PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Thursday, 4 May 2006

(Extract from book 5)

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By authority of the Victorian Government Printer

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Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Coote, Hon. Andrea	Monash	LP	Olexander, Hon. Andrew Phillip [3]	Silvan	Ind Lib
Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
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Davis, Hon. Philip Rivers	Gippsland	LP	Scheffer, Mr Johan Emiel	Monash	ALP
Drum, Hon. Damian Kevin	North Western	Nats	Smith, Mr Robert Frederick	Chelsea	ALP
Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys [2]	Ballarat	Ind	Theophanous, Hon. Theo Charles	Jika Jika	ALP
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Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy [1]	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

[1] Ind from 17 September 2004
ALP from 10 November 2005

[2] Ind from 7 April 2005

[3] Ind Lib from 30 November 2005

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Thursday, 4 May 2006

The PRESIDENT (Hon. M. M. Gould) took the chair at 9.33 a.m. and read the prayer.

PETITIONS

Liquor: Bendigo licence

For Hon. D. K. DRUM (North Western), Hon. P. R. Hall presented petition from certain citizens of Victoria requesting that the Victorian government recognise that Happy Jack's store, Lockwood South, is located in the tourist area of the central goldfields of Victoria and should therefore be granted a liquor licence (164 signatures).

Laid on table.

Golden Plains: broiler industry

Ms HADDEN (Ballarat) — I present a petition from certain citizens of Victoria praying that the Minister for Local Government refuse to receive the Golden Plains Shire Council plan 2006–10 submitted in accordance with section 125(5) of the Local Government Act 1989 until either the minister or the Ombudsman, or both, have been satisfied that the right of persons to make a submission under subsection 125(3) of the act has not been infringed or denied.

The petition is respectfully worded, in order and bears 56 signatures. I desire that the petition be read.

Petition read pursuant to standing orders:

To the Honourable the President and members of the Legislative Council in Parliament assembled.

The petition of the undersigned citizens of the Golden Plains shire in the state of Victoria respectfully sheweth that they believe neither proper nor adequate notice was given of the public's 'right' under section 125(3) of the Local Government Act 1989 (s.125 by no. 109/2003 s. 71) to 'make a submission' on council plan 2006–10 before it was adopted by Golden Plains Shire Council on 23 February 2006. [Section 125(1)(b) actually gives the council until 30 June to prepare, receive submissions on, and approve the plan.]

The council did not give notice in the *Victoria Government Gazette* or in any newspaper. The council did not instead give notice by direct mail to its voters. The council did not even mention the plan in papers by which it gave notice of council meetings held before 23 February 2006. Golden Plains Shire Council has in effect disregarded the principle that it is a statutory corporation of the mayor, councillors and citizens.

Your petitioners are also aggrieved that council plan 2006–10 is dependent, even if for the purposes of economic development, upon recommendations derived from an area improvement project the Golden Plains Shire Council — an 'active supporter' of the broiler industry at any cost — set up with a so-called 'targeted' approach to community consultation by which your petitioners believe more people were deliberately excluded than consulted.

Your petitioners therefore humbly pray that upon submission by Golden Plains Shire Council of council plan 2006–10 in accordance with section 125(5) of the Local Government Act, the Minister for Local Government, the Honourable Candy Broad, MLC, by right of the royal prerogative refuse to receive the document until either she or the Ombudsman Victoria or both have been satisfied that the civil right quite plainly and specifically accorded to us by the Parliament of Victoria under section 125(3) of the same act has not been infringed or — worse — denied to us.

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

Laid on table.

COUNTY COURT JUDGES

Report 2004–05

Hon. J. M. MADDEN (Minister for Sport and Recreation) presented report by command of the Governor.

Laid on table.

COUNCIL OF MAGISTRATES

Report 2004–05

Hon. J. M. MADDEN (Minister for Sport and Recreation) presented report by command of the Governor.

Laid on table.

TERRORISM (COMMUNITY PROTECTION) ACT

Report on operation

Mr LENDERS (Minister for Finance), by leave, presented report.

Laid on table.

VICTORIAN CHILD DEATH REVIEW COMMITTEE

Report 2006

Mr GAVIN JENNINGS (Minister for Aged Care), by leave, presented report.

Laid on table.

PAPERS

Laid on table by Clerk:

Adult Multicultural Education Services — Report, 2005.

Bendigo Regional Institute of TAFE — Report, 2005.

Box Hill Institute of TAFE — Report, 2005.

Central Gippsland Institute of TAFE — Report, 2005.

Centre for Adult Education — Report, 2005.

Chisholm Institute of TAFE — Report, 2005.

Commonwealth Games Arrangements Act 2001 — Commonwealth Games Designated Venue and Project Orders pursuant to section 18 of the Act (6 papers).

Driver Education Centre of Australia Ltd — Report, 2005.

East Gippsland Institute of TAFE — Report, 2005.

Gordon Institute of TAFE — Report, 2005.

Goulburn Ovens Institute of TAFE — Report, 2005 (two papers).

Holmesglen Institute of TAFE — Report, 2005.

Kangan Batman Institute of TAFE — Report, 2005.

Northern Melbourne Institute of TAFE — Report, 2005.

South West Institute of TAFE — Report, 2005.

Statutory Rules under the following Acts of Parliament:

Building Act 1993 — No. 41.

Country Fire Authority Act 1958 — No. 42.

Sunraysia Institute of TAFE — Report, 2005.

William Angliss Institute of TAFE — Report, 2005.

Wodonga Institute of TAFE — Report, 2005 (two papers).

Youth Parole Board and Youth Residential Board —

Minister's report of failure to submit 2004–05 report within the prescribed period and the reasons therefore.

Report, 2004–05.

BUSINESS OF THE HOUSE

Adjournment

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the Council, at its rising, adjourn until Tuesday, 30 May.

Motion agreed to.

MEMBERS STATEMENTS

Leader of the Opposition

Hon. PHILIP DAVIS (Gippsland) — I wish today to pay tribute to a great Victorian. Public life is the most difficult of vocations, and all of us on both sides of the house respect the effort that individual members of the Parliament make to take part in public life in Victoria. There is no more challenging role in public life at the state or federal level than being the Leader of the Opposition. Those who have held that post well understand it, and those who have worked closely with leaders of oppositions well understand it.

The Leader of the Opposition in the other place, Robert Doyle, came into the Parliament in 1992 and was appointed parliamentary secretary for health in the second Kennett government in 1996. In 1999 he continued in a leading role as a member of the shadow cabinet as shadow Minister for Health and subsequently ascended to the leadership of the parliamentary Liberal Party and therefore the opposition in 2002. Robert Doyle has made a significant contribution to the public life of Victoria and has worked assiduously every day of his parliamentary career to make that contribution. I look forward to the future and continuing the friendship I have had with Robert Doyle.

Leader of the Opposition

Hon. J. G. HILTON (Western Port) — I did have a prepared statement on another topic, but I would also like to acknowledge the work the Leader of the Opposition in the other place has done in the time he has been leader. Being the opposition leader is the most thankless job in politics. This has been seen at a federal level within the Labor Party by both Simon Crean and Kim Beazley, and Kim Beazley is seeing it again the second time around.

The press is only interested when there is a challenge. The press is only interested when the opposition leader is complaining about something. The press is never interested in positive policies put out by the opposition. This makes the role of Leader of the Opposition most soul destroying. The only time you see yourself in the paper is in a negative way.

In some ways this is destroying public life in this country. People are continuously questioning what is the point of being in public life when the only thing you are subjected to is not quite vilification but certainly criticism, which can only affect your own morale and that of your family. I sympathise with Mr Doyle and wish him every success in his life after politics.

Monash Freeway and CityLink: congestion

Hon. R. H. BOWDEN (South Eastern) — Yesterday this city was unfortunately treated to a road traffic gridlock. If ever there were any doubt, the evidence showed clearly yesterday that the road system, particularly the freeway system, of Australia's second-largest city is failing miserably. The gridlock on the Monash Freeway was absolutely dreadful and totally unacceptable. The accumulated basic design flaws of the Monash Freeway — the so-called 'freeway' — are glaring and have to be addressed. So far the present state government has failed to take any reasonable measures to increase the capacity or efficiency of the Monash Freeway.

Over time in my office I have had several complaints about the decrease in efficiency of the CityLink arrangement. That tunnel is proving more and more unreliable. When you add the poor capacity of CityLink to the poor capacity of the Monash, something has to be done. We have reached a point where the state government has to stop taking a cheap and excuse-ridden approach and force VicRoads to do something to make sure the road network for this major economy and this major contributor to Australia's economy is corrected.

Mining: Beaconsfield accident

Hon. H. E. BUCKINGHAM (Koonung) — This morning, along with the Lord's Prayer, I said a prayer for Brant Webb and Todd Russell, the two miners still trapped 1000 metres below ground after a rock fall in Beaconsfield, Tasmania, eight days ago. Like everyone in this house I was ecstatic when they were found alive on Sunday after being buried for nearly five days. I have watched and listened anxiously to the continuing news bulletins. It is becoming more obvious that there are huge difficulties associated with rescuing these men. I salute everyone in their rescue endeavours. News reports make it obvious that Mr Russell and Mr Webb are incredibly brave and resilient men and a fine example of the indomitable human spirit. May their rescuers complete their job as quickly and safely as possible so that these men can be united safely with their families.

I would also like to take this opportunity to commend the Australian Workers Union and Bill Shorten for the way they have supported their members and families in Beaconsfield and kept all of Australia informed about this most difficult situation. Like all Australians I pray for a successful outcome to this most serious situation.

Leader of the Opposition

Hon. H. E. BUCKINGHAM — I would also like to add my thoughts on the Leader of the Opposition, Robert Doyle, to those of Geoff Hilton this morning. My family and I lived the situation of someone being Leader of the Opposition, and I know it is a thankless task and a very difficult one. I wish Mr Doyle much — —

Hon. B. N. Atkinson — Peace?

