis. Currently they are reported on a regional basis. When one considers that the whole of Victoria is divided into just five regions, obviously there is a lot of diversity of community right across those regions. I know region 5, covering the area I represent, starts at Dandenong and Frankston and heads all the way through to the border at Mallacoota, so that is a very diverse region. One would expect that the nature of crime statistics, say, comparing Dandenong and Dumbalk would be quite different. They are quite different communities; they probably have different types of crime statistics. The same could be said about Chelsea and Cann River. Once again they are two extremes — one a very rural population and one a very heavily populated metropolitan-based location. One would expect that the nature of the crime and the crime statistics in those regions would be significantly different.

The first of these references seeks to report crime incidence on a more localised basis — on a municipality-based basis. There is good argument for that, but I share the concerns expressed by the government in respect of this. I hope any of the reporting of this information is not used to sensationalise, to gain political advantage or to cause a climate of fear in respect of the reporting. Given the way this has been reported by the chairman today, I am quite confident that the committee and indeed other members of Parliament will use this information wisely, sensibly and in a positive manner rather than a negative manner. I am quite confident that that legitimate concern, as has been expressed, will be noted by members of the committee and I hope by other members of Parliament as well.

The Honourable Cameron Boardman also mentioned the important work being done at a community level in the development of community safety plans and community drug and crime prevention plans — action plans to operate at a local level. Before you have an action plan and before you address a problem, you need to identify the problem first of all. You need to understand all the aspects associated with that particular problem in your area. The additional information on the incidence of crime being reported on a municipality basis will certainly assist communities in the development of their community plans to address those issues in their community.

We in the National Party believe the reporting of the incidence of crime on a municipality basis has real benefits if used wisely. We expect it will be, and we are certainly happy to support that reference being given to the committee.

The other reference relates to amphetamine and 'party drug' use. I think the Honourable Cameron Boardman almost talked himself out of a job in respect to this. I was almost convinced a full-scale inquiry was no longer needed given the wealth of knowledge and information the chairman of the committee already holds himself. I wondered what more can be gained from further inquiries of the committee. I say that a little light-heartedly because there is a lot of valuable experience and information that I am sure the Honourable Cameron Boardman would admit he does not know about and needs some further work, though I certainly was impressed with the wealth of his knowledge on this subject at this point of time.

Drugs are an important and grave issue in our communities. Drug use is the fear of all parents, and far too often we hear about drug dependency by young people in our communities. The Honourable Cameron Boardman is right — there has been a lot of focus on the higher profile drugs like heroin and less focus on some of the other types of drugs, particularly amphetamines and ecstasy. A bit of focus needs to be placed on those types of drugs, and we need to do the research work required to fully identify the extent of the problem. It has been suggested in this debate that supply pressures on heroin have resulted in the greater use of amphetamines in our community. That is probably right, but it is anecdotal evidence. I am not sure if the real, hard research has been done to verify that statement, and that is further reason why this reference will be helpful.

It has been suggested that amphetamines and ecstasy are becoming trendy drugs, and one wonders why? Is it because of the quick hit? Is it because of the ease of taking those drugs? Although I am not absolutely sure, I understand that most amphetamines are taken orally whereas some of the other drugs, like heroin, are taken by intravenous injection. Obviously it is much easier to take drugs like ecstasy and amphetamines, and perhaps

that is why they have become more popular. I am not sure of the addictive nature of some of those drugs; hence the need to have that information compiled so that people understand the problem and are therefore better placed to address it.

It has been mentioned that some work has been done nationally and internationally on the problem, but it would be helpful for us in Victoria if that sort of information could be applied at a Victorian level so that we understand the problem better in our own backyard. The need to undertake further long-term research on these drugs has also been mentioned, and this is important as well. National Party members believe that this work is important and there is value in the committee undertaking such work. We also believe that the workload of the committee allows for the effective and efficient work that will be required with these additional references.

We look forward to the ongoing reports of the Drugs and Crime Prevention Committee, and we expect that the work done on those two references will provide all honourable members with important information that we can use in the future. With those words I am happy to indicate the National Party's support for the motion.

Motion agreed to.

SUMMARY OFFENCES (SPRAY CANS) BILL

Committed.

Committee

Clause 1

Hon. GAVIN JENNINGS (Melbourne) — I take the opportunity of clarifying the purpose of this private member's bill, and ask Mr Lucas whether it is indeed the purpose of the bill to limit the sale of spray cans, as is said in clause 1, or to ban or prohibit their sale, which seems to be the provision that subsequently appears in clause 4.

Hon. N. B. LUCAS (Eumemmerring) — I think Mr Jennings is probably under a misapprehension in relation to this in that the word 'limit' in the bill means that the sale of spray paint cans will be limited and that limitation is in respect of people who are under the age of 18 years. But of course they will not be banned, because if you are over 18 years of age you will be able to go and buy one.

Hon. GAVIN JENNINGS (Melbourne) — I reiterate the question: does Mr Lucas know that in his private member's bill, clause 4 states that a person must not sell a spray can to a person under the age of 18 years?

Hon. N. B. LUCAS (Eumemmerring) — Certainly that is what it says. The original question was: are you going to ban the sale of spray paint cans? To me that means to limit the sale of spray paint cans to everybody. The limitation is that you are not able to sell them to people who are under 18.

Hon. GAVIN JENNINGS (Melbourne) — In fact the misapprehension that I am trying to get Mr Lucas to clarify is whether the blanket ban in clause 4 is a more accurate description of the limitation which is described in the purpose of the bill.

Hon. N. B. LUCAS (Eumemmerring) — You can say this in a hundred different ways. Proposed section 16C(1) indicates that a person must not sell a spray paint can to a person under the age of 18 years. That is a ban on anybody who sells spray paint cans that they are not able to sell them to people under the age of 18 years.

So it is a ban, yes, but in terms of the purpose of the bill we are dealing with it is not a total ban on anybody being able to purchase such an item; it is a ban on a person selling such items to people under the age of 18 years.

Hon. GAVIN JENNINGS (Melbourne) — I thank Mr Lucas for clarifying for the chamber that it is a ban, and that 'to ban the sale of spray cans to minors' would be a more accurate representation of the purpose of the bill. Given that the bill becomes part of the Summary Offences Act 1996, as amended, could Mr Lucas indicate whether his definition of 'minors' is consistent with the use of the term or demonstrate any occasion where the term 'minors' is used in relation to definitions within the Summary Offences Act?

Hon. N. B. LUCAS (Eumemmerring) — The first thing to say is that we are dealing with an amendment to the Summary Offences Act in the form of this bill; we are not dealing with the act as such. The second thing I say is there is no definition of 'minor' in this bill.

Hon. GAVIN JENNINGS (Melbourne) — If Mr Lucas reads his own private members bill he would understand that the clauses relating to minors are defined by the application of those terms saying 'a person under the age of 18 years'. So while the word 'minor' does not appear in the definitions clause,

clearly by the use of the various clauses within the bill it is clear that Mr Lucas means the term 'minor' to mean a person under the age of 18 years. Would the honourable member confirm that to the chamber?

Hon. N. B. LUCAS (Eumemmerring) — No, I would not. This bill says what it says. Unless Mr Jennings can point it out to me, it does not use the word 'minor'; it talks about people under the age of 18.

An Honourable Member — Yes, it does!

The CHAIRMAN — Order!

Hon. N. B. LUCAS — I thought we were talking about clause 1 at the moment.

Hon. C. A. Furletti — That is exactly what we are talking about.

The CHAIRMAN — Order! We are on clause 1.

Hon. N. B. LUCAS — If Mr Jennings wants to talk about the use of the word 'minor', it is not defined in the bill, and that is a fact.

Hon. GAVIN JENNINGS (Melbourne) — Thank you, Mr Lucas, for confirming to the chamber that the purposes clause, the clause we are talking about, reads:

> The purpose of this act is to limit —

he has outlined to the chamber that it means ban —

> the sale of spray cans containing paint or certain other substances to minors …

Mr Lucas has now confirmed to the chamber that there is no definition of 'minors'. He certainly has not been able to indicate that it is consistent with any other definition of 'minors' within the Summary Offences Act. Would Mr Lucas like to revisit his answer to the chamber? It may be useful if he were to redefine 'limit' as 'ban', provide a definition of 'minors', which is either consistent with the rest of the Summary Offences Act, or provide some definition to the chamber whatsoever.

The CHAIRMAN — Order! I call the Honourable Carlo Furletti.

Hon. C. A. FURLETTI (Templestowe) — Perhaps — —

Hon. T. C. Theophanous — You have to ask Mr Lucas to respond first; they are the rules you set up.

The CHAIRMAN — Order! I looked at the Honourable Neil Lucas as I would look at anyone. If they rise — —

Hon. T. C. Theophanous — You always say 'Minister?'.

The CHAIRMAN — Order! If they rise, I will call them.

Hon. T. C. Theophanous — You always say 'Minister?'.

The CHAIRMAN — Order! No, I watch — —

Hon. T. C. Theophanous — You should say 'Minister?'. On a point of order, Mr Chairman, all we want in this place is consistent application of the rules. We had occasion to debate this issue at length by way of an earlier point of order. At that time you made a ruling that you would ask the minister for a response before you went on to anyone else. You have adopted the practice in this chamber, on every occasion when a question is asked of a minister sitting at the table, to look at the minister and say, audibly, 'Minister?' — inviting the minister to respond to the question. If the minister was to then shake their head and say, 'I don't want to respond', you would go on to the next person. On this occasion you did not look at Mr Lucas and say, 'Mr Lucas?', asking him whether he wanted to respond. You are using a different set of rules. I ask you, Mr Chairman, to make it absolutely clear. If this is the ruling you are making, I want this absolutely clear.

Hon. Bill Forwood interjected.

Hon. T. C. Theophanous — You don't like fairness; that's your problem.

The CHAIRMAN — Order!

Hon. Bill Forwood — When were you ever fair? Tell me about fair!

The CHAIRMAN — Order! Mr Theophanous is on a point of order.

Hon. T. C. Theophanous — Mr Chairman, I would like you to make it clear that in future you will simply look at the minister and, if the minister does not respond with their eyes in accordance with what you just did with Mr Lucas, if somebody else is on their feet you will call that person, and that you will apply that consistently in the future.

Hon. Bill Forwood — On the point of order, Mr Chairman, each week during the 3 hours allocated to the opposition for its business Mr Theophanous

seeks to undermine the operation of the chamber by raising points of order. This is a deliberate tactic. Mr Theophanous gets up with a spurious point of order, not because he is seeking to assist the chamber in the way it operates or pick up a correction, but because he is trying to subvert the way the place operates. This chamber is well used to Mr Theophanous's behaviour. He has a track record.

Hon. T. C. Theophanous — On a point of order, Mr Chairman — —

Hon. Bill Forwood — Sit down, I'm on a — —

Honourable members interjecting.

The CHAIRMAN — Order!

Hon. Bill Forwood — Mr Chairman, this is part of Mr Theophanous's campaign, firstly, to undermine the way this chamber operates, and secondly, to disrupt opposition business which, as everybody in this chamber knows, goes for only 3 hours each week. I invite you, Mr Chairman, to continue the long tradition with the way this chamber operates during the committee stage — that is, to enable the person, minister, or other member at the table to respond if they so wish, and if they do not so wish, to enable someone else — any member who rises to their feet — to so contribute. Mr Theophanous does not have a point of order, nor does he have a feather to fly with. I invite you to tell him there is no point of order.

Hon. Gavin Jennings — Further on the point of order, Mr Chairman, my purpose in asking the question that led to this interaction was clearly to obtain an answer from the person at the table who is responsible for the private members bill. In his contribution Mr Theophanous indicated what has become the practice of this chamber — that is, to give the call to the person at the table who is responsible for the passage of the legislation. The points of order raised made by the Leader of the Opposition are irrelevant to your consideration of Mr Theophanous's point of order about whether the procedure you adopt from the Chair is to give the call to the person at the table who is responsible for the bill.

I indicate to you in your consideration of that matter that if Mr Lucas does not accept the call and sits there in a catatonic state, it means the passage of private member bills in committee will become a farce.

That is an additional factor you should bear in mind in the precedents and processes you adopt in relation to this matter and how the committee stages of any bill from here on during this sitting will be dealt with.

Hon. R. M. Hallam — On the point of order, Mr Chairman, in considering your response to the point of order taken by the Honourable Theo Theophanous, I suggest you might be reminded of the original instance in which this issue arose. In that case Mr Theophanous was unhappy because the Chair refused to recognise him while the minister was taking advice from an adviser in the advisers box. I suggest that is a fundamentally different proposition. Mr Theophanous became unhappy because, as I recall it, the Minister for Sport and Recreation was at that time taking advice from an adviser, and Mr Theophanous sought to get the call while the minister actually had the call and had been recognised by the Chair. This is a fundamentally different proposition, and you, Mr Chairman, have every right to recognise any person standing in their place as you see fit.

Hon. Bill Forwood — Further on the point of order, Mr Chairman, and picking up the point made by Mr Jennings in relation to what happens in the chamber, it has never been the practice of this chamber that a member who wishes to contribute during a committee stage should be denied the opportunity to do so.

Hon. Gavin Jennings interjected.

Hon. Bill Forwood — It has never been the case! It has often been the case that people who have specified and detailed knowledge in whatever field, or any honourable member, may rise to their feet and speak on particular issues during the committee stage. I remember in the City Link debate many years ago my participating at length in that debate during the committee stage. I put it to you absolutely, Mr Chairman, that it is entirely appropriate for any member of this chamber to participate and for any honourable member to rise and make a point. I find it extraordinary that the Deputy Leader of the Government would seek to use a point of order to suggest that the only person who could reply from our side in relation to the questions he puts is the person at the table, which is what he actually said.

Hon. T. C. Theophanous — Further on the point of order, Mr Chairman, I heard what the Honourable Roger Hallam said. However, although it is true that the original issue came up in that context it is also true that during the course of several points of order and discussion about this question you, Mr Chairman, made a set of rulings which included that you would always seek the call from the minister at the table, and then if somebody else wanted the call you would consider that. I have no problem if you want to change that position and give the call to whoever is on his or her feet. I

would be happy if that is the change because that is what I argued for in the first place.

Hon. R. M. Hallam — It is not.

Hon. T. C. Theophanous — It is! I argued that the call should go to whoever stands. We seek consistency between the two sides. I urge you, Mr Chairman, on that basis to ensure that that occurs.

The CHAIRMAN — Order! I do not treat this as a spurious point of order. It is a reasonable one, and I address it as such. I will read to the committee my ruling in relation to an earlier situation that I think impinges on this particular issue. The ruling states:

> The committee stage is the time for detailed consideration of the bill. For the orderly conduct of the committee the procedure should be that a member asks a question of the minister and the minister has the opportunity to respond.

I emphasise 'the opportunity to respond'. The ruling continues:

> After that any member may speak or ask a question providing it is relevant to the clause under consideration. I will not have an honourable member ask a question of the minister and have another honourable member intercede before the minister has responded.

That is the ruling I made then. In relation to the point of order raised this afternoon, the relevant term is 'and the minister has the opportunity to respond'. I have been very careful after that particular ruling; I always watch closely and if the minister rises, I call him or her. I do not call them until they respond.

Hon. T. C. Theophanous interjected.

The CHAIRMAN — Order! I wait for the minister to respond before I call them.

I believe that concludes the point of order. I call Mr Jennings.

Hon. Bill Forwood — Mr Furletti was on his feet.

Hon. C. A. FURLETTI — I was called.

The CHAIRMAN — Order! I call Mr Jennings.

Hon. Gavin Jennings — I would like to rewind — —

Hon. Bill Forwood — Is this a point of order?

Hon. Gavin Jennings — The Chairman has given me the call.

Hon. Bill Forwood — Hang on, Mr Furletti was on his feet when the point of order was called.

Hon. T. C. Theophanous — He has given his ruling.

The CHAIRMAN — Order! I am sorry, Mr Jennings, I do believe I had called Mr Furletti, which caused the point of order. I apologise.

Hon. T. C. Theophanous — Will you ask Mr Lucas whether he wants to answer the question?

The CHAIRMAN — Order! again I reiterate that the minister — in this case I am looking at Mr Lucas — has the opportunity to respond. In my judgment Mr Lucas chose not to respond. I then called the next honourable member who stood — that is, Mr Furletti. I call Mr Furletti.

Hon. C. A. FURLETTI — Thank you, Mr Chairman. As I said when I rose to my feet and was so rudely interrupted, my purpose was to assist the committee. I was aware that the definition of 'a minor' is in the Age of Majority Act 1977, and had the honourable member done a little homework he would have known that. I hope that facilitates the whole issue and we can go on with the committee stage.

Hon. Gavin Jennings interjected.

Hon. C. A. FURLETTI — It is an overall interpretation.

Hon. D. G. HADDEN (Ballarat) — The last few words in clause 1 state:

> … in order to reduce the incidence of substance abuse.

I would be pleased if Mr Lucas could elaborate to the committee how a limit or ban on the sale of spray cans to minors would implement that reduction.

Hon. N. B. LUCAS (Eumemmerring) — If the bill prohibits the sale of spray cans to young people that means not as many spray cans will be sold. The sale of those cans will not be available to young people. It follows quite logically that if it is harder to buy those things that will reduce the incidence of substance abuse.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the purpose of the bill, although I note there are definitions within the bill there is no definition of substance abuse per se. While there is an understanding of what 'substance abuse' may mean, I ask the honourable member to clarify what he deems to be substance abuse, as such.

Hon. N. B. LUCAS (Eumemmerring) — It is an indictment on him if the Minister for Sport and Recreation does not know what 'substance abuse' means. I know what it means, you know what it means and everybody in the chamber knows what 'substance abuse' means.

The CHAIRMAN — Order! Mr Lucas, through the Chair!

Hon. N. B. LUCAS — That is a ridiculous question to ask. If the minister wants to know more about it he should read what is in the committee report on inhalation. That may give him a few ideas.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Although there is a range of definitions about substance abuse in a number of reports, which I do not deny, I note in the bill there is no definition of 'substance abuse'. I appreciate there is a range of definitions in clause 4. I am not trying to put the honourable member on the spot, but I seek clarification on what is his understanding or what he would allow as a definition of the term 'substance abuse'.

Hon. N. B. LUCAS (Eumemmerring) — I do not want to waste the committee's time on a stupid question like that.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I know that the honourable member has not been through the committee process on a regular basis, and I do not claim to be a shining example of it either, but what I am asking in this instance — I am not trying to put the honourable member on the spot, but it is important in terms of the role of the committee — is to clarify an understanding of elements within the act. I ask for a clarification of what he means as 'substance abuse', because it is important. Is 'substance abuse' just inhalation or does it refer to other issues? I raise this because there seems to be a two-pronged assumption in the bill that, firstly, it is trying to overcome substance abuse, and secondly, by eliminating the sale of spray cans and spray paints that the substance abuse might relate to spraying graffiti.

While I appreciate that the bill relates to substance abuse in regard to inhalation, I ask the honourable member to clarify some of the points of what he believes 'substance abuse' to mean to assist the government's understanding of the bill and if it needs to be referred to in the future or in during the committee stage honourable members will have a clear understanding of what his understanding of 'substance abuse' within the context of the bill means so that they can comprehend what it is he is proposing.

Hon. B. C. BOARDMAN (Chelsea) — It is with a degree of trepidation I rise. However, I need to register my amazement and disappointment that the former Minister for Youth Affairs would not have taken the time to read the Drugs and Crime Prevention Committee's discussion paper on this. If he had he would have found under the subheading 'What is volatile substance abuse?' the following definition:

> Volatile substance abuse is the deliberate inhalation of a gas, or of fumes released from a substance at room temperature, for the purpose of intoxication.

That is the definition in the discussion paper, and I am sure that definition is the identical one that is being applied in the context of the bill.

Hon. C. A. FURLETTI (Templestowe) — Not only did the Minister for Sport and Recreation not read the discussion paper but he did not read the bill. If the minister were to read the definition of 'spray can', about which this bill relates, he would see that 'spray can':

> … means a spray can containing paint or a substance prescribed by regulations —

by the minister. In other words, the minister will say what is the substance that is being abused.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I know the Honourable Cameron Boardman has given what he believes to be a definition of 'substance abuse', but I am asking the honourable member who introduced the bill for his definition.

Hon. Bill Forwood interjected.

Hon. J. M. MADDEN — — No, in the context of the committee I am asking for his definition. If he wants to provide it, then fine, because we will all understand what he means regarding substance abuse. There is no clarification in the bill of what 'substance abuse' is, and what substance abuse it is he is seeking to overcome by limiting the sale of these products. I seek clarification on that. It is — very simple.

Hon. M. A. BIRRELL (East Yarra) — There is a long understanding of the ordinary meaning of the word in terms of how bills are interpreted when they get to courts. I regret that in the Labor government's efforts to misuse this committee stage, and to trivialise the significant issue that it is, insulting us by asking what is the meaning of ordinary words. They may as well say that 'minister' has not been defined and 'spray can' has not been defined! What does the word 'the' mean, because that has not been adequately defined either!

The reality is that this is self-evident, and Mr Lucas has appropriately said that. Then to reinforce these self-evident matters we have had a quote from a detailed committee report that the minister should be aware of. More importantly, the reading of the bill indicates that this is set by regulation. When that was pointed out, the cry from the cabinet secretary was, 'Oh, which minister would do it?'. The answer is: the minister responsible for the act would do it. Who allocates that is not in the bill either because there are other acts that determine that.

Hon. Gavin Jennings interjected.

Hon. M. A. BIRRELL — Yes, we know it.

Hon. Gavin Jennings interjected.

Hon. M. A. BIRRELL — It is not a test of the opposition when the government seeks to abuse the committee stage of a bill. It is not the test of an opposition. It is an insult to the Parliament to be asking self-evident questions which have self-evident answers and which can easily be understood by either fully reading the bill, by reading some of the background material to it or by reading any other act of Parliament that relates to it. This is a game that the Labor Party will regret. What comes around goes around. If the government through this action seeks to trivialise the committee stage, seeks to abuse it — —

Hon. D. G. Hadden — Stop threatening us.

Hon. M. A. BIRRELL — I am not threatening the honourable member, let alone someone like her. I am telling honourable members that this is an unprecedented abuse of the committee stage. It is not only unwelcome, it is childish.

Honourable members interjecting.

Hon. M. A. BIRRELL — In response to the government's interjections, I make it perfectly clear that not only have I been through the committee stage of bills under this opposition, but I have more importantly been at the table on the other side of the chamber as a minister during a committee stage, often for over 10 hours in response to serious questions from intelligent members of the Labor Party. I have been under more scrutiny than this, and never have I seen such childish questions asked in such a trivialised manner and in such a rigorous abuse of normal standards that would apply in either chamber.

I have never seen honourable members ask for multiple definitions that are self-evident. I have not seen them ask for definitions which are obvious on the face of the document. I cannot recall situations where no attempt has been made to read background material which explains the answers before honourable members ask the questions. The government is undermining its own credibility by using this mechanism. More than that, it is reflecting on its own ability by using this procedure. If this is the desired standard, its ministers will live to regret it. It is the lowest standard that has ever applied here. It is not the standard that should be a role model. If it is the standard it wants as a role model then, to use Mr Theophanous's words, 'We will follow the precedent'.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In all frankness I am not trying to abuse this in any sense. This is a simple request of substance of the honourable member who presented this bill. This bill is trying to do two things at once — to stop whatever the term 'substance abuse' means, whether it is inhalation or spraying graffiti. That is what I seek clarification on. Is Mr Lucas trying to do both with this bill? Is he trying to reduce inhalation and graffiti or is he trying to do one of those things? That is what I seek clarification on because if it is both I suspect it achieves neither. I am not trying to abuse the process.

Hon. N. B. LUCAS (Eumemmerring) — To clarify this issue for the minister's benefit, you are not inhaling a substance when you are graffitiing, although I suppose you can do that. But to make it clear for the minister, the first thing I would have done if I were him, before coming into this chamber, would be to work out what substance abuse meant. That is what this bill is about and it seems extraordinary that the minister comes into this chamber to deal with a bill about this issue and does not know what substance abuse means.

Hon. J. M. Madden — I know what it means.

Hon. N. B. LUCAS — You have just admitted you know what it means. I accept that. Get that on the record. We have just spent the last 15 minutes with the minister asking what it means and we have just now got it on the *Hansard* record that he knows what it means. Well, what a fool! He is asking questions about things he already knows about. In respect of the first clause the facts are that the purpose of the bill is to limit the sale of spray cans containing paint or other substances — and we will get on to that later — to minors in order to reduce the incidence of substance abuse. Now you know what substance abuse means because you just told me you did.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Hon. GAVIN JENNINGS (Melbourne) — There is a proliferation of questions I would like to ask but time is running out. We have lost time so I will drop to two critical issues, one under proposed section 16B — Notice to be displayed — which becomes the critical notice in relation to the offences delineated in the bill. Will Mr Lucas outline to the chamber, given that it is an offence to purchase certain spray cans and it is a defence to indicate that you have not seen the sign, how he accounts for the fact that the sign in no way indicates what those certain substances may be?

Hon. N. B. LUCAS (Eumemmerring) — The sign that is going to appear in a prominent place on the premises will show the words as recorded in proposed section 16B (1) indicating that it is unlawful to sell certain spray cans to persons aged under 18. When this bill becomes an act a retailer of spray cans will know the spray cans they cannot sell will be those defined in this act and also any other spray cans containing substances that subsequently are included by regulation. That will be quite clear under the act and regulations. Anybody under 18 coming into a shop proposing to purchase a spray can will be in a situation to know that there are limitations and if they are not aware — as the retailer is — they could clearly find that the spray paint and other substances could be those that they are not allowed to purchase.

Hon. T. C. THEOPHANOUS (Jika Jika) — I ask the following question of the honourable member at the table: in the event that someone who is over 18 goes to purchase a spray can and gives it to a minor around the corner, could he outline whether that is an offence or whether it is allowable for that sort of thing to occur, when groups of kids could find someone who is over 18 to go and purchase the — —

Hon. G. K. Rich-Phillips interjected.

Hon. T. C. THEOPHANOUS — What did you say? Mr Chairman, I take serious exception to what has just been said by the honourable member over there, and I ask you to ask him to withdraw.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — I said that somebody who is over 18 might go around the corner and buy cans and then give them to minors. The honourable member interjected with the outrageous statement that I would do it. I want him to withdraw it unconditionally, and you, Mr Chairman, should tell him to.

The CHAIRMAN — Order! I do not know which honourable member it was, but I would urge the honourable member to withdraw.

Hon. G. K. Rich-Phillips — I withdraw.

Sitting suspended 1.02 p.m. until 2.06 p.m.

Hon. T. C. THEOPHANOUS — Before the break I was simply asking Mr Lucas to indicate to the committee whether it would be legal under the bill to provide a minor — and if it is, perhaps he could tell us what he means by a 'minor' as well — with these spray cans in the example I gave where somebody over 18 might buy the spray can on behalf of the minor and then simply provide it to them. My question is: is it illegal to provide spray cans to minors where they have not purchased them from a shop or some other establishment?

Hon. N. B. LUCAS (Eumemmerring) — The answer to the question is no, it would not be illegal for somebody who is over 18 to pass on to a minor a spray can that had been purchased by somebody over 18. That situation is no different to somebody purchasing liquor, cigarettes or tobacco and passing them on to somebody under 18.

If the government wishes to place legislation before the chamber that makes it illegal for this to happen, for somebody over 18 to pass on to a minor either a spray can containing paint or liquor or tobacco, that is an issue the opposition would be happy to consider.

Hon. T. C. THEOPHANOUS (Jika Jika) — I just want to get this straight. The legislation is not talking about cigarettes or alcohol. Is the honourable member saying that the legislation would not stop a mate who was over 18 going and buying any number of spray cans on behalf of somebody who was under 18 and simply giving them to them?

Hon. N. B. LUCAS (Eumemmerring) — I am happy to repeat my previous answer where I said that if somebody over 18 chooses to purchase a spray can with paint in it and passes that on to somebody who is under 18 it is not illegal unless that person sells it to the minor. If he or she gives it to them, it would not be illegal, as I understand it.

Hon. GAVIN JENNINGS (Melbourne) — So it is the transaction which is the illegal act. It is not an illegal act for a minor to have in their possession a spray can, but by the definition in the bill it is the act of sale that is illegal. I would like us to go back to — —

Hon. C. A. Furletti — Are you asking a question or making a statement?

Hon. GAVIN JENNINGS — The question is that the critical test in the defence that would be run by a minor about whether they had legally or illegally obtained such a spray can would be whether they had observed the sign in proposed section 16B(1) of the bill which says in part:

> IT IS UNLAWFUL TO SELL CERTAIN SPRAY CANS TO PERSONS UNDER 18. PERSONS MAY BE REQUIRED TO PRODUCE EVIDENCE OF AGE WHEN PURCHASING CERTAIN SPRAY CANS.

Proposed subsection (2) goes on to say that those words have to be printed in letters not less than 15 millimetres in height — a bit over half an inch — on a sign that will be displayed on the premises. Can the honourable member indicate whether the enforcement of this would be on the basis of on-the-spot fines?

Hon. N. B. LUCAS (Eumemmerring) — There is nothing in the bill that provides for on-the-spot fines.

Hon. GAVIN JENNINGS (Melbourne) — I would have thought that there would be no provision for on-the-spot fines, but in terms of the way in which the courts would deal with this matter, that test would be a difficult test to satisfy, and I ask Mr Lucas to reflect on that.

Firstly, I ask where witnesses are able to indicate that the signage existed, whether it is in the line of sight of the person under the age of 18 years; and secondly, whether the phrase 'certain spray cans' is sufficient to satisfy the courts' consideration of the substances covered by the phrase, given there is no publication required by the bill of what those certain spray cans may be at the point of sale.

Hon. N. B. LUCAS (Eumemmerring) — If a person who is apparently under 18 years purchases a spray can and the retailer is unsure whether that person is under 18 years, the first thing that is relevant is that the signage in the retailer's premises should indicate it is unlawful for the retailer to sell spray cans to a person under 18 years. If someone under 18 years wishes to purchase the product it is obligatory on the retailer, if he or she is not to contravene proposed section 16C(1) to check whether the person is in fact under 18 years. Provisions are contained in the bill that discuss those issues.

In terms of what is or is not banned, the spray can means a spray can containing paint or a substance prescribed by regulation. It could be that the minister may prescribe other substances to come under the definition by regulation made under proposed section 16F. Having said that, it is also appropriate to say that the bill proposes that someone under 18 years is not allowed to purchase a paint spray can. There are obligations on both sides — the retailer and the purchaser. The signage sitting in the middle brings the issue to the attention of proposed purchasers that if they purchase paint spray cans they will have to take up that issue with the retailer who will clearly know what his responsibilities are. As an example, the Mitre 10 organisation has already put out signs. I noticed a sign in the True Value hardware store near where I live. Hardware retailers have taken up this opportunity of their own volition to reduce the number of paint spray cans purchased by people under 18 years. If the bill becomes an act I am confident retailers will know they are unable to sell spray cans of paint to people under 18 years and hopefully both through the signage and general community knowledge it will become known that these substances cannot be purchased by people under 18 years.

Hon. GAVIN JENNINGS (Melbourne) — It was a nice try, Mr Lucas, but my question related to the defence run by a minor under proposed section 16D(3) and whether you could ever envisage that a conviction could be obtained under the provision.

Hon. N. B. LUCAS (Eumemmerring) — Convictions under any legislation are the responsibility of the courts. It is not appropriate for me to pontificate whether actions by authorised authorities on behalf of the Crown will or will not be successful. Proposed section 16D(3) indicates clearly that it is a defence in relation to a charge made under subsections (1) or (2) of this provision if a person can prove that at the time of purchase the notice was not displayed in a prominent position. It will be up to the courts to determine on the evidence whether the signage had been in place. If it turns out it was not it will be an interesting case, but it is up to the courts to determine that and not for me to pre-determine whether someone is guilty of the offence.

Hon. GAVIN JENNINGS (Melbourne) — I will bring this matter to a conclusion, because when pieces of similar legislation are brought before this chamber by the government and are dealt with in committee it has been made very clear by members of the opposition parties the importance in the way the legislation is enforced. Mr Lucas has not been able to provide the committee with any certainty that a conviction would occur under proposed section 16D(3). However, a conviction may be obtained under proposed section 16C relating to the requirement of the shopkeeper to ask for identification. I reiterate that the enforcement of this provision could be easily manipulated through

entrapment. Is that a mechanism Mr Lucas is aware of, that a person may go into a store and seek to buy the substance which may lead to a conviction under proposed section 16C? The retailer is mandated to ask: 'Have you proof of age?'. Has Mr Lucas got any mechanisms to militate against entrapment procedures in enforcing the legislation?

Hon. N. B. LUCAS (Eumemmerring) — In relation to some legislation passed by this Parliament, the responsibility to enforce the provisions is passed on to local government, to council authorised officers and, in this case, to authorised persons who are members of the police force. Members of the police force are authorised persons to enforce a raft of legislation. Is Mr Jennings suggesting that members of the police force will seek to entrap people or to enforce this law or another law unfairly? I would not believe Mr Jennings is suggesting that, but if he were I would say that is not the way we see the laws of this state being enforced.

I hope people are never entrapped into breaking the law. Simply put, the bill provides for people not to. It also provides that people are not allowed to purchase paint spray cans if they are under 18 years. It is up to the police to see that the law is obeyed when the bill comes into force.

Hon. D. G. HADDEN (Ballarat) — Will Mr Lucas tell the committee what protocols and procedures are expected to be in place to record or sight evidence-of-age documents as provided in proposed sections 16A and 16C, especially given the privacy of information and documents under privacy laws?

Hon. N. B. LUCAS (Eumemmerring) — I am not sure what the honourable member means by that question. Could Ms Hadden just succinctly tell me what she wants to know?

Hon. D. G. HADDEN (Ballarat) — What protocols and procedures are proposed to be put into place to record evidence of age documents in the light of breaches of privacy that may flow under the Information Privacy Act and the privacy commissioner's guidelines?

Hon. N. B. LUCAS (Eumemmerring) — There are no protocols within this bill about recording by retailers. In terms of drivers licences which are mentioned and in terms of passports and proof-of-age cards, they are all documents issued by either the state or federal governments. In relation to the recording of information by those authorities, that is not a matter I would wish to canvass.

In terms of somebody's ability to produce some proof-of-age document to a retailer, they have the ability to do that. There is nothing in this proposed legislation to do with any recording of that information.

Clause agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Hon. N. B. LUCAS (Eumemmerring) — I move:

That this bill be now read a third time.