Hon. H. E. BUCKINGHAM — Yes, peace, thank you, Mr Atkinson.

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

Leader of the Opposition

Hon. ANDREW BRIDESON (Waverley) — I would like to start off by commending the Honourable Geoff Hilton for his poignant remarks in relation to the opposition leader. I was going to make a political statement this morning, but I do not think it is a moment for me to be playing politics, so I would like to commend Mr Hilton and Mrs Buckingham for their support for our former leader.

Pontian genocide

Ms MIKAKOS (Jika Jika) — On 19 May the Pontian community in Victoria and around the world will commemorate the 87th anniversary of the Pontian genocide that occurred in present day Turkey. Between 1916 and 1923 over 353 000 Pontic Greeks living in Asia Minor and in Pontos, which is near the Black Sea, died as a result of the 20th century's first but less known genocide. Over a million Pontic Greeks were forced into exile. In the preceding years 1.5 million Armenians and 750 000 Assyrians in various parts of Turkey also perished.

The Pontic people lived in Asia Minor and in Pontos from ancient times. When the Turkish nationalists took power after the collapse of the Ottoman Empire, a deliberate policy of creating 'Turkey for the Turks' was adopted, essentially to rid Turkey of its Pontian, Armenian and Assyrian Christians. The process began with Christian businesses being boycotted, leading to bankruptcies and property being confiscated. Eventually intellectuals and community leaders were rounded up and executed; women were raped and enslaved. Most victims died from exhaustion or dehydration on forced marches or work in the so-called labour battalions. These events were recorded by American, German and Austrian diplomats of the time.

Unlike Germany, which has taken responsibility for the Jewish holocaust, Turkey has never apologised to its victims. The Turkish government must begin the reconciliation process by acknowledging these crimes against humanity. The suffering of the victims of the Pontian genocide cannot and will not be forgotten.

Occupational health and safety: workplace fatalities

Hon. B. N. ATKINSON (Koonung) — I wish to make some remarks about workplace safety. I note that last week we had five deaths in one week in workplace accidents, and there have been seven in a period of 14 days. At this stage of the year we have had 12 deaths through workplace accidents compared with a total for the whole of 2005 of 18. It is of great concern to all of us that there should be this increase in deaths of late. In fact April was the worst month on record for many years. After the accomplishment of significantly reducing workplace deaths since the 34 deaths recorded in 2002, it is alarming to see this sudden spike in such deaths.

Whilst the economic tally resulting from workplace injuries is well over $1 billion a year in medical treatment and rehabilitation for injured workers, based on about 30 000 claims, the cost to the community in terms of the trauma that is created for the families and loved ones of workers who are injured in the workplace is far greater. These statistics indicate to all of us that we need to maintain vigilance on workplace safety, that we cannot be blasé or complacent. It also suggests to me that the government ought — —

The PRESIDENT — Order! the member's time has expired.

Anzac Day: Higinbotham Province

Mr PULLEN (Higinbotham) — On the morning of Sunday, 23 April, I attended the Bentleigh RSL march and ceremony to commemorate Anzac Day. As usual there was a large crowd. RSL President Thomas Grant introduced the guest speaker, Major Arthur Ford, commanding officer of the Bentleigh Salvation Army, who gave a very affecting address about the lives of three gallant soldiers.

In the afternoon I was pleased to be invited to a special Anzac Day Southern Football League match between Cheltenham and Highett. The event was strongly supported by the Highett and Cheltenham-Moorabbin RSL clubs. Before the match guests were treated to a scrumptious lunch, and, if I may be so bold as to use the words of the editor of the league's football record , Daryl Pitman, we were treated to a stirring oration by Petty Officer Matt Klohs from Cerberus Naval Base, and Officer Kohl's heartfelt address held his audience spellbound as he spelt out the true meaning of Anzac in so many ways and in such an eloquent style. I concur fully. We then moved out onto the playing field for a moving service before the match. For the record, Cheltenham won the game, and everyone is keen to see this tradition continue.

On Anzac Day I had the honour to attend the Highett RSL dawn service conducted by its president, Kevin Tucker. There were 300 people there, and the ladies of the auxiliary provided a magnificent breakfast after the service. It was a great tribute in honour of those who gave their lives for Australia.

Prime Minister: statements

Hon. J. H. EREN (Geelong) — It is conclusive — we do have a very mean-spirited federal government. On the back of rising fuel costs, low-to-middle income earners now have to battle to pay increased interest rates. On 25 August 1995 on ABC radio Mr Howard said:

> Truth is absolute, truth is supreme, truth is never disposable in national political life.

I have 35 instances of when the Prime Minister has bent the truth. We have a truth-challenged Prime Minister. Mr Howard said on 12 February 1996, when speaking about the A Healthy Future policy:

> It is our policy, without qualification, to retain Medicare … not only does Medicare stay but so does bulk-billing … They are the fundamentals, the underpinnings of the policy.

Tony Abbott, the Minister for Health and Ageing, on 23 November 2003 on *Meet the Press*, said:

> No-one can guarantee bulk-billing. No-one can guarantee bulk-billing without conscripting the medical profession. Medicare has never been universal bulk-billing, never …

The second bending of the truth was Mr Howard's statement that:

> Medicare will be retained in its entirety.

The truth is that the Howard government abolished the dental plan and bulk-billing rates have declined by more than 12 percentage points since the coalition took office in 1996 — —

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

Planning: coastal development

Ms CARBINES (Geelong) — Recently I had the pleasure of attending the launch of the Bracks government's visionary coastal spaces report at Ocean Grove in my electorate of Geelong Province. Those of us who live in regional Victoria have witnessed over the last few years the incredible population growth that has been experienced along the Victorian coast as more and more Victorians have decided to live, work and raise their families away from metropolitan Melbourne.

The fastest regional population growth rates in Victoria has been in coastal areas, with the coastal towns of the City of Greater Geelong and the shires of Surf Coast and Bass Coast growing the most. Of course while this growth is very welcome for regional economies, it puts considerable pressure on the coastal environment and puts at risk the aesthetic and environmental values that we treasure about the coast.

In late 2004 the ministers for planning and environment set up the Coastal Spaces Steering Committee to critically assess development pressure along the Victorian coast and to provide advice as to how to manage the population growth sustainably and therefore protect the very characteristics of the coastal environment that we all love. The Coastal Spaces Steering Committee, under the leadership of Dianne James, has worked collaboratively with coastal municipalities, coastal boards and the people who live on the coast over the last 18 months to formulate their recommendations.

As Parliamentary Secretary for Environment I have enjoyed working closely with this committee. The strengthening of our coastal policy by limiting growth to within township boundaries will serve Victorians well both now and into the future and, importantly, protect one of the state's most natural valuable assets — —

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

Jack Sewell

Ms HADDEN (Ballarat) — I had the great pleasure of nominating Mr Jack Sewell, AM, for the RSL Anzac of the Year Award 2006, which was supported by the Honourable Graeme Stoney, MLC, Mrs Marjorie White and Mr Brian Schreenan.

Jack was one of four recipients for the 2006 award, which epitomises his outstanding efforts to promote the concept of international understanding and exemplify the spirit of Anzac within the community through dedication and commitment to the benefit of others.

The Anzac of the Year Award 2006 recognises Jack Sewell's untiring commitment to local history, local government and good governance principles, his lifelong commitment to the RSL and Legacy, and his lifetime's work in the seed industry. Jack has demonstrated to all who know him or who have had the good fortune to meet him his untiring service to the community in the positive, compassionate and selfless manner which is demonstrated by Jack's good human qualities of doggedness, tenacity, endurance, Christian faith and principles, and constancy to an exceptional degree.

Jack was awarded life membership of the Seed Industry of Australia in 1982, when he was described by his Australian and New Zealand peers as a statesman of the industry during his six years as president. Jack was awarded life membership of the Creswick Museum and Gold Battery on 8 April for his significant contribution to the museum and Creswick and Hepburn shire history over 37 years. Jack has given sterling community service over his lifetime, and he continues in the spirit of comradeship and selfless service that is integral to this award.

Jack Sewell, AM, of Creswick perpetuates the memory and gallantry of those who served in war, and he is truly a very worthy recipient of the Anzac of the Year Award 2006. Congratulations, Jack!

Cobram italFest

Hon. KAYE DARVENIZA (Melbourne West) — I was delighted to attend the Cobram italFest gala dinner in Cobram representing the Premier last Saturday night. The dinner was part of a weekend of activities celebrating all that is great about Italian culture and the willingness of the Italian community in Cobram to share that with the broader community.

The italFest welcomed international guests from Italy, including Mr Alessio, who is the mayor of Molochio in Calabria. There was a fireworks display, and an exhibition of fashion accessories that were designed and produced by a special guest from Italy. There was a classical music concert and cultural activities in the main street of Cobram, along with street stalls. Also attending the dinner with me were my parliamentary colleagues the members for Gippsland South and Murray Valley in the other place, Peter Ryan and Ken Jasper; Senator Annette Hurley and Dr Sharman Stone.

The italFest was a great success. I congratulate Mr John Germano, the president of the italFest committee, and his committee members for their hard work and all that goes into putting on a festa of this size and calibre, and I also let them know what a great success it was.

Victorian Advocacy League for Individuals with Disability: report

Hon. BILL FORWOOD (Templestowe) — Recently the intellectual disability advocacy group VALID — the Victorian Advocacy League for Individuals with Disability — issued a Disability Bill special report which congratulated the government. I have received considerable correspondence about the position that VALID has taken in congratulating the government, none stronger than that from Max Jackson, who in his contribution to me says:

> Largely indeed, when your report neglected to make mention of the one critical element from the IDPS act not embraced within the framework of the bill, an entitlement to service. A shameful omission and shameful VALID did not take the minister to task over this blatant rejection of what was recognised 20 years ago as a must. By rejecting the most important right of all the government has turned the clock back to pre-rights days and, sad to say, VALID has congratulated the government on doing so.

I worked with Kevin Stone, the executive director of VALID, in the early 1990s and found him to be a fierce advocate. What I think has happened in this case is that an organisation long funded by the government has ended up not being as critical as it ought to be. It is a very sad day for advocacy groups when they feel constrained about what they can say because of the fact that they receive their funding from the government.

What is of grave concern to me is that the legislation we will deal with today is not an improvement on what went before. It has some terrific bits in it, for sure. But they are balanced by the extraordinary omissions, which have been adumbrated at length in both the second-reading debate and the Legislation Committee debate.

STATEMENTS ON REPORTS AND PAPERS

Public Accounts and Estimates Committee: budget outcomes 2004–05

Hon. BILL FORWOOD (Templestowe) — Honourable members in this place have heard me talk ad nauseam about transparency and accountability. I fundamentally believe that if a question is asked of a minister, they are obliged to tell the Parliament the truth. I have always been concerned when I have hear prevarication as people try to duck and weave out of particular answers.

Honourable members in this place may know that the Austin Hospital complex is very close to my electorate office. I was one of the people who attended the open day in May last year when the hospital was opened. I was one of the people in the Public Accounts and Estimates Committee hearings who at some length asked the minister to explain how much the party cost. I refer honourable members to as much of the transcript as they would like of the Public Accounts and Estimates Committee hearing of 11 May last year that refers to this cost. The minister made it very clear that she had no intention of answering the question that was asked of her. After much pressing, she said in response to me:

> You are certainly free to look at that global allocation within the annual report of the Department of Human Services.

I had asked a specific question about how much was spent on a particular function and the minister point-blank refused to answer. I followed this up, of course, in a number of ways. I refer honourable members not to the report before the house today, but to the previous estimates report, where members of the opposition made it clear that we did not believe it was appropriate for ministers of the Crown to not answer questions put to them in good faith by members of the committee. I have also put the question on notice, as the Minister for Aged Care knows.

Mr Gavin Jennings — Question 5313 is there.

Hon. BILL FORWOOD — It is question 5313. Of course we still do not have an answer to that one either. But what is really extraordinary is that eventually we discovered that the cost was $458 000. So in producing the outcomes report this year the Public Accounts and Estimates Committee asked a general question of departments: ‘Please advise how much advertising and promotion over $100 000 took place in 2004–05’.

Let us just remember that the Department of Human Services has admitted that $458 000 was spent on the Austin Hospital. But if you look at the written response that it provided to the Public Accounts and Estimates Committee, you will see that in response to the question about any advertising and promotional programs undertaken in 2004–05 with expenditure in excess of $100 000 the department told us they related to phase 3 of the problem gaming program and the fad diet community awareness campaign. They were it; they were the only ones. There was nothing about the Austin Hospital. The opposition wrote back and asked if it

would care to supply the information we sought, and I quote from page 134 of the report:

> … the committee found that the material provided by the Department of Human Services was inconclusive because it did not cover the $458 000 information program …

In response to the committee's follow-up question regarding this matter, the department provided the committee with the following response:

> … the minister's response is to refer you to page 3 of the January–June 2005 *Your Hospitals* report, which contained relevant information on the objectives, target audience and total cost of the launch.

This is a department that lies to parliamentary committees. This department, through its minister, will not be honest with the Parliament. Forget about me as a person; this Department of Human Services has a history of serial misleading and lying to the Parliament of Victoria. If it has an explanation it should make it. It was asked by the PAEC why it left the Austin hospital out of the list of the number of programs over $100 000 in the 2004–05 year that the committee had asked for. The department had admitted in its own *Your Hospitals* report that it had spent $458 000 on the hospital. It should at least explain why it did so. Oh, no, not this department; oh, no — —

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

Tourism Victoria: report 2004–05

Hon. J. G. HILTON (Western Port) — I am very pleased today to make a brief contribution on the annual report of Tourism Victoria. Tourism and the broader hospitality industry are very significant employers of people, particularly young people, in my electorate. Tourism Victoria has four main areas of interest: marketing, leadership, infrastructure and management. As I am sure most members are aware, it is a state government statutory authority. It was established by the Tourism Victoria Act, which sets out the objectives of Tourism Victoria. They are summarised in the report and I highlight some of those:

> to market Victoria as a tourist destination for interstate and international travellers;
>
> to increase
>
> — the number of travellers to Victoria;
>
> — travellers or tourists length of stay at destinations in Victoria;
>
> …
>
> to increase the amount of travel within Victoria and the use of tourist facilities by Victorians …

and there are three other objectives along the same lines.

The report gives a lot of information and statistics about international and domestic visitors, including numbers and percentage increase in overnight visitor stays. There is a number of very interesting statistics. For example, there has been a 54 per cent increase in the number of visitors to Victoria from China, and the highest average number of overnight stays in Victoria is on the Mornington Peninsula and in the High Country.

On page 11 the report makes further comment on interstate overnight visitors:

> Melbourne has regained the lead from Sydney as the city recognised for international sporting and cultural events (46 per cent compared with 40 per cent). Sydney's reputation has decreased across all key interstate markets (including NSW) except in Victoria where it has remained stable. Conversely, Victoria's reputation has increased across all markets, particularly in South Australia (up 10 per cent to 39 per cent).

Which I suppose shows that we have a good thing to sell and Tourism Victoria is doing a good job in selling what we have.

Domestic marketing is also one of the key areas of activity for Tourism Victoria. I was particularly pleased that the Mornington Peninsula was the beneficiary of a new campaign last year, which is also described in the report. The report states:

> The campaign promotes the region's beautiful beaches —

which is obviously true —

> stylish seaside villages, boutique wineries and world-class golf courses … Advertisements focus on the region's distinctly European landscape, which sets it apart from the traditional Aussie beach holiday, while reminding potential visitors that they don't have to leave the country for this experience. The campaign tagline is 'The Mornington Peninsula. It's Almost Un-Australian'.

Apparently the advertisements have some sort of quirky image. The cover of the report features a picture of a yacht with the name *Shazza*. I was not sure where the quirkiness in that was until I was told that that is an Australian abbreviation for the name Sharon — so I presume that the young lady pictured on the prow of the boat is called Sharon. The advertisement campaign has worked very well. It has certainly gained a lot of attention and is helping to raise the profile of the Mornington Peninsula as a tourism destination.

Again I refer to international marketing, which is very important, and the increasing number of visitors from China. That has been helped by the number of new direct flights offered by various airlines, including from Shanghai to Melbourne by China Airlines.

Finally I would like to congratulate everybody involved — the board and employees — at Tourism Victoria. I compliment them on the terrific work they do. I wish them every success in forthcoming years, particularly in relation to Mornington and the tremendous attributes it has to offer the tourism industry.

Public Accounts and Estimates Committee: budget outcomes 2004–05

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I desire to make a statement on the Public Accounts and Estimates Committee report on the 2004–05 budget outcomes. In his contribution Mr Forwood spoke about the way in which the Department of Human Services (DHS) has consistently misled and lied to the Parliament via this parliamentary committee. He cited the example of the hospital opening function and advertising campaign and said that although the committee had specifically asked for details of all advertising campaigns that departments had undertaken in the 2004–05 financial year, DHS had failed to provide any details whatsoever of that campaign. In some respects that reflects the attitude the government has had to the report on budget outcomes from its inception in, I think, 2000, when Peter Loney, the member for Lara in the other place, was the chairman of the committee. This supplementary process was established to review budget outcomes as well as the more involved process of budget estimates.

Although the committee has power under the Parliamentary Committees Act to call witnesses and call for papers, the Premier made it very clear when the process was first put in place that he would not accept having departmental secretaries and officers called in a supplementary hearing process to report on the budget outcomes. He did not want the government's bureaucrats talking to a parliamentary committee without ministers. Following that exchange it became clear that the Premier did not think it was necessary for ministers to appear. From day one it was the government's position that neither ministers nor departmental heads would appear for the purposes of reporting on the budget outcomes. Despite the fact that the committee has persisted with the report for five or six years now, it has never enjoyed the support of the government and the Premier. That is why it gets results such as the one Mr Forwood spoke about of DHS simply refusing to provide information or misleading the committee as to events within the department.

I turn to two specific issues that are canvassed in the report. The first is covered in the chapter on the Department of Treasury and Finance and that part which refers to the Transport Accident Commission (TAC), for which I have opposition responsibility. The committee recommended that:

> The Department of Treasury and Finance evaluate the merits of excluding a proportion of windfall surpluses from dividend calculations to protect the Transport Accident Commission's long-term financial position.

That is a recommendation I wholeheartedly support. This government has used the Transport Accident Commission as a cash cow since coming to office. In its first couple of years it stripped some extraordinary dividends out of the TAC, and since then it has had a consistent policy of taking large dividends and capitalising on windfall gains by the TAC on its investment returns. That is obviously not a sustainable position, and the recommendation by the committee that windfall gains should be excluded from the calculation of TAC dividends under the Transport Accident Act is a very sensible one. The Treasurer, in consultation with the TAC, is entitled to determine a dividend from TAC, and has done so fairly stridently in the last few years in order to maximise the returns from that body.

My view is that those returns are the property of the policy-holders, if you like, under the TAC scheme, and that they should be used for TAC benefits and not be stripped out as windfall gains for the Treasury. Support for this recommendation would go a long way towards ensuring that the Transport Accident Commission is not seen as a cash cow for government as it has been for this government over the past five years.

The other area I would like to touch on briefly is the section relating to the Parliament. It is an embarrassment to the committee that it has had to make strident recommendations with respect to the Department of Parliamentary Services and its failure to adequately report. As a committee we expect government departments to be forthright in their reporting and to adhere to the ministerial directions with respect to their annual reports. It is an embarrassment to us as a committee and as members of Parliament when we have the Department of Parliamentary Services itself failing to uphold the standards required under the Parliamentary Administration — —

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

Museums Board of Victoria: report 2004–05

Hon. H. E. BUCKINGHAM (Koonung) — I rise to make a contribution on the Museums Board of Victoria annual report 2004–05 which was tabled in Parliament on 15 November last year. The museums of Victoria make a valuable contribution to our community in many ways.