In doing so, I wish to make a couple of comments. Firstly, the Liberal Party felt very strongly that it should bring the proposed legislation into this house because things were moving pretty slowly and the government, although it had made some noises about introducing this type of legislation, had not done anything. We saw this as a way of moving the issue forward.

Secondly, I thank those honourable members who have contributed to the debate. I draw to the attention of those who have read the *Hansard* in relation to this the unfortunate frivolous nature of what happened before lunchtime, but after lunchtime it has been sensible, and I thank particularly the Honourable Gavin Jennings for his contribution after lunch. I wish this bill a speedy passage.

House divided on motion:

Ayes, 26

Ashman, Mr	Davis, Mr P. R.
Atkinson, Mr (*Teller*)	Forwood, Mr
Baxter, Mr	Furletti, Mr
Best, Mr	Hall, Mr
Birrell, Mr	Hallam, Mr
Bishop, Mr	Katsambanis, Mr
Boardman, Mr	Lucas, Mr
Bowden, Mr	Olexander, Mr (*Teller*)
Brideson, Mr	Powell, Mrs
Coote, Mrs	Rich-Phillips, Mr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr

Noes, 11

Broad, Ms	Madden, Mr
Carbines, Mrs (*Teller*)	Romanes, Ms
Darveniza, Ms	Smith, Mr R. F.
Gould, Ms	Theophanous, Mr
Hadden, Ms (*Teller*)	Thomson, Ms
Jennings, Mr	

Pairs

Luckins, Ms	Nguyen, Mr
Ross, Dr	Mikakos, Ms
Smith, Ms	McQuilten, Mr

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

PUBLIC SERVICE: STAFF NUMBERS

Hon. D. McL. DAVIS (East Yarra) — I move:

That this house condemns the government for increasing the size of the Victorian public service without a corresponding increase in services delivered to the Victorian community and instead squandering public money on:

(a) an expansion in the number of bureaucrats in the Victorian public service rather than those involved in direct service delivery;

(b) an expansion in the number of, and expenditure on, government ministerial advisers, press secretaries and other ministerial staff and in particular, condemns the Premier for expanding the number of ministerial and departmental staff in his own department by over 50 per cent in his first two years in office; and

(c) the appointment of Labor mates on massive salaries to key public service positions where the Labor links of the appointee and their ability to manipulate the public service have been the decisive factors in their appointment, rather than a focus on quality governance and service delivery for Victorians;

and condemns the government for the mismanagement of freedom of information requests concerning the numbers employed in departments.

In moving this motion I am very conscious that Victorians demand value for money in the taxes they pay. They demand that community services be provided in an efficient way and that the provision of those services is targeted at things they need in the community that are important.

All honourable members in this chamber agree about the need for proper services in the police, teaching, health and many other necessary service-delivery areas of government, but it is important that the service delivery areas are not overwhelmed or overridden by the number of bureaucrats and people devoted to pushing paper around and so forth rather than being at the service delivery level.

In answer to question on notice 2280, asked recently in this chamber, I have received an answer from the Premier about the number of public servants employed. It is instructive for me to read some of the figures into *Hansard*. In 1998–99, 26 255 people were employed in the Victorian public service. That was defined as the number of people employed in the 8 core departments and 12 administrative offices; that is not the police, the nursing service or teachers. By 1999–2000 the figure had increased to 28 511, and by 30 June 2001 it had increased to 30 635. That is a massive increase of 4380 public servants — over 8 per cent a year — who are largely not directly involved in service delivery but are involved in administering things — they are involved in a less direct way for the benefit of Victorians.

I hasten to add that this is not designed to be critical of public servants per se. Most of them are sincere individuals who do a very good job, and I want to place on record that the opposition is cautious about in any way criticising individual public servants or a class of people. That is not what it seeks to do. It seeks to look at the management of the public service to ensure that the Victorian public receives good value for its tax dollar, that it receives the right services and that the services it requires are adequate.

It is important to place on record some examples, department by department, of the increase in the number of people employed in the Victorian public service. There has been a very significant increase in the number of people employed in the Premier's department. The Premier told the Public Accounts and Estimates Committee at last year's public hearings that there had been a significant increase in the number of staff in his department, and indicated that it had increased from 407 on 30 June 1999 to an estimated 630 on 30 June 2001 — a significant 55 per cent increase that Victorian taxpayers will have to pay dearly for. It is important to realise that last year's budget also flagged a further expansion in the number of staff employed in ministerial offices. It laid out a four-year program at $3.8 million per year — $15.2 million over four years — for additional public servants.

Part of the motion relates to the difficulty of obtaining information from the government as to where these people are employed, how they are employed and what benefit Victorians obtain from the additional people, as the Treasurer laid out in the budget last year. It is important that Victorians track these increases and are prepared to ask questions as a community, and that we are prepared to ask questions as parliamentarians, about what value we are receiving for these massive and extraordinary increases.

In so many cases I am becoming increasingly concerned that the people put into these ministerial and parliamentary positions are not of the highest of calibre and quality. It strongly appears that in many cases those people are individuals who have been appointed —

Hon. K. M. Smith interjected.

Hon. D. McL. DAVIS — Exactly, Mr Smith, they are Labor Party hacks and appointments. The Jim Reeves affair resonates in the minds of many Victorians as an example of how not to conduct an appointments process, and a number of members of this house have been involved with the committee looking at that. I will be interested to see the final recommendations and findings of the committee on how the process was fully fleshed out and undertaken.

But there are other examples. I think of the example of the appointment of Andrew Hockley, the director of the Premier's strategic communications branch — a man who was appointed over 31 others, whose qualifications I think were not the best in the field and who was appointed because of his familial links and Labor Party service to a position at the centre of the government's information and propaganda machine. Mr Hockley's first task for the Victorian community was to produce the *Growing Victoria Together* document that has been pushed around at huge expense — another document, incidentally, the community has not been told the cost of. My estimates suggest that the document may have cost between $600 000 and $700 000, and what value the Victorian community has received is unclear.

It is important to note that the staff increases have not just been in the Premier's office. There have also been significant staff increases in places like the Department of State and Regional Development. According to figures provided to the Public Accounts and Estimates Committee last year the executive staff in the Department of State and Regional Development increased by 22 per cent. Between 30 June 2000 and 30 June 2001 the number of executive officers increased from 51 to 62, and the total number of staff increased from 715 to 817. Given the lack of major projects and development that has occurred in this state you have to ask how those extra people have been deployed at departments like State and Regional Development.

Hon. A. P. Olexander — Where are the outputs?

Hon. D. McL. DAVIS — Where are the outputs? That is exactly the case. People do not mind seeing inputs if the outputs are commensurate. But that is not what we have seen at the Department of State and Regional Development, the Premier's department, or at other departments like the Department of Natural Resources and Environment, where there has also been a significant increase in the number of staff. Figures show that staff of the Department of Natural Resources and Environment increased from 4205 in 1999–2000 to 4621 at 30 June 2001 — again a very significant increase that would concern the community, particularly in rural and regional Victoria, where there is a concentration of Department of Natural and Resources and Environment outputs, which are very important in ensuring that our environment is protected and that the best practices are used in agriculture and other areas. It concerns me greatly that these sorts of outputs are not achieved properly.

I also make the point that secondments appear to be a growing technique used, particularly at the Premier's office. Mr President, you and others in this house would be familiar with the difficulty we have had in obtaining accurate figures on the number of secondees the government has moved from the public service into ministerial offices. There is a significant issue with the lack of provision of information. The best information I can put together so I can feel secure in quoting figures is that over a recent period nearly 30 secondees have been pulled into ministerial offices, about 16 of them in the Premier's and multicultural affairs areas. That is an extraordinary increase in staff. On my information the Prime Minister's office has only 38 staff. So to see these enormous numbers of people pulled into the Department of Premier and Cabinet, and the Premier's private office, is of particular concern.

No-one minds secondees existing in the public service doing a specific task with a specific set of skills, and there is an appropriate role for the secondment of experienced and knowledgeable staff. But at the same time honourable members would have to ask themselves whether this process is occurring for that reason or is a way of surreptitiously increasing staff — to the benefit of the Labor Party and the ministers rather than the community.

I want to make another comment on this motion. I am conscious of the time to deal with these matters, and it is important that others have the opportunity to speak, so I will be as brief as possible. But I make the point that we have had great difficulty through the freedom of information process in obtaining proper and accurate information from government departments, even with the matter discussed in this house earlier today of the Recfind freedom of information request to the Department of Infrastructure. Over the recent period we have encountered enormous difficulties, as have others,

with freedom of information requests to government departments.

That request was important. One aspect we wished to examine was departmental staffing, and Recfind would have enabled us to precisely request the documents we may have required to establish certain facts and figures around staffing. But the government, in its effort to cover its tracks on so many issues, in its determination to ensure that it was not transparent, open and accountable, and in its effort to ensure that the opposition and the community were not able to successfully examine aspects of government operation in detail and with the precision that the Recfind indexing system would have provided to journalists, the community and to members of Parliament, did not enable that to occur. It is of great concern to me that that process has been so changed, altered and, in my view, quite strongly abused. The government is involved in a cover-up on that matter.

I want to quote directly from some documents that have come into my possession that relate directly to that freedom of information request and to the transparency issues that surround part of this motion. I refer to the document entitled 'DOI and David Davis MP', which relates directly to Recfind and is obviously from the legal department of the Department of Infrastructure. The document may have been written by somebody inside that department or by people who wish to examine the motives of the department. I want to quote directly from some aspects of this document, and I am happy to make it available to the chamber if anyone wishes to look at it. It states:

> Following a series of briefings with advisers in the office of the ministers for transport and planning and the Premier the advisers had expressed disquiet and concern about the … release of … documents. The concern raised centred around the 'shopping list' potential of the Recfind list — that is, that the provision of the list would lead to further, accurately described applications for individual documents on the list or for document types identified from the list.

It is important to see that in the view of the author of this document that is the motivation for refusing that freedom of information request. The document continues:

> The applicant was advised … [by] phone on the morning of the day Lawrie took over the file …

So within one day the individuals involved had zapped the release of this information.

The document further states:

> … Mr Davis had already been advised that release in an amended form was imminent.

Lawrie —

that is, Lawrie Tooher, the head of the legal branch of the Department of Infrastructure —

> made the decision to implement the section 25A(1) protocol approximately three weeks after Mr Davis was advised release would occur. Understandably Mr Davis was upset with the process and complained to the Ombudsman. He also lodged an FOI application on the documents relating to the administration of the Recfind request and lodged an appeal with VCAT.
>
> …
>
> The risk with FOI applications going to the tribunal is not generally the possible release of documents; it is the examination under oath of senior government officials in an open court environment. It is particularly the case in VCAT where the usual rules of evidence need not apply and where there is an indication of inappropriate and sharp practice … All of this in a venue open to both the press and the public.
>
> It is likely that in this case David Davis will subpoena the attendance of senior advisers from the offices of the Premier, Deputy Premier and Minister Batchelor, and examine them under oath not only about the management of the Recfind request. It is also likely that the examination will extend to the coordination of the FOI responses by various agencies generally and the role which our politicians play in determining access.

We need to understand that what the author of the document is saying about the FOI process under the Bracks government and about the sort of FOI processes that relate, for example, specifically to requests about staffing numbers is that there is a coordinated response. There is a super unit in the Bracks government that has the responsibility for zapping and preventing requests. We have documents from that unit and, it must be understood that this is not an open, accountable and transparent government. This is a government committed to stymieing FOI requests. It is committed to preventing information being released and to preventing Victorians, whether they be MPs or members of the community, from accessing information in a proper and lawful manner under the provisions of the FOI legislation.

The document further states:

> Further, it is also likely that officers from the justice department will be examined because many departments received similar Recfind requests and these were usually subject to various coordination strategies used by the Department of Justice FOI unit.

That is the super unit with the specific aim of subverting the act and preventing the release of documents to Victorians, as should be allowed under the FOI legislation. The document continues:

> Finally, Sue Jaquinot, Lawrie Tooher, David Holmes and myself are likely to be called to give evidence, not only on the processing of the Recfind request, but the decision-making protocols used within the department and their applications in other FOI cases.
>
> Above is an outline of the risk to the department and ministers. However the personal risk to Lawrie and Sue Jaquinot is just as pronounced.
>
> Section 61 of the FOI act provides a sanction against officers where the tribunal is of the opinion that there is evidence that those officers are guilty of a breach of duty or misconduct in the administration of the FOI act.

I am accusing the government of misconduct under the act. There is evidence to support that accusation. The Ombudsman has taken evidence under oath which indicates that ministerial advisers deliberately subverted the course of the FOI process in relation to this request. The document further states:

> As the decision makers, both Lawrie and Sue face personal sanctions by the tribunal if there is evidence that the political opposition or concern about the 'shopping list' effect influenced them in their decision.
>
> As an experienced FOI manager and as the officer who administered the initial processing of the application, my evidence concerning the matters surrounding the reasonableness of the use of section 25A(1) in this case will be significant. Added to that, my evidence concerning the arrangements and protocols in use with the department's FOI unit in the time prior to the Recfind request will be critical in determining whether the safety net, which prevented such political interference in the past, was deliberately removed.

The chamber should be aware what is being alleged and what I believe is important to be on the public record. What is occurring is a deliberate attempt to subvert the FOI process, that those processes or filters that had stopped ministerial and ministerial adviser influence on the FOI have been removed.

The Bracks government is now deliberately coordinating approaches to stop members of Parliament and members of the Victorian community accessing the FOI act and exercising their legal rights under the act. This is an absolute disgrace. Government members should be ashamed of themselves and, as members of Parliament, they should take action to prevent this sort of damage to the FOI processes occurring in Victoria in the future.

I quote the final sentence of the paragraph:

> Put bluntly, both Sue and Lawrie have a significant personal stake in discrediting me as a witness —

I can only imagine it means the author —

> at VCAT in the matter of Davis and the Department of Infrastructure. Neither Sue nor Lawrie is a disinterested party or an unbiased senior officer and neither should be involved in the disciplinary matter in any way.

The government will stop at nothing to prevent its people going to court. It is my strong view that the government will put enormous pressure on certain people over the next period. The government wrote to me in the recent period and referred to the witness statement that I put before the court. The letter from FOI Solutions, the lawyer Mick Batskos who was handling the case on the government's behalf, indicates that the government will try to stop witnesses being called.

It is not my plan to reflect on the substance of the case, which will turn on section 25A; that is a matter for the court. But what is not a matter for the court are the concerning activities of the government, ministers and ministerial advisers who have tried to subvert the act and to upset the normal FOI process. They have acted in a way that I believe is contrary to the public interest, contrary to the principles of open and accountable government and contrary to the principles that most honourable members would hold dear.

I shall further comment about aspects of growth in the public sector. I know the next speaker for the opposition on the motion will make comments about individuals who have been appointed. That is quite important to get on the public record.

I note that taxes in Victoria are up significantly. Over the last two budgets we have seen a massive growth in taxes. This is the highest taxing government in Victoria's history by a significant margin. But not all those tax receipts are going into services for Victorians. A good deal of it is going to the expansion of the public sector — not that part of the public service that delivers service.

It is going to that part of the public sector that could be called the bureaucratic section of the public service — those who wear cardigans, as I described them recently, and suits. I am not talking about those in blue and white uniforms. It is a great concern that that is the situation. The community ought to be concerned, and we will see much more impact on Victoria over a period as we move forward.

Hon. GAVIN JENNINGS (Melbourne) — Today the Council is debating a convoluted motion moved by the Honourable David Davis about a number of elements of public administration in Victoria. If you were to take on face value the underlying principles and values that Mr Davis outlined in the case he has just presented to the house you would have some degree of confidence that there was bipartisan support for the

principles of appropriate disclosure of government decisions and the appropriate access to freedom of information (FOI) that underpins legislation and is delivered by government departments.

You would believe there was an agreement about the level of service delivery appropriate to provide government services to the people of Victoria, because the rhetoric and principles that Mr Davis outlined are those principles that the Labor Party took to the people of Victoria at the 1999 election and which saw the election of the Bracks Labor government and the restoration of the level of public service to the people of Victoria. Those principles saw the restoration of a number of pieces of legislation in this place, including the restoration of the FOI legislation that had been decimated during the period of the Kennett administration. Those principles also saw the independence of the Auditor-General and the Director of Public Prosecutions again protected through the statutes of the Victorian Parliament.

Unfortunately, a number of statutes were eroded during the period of the Kennett government. The rhetoric of Mr David Davis today about his expectations of service delivery to the people seems to fly in the face of the Kennett government's sorry history of public service activity within the state, particularly in the delivery of human services, such as the closure of hospitals and schools and the reduction of state responsibility — a whole range of significant social infrastructure and service delivery. It is a strange philosophical Limbo-land in which Mr Davis must find himself as the proponent of this motion.

The government will take the opportunity of dealing with various elements of the motion. I shall start my contribution by responding to the challenge laid down by Mr David Davis that the government has increased the size of the Victorian public service without a corresponding increase in services delivered to the Victorian community. The government has been able to meet that challenge on any number of fronts, which I shall outline to the house.

Hon. D. McL. Davis — What about hospital waiting lists?

Hon. GAVIN JENNINGS — An extra 3000 nurses have been delivered back to the Victorian hospital system which has seen an escalation in better quality of care received by patients.

Hon. D. McL. Davis — A decline in care.

Hon. GAVIN JENNINGS — Mr Davis should wait, because I will come to figures and deal with service delivery to Victorian citizens in getting on with the government's agenda to increase the number of beds in the hospital system and over a period to reduce waiting lists that have bedevilled the health system in Victoria for many years.

We have introduced 3000 teachers back into the education system, and there was a promise of 925 more teachers in the budget delivered by the Treasurer last week to address issues such as literacy, numeracy and student retention rates. They will also assist in addressing the critical period of the middle years of learning in providing support to our children who may be at risk of dropping out of the education system and overall to provide for a better quality of education and opportunities for our children coming through the schools.

We have bought about a net increase of over 800 police on Victorian streets. On coming to government we promised we would deliver an additional 800 officers over the full term of the government. The government has achieved that figure in a little over half the term, a significant feat by the Minister for Police and Emergency Services and the police force to achieve an increase and provide a greater level of support on safety matters to local communities.

We have made a significant contribution to improve the social infrastructure that provides services to the whole of the Victorian community. The budget has culminated in a program of over $3 billion of total cost value of major projects that have been introduced during the life of the government, and by the time the committed projects have been completed Victoria will see during the course of its term 26 new or upgraded hospitals, 21 completely new or upgraded primary and secondary schools, 51 new police stations, 13 new ambulance stations and a major program of road, railway and port infrastructure. This government has resurrected the rail system in regional Victoria by investing significant sums of money in creating a fast and efficient rail service to the important regional towns in the state.

Hon. P. R. Hall — It is not proceeding too fast at the moment!

Hon. GAVIN JENNINGS — Mr Hall can hardly wait for the first train to roll into Gippsland. It will not be long after the trains and railway lines are delivered to regional Victoria that the National Party will somehow find the opportunity to take credit for this important project, just as it is now desperately trying to claim credit for the Wimmera–Mallee pipeline for

which the government has made a significant investment of $77 million to kick-start it.

We have seen not only an investment in staff coming back into the public sector but also an equivalent significant investment in infrastructure. The government has a coordinated program of recurrent and capital expenditure to restore the level of services that the people of the state had every right to expect will be delivered, regardless of whether they live in metropolitan Melbourne or regional Victoria.

I direct attention to a number of other significant achievements in service delivery that have been achieved in the short time of two and a half years that Bracks government has been in office. Firstly, in community safety and workplace safety issues there has been an increase of 80 Worksafe inspectors which has not only resulted in an increase in the number of prosecutions from breaches of occupational health and safety laws, but more significantly it has led to a reduction in the number of workplace injuries and deaths in Victoria since the election of the government.

We have established a women's safety coordinating committee to develop a whole-of-government approach to prevent violence against women and imposed a 50 kilometre-an-hour speed limit on residential streets to make them safer. The Minister for Transport has provided the community with indicative study results that show that in the brief period that the 50 kilometre-an-hour zone has applied on Victorian streets there has been a reduction in the number of pedestrian deaths that have occurred across the metropolitan area, something that many honourable members may regard as a significant achievement in terms of reducing the risk of injury across Victoria.

We have funded the employment of 100 roving officers for after-dark suburban train services in underpinning the safety of commuters in the transport system.

Hon. Bill Forwood — That's pretty bent!

Hon. GAVIN JENNINGS — I am not sure what Mr Forwood is doing. Maybe he is out looking at trees or something. I am not sure of his contribution to the house on his way through.

One other significant achievement of the government during its term in office has been the delivery of over 130 000 jobs in the Victorian economy over the life of the government. Indeed, half the jobs that have been created in Australia during that period have occurred in Victoria. A number of specific programs have been addressed regarding employment growth. Some 167 projects have been funded through the community jobs program which has created in excess of 3000 jobs during 2001 for long-term unemployed people.

Through the youth employment incentive scheme we have assisted over 9000 disadvantaged young people during 2001. This scheme provides support for employers to take on long-term unemployed people. We have placed over 11 700 people in employment through the community business employment program.

The challenge as held out to us by Mr Davis is that he expects all these aims that I have started to outline to the house to be achieved without having any public servants in Victoria at all. In fact, that may be one of his fundamental problems in that the philosophy underpinning his question is that since he is now in opposition he is able to advocate a massive increase in services on behalf of his constituents yet he does not recognise that there is a role for an increased number of public servants, particularly in the service delivery field.

The government has introduced a significant number of institutions during the last two years to provide a framework — in some cases legislative, in other cases administrative — to develop new services in Victoria. These include the introduction of the Essential Services Commission to ensure that Victorians have access to reliable and secure electricity, gas and water at an affordable price — a responsibility that was clearly deserted during the Kennett administration.

We have seen a major emphasis on energy efficiency established through the Sustainable Energy Authority in Victoria, and the government has established five regional Energy Smart advisory centres to provide information on energy efficiency to rural Victoria. Again this benefits all households in Victoria by ensuring that new houses are energy efficient, something that was clearly lacking during the Kennett administration when myriad mock-Georgian developments took place across the city. They were completely inefficient in their use of energy and have caused a major drain on the state's energy supply. Their design became a very contentious feature across the metropolitan area and — with some justification — were much maligned as inappropriate developments because the former planning minister completely deserted the field.

The government is mindful of the appropriate level of planning required for infrastructure issues over time in Victoria, and we have established the quite contentious — within the Parliament — Victorian Environment Assessment Council to increase community participation in environmental decisions

and to provide independent environmental advice. We have established the Infrastructure Planning Council to investigate and make recommendations about Victoria's long-term infrastructure needs for energy, water, communications and transport, and we have developed a green waste action plan to reduce the 1.7 million tonnes of organic material currently sent to Victorian landfills each year. This is a government that clearly has been working with an agenda and providing the appropriate legislative framework to administer those matters. It is certainly not a government that has not been alive to ensuring better service delivery to the people of Victoria.

In the area of our drug and alcohol programs we have cut the average waiting times for drug treatment and rehabilitation programs by 72 per cent and increased the number of beds for drug and alcohol treatment by over 400 in our first two years in office. The vast array of services delivered by this government clearly flies in the face of allegations made by Mr Davis in his motion. We have seen a disproportionate commitment by this government to provide home care services to citizens through the home and community care (HACC) scheme which is way out of kilter with our obligations under the commonwealth–state housing agreement, and that is indicative of the approach we take in delivering services to people either in residential care settings, through our hospital system, or indeed through their capacity to stay at home.

In responding to a challenge raised by Mr Davis — when he was in the chamber — about improvements in waiting times and ambulance bypass statistics, the last available figures that have been provided to me by the Minister for Health indicate that we have seen a 62 per cent drop in ambulance bypass figures, and I quote:

> … from 843 cases in December 2000 to 322 cases in the December 2001 quarter.
>
> The report shows that under the new emergency triage system which treats the most urgent patients first: all category 1 patients were treated immediately, 80 per cent of category 2 patients were treated within 10 minutes and 71 per cent of category 3 (less urgent) patients were treated within 30 minutes.
>
> The number of people waiting for elective surgery also fell from 43 477 in December 2000 to 41 068 in December 2001. Four hundred and fifty-three patients were waiting in hospitals for residential aged care beds in December 2001, down from 511 only three months earlier.

They are types of good news stories that the opposition is very reluctant to acknowledge about improvements in the health care system.

In the education system the statistical turnaround has been demonstrated in relation to retention rates.

However, as we all know, retention rates are turning around. We have seen an increase in the retention rate of Victorian students in years 10 to 12 from 73.5 per cent in 1999 to 76.8 per cent in 2001; and when the figures for all Victorian schools are combined we see the rate has increased from 78.7 per cent to 81.6 per cent. This is consistent with the significant effort and investment we have put into teachers and resources.

However, as all honourable members would understand, retention rates and statistics are only one measure. The real measure the government is interested in is the quality of the education and the opportunities available to our students once they complete school.

Hon. P. R. Hall — Are you going to give me 5 minutes?

Hon. GAVIN JENNINGS — Mr Hall has asked that I wrap up. I was told at the beginning of my contribution that this matter was going to go on. All honourable members may not have been informed of that, and hence we have what is perceived on my part to be an abuse of time. I will wrap up quickly.

The last proposition of Mr Davis's motion is about the appointments of friends of the Labor Party. I indicate to the house, as I did in December, how long the list is of members of the opposition parties who have been appointed by the government during the past two years. We have seen the appointment of Mr Kennett, a previous Premier, to Beyond Blue, an initiative which deals with depression. He is playing a useful role in the Victorian community. We have seen Tom Reynolds, a minister in the previous Kennett administration, appointed as trustee of the Caulfield racecourse by my colleague the Minister for Racing in the other place. We have seen Alan Brown, a former Liberal Party minister, appointed by my colleague the Minister for Environment and Conservation to the Central Gippsland Water Authority. We have seen Rob Knowles — —

Honourable members interjecting.

Hon. GAVIN JENNINGS — In fact there are any number of — —

Hon. M. A. Birrell — What is he doing?

Hon. GAVIN JENNINGS — He has been appointed to do some work on behalf of the Minister for Workcover, and is providing a useful service to the people of Victoria. I have a lengthy list, and I

encourage members of the Victorian community to read my contribution to the debate on 5 December rather than take up the time of Mr Hall to go through the list of appointments that have been made by this government of previous members and current members of the Liberal and National parties to important bodies within Victoria in recognition of their contributions.

This is the overwhelming principle that the government applies to appointments. If there is a clear community benefit and appropriate skills and attributes are brought to bear by candidates, we will appoint them to those positions regardless of their political affiliations. Our track record in that regard is clear and unswerving. We are not afraid of the scrutiny of the freedom of information legislation, as has been alleged by Mr Davis. We are very happy for the Parliament to make sure that the officers appointed to independent bodies such as the office of the Auditor-General or the office of the Director of Public Prosecutions operate in an independent fashion — that they are not under the threat of intimidation.

The government has overseen the introduction of whistleblowers legislation and a number of reforms to the way the public service works in Victoria that indicate that it is prepared for public servants to provide their advice to government and service to the Victorian community without fear or favour. I hope that in the further contributions to this debate there is an appreciation of the responsibility of government to provide public service and an appropriate recognition of the size of the public service that is required by the Victorian community to deliver those essential services. On that basis the government sincerely opposes the motion of Mr Davis.

Hon. P. R. HALL (Gippsland) — The motion talks about public service numbers, ministerial appointments, appointments of Labor mates to positions and freedom of information.

Freedom of information is not a tool that has been used frequently by the National Party. We have tried to use other means available to honourable members to extract information about the operation of government, particularly by pursuing ministers through parliamentary committees, most notably the Public Accounts and Estimates Committee, by asking questions in the house and by raising matters on the adjournment. These are all mechanisms we have used to extract information.

However, it is now close to the day when we will have to resort to making greater use of freedom of information legislation, because we just do not get answers from the government on a whole range of issues. When we ask questions without notice in this house the ministers duck the answers every time, even today. Yesterday my colleague the Honourable Jeanette Powell asked a question and again the Minister for Education Services ducked giving the answer. When we wish to raise legitimate matters on the adjournment debate there is one minister to respond to all the issues. If I had to go back and look at all the adjournment matters I have raised in the past two and a half years the government has been in office I could say quite honestly that less then half have been responded to. I challenge any honourable member in the opposition to look at the adjournment matters they have raised to see if they have had a response from the appropriate minister. We are ignored.

Hon. I. J. Cover — Is that open and accountable?

Hon. P. R. HALL — Open and accountable? There is no such thing as open and accountable with this government. In the dying days of the previous Labor government it swept a lot of muck under the carpet and it started to stink. That aroma is back again. Openness and accountability is no longer evident with the government of today.

The government stands condemned. We support the motion and I will respond at the next opportunity to a number of matters raised by the Honourable Gavin Jennings.

Debate interrupted pursuant to sessional orders.

MEMBERS STATEMENTS

Monash Freeway: traffic volume

Hon. N. B. LUCAS (Eumemmerring) — I raise a matter regarding the Monash Freeway, on which every day during peak traffic times, which have now been extended to a good part of the day, there is significant congestion. The matter was previously raised by my colleague the Honourable Ron Bowden. I support what he said and I am sure other honourable members will raise this issue in the future. We now have a stop-go traffic situation almost all through the day, which is a significant problem. Between Doveton and Endeavour Hills through to Toorak Road, every day and in the evenings, there is a total block of cars. Late at night it might take 40 minutes for me to travel along the freeway from Punt Road to Berwick, but to come back the next day takes about an hour and 20 minutes.

I urge the government to investigate the need for a further lane along the freeway between Doveton and

Endeavour Hills through to the city, possibly all the way through to Toorak Road. While raising this issue, I hope the government will fulfil its promise to install a barrier in the central median strip of the freeway eastward from Warrigal Road, as it has previously promised.

Lions Club of Melbourne

Hon. G. D. ROMANES (Melbourne) — Last Friday I had the pleasure and privilege of representing the Premier at the Lions Club of Melbourne's 50th anniversary celebratory dinner.

Over the past 50 years the Lions Club of Melbourne has had a proud history of service to the community, raising over $2 million in funds and assisting in a wide variety of projects ranging from extensive clean-ups and the painting of Kew Cottages in the 1950s to funding medical equipment and research, providing holidays for thousands of children with disabilities at Lions camps, providing support for the East Timorese and providing support for the Kensington Community Centre's home work program, and many more activities. Its latest worthy project is support for Lion Garden, a project in Little Bourke Street organised in conjunction with Ecumenical Housing, the Myer Foundation, Melbourne City Council and state and federal governments, with the aim of providing accommodation for eight homeless young people and supporting them in getting back into independent living and full participation in the community.

The Lions Club of Melbourne was the third Lions club formed in Australia and the first in a capital city. I congratulate it on its commitment and many achievements over the past 50 years.

Yambunna Cup

Hon. R. A. BEST (North Western) — The matter of public importance I raise relates to the very important annual golf event held at this time each year. The Yambunna Cup is a prestigious 27-hole golf tournament, which was held at Warrnambool this year. The event this year was won by Noel 'Chooka' Howe in an outstanding performance on a very demanding golf course. I, along with other golfers in the field, would like to congratulate Chooka on his win.

This year's event was organised by the very efficient and capable Noel Holmes, the operations manager for the event. The executives of the event were the chairman, Rick Killian, the secretary, Robert Cook and the treasurer, Graham Watson. It was particularly pleasing to see that the esteemed former leaders of the Yambunna Cup were present — Mr Basil Ashman and Tony Tuck. There were a number of prominent Bendigo business leaders in the field, including Mr Alan Powney, Bendigo's leading newsagent, Mr Max Meade, the president of the Bendigo Jockey Club, and Mr Pat Falconer, a financial adviser. Other business leaders, such as Ted Aldridge and Danny O'Brien, were also present. I make a very special mention of motel operator Paul Sitch for his driving skills and commitment to the health and safety of his opponents.

This was a wonderful event, which was won by a very worthy winner, Chooka, who has been trying for 13 years to win. All players congratulate him on his outstanding performance and victory.

Mornington Peninsula: doctors

Hon. B. C. BOARDMAN (Chelsea) — With the announcement in the federal budget last night of the federal government's commitment to increase funding to attract medical practitioners and specialist doctors to the urban fringes of the five capital cities, it is relevant to raise the shortage of doctors on the Mornington Peninsula. The director of the Mornington Peninsula Division of General Practice, Dr Michael Cross, has recently stated that there is a shortage of doctors in Frankston and on the Mornington Peninsula because of the changes in the demographics of the area as the population continues to age and the number of retirees moving to the area increases. Dr Cross has described the shortage as a political problem, and has stated that the federal government needs to encourage more doctors to the peninsula. I hope that last night's announcement in the federal budget will do something to alleviate this problem.

Dr Cross also identified the increasing number of females and people of Asian descent among graduate doctors. That is causing a degree of concern because areas such as the Mornington Peninsula do not have a high Asian population and women do not remain in full-time practice. I hope those issues can be addressed. Given those concerns it is vital that the state government provide leadership in this troublesome situation and demonstrate that it is genuinely committed to using the funding from the federal government appropriately for the purpose of attracting more doctors and specialists to areas such as the Mornington Peninsula.

Ian Dunn

Hon. D. G. HADDEN (Ballarat) — I wish to acknowledge the great contribution of Ian Dunn, chief

executive officer of the Law Institute of Victoria, who resigned on 28 March after six years in that position in order to allow a smooth transition to the next chief executive officer, John Cain, Jr. Ian Dunn also served 12 years on the law institute council until 1993, and was president of the institute in 1997–98.

Ian Dunn has that unique human leadership ability that enables him to be innovative and passionate yet firm and fair. Ian recognised that a solicitor who had started a professional career in the country would have much more all-round experience than a young city solicitor who had served a similar time in the profession. Ian was not one to turn a deaf ear or a cold shoulder to country solicitors. In my personal experience, Ian was always contactable and approachable, and keen to exchange ideas on the advancement of the legal profession.

Ian was a progressive chief executive officer who was not city-centric and who would go out of his way to encourage a young law graduate to do a few years of practice in country Victoria. Between 1997 and 2001 there was a significant increase in country solicitors, to a total of approximately 1100 out of the total 9000 members of the law institute. Ian's ideal was that the law institute, in combination with the Victorian bar, should be the Victorian arm of the national legal profession. During Ian's time at the law institute spanning nearly two decades he consistently advocated a strengthening of the national body rather than a comparatively under-resourced organisation.

I therefore wish Ian Dunn all the very best of good health and prosperity in his well-earned retirement.

The ACTING PRESIDENT (Hon. Jenny Mikakos) — Order! The honourable member's time has elapsed.

Feathersoft knitting yarn

Hon. W. R. BAXTER (North Eastern) — I want to alert the house to a new initiative in the wool industry which I had the pleasure of being associated with and launching in Bairnsdale on 3 May. It involves a group of seven or eight fine wool growers from the Omeo and Swifts Creek districts who have formed themselves into a cooperative to produce a new kind of knitting yarn. In the past the knitting yarn has usually been of medium wool, something like 25 micron's, has been itchy to wear near the skin and has not been particularly popular, but this product uses 21 micron wool, which is much softer and more comfortable to wear adjacent to one's skin.

This is a bold, worthy initiative by a group of growers who got together to help themselves. They have launched the product under the brand Feathersoft, and I look forward to it being available in shops throughout Victoria and Australia, and perhaps even having it exported. It is available in about 28 or 29 colours, The Victorian Eastern Development Association, a good longstanding promotional and industry group in Gippsland, is backing the product. It put together the launch, and I pay particular tribute to Carol Blandford, who organised it.

This is the sort of initiative that country Victoria demonstrates to the world at large, that it is a force to be reckoned with, and I wish this new product all the best.

Scouts Australia

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I rise to speak of the fine work done in our community by the Scout Association of Australia, now Scouts Australia.

On Monday night, along with my colleague the Honourable Neil Lucas and the deputy mayor of the City of Casey, Cr Mick Morland, I was delighted to attend the annual general meeting of the Casey district scout association. The meeting was also attended by the chief commissioner of the Victorian branch of Scouts Australia, Alston Park, the region commissioner, Rod Grummitt, and the district commissioner, Steve Sheridan.

Over 25 000 Victorians are involved in Scouts Australia in Victoria, including more than 5000 in leadership roles. The scouting movement plays an important role in the development of Victoria's young people. Participating in the scouting movement helps to develop self-esteem, self-confidence, motivation and community awareness among young people, all of which are highly desirable attributes. The scouting movement also makes a valuable contribution through its community activities. On Monday night I was delighted to see the number of scouting groups represented in Casey district.

A few weeks ago, along with the Honourable Cameron Boardman, I attended the annual general meeting of 4th Frankston scouts, which is a group dedicated to scouting activities for special needs children. It was delightful to see that a group exists for special needs children who are often denied opportunities that other children have.

The scouting movement and its local leadership are to be congratulated for the important role they play in the

development of Victoria's young people and the contribution they make to the Victorian community.

Western Melbourne Regional Economic Development Organisation

Hon. S. M. NGUYEN (Melbourne West) — I wish to acknowledge the Western Melbourne Regional Economic Development Organisation (WREDO), which was established in 1995 to encourage change within the business community of Melbourne's west. The work is supported by 41 000 businesses and six councils, networking with other utility and infrastructure organisations, major corporations, educational institutions, small and medium-size businesses, unions, community service providers, cultural organisations and the broader community.

WREDO had organised the Western Melbourne Opportunity Summit at the Mansion Hotel in Werribee on Friday, 3 May. The summit brought together about 100 key operators and people related to businesses around western Melbourne. Previous summits have seen the formation of a number of task forces which work on the opportunities from the summit to develop them into projects and nurture them to fruition. Since the last summit — —

The ACTING PRESIDENT (Hon. Jenny Mikakos) — Order! The honourable member's time has expired.

Southern Peninsula Rescue Squad

Hon. R. H. BOWDEN (South Eastern) — I wish to record my appreciation of the important community services provided by the Southern Peninsula Rescue Squad based at Sorrento. For many years this valuable voluntary rescue service has operated helicopter and rescue boats to many areas of the Victorian community. Fast and efficient helicopter rescues have saved the lives of many Victorians in both water and shoreline accidents.

In making this tribute to the fine professional standards of service provided by the many past and present Southern Peninsula Rescue Squad members, I would like to especially record the service of president, Bob Stewart, past presidents, Bruce Taylor, Brett Quarrell and Trevor Heylbut, and secretaries, Barry Irving, Andrew Allan and Yvonne Morrison.

The Southern Peninsula Rescue Squad provides a rescue service capability 24 hours a day, 7 days a week, and the speed and capability of the helicopter in particular is an important safety asset for many Victorians. I ask honourable members to be aware of the fine service provided by this organisation, and I wish the Southern Peninsula Rescue Squad well for the future.

Film and television: censorship

Hon. R. F. SMITH (Chelsea) — I wish to comment on the controversial banning of the French film *Baise Moi*. Some members of our society are convinced that as adults they are and should be allowed to watch anything they want unencumbered by any form of censorship. I disagree. Whilst I am certainly no prude, I do not believe films that depict such horrific violence against women serve any purpose in our society — quite the contrary. They can only encourage some in our society to think that the violence against and debasement of women is in some way acceptable. It is not. While I am in a position to do so, I will voice my opposition. Indeed I see it as my responsibility to do so. The world has gone mad.

The Australian Football League (AFL) and others express rightful concern about James Hird's face being shown on TV smashed in, over and over again, because of the detrimental impact it can have on kids and the concerns of their mothers. However, some in our society will claim that the public showing of films like *Baise Moi* is okay. They say it is their right to watch. They conveniently ignore the possibility that such films can and do have a detrimental effect on some in our society.

I need to distinguish my views between what happens in private and what happens in public. Consenting adults can do what they damn well like. However, this film is in the public domain, and that is very different. I draw the line at that. I am concerned that the film being — —

The ACTING PRESIDENT (Hon. Jenny Mikakos) — Order! The honourable member's time has expired. The time for members statements has expired.

LOCAL GOVERNMENT (UPDATE) BILL

Introduction and first reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) introduced a bill to amend the Local Government Act 1989, the Constitution Act 1975, the Docklands Authority Act 1991 and the City of Melbourne Act 2001 and for other purposes.

Read first time.

CRIMES (DNA DATABASE) BILL

Council's amendments and Assembly's amendments

Message from Assembly insisting on disagreeing with some Council amendments and insisting on making further amendments considered.

Assembly's message:

Council's amendment 1 as follows agreed to:

1. Clause 2, line 2, omit "17(2)" and insert "21(2)".

with following amendment:

Omit "21(2)" and insert "18(2)".

Council's amendment 2 as follows agreed to:

2. Clause 2, line 5, omit "17(2)" and insert "21(2)".

with following amendment:

Omit "21(2)" and insert "18(2)".

Council's amendments 3 and 4 as follows disagreed with:

3. Clause 5, page 6, line 30, omit ", 464T or 464U".

4. Clause 6, omit this clause.

Council's amendment 12 as follows disagreed with:

12. Clause 8, lines 9 and 10, omit all words and expressions on these lines and insert —

'In section 464ZE(1) of the Principal Act —

(a) after "(4)" **insert** "and section 464ZGO";

(b) in paragraph (d), for "464ZGE; or" **substitute** "464ZGE.";

(c) paragraph (e) is **repealed**.'.

Council's amendment 13 as follows agreed to:

13. Clause 10, page 11, line 2, omit "10" and insert "12".

with following amendment:

Omit "12" and insert "11".

Council's amendment 14 as follows disagreed with:

14. Clause 12, after line 21 insert —

'( ) in paragraph (a), **omit** ", 464T(3), 464U(7) or 464V(5)";'.

Council's amendment 15 as follows agreed to:

15. Clause 15, page 28, line 28, omit "15" and insert "18".

with following amendment:

Omit "18" and insert "16".

Council's amendments 16 to 19 as follows disagreed with:

16. Clause 16, lines 6 to 8, omit sub-clause (2).

17. Clause 18, after line 19 insert —

"(1) Section 464R of this Act as substituted by section 6 of the **Crimes (DNA Database) Act 2002** applies to all forensic procedures conducted on or after the commencement of section 6 of that Act and any application made under section 464T, 464V or 464W as in force immediately before that commencement that has not been determined before that commencement is deemed to have been withdrawn.".

18. Clause 18, line 20, omit "(1)" and insert "(2)".

19. Clause 18, line 25, omit "(2)" and insert "(3)".

Council's amendment 20 as follows agreed to:

20. Clause 18, line 26, omit "12" and insert "14".

with following amendment:

Omit "14" and insert "13".

Council's amendment 21 as follows agreed to:

21. Clause 18, line 29, omit "12" and insert "14".

with following amendment:

Omit "14" and insert "13".

Council's amendment 22 as follows disagreed with:

22. Clause 18, line 30, omit "(3)" and insert "(4)".

Council's amendment 23 as follows agreed with:

23. Clause 18, line 31, omit "15" and insert "18".

with following amendment:

Omit "18" and insert "16".

Council's amendment 24 as follows disagreed with:

24. Clause 18, page 31, line 1, omit "(4)" and insert "(5)".

Council's amendment 25 as follows agreed to:

25. Clause 18, page 31, line 2, omit "16" and insert "20".

with following amendment:

Omit "20" and insert "17".

Council's amendment 26 as follows agreed to:

26. Clause 18, page 31, line 5, omit "16" and insert "20".

with following amendment:

Omit "20" and insert "17".

Council's amendment 27 as follows disagreed with:

27. Clause 18, page 31, line 6, omit "(5)" and insert "(6)".

Council's amendment 28 as follows agreed to:

28. Clause 18, page 31, line 7, omit "17(1)" and insert "21(1)".

with following amendment:

Omit "21(1)" and insert "18(1)".

Council's amendment 29 as follows agreed to:

29. Clause 18, page 31, line 10, omit "17(1)" and insert "21(1)".

with following amendment:

Omit "21(1)" and insert "18(1)".

Council's amendments 30 and 31 as follows disagreed with:

30. Clause 18, page 31, line 12, omit "(6)" and insert "(7)".

31. Clause 18, page 31, line 12, omit "(4) and (5)" and insert "(5) and (6)".

Council's amendment 32 as follows agreed to:

32. Clause 18, page 31, line 16, omit "16 or 17(1)" and insert "20 or 21(1)".

with following amendment:

Omit "20 or 21(1)" and insert "17 or 18(1)".

Council's amendment 33 as follows disagreed with:

33. Insert the following new clause to follow clause 5:

'A. ***Substitution of sections 464R to 464X***

For sections 464R to 464X of the Principal Act **substitute** —

"464R. ***Forensic procedures***

(1) If there are reasonable grounds to believe that a forensic procedure on a person would tend to confirm or disprove the involvement of the person in the commission of an offence specified in Schedule 8, sections 464K to 464M apply to forensic procedures as if —

(a) a reference to the taking or giving of fingerprints were a reference to the conduct of a forensic procedure; and

(b) a reference to an authorised person were a reference to a person authorised under section 464Z(1); and

(c) a reference to an indictable offence or a summary offence referred to in Schedule 7 were a reference to an offence specified in Schedule 8; and

(d) a reference to fingerprints were a reference to a forensic procedure or evidence obtained as a result of a forensic procedure.

(2) A member of the police force must inform a person on whom a forensic procedure is to be conducted that the person may request that the procedure be conducted by or in the presence of a medical practitioner or nurse of his or her choice or, where the procedure is the taking of a dental impression, a dentist of his or her choice.".'.

Council's amendment 34 as follows disagreed with:

34. Insert the following new clauses to follow clause 7:

'B. ***Execution of order for mouth scraping***

(1) In section 464ZA(1) of the Principal Act, for —

"If a court makes an order under section 464T(3), 464U(7) or 464V(5) for the conduct of a compulsory procedure, or an order under section 464ZF for the conduct of a forensic procedure" —

substitute —

"If a forensic procedure is to be conducted under this Subdivision".

(2) In section 464ZA(3) of the Principal Act —

(a) for "If the Children's Court makes an order under section 464U(7) or 464V(5)" **substitute** "If a forensic procedure is to be conducted under this Subdivision on a child";

(b) for "a compulsory procedure" **substitute** "the forensic procedure".

(3) In section 464ZA(4) of the Principal Act, after "blood sample" **insert** "or a scraping from a person's mouth taken by that person".

(4) In section 464ZA(5) of the Principal Act —

(a) **omit** "compulsory or";

(b) after "procedures" **insert** "(except a scraping from a person's mouth taken by that person)".

(5) In section 464ZA(6) of the Principal Act —

(a) for "an order under section 464T(3), 464U(7), 464V(5) or 464ZF is executed" **substitute** "a forensic procedure is conducted";

(b) after "the order" (wherever occurring) **insert** ", if any,".

(6) In section 464ZA(7) of the Principal Act, **omit** "compulsory or".

C. ***Forensic reports***

In section 464ZD of the Principal Act, **omit** "in accordance with section 464R, 464T(3), 464U(7), 464V(5) or 464ZF(2) or (3) or sections 464ZGB to 464ZGD or otherwise".'.

but following amendment made by Assembly:

Insert the following new clause to follow clause 7:

'AA. ***Execution of order for mouth scraping***

(1) In section 464ZA(4) of the Principal Act, after "blood sample" **insert** "or a scraping from a person's mouth taken by that person".

(2) In section 464ZA(5) of the Principal Act, after "procedures" **insert** "(except a scraping from a person's mouth taken by that person)".'.

Council's amendments 35 and 36 as follows disagreed with:

35. Insert the following new clause to follow clause 14:

'D. ***Safeguards***

In section 464ZGE of the Principal Act, for sub-section (11) **substitute** —

"(11) This section does not prevent a member of the police force causing a forensic procedure to be conducted, in accordance with this Subdivision, on a person who has voluntarily given a sample under sections 464ZGB to 464ZGD.".'.

36. Insert the following new clause to follow clause 15:

'E. ***Supreme Court — limitation of jurisdiction***

In section 464ZI(a) of the Principal Act, for ", 464T(1), 464U(3) or 464V(2)" **substitute** "or under that section as applied by section 464R".'.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That the Council agree to the amendments made and insisted on by the Assembly to amendments 1, 2, 13, 15, 20, 21, 23, 25, 26, 28, 29 and 32 made by the Council.

Hon. P. A. KATSAMBANIS (Monash) — This bill has been toing-and-froing between houses for quite some time now. When the bill was sent back to this place last week we delayed debate on it until now to enable the shadow Attorney-General and the Attorney-General to consider alternatives.

It was made clear in this place that the shadow Attorney-General would be writing to the Attorney-General to offer a compromise. The Liberal Party believes that although the bill achieves some significant and important changes, it is only a second-best solution. I will not go through all of the arguments but opposition members believe the amendments they proposed to the bill would give crime fighters in the Victoria Police and the public at large who rely on our crime fighters, the tools, confidence and security that they would be able to use modern, available technology to ensure that criminals are properly apprehended and dealt with and that our society is not unduly burdened by crime and criminality. We still believe this. We believe our amendments would have given Victoria better legislation that would have supported the average law-abiding citizen of this great state.

That is why the shadow Attorney-General wrote to the Attorney-General on 9 May. The letter says:

Dear Attorney,

As you are aware the opposition has moved an amendment to the above legislation to place the DNA samples on the same basis as fingerprints — namely, that a DNA sample must be provided if the police have a reasonable suspicion that that person has committed a forensic offence and that a sample will help determine guilt or innocence. An impasse has developed between the government and the opposition on this question.

In an effort to resolve the impasse I propose the following two alternative possible compromises for your consideration:

1. That if a person refuses a DNA sample the police must obtain a court order; however, if the court decides that the taking of a DNA sample was appropriately requested the person refusing to provide the DNA sample pays the cost of that application;

or

2. That a person must provide a DNA sample in accordance with the opposition's amendment but the police must provide a sworn affidavit to the court setting out the grounds upon which the sample was demanded. These affidavits would be supplied on a regular basis and a magistrate would satisfy him or herself that the sworn grounds were appropriate. If the grounds were not sufficient the DNA sample would, subject to hearing viva voci evidence, be destroyed. The same system of accountability is used with respect to the emergency use of phone-tapping devices under the Telecommunications (Interception) Act 1979.

I would be grateful if you would advise me of your views with respect to the opposition's proposals at your earliest convenience. Should you have any alternative proposals the opposition would be pleased to discuss them with you in an effort to ensure the bill proceeds through the Parliament.

Yours sincerely

Robert Dean MLA
Member for Berwick
Shadow Attorney-General

As honourable members and the general public can see from the tone and content of that correspondence, it was sent with the sole intention of ensuring a good legislative outcome. Despite the fact that the Liberal Party believes its amendments will provide the best outcome, it was prepared to offer two alternative solutions. Unfortunately, the Attorney-General in his wisdom considered these suggestions and came back to the Liberal Party and said that he was not prepared to accept them and that he would rather wait upon reviews being held into the commonwealth forensic procedure provisions, the inquiries that are being conducted jointly by the Australian Law Reform Commission and the Australian Health Ethics Committee and also the inquiry being conducted by the Victorian parliamentary Law Reform Committee of which I am a member.

Therefore the options for the opposition were to continue this impasse — to continue passing the bill between this house and the other house — or to pass what it considers to be an improvement on current legislation but still a second-best legislative outcome. On balance, because this is dealing with crime and criminality, if it is an improvement — and this bill is an improvement on existing legislation — for the safety and security of Victorians, the opposition will allow the legislation to pass. However, I repeat that it is still a second-best solution. The solution proposed by the opposition was a logical, sensible and credible one which would have given the police the power to utilise existing technology for best effort and best effect.

We have been to and fro through the arguments quite significantly so I will not labour the time of the house by repeating them. Suffice it to say that if members of the public of Victoria are interested in a government that is tough on crime they will look at the history of this bill and the final second-best legislative outcome and conclude that this government is not tough on crime. Unfortunately it is far too soft on crime.

Hon. R. M. HALLAM (Western) — Like the Honourable Peter Katsambanis I do not intend to revisit the issues which crystallised as differences between the government on the one hand and the opposition on the other in respect of the Crimes (DNA Database) Bill other than to touch upon the reasons the National Party relied on to support the Liberal Party's amendments and the basis upon which it was persuaded to support its opposition colleagues.

The National Party's rationale was that the DNA technology was a direct replacement for that of fingerprinting and it was therefore seen to be quite logical that the same rules be applied in respect of the new technology in relation to the taking, use and storage of forensic samples. By and large the National Party thought there was great logic that those rules should be the same. In other words, an investigating officer should be allowed to take a sample on the simple basis that he or she believed on reasonable grounds that a DNA comparison could well implicate a particular person in the conduct of a crime. During the currency of the debate the National Party also acknowledged that it could also assist in the exoneration of that person.

The major point of difference that emerged over the number of times the bill was between houses was that the government wanted to provide additional protection mechanisms to safeguard the rights of the individual from whom those forensic samples were sought. While I acknowledge that the specifics of those safeguards have shifted, and I give credit to the government for that, the general principle remains the sticking point.

We in the National Party were not persuaded by the government's position that the taking of a forensic sample must, by definition, be more intrusive on a suspect compared to the taking of fingerprints, and that therefore — the logic went — the rules needed to be much more stringent in terms of the safeguards and protection mechanisms which were provided.

I said during the debate — and I think it is appropriate to repeat it — that anyone who has been through the procedure of taking fingerprints would understand that it is quite intrusive and can be very intimidating. It requires a police officer taking an individual, confronting him or her, and on the desk running in sequence each finger and thumb across a block containing a very messy substance and then rolling each finger and thumb across the appropriate location on a sheet which then becomes the fingerprint record. So it is very intimidating, very physical and very messy.

I for one, given the choice, would much rather provide a hair sample or even a buccal swab than go through the fingerprint procedure again. I hasten to add that I went through the fingerprint procedure as part of a gun licence application rather than for some form of criminality.

Hon. Bill Forwood — I was wondering about that.

Hon. R. M. HALLAM — However, while the National Party was prepared to support the amendments put forward by the Liberal Party in opposition, it was not convinced that at the end of the day the questions which remained the points of difference were worth putting the entire legislation at risk, because, as is

generally acknowledged, the DNA technology is of enormous importance to our community in terms of both crime solution and prevention.

In addition, we were prepared to acknowledge that the Labor Party has shifted a great deal of ground on this issue. During the debate it was noted that not all that many years ago Labor in opposition was totally opposed to the entire concept of forensic sampling. Yet here the same party in government is prepared to at least consider the improvement of its application in practical terms.

We also need to acknowledge that the taking of some forensic samples is more intrusive than others. Taking a sample of hair is not the same as taking a sample of saliva, leave alone the question of a sample of tissue, blood, or — worse still — semen.

On that basis I extend my congratulations to the Liberal Party on its decision to not insist on the amendments canvassed during the debate. Because while we still consider the amendments were logical and rational, in our view they are not worth risking the bill. As I said, this is a very important bill which captures important benefits for our community. On that basis I am pleased that the Liberal Party has been prepared to step back from the brink in order that the major part of the loaf is not at risk for the last slice, even though that slice may appear very attractive indeed.

I believe this is a very good and genuine compromise on the part of the Liberal Party, and it would be pointless, even churlish, for the National Party to not support the opposition in offering the olive branch which we have seen in the chamber today. I believe this is a good illustration of the Parliament at work and I think we have a realistic compromise. Again I offer my genuine congratulations to those who have been responsible for this important breakthrough.

Hon. JENNY MIKAKOS (Jika Jika) — I will make only a brief contribution, and I acknowledge the fact that both the Liberal and National opposition parties will not insist on their earlier amendments to this bill and will allow this important piece of legislation to pass through Parliament.

I agree with the Honourable Roger Hallam that this is a very important piece of legislation. Without wanting to canvass the previous debate, honourable members would be aware that what the government is putting into place to allow Victoria's participation in a national DNA database will enable Victoria Police to investigate and solve crimes in a far more effective and efficient manner.

I put on the record my rejection of the assertion made by the Honourable Peter Katsambanis that this government is soft on crime. That is very far from the truth. At every opportunity this government has been prepared to consult with Victoria Police to ensure that its legislation meets with the police force's operational requirements. In fact, this legislation was amended through government amendments after concerns were raised by the Police Association. The government was prepared to make those necessary amendments to incorporate the Police Association's concerns.

Given that the Honourable Peter Katsambanis put on the record correspondence from the shadow Attorney-General, the honourable member for Berwick in the other place, to the Attorney-General, it is only appropriate that I put on the record the Attorney-General's very considered response to the opposition's various proposals. It is important that I read out the response, because it encapsulates the fact that the government gave very serious consideration to the various proposals offered by the opposition but rejected them because they were unworkable.

In a letter of 14 May 2002 to the honourable member for Berwick the Attorney-General says:

> Thank you for your letter of 9 May 2002 in relation to the Crimes (DNA Database) Bill.
>
> In your letter, you seek my views in relation to two possible alternative compromises concerning the amendments moved by the opposition. I have concerns with both of the compromises suggested.
>
> The first possible compromise you suggest is that, if a suspect refuses to provide a DNA sample, the police must obtain a court order; however, if the court decides that the taking of the sample was appropriately requested the suspect must pay the costs of the application.
>
> This proposal would limit the general discretion of the Magistrates' Court to determine who should pay costs in court proceedings. Section 131 of the Magistrates' Court Act 1989 provides that the costs of, and incidental to, all proceedings in the court are in the discretion of the court and the court has full power to determine by whom, to whom and to what extent costs are to be paid.
>
> There may be situations where a court determines that it is not appropriate for the suspect to undergo a compulsory forensic procedure and the suspect may wish to seek an order for costs against the police.
>
> The second alternative compromise proposed by the opposition is that, whilst court supervision is not required where a suspect refuses to provide a DNA sample, the police must provide a sworn affidavit to the court setting out the grounds upon which the sample was demanded. Pursuant to this proposal a magistrate would then satisfy himself or herself that the sworn grounds were appropriate. If the grounds were not sufficient the DNA sample would be destroyed.

A serious problem with this proposal is that, if a magistrate determines that the conduct of a forensic procedure was not warranted, the suspect would have already been forcibly required to undergo the procedure. As a consequence, the police would have used force against a person in circumstances where a magistrate subsequently determines that the use of force is inappropriate. This could potentially expose police to civil action for unlawful use of force and false imprisonment if the person was detained in order for the procedure to be conducted.

Court supervision acts to protect police against allegations of misuse of power and also provides a means of ensuring fair treatment of suspects. It is important that there are procedures in place to protect the integrity of DNA sampling and maintain public confidence in the exercise of police powers in relation to forensic procedures. I am not satisfied that the opposition amendments achieve these goals. However, I would be pleased to give consideration to further amendments in the context of a national coordinated approach and proper consultation with all of the relevant stakeholders.

It is anticipated that an independent review of the commonwealth forensic procedure provisions will be completed by June 2002. The Australian Law Reform Commission and the Australian Health Ethics Committee are also conducting a joint inquiry into the protection of human genetic information. The inquiry is considering law enforcement issues and the use of DNA in criminal proceedings. The commission and the committee are due to report on the inquiry in March 2003. As you are aware, the Victorian parliamentary Law Reform Committee has also received a reference from the Legislative Council to inquire into and report by 31 October 2001 on the collection, use and effectiveness of forensic sampling.

These reviews provide an opportunity to properly consider different approaches to forensic procedures based on best practices and national consistency.

I ask the opposition to support the government and allow the Crimes (DNA Database) Bill to be passed so that Victoria Police can commence executing the outstanding forensic sample audits and Victoria can start participating in the national DNA database system.

I thank honourable members for their indulgence in allowing me to read that lengthy response to the shadow Attorney-General, because the Attorney-General demonstrates in that letter that he has given serious consideration to the various proposals put forward by the opposition parties. They have been rejected because they are unworkable.

I know the committee of which you are a member, Madam Acting President, is looking at these particular issues, and I know of your interest in this matter. I look forward to that committee's report on this issue and to the report that will come down from the Australian Law Reform Commission. It is important that if we have an approach, as the opposition party has suggested, of treating DNA sampling on a par with fingerprinting that we should have such an approach nationally and have consistency across all jurisdictions. I reiterate the government's gratitude to the opposition party for not insisting on its amendments and for allowing the passage of the legislation.

Motion agreed to.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That the Council do not now insist on amendments 3, 4, 12, 14, 16 to 19, 22, 24, 27, 30, 31, 33, 35 and 36 made by the Council with which the Assembly insist on disagreeing.

Motion agreed to.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That the Council do not now insist on amendment 34 made by the Council with which the Assembly insist on disagreeing and now agree to the amendment made in the bill and insisted on by the Assembly.

Motion agreed to.

THEATRES (REPEAL) BILL

Second reading

Debate resumed from 14 May; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. M. A. BIRRELL (East Yarra) — 'We are all Australians now' were the words Banjo Paterson used in 1915 when writing an open letter to Australian troops following the Gallipoli campaign. He summarised in his poem the fact that Australia had established its own identity and a sense of its own nationhood following the heroic and tragic effort at Gallipoli.

It is the heroism and sense of the Anzac spirit to which I wish to address my remarks, because despite the incongruous title of the bill it is principally about the Anzac legacy, Anzac Day and how that day is commemorated in Victoria and throughout Australia.

This is an important bill, although I believe time has passed it by and it is inadequate. The opposition does not oppose the bill, but I do not believe any member of this Parliament — government, Liberal, National or Independent — actually agrees with all of the bill. Nevertheless, the bill will pass because there is an unspoken recognition that we will have to update our Anzac Day laws later in the year and that this bill, while being little more than a reflection of the historic laws of the state, is out of date, out of time and will need to be changed.

In the 21st century we can record the fact that Anzac Day is our great national day. It is the one day that tugs at the heart of every citizen and when there is a spontaneous feeling of national pride and national recognition. We need to update our laws in part to reflect that, although as has been made clear to me by many eminent people, nobody owns Anzac Day, and not even a Parliament, including this one, should try to do so.

On my motion this house agreed late last year to refer to the Scrutiny of Acts and Regulations Committee a reference to review the Anzac Day laws. That enjoys all-party support and those laws are currently being reviewed. As a consequence of that, even though this bill faithfully reflects the conclusions of the all-party Victorian Law Reform Committee in its February 2000 report, there is no doubt that that report as it specifically relates to Anzac Day is now inappropriate to be enshrined in legislation. The mission of that committee was not to look at Anzac Day, and therefore we end up with this inadequate outcome. The nature of the bill is not one that would see the opposition defeat it, but comments must be made on it.

We need to ensure that our Anzac Day laws reflect the fact that Australians wish to commemorate those who died to protect the country and values we hold dear; that on that day we want to remember them and their efforts to secure peace and democracy both in this nation and overseas; and that there was huge personal sacrifice to achieve that. I was a beneficiary of that effort, and I want to make a small contribution to that end.

We have to acknowledge that the old Anzac Day laws, most having been drafted just after World War 1, are not adequate. Unfortunately some of them are reflected in this bill, which will therefore be temporary legislation. For example, under this bill you would be able to show a commercial cinema film during the Anzac Day parade, and even during the Anzac Day dawn service, if you gained a permit from the minister. If you did not gain a permit from the minister and still did it you would be fined only 5 penalty units. I doubt there is a person in this Parliament who agrees with the idea of Village, Hoyts or Imax showing commercial movies during the dawn service or during the Anzac Day parade, but this bill allows that under clause 6 — and it does not even put in place the same conditions that apply under clause 7 for authorising theatrical productions during that time on Anzac Day. Also, having only 5 penalty units for breaching that law reduces the current penalty in Victorian law. To my mind that is an inadequate penalty to apply to people who so undermine the tradition and stature of Anzac Day.

I believe that even though nearly all World War 1 diggers have gone and those surviving World War II diggers cannot make it to and participate in the Anzac Day marches, there is a fresh generation of people who want to honour their service and sacrifice, and who particularly want to celebrate and commemorate the principles they stood for.

Therefore, old Anzac Day laws, which reflect the public will, need to be updated. I look forward consequently to the all-party review of these laws that will be introduced to this Parliament later in the year which will make this bill and the current laws of Victoria redundant. It will update those laws, I believe, with multi-partisan support.

What do we want to commemorate? To a certain extent we have to start with the very basic fact that so many Australians lost their lives fighting to defend this country and its values. In World War I, 53 993 sons of Australia were killed in battle. In World War II, 19 235 Australians died in battle. You must add to that tragic set of statistics, for example, that in World War I an additional 16 496 Australians were gassed, and in World War II, 28 756 Australians were made prisoners of war, many of whom then died overseas as prisoners of war.

This is an extraordinary toll, but it is a bit remote and needs to be personalised. We need each generation to understand that sacrifice, hopefully, so we can ensure there is no further conflict, not to glorify war but to recognise the sacrifice and also to educate future generations about the effort that has to be made to defend values of liberty, justice, equality, freedom of movement and democracy.

Perhaps one way to personalise this effort, and to complete my remarks about the importance of Anzac Day and the Anzac spirit, is to talk about one hero who participated on behalf of our nation and who symbolises in my mind the Anzac spirit. By coincidence his heroism occurred on this day, 15 May, in 1945, and that man is Ted Kenna. Private Ted Kenna fought for our nation like many others and was in the south-west Pacific at Wewak on 15 May 1945. Private Kenna's company had the task of capturing certain enemy positions which had caused significant casualties.

His platoon was ordered to deal in particular with an enemy machine gun post, which was continuously sweeping Australian positions with machine gun fire and causing death and injury. It was not possible to bring artillery or mortars into action. It was the most critical of moments, and to make matters worse Private

Kenna's platoon encountered heavy automatic fire from a different position not previously disclosed to the Australians as they went upon their mission.

On his own initiative and without orders Private Kenna stood up in full view of the enemy and less than 50 yards away from this deadly position. He engaged the bunker, firing his Bren gun from his hip. The enemy machine gun immediately returned Private Kenna's fire with such accuracy that bullets actually passed between his arms and his body. Undeterred, he remained completely exposed and continued to fire at the enemy until his magazine was exhausted. Still making a deliberate target of himself, Private Kenna discarded his Bren gun and called for a rifle from one of his mates. Despite the intense gun fire the rifle which was thrown to him landed in his hands, and with amazing coolness he killed the machine gunner with his first round. At that time a second automatic gun opened fire on Private Kenna from a different position and another of the enemy immediately tried to move into position behind the first machine gun, but Private Kenna remained standing still. He killed that second gunner with his next round.

The result of Private Kenna's magnificent bravery in the face of concentrated fire was that the machine gun and the bunker were captured without further loss. The company attack was able to proceed. There was a successful conclusion to the operation. Many enemy were killed and numerous automatic weapons were captured.

His action was an outstanding example of the highest degree of bravery. Private Kenna on this day 57 years ago was awarded the Victoria Cross. He is one of Victoria's greatest sons. He lives to this day in Hamilton, an example of a private individual who put his life on the line and as a result of his actions saved the lives of others and helped us in the south-west Pacific to win a war that up until this time 57 years ago was in extreme doubt in terms of the potential further attack on Australia.

Although it is coincidental that it is this day that he undertook such brave action, I commemorate his achievement, and I use him as an example of the way we can personalise the commitment that was made by others to shape a society that perhaps we now take for granted.

This bill, although acceptable to the Parliament, is an inadequate instrument in the 21st century for dealing with the Anzac spirit. There will be much more to be done. I am sure the Liberal, Labor and National parties and the Independents will agree on what needs to be done, and I hope it will be done later this year.

Hon. E. C. CARBINES (Geelong) — I am pleased to join in the debate to speak on behalf of the government on the Theatres (Repeal) Bill. The bill has two purposes: firstly, to repeal the Theatres Act 1958, and secondly, to transfer the provisions of the Theatres Act which pertain to Anzac Day to the Anzac Day Act.

The bill seeks to implement the recommendations of the Victorian parliamentary Law Reform Committee, which were made in response to a reference that was given to it by the Bracks government on the relevancy of the Theatres Act 1958 to modern-day Victoria in the 21st century. The Theatres Act of 1958 provides not only for the issuing of permits to allow cinemas to operate on Good Friday and on Christmas Day but it also protects the sanctity of Anzac Day in Victoria by not allowing the provision of live entertainment before 1.00 p.m. on Anzac Day.

After the Law Reform Committee duly considered its reference, it made recommendations to the government to repeal the Theatres Act and to transfer those provisions pertaining to Anzac Day to the Anzac Day Act. The recommendations have been accepted by the government and are reflected in the bill. They are sensible recommendations and are reflective of widely held values in Victoria today.

Christmas Day and Good Friday are important days in the calendar. They are not only days of religious observance but also days of social observance in our society. They are publicly declared holidays, and Victorians can observe and/or celebrate them unencumbered by work commitments.