I have an addiction. It is not a bad addiction; it is a good one. I am addicted to visiting museums and art galleries, both here in Australia and overseas. That is why I am very pleased to talk about the wonderful museums here in Victoria.

The Museums Board of Victoria, or Museums Victoria, as it is known, operates three museums — I have visited all of them — and a collections storage facility. It is also custodian of the world heritage-listed Royal Exhibition Building. The three museums are the Melbourne Museum, the Immigration Museum and the Scienceworks museum.

The vision statement of Museums Victoria is clear. It aims to contribute to our community's understanding of the world and ensure that our inheritance is augmented and passed to future generations. Museums Victoria will achieve its aim through reaching out to an increasingly diverse audience through its collections, using innovative programs that engage and fascinate. In its annual report Museums Victoria tells us that its values include stewardship, professional integrity, innovation, engagement in lifelong learning and social responsibility, which are all excellent values.

In the 2004–05 year over 4 million visits were recorded at the different museum venues and through the web site, which recorded an increase in visitations to 2.8 million individual user sessions, which equates to nearly half the people in Victoria. There were a number of major exhibitions during the period of this report, which included Dinosaurs from China, Mummies: Ancient Egypt, and the Afterlife. Scienceworks presented Toys: Science at Play and Eaten Alive: World of Predators.

The Immigration Museum presented Station Pier: Gateway to a New Life, which was a remarkable success and was a key contributor to the record visitation to the Immigration Museum this year. It is also worth noting that the state government has announced a $14 million contribution to the restoration of Princes Pier in recognition of this important historical and cultural landmark.

As with any organisation, volunteers make an outstanding contribution, and the volunteers at Museum Victoria are no exception. The 625 volunteers at Museum Victoria contributed in excess of 42 000 hours. Their contribution has ensured that Museum Victoria's volunteer program continues to set a benchmark for the industry. Museum Victoria continued to cement its position as a leading cultural institution, receiving 18 prestigious international and national awards in a range of areas including indigenous culture, tourism, marketing, web site development, public programs and volunteer support. It is worth highlighting two of those awards. Scienceworks was admitted to the Hall of Fame in the Victorian Tourism Awards, and the Immigration Museum won the National Tourism Award in the heritage and cultural tourism category.

I wish to speak briefly about the various education programs provided by Museum Victoria. It is an excellent resource for Victorian schoolchildren. In 2004–05 organised education groups accounted for 269 708 visitors across the three museums. Further, 5577 students were able to access Museum Victoria programs via the Discovery program, which I will touch on in a moment.

Museum Victoria works closely with the education department to ensure that students receive the most from their visits to our museums. An example of this is the work of the Melbourne Museum in the development of curriculum-related programs such as Historiography, Breaking the Code, and the Meaning of Things. Also the Top Designs exhibition provides an opportunity for Victorian certificate of education students of media, design and technology to display their work.

In conclusion I would like to congratulate the president of the board, Harold Mitchell, AO, board members, and the chief executive officer, Dr Patrick Greene, on their continuing commitment to Museum**s** Victoria and its programs. I hope Museum Victoria continues its valued contribution to the Victorian community.

Public Accounts and Estimates Committee: budget outcomes 2004–05

Hon. J. A. VOGELS (Western) — I would like to comment on the 69th report to the Parliament of the Public Accounts and Estimates Committee (PAEC), which is on budget outcomes. I will start with the Department of Innovation, Industry and Regional

Development. The output budget for the department for 2004–05 was $334 million. The committee states:

> Of the 12 outputs, eight had a variation of 10 per cent or more. The more significant variations were in relation to outputs —

and this is the one that does concern me —

> such as the regional infrastructure development output —

where the output was $36.5 million against a budget of $78.7 million. The output was less than 50 per cent of what was budgeted for. The Regional Infrastructure Development Fund is a very important fund, especially for rural Victoria. I find it outrageous that the department spent only half of the funds available to it on development.

The report further says:

> In the interests of transparency, the department should provide explanations in its annual report for the more significant variations between actual performance and targets.
>
> …
>
> In June 2004, staff numbers were 718.7 —

and this has increased marginally to 727. It is interesting to note:

> The composition of the work force has changed however with an increase in more highly classified jobs and a reduction in lower level jobs.

That is probably one of the reasons the department has more bench-warmers in offices and not enough people out there on the ground actually delivering the services and one of the reasons it has failed to meet its target.

Next I want to go to the Department for Victorian Communities. The output budget for this department for 2004–05 was $446 million. Again the expenditure of $365.6 million was $80.5 million under the budget estimate. Again you would ask why. This department has 770.5 full-time staff. It is amazing. This department did not even exist before 2002, but already it has managed to have 770 people sitting there at 1 Spring Street. Again salary costs have increased, in this case to $49.8 million. That is an increase of $12.4 million from the previous year, which represents nearly a 25 per cent increase in the number of people sitting at desks — but nothing is happening at the outputs.

I would like also to touch on the Community Support Fund, which is administered by the Department for Victorian Communities. The Community Support Fund budgeted for an expenditure of $131.2 million. This was once again subsequently revised down to $110 million. I think revenue to the Community Support Fund has been dropping because of the impact of smoking bans at gaming venues et cetera — there is less money coming into the till. I think we should rename the Community Support Fund. If you look at the expenditure, you see that of the $105 million that went into the fund — gambling taxes, where the government takes a percentage and puts it into the so-called Community Support Fund — only $22 million actually went to community support applications. The rest was spent by the Department of Human Services and the Department for Victorian Communities, which apply for their own grants, get their own money and then spend it on what they think is important. If you call something a Community Support Fund and you tell the public, 'We are taking a percentage of the gambling revenue to put back into those communities where that money was raised', but you are only putting 21 per cent back into those areas, then you are actually defrauding the public. The report states:

> The committee reiterates the importance of the department establishing project cost estimates that reflect the nature of the project to be undertaken.

Swinburne University of Technology: report 2005

Hon. C. D. HIRSH (Silvan) — Today I want to speak on the Swinburne University of Technology report for 2005. First of all I would like to congratulate the recently appointed chancellor, Mr Bill Scales, AO. I am sure he will follow previous chancellors in doing an excellent job in continuing to guide Swinburne University to greater provision of services to its student population.

It is good to see Swinburne going from strength to strength as it continues to evolve to answer the post-compulsory and higher education needs of our Victorian community. I am particularly impressed with the Lilydale campus of the higher education division and the Lilydale, Croydon and Wantirna campuses of the TAFE division of Swinburne. All these facilities are situated in the electorate of Silvan Province.

In the early 1980s, when I first became involved with public politics and stood for the lower house electorate of Wantirna, there was absolutely no provision of post-secondary education available in the outer east. Students were obliged to attend Monash, Deakin in Burwood, or Swinburne in Hawthorn. They were the closest post-compulsory education facilities, and of course it made it very difficult.

Studies had always said, 'There is plenty of higher education provision in the east', but no-one had ever

separated out the east from the outer east. In the late 1980s when Evan Walker was the minister responsible for post-compulsory education in Victoria he set to and organised a big survey dividing the eastern suburbs of Melbourne into the inner and outer east, and of course it was discovered that the outer east had the lowest participation rate in post-secondary education in Victoria. This was quite a surprise to many and became part of the action taken in the establishment of Swinburne as a university.

The Lilydale campus was gradually built, and now of course there is great provision of both higher education and TAFE education available. The original post-secondary education facility in the outer east was the Wantirna campus of what was then the Outer Eastern College of TAFE. I served on the council of that college for a number of years and found it a very exciting project as the Croydon campus opened up. When Swinburne commenced to develop Lilydale another TAFE facility was being built there, and of course in the end Swinburne took over the outer eastern college and all the facilities became part of the same major facility. There are campuses at Healesville and Hawthorn for TAFE and a number of campuses other than the Lilydale one in higher education.

In the outer east students now have available through Swinburne University degree and other undergraduate and postgraduate programs in business, social science and applied science. Students are able to undertake major studies in economics, management, human resource management, information technology, accounting, computing, enterprise management, marketing, psychology, sociology, media and tourism.

This is a marvellous vocational availability in the outer east for both students straight from school and for older students changing careers. The TAFE division has schools of arts, hospitality, sciences, business and e-commerce, engineering and social sciences. All these programs are vocationally oriented. This is the way of modern education, because we are no longer able to find employment unless we are skilled in particular areas. People in the outer east are now able finally to engage in post-secondary education.

Public Accounts and Estimates Committee: budget outcomes 2004–05

Hon. P. R. HALL (Gippsland) — This morning I wish to make some comments about the Public Accounts and Estimates Committee's report on the 2004–05 budget outcomes. I start by congratulating the committee for putting together a very comprehensive report covering a large range of interesting subjects, many of which I would like to talk about but do not have time this morning. What I want to do is to concentrate my remarks on chapter 8, Department of Human Services, and particularly 8.4.3, the major redevelopment and upgrading works at regional health services, as well as the next section, 8.4.4, work force shortages in community dental clinics.

The first section, 8.4.3, gives a status report of projects as at 30 June 2005 on major redevelopment works of health services, and tables on pages 222 and 223 of the report give an indication of where the works in those particular projects were up to. Two in particular were of interest to me: the Latrobe Regional Hospital cancer treatment centre in Traralgon is shown to have a 15.5 per cent underspending variance for this year, and the Latrobe Valley community care unit and mental health centre in Traralgon also had a 20 per cent underspend of its budget up until June 2005. However, I can report to the house that in particular the Latrobe Valley community care unit and mental health centre in Traralgon is nigh on completion now, and it will be a great facility for the region when it is finally completed, as will the Latrobe Regional Hospital cancer treatment centre. A lot of federal money went into that, and there was a lot of community fundraising for that project. It is getting close, but not as close as the other one.