However, Victoria is a culturally diverse society today, vastly different from the Victoria of 1958 when the Theatres Act was passed. We know that increasingly permits have been given to cinemas to allow them to operate on Good Friday in recent years, and last year was the first time cinemas were allowed to operate on Christmas Day. The repeal of the Theatres Act will remove the need for cinemas to apply for permits to show films on Good Friday and Christmas Day.

This is a sensible idea although I know it will have opposition from some people in the community. Last year I was contacted by a constituent who was very unhappy that cinemas were allowed to show films on Christmas Day. He wrote to me very angrily to say that he thought that it was inappropriate. I remember writing back to him thanking him for his letter and saying that, like him, I had the good fortune of having a family to

share my Christmas Day with and I would not want to go to see a film on Christmas Day and I hope I am never in a position of wanting to do that, but many people do and there are lots of people in our community who do not observe Christmas Day. I think they should have the opportunity to access entertainment should they so desire. I believe that an overwhelming number of Victorians will see this bill's passing as sensible and reflecting today's values.

The second part of the bill involves the transference to the Anzac Day Act of those provisions relating to Anzac Day that are currently contained in the Theatres Act 1958. We all know Victorians hold Anzac Day in very high regard. It is a day which honours our fallen across many theatres of war and indeed in peace-keeping efforts. Anzac Day is a revered day in the Australian calendar, and so it should be. It is a public holiday and it is most important that all Victorians have the opportunity to attend memorial services and to remember the contribution successive generations of Australians have made in war, often paying with their lives. This bill sensibly protects the sanctity of Anzac Day by transferring the provision of no light entertainment before 1.00 p.m. on Anzac Day to the Anzac Day Act. In this way it protects the memorial services that take place on Anzac Day, starting with the dawn services and the Anzac Day march, from any type of entertainment in the morning and will allow all Victorians to go and watch or take part in services if they so desire.

I am very pleased to see that increasingly Australians are wanting to take part in services on Anzac Day. Increasingly the march through the City of Melbourne has seen larger and larger crowds over recent years as has the dawn service at the Shrine of Remembrance. I am very pleased that Australians and indeed Victorians are taking the time to pay due respect to the commitment that successive generations have given, often with their lives, to defend their country. I know when I was a secondary school teacher I always took very seriously the opportunity to make sure that my students understood the importance of Anzac Day. Being a history teacher, I ensured that on the curriculum of the school where I taught there was always time to make sure that our students understood what Anzac Day is all about and why it is an important day of observance in the Australian calendar and its importance in history. I am very pleased that those provisions protecting the sanctity of Anzac Day are now being transferred to the Anzac Day Act.

As I said before, there is increasing interest in showing respect on Anzac Day. I always feel very proud when I see television coverage of the number of young Australians who make their way to Anzac Cove to be at Gallipoli for the dawn service on Anzac Day. It is wonderful to see so many young Australians who arrive for that service, often with the Australian flag draped around their shoulders. I pay my respects to the Turkish people who welcome Australians for that day and allow us to have such wonderful commemorative services in their country.

In Geelong, as in most regional centres and places across Melbourne, many services take place and it is very hard to get to all of them on Anzac Day in your electorate, as I know honourable members will understand. It is difficult but you want to make sure that everyone knows that as a member of Parliament you are paying your respects on behalf of the people you represent in this place. Geelong is no exception, and we have a number of services throughout the morning and into the afternoon. This year I was very pleased to go, as I have done for the last two years, to the very moving Torquay dawn service that takes place at Point Danger. I read on Anzac Day that it is the largest dawn service outside metropolitan Melbourne so we get many thousands of people coming to Torquay to pay their respects. This year was no exception, and I was very pleased to see that the rain did not deter people from coming to the service. I was pleased to see so many people there and so many young people, as well as pupils from the primary schools coming to lay wreaths.

There is always a wreath-laying ceremony at the Returned and Services League (RSL) in Belmont, and it is great to see so many community organisations and of course members of the RSL there in the morning, laying wreaths and paying their respects.

In Geelong we also had an Anzac Day march through the streets of Geelong, and I felt honoured to stand by the side of the road and see the returned men and women marching past. I think they also felt proud to see the community of Geelong acknowledging their commitment.

I was talking to a Vietnam vet in the afternoon and he said tears came to his eyes on Anzac Day when he saw so many people in Geelong cheering and clapping when his battalion marched past. He said it was so different to how they were received when they came back from the Vietnam war, and he felt that finally they were being acknowledged by Australians — their commitment was being acknowledged and respected and they were getting their due acknowledgment. That is very important.

In Geelong we had a wonderful march. It had stopped raining by then and we had a fantastic memorial service

in Johnson Park which was very inspiring, then the sounding of many cannons which was quite frightening to all the babies in the crowd and unfortunately some of the cannons did not fire so it ended up being quite humorous.

In the afternoon the Vietnam vets always have a big function, and I have attended a couple of times. This year it was held for the first time at the Returned and Services League (RSL) in Belmont and the Vietnam vets were delighted that for the first time in Geelong they had been invited to hold their reunion at the RSL. With my husband and children I was pleased to join the Vietnam vets and honour their commitment and be part of their afternoon celebration.

Anzac Day is an important day for Australians. Although I was not born in Australia my family has taken part in war. My great grandfather died at Gallipoli in the British army, and my mother lost two of her brothers in the Second World War so my family has known the loss of family members in theatres of war, although not fighting for the Australian services. On Anzac Day I take time out to remember those people from my family who have fallen as well as the many thousands of young Australians who lost their lives over the years.

The bill is important. It is important that Anzac Day is protected. I understand the RSL has been very keen to make sure that Anzac Day is cocooned from any intrusion by entertainment and that there are no distractions that will limit the ability of Victorians to attend memorial services if they so desire. I am pleased that the bill reflects the high esteem in which Australians and Victorians hold Anzac Day and will make sure that protection continues into the future. I am pleased to have been able to speak on the bill and I wish it a speedy passage.

Hon. E. J. POWELL (North Eastern) — I am pleased to speak on the bill and to say that the National Party does not oppose it. The bill has a number of purposes. They are to repeal the Theatres Act 1958, to make consequential amendments to the Anzac Day Act 1958, and to amend the Anzac Day Act 1958 to restrict the provision of certain entertainment before 1.00 p.m. on Anzac Day.

In February 2000 the Bracks government gave the parliamentary Law Reform Committee a reference to inquire into and report to the Parliament on the continuing relevance of the Theatres Act. I shall read from the committee's report of the review of the Theatres Act 1958 which states that the committee should particularly look at:

a. the need to retain a licensing scheme for live entertainment which is performed for reward;

b. the appropriateness of requiring that 'licensed' entertainers obtain special permission if they wish to perform on particular public holidays — namely, Good Friday, Anzac Day and Christmas Day;

c. the appropriateness of retaining a permit scheme for cinemas (which are not licensed) if they wish to operate on Christmas Day or Good Friday; and

d. the impact of repealing the Theatres Act 1958

The committee was requested to make its final report to Parliament by the first day of the autumn 2001 parliamentary sitting. The Law Reform Committee received a number of submissions, including from the Victorian Arts Centre, churches, lawyers, the Salvation Army, the Department of State and Regional Development, the Australian Entertainment Industry Association and the Lumiere cinema. It met with a number of organisations which gave evidence including those I have just mentioned and also the Returned and Services League (RSL). The committee's report was tabled in Parliament on 31 May 2001 and it made six recommendations. I shall summarise those recommendations. They were that the Theatres Act be repealed and the provisions dealing with the prohibition against live entertainment prior to 1.00 p.m. on Anzac Day be transferred into the Anzac Day Act.

Part 2 of the bill repeals the Theatres Act 1958 in its entirety. The committee looked at certain subsections and wondering what it was going to do with them went into great detail about their importance and relevance and made the decision to repeal the Theatres Act in its entirety.

The Theatres Act 1958 has two regulatory purposes: a permit scheme for cinemas wishing to show films on Good Friday and Christmas Day; and the licensing of live entertainment. The committee believes those provisions are now obsolete. The licensing provisions are being transferred to the Anzac Day Act with applications able to be made for live entertainment to occur, but only by permit and in very restricted conditions. Under proposed section 5A(8) the definition of 'entertainment' is very broad. It states:

(a) includes, but is not limited to —

(i) a dance or similar event at which one or more persons play music (whether live or pre-recorded); and

(ii) a concert, play, drama, recital or other performance at which there are one or more performers …

It does not include sports or the showing of a film on Anzac Day. These conditions are dealt with in other provisions of the bill. The only proviso is that if the entertainment is to commemorate Anzac Day the minister may provide a permit as long as it does not detract from Anzac Day.

On the issue of sports on Anzac Day, the Anzac Day Act 1958 states that no sports should be held on Anzac Day in any year without the written approval of the minister. Where sports are held with the approval of the minister certain provisions have to be complied with. No race, match, game, exercise or any other event shall commence before 1.00 p.m. The minister may apply some restrictions to profits made from sporting events and where they will be directed.

On the issue of the use of cinemas on Anzac Day, a person must not without written permission from the minister, show any film or allow any film to be shown before 1.00 p.m. on Anzac Day at a cinema or other place. This can be indoors or outdoors. That also applies where people pay a fee a charge or make a donation.

The National Party was concerned that where the permit was applied for by an organisation it should be told that there is a condition on the provision. I should explain: if a body corporate is guilty of an offence under the act or any person who is concerned with or takes part in the management of the body corporate, they are guilty of an offence under the act and liable to a penalty. There are a number of exemptions — for example, if a person charged can prove the offence was committed by the body corporate without his or her consent or knowledge, or that he or she exercised due diligence to prevent the offence. The National Party was concerned about that provision and wanted to make sure that when someone applies for a permit they will be told of those provisions and that the body corporate can be liable. I have spoken to a number of people involved in bodies corporate and they are not aware of that provision. It is important that when anyone applies for a permit those conditions are told to the person who is a member of the body corporate so they are aware there could be an offence under the act if they are part of the body corporate.

In repealing the Theatres Act and the conditions on Good Friday and Christmas Day, the Law Reform Committee recognised both days still have religious and historical significance but that the community's expectations may have changed. I believe that is true. While Good Friday and Christmas Day have a special relevance to Christians and a number of people hold those days sacrosanct, members of the broader community, while they believe those days are special to their Christian beliefs, may wish to go to the theatre, attend entertainment or some sports on those days. Issues have changed and the provisions of this bill reflect those changing community values.

The Law Reform Committee considered the significance of the special days falling on a Sunday. It acknowledged that Sundays were considered different to other days of the week. I know when I was a councillor for the then Shire of Shepparton we looked at the issue of Sunday trading and a number of us voted against Sunday trading, but the broader community wanted it so we had to reflect the stance of the broader community. I tried to boycott shopping on a Sunday because I thought it was not fair to those members of families who were working on Sundays. I boycotted it for about three months until I recognised how important it was and how good it was to shop on a Sunday. I actually started shopping on a Sunday.

Hon. P. A. Katsambanis — At least you did not have a closed mind.

Hon. E. J. POWELL — It was also the fact that a number of stores were opening illegally, which made it very difficult for some shops that decided not to open because they did not want to do it illegally. They were not getting any benefit out of it. It was felt that the hardware shops particularly in my electorate were not fined when they were open because the council did not fine them and that it was detrimental to the other shops that did not open and were doing the right thing. While Sundays are still held dear by many people, people can go to church and shop afterwards and even attend some entertainment after church. I acknowledge that the community's expectations of Sunday being sacrosanct and that nothing should happen on that day is not as broad as it was before.

A number of honourable members have spoken about the importance of Anzac Day. It has become a special day for most Australians. The definition of Anzac Day is set out in the Anzac Day Act 1958. It states:

> In commemoration of the part taken by Victorian troops in the Great War and in memory of those who gave their lives for the Empire the 25th Day of April in each year (being the anniversary of the first landing on Gallipoli of troops from the United Kingdom, Australia and New Zealand) —
>
> (a) shall be known as 'Anzac Day' …

Over the past 10 years I have been proud to be involved in a number of Anzac Day services. As a councillor, as a commissioner and now as a member of Parliament I have had the good fortune of being invited to a number of celebrations across the electorate. It has been

interesting to watch the numbers grow over the past 10 years because people have decided to commemorate Anzac Day and celebrate it along with not just the people involved and their families and friends but our young ones who go to pay their tribute to the soldiers who have been to war.

The Honourable Elaine Carbines referred to the number of invitations many of us get across our electorates. I have a large electorate and every year I have to make a decision about the part of the electorate in which I will commemorate Anzac Day. This year I was a guest speaker at the Mooroopna service, close to Shepparton. With the honourable member for Shepparton in the other place I had the honour of laying a wreath on behalf of our constituents. We also had morning tea at the RSL in Mooroopna, which was well attended. People swap stories about the war and their family involvement in the war. I then attended the Shepparton service to lay a wreath and have lunch at the Shepparton RSL. Again it is an opportunity to catch up and talk about other wars: World War II, Korea, Vietnam, the Gulf War and our many peacekeeping operations around the world.

The Honourable Elaine Carbines also mentioned that it is great to see that our soldiers who returned from Vietnam are finally being recognised not just in the marches and the laying of wreaths but in the stories that are told. I speak often with Vietnam vets and when you speak to them at the RSL commemorations, particularly on Anzac Day and Remembrance Day, they say they felt they were not honoured enough when they returned from the war. Many Australians felt we should not have been involved in the war and therefore that view was passed on to the Vietnam vets. It is great that they are now being honoured in the way they deserve so they should not feel guilty about their participation in the war. We do honour them because they went to a war they were sent to and fought on our behalf and hopefully some of the stigma they feel is attached to them will no longer be there.

Anzac Day is not a glorification of war, but is a celebration of peace. A number of detractors have often said that we are trying to glorify war. We are not doing that. The increasing attendances at some of the celebrations going on across Australia show that we are not glorifying war but paying tribute to those people who went to war on our behalf to bring about peace.

The Honourable Mark Birrell referred to the spirit of Anzac. He gave a good presentation about his thoughts of the spirit of Anzac. During my speech to the Mooroopna celebration I researched the spirit of Anzac because we hear so much about it. I will read a small sample of some of the research I did:

> World War 1 shaped our nation and our small communities. Men and women worked together for the benefit of their country. It was during this war that the spirit of Anzac was born on 25 April 1915 at Anzac Cove on the western side of the Gallipoli Peninsula in Turkey.
>
> The spirit of Anzac is a cornerstone which underpins our Australian image, our way of life, and it is an integral part of our heritage.
>
> An official war historian believes it stood for and still stands for reckless valour in a good cause, for enterprise, resourcefulness, fidelity, comradeship and endurance that will never own defeat.
>
> The spirit was epitomised in the deeds of Simpson with his donkey at Gallipoli — comradeship, courage and sacrifice and others before self. It also encompasses the laughter, the pride and the love of life that is in every Australian.
>
> But the spirit of Anzac is not confined to the battlefield. It lives on today in the schools, on the sports fields, right across Australia and New Zealand.

I think that is shown by the attendances at the Anzac marches and the morning ceremonies and also by the young people. My own son, who is 24 and living in Darwin, went to the dawn service. That is not something he normally would have gone to, but it is important to see our young people do that because they are going to carry on that tradition of respecting the people who went to war on our behalf and also respecting the spirit of the Anzacs.

On 11 September last year there was a disaster that made people realise how vulnerable we all are. With our own troops now fighting in the Middle East, we see images of the war against terrorism and we see the war portrayed so vividly in the media. The community expects Anzac Day to be protected in legislation, particularly the mornings, so we can pay our respects and attend the services. That is why the National Party is not opposed to this bill and wishes it a speedy passage.

Hon. P. A. KATSAMBANIS (Monash) — It is a pleasure to speak on this bill for a number of reasons. The first reason is that this bill implements the recommendations of the parliamentary Law Reform Committee of which I am a member and puts into legislative form a report that we undertook during 1999 and concluded in February 2000 when the committee reported to this place. So it is good to see that the work of a committee that one has served on can come into the Parliament and be enacted as legislation.

The second reason it is a pleasure to speak on this bill is that it repeals a bill of Parliament. As one who is a

supporter of small government and of government that is as unintrusive as possible into people's lives, I support the repeal of redundant, useless and difficult legislation. This is one small example of where, rather than growing the statute book, as we are wont to do in this place — in my opinion far too often — we are reducing the size of the statute book. We are reducing the size of the rules, laws and regulations that govern and control the people of Victoria. So that is a very good thing that I want to put on record, that where superfluous legislation is being repealed I am going to be its firmest supporter.

The third reason I support this bill is that, as others have outlined in their contributions — and I particularly commend the contribution of the Honourable Mark Birrell in this regard — this bill recognises the special significance that Anzac Day plays in the Australian way of life.

As a committee we were charged to look at whether the Theatres Act was an appropriate piece of legislation for our time. It is strange that the prohibition of performances on special holidays dates back to the 18th century. When you examine the reasons those special holidays were treated as days where live performances, as they were then — and this is way before cinema was invented — were banned back in the 18th century, it did not have a lot to do with religion as such. The holiday itself was a holiday because it was a religious event, but the fear of the rulers of the day was that a day without work — because the only days without work back in the 18th century were not holidays such as Good Friday and Christmas Day — might allow the general public the opportunity to protest, gather in the streets and march against the government of the day or some of the rulers of the day.

Hon. J. M. Madden — Sounds like the Kennett government!

Hon. P. A. KATSAMBANIS — I have to say that when you examine the history of these regulations, they do not so much as affirm a particular religious event, but recognise that the religious event was a day of rest and they wanted to make sure it became a day of rest rather than a day of unrest, to suit the political rulers of the time.

That is something that has become lost in the annals of history, but more than 300 years later we are still saddled with the Theatres Act which created a licensing regime for staging live entertainment — a licensing regime that had fallen into complete disrepute. No-one has needed to seek a licence from an appropriate official of the government in order to perform a play, a theatre performance or any other form of live entertainment since about the 1920s. As a result this was a law that was being flouted with the acquiescence of government for many years. We did not need it, so it is good that we are getting rid of it.

The other aspect of the Theatres Act that we were charged to look at was whether the permit scheme for the operation of cinemas that wished to show films on Good Friday or Christmas Day should be continued, or whether a separate regime should be put into place. We looked at this quite closely. Honourable members will remember the furore of the Good Friday before last where certain films had been approved to be shown that some people thought may not be appropriate. We entered into some sort of public slanging match about what was appropriate and what was inappropriate to be shown.

My own personal view — and the view that was borne out by the committee as we continued to examine this area — was that the social mores of our society have changed significantly. I am a committed Christian and I hold days like Good Friday and Christmas Day in very high regard, but I acknowledge that not everyone in our society celebrates Good Friday or Christmas Day, and I put it on record in my particular case that the Good Friday that I celebrate, this year in particular fell about five weeks after the Good Friday that was gazetted as a public holiday and celebrated by the majority of Christians in this country, because orthodox Good Friday most years falls on a different day to the Good Friday that is gazetted and celebrated by Anglicans or Catholics or other forms of Christian religions.

We need to take into account that in a secular state in a society where both the choice of religion and the decision whether to exercise any religion or not is a particular choice of an individual, it is probably not a good idea to restrict what people can or cannot do on particular religious festivals.

It was instructive that the Presbyterian Church submitted to the Law Reform Committee that although it believes Good Friday and Christmas Day should be held in the highest of regard as great Christian festival days and great days of Christian celebration, it believed it was an individual's choice to do so. I agree with that view of the Presbyterian Church. I commend it for holding that view because I believe religion is an issue that is personal to each person. They should be totally free to exercise it, without coercion and without discrimination. But at the same time the laws of our land should not be struck in such a way as to favour a particular religious occurrence or to prohibit people who do not share that faith from going about their

lawful business on days that others might be celebrating particular religious feasts.

Some of my colleagues were probably taken aback two weeks ago when it was Orthodox Good Friday and I had been invited to attend a series of meetings. I said, 'I am sorry but at that stage I am more likely to be in a church service rather than in your particular meeting'. We are living in a society where people from all walks of life are coexisting and you find that people respect each other's religious festivals. There are plenty of instances of employers of people of the Orthodox, Islam or Jewish faiths giving them significant recognition for their own feast days which are not gazetted public holidays but which are important to those people.

In culturally diverse Melbourne and Victoria we tolerate the great panoply of religious faiths that exist. We celebrate those events together, allowing people of particular faiths to exercise the strict requirements of their faith in most cases. In fact we have laws that prohibit discrimination against people on the basis of religion, and that is a good thing, but when it comes to events on days like Good Friday and Christmas Day a legislative scheme that prohibits the exhibition of films on such days is not appropriate.

On the night of the gazetted Good Friday holiday this year — which was not Good Friday for my family — we attended a sporting event — a match between the Victoria Titans and the Melbourne Tigers at the Vodafone Arena. Although the outcome, with the Tigers winning, was not to the liking of my family, we had an enjoyable evening. There were 6000 or 7000 other people there, many of whom would have been practising Christians who had chosen to go to their church service at a different time and then go to see the basketball match.

Entertainment is available on Good Friday, and has been for quite a while, yet it is a day that has not lost its significance in any way. We notice that more and more people are attending church on such feast days despite the plethora of other activities they can choose to participate in. Those who choose not to go to church services are afforded a free choice of events to attend. It is open to everyone to make a choice, and I place on record the choice made by the Australian Football League of not playing football matches on Good Friday. It made that choice on its own, exercising its organisational free will, and I commend it for it. Good Friday is a day that has to be respected, and as an organisation the AFL is showing that it respects the cultural mores of a majority of Australians — that Good Friday is an important day that should not be used as another excuse for another sporting match.

Contrast that with what happens in places like America, where sporting matches take place on Good Friday and even on Christmas Day. Many families have their Christmas dinner early so they can settle down in the afternoon and watch football matches on television. I commend the Australian Football League for keeping Good Friday special, but we do not need a legislative regime to force it to do that. It goes to show that organisations like the Australian Football League can be good corporate citizens. Contrast its approach with that of the National Rugby League, which plays matches in Sydney on Good Friday. That is its choice, and that too is to be respected, as are the people who go along and watch the games.

The bill repeals the Theatres Act and takes away the requirements that have fallen into disrepute, including the requirement to take out a licence to stage entertainment and the requirement to get a permit to exhibit films on Good Friday and Christmas Day. I have great faith that the corporations that exhibit films in Victoria, both the large corporations like Warner Village Cinemas and Hoyts Cinemas, and the smaller independent theatres such as Palace cinemas, the George cinema and all the other small cinemas across the state, will like the Australian Football League respect days like Good Friday and Christmas Day.

I have great faith that where individuals and corporations are given the wherewithal to act freely but with good taste and decency they will do so. When you take away coercion, individuals and corporations show that they are able to make choices that respect the cultural sensitivity and religious significance of important days like Good Friday and Christmas Day. I daresay that if the cinema owners did not make choices that respected the special significance of Good Friday and Christmas Day they would find out about it very soon where it hurts them most — in their takings and on their bottom line.

I do not think that removing those provisions and repealing the Theatres Act will cause any great problems in our society. It will get rid of unnecessary restrictions. It will get rid of a law that has fallen into complete disrepute and is not being used at all. From my perspective it will rid the statute book of some pages of legislation, and that is a good thing. I wish we paid more attention in this place to reducing the size of the statute book rather than to growing it at every opportunity.

I will take a few moments of the time of honourable members to reflect on Anzac Day, why the Law Reform Committee highlighted Anzac Day and why the legislature is today passing a bill that not only repeals the Theatres Act but also makes special amendments to the Anzac Day Act to ensure that live entertainment and cinemas cannot operate before 1.00 p.m. on Anzac Day.

Every Australian will note with pride that in the past decade or so the standing of Anzac Day as Australia's true national day has risen in the eyes of the public. It has become a day of national commemoration; it has become a day on which every Australian from every walk of life stops and reflects on the great sacrifice made by those people who undertook the impossible task at Gallipoli on the morning of 25 April 1915 and on their courage and commitment to our great nation. We also stop and reflect on all those people who have sacrificed their lives for the freedom we enjoy today and to help build the great independent nation of Australia.

As Mr Birrell eloquently put in the words of Banjo Paterson, there is no doubt that Australia became a nation on 25 April 1915. It is a special day — a day that for too long was ignored. It is a credit to those people in the Returned and Services League and in other places who have helped make Anzac Day what it is today — people like Bruce Ruxton, who is retiring as the state president of the RSL. I want to put on record my sincere appreciation and gratitude to Bruce Ruxton as a friend and as an Australian. He is a man who has worked tirelessly for the benefit of veterans and their families, for the benefit of war widows and for the benefit of children of veterans and war widows, and who has helped to elevate Anzac Day to the status it proudly holds today in the hearts of every Australian from every walk of life.

People like Bruce Ruxton give selflessly and are rarely thanked. As he is retiring as state president of the RSL, I want to put on record my appreciation, gratitude and sincere thanks — and I trust I am speaking on behalf of every Australian — for the efforts he has put in over so many years. Although Bruce is retiring as state president of the RSL, 'retiring' is one word that will never be used to describe Bruce. I know he will not retire and never be heard of again. I know he will be around to let members of younger generations know if ever we stray from the path of proper commemoration not only of the Gallipoli veterans but all veterans and of the great sacrifices they have made so we can live in a wonderful nation such as Australia.

Anzac Day has become a day of national commemoration. In many ways it is our national day. I believe it should be instituted as Australia's national day, and this bill introduces provisions into the Anzac Day Act to reflect that. It is a day when Australia stops. The joke has always been that the only day Australia stops is for a horserace. That is a bit of fun, and that is great. But, thankfully, over the past decade or more, increasingly the day when Australia stops is Anzac Day. From dawn until 1.00 p.m. the day is handed over to every Australian to stop, reflect on and commemorate the sacrifices of other Australians on whose blood and on whose bodies in the battlefield this great nation of ours was built.

I am proud to say that I support the amendments to the Anzac Day Act, which will leave in absolutely no doubt that between dawn and 1.00 p.m. on 25 April from now on cinemas will not open, there will be no inappropriate entertainment, and the day will be devoted to being a day of commemoration. Come 1 o'clock people can again go on with their lives. Most people in this place would know where I go after 1 o'clock on Anzac Day — straight from the Shrine of Remembrance to the Melbourne Cricket Ground. But up until that time it is a day of solemn reflection for everyone — young and old. This bill simply reinforces that and sends the strong message that we are a nation that commemorates this special day and that for half a day we stop, we reflect, we attend dawn services, we attend marches — either the main march or marches in suburbs and country towns all over Victoria and Australia — and we give thanks to those people who have given us so much. It is a simple and a very short time, but I believe an important time to help bind us all together as Australians.

On that basis I would like to place on record my support for this bill which puts into place the good work of the Law Reform Committee on which I serve, and which is chaired by the honourable member for Sandringham in the other place. This is a good bill because it takes away legislation from the statute book, and that can only be a good thing. Importantly, it continues to recognise the special significance of Anzac Day in the hearts and minds of all Australians.

Hon. D. G. HADDEN (Ballarat) — I rise to speak in support of the Theatres (Repeal) Bill, having played an important part as deputy chairperson of the parliamentary Law Reform Committee which reviewed the act. This bill is the result of the committee's recommendations to Parliament.

The bill repeals the Theatres Act 1958 and amends the Anzac Day Act 1958 to restrict live entertainment

before 1.00 p.m. on Anzac Day. As we have heard from previous speakers, it repeals outdated legislation, contributes to effective government and, most importantly from my point of view, implements the recommendations of the Law Reform Committee on its review of the Theatres Act 1958. The effect of this bill will be the repeal of the Theatres Act in total.

Historically the Theatres Act had two regulatory regimes — a licensing scheme for live entertainment and a permit scheme for cinemas to open on Good Friday and Christmas Day. Repeal of the licensing scheme for live entertainment will have no significant effect on the exhibition of potentially offensive material, which the licensing scheme is aimed at preventing, as section 17 of the Summary Offences Act 1966 proscribes obscene, indecent or threatening language and behaviour in a public place.

Also, the Office of Film and Literature Classification will continue to provide an important and appropriate level of scrutiny of film content on Good Friday and Christmas Day.

The amendments to the Anzac Day Act arose because of section 7A of the Theatres Act 1958, which requires that a permit is also required for the performance of live entertainment on Anzac Day after 1.00 p.m. While the Anzac Day Act itself was not the subject of reference to the Law Reform Committee, the question of a permit being required for the performance of live entertainment on Anzac Day impacted on the reference as the Theatres Act requires that licensed theatres must have a permit to operate on Anzac Day.

The reference to the Theatres Act was interesting. It made each member of the committee sit back and think long and hard about how society has changed, especially over the last 300 years. We were required to reflect and take evidence and receive submissions on the reference and, in particular, whether there was a need to retain a licensing scheme in the state, the appropriateness of requiring that licensed entertainers acquire special permission if they wished to perform on a public holiday and whether it was appropriate to retain a permit scheme for cinemas if they wished to operate on Christmas Day or Good Friday. The committee also had to look at the impact of repealing the Theatres Act 1958.

The submissions made to and the evidence received by the Law Reform Committee are listed in its report, tabled in this place in May 2001. The submissions and witnesses came from a variety of groups. They include the Australian Entertainment Industry Association, Palace Cinemas, Logie-Smith Lanyon Lawyers, the Lumiere Cinemas, Multicultural Arts Victoria, Brigadier John Rossi of the Victorian Returned and Services League, and Mr John Dalziel and Captain Malcolm Roberts of the Salvation Army. The committee also received written submissions from the Minister for Small Business, the Anglican Diocese of Melbourne and moderator Brian Bayston of the Presbyterian Church of Victoria.

The committee's recommendation following its review of the Theatres Act was to repeal that act. The committee took into account all the evidence it received. It was of the view that restrictions on entertainment on Anzac Day reflected a strong community feeling that Anzac Day should be observed and that limiting certain forms of entertainment on that day had both practical and symbolic functions.

The committee proposed that priority should be given to the achievement of a regulatory scheme consistent with the range of activities it permitted on Anzac Day and that that did not discriminate against different forms of entertainment. The government accepted the recommendations of the parliamentary Law Reform Committee and tabled its response in Parliament on 20 November 2001.

The bill transfers the restriction on live entertainment prior to 1.00 p.m. on Anzac Day to the Anzac Day Act so as to retain that important restriction. Clause 6 provides for proposed new section 5 of the Anzac Day Act. It makes it an offence to show any film or to allow any film to be shown without a permit before 1.00 p.m. on Anzac Day. The offence attracts a penalty of 5 units, which is the equivalent of $500. Proposed new section 5(2) will enable the minister to impose conditions on a permit.

Clause 7 inserts proposed section 5A into the Anzac Day Act 1958 to provide for an offence if any entertainment is provided or if any entertainment is allowed to be provided without a permit before 1.00 p.m. on Anzac Day. Proposed section 5A(2) provides that the prohibition in subsection (1) does not apply to entertainment at licensed premises within the meaning of the Liquor Control Reform Act 1998 at a time when alcohol may be consumed on a premises in accordance with a particular licence. The director of liquor licensing regularly approves extended trading hours, which usually allows premises to stay open after midnight and into the early hours of Anzac Day.

One of the many submissions made to the Law Reform Committee on this review was from Brigadier Rossi of the Victorian Returned and Services League. He spoke very well. Members of the committee sat spellbound

listening to his submission. He set out what the RSL would like. He said it opposes any commercial activities before 1.00 p.m. on Anzac Day; it is as simple as that. He said the current restrictions on theatres should be enforced. He said the RSL ideally would like Anzac Day until 1.00 p.m. to be a closed holiday; that would apply to live theatre as well as to film theatre. Brigadier Rossi also spoke about the symbolism of Anzac Day, what it means and how important it is in providing what he termed a counter focus to the more material interests of our society and the acquisition of wealth.

Another submission was made to the committee by Mr Fotis Kapertopolous, director of Multicultural Arts Victoria. He supported the retention of Anzac Day closures. He told the committee :

> I make a distinct separation between Anzac Day and the holy days. I think Anzac Day is very much a secular national day and that needs a special understanding … I revere national symbols and I believe it is very important to have national days, as long as they bring the community together …
>
> I think it is very important to honour the dead … and if we cease to honour the dead and make it (Anzac Day opening) a market viability issue, then really it makes us less human.

Certainly Anzac Day in country Victoria is taken very seriously. Usually I alternate my attendance at Anzac Day services between the small towns in my electorate. This year I attended the service at the Creswick RSL sub-branch. The Midland Highway runs through the township of Creswick. The traffic stops and has to wait for members of the RSL to march up the main street — that is, the Midland Highway — to the cenotaph.

Members of the Creswick Blue Light RSL light horse troop led the march, and vehicles, including large trucks, stopped and observed the seriousness and sombre nature of Anzac Day and the march. That evening, as I do most years, I attended the Turkish RSL sub-branch function which was held this year at the Saray restaurant in Coburg.

Mr Bruce Ruxton, the Victorian president of the RSL, arrived late. He had been at the football. He had also got saturated at the Anzac Day march and had to go home, have a shower and then attend the dinner. It was for most of us the last time we would see him at an official function in his capacity as the RSL president. We were certainly keen to make the trip from Ballarat to Coburg. The respect, awe and friendship that people, especially in the Turkish community, have for Bruce Ruxton brings tears to the eyes. He is literally loved by them, and he showed his love and friendship for them on that important Anzac Day.

At the Creswick RSL ceremony on Anzac Day one of our locals, Mr Jack Sewell, AM, who is 76 years of age and the youngest member of the Creswick RSL sub-branch, spoke to the crowd of about 100 at the Creswick cenotaph about his experiences in the Royal Australian Air Force during the Second World War. It was pouring with rain at that stage, and it continued for most of the day in that district. He stood there speaking to the crowd without an umbrella and did not stop relating his experiences of serving for his country and what Anzac Day means to all of us. Many children from the three local primary schools who were in the crowd listening were part of the ceremony. We all learnt something that day from Jack Sewell's speech recounting his experiences during the Second World War defending our country serving in Darwin and New Guinea. I had the pleasure of laying a wreath at the cenotaph adjacent to the John Curtin Memorial Garden in Creswick.

As I have said previously, this is an important bill which reflects the recommendations of the parliamentary Law Reform Committee. It also respects the commemorative and sombre nature of the recognition Victorians give to those who served during the wars, especially the sacrifices made by the Anzacs for Australia and subsequent generations, which includes me. It would be a game person in country Victoria who opened before 1.00 p.m. on Anzac Day. Most of the townspeople are until that time enjoying the camaraderie and friendship with former servicemen and women at the RSL rooms, and often the day does not finish until late in the afternoon, having started with the commencement of the dawn service.

Anzac Day is an important day. Some people would say — it has been said to me — they believe it is equivalent to Australia Day. That is something that we can all think about and contemplate. I commend the bill to the house.

Hon. B. W. BISHOP (North Western) — I have much pleasure on behalf of the National Party in commenting briefly on the Theatres (Repeal) Bill. This is one of a number of bills introduced into this place as a result of the work of the parliamentary Law Reform Committee, which does an excellent job. Many of the matters are complex, and that excellent committee goes through those areas in much detail before they are introduced in the house as part of the legislative process. As I understand it, the report presented by the committee was tabled at about this time last year.

The National Party does not oppose the bill, but has some reservations about the Good Friday and Christmas Day aspects of the legislation. When the bill

is passed there will be no need to obtain a permit on either of those days to run a theatre production or a cinema. That reflects the changes in our society that have occurred over a number of years. I am sure that is what the parliamentary Law Reform Committee reflected in its recommendations as it went through in intimate detail this particular review. Many of us still observe the moment on those two days, and it is open to others who may wish to join us on those special days.

When the Law Reform Committee considered the Anzac Day provisions of the bill, and given its recommendation that the Theatres Act be repealed, it was practical to move the Anzac Day provisions into the Anzac Day Act. Proposed section 5A(1), which is inserted by clause 7 of the bill, states:

> … a person must not, without a written permit from the Minister, provide any entertainment or allow any entertainment to be provided before 1.00 p.m. on Anzac Day at a place (whether indoors or outdoors) —
>
> (a) to which persons are admitted —
>
> (i) on payment of a fee or charge; or
>
> (ii) after a donation is sought from them —
>
> for the provision of entertainment or to enter or remain at the place; or
>
> (b) at which a commercial business is carried on for the supply of goods or services or both.

That is fine, but I note that proposed subsection (2) refers to subsection (1), and states:

> However, sub-section (1) does not apply to entertainment provided at licensed premises (within the meaning of the Liquor Control Reform Act 1998) at a time when alcohol may be consumed on the premises in accordance with the particular licence.

I hope the minister in the third-reading debate will provide advice on that. I suspect it means that the entertainment could be a band, a piano or a guitar in any such place that falls under the Liquor Control Reform Act and that the particular permit would be for the evening before Anzac Day and may run into the morning of Anzac Day. I ask the minister to provide some advice on that during the third-reading debate.

All in all the bill recognises the changes that have taken place in our community over time. Although it might be a small bill, which nevertheless took some time in research that was carried out by the committee, it retains significance for many in our communities. When I think about what is said in the bill, I cannot help but recall the service that Bruce Ruxton has given to the state as state president of the Returned and Services League. It has been a long service of 23 years, and he has served this state well.

I, like many parliamentarians, have had the opportunity to meet people of the stature of Bruce Ruxton. I have met Bruce a number of times, and love him or not he is a forthright character and he did a forthright job for our servicemen and women both in Victoria and, wider than that, throughout Australia. On behalf of the National Party I pay tribute to him for that dedicated work he did for those 23 years. I wish he and his wife all the best in their retirement. It is hard to understand how Bruce Ruxton could fully retire. I suspect he will have an eye on things for many years to come.

I am sure that it is part of his being recognised as the champion of our servicemen and women that we see a continuing resurgence of interest particularly in Anzac Day but also in remembrances of that ilk. It is interesting to see that resurgence particularly among our younger people, whether they take the big step of travelling to the shores of Gallipoli to pay their tribute there or simply go to the Anzac Day services that are held throughout Australia — even in the smallest hamlets in this country of ours.

My wife, Brenda, and I were fortunate enough to be invited to the Anzac Day service at Patchewollock, a small and isolated part of north-western Victoria. I was asked to speak at the service, which was well attended. I think there would have been over 100 people there, many of them young. When you consider that it is quite a small community it gives you some idea of the increasing standing that Anzac Day has in country areas. The attendees on that day were of all ages. The service was held in the community centre; it was well set up and certainly well run.

In relation to the Anzac Day service being well run, I compliment the president of the Patchewollock RSL, a fellow called Neil Roberts. He is a Vietnam veteran and he did an extremely good job on that day, giving a very moving account of his and others involvement in establishing in Vietnam a memorial to the part Australians had played in the Vietnam war. The memorial had become overgrown at one stage and they had gone back and reconstituted it, and the photos he showed us that Anzac Day were an absolute credit to all involved. Neil had been back to Vietnam a number of times and on that day he spoke of the move towards forgiveness for those who fought in that war and related how he had been able to meet in Vietnam some of the people ‘on the other side’, exchange views and hold discussions with them, and how in fact the act of forgiveness was well under way.

Again I say that the National Party does not oppose this bill. Although we have some reservations about the change of attitude to Good Friday and Christmas Day, when you look at it from afar it does reflect the changing and modern views of our communities right across Australia.

Motion agreed to.

Read second time.

Third reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — By leave, I move:

That this bill be now read a third time.

In doing so I thank the Honourables Mark Birrell, Elaine Carbines, Jeanette Powell, Peter Katsambanis, Dianne Hadden and Barry Bishop.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

GUARDIANSHIP AND ADMINISTRATION (AMENDMENT) BILL

Second reading

Debate resumed from 14 May; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. P. A. KATSAMBANIS (Monash) — The Liberal Party does not oppose the passage of this bill and in the main supports the provisions which are being introduced, but it does have one significant concern in relation to clause 21 of the bill specifically, which I will expand on. Because this legislation is introducing general changes that are supported by the Public Advocate and the Victorian Civil and Administrative Tribunal (VCAT) we do not intend to hold it up. However, we hope that our reservations are taken into account by the government and that it will monitor the new provisions very closely.

Significant changes were made to the Guardianship and Administration Act back in 1999, and I recall that at that time there was a lot of debate about them, certainly in the Liberal Party room and in this chamber. When we deal with sensitive issues where people are either permanently or temporarily unable to make decisions about their own lives because of a physical or mental disability and they require others to make those decisions for them it is a very difficult situation. You are never quite sure whether the legislative changes you introduce are going to work in practice or whether they will need to be altered slightly — or even radically in some cases — to make sure that what you want to achieve is achieved in the field. This legislation is really the result of that monitoring process. In 1999 significant amendments were made to the Guardianship and Administration Act that included a consent regime for those who were incompetent to make decisions about their own medical and dental treatment. Through the monitoring of that process by the Public Advocate and VCAT we have now come to the stage three years later where we need to tidy up some of the amendments that were made at that time.

I do not think that is a bad thing; I think it is a good thing, and I dare say we will continue to tidy up areas of the Guardianship and Administration Act as the two bodies who have the day-to-day oversight of this very sensitive yet very important area of our legislation in Victoria continue to find anomalies or highlight to us as legislators that there are some new and emerging issues that we need to deal with.

The provisions relating to consent to medical and dental treatment are adequately covered in the second-reading speech, and I dare say others will have the opportunity to make contributions. I do not particularly want to waste the time of the house by laboriously going through those provisions because in the main, as others have said, they are sensible and they will lead to the right outcomes. In particular they will provide protection for medical practitioners who provide medical treatment to those people who are unable to make decisions about their medical treatment when it is critical that medical treatment be provided.

We do not want our medical practitioners, especially at times of medical emergency, to have question marks in the backs of their minds about the legality of any procedure. We want them to be focused on the procedure itself, and the clearer, more transparent and more accessible we make our legislative regime the easier it will be for our medical practitioners to practise medicine rather than to second-guess the law when they are sometimes confronted with extremely difficult and sensitive situations.

The provisions apply not only to people who are permanently physically or mentally incapacitated but also to people who at a particular point in time may have become physically or mentally incapacitated. The chances are that in the future they will be competent to

make decisions for themselves generally but at particular points in time be unable to do so. The regime will work in the majority of situations. However, I am not so sure how it will work in the rare but real situation where there is an interface between our judicial system and our medical system.

I know that sounds confusing, but there are situations where courts intervene — and they are very real situations that I have experienced in my time as a member of Parliament — and appoint legal best friends or litigation guardians to ensure that a particular legal procedure takes place. If there is a litigation guardian or some other legal best friend on foot and there is the need to make decisions about urgent medical treatment, how is the interrelationship with the judicial or legal matter treated? I will not labour the point because this is extremely rare, but I have come across it in my time as a member of Parliament, and I know that it has created problems.

I do not think that the bill expressly affects the situation. It was a problem before the bill was introduced and it is a problem that the bill does not necessarily attempt to address at all. I raise it because it is causing great problems out there for a small number of people who are caught in that loop. I dare say it would happen very infrequently, but the results can be devastating. I can personally attest to that, having looked at a particular issue for a constituent over the past three years. I believe everyone involved in that situation had the best of intentions, but the outcome was an absolute disaster for the person they were trying to protect.

I am sure there are other isolated examples but, as I say, the bill addresses the main issue of providing protection for our medical practitioners and providing clear rules for how people who are either permanently or temporarily incapacitated can receive urgent medical treatment. That is fine; that is great. It is that interaction, where those people might also be involved in a legal battle and the various issues involved in that might come into play, that has not been addressed. I am not sure that the Public Advocate or the Victorian Civil and Administrative Tribunal wanted them to be addressed in the bill, but I raise them because they are real. If the government wants to talk to me at some stage I can take it through the process of where I think the failure is, and maybe we can all look at some solutions. I dare say I do not have the magic formula for the solution.

Many of the other amendments in the bill are consequential upon the main amendments. One issue that I really have to highlight, and I know it has been highlighted by the Liberal Party in the other place but I want to highlight it again, is clause 21 in the bill, which inserts proposed section 50A into the Guardianship and Administration Act. The Liberal Party has real concerns about this proposal. Let me spell out that we are not concerned with the intent of the proposal. The clause allows the administrator to make gifts of the property of the person whose affairs they administer, and they can make those gifts to anyone, including to themselves or to charities they are connected with.

As I say, conceptually I do not think the principle is a bad thing. We understand that there are plenty of situations, particularly family situations, where there are commitments that have been made by a person that should be continued wherever possible even after the person becomes incapable of making their own decisions. If a grandparent has consented to paying the school fees of a grandchild and it is quite clear that was the intent, and it is reasonable and affordable in the circumstances so that the represented person does not end up destitute or lacking in basic necessities, I see nothing wrong in an administrator who might be the parent of an adult child paying that child's university fees.

There is nothing wrong with that system continuing. If a represented person makes a donation every year, even a substantial one, to a series of charities it is their clear intent to continue it throughout the course of their natural life. That is a good thing and it should continue, if possible, as long as their financial circumstances hold up. If it is a donation to a political party — the Liberal Party, the Australian Labor Party or the National Party — or to the Lost Dogs Home, the Royal Children's Hospital, the Salvation Army or whomever, the principle is not a bad thing. I dare say administrators have been doing that forever and a day. We are concerned about the situations where it is not as clear cut as that.

We also have an overriding concern about the legal aspects. It is clear that the administrator has a fiduciary duty and responsibility to the represented person. In the law a fiduciary duty is the greatest financial relationship you can have. It is a duty of the utmost trust. In ensuring that a fiduciary relationship is maintained it is established law, in both statute and case law, that no conflict of interest should be apparent in the exercise of that fiduciary duty. There must be no conflict of interest and there must be no situation where a conflict of interest can be implied.

In a fiduciary relationship any decision to unilaterally make a gift that would benefit the administrator or the charity with which the administrator is connected would be a clear conflict of interest. I question whether

the provision would breach the fiduciary duty that the administrator has to the represented person. It is a real and legitimate question, and I do not think it should be dismissed lightly. I hope the minister in the third-reading debate, or a government member in contributing to the debate, addresses this issue and the concerns that we have expressed, not because we are opposed to the legislation or the principle that administrators can in some circumstances make a gift to themselves or to their benefit where it is clear that the represented person intended that, but because we want to make sure the provision will work in practice.

I trust that the government fully understands where we are coming from and will address our concerns. Our other concerns relate to the classic family battle. It is clear that proposed section 50A, which is inserted by clause 21, stipulates that the administrator has to take into account that the gift is reasonable in all the circumstances, and in particular in the represented person's financial circumstances. The only way you can prove whether that gift is reasonable or unreasonable is to take action, initially at the Victorian Civil and Administrative Tribunal.

My fear is that if an aggrieved family member or other person thought that the administrator had made an unreasonable gift they would engage in litigation. Although there is no guidance, my fear is that similar to applications made under part 4 of the Administration and Probate Act, in the vast majority of cases the cost of such actions would be awarded against the represented person's assets. The administrator would rightly contend that he took action in furtherance of his duty as administrator and that any legal action instituted against him takes place because of his action representing the represented person, so that the rightful person to bear those costs is the represented person. There is no guidance in the legislation as to where those costs would be borne.

It would be easy for the minister to dismiss this argument and say that VCAT is a cheap and easy jurisdiction in which to make a claim. As we know, if an aggrieved person is represented by a smart lawyer who thinks that someone else will pay for the legal action, that lawyer will have no qualms about appealing the decision to the Supreme Court or even further. There is potential for these sorts of actions, even where the administrator has acted properly in the circumstances and it was also fair and reasonable for the third party to bring the action, to whittle away the assets of the represented person in legal action to feed the lawyers rather than to protect the life and lifestyle of the represented person. I submit that is a real fear.

It is left open in the legislation who will bear the cost of such actions. I guess unless it is a totally frivolous action — and there are examples where costs have been awarded against the third party bringing the action and where the administrator has had to go through considerable efforts to prove he was acting reasonably — the court would award costs against the assets of the represented person. To award costs against the administrator would be perverse, especially personally against the administrator if he were only doing his duty and if these actions were found to be reasonable in the first place. I flag that concern, because the provision leaves open the issue of litigation that could whittle down the assets of the represented person.

The other instance is where an administrator may act, considering all the circumstances, in a way that a reasonable man would say is improper. I think that would be rare. I think administrators, even in close family relationships, take their fiduciary responsibility seriously. But as we know, there are always some rotten apples or bad eggs who unfortunately breach the important duty they undertake to uphold; there is not always the all-seeing eye or a family member concerned about what is going on.

Unfortunately, despite the fact that administrators have to return to the guardianship and administration list at VCAT every year to renew their commission, we know there are circumstances where they could either deliberately or by omission provide misleading information. The gravity of the actions they have taken may not become apparent for a number of years and in that time the represented person could have his assets whittled away frivolously and be left destitute. That has happened in the past. I am not saying it will happen in many instances, but we should build some system that will protect against malfeasance in these situations. It is critical where the legislation establishes a fiduciary responsibility that it provide strong protection from that duty being breached. I am not sure that this provision does that.

There are ways that the government can do that, and I hope it explores those. Again, we in the opposition are happy to sit down with the government and make some suggestions — think outside the circle. I can make some suggestions. I am not going to make them in here and take up the time of the house unnecessarily, but I think that this area needs to be tightened up.

The principle is to give the administrator the power to make gifts and allow the administrator where it is fair and reasonable in all the circumstances, including the paramount interest of the represented person's best health and best financial circumstances, to make gifts to

that person's benefit, the benefit of their family or to any charity that they are corrected with. However, we need to be very vigilant to ensure that the small number of people in our community who do not uphold the duties that they undertake to uphold are not given a free kick under this legislation.

I believe I have highlighted the major issues of concern that the Liberal Party has with clause 21. I hope the government has listened. We are concerned about the legal impact of this clause. We are concerned as to its impact on the primary fiduciary relationship between the administrator and represented person. We are concerned about all those practical instances, where through either malfeasance or in some cases responsible and necessary legal action, the estate of the represented person could be whittled away.

I hope the government takes these concerns on board and addresses them soon. We will not delay the passage of this bill. We could, and we thought long and hard about it, but in an area that is as sensitive as this and in an area where all major political parties have demonstrated bipartisanship over a long period of time, we hope that by the Liberal Party again demonstrating its bipartisanship the government will in return address our legitimate concerns in that same spirit of ensuring that the legal system that protects represented persons under the Guardianship and Administration Act continues to offer them the greatest possible protection that we can give to those very vulnerable people in our society. I reiterate that the Liberal Party will not be opposing this bill.

Hon. KAYE DARVENIZA (Melbourne West) — I am very pleased to have an opportunity to make a contribution to the debate and to speak in support of this bill. Most of the amendments in the bill have been requested by the Office of the Public Advocate or the Victorian Civil and Administration Tribunal. The bill was developed in close consultation with the Office of the Public Advocate, VCAT and the Department of Human Services.

As with all bills brought before this house by our government, there has been extensive consultation with a wide range of interest groups, including the Law Institute of Victoria, the Australian Medical Association and disability advocacy groups. It gives me pleasure to make a contribution on this bill because prior to my life in politics I was a nurse and spent many years working in the disability area, particularly in psychiatry. The amendments to the act that are before the house in this bill deal with a range of problems that are very real and that exist in the services that we provide for people with disabilities, whether they be intellectual disabilities, psychiatric disabilities or some other form of disability that has been brought about by a particular medical cause. I have some first-hand understanding and experience of the sorts of circumstances that exist in this field when important decisions have to be made about determining the type of treatment that disabled people will have and when they need to have it.

The bill amends the Guardianship and Administration Act 1986, the Victorian Civil and Administrative Tribunal Act 1998, and the Mental Health Act 1986. The primary purpose of the bill is to provide an effective substitute decision-making regime for people with disabilities in relation to their medical and dental treatment, and to improve the effectiveness of services that are provided by the Office of the Public Advocate and the Victorian Civil and Administrative Tribunal to people with a disability who are under guardianship or administration orders. The underlying principle of the bill is to balance the personal autonomy and the bodily integrity of an individual against the need to ensure that people with a disability receive both appropriate and timely medical treatment when they need it.

Many of the proposed amendments before us in this bill are technical in nature, and I want to take the house to the main issues dealt with by the bill. The first one is in clause 11, which deals with the consent to medical and dental treatment. Here the bill changes the definition of 'patient' in part 4A of the Guardianship and Administration Act. Part 4A provides for a substitute decision-maker where a patient is unable to make a decision for themselves. At present a patient is defined to mean a person who has a permanent or long-term disability. To resolve a very practical problem with this definition and to protect as many people as possible the definition of patient will be changed to mean a person with a disability.

There are indeed a lot of situations and circumstances where people with a disability cannot be classified as having a permanent or a long-term disability, but they do have a disability. Examples of that are when people have either an intermittent or episodic disability. You can see that where perhaps somebody who is involved in a motor vehicle accident is rendered unconscious and we are not sure when they will regain consciousness, or if indeed they will regain consciousness, but particularly in circumstances where we are unable to tell exactly when they will regain consciousness.

Another example would be in the instance of a relapsing illness such as a psychotic illness. You might have someone who is suffering from chronic schizophrenia and who has quite florid episodes of

psychotic illness from time to time but who in between those episodes is able to live a quite normal life and make the necessary decisions for themselves.

In those circumstances doctors often rely very much on the family to make decisions about when medical or dental treatment might be required. That places enormous pressures on family members at a time when they are under extra stress and strain. The amendments will ensure that those individuals with episodic or intermittent disabilities are protected.

To protect personal autonomy, clause 19 provides that there may not be substituted consent where the patient is likely to recover capacity in a reasonable time. In addition, where it is believed by the relevant person that the patient would object to the medical or dental treatment, it would have to wait for the person's return to capacity. The bill therefore protects a person whose disability is either intermittent or episodic in nature. However, to provide flexibility the bill enables an application to be made to the Victorian Civil and Administrative Tribunal for consent to the proposed medical or dental treatment in special circumstances.

The government highly regards the preservation of the rights of adult patients to make their own informed decisions about their medical and dental treatment whenever possible. It also believes that any non-emergency treatment can generally wait until a patient has recovered and can determine for themselves whether or not to consent to the proposed treatment. The decision as to whether or not a patient is expected to recover in a reasonable time and therefore be able to make their own decision about treatment is left in the hands of the professionals and the patient's treating team.

Part 3 amends the Mental Health Act and deals with non-psychiatric treatment. Mental health services are now part of the mainstream health system. It has been a very long process and is ongoing in the state. However, Victoria is much further advanced in mainstreaming mental health services than any other state in Australia, and in fact is looked to as an example of how to do it, and how to do it well in most instances. The government has strongly supported the notion of mainstreaming mental health services, as has the opposition.

The government considers that the substituted consent regime for involuntary patients who are incapable of personally consenting to non-psychiatric treatment — that is, medical treatment that they may require while they are undergoing psychiatric treatment — should be more consistent with the consent arrangements and regimes that apply to any other person who is unable to consent to medical treatment.

The bill amends the Mental Health Act to clarify the role of other appointed substitute decision-makers to achieve greater consistency with the guardianship and administration regime. The bill will provide that medical treatment agencies, along with guardians and enduring guardians, are able to make decisions about non-psychiatric treatment for involuntary patients who are unable to give their consent because of the nature of their psychiatric illness.

Urgently needed non-psychiatric treatment is also dealt with. Currently the Mental Health Act permits non-psychiatric treatment to be performed on an involuntary patient without consent in an emergency — that is, if it is deemed that it will save that person's life — so the Mental Health Act already makes provision for life-threatening situations. This provision is narrower than the equivalent emergency provisions in the Guardianship and Administration Act.

The bill replaces the mental health provisions with provisions that are equivalent to those that apply to other people who have disabilities and are governed by the Guardianship and Administration Act. The effect will be to permit urgently needed treatment to be provided without consent in order to save a person's life — that is, in a life-threatening situation, to prevent serious damage to a person's health, or to prevent a patient from suffering or continuing to suffer sufficient pain or distress. Again it is about ensuring that those in our community who suffer from mental illness have the same sort of provisions and equivalent regimes in relation to medical and dental treatment as people in our community who suffer from other types of disabilities.

Clause 17 deals with special procedures. The Guardianship and Administration Act currently provides that only VCAT can consent to a special procedure on patients with a permanent or long-term disability, except in true emergencies. A 'special procedure' is one such as sterilisation, medical research or abortion, and is therefore very significant. The proposed amendments to the definition of 'patient' will mean that people with a disability, whether permanent, long term or temporary, will now require the consent of VCAT for any of the special procedures to be carried out.

To protect the autonomy of a patient who is likely to recover capacity in a reasonable time the bill provides that VCAT may not consent to any of these special procedures where a patient is reasonably expected to

recover capacity within a reasonable time and therefore be able to make an informed decision for themselves about these sorts of procedures being necessary for them.

The exception to this prohibition would be the carrying out of medical research which is expected to provide immediate benefits. I must stress that it is about research providing immediate benefits to a patient and that only in this circumstance will VCAT need to consent. The provisions will cover the circumstance of, for example, a patient experiencing a psychotic episode for the first time who may be prevented from having ongoing psychiatric illness involving psychotic episodes if they were able to take or be administered certain medication early on that would help to prevent them acquiring a chronic disability.

Clause 24 of the bill establishes the Guardianship and Administration Fund to meet the costs and expenses of VCAT in respect to proceedings under the Guardianship Administration Act. The bill amends section 58 to provide that the fund becomes part of the public account. Inclusion of the fund in the public account will bring efficiencies in the financial management of the fund, will improve accountability and will not detract from its current operations. This amendment is consistent with developments with similar funds, such as the Residential Tenancies Fund and the Domestic Building Tribunal Fund. The amendment will enable the fund to be invested and for interest on investments to form part of the fund.

Prior to concluding, I inform the house that the government proposes to move an amendment during the committee stage. The proposed amendment addresses a matter that was raised by the opposition in the other place and will fulfil undertakings given by the Attorney-General during debate. The proposed amendment will insert a new clause 21(3) in the bill. The new clause provides that where an administrator is proposing to make one or more gifts or donations totalling $100 or more to themselves or to a charity with whom they are associated, they must notify VCAT in writing of that expenditure. Where the administrator is making a gift to themselves or a charity with which they are associated, proposed amendments 1 and 2 act as an added protection to ensure that there is no actual or apparent conflict of interest between the person's role as administrator and their role as beneficiary. It addresses a matter raised by the opposition during the debate in the other place.

In conclusion, I believe this is a good bill. It clearly demonstrates the Bracks government's commitment to caring for and protecting the rights of those in our community who are most vulnerable. Whether their vulnerability is long term or short term, this bill will address the medical and dental needs of such people. The bill will ensure that people with a disability will receive the most appropriate medical and dental treatment when they require it.

The bill deserves the support of all members of this house. I wish the bill a speedy passage and commend it to the house.

Sitting suspended 6.25 p.m. until 8.02 p.m.

Debate adjourned on motion of Hon. R. M. HALLAM (Western).

Debate adjourned until later this day.

BUSINESS OF THE HOUSE

Sessional orders

Hon. M. M. GOULD (Minister for Education Services) — By leave, I move:

> That so much of the sessional orders be suspended as would prevent new business being taken after 9.00 p.m. during the sitting of the Council this day.

Motion agreed to.

GUARDIANSHIP AND ADMINISTRATION (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. R. M. HALLAM (Western) — I rise to report that the National Party has resolved not to oppose the Guardianship and Administration (Amendment) Bill, and that it does so on several grounds. The first is that the National Party regards this as being quite reasonable legislation. We acknowledge that the bill addresses a number of identified problems in respect of the rules applying to guardianship that have emerged in the day-to-day operation of the existing legislation.

In addition, members of the National Party have resolved to support the bill on the basis that we have been assured it has been developed in close cooperation with both the Public Advocate and the Victorian Civil and Administrative Tribunal (VCAT). More than anything else we resolved to support the bill on the basis that we believe it to be consistent with the best

possible answer to the most fundamental question facing us as a civilised society, and indeed, facing all civilised societies — that is, how we should look after those in our community who are least able to look after themselves.

We start from the premise that one of the most fundamental and commonly cited individual rights is that of sovereignty over one's body. The National Party acknowledges that this issue of personal autonomy should be absolutely unassailable. The proposition I put to the individual who wants to smoke is: there are those in the community who say smoking is bad for you, but society is not prepared to make some sort of edict that prevents the individual from smoking. The same may apply to the question of sunbaking: we all acknowledge it could do the individual harm, but society is not prepared to say it should be outlawed.

However, as a community we are prepared to draw the line in respect of substances that we deem to be too harmful, dangerous or addictive. I use 'addictive' advisedly, because when I was preparing for my contribution to the debate I had a word blockage — I could not think of 'addictive'. I acknowledge the assistance of the Assistant Clerk, Mr Tricarico, who came up with the word I was looking for. The line we draw as a community — and this is the main point I want to make — is more historical than clinical. The question in respect of each case as to where that line should fall is at least debated, if not disputed. It does not change the general rule or the basic assumptions that we assume to apply to personal freedoms — that is, the question of when society should step in to protect an individual from himself or herself.

We make the point that the point of that step is far from static or far from predictable — in other words, we acknowledge that society should be very careful in respect of anything that intrudes on the issue of personal autonomy. In this case we apply that most specifically to the ability of an individual to refuse medical treatment. We see that as an issue of fundamental importance and intrinsic to our understanding of personal freedom that is our starting point. We begin from the premise that the individual's right to refuse medical treatment or a medical procedure is of fundamental importance. We acknowledge that that has now been enshrined in law, but there are a number of areas where we as a community choose to depart from that first principle. Even though we may regard ourselves as a caring, civilised, liberated and progressive society we still need to pull back from the concepts of an absolute right in terms of individual freedom.

It is not a new story for this Parliament. We are called upon in many contexts as legislators to strike a balance between the continuum that stretches, on the one hand, from the freedom of the individual to, on the other hand, the absolute control of the state or the community. They are never easy questions, and we struggle with them. Thus is the case here, particularly given that we are now dealing with issues that are very sensitive and very personal. I can do no more than again refer to the example of illicit drugs. Quite recently we have been through another example of where we need to step back from that absolute first principle. We saw it again today in the chamber when we debated the DNA legislation. I believe that that legislation, which we handled very well today, has been the subject of agreement between the houses for some time.

As it happens, all members of this chamber would agree that the harnessing of the DNA technology represents an enormous opportunity for our community because it is fantastic technology. It has enormous spin-offs for our community in terms of both the solving and prevention of crime, but it involves the taking of a forensic sample. We talked about that earlier today, because without that sample we cannot establish the unique DNA of the individual, or in that case, of the accused.

The question which arose and which had been confronting the Parliament was whether an investigating officer should be allowed to take such a forensic sample on the simple basis of reasonable belief that this would either implicate or absolve a suspect in the commission of a crime, or whether, as was held to be the case by the government, it should impose additional safeguards requiring, say, a court order or the attendance of an independent witness, or indicating how the taking of a sample should be recorded and whether it would necessarily require the involvement of a medical practitioner and so on.

As recently as today we demonstrated as a Parliament that we understand the sensitivities surrounding the question of protecting the rights of individuals. As it happens, my personal position is that the government has been overly cautious or — I almost wash my mouth out in saying it — conservative in respect of this.

Hon. J. M. Madden interjected.

Hon. R. M. HALLAM — In the true meaning of the word 'conservatism', I hasten to assure the minister. I point tonight, as I did earlier today, to the fact that the taking of samples of hair or even saliva in my view is much less intrusive on the individual than the taking of

fingerprints, which was the recognised technology under the previous standards. Earlier today I described the process to which an individual is subjected in the taking of fingerprints. It is, without belabouring the point, very physical and very messy. As it happens, the government landed too far on the rights of the individual, but I hasten to acknowledge, as do my colleagues in the National Party, that there are many sensitive issues at play here, and we concede that it is not a bad case on which to err on the side of caution.

Here is the first step back from first principles, and that is the context in which there is a direct trade-off between the rights of individuals on the one hand and society on the other hand. But in our consideration of the bill we acknowledge there is an even bigger step back from those first principles when we presume that one's basic right to refuse medical treatment for a medical procedure is dependent upon the competency of the person involved — in other words, the individual must be deemed to be fit to make the primary judgment involved. We acknowledge that after that judgment comes a whole range of hard issues because 'competency' itself is a very difficult term. Indeed, at least in the eyes of some, it is totally subjective.

Even if we get past the first tier, then we have greater problems because they lead to the second tier issues like the question of whether the decision taken by a 'competent' person was induced by duress or undue influence, and whether there was the issue of legal capacity and so on. Some of those issues we can dispense with readily. For instance, as a community we allow parents or guardians to stand in the place of their children, or those for whom they accept primary care. We would all acknowledge, I presume, that there is a fundamental premise in our law which relates to the so-called age of consent. But there are other issues that are much more difficult, and we do not have ready-made rules because in some cases that competency is not so clear, or we might even acknowledge that incompetency might be temporary, transitory or even episodic.

I refer to the case of a person comatosed by a sporting or vehicular accident. We acknowledge that ironically even in those circumstances where incompetency might be expected to be short term the questions themselves might be very urgent indeed. I make the point that those who would be involved in the case might hope fervently that the incompetency would be short term. But even in those circumstances the questions might well remain very urgent indeed. I have been through such circumstances in the last few days. In those circumstances it is not uncommon for those who are required, or maybe even thrown into a circumstance where they have to care for someone else to face a question that goes to the issue of life and death literally. We are dealing with very trying circumstances — maybe even tragic circumstances, those where the rights of the individual must be determined by others. We should acknowledge that they can be very traumatic.

Against that background we should start from the premise that our laws must be sensitive to the fact that the carers are called on to make decisions that might be very difficult if they apply to themselves but even tougher if they apply to others in their care. We might be talking about clients who are commercial in one sense, but even in those circumstances we should acknowledge that there is the fiduciary relationship that goes with that commercial care. More often than not it relates to loved ones who are put under even more personal pressure and have a greater onus placed on them. Even if incompetency is relatively clear, say in respect of an aged relative suffering from Alzheimer's, there is still a range of basic and trying questions to be addressed as to the rules which would apply in relation to guardianship.

This is not an easy issue of law. I have been here long enough to know that Parliament has struggled with these issues on a number of occasions.

Hon. B. N. Atkinson — Some would say too long!

Hon. R. M. HALLAM — Some would say too long, Mr Atkinson. I know the voice very well. I have been here long enough to recognise the honourable member's voice. With that background we should not be surprised to see the bill introduced, and we should not be surprised that there will be the need for further clarification in the days ahead, because administrations will continue to throw up practical day-to-day problems. We do not have a mortgage on wisdom and we cannot be expected to anticipate all of those issues that arise at the coalface. In addition, we should expect that community views on such basic issues will develop and be refined over time.

With one minor exception we see this bill as one of housekeeping, covering administrative issues highlighted by the Public Advocate and by the Victorian Civil and Administrative Tribunal in particular, and it is on that basis that we would support it. I should give a brief example of why the National Party has concluded that this is housekeeping. In 1999 the Guardianship and Administration Act introduced the substitute consent regime for incompetent people in relation to their medical and dental treatment. That is a very tough issue and not something that we would

readily want to address, but it has to be addressed because it is a real issue. Parliament is to be commended for grappling with the day-to-day issue that confronts many in our community. In doing so, we decided on a definition of 'patient' which turned out to be of itself unclear, because the definition we decided on said we were referring to a person with a disability which was permanent or long term.

I understand the thesis. In fact I can recall the thesis on which we decided the definition. That was that if we had a patient with a short-term disability we should, as a matter of course, exclude that person from the catch-all of the definition, and that in most circumstances we should say that a decision relating to a short-term disability should be left for the person himself or herself to be involved in as soon as they became competent. That is a really good place to err on the side of caution.

However, the complication has turned out to be that we cannot draw the distinction between that which constitutes long term or permanent and that which turns out to be short term; there is no discrete line, and we have struggled with that. On a day-to-day basis we have had people come up against that issue and look for direction and a solution. We acknowledge that some disabilities are indeterminate or episodic; and that of itself raises the question whether those persons are caught within the definition of 'patient', and if they are whether there is some direction or comfort for the next of kin, or perhaps even more importantly, the treating practitioner. It is that lack of clarity that has brought the bill before the chamber, because we have put more and more of the people at the coalface under greater pressure, particularly when we see what in my view is a very sad trend in our community — the increasing tendency to sue for malpractice, or worse still for the courts to accommodate those actions, and even worse for them to substantially reward them in practical terms.

So it has been held that we need some clarification. The law is grey, and for the sake of those who are caught up in this process out there in the real world we need to give some clarity. The bill enables the person with a short-term disability to be formally covered by the substitute consent rules, but we have been smart enough to say that even if they are covered the rider is that it would only apply in respect of a patient who is not likely to recover in a reasonable time.

What this means from my perspective and my reading of the bill is that the next of kin can effectively authorise life-saving treatment for a patient even where a disability suffered by that patient is acknowledged to be not long term or permanent, and that they can do so with the comfort and acknowledged legal capacity available under this bill. However, we also acknowledge that it does not apply for non-emergency treatment, nor if the patient is expected to be able to make his or her own choice in due course without suffering any deleterious effects as a direct result of the delay.