In terms of 8.4.4, work force shortages in community dental clinics, the report says at page 225 that:

> Work force shortages have been experienced generally across rural community dental clinics.

It notes the particular clinics, and those in my electorate include Bairnsdale, Sale, Orbost, Moe, Churchill, Wonthaggi and Omeo. I can advise that the community dental clinic at Churchill has been closed for four years now due to an inability to recruit dentists and also because that clinic now does not meet current dental clinical standards. That is of concern, particularly given that the waiting time for dental health treatment in Gippsland is one of the longest in the state. The waiting time for general dental care is in excess of 40 months, which is the highest waiting period for any region in Victoria.

That leads me to the points I want to talk about today, and that is the needs of the Latrobe Community Health Service and a plea to the government in this forthcoming budget to provide it with funding for some necessary works. Latrobe Community Health Service is a large and complex community health provider that has revenue in excess of $24 million per year. It provides services to 22 000 clients, predominantly in the Latrobe Valley region but there are also some regional services across the Gippsland area. It employs

204 effective full-time staff and offers something like 80 different services, based on the number the last time I counted them in the annual report.

It operates at a number of sites across Gippsland, eight of which are in the city of Morwell itself. I can assure the house that it is dysfunctional to try to deliver a service out of eight different sites all of which are in a dilapidated state. There is an urgent need for a major upgrade. Recently I toured the Buckley Street and Princes Drive sites in Morwell and can attest to the fact that they are in urgent need of new facilities. There is a budget proposal before government seeking some $17.1 million to totally rebuild the delivery centre in Morwell, bringing those eight sites together, and that is desperately needed. The service itself has already spent $632 000 to purchase the necessary land and car parking facilities, so it is well planned. What we now need is a major appropriation in this year's budget to ensure that that building gets built.

I also add that the redevelopment will incorporate a refurbishment of the dental clinic at Churchill and the establishment of a new dental clinic at Morwell. These are urgently needed, as I said before, to address the long waiting lists we have in gaining access to community health. I plead with the government to make available the $17.1 million required by Latrobe Community Health Service to build some much-needed and necessary facilities to deliver its services in the city of Morwell.

Public Accounts and Estimates Committee: budget outcomes 2004–05

Ms ROMANES (Melbourne) — I also rise to make a contribution on the report of the Public Accounts and Estimates Committee on budget outcomes. At the outset I would like to thank the executive officer, Michele Cornwell, and the staff for the hard work they, together with members of the committee, have put in to deliver this report in a timely manner this year in advance of the estimates process.

I remind members of the house that the budget outcomes report, which is produced each year by the Public Accounts and Estimates Committee, is part of the cycle of scrutiny and accountability in place through the Public Accounts and Estimates Committee. It complements the work the committee does on the estimates, and the estimates hearings are about to happen as soon as the budget is brought down at the end of May. During that period there will be about 50 hours of hearings with the Premier and every minister in the Bracks government. That is one important function that the committee fulfils each year. To complement that, the Public Accounts and Estimates Committee also undertakes a budget outcomes exercise, which is to look back at what the government said it wanted to achieve the previous year. With the benefit of the full financial statement for the year 2004–05, the annual reports from each department and a Public Accounts and Estimates Committee questionnaire on budget outcomes, it looks at what services and programs were delivered and provides Parliament with some analysis of what progress has been made in each department and what has been achieved.

The executive summary of the budget outcomes report draws attention to areas of special interest to the committee, such as the new Victorian public service staffing structure, stress claims, performance bonuses and environmental reporting. In this case it looks at progress since February 2002, when the government made a statement of its commitment to best practice in environmental management in government departments. Other areas of special interests are projects such as Project Rosetta.

The committee has looked at the advertising and promotional expenditure of departments. As well as looking at themes such as those, the Public Accounts and Estimates Committee has provided the Parliament with a detailed examination of each department and in some areas highlighted issues that will be pursued further through the estimates process.

I give the examples of the impact of the extra $1.3 billion in recurrent transport expenses that were part of the new public transport partnership agreements, the evaluation of the One Parliament organisational structure and the implementation and success of those changes. They are the sorts of issues that have been flagged by the Public Accounts and Estimates Committee (PAEC) for further evaluation and information.

This is all part of the Bracks government's commitment to being an open and accountable government. Participation in a rigorous estimates process and the provision of information to the Parliament is very important for good governance and accountability in this state. We witnessed that here this morning when we saw four opposition MPs taking the opportunity to access further information through the budget outcomes report to raise issues and concerns that are of interest to them. It is part of the commitment of the government to strengthen accountability in this state. We have also seen that through the strengthened resourcing and independence of the Auditor-General. The PAEC plays an important role in that function.

Tourism Victoria: report 2004–05

Hon. R. H. BOWDEN (South Eastern) — I rise to make a contribution and some comments on the 2004–05 annual report of Tourism Victoria. At the outset I would like to congratulate the board and staff of Tourism Victoria, because I have seen many reports over recent years and the quality and readability of this report and availability of the data in it are excellent. The presentation of this report — the fact that it reflects what is a complex series of activities — is excellent, and the board deserves commendation for providing such a readable and worthwhile document.

I acknowledge and suggest to honourable members that tourism is extremely important, not only to the national economy but also certainly as an important contributor to the Victorian economy. This point, which we all understand and accept, is highlighted on pages 10 and 11, where both the international and domestic visit statistics are provided. For instance, during 2004–05 there were 1 329 719 visits to Victoria from main international sources — that is, over 1.3 million visitors came to Victoria from overseas. Encouragingly the domestic visitor numbers are also quite good. On page 11 the report states that Victoria received 17.9 million domestic overnight visitors for the year. That is a 24 per cent market share of all domestic visitors in that time frame. Those strong numbers are excellent. The 1.3 million international visitors and the 17.9 million domestic overnight visitors to Victoria are extremely valuable to our state for employment and the use of our facilities.

I want to highlight some opportunities Tourism Victoria could think about. It has been mentioned that there will be improvements to Princes Pier. The improvements that have already made to Station Pier are acknowledged and appreciated. There is an opportunity to expand our cruise market arrivals by seriously looking at the improvements that are necessary at Cowes on Phillip Island. There is no question that the cruise companies are willing to schedule that as an extra port in the cruise programs of many ships. We welcome that, but I am not aware of any serious plans — even though there is talk year in and year out about it — to upgrade the wharf at Cowes. There has to be some serious work done on that, and I encourage Tourism Victoria to get serious about that matter. There is also a missing link between Cowes and Stony Point, and it is about time a car ferry became a serious consideration and some action was started. Rather than everyone just talking about it, it is about time there were some specific improvements and actions taking place to make that a reality.

I am also concerned about an aspect of Melbourne Airport. I accept that it is essential there be a very close working relationship between Melbourne Airport management and Tourism Victoria. I understand that that relationship is excellent and that there are no fundamental problems with it, but I suggest to honourable members that given the geography that of Melbourne has increased in breadth, particularly to the east and south, the time has come for the state government, through Tourism Victoria, to really look at reserving space for a future domestic airport. I am not talking about international arrivals — I repeat, I am not talking about international arrivals — I am talking about a space reservation for a domestic airport in the south-eastern part of the city. Our options are rapidly closing due to residential expansion. This is vital for the long-term economic benefit of the state.

Public Accounts and Estimates Committee: budget outcomes 2004–05

Mr VINEY (Chelsea) — I would also like to make a statement in relation to the Public Accounts and Estimates Committee report on the 2004–05 budget outcomes. In particular I want to comment on the section relating to the Department of Innovation, Industry and Regional Development, and specifically 10.4.2(a) on page 270 of the report, which relates to the Australian Synchrotron project.

This project is an initiative of this government as part of its comprehensive suite of investments in the innovation economy in Victoria. Victoria is blessed by the fact that we have an excellent starting position in the area of innovation, particularly from the exceptional international reputation of many of our medical research institutes, including the Walter and Eliza Hall Institute and the Howard Florey Institute of Experimental Physiology and Medicine. I think it is fair to say that there is now a growth of investment in this area ranging across a number of quite clear nodes which seem to be developing some specific capacities. One of the nodes is around the Parkville precinct, and a second node seems to be developing around the Monash University area. The synchrotron will be a major centrepiece of the investment into innovation around that Monash University node.

The government has announced a budget of $157.2 million overall for this project, including some $50 million-odd of investment from a number of other organisations involved in beamlines. For honourable members who are not aware of what a synchrotron does, essentially it is a machine that accelerates electrons in a storage ring to generate highly intense beams of light that are sent down beamlines, and at the

end of each beamline is a research laboratory with the capacity to do some very intense experimentation, essentially on matter, to look at the structure of various materials. This will generate enormous benefits for both medical research and materials research. It is expected that, as one of the latest generations of synchrotron in the world, it will attract research from across the world to Victoria as part of a national synchrotron.

The report says that the government made an announcement about expanding the capacity for the synchrotron to have up to 30 beam lines coming out of the central storage ring. It is expected that following its opening in 2007 there will be approximately 9 beam lines operating in that first year. But there is the capacity to grow quite quickly to meet expected increases in demand. Some of the beam lines require different levels and types of light and intensity for different sorts of experiments, so having the capacity to go to 30 beam lines to meet future demand has been a very forward-thinking initiative of the government.

I note that out of the synchrotron project in Clayton we can expect additional investment into research. As I said earlier, we expect that the synchrotron's being located in Clayton will change the nature of the research undertaken around that precinct in relation to the government's investment in innovation.

Public Accounts and Estimates Committee: budget outcomes 2004–05

Hon. B. W. BISHOP (North Western) — I also wish to make some comments on the Public Accounts and Estimates Committee report. I would like to concentrate on chapter 8, the Department of Human Services area that discusses homelessness. One of the paragraphs on page 239 says:

> Census data also revealed that the proportion of Victorians accessing SAAP —

supported accommodation and assistance programs —

> and transitional housing management … assistance was significantly greater than that nationally (25 per cent of the homeless in Victoria compared with 14 per cent across Australia).