Effectively we have some clarification for those who are struggling with the rules that we laid down the first time around. As I said at the outset, the National Party is very happy to support that clarification. Indeed, it sees this bill as restating, if you like clarifying, the original intent. This is what we thought the original law would do in practical terms. Our assessment of the bill before the chamber is that no member of the community, whether they be viewing this legislation as a carer or a guardian or as a prospective patient, should have any concerns about the effects of the bill. Indeed on our assessment the amendments should bring a degree of comfort in that the substitute consent rules on which we put so much store the first time around are so much clearer for all concerned.

That brings me to the one anomaly which was raised at the National Party table and which was very well articulated by the shadow Attorney-General, Dr Dean, and the Leader of the National Party, Peter Ryan, in the debate in the Legislative Assembly. It concerns the authority of the administrator to make gifts from the estate of a represented person, so we are talking about a very succinct segment of the changed rules.

The background to this is that the law as it stands now is not clear; in fact, it is actually silent on the issue. It does not rule out the making of a gift from the estate of a represented person. Indeed, as I read it, it presumes that such a gift could be made and acknowledges that in the real world there is a practice under which the making of those gifts would proceed as a normal part of the process by which administrators stand in the place of the represented party. Therefore, perhaps in ignorance, we have presumed that the standard rules would apply — that is, that a gift would be reasonable given the dimension of the administered estate in the first place and given the relationship between the recipient and the represented person and the past practice of the represented person.

We note that those rules, implied though they be, do not preclude an administrator, or a charity with which he or she is connected, receiving the gift. That is our presumption given that it is quite common for a family member to act either by power of attorney or as an administrator where the represented person is incapable of looking after his or her own affairs. That is a

common circumstance which would be well known to all members of this chamber, and it is likely to become even better known as we see the inevitable increase in life expectancy rates.

As an aside, let me say that I fervently hope I survive to have my children look after me in a formal sense. I reckon that would be a very good outcome, and I hope I survive to see it.

My point is that it would be inappropriate and unfair for a family member to be excluded as a recipient of the gift just because he or she has undertaken the role of administrator, particularly as an administrator of a loved relation. That would fly in the face of reality and no-one in this chamber would suggest that be the case. It is likely that the level of trust shown by the represented person in appointing the administrator in the first place would be the very same relationship which would avoid inappropriate dispersals of any kind, including a gift to the administrator's personal benefit, being made from the estate.

However, we acknowledge that the law is currently silent. According to the briefing note which we have been provided by government this issue comes up frequently in the practical world. We are also told that the Victorian Civil and Administrative Tribunal has sought clarification on the basis that it comes up frequently. It is the request of VCAT that we should pursue clarification and that we ensure the inclusion of clarifying amendments in the bill before the chamber. In other words, the tribunal is looking to validate the rights of the administrator to make gifts even in those circumstances where the gifts convey personal benefits but where the making of the gift is reasonable given all the circumstances, or applying the reverse, the tribunal is saying that at least we should have a rule of law which does not preclude the making of such gifts because it might be quite reasonable in the circumstances.

As an aside, I have to comment that if, as the government now reports, this issue is so commonly raised, if it is of such importance, if this is the reason that drove the clarifying amendments, and if VCAT represents the genesis of the bill before the chamber, it is very strange that the facts and the background of those amendments are not mentioned in the second-reading speech. It is silent on the subject of gifts from the estate and more importantly in my view on the specific issue of gifts which might convey personal benefit to the administrator. I find it very strange indeed if as we are now told this is the reason for the bill before the chamber, that we were not given any explanation at all by the minister in the introduction to the bill.

In any event our point is this: if we have now grasped the nettle that we need to introduce laws to cover this specific anomaly, if we are going to now provide particularly for an administrator to personally benefit from a gift made from the estate of a represented person, some very basic questions arise particularly in the light of the reality that I see — that this means we are moving away from the assumption that all the circumstances would be covered in the terms of the appointment in the first place.

I hope out there in the real world those who are involved in such determinations or negotiations would actually see the merit in covering these circumstances in the document of appointment and that we would therefore not need to see all-encompassing legislation because if they do that is the most logical way around this issue. The most obvious question I want to pose is: why should an administrator not be required, as a matter of law, to specifically clear any such gift beyond a practical threshold with either the Public Advocate or VCAT prior to the grant of the gift?

At the outset we would say that if that were the case and this prior clearance was required that would impose another tier of discipline on the entire process. If that is what the authors of the bill pursue that would have been a logical way around the issue the government itself has raised. Beyond that, the point raised at the party room table was a bit more subtle because it related to the question of whether the requirement to gain prior consent for such gifts would give comfort to the administrator — to have some sort of mechanism whereby the administrator could secure sign off on this presumption of conflicting interests would be very welcome.

If we leave aside the circumstances relating to a commercial relationship such as, say, a contract as trustee, we expect the vast bulk of those remaining would be estates administered by family members and we think it is a fair assumption to start from the premise that in those circumstances the administration would be reliant upon natural love and affection — that it would be that natural love and affection which would drive the motives of the administrator.

We start from the premise that in those circumstances you would not need a set of rules to establish the bona fides of the administrator or the rationale of a particular gift, so much as there may be real comfort provided and appreciated in having an independent arbitrator sign off on such a disbursement. In other words, if this is the

change in law that we are offered, we believe we may be securing more comfort to the administrator than we are to the represented person.

It is against that background that the Liberal and National parties suggested that the new rules be expanded to require that prior to the clearance of such gifts there be some formal mechanism. We put forward the suggestion in the other place that it should apply beyond the practical threshold of, say, $100, but no-one is fixed on the threshold. The government, to its credit, undertook to consider that suggestion while the bill was between houses. While the National Party has been given a briefing note by the government which goes to those issues I hope the briefing note it has been provided does not represent the full extent of the government's preparedness to reconsider its position.

The government makes a number of points in its briefing note to the effect that apart from the reasonable test of size and nature of the gift itself and the relationship between the parties, there are already a number of existing safeguards that are cited in the briefing note, and I will not take the chamber through them. We are reminded that an administrator is required to regularly report to the Victorian Civil and Administrative Tribunal and that the tribunal has the authority to give general directions relating to any aspect of the administration, including particularly the making of gifts, which is a point well made by government. We are also reminded that the tribunal could disallow any particular item, again, we understand, particularly including the authority to make gifts. We are told that VCAT already has the power to oversee the administrative process. According to government the suggestion there be some specific clearance required on each occasion is top heavy — that we are wanting to throw the baby out with the bathwater and that administrators throughout the state would not thank us for imposing another administrative regime. We would somehow be adding unnecessarily to the burden falling on the individual administrator.

We have some sympathy for that position. We have no wish to add to the burden falling upon the administrator. We do not want to bog him or her down in their charter, because we acknowledge, leaving aside the question of the commercial relationship, in many cases people are acting out of natural love and affection. However, we are not convinced by the government's response to this extent, that all the safeguards cited by government actually kick in after the event and, in some cases, kick in long after the event — maybe two or three years after the event. In our view that takes a great deal of the gloss off them as safeguards.

The National Party's considered view is that if Parliament is determined to grasp this nettle — it is not arguing whether it should or should not — and visit the question of the wisdom of the administrator gaining a personal benefit from the estate of the represented person, there should be some formal clearance procedure to safeguard the parties, and that that approval should be granted before the formal disbursement, particularly given the challenge that I hope we would all accept that in these circumstances we not only need to be convinced that the right thing is done but is seen to be done, particularly that we are dealing with people who by definition are unable to look after themselves.

In other words, we start from the premise that perceptions are important and that if we are to grasp the nettle I described we should take it on totally. We argue that given the clear perception that in such circumstances an administrator has to confront a perceived conflict of interest, we should be providing a mechanism to rebut that perception as a matter of course. It is on that basis that we have argued for a further amendment to require prior clearance or authorisation available in respect of gifts where the administrator is gaining a personal benefit. We still think that makes sense and we suspect that view will prevail. It will not be resolved by this bill unless our suggested amendment is accommodated by government. We think this will come back to confront the Parliament sometime in the future. However, we have resolved, like the Liberal Party, that on balance we will not insist that that prior clearance regime be included in this bill. Why?

Firstly, because we think the bill as it stands goes a long way in the right direction and while we would like some form of gift clearance mechanism added to the bill, we see that as the cream on the coffee and we do not want to throw the coffee out in pursuit of the cream. Secondly, even if we were denied some formal clearance requirement we acknowledge that administrators would still have the opportunity to seek the clearance on a voluntary basis. It would be exceedingly prudent for them to do so. The point being, as was pointed out in the party room, that a smart administrator would ensure that any personal benefit to be derived from the gift of an estate was discussed either with VCAT or the family members and that people were put on notice so that the perception of the conflict of interest I described was short-circuited.

In general terms we believe a formal procedure is warranted to gain clearance for the granting of gifts, at least where there is some perception of personal benefit to the administrator. We believe more than anything it

would provide comfort to the administrators even more so than it would provide comfort to the represented person. We concluded that we should not insist on such an amendment, particularly if we gain an understanding from government — here I look directly at the minister supervising the debate — that VCAT or the Public Advocate would be prepared to provide that clearance on a casual basis. In other words, let us step back from the notion of a regime that would require a mandatory clearance in such cases, but settle for the compromise that such clearances would be available on a case-by-case basis as sought by the administrator. Our point would be, after thinking it through carefully, that that would provide comfort for those involved where the concerns were genuine, but it would not frustrate the crooked administrator, and we acknowledge that. If an administrator is determined to take advantage of his or her position I am not sure there is anything we can do in the chamber that would capture that in advance. We acknowledge that would be a minority experience and that anything we do here would be unlikely to put off the determined, recalcitrant administrator by way of changing the rule book.

So the bottom line in all of this is that we resolved to support this legislation but also that we should register our concerns in that in grappling with the circumstances where the issue of a gift from the administered estate comes up there be some mechanism to offer comfort to the administrator. If we cannot have a formal process — and we have acknowledged that that is not possible against the background of this debate — we would look to the minister responsible for the passage of this bill to offer the Parliament some comment regarding a similar facility which would be available on a non-mandatory basis. In other words, would the minister be prepared to say to the Parliament that he is prepared to approach VCAT or the Public Advocate and seek from them a commitment that in the circumstances I have provided they would be prepared to provide comfort on a voluntary basis as distinct from a mandatory basis.

Hon. Bill Forwood — I do not know if he is listening.

Hon. R. M. HALLAM — Thank you, Mr Forwood.

I look forward to the minister's response, because I think it is germane not just to the debate before the chamber but to the actual issue which separates the parties across the chamber. I start from the premise that we are all looking for the best possible outcome. We all understand the sensitivities which are involved here, and while we are not prepared to imperil the bill by demanding that there be some sort of formal and mandatory process we would seek a commitment from the government that there would be some sort of alternative arrangement which would give comfort to the administrator where there is a genuine application.

For all that, Mr Deputy President, I conclude where I began: the National Party will not oppose the passage of the bill.

Hon. R. H. BOWDEN (South Eastern) — I rise to make my contribution on the Guardianship and Administration (Amendment) Bill of 2002. At the outset I believe that even though in many ways aspects of this bill are somewhat mechanical and quite clear, we are really dealing with a sensitive and at times emotional situation involving many people. Indeed guardianship, the administration of guardianship and the responsibility for the care and welfare often of family members and people who are closely tied to others is difficult and can be both emotional and complex.

I think the Public Advocate has rendered the people of Victoria a good service in bringing forward the need to cover through legislation those difficulties where there are temporary situations — where the person involved is temporarily or on an indeterminate basis required to be declared to have a disability. The Public Advocate has asked the legislature to provide assistance in that context. I think it is for us in the Parliament to carefully and in a measured way examine these aspects of the bill. In my opinion the bill has worthy aims, and the opposition is not opposing it.

I suggest to honourable members that the present mechanism of part 4A of the Guardianship and Administration Act is to be amended by this bill so that those persons who are temporarily and indeterminately disabled are able to be provided with appropriate care and attention, be that non-psychiatric or psychiatric in its nature. Indeed, as has been said by honourable members who made their contributions before me, the concept of personal autonomy is protected and recognised, and indeed continued in the concept of this bill, as it should be because when we look at what is possible through this bill and consider the potential impact of the special procedures, we see that the invasive potential for those procedures is very important. The concept of personal autonomy must be very much to the forefront of the minds of those in this house.

The bill makes it clear that in the situation where there is a temporary indisposition emergency care can be provided. The Guardianship and Administration Act and the provisions of this bill make it clear that it is

possible to get consent for the treatment only if the registered practitioner is convinced that it is necessary and the person who has the authority as an approved person as defined by the act also believes that it is in the interests of the patient themselves. The Guardianship and Administration Act currently provides that registered practitioners can carry out medical and dental services if they believe that a patient's life is in jeopardy or that there is potentially serious damage in the offing for the patient's health. The practitioner can also make representations on the basis that there is suffering and that that suffering will continue either through excess pain or distress. The present act and the bill cover those things quite well.

The amendment will now mean that people who have a temporary or a short-term disability will be able to be provided for in circumstances that still protect that concept of the personal autonomy and are consistent with the ability to make sure the safeguards are provided.

I will make a few further comments along the line that, like some of the previous speakers, I am quite concerned that there should be some further consideration of clause 21. I suggest the subject of gifts and the potential for the administration and the propriety of gifts makes itself a candidate for further consideration, and possibly a further amendment in the future. There are occasions when family difficulties arise and where inappropriate appointments are made from an administrative point of view.

I would say it is an expectation and hope that those who have the administrative responsibility carry that out with affection, love and genuine care for the people for whom they have the administrative role. In reality, sadly, sometimes that is not the case, and even though we cannot legislate for all the possibilities and variations that could occur I think there should be further consideration of the appointment of the people who under the bill will have quite significant powers over both the welfare and physical wellbeing of others — it should be more completely thought through. I offer that as a suggestion.

I believe the intent of the bill is good. The essential aspects have been taken care of, including personal autonomy and the hope and expectation that those who are temporarily indisposed and in difficulty will have their rights protected. From my reading and study of the bill I am satisfied that that is so. I hope clause 21 does not give an interpretive license to people who might inappropriately perceive it as such. I support the bill.

Hon. S. M. NGUYEN (Melbourne West) — I join with other honourable members in support of the Guardianship and Administration (Amendment) Bill. The bill plays an important role in helping disabled people who need support from their guardians or family members. Most of the amendments in the bill have been requested by the Office of the Public Advocate and the Victorian Civil and Administrative Tribunal. The bill was developed in close consultation with the Office of the Public Advocate, VCAT and the Department of Human Services. Consultations were conducted with many interest groups including the Law Institute of Victoria, the Australian Medical Association, disability advocacy groups and families with a disabled family member. It is important to show support and take responsibility for those who cannot help themselves. The bill is designed to help people with a permanent or long-term disability in relation to their medical or dental treatment.

In 1999 the Guardianship and Administration Act was amended to include a substitute consent regime for incompetent people in relation to their medical and dental treatment. The word 'patient' is defined to mean 'a person with a disability which is a permanent or long-term disability' and the bill makes that very clear. Everybody in our society today needs to be looked after and some disadvantaged people are capable of making their own decisions. But in the community there are some people with a mental disability who need special care from their guardians relating to their health. They cannot make their own decisions and from the health sector's point of view the patient has to sign a document before they get treatment.

For those who do not understand what is going on, interpreter services are provided to people from non-English-speaking-background communities and people with a lack of understanding in English are eligible to use those provided by the health sector. Not long ago the Department of Human Services launched language services for ethnic communities so that any patient could apply to use the multilingual services because it is expensive to use private interpreters. The department provided them so that every person in our community can understand things clearly before they receive treatment.

That is what happens to the disabled community. The families of people who cannot make up their minds or do not understand what is going on can take care of them and sign for or take responsibility on their behalf. The government is keen to look after all such people in our community, some of whom are capable and some of whom are incapable. The Guardianship and Administration Act is very important for those people.

We have heard contributions from both sides about how important it is to provide services to disabled people in our community.

Some technical points have been raised about the VCAT administration and how the process can be gone through. In some cases special procedures are carried out. The Guardianship and Administration Act currently sets out the substitute consent regime for the carrying out of 'special procedures' on patients with a permanent or long-term disability. 'Special procedure' is defined in the act and includes sterilisation procedures, abortions and any procedures carried out for the purposes of medical research. Only VCAT can currently consent to the carrying out of a special procedure on patients who are unable to consent.

This is another example of the Department of Human Services taking care of things. Currently medical practitioners can carry out special procedures in emergency situations to save a patient's life and prevent serious damage to a patient's health. Medical practitioners being able to carry out special procedures can protect the lives of patients.

The word 'patient' has been referred to in the bill very carefully. The bill defines the word 'patient' as meaning a person with a disability, whether permanent, long term or temporary. So the word is very clear and absolute.

Many welfare agencies deal with disabled people. A lot of people have a long record with welfare and mental health service providers. The families of people with permanent or temporary disabilities are concerned about them and they need support from the government and from the administrator to handle difficult cases when they arise, and the administrator can work in with long-term cases.

In conclusion, the bill is good for a patient who is disabled. It will mean they will have someone who can look after them and act on their behalf. VCAT plays a very important role in providing services to such people. It will also mean that the health department will have more choice and will more easily be able to help and treat such patients.

I support the bill before the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Mr Chairman, I wish to make some comments which I hope will address some of the issues raised by the opposition in the course of the debate. I will make a few general comments and hopefully some more specific comments towards the end to address some of the remarks raised by opposition members.

The issue of whether an administrator can make gifts on behalf of the represented person has come up in practice. At present, the Guardianship and Administration Act (GAA) makes no mention of gifts, which means that the Victorian Civil and Administrative Tribunal cannot monitor the making of gifts under the current GAA. VCAT has requested that this matter be clarified, as it has been clarified in other jurisdictions, such as Queensland and Tasmania.

The bill only allows administrators to make a gift where the gift is reasonable with respect to the size of the estate and where the gift is seasonal in nature, or where it is a donation of a kind which the represented person has made in the past or would be expected to make — for example, where the protected person has sent a grandchild a birthday gift each year, or made a donation every year on Red Nose Day.

In addition, there are a number of safeguards in the GAA and the bill to protect the assets of protected people from being diminished by the making of inappropriate gifts.

The making of gifts by administrators is supervised regularly by the Victorian Civil and Administrative Tribunal in accordance with section 61 of the Guardianship and Administration Act, which requires that, unless otherwise ordered, VCAT must reassess an administration order each year and that such a reassessment must be conducted at least once within — and I reinforce 'within' — every three years.

In addition, under section 58 VCAT may appoint a person to examine or audit the accounts and lodge reports. I repeat that, as it may assist Mr Hallam: in addition, under section 58 VCAT may appoint a person to examine or audit the accounts and lodge reports. It is very rare in practice that VCAT will not require formal accounting by administrators.

Further, the bill gives VCAT the power of its own initiative — I reinforce 'of its own initiative' — to give

directions to administrators. This may extend to additional accounting for gifts or the disapproval of a gift. In addition, VCAT has the power to disallow a gift that has been made. If that happens, the administrator will need to repay that gift to the estate.

In relation to changes made by the bill and whether VCAT does not have to review an administration order as often as it does now, that is not the case. Section 61 requires that VCAT conduct a reassessment of an administration order at least once every three years unless reassessment is needed earlier. VCAT schedules the first reassessment of an order for three years after it is made as required by section 61B. VCAT appoints an auditor at the time of appointing an administrator. The accounting periods are set at this time and geared towards the three years mark so that by the time of the reassessment there are three sets of accounting records on file to assist with the reassessment.

In practice, major problems can arise if a reassessment is required earlier than three years after an administration order is made — for instance, VCAT may schedule a reassessment hearing before the time it would otherwise be due because State Trustees in its capacity as an examiner of the accounts had alerted VCAT to some irregularity in the accounts. If the administration order is continued, the new order must then be reassessed within three years. The result of VCAT having to reset the clock in this way is that the new assessment date will not be aligned with the dates of periodic accounting by the administrator. The consequence may be that some time passes with no accounting by the administrator or that the next reassessment hearing must be conducted in the middle of an accounting period.

The bill addresses this issue by amending section 61 to give VCAT more flexibility in setting the date for reassessment hearings. Instead of VCAT being required to reassess an order within three years after making the order it will be required to reassess an administration order at least once within each three-year period after the original administration order was made.

More specifically in relation to comments made by Mr Hallam, it is my understanding, and I am advised, that under the act administrators can seek advice from VCAT at any time. I am also advised that part of the Office of the Public Advocate's role is to provide informal advice to administrators. I am also advised that that happens quite regularly, that it is not uncommon for phone contact to be made with the OPA in relation to providing information or addressing issues in relation to administration or administrative concerns that may arise from time to time in relation to the role of the OPA and other issues associated with the administration and the requirements of aspects of administration.

Clause agreed to; clauses 3 to 20 agreed to.

Clause 21

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

1. Clause 21, page 13, line 8, omit ' ".'.

2. Clause 21, page 13, after line 8 insert —

'(3) The administrator must notify (in writing) the Tribunal if the value of the gift, or total value of the gifts, of the represented person's property to the administrator, or a charity with which the administrator has a connection, is $100 or more.".'.

Hon. R. M. HALLAM (Western) — I rise to signify to the committee that the National Party is not only supportive of the amendments moved by the minister but it extends its congratulations to the government in that it has obviously heeded the entreaty that came as a result of the debate in the other place.

I ask the minister for clarification. Notwithstanding what he has just provided to the committee by way of assurances in respect of the standing safeguards that he cited, is he now saying that the effect of the amendments he has moved, over and above all that we see, is a mandatory process of clearance in respect of gifts benefiting the administrator by more than $100? If that is case, I extend my heartfelt congratulations because in my view that is even more than I had hoped for. I had offered a compromise notwithstanding we saw this as the way through. This seems to be a real compromise offered by the government.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for his compliments in relation to the amendments. I will seek to explain them and I am happy to address any further points of clarification. The amendments alter clause 21 by inserting proposed section 50A(3). Clause 21, which inserts proposed section 50A(1), provides that an administrator may make gifts or donations of the represented person's estate under certain circumstance.

Proposed section 50A(2) provides that neither administrators nor charities with which they are associated are precluded from receiving a gift or a donation from the estate of the represented person. This would apply to many situations which are very common in practice, for example, to an administrator who is also the child of the represented person who

receives annual birthday and Christmas gifts from the represented person.

Proposed section 50A(3), to be inserted in clause 21 by the amendments I have just moved, provides that an administrator who is proposing to make one or more gifts or donations totalling $100 or more to themselves or a charity with whom they are associated must notify VCAT in writing of the expenditure. Where the administrator is making a gift to themselves or a charity with which they are associated, my amendments 1 and 2 act as an added protection to ensure there is no actual or apparent conflict of interest between the person's role as administrator and their role as beneficiary.

Hon. R. M. HALLAM (Western) — This has become something of a habit in that this is the second time today I have risen to comment that here is evidence of a Parliament at work. In my view this is a very good compromise. I am very pleased to accept the amendments offered by the minister in the spirit in which they are offered. This is a very good outcome for all concerned.

Hon. BILL FORWOOD (Templestowe) — I add my words to those of Mr Hallam and say exactly the same thing — that is, this is a very good outcome in the circumstances. I congratulate the government and I am grateful that it has taken the issue on board. We have ended up with a better system and a better piece of legislation because of it. On behalf of the Liberal Party, I say well done.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — While we are all feeling warm and fuzzy, Mr Chairman, I thank the honourable members for their compliments in relation to this. As the house and the committee heard, the subject matter of the bill is serious and onerous for those who are required to abide by it in relation to their responsibilities. I suspect this represents not only the committee working in good order and the recognition of the nature of this bill as a bill of significance, but I also suspect that it is not a softening of members on the other side of the house.

Amendments agreed to; amended clause agreed to; clauses 22 to 43 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — By leave, I move:

That this bill be now read a third time.

In so doing I thank the honourables Peter Katsambanis, Kaye Darveniza, Roger Hallam, Ron Bowden and Sang Nguyen for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

FISHERIES (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 14 May; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. C. A. FURLETTI (Templestowe) — I am pleased to indicate that the Liberal opposition supports the Fisheries (Further Amendment) Bill. I am pleased to contribute to the debate on one of the more substantive pieces of legislation to have been dealt with since I assumed the shadow responsibility for fisheries.

Over the past three or four months I have had the pleasure of visiting a large part of Victoria, including most of the coastal fishing communities, not so much as part of the process with this bill but because of the need to consult with the fishing industry and fishing communities with respect to the Environment Conservation Council's report on marine parks. It is not coincidental to that that the bill contains a number of the elements which interface to some degree with the government's proposals for the introduction of marine parks, which according to media reports we can anticipate later this week.

The bill was prepared following the release of a discussion paper on which the industry and those affected had an opportunity to comment. While it has a relatively minor effect across the industry, the reality is that it is broad ranging and extensive in its operation. The bill covers everything from recreational fishing and the obligations of recreational fishing licence-holders all the way through to the pursuit of boats outside of Victorian waters — indeed the hot pursuit of boats outside of Victorian waters. It has a broad-ranging effect and covers commercial fishing, as it covers quota zones that are imposed in the Fisheries Act. It affects the membership of the Fisheries Co-Management Council, as it does also the rights of indigenous groups with respect to fishing for specific cultural or community purposes.

As I indicated, it comes across as relatively minor legislation but has a substantial impact in a number of areas. I thank the minister's advisers for the briefing a couple of weeks ago, where we were given very efficient information as usual, and it was in the course of that briefing that we discovered there are some 220 000 recreational fishing licences issued but there is an estimated equal number of exemptions. We are dealing with a quarter of a million Victorians who enjoy recreational fishing, and the legislation affects a large number of Victorians.

I am anxious to indicate that the consultation in which the opposition has engaged indicates that not all is rosy with the legislation, and that there are various elements of the community in both the recreational and commercial fishing areas that would have liked to have seen things done differently. I shall put those matters on the record for the government's consideration as I make my contribution.

The main purpose of the bill and the manner in which it interfaces with the proposed marine parks legislation is in the areas of the Fisheries Act concerning enforcement. The government is on the record as strongly attacking poaching and illegal commercial fishing, particularly rock lobster and abalone, the valuable fishing resources which are controlled very much by quotas in the state.

Whilst the legislation the government proposes to introduce to create marine parks may very well relate to the national park element, it is in fact the Fisheries Act that controls the aspect of fishing, and indeed it is the Conservation, Forests and Land Act — and I note the minister is in the house — which controls and gives the power and authority to the fishing inspectors. They are empowered under that piece of legislation. The control and management of fisheries is somewhat convoluted in this state at the moment, with the Department of Natural Resources and Environment (DNRE) on the one hand, and control provided under a large number of different pieces of legislation on the other.

We have the complication that with the introduction of the fee for fishing licences the money that comes in, which I understand is in the vicinity of $4 million a year, is put into a trust account and is managed through the authority of the Minister for Energy and Resources as the minister responsible for fisheries and fish as compared with the authority of the Minister for Environment and Conservation in the other place.

Some criticism is being levelled at the government for the manner in which the licence fee is being attributed, in that whilst I am advised that the department spends some $750 000 a year on database maintenance it is unable to provide directly to its field officers, for example, information on whether or not a particular person holds a licence. The issue was raised in the briefing as to why in these days of improved technology there could not be a Palm Pilot with this feature on it. My colleague the shadow minister for conservation and environment in the other place has a passion for this area of technology, and of course the topic was raised, with some justification. I presume that the government is heading in that direction. However, as was pointed out, given that the licence fee is only $20 the cost of enforcement becomes somewhat excessive if it becomes too complicated.

I now address the first clause of substance in the bill, clause 3(2), which inserts new provisions requiring a recreational fishing licence-holder to carry the appropriate licence while fishing. That licence is to be produced on demand, but provided the person does not have the licence it should be produced within seven days at a stipulated place or it can be posted to the authorised officer within seven days of the demand. I am pleased to identify an amendment in the bill that I am holding that has been made to the original bill tabled in the other place, and that is proposed section 44(4)(b). When I saw the original bill I asked the advisers why it was necessary to send the original licence for noting by the authorised officer, and I was told that copies could be changed and it was necessary to see the original document. I am very pleased to see that the bill now allows a certified copy of the licence to be sent. That is a far more sensible approach.

Whilst I note that the honourable member for Gippsland East in the other place claimed credit for drawing it to the attention of the advisers, I too would like to claim credit because during the course of the consideration of the legislation I asked for it to be reconsidered. There are easier ways of doing things, and it is a very sensible amendment. I congratulate the government for taking into account the interests of the people concerned.

However, it is still a problem, and it has been put to me that given that the licences are made of paper it is a very difficult process. Perhaps the government might give some consideration to spending a small amount of money to get the licences plasticised or laminated, or whatever it is they do with the shooters licences. They might consider making some refinements, such as making the licences valid for a longer period so that they can be made more durable and it can be made more comfortable for people to abide by the law that is about to come into effect. It is also interesting to note that proposed section 44(5) contains a reversal of onus

provision under which, if the secretary so certifies, a person is deemed not to hold a licence unless that person can prove to the contrary.

One of the provisions of the bill that has caused some concern and comment is clause 5, and it is worth putting those matters on the record. The amendment enables the taking of fish from a recreational area for a specified indigenous cultural ceremony or event.

The provision is included as a new paragraph (h) in section 49(2) of the Fisheries Act. Section 49 deals with the issuing of a general permit by the secretary. An examination of section 49 reveals that the secretary can issue a general permit for a stipulated and quite broad number of reasons, so this provision fits in reasonably well in terms of form.

The concerns that have been expressed to me by a number of people are that there has been absolutely no explanation or indication given by the department as to what is intended to be covered by the new provision. During the briefing it was indicated that guidelines will eventually be issued but it is not intended, as far as I understood the briefing, for there to be a discussion paper or a memo with respect to the drawing up of the guidelines. When pressed as to which types of communities would be affected it was indicated that perhaps the Framlingham community at Port Fairy may qualify. It appears it has its festival about the same time as the Port Fairy boat festival, but the briefing was very nebulous and uncertain and it surprises me because I am aware that a number of submissions made in response to the discussion papers raised similar issues.

I would have thought that after some months of consideration there might have been more concrete information available for this particular provision and I urge the government to have those guidelines in place sooner rather than later. To some extent I am comforted by the fact that the clause provides that it is to be for a specified indigenous cultural ceremony so one assumes it will not be used frivolously or freely. However, it will be for the government to continue to monitor and ensure there is no abuse for the most obvious reasons.

A provision in clause 6 provides that the secretary should not vary a licence or permit, or conditions or classes of licence, or conditions on a class of fishery licences if such a variation would be inconsistent with any regulations, management plan or ministerial direction. Again, I would have thought that that was fairly obvious and if the secretary had done something along those lines that action would have been ultra vires — that is, beyond the powers of the secretarial variation. I have been informed, and I accept the explanation, that the purpose of this clause is to put an applicant on notice not to seek a variation which is outside those bounds as there would be no hope of it being successful and so presumably again it is intended that that would be to try to deter applicants from making frivolous requests and causing administrative waste.

Provision for the minister by order to declare subzones also seems to be a favourable proposal. We are aware that the abalone and rock lobster fishers are working under quota. We are aware that the resource can be depleted — it is not consistent. It does regenerate but not consistently over a particular place or time. This will allow the minister to declare a specific area as a subzone within one of the three zones in the case of abalone rather than have the quota of a whole area reassessed, and to make specific rules as to the total allowable catch, allocation of catch and so on for that particular subzone. It also allows the secretary to be able to reallocate among the licence-holders within that zone to allow for the impact to be borne across the board.

There are a number of housekeeping amendments which I do not intend to address. Clause 9, which introduces proposed section 66A, relates to offences in the newly created subzones, and I would like to put on record one of the concerns that was raised with me. Those with legal backgrounds assume that the law is not always an ass, but the concern was the double jeopardy provisions that relate to an offence being committed in a subzone which by definition would probably represent an offence within the principal zone. One would assume that the department will act sensibly in pursuing a prosecution under one and not both elements of the offence available to it, and that a person would be convicted of one and not two offences in the breach of the act.

There are a number of relatively novel provisions, including the possession of fish taken in non-Victorian waters. In commonwealth waters there is no bag size limits and in those circumstances proposed section 68B, inserted by clause 10, provides that Victorian law with respect to bag and size will apply, but if fish is taken in other states the law of those states will apply, and if they are brought back to Victoria the appropriate evaluation of the catch would take place. I am told that the commonwealth government, after due consultation, supports the provisions. Again it appears to make good sense.

Clause 11 makes a minor amendment to the principal act. Currently, if a park is in a Crown land reserve you cannot create a fishing reserve and the purpose of the

provision is to enable fishing reserves to be so created. This is perceived by some to be pre-empting the government's marine parks proposal. I believe it implements recommendation 12 of the Environment Conservation Council report on marine parks and waterways, but I guess it is an administrative step that the government is taking in anticipation of its long-term plans with respect to marine parks.

Comment was received during the consultation process undertaken by the Liberal opposition with respect to the constitution of the Fisheries Co-Management Council. Some saw the change of terminology from traditional fishing users to indigenous fishing users as a restriction of the current breadth of representation on the council. I was advised during the briefing that the provision clarifies more specifically and gives effect to the intention of the legislation. I accept that, because I do not see the traditional fishing users not being covered in terms of the other groups competing for representation on the council. It is putting specifically into the act what is happening in practice. The amendment to section 95(1), inserted by clause 13, expands the scope of the bodies capable of being referred to by the government for consultation. It expands it from the commercial fishing interests to commercial fishing interests and seafood industry interests as being able to be recognised peak bodies for the purposes of section 95 of the act.

As I said at the outset, the bill imposes some fairly significant changes to the evidentiary and enforcement provisions of the Fisheries Act. One of the main areas of government concern in terms of its consideration of the new marine parks legislation revolved around the restriction of fishing areas in the abalone and rock lobster industries — the so-called priority species. The bill substantially expands the powers and authorities which enable greater powers of seizure, longer periods in which to institute proceedings and extended provisions with respect to forfeiture of fishing equipment and things seized in the course of enforcement of the Fisheries Act.

As I indicated earlier, the pursuit of persons suspected of illegal fishing beyond Victorian waters facilitates evidentiary proof of certain matters by certification by the secretary of the department. It also empowers courts to make forfeiture orders not only in the event of a conviction being recorded, but also in the event of a person being found guilty of an offence. Of course, the house is aware of the circumstances in which matters may be proved and a person may be found guilty, but because of exceptional circumstances a conviction may not be recorded by the court. This provision enables the financial ramifications of a breach of this act to be implemented through forfeiture without necessarily a conviction being recorded. Clause 25, in amending section 113, inserts that provision in the legislation.

As part of the new enforcement procedure and regime through proposed sections 99 and 100, inserted by clause 14, the government seeks to establish a paper trail to follow the catch, production and sale of priority species — priority species are deemed to be rock lobster and abalone — and therefore any reseller of priority species must retain a document which sets out the name and address of the person from whom the fish was received, the species and quantity and the date the fish was received.

The minister's second-reading speech indicates that that is material information that would be available anyway as a tax situation, and that is probably accurate. Perhaps it would be on a receipt; it would certainly be on a tax invoice for GST purposes; and, as honourable members would know, the tax invoice contains all of that information and needs to be kept for the purpose of getting a GST credit. What concerns me — and I raise this with the minister — is that proposed section 99 simply talks about 'must keep a document'. It does not say it must be a receipt or a document from the vendor. In fact, I suspect it could be a document prepared by the purchaser for the purposes of the exercise. When we consider that this provision will apply to processors, wholesalers, restaurants and the fish and chip shop on the corner, it is an issue that requires clarification, because 'document' is a broad term. It may be the government will say you should prepare an inventory where you keep the details of where you buy your fish, from whom you bought it and when you bought it for the purposes of satisfying proposed new section 101(1), inserted by clause 15, which stipulates that the purchaser could be required to provide a return. That may be what the government intends but it should be clarified.

There are provisions with respect to search and entry and seizure which I referred to, but they are generally very well accepted and indeed sought by the priority species fishing industry, so I intend to make little more comment on it. Overall I believe the bill will be well accepted, will improve fishing and curtail poaching, and the opposition wishes it a speedy passage.

Hon. E. C. CARBINES (Geelong) — I am pleased to speak in support of the Fisheries (Further Amendment) Bill. This bill is all about protecting and managing Victoria's fishing and seafood industries to ensure their viability long into our state's future. It works in a way to make sure that these industries are managed sustainably. I take the opportunity to

congratulate the minister on her continued work in this area of ensuring the Bracks government's commitment to all Victorians to make sure that the food production industries in our state are sustainable.

As a member for Geelong Province I am pleased to attest to the house the importance of the fishing and seafood industry to our state. Many such businesses are located in my electorate, and they contribute significantly not just to the economy of Geelong but to the economy of our whole state. I can remember some time early last year visiting an abalone farm on the shores of Corio Bay at Lara with the Minister for Energy and Resources. I was interested to see this thriving Geelong business and what it is doing to support our region's economy. I wish the company very much success with the new business. It was certainly doing a great job when we went out to see its operations. I was fascinated by what it was doing to make sure the business was sustainable.

The bill before us tonight seeks to amend the Fisheries Act in a variety of ways. I am pleased to see that the bill contains provisions to recognise the importance of Victoria's indigenous people. Honourable members will be very much aware of the deep spiritual connection indigenous communities have for the land and the sea. This bill seeks to recognise that very special connection by making provision for Victoria's indigenous communities in two ways: firstly, by allowing for the granting of permits for fishing beyond the normal bag limits for indigenous ceremonial and cultural events. These permits will be very specific and will identify such details as who has been given such permission and the location and duration of the permit. In this way the bill not only seeks to recognise the importance of fishing to our indigenous community, but also seeks to ensure the sustainability of this very valuable resource.

The second way in which the bill seeks to acknowledge Victoria's indigenous community is by clarifying an ambiguity in the principal act in relation to the composition of the Fisheries Co-Management Council. The government wants to ensure that there is a breadth of experience represented on this council. We know already that the council includes representatives of the commercial fishing industry, the fish processing industry, fish marketing, recreational fishing, aquaculture, conservation and fisheries science, and that the provision of a representative of traditional fishing now, through the passage of this bill, will be clearly defined as a representative of indigenous fishing uses, therefore removing the ambiguity that is currently in the principal act.

I understand there have been some concerns arising out of clause 11. One of the recommendations of the Environment Conservation Council marine and coastal inquiry was that all coastal waters be reserved under the Crown Land (Reserves) Act. The government has agreed to this recommendation, but did not commit to any particular time for this to occur. We all know that historically all Land Conservation Council or Environment Conservation Council recommendations put Crown land into a public reservation system where they have been subject to an investigation. In this case they are being reserved as marine waters.

It is the intention of this bill to temporarily reserve, as opposed to permanently reserve, marine waters under the Crown Lands (Reserves) Act of 1978. If marine waters were to be permanently reserved, the minister would need to give notice of intention to permanently reserve in the *Government Gazette* and/or local newspapers, and there would be intensive consultation with all impacted stakeholders.

It is worth while noting that to have these waters reserved under the act would involve significant costs and resources and would take a considerable amount of time. Having marine waters temporarily reserved under the Crown Land (Reserves) Act would not affect existing uses consistent with a reservation, such as commercial fishing or the plethora of recreational activities that occur in our coastal waters. There is no impact on leasing and licensing.

It is important for honourable members to remember that having land or water unreserved also means that it is unprotected. Having it unreserved removes any element of community protection and could lead to private exploitation. I understand that given recent experiences the fishing industry is concerned that this measure is some sort of backdoor means of locking them out of waters outside the marine parks. This is certainly not the case and not the intent of clause 11.

The Fisheries (Further Amendment) Bill also makes provision for the requirement for all recreational fishers to carry their recreational fishing licences when they are fishing. Honourable members will remember the establishment of the trust account for the money collected from the purchase of recreational fishing licences. The bill before us tonight assists in the compliance with the recreational fishing licence and therefore further helps in the sustainable management of Victoria's fishing resources. Importantly, though, the bill does not seek to be unnecessarily punitive and it allows provision for a period of seven days in which a licence must be produced to the relevant authority. This is, as I am sure all honourable members will agree, a

sensible arrangement which recognises that people sometimes forget to carry their licences.

The bill also seeks to strengthen compliance regulations in the principal act and in this way works towards ensuring the long-term sustainability of this most valuable resource to Victoria.

Clause 7 allows for the creation of subzonal areas within quota-managed fisheries. This will provide for local management of the state's fishing resources. Clause 14 establishes that traders in the state's priority fish species, such as abalone and rock lobster, will be required to keep documents and receipts of sale. This again is to allow for the effective management of the state's valuable seafood resources to ensure sustainability, and it does not impose an unnecessary burden on such businesses.

I am very pleased to support the Fisheries (Further Amendment) Bill, which demonstrates the Bracks government's clear commitment to ensure the long-term sustainability of our state's fishing and seafood industry and of course our resources. I congratulate the minister on her demonstrated commitment to our state's sustainable fishing resources and wish the bill a speedy passage.

Hon. P. R. HALL (Gippsland) — Fishing is the topic of much debate at the moment. At present there are a lot of unhappy fishermen and fisherwomen because the government is limiting their ability to fish in certain marine waters around the coast of Victoria. They have a right to be unhappy and that will be the subject of lengthy debate in this house over the next few weeks.

The thing that is upsetting them is the fact that fishing, both recreational and professional, is being used as a sacrificial lamb for the government's political agenda. The government's propaganda shows fish swimming around in proposed marine parks and claims that marine parks will protect fish stock. If a fishery is in trouble or if there is an issue about the sustainability of a fishery, then there are plenty of adequate mechanisms in place to ensure the sustainability of that fishery — and that is by means of fishery management plans. They are the best mechanisms to ensure that fish stocks are sustainable. Within fishery management plans a whole range of management tools are available for THE government to use: things like bag limits, seasons, quotas, licences, fish sizes and a whole range of other management tools. You do not need marine parks to protect fish stocks. There are plenty of resources available to the government to ensure that management planning is undertaken and ensures sustainability. There is no clearer example than the recently released abalone fishery management plan, an excellent document that the minister spoke about in this house. That is the way to ensure that commercial fishery is managed in a sustainable manner. We do not need marine parks to protect abalone stocks: we have a fishery management plan and that could and should be the case for all other commercial fisheries as well.

The bill puts in place or improves fishery management methods and suggests some additional tools that can be used to manage fisheries in Victorian waters. The bill contains 31 amendments to the Fisheries Act and they fall within three broad categories.

There are a whole range of management amendments including a requirement for anglers to carry a recreational licence whenever fishing, with allowance for those who do not have their licence with them to present it within seven days; allowing for limitations on catch in a subzone of a quota fishery; applying size and catch limits to fish landed in Victoria but caught in areas outside Victorian coastal waters; requiring sellers of priority fish to keep records; strengthening provisions requiring the provision of certain business information and financial records; strengthening powers of entry and inspection; remedying defects in existing forfeiture and seizure provisions; and a number of other clauses and amendments relating to the management of fishery in Victoria. I will not go through them individually, but I will pick out some that I wish to speak about later.

A second group of amendments are largely administrative. They are things like clarifying the arrangements for the variation and transfer of licences; removing certain restrictions regarding the ability to declare fisheries reserves; streamlining the process for changing levies where the change has been agreed with affected licence-holders; allowing the linking of levies to quota holdings for quota-managed fisheries; and a whole range of other minor technical amendments that will assist in the administration of fisheries in Victoria.

Finally there are a further couple of amendments relating to indigenous people and fishing. I do not wish to go through all 31 amendments but there are a couple that I wish to look at in particular. The first is clause 3 which relates to recreational fishing. There will be a requirement for anglers to carry their recreational fishing licence whenever they are fishing, with provisions for those who do not have the licence in their possession at the time. That provision is similar to those that apply to holders of drivers licences — that is, if you are requested to produce it at a point of time and inadvertently you do not have the licence in your

possession, you are given seven days to produce it at a designated location; or, as the government moved by house amendment in the other place, there can be an ability for a person to send a certified copy of their licence to that particular place. Those are sensible amendments relating to recreational fishing and certainly they are supported by VRFish. Consultation undertaken by the National Party revealed that there seem to be no objections to that particular provision in the bill.

Clauses 7 and 9 relate to a new term in a fisheries bill called a 'subzone'. Currently abalone and rock lobster are the only quota-managed fisheries in Victoria. Quota-managed fisheries are divided into particular zones and in the case of abalone the coast of Victoria is divided into three zones: western, central and eastern zones. Within each of those zones a total allowable catch (TAC) is designated on a seasonal basis to ensure the sustainability of that particular fishery. Having TACs is an excellent management tool in itself. As I said, you do not need a marine park to ensure that fisheries like abalone and rock lobster are sustainable: there are fishery management plans that can undertake that task very well.

There is an argument from the government for a need to be more specific in ensuring sustainability and hence the need for subzones. Once again I am not aware of any strong objections from industry to the creation of subzones and indeed they formed part of the abalone fishery management plan which pre-empted the fact that legislation would be used to create subzones. So the industry recognised that for more specific planning in those quota-managed fisheries, it may well be appropriate for the creation of subzones. As I understand it from the briefing, it is not necessary that all of those zones, in both rock lobster and abalone fisheries, will be the subject of the creation of subzones, but at least there is an argument that in some of those zones in some of those fisheries there may well be a need. The National Party does not object to the clauses relating to the creation of subzones in a quota-managed fishery.

Clause 10 of the bill relates to the possession of fish taken in non-Victorian waters. Once again, it seems a sensible arrangement that people who take fish in non-Victorian waters need to comply with the bag limits or the conditions that apply to the waters in which the fish were taken, and that if there are no such conditions and they land the fish in Victoria they need to comply with the Victorian law with bag limits and fish sizes. Once again, we believe that is a sensible amendment.

Clauses 14, 15, 17, 18 and 24 include provisions that require certain records of business transactions to be kept and made available for inspection relating to the purchase and sale of fish, particularly of the priority species of abalone and rock lobster. Selling those species can be very lucrative, and all efforts need to be made to have a clearly defined paper trail to better tackle the poaching issue, which is a significant issue with both those priority species. These amendments are designed to strengthen the ability to ensure that the paper trail is strong, to identify where fish are taken and to assist in ensuring they are taken legally. The National Party is pleased to add its support to those amendments.

They are some of the amendments relating to the management of fisheries in Victoria. I want to comment on a few of the amendments relating to administrative issues. Clause 6 of the bill relates to licence and permit variations. Clause 6 states in part:

> "(1B) The Secretary must not vary —
>
> (a) a fishery licence or a permit; or
>
> (b) a condition on a fishery licence or permit; or
>
> (c) a class of fishery licence; or
>
> (d) a condition on a class of fishery licence —
>
> if the variation would be inconsistent with any regulations, management plan or ministerial direction.".

Regulations made under the Fisheries Act or management plans require consultation with the industry. So on reading this clause it appears to me that licence and permit variations will come about only after consultation with the industry has taken place via either regulations or management plans.

As to ministerial directions, I am not quite so sure when the minister issues ministerial directions under the act and whether there is a requirement for consultation with industry. Nevertheless, we are satisfied that on the balance of things safeguards are there to ensure that at least consultation with the industry takes place through the form of either management plans or regulations.

Clauses 30 and 31 relate to levy payments. Clause 30 states that levy payments may be paid:

> (d) in proportion to the number of quota units held.".

My understanding is that currently a levy is paid for a total quota within a quota-managed fishery, but now with transferable units within that quota-managed fishery somebody may hold more than a quota, or indeed less than a full quota. It seems to be commonsense and quite right that the levy paid should

be proportionate to the amount of quota held. So we certainly have no objections to the amendments proposed in clause 30.

Clause 31 is where it starts to get a bit complicated, but it is perhaps best explained in the explanatory memorandum of the bill. On clause 31 the memorandum states:

> Normally, a regulation increasing the amount of a levy is subject to a requirement for a regulatory impact statement (RIS)…

It goes on to say:

> The effect of the new sub-section 8A is to make an exception to the requirement for an RIS, providing that the relevant recognised peak body, having been consulted by the Minister, has notified the Minister in writing that all the affected licensees agree to the proposed increase in the levy.

Once again, we take no exception to that. It seems a commonsense provision and we feel that if all licensees have been personally contacted and have agreed to such change there is no need to go through a complete regulatory impact statement in respect to that matter.

I want to comment about clause 11, which is headed 'Fisheries reserves'. I have to admit that I do not fully understand the clause. It is a complicated provision relating to fisheries reserves and the declaration of fisheries reserves. It is related to Environment Conservation Council recommendations and will be impacted upon by the marine parks legislation that has been foreshadowed to be introduced in Parliament tomorrow. So clause 11 is the subject of some further explanations, which I will seek during the committee stage of the bill so I can better understand exactly what is proposed with the clause.

There are a couple of clauses relating to indigenous people and fishing. Clause 12 is perhaps best explained at page 4 of the explanatory memorandum. It states:

> The Act currently provides that, in recommending persons for appointment as members of the Council —

which in this case means the Fisheries Co-Management Council —

> the Minister must have regard to the need for the members to have between them experience and knowledge in commercial fishing, fish processing, fish marketing, recreational fishing, aquaculture, conservation and fisheries science, as well as traditional fishing uses … "traditional fishing uses" has generally been taken to mean indigenous fishing uses, as other traditional uses are covered by the other subjects …

Essentially that is the effect of clause 12. I am not sure why those word changes are needed; it is just a terminology change. But the change from traditional fishing use to indigenous fishing use may mean the exclusion of other people from ethnic backgrounds who also have a long history in traditional fishing methods. Although I am certainly not objecting to indigenous people being appointed to the Fisheries Co-Management Council, it seems that this could be limiting in some respects and could exclude people from other ethnic backgrounds from being on the council. I am not sure of any evidence as to why this change has been proposed. Once again, it is a clause which I will seek some further explanation about during the committee stage.

As is described in the second-reading speech, clause 5 provides for a class of permits to allow the non-commercial harvest of fish beyond recreational bag limits for indigenous, ceremonial or cultural events. Both recreational and commercial fishers to whom I have spoken have expressed some concerns with this provision. In the briefing we were informed that guidelines would be developed to assist the secretary in assessing such applications. But there are many questions about the development of those guidelines. In the briefing we were informed that the guidelines are likely to be developed internally with no external consultation with other fishery sectors in the state. We believe in our hearts that that is a deficiency in the bill. It should be an open and transparent process.

We have no difficulty with guidelines to assist the secretary to assess permits being developed, but believe it should be an open process. We in the National Party are not sure about the nature of the permits and whether they will be granted on a case-by-case basis or whether blanket approvals will be issued to certain groups. We are not sure why there is such a demand for this provision. We know of no examples of where such permits would be required. Once again, I would like to examine this clause more closely during the committee stage of this bill.

I will finish by indicating that the National Party does not intend to oppose the bill as such, but will certainly seek adequate explanation on a number of the matters I have raised during the committee stage of the debate.

Hon. PHILIP DAVIS (Gippsland) — I will make a few brief remarks about the Fisheries (Further Amendment) Bill inasmuch as the Liberal Party opposition supports the bill. As my colleague the Deputy Leader of the Opposition has gone through the bill in some comprehensive detail I do not propose to repeat what he said, but I shall comment about a couple of aspects generally. Also, I will reserve further comments for the committee stage of the bill, as

Mr Hall also alluded to, for clarification and comment on particular aspects.

The general approach of the legislation is to improve on the Fisheries Act 1995, which was introduced by the previous coalition government. Over a period of time amendments have been made to the act to improve its operation. It is appropriate that in resource management there is a continuing review of the regulatory framework, both by way of legislation and regulations, and of course the instruments need to be available to the managers of our fisheries or any resource to ensure they are managed on a sustainable basis in the long term. Some resources in fisheries, particularly the priority species of abalone and rock lobster, are highly valued.

In relation to all the endeavours in our fisheries in Victoria, clearly abalone is the most valuable in that it exceeds by a multiple of three the value of the next most valuable species — that is, the rock lobster, which in itself is more valuable than the whole of the fisheries resource harvested from the wild catch fisheries in Victoria.

One can see that it is important to regulate an industry where particular species have a high value and therefore, inevitably attract the potential for illicit usage. Therefore if additional instruments are required, as the bill outlines, that would help in the integrity of regulating a fisheries harvest. That is appropriate, and I support it.

The bill further deals with recreational fishing licences. The government has tried to concoct a case that it is somehow responsible for the outcomes of implementation of the recreational fishing licence. The reality is that this was an initiative of the previous government and therefore due recognition needs to be paid to the fact that it has been a good initiative and that the money generated has been put to the purposes generally for which it was anticipated.

I have no difficulty in indicating that I am pleased that the present government is determined to persist with trying to ensure some integrity in the implementation of the recreational fishing licence and if it is necessary to require people who are fishing to produce their licences on request, that is sensible and similar to provisions relating to licences held for other activities, including the use of firearms and driving motor cars.

There may be practical difficulties with it. Somebody who may be fishing off the rocks in a pair of shorts may not have the appropriate receptacle to hold a fishing licence at any time. Presumably — and I wonder if this could be clarified in the committee stage — the fishing licence that is required to be produced will be provide in a laminated form so that it is in a practical waterproof cover such as we find with drivers licences. A paper licence in a pair of shorts, while a fisherman is standing on the beach or wading into the surf to pull in a catch, may not be practical.

Hon. K. M. Smith — You don't get much for your $20 out of this mob.

Hon. PHILIP DAVIS — I agree, Mr Smith, but it is a suggestion that the minister may care to take on board. I have no difficulty with providing for the taking of fish from recreational fishing areas for specified indigenous cultural ceremonies. I presume that will be properly managed and reviewed, and that the government will ensure an assurance will be given that the special provision will not be rorted. I assume that to be the case and that from time to time there will be a review of the frequency and utilisation of applications for such permits.

An honourable member for Geelong Province, the Honourable Elaine Carbines, trumpeted about the government's recognition of the need to provide for indigenous representation on the Fisheries Co-Management Council. I was a little alarmed at the skiting about the structure of the co-management council because, after all, that council was established under the previous government's legislation.

The council's structure may have been created, but I understand there is no council in existence at present because the minister has still not appointed a Fisheries Co-Management Council. There has been no council for two months and, as the minister indicated last week in this place, she has not got her act together and appointed members to the council. That is inexcusable when there are major issues before the community to resolve in relation to fisheries management. Given that the peak body giving advice to the minister on fisheries matters is the co-management council, it is disappointing that government members should skite about a Fisheries Co-Management Council that does not exist. I suppose we can only be bewildered by the inadequacy of administration in this area.

The one particular provision I wanted to make some general comments on quite specifically is creating subzones for the purpose of quota management in priority fisheries. Given that we have just been through the implementation of quotas in the rock lobster fishery and that the government has been skiting about what a great success that is and that the government has argued vociferously that the implementation of marine parks will impact significantly neither on rock lobster nor

abalone fishermen, I am bewildered to some extent about the rationale for the introduction of this particular provision.

I will be looking forward to the discussion during the committee stage about this because it seems that by sleight of hand a vehicle is being inserted into the regulatory framework to deal with the natural consequence that will occur as a result of pushing rock lobster and abalone fishermen into areas where they have not previously fished. For example, I understand rock lobster fishermen from San Remo are seeking to relocate their rock lobster fishing operations into the general vicinity of the eastern zone, to areas adjacent to Point Hicks and near where a new marine park will be created.

I have been advised by fishermen from Lakes Entrance that they have been talking to and have met with fishermen who say that because of the pressures being applied to the fishing activity by the constraints and pressures across the board in the rock lobster fishery there is a serious attempt to review the locations where those fishing activities occur.

It seems to me the establishment of subzones gives the government an additional tool to deal with those competitive pressures between fishermen, to regulate the catch in a particular area and to manage the increased intensity of effort as a result of fishermen from San Remo relocating to far East Gippsland for their catch. Clearly the implication of the provision in this bill to create subzonal management arrangements is potentially to manage that disruption, where there has been a well-regulated prior arrangement. Why is that necessary now?

It is obviously necessary now because the so-called smooth implementation of the quota management of the rock lobster fishery has not been all that smooth — and plenty of rock lobster fishermen will attest to that. Further, many fishermen are extremely concerned about their long-term prospects in maintaining their catch and effort in relation to the quota management arrangements and are therefore looking for alternative locations, which will create additional pressure in particular areas. Hence there is a need for the subzonal arrangements the government is proposing to introduce.

I am not arguing a case against these provisions being in legislation. What I am suggesting is that it is clear that a case can be made that the government has been duplicitous in the sense of not being fully open about the consequences of restricting access to some of the prime target areas for rock lobster and abalone and therefore causing unnecessary pressure on those fisheries. It will be interesting to me during the rest of this debate and the committee stage to hear from the government about the reasons why this provision is required at this time and prospectively, given there is a clear link and relationship between the implementation of marine parks, the implementation of rock lobster quotas and the dislocation to what I describe as the comfortable coexistence that has been in place between fishermen throughout eastern Victoria over many years.

Although I have no doubt that the minister will respond in terms that there was a rational need to implement quotas, the fact is that the government now sees after that event a requirement to create these subzonal management arrangements. I will be looking to tease that out further in the committee stage.

In relation to the Fisheries Co-Management Council — I alluded to the fact that it has not yet been reappointed after a couple of months — the provision of a representative with indigenous fishing experience is a provision with which I do not have any difficulty but I think that the minister should be cognisant of who is appointed. I recall that the first person who was notionally represented in the indigenous community on that council, Geoff Clark, had many other obligations, is the way I would describe it, and was not a significant contributor or a contributor in any material sense.

That is no criticism of Mr Clark particularly, but it is important that people who represent that particular skill have a strong commitment to fisheries management. I am pleased to note that David Hewat from Numeralla in East Gippsland has been a member of that council, and I presume he may well be one of the people considered for reappointment. He would make a good contributor to the council, and the minister will be well served by such an appointment.

Hon. S. M. NGUYEN (Melbourne West) — The Fisheries (Further Amendment) Bill is another initiative by the government to improve the fishery industry and to provide for the special needs of the indigenous community in Victoria.

One of the important aspects of the bill is to recognise the cultural and spiritual connection that indigenous people have with the land and the sea. It is important to support the indigenous community of Victoria. Members of the indigenous community like to hunt and fish, and Victoria has a coast to the south which is attractive not only to the many people who wish to fish but also to indigenous people. Because of certain restrictions some indigenous people cannot obtain access where they would like and we must look at

where they can go to practise their culture. They love to hunt and fish and take part in cultural events.

The government will appoint someone with knowledge of the indigenous community and special cultural events to the Fisheries Co-Management Council so discussion can take place on issues relating to the needs of the indigenous community and that community can be consulted on what is in its best interests and what can be provided to meet those requirements. I note that there are some places in the community where you can fish, but in other parts you cannot get access because some of the coast is sensitive.

The bill also tightens the legislation and makes it harder for people who do not carry a fishing licence, so everyone who fishes or catches abalone or rock lobster must have a licence for that recreational fishing. If they do not want to pay to fish all year they can buy a two-day licence that costs about $5. I know a lot of people like to fish recreationally on the weekend and they can buy a weekend licence for $5. The licence can be bought at any designated outlet. An annual licence costs about $20 but people under 18 years are exempt. The fees will be paid into a trust fund to be used to improve recreational fishing

People have to show their fishing licence when they are approached by fisheries officers or police, or if they are not carrying it they will have to present it to the police in seven days. This is a grace period and they can present the licence at a police station or they can mail it. The licence is not hard to obtain; there are hundreds of small outlets throughout Victoria where fishers can buy one. The $20 fishing licence displays very basic information; it is not as formal as the drivers licence. A lot of people in our community, especially the non-English-speaking ethnic community are not aware of these things. I have noticed that a lot of people, especially tourists, just think, 'It's a free country'; they do not mean to break the rules and sometimes they are unaware of what they have to do before they start fishing.

Clause 5, as I have mentioned, grants a permit to the indigenous community. Clause 7 talks about the location of subzones. This bill is important because it gives the department power to set the location and boundary of any new subzones. It is important to set where the subzones will be because we need to be able to place limits on licence-holders. At the moment we have approximately 71 licence-holders for abalone in Victoria and each licence permits a catch of 20 tonnes. But we have no restriction regarding which part of zone 1 or zone 2 they can catch fish in. At the moment there is a voluntary subzone but there is no restriction. So we will give officers the power to put a restriction on how much the licence-holder can catch each year and we will change that from year to year.

The government will consult with all licensees about these new subzones so this is the way in which we want to manage our resources. We are talking about the gross take, the bag size of fish caught outside Victoria, but it is only in Victoria that we have a size and bag limit. There is no such limit in any other state, so Victoria is the first state to control the amount and size of fish being caught. The bill also mentions the Fisheries Co-Management Council.

We would appoint people who understand and have knowledge and experience of indigenous fishing to the council. Also the council will have members who have experience and knowledge in commercial fishing, fish processing and marketing, recreational fishing, aquaculture, conservation and fishery science as well as traditional fishing. We care and we want to make a decision with the support of the community but before we do that we should have a consultative committee so everyone can have input and the decision we make is in the interests of all.

The bill addresses many important issues: that people who have fishing licences take more responsibility and understand the conditions of the licences; that people present the licences if they are asked to do so; that everyone has to take responsibility because it is important to protect our environment; and that people do not catch small abalone, fish or rock lobster or exceed the bag limits. In conclusion, I commend the bill to the house.

Motion agreed to.

Read second time.

Ordered to be committed next day.

NATIONAL CRIME AUTHORITY (STATE PROVISIONS) (AMENDMENT) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

The purpose of the National Crime Authority (State Provisions) (Amendment) bill is to make the Victorian National Crime Authority (State Provisions) Act 1984 consistent with the commonwealth National Crime Authority Act 1984 following amendments to that act

to ensure the effective operation of the National Crime Authority cooperative scheme.

The National Crime Authority (State Provisions) Act 1984, which for ease of members' reference I will refer to as the state act, forms part of a national cooperative scheme which establishes the National Crime Authority as a national law enforcement agency whose purpose is to combat serious and organised crime, without the limitations imposed by jurisdictional boundaries.

Following amendments to the commonwealth National Crime Authority Act 1984, which for ease of members' reference I will refer to as the commonwealth act, the state act and its interstate equivalents are no longer consistent with the commonwealth act.

To address these anomalies, the Intergovernmental Committee on the National Crime Authority, on which I am Victoria's representative, instructed the national Parliamentary Counsel's Committee to draft a model state amendment bill. The bill before the house is based on that model draft legislation and adapted to fit within Victoria's statutory framework.

The two key changes to the commonwealth act, which give rise to the need for complementary state amendments, are:

first, amendments to clarify the powers, functions and duties of the National Crime Authority following the High Court decision in *The Queen v. Hughes*. This decision cast doubt on the capacity of a commonwealth authority such as the National Crime Authority to perform functions or exercise powers under state laws that are coupled with a duty, as the court decided that the conferral of such functions or powers must be supported by an appropriate commonwealth head of power; and

second, amendments to implement the commonwealth government's response to the third evaluation of the National Crime Authority by the parliamentary joint committee on the National Crime Authority. These amendments included measures to enhance the National Crime Authority's effectiveness by deterring people from obstructing or frustrating the National Crime Authority's hearing process.

The Bracks government has already taken action to validate past activities of the National Crime Authority following Hughes by proclaiming the National Crime Authority (State Provisions) Act 1984 to bring it within the scope of the Cooperative Schemes (Administrative Actions) Act 2001.

However, amendments to the state act are necessary to increase the National Crime's Authority's effectiveness in line with the commonwealth amendments to implement the commonwealth government's response to the third evaluation of the National Crime Authority.

The bill makes a number of amendments to achieve this end.

The bill will remove the uncertain defence of 'reasonable excuse' for a person who fails to comply with a notice to produce documents or fails to attend and answer questions at a hearing of the National Crime Authority. Instead, the defences available at common law for offences generally — for example, duress — will apply to the offences under the state act. In addition, the state act will be amended to make it clear that conduct such as failing to comply with a notice to produce documents will only be an offence where the failure to do so is intentional.

These changes will reduce the potential for witnesses to delay hearings while disputes as to whether a reasonable excuse exists are resolved and in so doing will enable the National Crime Authority to deal with witnesses more effectively and efficiently.

The bill will remove the derivative use immunity that currently exists under the state act, so that an investigatory body will be able to derive evidence from self-incriminatory evidence given by a person at a National Crime Authority hearing for use at a later trial. However, a person's self-incriminatory admissions themselves will not be able to be used against a person in later proceedings. This protection will be specifically contained in the state act, which will replace the existing mechanism of the need for a special undertaking by the Director of Public Prosecutions.

In this regard, the government considers that the public interest in the National Crime Authority having full and effective investigatory powers and the use of incriminating material derived from evidence given to the National Crime Authority outweigh the merits of affording full protection to self-incriminatory material. The proposed provisions are comparable to those contained in the corporate regulatory regime administered by the Australian Securities and Investment Commission.

The bill will also significantly increase penalties for non-compliance with the state act, such as failing to answer questions at a National Crime Authority hearing. The penalties for such offences have been relatively modest, and have not provided a sufficient deterrent when obstructing the National Crime

Authority can impede an investigation that might lead to a person being punished for a serious offence such as drug trafficking.

Accordingly, the maximum penalties for failing to produce documents or things when required to do so, or failing to attend a hearing or to answer questions will be increased from six months jail and a $1000 fine to five years jail and a $20 000 fine. The maximum penalty for obstructing or hindering the National Crime Authority will also be increased from six months jail and a $2000 fine to five years jail and a $20 000 fine. In addition, the bill incorporates a corresponding increase in the maximum penalties for other offences under the current section 25, such as bribing a witness, injuring a witness and preventing a witness from attending a hearing. Such offences will now also attract a maximum penalty of five years jail and a $20 000 fine.

The classes of persons who can apply for search warrants will be expanded to include a member of staff of the National Crime Authority who is also a member of Victoria Police, and the classes of persons who can issue search warrants will be expanded to include Federal Court judges. These changes will improve administrative efficiency in obtaining search warrants under the state act.

In addition, the bill will provide for the appointment of hearings officers to conduct hearings on behalf of the National Crime Authority. This will increase the investigatory capacity of the authority without the need for additional members to be appointed. Hearing officers will be appointed by the Governor in Council, and will be empowered to conduct hearings in a similar manner to the way in which members of the authority can conduct hearings.

The bill will also clarify a number of other matters under the state act, including the application of legal professional privilege, the use of reasonable force in the execution of a warrant, the National Crime Authority's power to allow persons to be present at a hearing, and provisions relating to the disclosure of information by legal practitioners.

Members may be aware that Australian government leaders have recently agreed to a plan to replace the National Crime Authority with an Australian Crime Commission. However, the amendments contained in the bill are necessary to ensure the effective operation of the National Crime Authority scheme until that new body comes into operation. In this regard, other states are expected to adopt similar legislation based on the model state bill in the near future — for example, such legislation is currently before the Western Australian Parliament.

I commend the bill to the house.

Debate adjourned for Hon. P. A. KATSAMBANIS (Monash) on motion of Hon. Bill Forwood.

Debate adjourned until next day.

RACING ACTS (AMENDMENT) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

This bill has two purposes.

Firstly, the bill amends the Racing Act 1958 and the Lotteries Gaming and Betting Act 1966 in order to allow bookmakers to form partnerships and restricted companies. These amendments implement national competition policy-related reforms and accord with the government's pre-election policy commitment to support the viability of the bookmaking profession.

Secondly, the bill amends the Victoria Racing Club Act 1871 to remove the borrowing limit imposed on the Victoria Racing Club. This amendment meets the government's objective to remove unnecessary legislative controls on the financial operations of individual racing clubs. The amendment arises from a request by the Victoria Racing Club and will expedite the completion of major project works at Flemington racecourse.

Bookmaking reforms

The bill allows bookmakers to form partnerships or restricted companies, subject to approval by the Bookmakers and Bookmakers Clerks Registration Committee.

Bookmakers have traditionally been required to operate as sole traders in Victoria. This has proven a useful structure for a number of years. An increase in the number of race meetings, however, together with greater competition from interstate and overseas bookmakers, has meant Victorian bookmakers now require greater flexibility in how they structure their businesses.

This bill provides bookmakers with that flexibility. Importantly, it does so whilst ensuring that strict probity and financial measures are maintained, by requiring

that all bookmakers proposing to form a partnership or a company obtain approval from the registration committee.

The bill also seeks to ensure that bookmaking remains the domain of individuals. This is achieved by requiring all partners in a bookmaking partnership to be individually registered bookmakers, and for all directors and shareholders of a bookmaking company to be individually registered bookmakers.