It is always difficult to get the balance right. We all understand the difficulties of fixing priorities of areas that are most in need.

I looked at the definition of 'homelessness'; it seemed to translate to people without a home. We have classic cases of that in Robinvale where we are extremely short of housing. Yesterday the minister, in answering what could have been called a dorothy dixer from one of her colleagues, said that Robinvale would receive three of the bungalow-style housing units left over from the Commonwealth Games which would be refurbished to four-bedroom standard. We are very thankful for extra housing in Robinvale, but without sounding too churlish we think that it misses the mark as there is a real shortage of housing in the area for professional people and workers, particularly due to the heavy expansion in this area. More frustrating to me is knowing there are housing estates with plenty of housing blocks around there, and they have been idle for a couple of years.

You would not get a better advocate to build a case for public housing in Robinvale than Cr John Katis from the Swan Hill Rural City Council. John is a resident of Robinvale and has been a strong advocate for housing in Robinvale for many years. He tells the story of many — I mean many — people living in one house and caravans overflowing with people as well, which is a situation we should not accept in this day and age. I agree with Cr Katis's advocacy for that area. He tells a story of workers going to work, and a bus — not a big bus, admittedly, but a bus — pulling up and being filled with people coming from one house.

I hope that we will get more responses from the Minister for Housing in relation to housing in Robinvale. We have certainly raised the matter many times in this house and in other areas. We believe Robinvale has an excellent case because it is a rapidly expanding area. I suspect hundreds of people there are looking for accommodation. The huge expansion of irrigated agriculture has driven this demand. No doubt the key to bringing people in — for whatever occupation they might like to pursue — is accommodation. I am not talking about seasonal work; I am talking about work that goes on all year, as many products are grown in the area and the work opportunities are year-round.

I note that the government spokesman said there would be more public housing built at Robinvale. I would like to know where and when that might be, because it is important that expanding areas such as Robinvale be recognised.

There has also been some debate about the population of Robinvale. Some people might say there are 3000 people there; but others may say there are 8000 people in the catchment. So indeed it is a rapidly expanding area which is extremely short of real public housing. Given the minister's new-found love of northern Victoria — possibly due to her candidature in the new Northern Victoria Region — she should pop up to Robinvale, have a look and avail herself of the

opportunities to put some real public housing in place in this rapidly expanding area of Victoria.

Victims of Crime Assistance Tribunal: report 2004–05

Ms MIKAKOS (Jika Jika) — I wish to speak in support of the Victims of Crime Assistance Tribunal report for 2004–05 and to note that the report demonstrates the Bracks government's commitment to supporting the victims of crime. We are fortunate to be living in a state which has the lowest crime rates in the country. However, we acknowledge that there will continue to be victims of crime, people who experience serious physical, emotional and financial consequences as a result of being a victim.

The tribunal that exists has the ability to give compensation of up to $60 000 to the victims of crime. In the report that has been tabled in the Parliament I am pleased to see that awards are actually up by almost 14 per cent — $27.4 million was awarded to victims of crime last year. Interim awards have increased by 21 per cent to almost $1.6 million, which is very important in terms of assisting victims of crime with costs for counselling, medical bills and so on. It is important to note that it was the Bracks government that reinstated the compensation for pain and suffering that had been abolished by the previous Kennett government.

This government has also done a number of other things to support the victims of crime, such as establishing the victims register which enables victims of violent crime to receive information about offenders' progress through the prison system. We have also legislated to ensure that the views of victims are heard by judges and magistrates when they are sentencing offenders, and we have established the Sentencing Advisory Council to provide a forum for community input into sentencing reforms. At the moment the government is considering the introduction of a victims charter that would spell out in greater detail a victim's right to basic entitlements, such as information, protection, compensation and support. This government is very much committed to supporting the victims of crime either through those legislative mechanisms or through the tribunal which provides this compensation.

I take this opportunity to put on the record my congratulations and thanks to all of the magistrates who comprise the tribunal and who sit all around the state hearing what can probably be described as emotionally difficult cases. I also acknowledge the work of the support staff and others in the Magistrates Court who provide assistance through the Victims of Crime Assistance Tribunal.

This is a very useful report for members of Parliament to examine so that they become more aware of the various forms of compensation that may be available to our local constituents who may be in the unfortunate situation of having been a victim of crime. In conclusion I commend this report to the house and note the very positive steps forward in the operation of the victims of crime assistance tribunal.

MELBOURNE SAILORS' HOME (REPEAL) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Sailors Welfare Fund was established by statute in 1986 as a way of redirecting the state's share of the proceeds from the sale of the Melbourne Sailors Home in 1964.

This occurred under the auspice of the Melbourne Sailors' Home Act 1986.

The fund was intended to allow the minister to make payments to promote the welfare of sailors and people working in the Victorian fishing or maritime industries.

Only three payments have ever been made from the fund between 1989 and 1991. These three payments totalled $84 000, leaving a residual of approximately $350 000 in the fund at the end of December 2005.

For the past 15 years the only transactions involving the fund relate to interest received from Treasury Corporation Victoria.

To enable the government to use these funds productively for the welfare and benefit of the Victorian community it is proposed that the Melbourne Sailors' Home Act 1986 be repealed and that the Sailors Welfare Fund be closed.

Since the funds were originally set aside to promote the welfare of seafarers and others from the maritime industry, the funds should be used in a way that is consistent with the purposes of the fund.

It is therefore proposed that the funds be used to:

assist in the distribution of food to Victorians in need;

expand the capabilities of volunteer lifesaving;

support sea search and rescue operations;

promote the welfare of seafarers and maritime personnel;

assist in the development of the Southern Cross chaplaincy.

VicRelief + Foodbank has a key role in building partnerships with food manufacturers, distributors and retailers to achieve increased donations of food and groceries for distribution to emergency relief agencies and people in need. Without VicRelief + Foodbank many Victorians would be experiencing significant hardship in obtaining adequate food for their families.

Commencing operations on 1 February 2006, VicRelief + Foodbank is the successor organisation to the Victorian Relief Committee and Foodbank Victoria.

VicRelief + Foodbank would utilise additional funding to expand the distribution of food and material aid to rural Victorians and improve refrigeration at the Dandenong distribution centre that services this area of high need.

Such a use of the funds would be in the spirit of the original intentions of the fund but applied more broadly to the whole population on the basis of need.

The government proposes to apply $165 000 from the closure of the fund to assist VicRelief + Foodbank in the provision of food to people in need.

Royal Life Saving and Surf Life Saving have merged to establish Life Saving Victoria.

Live Saving Victoria receives funding from Sport and Recreation to promote lifesaving as a sport and for the promotion of nippers, the junior lifesaving program.

The government proposes to apply $60 000 from the closure of the fund to Life Saving Victoria to expand the capabilities of volunteer lifesaving by developing the capability of the 12 small member clubs around the bay to recruit club members and develop leadership with programs such as nippers, lifesaver skill development and youth leadership.

A one-off grant of $60 000 is proposed for the Australian Volunteer Coastguard (Victoria Squadron) to purchase important equipment to assist their search and rescue operations.

The Victorian squadron is the largest dedicated bay and coastal volunteer marine search and rescue organisation in Victoria, comprising approximately 500 volunteers. In 2005 they assisted almost 2000 persons in distress, and they provide important support to the water police.

The Australian Ports Welfare Foundation is a non-denominational, not-for-profit service organisation which promotes the quality of life in the workplace of seafarers and all other maritime personnel.

A grant of $55 000 is proposed so that the foundation is able to undertake a feasibility study for the implementation of a 24-hour welfare service to provide medical, psychological and pastoral care services to seafarers and other maritime personnel using the Melbourne port.

A number of community and private organisations are currently working to develop a multicultural, interfaith spiritual and learning community centre under the Southern Cross at Docklands. The centre is being established to nurture spiritual, cultural and intellectual initiatives within a supportive environment. A grant of $10 000 is proposed to support this initiative.

The five grants proposed by the government will provide for the welfare of the Victorian community and in particular the quality of life and wellbeing of Victorian sailors and maritime workers.

I commend the bill to the house.

Debate adjourned for Hon. ANDREA COOTE (Monash) on motion of Hon. E G. Stoney.

Debate adjourned until next day.

FINANCIAL MANAGEMENT (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Ordered that second-reading speech be incorporated for Mr LENDERS (Minister for Finance) on motion of Mr Gavin Jennings.

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill reflects the government's interest in ensuring that legislation relating to public finances is current, effective and internally consistent.

This bill makes a number of important amendments to the Financial Management Act 1994 (the act). The purpose of these amendments is to:

update the act to reflect moves to accrual accounting;

clarify the powers of the Minister for Finance to lease and license Crown land and premises; and

update the direction-making and regulation-making powers in the act.

There are seven amendments in the bill. These are mainly technical in nature and do not represent any change in policy, but rather seek to clarify responsibilities and bring the legislation into line with current financial management practice.

The first amendment is to section 8 of the act.

Section 8 — directions

The purpose of this amendment is to give the minister effective principles-based power to give directions in relation to public sector probity and financial governance.

Currently, the minister's power to give directions has to be authorised by a regulation and is limited to matters for which regulations may be made under a separate section of the act.

Under the proposed amendment, the minister's power to make directions will be authorised directly by the act — not by a regulation made under the act. However, the scope of the minister's direction-making power will still be limited to matters for which regulations may be made.

The next four amendments relate to the budget management provisions of the act. These are required to bring the legislation into line with current practice, particularly the move from cash to accrual accounting which has not been consistently reflected in the wording of the act.

The first of these four proposed amendments is to section 29.

Section 29 — appropriation of certain receipts

Section 29 currently does not reflect the move from cash to accrual accounting principles. The section applies to the receipt of cash, rather than the recognition of revenue. This means that the section is out of step with the accrual accounting and management framework. The proposed amendment will align the section with current practice by introducing accrual rather than cash terms for provision of outputs, commonwealth specific purpose payments and municipal council specific purpose payments. It will not apply to proceeds from disposal of assets because under international financial reporting standards, this could be interpreted as the net amount (that is the difference between the carrying value and sale price of the asset). This may reduce the incentive for departments to use such proceeds for managing their asset base. It may also have the undesirable consequence of entitling departments to apply the proceeds from disposal in the current year even where the cash may not be realised until future years.

The second proposed amendment to the budget management provisions is to section 32.

Section 32 — unused appropriation

Under section 32, the amount of each department's unused appropriation (carryover) is required to be determined by 30 June each year. These amounts are also required to be published in the budget papers in May, prior to the end of the financial year.

This is simply impractical. It is not possible to accurately determine these amounts prior to end of year 'wrap-up', now that the budget is presented in May. It is therefore necessary to amend the section so that determination and reporting of 'carryovers' can be done after 30 June when end of financial year performance is known and departments can identify carryover amounts with greater certainty.

As part of the budget process, an estimate of the amount of the carryover will continue to be included in budget estimates in May.

The third proposed amendment to the budget management provisions is to section 24 and is consequential to the proposed amendments I have just referred to under section 32.

Section 24 — annual financial report

The annual financial report currently requires ex-post reporting of 'carryovers' appropriated under section 32 for the preceding financial year and the application of these carryover amounts.

In addition to current reporting requirements, the amendment will also require carryover amounts in respect of the next financial year to be included, thereby providing ex-ante reporting and greater transparency for these appropriation amounts.

The last of the amendments to the budget management provisions is to section 40(2).

Section 40(2) — annual budget estimates

This is a minor amendment required to address a timing issue and ensure the alignment of tabling requirements for the annual budget estimates with parliamentary procedure. Parliamentary procedure requires papers (including the budget papers) to be tabled during 'formal business' — before the introduction of bills.

Current legislation requires the budget estimates to be tabled when the appropriation bills are before the house, which is inconsistent with order of business requirements. The amendment proposes that the minister cause the statement of budget estimates to be laid before each house of Parliament on or before the day on which the second readings of the annual appropriation bills for that year are moved, thereby removing this anomaly.

The bill also amends part 7B of the act to update the minister's powers relating to land in order to support decision making to obtain best value from portfolio assets.

Section 54(P) — licensing and leasing surplus Crown land and buildings

To optimise the management of portfolio assets, the minister requires the authority to license and lease Crown land that is surplus to requirements.

Currently, the legislation empowers the minister to grant a lease over, or a licence to enter and use, any building or other structure on Crown land that is no longer required for a public purpose. It is silent about whether this power extends to the Crown land on or around which the building stands.

The proposed amendment is intended to remove this doubt and will clearly empower the minister to enter into leases or licences for any Crown land, including the Crown land on which a building or other structure stands.

Finally, the bill proposes to update the regulation-making powers of the Governor in Council.

Section 59 — regulations

Earlier I referred to the scope of the minister's direction-making power being tied to matters for which regulations may be made. The bill proposes to update these regulation-making powers so that they reflect contemporary financial management practice.

The current regulation-making powers are an outdated, narrow listing of matters about which the Governor in

Council may make regulations. For example, some of the existing regulation-making powers still refer to receipts and expenditure reflecting a cash, rather than accrual environment.

Under the proposed amendments, the scope of the regulation and direction-making powers will be updated to reflect modern financial management.

The proposed amendments will support sound governance and are in line with the government's commitment to responsible financial management.

I commend the bill to the house.

Debated adjourned for Hon. G. K. RICH-PHILLIPS (Eumemmerring) on motion of Hon. E. G. Stoney.

Debate adjourned until next day.

DISABILITY BILL

Legislation Committee

Mr VINEY (Chelsea) — I move:

That the Legislative Council adopt the report of the Legislation Committee on the Disability Bill.

It is a privilege to be able to come here today and move the motion for the adoption of this report, which is the first report of the Legislative Council's Legislation Committee on a piece of legislation.

The committee held three public hearings on the Disability Bill — a total of 8.5 to 9 hours from recollection — and heard evidence from the Minister for Aged Care, Mr Jennings, representing the Minister for Community Services in the other place. He was assisted by advisers from the Department of Human Services and the minister's office. The committee went through this very important legislation clause by clause. It required a considerable degree of flexibility as members of the committee had of the order of 250 possible amendments. Not all of those amendments ended up being put to the committee, but there was a considerable amount of cooperation and agreement between members of the committee on of the process by which we would tackle this first piece of legislation.

I take the opportunity of thanking all the members of the committee who assisted me in my role as chair. It was complex legislation and a complex set of proposed amendments that required a considerable degree of cooperation by all members of the committee for us to get through the legislation.

As I said, the bill is very important legislation that will create the new legislative structure for the delivery of services and programs to many of Victoria's most vulnerable people. The committee took its responsibilities in considering this legislation in detail quite seriously. As members of the house know, it was a trial exercise in considering legislation, and I think in the spirit of that trial there was a lot of goodwill in trying to ensure we did justice to the process. This house gave to the members of the committee the responsibility on its of going through complex legislation and doing the best it could to produce good legislation for the delivery of services in the state.

I particularly want to thank the minister representing the Minister for Community Services in the other place, the Minister for Aged Care, Mr Jennings. The committee, as I said, dealt in quite some detail over 8 or 9 hours with the legislation, and the minister gave three afternoons — three half-day sessions — of his time to assist the committee in its deliberations. I must say to the minister, through the President, that it was a sterling effort to provide that amount of time to assist the committee in its consideration of this legislation.

I note that the clock has stopped. I think I might have well and truly used my 5 minutes, but I want to thank the minister, the departmental representatives who were there assisting the minister and the representatives from the minister's office. I also want to thank all members of the committee for their assistance and for providing me with some degree of flexibility as chair to get through this bill. I would also like to thank the Legislative Council for giving me the privilege of chairing this trial committee process and particularly for giving me the opportunity to do that for this legislation, which I regard as extremely important.

I should also note that coming out of the process the government has put forward some proposed amendments to the legislation, and I welcome those. It is a very positive outcome of this first exercise that we were able to consider this legislation in the way we did, in the good spirit that we did, and come back with some changes, which may not be — —

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

Hon. BILL FORWOOD (Templestowe) — In the time available to me I want to speak on two aspects of the motion before the house. The first is the operation of the Legislation Committee of this place. Let me echo the words of the chair when he said that the committee operated very effectively over 8 hours and dealt with a vast range of proposed amendments. It is to his credit and to the credit of the minister and the staff who supported him that the process went as well as it did. There will be another occasion when we can discuss

this first trial of the Legislation Committee, but I stand here firmly convinced that we have got better legislation as a result of the process that we went through, although not as good as some of us would have liked, and that people have now had the opportunity through reading the report and the *Hansard* to be clearer about some aspects of the legislation. I wish to congratulate both the minister and the chair of the committee for their outstanding work in this case.

It was not helped by my inability to deal with some of the complex amendments that were being developed, and I hope that in future, with a bit more practice, we will get that side of it operating more smoothly, but my personal view is that we need to give the chair of the Legislation Committee flexibility to enable matters to be dealt with as issues and then adopt them on a clause-by-clause basis, rather than only dealing with them on a clause-by-clause basis. That is a debate for another time, but the process itself was worthwhile, and as I said, there is no doubt that we will end up with better legislation if we are able to massage this committee into something that is of benefit to the Parliament and the people of Victoria in the future.

The second issue I wish to deal with is the Disability Bill itself, and despite the words I have just said, I wish to advise the house that we will be opposing the adoption of the report. We believe this legislation is flawed legislation that should not be passed and should not be supported. I do think it would be churlish of us — me in particular — having had 8 hours in one forum to come here and prosecute the issues again in this forum, and I advise that we are not intending to do that. If new issues come up, I may comment, but we are not intending to reprosecute matters that were dealt with in the Legislation Committee for over 8 hours in what I believe was as flexible a manner as possible. Maybe we did not cover everything we should have, and I am disappointed about that, but I have been in this place a while now, and I do not think we have ever had 8 hours in any committee on any other piece of legislation that I can remember.

Ms Hadden — Yes, you have.

Hon. BILL FORWOOD — Which one?

The PRESIDENT — CityLink.

Hon. BILL FORWOOD — But it does not happen often. We will be opposing the adoption of the report. This bill remains fundamentally flawed, and we are very concerned about that. In particular, while we were pleased to see the government move some small way on the addition of the word ‘families’ into the bill before the house, we were extraordinarily disappointed that fundamental issues such as the role of carers were not adopted, that other fundamental issues such as the role of the secretary of the department were not addressed properly and, more fundamental than anything, that what we all know is an entitlement to service under the existing Intellectually Disabled Persons’ Services Act is being withdrawn under this legislation. It seems to me appalling that in this day and age we can take that step. I do not in any way doubt the intention of the government in trying to provide a new path forward or its commitment to the disabled and their families and their carers, but the legislation before the house is flawed, and for that reason we will not support the adoption of this report, nor will we support the third reading later on today.

Hon. D. K. DRUM (North Western) — I too would like to thank the Minister for Aged Care for his efforts. There was a very lengthy piece of legislation that we had to try to get through. I would also like to thank the chair for making the proceedings flexible and allowing opposition members to bring to the table later than they should have been the amendments we were presenting to try, in our opinion, to make the bill a better bill. Whilst it is acknowledged that it was not necessarily anybody’s fault that we were unable to get the legislative amendments through and presented in time, we were certainly appreciative of the fact that that flexibility was allowed.

I think the Legislation Committee was all the better for the minister’s ability to call on expert witnesses from the department who had an in-depth knowledge and a depth of experience on the issues that we were talking about, and for the minister to be able to immediately call on Mr Rogers and Mr Parsons to answer on his behalf certainly added to the ability of the committee to get to the bottom of many of the clauses.