The government is committed to maintaining the presence of bookmakers on course and the proposed new structures enable this to happen. It is essential for the continued success of the Victorian racing industry that the colour and vitality of bookmakers remains an integral part of its tradition. Faceless corporate bookmakers, as are endorsed overseas and interstate, are not welcome in Victoria. They are not in the racing industry's interests or indeed the interests of the race-going public.

Among the benefits of introducing partnerships and companies is to enable bookmakers with the opportunity to provide a continuous service to their clients. It is envisaged that a group of bookmakers could join forces in a partnership or a company and achieve a seven-day-per-week service. This service could cover thoroughbred, harness and greyhound meetings in the city and in the country.

Providing continuity of service to clients will also assist Victorian bookmakers to more successfully compete with their interstate and overseas competitors. The leakage of betting moneys to offshore and interstate betting operators, which do not contribute to the Victorian racing industry, is of genuine concern to not only Victorian bookmakers but also to the racing industry in general. There is no doubt that the most powerful way to address this problem is for Victorian bookmakers to become more competitive themselves. This bill will significantly improve Victorian competitiveness.

The formation of partnerships and companies also provides commercial and operational benefits to bookmakers, such as enabling bookmakers to utilise common marketing and administrative resources, pooling of capital strength and the spreading of financial risk.

The introduction of partnerships and companies accords with recommendations of the national competition policy review of Victorian racing and betting legislation. These recommendations were subsequently endorsed by a joint government–racing industry working party.

The working party comprised members of the Victorian Bookmakers Association, Tabcorp, Racing Victoria, Harness Racing Victoria and Greyhound Racing Victoria, and its deliberations included full consultation with the bookmaking profession.

The Bookmakers and Bookmakers Clerks Registration Committee is currently responsible for ensuring that all registered bookmakers and prospective bookmakers meet appropriate standards of probity and competency.

This includes ensuring that bookmakers have sufficient finances to support their operation and are adequately guaranteed through participation in the Victorian Bookmakers Association Ltd's guarantee scheme.

The registration committee will continue its important regulatory function in respect of partnerships and companies. All bookmakers wishing to take advantage of the additional structures and operate as partnerships or companies will need to obtain approval of the registration committee.

Documentation such as partnership deeds or company constitutions will need to be submitted to the registration committee in order for it to ensure that the proposed structure is acceptable and that all probity and financial requirements have been met, including appropriate guarantee arrangements.

To assist the registration committee in dealing with partnerships and company structures the membership of the registration committee will be increased by one, with a person to be appointed who has expertise in corporate law or finance.

The additional person will enhance the structure of the registration committee, which currently comprises an independent chairperson and nominees of Victoria Police, Racing Victoria, Harness Racing Victoria, Greyhound Racing Victoria, Victorian Bookmakers Association and the Australian Services Union.

Removal of the borrowing restriction on the Victoria Racing Club

The other main purpose of the bill is to remove the borrowing restriction currently imposed on the Victoria Racing Club by section 26 of the Victoria Racing Club Act 1871.

This act is a private act which addresses a wide range of issues relating to the VRC's tenancy at Flemington racecourse.

Section 26 of the act provides the VRC with authority to borrow up to $10 million. The VRC has sought the removal of this limit, in order to undertake major capital works at Flemington. These works include the installation of tunnels for training track access and the reconstruction of the course proper.

Whilst the VRC has a strong financial position, it is likely that short-term borrowings in excess of $10 million will be required to maintain cash flows during the course of these and other planned works. The track improvements are considered essential for the continued success of the Melbourne Cup carnival and must not be hampered by the current borrowing restriction.

The government supports the removal of the borrowing restriction. As a private members club, the government is of the view that the VRC should be able to manage its financial and commercial affairs free of legislative restriction.

Furthermore, the privatisation of the TAB in 1994 signalled the end of the government's direct financial controls over the racing industry, including the distribution of funds received from wagering revenue.

The VRC is also no longer the governing body of thoroughbred racing in this state. On 19 December 2001, Racing Victoria Ltd took over that role from the VRC. There are no borrowing limits imposed on RVL, nor indeed any other Victorian racing club.

In considering the VRC's request to remove the borrowing limit from the Victoria Racing Club Act 1871, a review of the balance of the act has been recommended. The aim of the review is to ensure that the act contains provisions which are in keeping with 21st century — and not 19th century — standards.

The review is under way and has been partly subsumed into the recently established whole-of-government working party to develop uniform legislation for crowd control at sports venues. It is anticipated that recommendations arising out of that working party will be incorporated into future amendments made to the Victoria Racing Club Act 1871.

The racing industry is one of Victoria's most important industries, generating an economic impact of nearly $2 billion per year, and providing direct employment for more than 40 000 people. The reforms contained in this bill, which relate to the future prosperity of bookmakers and the Victoria Racing Club, will assist the racing industry in maintaining its pre-eminent position in this state.

I commend the bill to the house.

Debate adjourned for Hon. I. J. COVER (Geelong) on motion of Hon. Bill. Forwood.

Debate adjourned until next day.

ELECTORAL BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

ADJOURNMENT

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That the house do now adjourn.

Seymour: pool complex

Hon. G. R. CRAIGE (Central Highlands) — I raise a matter with the Minister for Sport and Recreation concerning the very important issue of swimming pools in the township of Seymour. Currently Seymour has a 50-metre outdoor pool, the Olympic memorial pool, which is supported by many in the community, including the schools in Seymour. The cost of running the pool is $104 000 a year. The Labor government has now delivered on its promise to build a new 25-metre, eight-lane indoor heated pool.

The government was visited by the council within two months of its election and was asked for the money. You will never believe it, but two years later it ended up getting its $2.3 million. The community put in $100 000 and the shire is putting in $1 million plus. The building costs over those two years though have blown out of the water, to put it literally. But the government said it would not increase its contribution. The project was cut back. The pool facility has no gym and, as honourable members would know, it is the gyms that make a lot of money for pools. The evidence is clearly there. The cost of running the new pool will be $690 000 and the revenue raised will be $490 000, so the council's deficit for the year will be around $200 000.

The Shire of Mitchell is the only rural shire in Victoria that has to operate and maintain two heated indoor pools. The Seymour complex needs a gym to help offset the operating costs. It can be done two ways: by

continuing to fund the operation of the old outdoor pool or funding the building of the gymnasium. On behalf of the residents of the Shire of Mitchell I ask the minister to provide assistance in maintaining an adequate community facility. The government cannot leave the Mitchell shire in this financial position where it has to maintain a new pool at a deficit of $200 000 each year. On behalf of the shire I request funds for a gym in the new complex.

Schools: privacy legislation

Hon. P. R. HALL (Gippsland) — I wish to raise a matter for the attention of the Minister for Education and Training concerning the impact of privacy legislation on schools. A constituent is seeking clarification on how new privacy legislation will impact on the exchange of information between schools and the parents of children attending those schools.

Given that privacy rights will now apply to children 12 years of age or older, the constituent asks: will a 12-year-old have to give his or her permission for parents to access that child's academic reports? Another scenario is: will a 12-year-old be required to give his or her permission before parents can be advised of some form of misbehaviour that their son or daughter may have been involved in? These are but two examples of information that rightly should be freely exchanged between parents and the school that their children attend.

I ask the Minister for Education and Training to outline the impact that privacy legislation will have on schools and urge her to ensure that parents are not denied the sort of information they should rightly have access to.

Stamp duty: reform

Hon. D. McL. DAVIS (East Yarra) — My matter for the adjournment tonight is directed to the Treasurer through the minister who is here tonight. It concerns stamp duty on residential conveyancing — a matter I have raised in this house a number of times. I want to take up some points the Treasurer made to me in response to my adjournment question of 26 March. In his letter of 29 April the Treasurer made a number of points, and I want to dispute one or two of them.

The Treasurer seems to have wilfully ignored or misunderstood a number of the points that were made in that adjournment contribution and to have wilfully ignored some of the sources I quoted, and I want to return to that. His final point is that the Victorian government and the Victorian people are disadvantaged by current federal–state arrangements, and that is a matter of bipartisan support. Mr Theophanous and in fact all of us would agree with that, and it has been a matter of concern to Victorians for a long period.

The point that the Treasurer seems to have wilfully ignored is that that is in part due to his own actions and in part due to the actions of the Bracks government in setting very high stamp duty rates and collecting high levels of stamp duty. I shall quote some of the aspects I quoted last time from page 279 of the Taxpayers Association journal of April 2002. It makes the point that Victorians are double taxed with the high stamp duty levels in Victoria, the high stamp duty levels meaning that in the first place we pay more and in the second place we are disadvantaged with the formulas because we have high stamp duty levels. We are regarded as having a greater capacity to pay and therefore Victorians are in fact hit twice — first by high tax and second by lower amounts paid by the Commonwealth Grants Commission to Victorians. I quote from *Taxpayers Australia* of 1 April 2002:

> The Victorian government has nobody but itself to blame. If it wasn't ripping off its own residents it would not be short-changed by the grants commission.

It states further:

> The windfall that is being reaped by the Victorian government has cost Victorian taxpayers dearly.

First, they pay the stamp duty and then they get a lower distribution of grants from the Commonwealth Grants Commission. The point of this is that the Treasurer has not understood that he himself is in part to blame for the high tax levels and very significantly to blame for the fact that we get lower distributions from the grants commission.

Vicroads: damaged vehicle

Hon. R. H. BOWDEN (South Eastern) — The matter I raise tonight through the minister is for the attention of the Minister for Transport in the other place. A constituent of mine who lives in Somerville — I am happy to provide in confidence the name and address of the constituent — has an unusual and sad tale to tell. On 9 December last year he was driving his car — he has given the details of where he was driving it — and ran into a very large pothole. As his car passed through this pothole substantial damage was incurred to the car. My constituent authenticated the repairs and they amounted to $595; he has provided a statutory declaration with full details. I wrote to the minister on 11 February this year and so far have just had an acknowledgment dated 19 February.

My constituent contacted my office and then an interesting story follows. He contacted the Mornington Peninsula Shire Council and was told it was a Vicroads responsibility. He approached Vicroads and was directed to the contractor responsible for the works in the area concerned. He was then redirected to a civil engineering company, which advised him that the pothole was located outside the limits of its works. The company accepted no liability and my constituent was referred back to Vicroads, so it has gone the full circle. Not only is my constituent out of pocket by $595 but he is literally getting the run-around. I ask the Minister for Transport to urgently take this up. It is frustrating for my constituent who he feels he is not getting the treatment from the state government that he should.

Rushworth: war memorial

Hon. E. J. POWELL (North Eastern) — I wish to raise an issue with the minister responsible for the Community Support Fund about honouring Rushworth's heroes. I thought it was appropriate to raise the issue today since honourable members have just debated the Theatres (Repeal) Bill, which dealt with the importance of Anzac Day. I have just received a letter from Mr Warren Edgerton of Rushworth, who has joined with Mr Graeme Howard in asking me to gain support for funds for a memorial to honour three Rushworth heroes.

The first is Mr Frank McNamara, VC, who was the only Australian air force officer to win the Victoria Cross in World War I. Frank was born in Rushworth in 1894 and was educated there. He enlisted in the Australian Imperial Force, was later transferred to the flying corps and subsequently won his Victoria Cross. Frank went on to have a distinguished career in the Royal Australian Air Force.

The second is Sir George Jones, who was born in Rushworth in 1896, educated in Gobarup and Rushworth, enlisted in the AIF and rose from the rank of private to become an air marshall of the RAAF in World War II.

The third is Mr Roy Hodgson, who was the son of a headmaster at Rushworth school. Roy was wounded at Gallipoli and went on to have a distinguished career in the AIF and the diplomatic service. He became Australian ambassador in Paris, Tokyo and South Africa.

Angi Russi is a local artist who has come up with a wonderful design for the memorial, which it is estimated will cost under $20 000. It is about time these three heroes from Rushworth were finally recognised. I urge the minister to make funds available from the Community Support Fund or another appropriate fund to finally recognise the distinguished service of these three men.

Banyule Community Health Service

Hon. BILL FORWOOD (Templestowe) — I raise a matter for the Minister for Health in the other place. On 9 May I received an email from Denis Swift, who is the chairman of the Banyule Community Health Service. It says:

> It is disappointing we missed out once again with the redevelopment of the centre.
>
> Copy of my media release is attached.
>
> Any help you can provide would be appreciated.

The media release states:

> This week the state budget was presented … For Banyule Community Health Service the budget did not contain any joy. Once again, after two previous attempts the building project promised by the Kennett government failed to materialise.

It then quotes a Mr Denis Swift:

> Once again … West Heidelberg … has been neglected.

He is quoted further:

> What do we tell the West Heidelberg community, who have traditionally supported this government, and past Labor governments.

I, together with Mr Furletti and the honourable member for Ivanhoe in the other place, have been — —

Hon. E. C. Carbines — They are not silly.

Hon. BILL FORWOOD — I pick up the interjection from Ms Carbines, who said, 'They are not silly'. Her absolute implication is that because those people are in that area they should not get this. Is that what you were saying?

Hon. E. C. Carbines — No, I said they are not — —

The DEPUTY PRESIDENT — Order! Through the Chair, Mr Forwood!

Hon. BILL FORWOOD — Let me make the point that many people have worked very hard to get the redevelopment of the community health centre at West Heidelberg up. A photograph on the front page of the *Heidelberg Leader* has a caption which says:

> Banyule's community health centre … 'a crumbling relic'.

This is a really important part of the West Heidelberg community. As many people in this place know, I was proud to serve as the chairman of the West Heidelberg Olympic Village Redevelopment Committee some years ago when over $20 million went into that area. The area has come on in leaps and bounds, and it is very sad that after a number of commitments this government has seen fit to again neglect to fund West Heidelberg's community health centre. It is extraordinary that it cannot find its way to following this process through. We were raising it in 1998–99. There have been a lot — —

Hon. E. C. Carbines interjected.

Hon. BILL FORWOOD — Again I pick up the interjection from Ms Carbines, who is making it really clear that her government does not care about this project and has absolutely no intention of funding it.

The DEPUTY PRESIDENT — Order! Through the Chair, Mr Forwood!

Hon. BILL FORWOOD — I say to you, Mr Deputy President, that this government stands condemned, and I ask the minister if he could please, on behalf of the people of West Heidelberg, come up with some system of funding this really important project.

Drugs: chroming

Hon. N. B. LUCAS (Eumemmerring) — Today we had an extraordinary occurrence in this chamber, and I do not think I should let it pass without drawing it to the attention of the house. It was sin relation to the Summary Offences (Spray Cans) Bill. We had the first reading and I read the second-reading speech on 24 April. On 8 May we had the second-reading debate, when the government did not oppose the second reading proceeding. Today we had the committee stage and the third reading, and it was extraordinary that at that time the minister in this house who is responsible for the act being amended actually asked what the term 'substance abuse' meant. Notwithstanding that, he is a member of the cabinet which referred — —

Hon. J. M. Madden — On a point of order, Mr President, I ask for clarification from the honourable member on whether this matter is in relation to government administration or in relation to opposition business. I suspect that if he is referring to the committee process that was dealt with today, which was opposition business, he should not be raising the issue, because it would be opposition business.

In relation to the issue that the honourable member raises, the government would appreciate it — as I said in the committee stage on the bill — if definitions could be provided. The definition sought was never given to me.

I reinforce what I said: if this matter relates to government business I ask the honourable member to highlight it rather than grandstand on his own opposition business.

Hon. Bill Forwood — On the point of order, Mr President, we have had some extraordinary performances from the minister today, and this is another one. I make the point very clearly that Mr Lucas is in the middle of raising an issue to do with a matter of government policy — that is, the issue of chroming — and no matter what happens the government cannot get away from the fact that chroming is an issue of importance to the people of Victoria.

Hon. J. M. Madden — This is about government business, not your business.

Hon. Bill Forwood — The minister continues to show his ignorance of the forms of the house. I will make the point again: the issue of chroming is a matter of government administration. We are talking about a matter of government administration, about a public health issue and about an issue that has been widely canvassed in the media — through the incompetence of some the minister's ministerial colleagues, I might add.

I put it to you, Mr President, that Mr Lucas, who is in the middle of his contribution, is dealing absolutely with a matter of government administration.

Hon. J. M. Madden — Further on the point of order, Mr President, I seek clarification: is the issue in relation to government business or opposition business?

The PRESIDENT — Order! The issue of chroming is a public health issue in Victoria and comes quite properly within the administration of the state of Victoria. It just happens that the house has dealt with legislation on that issue today, and that is now the business of this house and of another house. I do not uphold the point of order.

Hon. N. B. LUCAS — The minister has continued to make a fool of himself over this issue both today and this evening.

At the conclusion of the third reading today the government called a division and voted against the bill.

In voting on the bill today the government clearly called for a division, and the record — —

Hon. J. M. Madden interjected.

The PRESIDENT — Order! Stop the clock. There are time limits here, and I will not allow abuse of the proceedings of the house to frustrate the way those times operate.

Hon. N. B. LUCAS — Today we had a division on the third reading of the bill. The government called the division and all government members voted against this spray can bill. I have done a bit of research and have come up with two things. The first is the Premier's speech when he launched the Australian Labor Party's campaign, in which he said 'Labor's plans are costed, achievable and guaranteed'.

I have looked for this government's plans and have found 'Labor's community protection action plan'. It says:

> Labor will strongly tackle this problem:

The problem it talks about are social problems, et cetera. Then it says that Labor will ban:

> … the sale of cans of spray paint to minors.

Honourable members interjecting.

Hon. N. B. LUCAS — In this house the government voted against its own policy. It called a division so it could vote against its own policy. I have got its policy, and I saw its members vote against it!

I ask the Minister for Sport and Recreation, on behalf of the government, to confirm that today's decision on the Summary Offences (Spray Cans) Bill is another backflip — the third backflip we have had this week. There was the 8 per cent backflip, the stevedoring backflip and now the spray cans backflip. I want the minister to confirm on behalf of his government that this is another broken promise by the Bracks Labor government.

Sunraysia and Murray Group Training

Hon. B. W. BISHOP (North Western) — I raise a matter for the Minister for Sport and Recreation to direct to the Minister for Education and Training in the other place. Recently I have received correspondence from Sunraysia and Murray Group Training, which is concerned with the current Australian National Training Authority review into group training, which I understand will be discussed at the upcoming ANTA and Ministerial Council for Corporations meeting on 24 May.

Sunraysia and Murray Group Training is a very well-respected training and employment organisation and is concerned that some of the key recommendations from the ANTA review could jeopardise the ongoing financial viability of many group training companies. It agrees that there is a need for a nationally consistent set of standards to apply to group training, and the adoption of the proposed national standards will improve the standing of and the operational performance of group training. Although it is concerned about the impact of appliance costs, it hopes to work through the issue with officers from the state training authority during the implementation phase.

The group has a practical suggestion: that the national standards could be put into place and the process settled down before any further changes as this would be a measured way forward to this important issue. The funding issue is the one that is causing the most concern at this time, with the funding component uncertain, both on a state and federal level. Can the minister provide me with a response that would alleviate the group's concerns from the point of view of the state government component?

Minister for Sport and Recreation: community invitation

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter with the Minister for Sport and Recreation. Honourable members will recall that on Friday, 19 April, on the motion of the Leader of the Government, this house sat. Following the adjournment of the house the Honourable Neil Lucas and I went to the Berwick Secondary College, where we were joined by Dr Robert Dean, the honourable member for Berwick in another place, for the official opening of the Casey hockey field, a project that was jointly funded by the government, the school, and the City of Casey. This was a major event for the Berwick community, the City of Casey, and the Casey hockey club, and getting the facility built in Casey was the culmination of much work by the club and by Dr Dean.

On that occasion Mr Lucas, Dr Dean, myself, the mayor and other members of the community — a significant gathering of people — were waiting for the official opening which was to be performed by the Minister for Sport and Recreation. At the appointed time up rolled the ministerial limousine. But instead of the minister stepping from the car, as was expected by the community, who stepped out but Liz Beattie, the

honourable member for Tullamarine in the other place and the parliamentary secretary for sport. No minister fronted.

I appreciate that the house had sat that day and that the minister does not like to work long hours, but Mr Lucas was able to attend, I was able to attend, and Dr Robert Dean from the other place was able to attend. A parliamentary secretary — unexpectedly — unveiled a plaque saying that the project was opened by the minister, the Honourable Justin Madden, when in reality it was opened by Liz Beattie, and no-one actually knew who she was or what she was doing.

Everyone was expecting the Minister for Sport and Recreation to front up, but because he had been in Parliament that day he obviously decided to take the night off and let down the people of the City of Casey, let down the Casey hockey club and all the people who attended that function that night, expecting the minister to open the project. So I ask: in future when the minister accepts an invitation where the community expects him to attend, makes preparations for him to attend and prepares plaques with his name on them, could he at least do the community the courtesy of fronting up?

Tourism Victoria: strategic plan

Hon. B. C. BOARDMAN (Chelsea) — I direct a matter to the attention of the Minister for Tourism in another place. Last night the Victorian government and its department, Tourism Victoria, launched its strategic plan 2002–06 into Victoria's tourism industry. The plan was launched at a ceremony in Queen's Hall last night. I, like other honourable members on this side of the house, did not receive an invitation but that did not stop any of us obtaining copies of this report, reading through it and finding out what was contained within it.

Far be it for me to be critical of Tourism Victoria — I have a tremendous amount of admiration for it and always will, and I think the personnel who work within Tourism Victoria are of a high calibre and are quite diligent and professional in their outlook towards the industry and also the objectives in promoting Victoria as a marketable tourism destination. However, I am concerned about some of the contents of this document.

Firstly, it identifies a number of challenges. One of the challenges it identifies is its competitive disadvantage in the business market. On page 9 of the report it mentions:

> A decrease in Victoria's competitive position in the business market due to competition from Asia and other states.

One of the reasons for that decrease in competitive advantage is Victoria's lack of facilities. For some time now, the opposition has been calling for the construction of a 5000-seat plenary hall, which this government has chosen to ignore — yet another example of the government not taking up the advantage of constructing these initiatives and making the competition more viable within this vital sector.

The report goes on in page 10 to identify another challenge:

> The medium to long term effects of the 2001 crises, i.e., collapse of Ansett, insurance premiums and reluctance to undertake long haul travel …

That is the only mention in this plan of the public liability issue that confronts the tourism industry, particularly the adventure tourism industry. We have seen today a director of a very prominent adventure tourism company in the high country of Australia, Chris Stoney, announce that his business will fold because of this issue.

What is even more concerning, considering some of the objectives that this strategic plan promotes, which is increasing visitation, length of stay, yield and so forth, is that there is no mention of the second most profitable market within the Victorian tourism industry: the visiting friends and relatives market. In 1993, 119 000 people visited this state for that reason; that increased to nearly 200 000 in 1999. Yet in this strategic plan there is no mention of that market at all. Considering the importance of this market segment, and considering that previous governments and particularly previous business plans of Tourism Victoria have highlighted this as a critical market for Victoria's development, it is implausible to suggest that this business plan does not go into that level of detail. I ask the minister to explain.

Timber industry: Gippsland

Hon. PHILIP DAVIS (Gippsland) — I raise an issue for the attention of the Minister for Environment and Conservation in the other place. I have had representations from Mr Tom Thomas, president of the Noojee development league. Mr Thomas is concerned on behalf of his community about the impact on Noojee and its district of the government's announcements in relation to downsizing the resource availability from the forest harvesting areas in Gippsland by 50 per cent. The result for Noojee is that two sawmills and a school are at risk. Mr Thomas is a man of great determination; he has been consulting with his community about a number of options. He is looking in particular for a response from the minister on a concern that has arisen

as a result of the extensive bushfires in New South Wales earlier this year. He and his wife had some involvement in these, participating with the Country Fire Authority in supporting the New South Wales firefighters.

One of the experiences they had was to be involved in extensive back burning. Mr Thomas makes the legitimate point that this was a terrible waste of resources and that one of the fundamental problems we have today is an inability to manage our state forests and parks in the sense of fire protection. Therefore the reason he has approached me is to see if we can persuade the government to consider an extensive firebreak program in our native forests to deal with forest protection but with a significant benefit being to create additional resource availability.

Mr Thomas makes the point that this potential initiative would benefit Noojee district sawmillers and would maintain employment in a town where there are literally no other employment opportunities.

I ask the Minister for Environment and Conservation in the other place to respond on the appropriateness of a program to improve the fire protection of our state forests by a widening of firebreak programs and therefore, using that resource for additional availability for the timber harvesting industry.

Schools: Asian language program

Hon. S. M. NGUYEN (Melbourne West) — I ask the Minister for Sport and Recreation to direct to the Minister for Education and Training in the other place an issue about the teaching of Asian languages in schools. Asian language courses will be drastically cut after a national program has been prematurely dropped by the federal government. Federal funding for the national Asian languages and studies in Australian schools program, which began in 1996, will cease at the end of this year.

The program represented a major push to increase studies of Asian languages through the provision of $30 million per year, which was matched by the states. I ask the minister to raise this important issue with the federal minister.

Princes Pier: development

Hon. ANDREA COOTE (Monash) — The matter I ask the Minister for Sport and Recreation to direct to the attention of the Minister for Planning in the other place concerns the cancellation of the planned public hearing regarding the proposed development on Princes Pier.

The developer, Mirvac, has proposed two very controversial options for Port Melbourne's Princes Pier. Both proposals include a marina, additional apartments in Beacon Cove and a 12-storey tower. Proposal A includes a five-storey apartment block on the pier and proposal B includes a severed pier with no residential development.

The government appointed an advisory committee to hear submissions on Mirvac's two plans for Princes Pier. However, in a recent letter to stakeholders the committee stated that it has resolved to initiate a further process in which alternatives or variations to the exhibited options can be developed separately. The advisory committee also called on the government to look at alternative development options. The advisory committee had planned to explain its reasons for the decision at a public hearing next month.

An article in the *Emerald Hill Times* of 24 April 2002 was headed 'Beacon Cove plans stalled' and reports that the planned public hearing has been cancelled pending approval by the minister.

I ask the minister whether the government will consult with stakeholders regarding the advisory committee's alternative options. If so, how and when?

Community services: family violence

Hon. B. N. ATKINSON (Koonung) — I direct a matter to the attention of the Premier in the other house through the Minister for Sport and Recreation. I draw his attention to a document dealing with a project called 'Taking responsibility: a framework for developing best practice in programs for men who use violence towards family members'. The document was produced by the office of women's policy within the Department of Premier and Cabinet.

There is much to commend this particular document. It is an important step forward. It is the result of an extensive and comprehensive study of issues relating to violence against women and children in family settings. It is, as I said, an important step forward. I have had a lot to do with a domestic violence group that operates in my electorate and I understand many of the policy issues and concerns group members have in addressing this very serious matter.

I made a submission to that inquiry and suggested that the office might consider the establishment of refuges for men who believed they were likely to commit violence in a family situation — in other words, men who believed they were at the end of their tether and thought they might be going to become violent in their domestic setting. It might seem a little extraordinary,

but such programs do work in other parts of the world, particularly in the United States and in Western Australia, and I think there is much to recommend this sort of program in Victoria too. It seems to me to make much more sense for the man to step out of the family setting than for the entire family to be disrupted, taking children out of schools and so forth, by trying to take the rest of the family to a safe refuge.

Clearly it is not an answer to every situation. There are many circumstances where men will not admit they have a problem, and many where men will not become involved in counselling or seek other treatment. Nevertheless, this would be a solution for certain men. I understand there is a group in Sunbury that is interested in pursuing this, and I am certainly keen to see something like it in the eastern suburbs of Melbourne.

In the context of raising this matter for the attention of the Premier, I ask the Premier to refer this initiative to the Minister for Community Services and ask her if it would be possible to provide some funding to establish such a refuge as a trial project.

Budget: sport funding

Hon. I. J. COVER (Geelong) — I raise for the attention of the Minister for Sport and Recreation, who is also the Minister for Commonwealth Games, and who is happily with us this evening during the adjournment debate, my concern that the minister and the government are trying to give the impression that they are pouring huge amounts of money into sport in Victoria through, in particular, a press release issued by the minister on budget day last week, Tuesday, 7 May. The press release was headed '$84 million extra for 2006 games and Victorian sport'. Once you saw that headline on the release you would immediately think that there must be $84 million in the budget that was handed down. The minister is quoted in the release is saying:

> … the government's commitment to building stronger communities was reflected in the distribution of funding for local sporting communities right across Victoria.
>
> Sporting communities around the state are also winners — with water safety, local facilities, elite athletes and recreation camps all receiving a boost …

A closer inspection, however, reveals that the government and the minister are putting a spin on the figures. This is yet another example of this government being all spin and no substance. In fact, the press release is another example of creativity by this government — the sort of creative solutions the minister told us about with respect to the saving of Waverley Park! Who will ever forget when we were discussing the election commitment to save Waverley Park that the minister said, 'Well, I will come up with creative solutions'.

An honourable member interjected.

Hon. I. J. COVER — Yes, another policy commitment he has failed to deliver on.

Hon. B. N. Atkinson — A double backflip with pike!

Hon. I. J. COVER — Yes, a double backflip with pike! The creative solutions no longer exist for Waverley Park but they exist for press releases from the minister on budget day.

The figures in the media release, when applied to this budget year 2002–03, are more like $28 million, not the $84 million in the headline of the media release. The minister has managed to work in three years worth of the upgrading of the Melbourne Sports and Aquatic Centre and he has also whacked in a budget commitment for 2003–04 for the Better Pools program and the Minor Facilities program.

I ask: will the minister admit that the media release is misleading and typical of this government's ongoing program of hoodwinking the people of this great state of Victoria?

Responses

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the issue raised by the Honourable Geoff Craige regarding the Seymour swimming pool, operational issues about maintaining two outdoor facilities, the viability of the new centre and compromises for the final outcome of that project, I am pleased that the government has been able to fund that project. Much of the good work has come about through the fine advocacy of the honourable member for Seymour in the other place, who strongly supported that project and worked tirelessly to ensure that it was delivered.

These circumstances are not unique either in the development of new facilities or in councils making strategic decisions on the operation of new or existing facilities regarding their funding. The government has continued to commit itself to the Better Pools program to ensure that local councils can continue to make applications under that program in making strategic decisions on the pool operations in their local communities — making those pools either more viable or continuing their life span.

I am not aware of the circumstances because they have not been raised with me by the Shire of Mitchell. I would welcome any information from the shire, and I look forward to its making further applications in future years for either community facilities or Better Pools funding.

The Honourable Peter Hall raised an issue about privacy legislation on schools. I will refer that to the Minister for Education and Training in the other place.

In regard to the stamp duty issues raised by the Honourable David Davis, I will refer the matter to the Treasurer in the other place.

In relation to issues raised by the Honourable Ron Bowden regarding damage to a particular constituent's car, I will refer that to the Minister for Transport in the other place.

In relation to issues raised by the Honourable Jeanette Powell about the Rushworth heroes memorial, I will refer that to the Premier in the other place.

The Honourable Bill Forwood raised issues regarding the West Heidelberg Community Health Centre. I will refer that to the Minister for Health in the other place.

I have taken note of the statement made by the Honourable Neil Lucas.

Hon. N. B. Lucas — On a point of order, Mr President, the minister just indicated that I made a statement. I certainly made a statement, but I ended up with a question, and that question was whether the minister would confirm there was a backflip, that there was a change in policy and that the government voted against it. That was clearly a question. Will the minister confirm that the government made a backflip? That is a question.

The PRESIDENT — Order! The rules are well known to all members of this house — that the minister's response settles the matter. It may not satisfy the member, but that is not the issue. I do not uphold the point of order.

Hon. J. M. MADDEN — In relation to the question raised by the Honourable Barry Bishop about resourcing for the Sunraysia TAFE, I will refer that to the Minister for Education and Training in the other place.

The Honourable Gordon Rich-Phillips raised a matter regarding the Berwick hockey club opening. I was pleased that Ms Beattie was able to fill those duties in a regional visit in her role as parliamentary secretary. I was disappointed that I was not able to make the regional visit that had been planned for that day and for that occasion because of the politicking of the opposition in relation to changing the sessional orders of this house.

The Honourable Cameron Boardman raised a matter regarding the strategic plan for Tourism Victoria. I will refer that to the Minister for Tourism in the other place.

Hon. B. C. Boardman — On a point of order, Mr President, while I respect your previous ruling about matters in the adjournment debate being disposed of by the minister's answer, I need to raise an issue about the statement just made by the minister. He said he would refer this issue to the minister. I would like to know what the minister's definition of 'referral' is. Does that mean he will ring him up, he will write to him, he will invite him out for a chat? In the context of what has gone on today, I would like to know what a referral means.

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

Hon. J. M. MADDEN — Mr President, thank you for your ruling.

I will refer the question from the Honourable Philip Davis about his suggestion for a firebreak program to the Minister for Environment and Conservation in the other place.

The Honourable Sang Nguyen raised questions and issues about Asian language programs. I will refer that to the Minister for Education and Training in the other place.

The issues raised by the Honourable Andrea Coote regarding the Princes Pier redevelopment advisory committee I will refer to the Minister for Planning in another place.

The Honourable Bruce Atkinson raised the 'Taking responsibility' document that takes up the issue of violence in family settings and suggested the possibility of establishing refuges for men who may be placed in circumstances where they feel the potential for violence. I will refer that to the Premier.

In relation to the question by the Honourable Ian Cover about this government's commitment to sports funding, I am very proud of the $84 million that we have committed to sport in this state and the forward commitment of that amount. I am proud of the government's up-front commitment, and that is why I was proud to announce it. I am proud, pleased and

fortunate to be able to make those announcements about forward funding commitments to sport in this state.

Opposition members cannot have it both ways. They cannot come into this house trying to create hysteria because something is not in the forward estimates. They cannot come into this house and ask if the Better Pools program or the community facilities funding is in the forward estimates, as a number of opposition members have tried to stir up local communities and put them in a sense of panic — —

The PRESIDENT — Order! The minister is debating the issue; I ask him to wind up.

Hon. J. M. MADDEN — So that we can get strategic issues in this state we have put them in the forward commitments. We have committed ourselves to those programs.

We are very pleased to be able to announce that. All those funds! At the end of the day it shows.

Honourable members interjecting.

Hon. J. M. MADDEN — But you don't like to hear it, do you?

We are very pleased to be able to announce, at midnight, that we have continued to fund sport, that we will continue to fund it and continue to ensure that we grow communities across the state with the communities facilities funding, through the infrastructure development of this state, to reinforce our communities. The opposition does not care; it pretends to care, but it does not, and we know it does not care. At the end of the day the electors out there know. They will not vote for the opposition because they know its members do not care.

Motion agreed to.

House adjourned 12.02 a.m. (Thursday).