It must also be said that we missed a golden opportunity in relation to the government not allowing expert witnesses from the other side of the debate. If it was the government’s intention to come up with the best possible legislation it could produce, then the ability to balance out some of the debate that we had with experts from both sides would certainly have led to a clearer picture. As much research as Mr Forwood has done on this issue and as much research as I have done on this issue, there is no way we can substitute for people who have had disabilities in their lives for 20 or 30 years. People who have been following the legislative changes over a 30 to 40-year period know this legislation inside and out. They know the history of the legislative changes inside and out and are in a position to argue that some of the deletions in this bill,

as opposed to what is currently in the legislation, are a retrograde step and not an improvement.

I think it was a missed opportunity. The government certainly has to ask itself: does it just want to look at a different way of getting through contentious legislation, take it into another room, let a small number of MPs argue about it for 6 to 8 hours and then bring it back into this chamber so we expedite the work here? Or does the government want to ask itself: do we really want to come up with the best possible legislation we possibly can? Certainly if the government has an open mind to improving the legislation during the debating stages and allowing members on both sides to access expert witnesses, this will be a positive step in achieving the best legislation.

I also did not intend to have to bring this bill back into the chamber. On reflection, it was never the intention. Whilst Mr Viney, as chair, made it clear that we were hoping to get all of the debating done in the Legislation Committee, there were some comments made during the committee that we needed to pick up and have a short conversation about to see if we could not flush out another position which might lead to some improvements down the track.

Hon. C. D. HIRSH (Silvan) — I rise to speak briefly about the Legislation Committee's report on the consideration in detail of the Disability Bill.

First of all I want to thank and congratulate all those who participated in the Legislation Committee proceedings. The chairmanship of Mr Viney was very good. I also thank and congratulate members of the committee from all sides of the house — from The Nationals, the Liberal Party and the Labor Party — who participated in the process. I also thank the Minister for Aged Care, Mr Jennings, and his staff for the great cooperation they showed in dealing with the committee stage of the bill. I also thank the clerks who were doing something for the first time and did a great job — congratulations to them also.

It was a very interesting process. I felt very privileged to be a part of something new in the Legislative Council. For many years I have wanted to be involved in removing the adversarial nature of parliamentary debates where possible, because I believe much better results can be achieved through discussion around a table than by the more formal debate in the house. I think the process demonstrated that to a fair degree. I am sorry that the bill has to return to the chamber to be discussed in a committee of the whole. It is a pity we could not have dealt with it fully in the Legislation Committee.

I am sure that, as a result of the lessons we all learnt during this very new process, in future modifications may be made by the Legislative Council — I do not know. But I see a great future for these committees so that during the committee stage the bill can be discussed and debated by a small group representing the Legislative Council as a whole, and that we will in fact achieve even better outcomes. As a member of the committee I found that I learnt a great deal more about the process and the bill than I would have had the bill remained in the committee of the whole in the house. Backbenchers generally are not involved in that process, and I learnt a great deal — at one time, I learnt something in a relatively embarrassing manner! I note that the minister is laughing a little, but I did learn, and I found it to be an excellent process.

Again, congratulations to all involved, including the President, for encouraging such an innovative thing to happen in this house.

Hon. P. R. HALL (Gippsland) — I voted against the Disability Bill during the second-reading debate, and I will be voting against the adoption of this committee report as well. I want to make a couple of quick comments of a general nature, so rather than make my comments in the committee stage I shall make them now in respect of the adoption of this report. I say this because despite the process — and I appreciate the process and the length of time members of the committee spent on it — I was bitterly disappointed, as were many carers in the community, that their hopes of resolution of some of their issues were rejected by the government during the very lengthy and deliberate committee stage. Consequently, they felt let down. As their representative in this Parliament, I share their great disappointment.

I want to say in particular to people like my constituent Jean Tops, who is a source of inspiration to me and many other carers, that I cannot help but share in their absolute dismay and devastation that this bill which is going to be passed by Parliament today leaves no hope for her or her daughter. As many of you would know, Jean is the mother of a profoundly deaf, blind and disabled 37-year-old young lady. She is so disappointed that the bill has gone through the Parliament that she was prompted to write to Julian Gardner, the public advocate. I am not going to comment in detail about the letter, but she expresses this sentiment:

> I pray that I will outlive my daughter, I am truly scared for her future when I read your letter. You will clearly condone her placement in an aged care facility because you condone this draconian bill that does nothing to assure my daughter of state-funded supported accommodation that in any way relates to the level of care she requires.

I think it is very sad when a mother prays that she will outlive her daughter because she is so concerned about her daughter's future. This bill does not provide her with any hope, confidence or security at all. That is a sentiment that I read and take to my heart — we cannot afford to let these people down. They have dedicated their life to caring. This bill and the failure of the government members of the committee to adopt changes through the committee process equally lets those people down. As I said, I opposed this bill during the second-reading stage and I will continue to oppose it because I think the committee process has not been such that an outcome satisfactory to the needs of all carers in this state has been reached.

Ms HADDEN (Ballarat) — It is very sad that I have to stand here and continue my opposition to the passing of this bill and especially to the adoption of the report of the Legislation Committee. I am an Independent member in this place representing a very large rural electorate, Ballarat Province, which has many disabled persons. Day by day their carer families are battling, looking after them with limited services offered by this government.

It is a terrible shame that the Legislation Committee is made up of only six members of this house when it has 44 members. The committee does not include representation of an Independent — that is me — and it has only three Labor government members, two Liberal Party members and one member of The Nationals. That is not by any stretch of the imagination a representation of this house at all. It is not a democratic committee. I opposed the setting up of the Legislation Committee and gave my reasons for doing so, which are noted in *Hansard*, and I continue to do so. We should not be shutting down the democratic processes of this chamber and having a nice little group of six in a little club upstairs discussing legislation as crucial as this Disability Bill. That little Legislation Committee is not part of a democratic process, especially if the vote on proposed amendments results in three for and three against. There will always be at least three on one side because the Labor government members will always vote together. Then the chair, who is a Labor government member and who voted himself in as the chair, will negative the amendments. It is not fair; it is not democratic. It is a farce and a sham.

Members of carer families who have contacted me over many months and more particularly since the Legislation Committee met are asking me to note in this chamber their grave concerns for carer families of the disabled in this state. They have asked me to state on the record that this is a matter of absolute public shame and a denial of their rights as carer families of disabled persons in this state. They note also the absolute hypocrisy of Ms Carolyn Hirsh. I quote from a letter sent to me by the Kiefel family:

> We have tried so hard to get justice for our children and families and it seems that the government is firmly resolved to ignore us.
>
> I can't believe that I have sat twice in Carolyn Hirsh's office with other distressed mothers, listening to Carolyn proclaim her determination to do her bit to ensure that government reinstated the specialist services it took away from autistic children and toddlers at Irabina. I can't believe that she visited our children at Irabina, hugged and kissed them for the newspaper cameras and in the last three weeks voted down every single amendment to the Disability Bill that would have given the children she claims to care about a fair go.

It goes on and on.

I have received correspondence also from Mrs Jean Tops, from the Gippsland Carers Association. She has very kindly given me a copy of a letter that she has sent to Mr Julian Gardner at the Office of the Public Advocate. In that she expresses her grave concerns for her disabled daughter, as Mr Hall said eloquently in his contribution just before mine, prays that she outlives her and states that she sees no light at the end of the tunnel.

None of the carer families see a light at the end of the tunnel with this bill. It is a sham, as is the Legislation Committee. It is not part of the proper democratic process in this chamber. As I said, it is made up of members of the three major parties and excludes the Independent member, myself. It is in effect an attempt — and it has done very well on this Disability Bill — to shut down the democratic processes, including the scrutiny by this house of a disgraceful piece of proposed legislation that will do nothing to recognise, fund, resource and support carer families in this state.

It was a farcical process, as Mr Max Jackson called it. He said that:

> The farcical process called the 'Legislative Committee' highlighted the Labor government's continued abuse of the democratic process. For the minister responsible — Ms Garbutt — not to attend and then for the government members on the committee — —

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

Mr VINEY (Chelsea) — I was not going to take up the right of reply but I feel that I need to do so. Let us make a couple of things about this absolutely clear: the Legislation Committee was created by this house as an additional process that will assist this Parliament to

consider legislation in detail. The Legislation Committee is structured in such a way that its membership is proportionate to the representation in this house. What is more, the Legislation Committee is set up so that any member of this house may attend and fully participate in the debate: ask questions and contribute to the debate, clause by clause.

Ms Hadden interjected.

The PRESIDENT — Order! Ms Hadden has had her opportunity!

Mr VINEY — If a member of this house chooses not to bother to come to a committee hearing on legislation that they apparently feel passionate about, that is for them to explain to their constituents. But they should not come in here and criticise other members of this house — as Ms Hadden did with regard to Ms Hirsh — on their commitment to and passion for issues.

As I have said before in this debate, and I think in the committee hearing, no-one denies the passion of some members of this house about particular issues, but the fact that they are passionate about something does not diminish the passion of others. Other members of this house took the time to participate in the debate and in the hearings of the Legislation Committee. They made an effort and contributed. It is absolutely galling that a member who did not bother to come to the hearings would come in here and cast aspersions on and slurs at the commitment of another member of this house who spent 9 hours in the committee stage considering this bill.

What we have done is establish an addition to the process of this legislation and I commend the process to the house.

House divided on motion:

Ayes, 22

Argondizzo, Ms	Madden, Mr
Broad, Ms	Mikakos, Ms
Buckingham, Mrs	Mitchell, Mr
Carbines, Ms	Pullen, Mr
Darveniza, Ms (*Teller*)	Romanes, Ms
Eren, Mr	Scheffer, Mr
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr (*Teller*)	Viney, Mr

Noes, 18

Atkinson, Mr	Drum, Mr
Baxter, Mr	Forwood, Mr
Bishop, Mr	Hadden, Ms
Bowden, Mr (*Teller*)	Hall, Mr
Brideson, Mr	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr (*Teller*)
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Vogels, Mr

Motion agreed to.

Report adopted.

The PRESIDENT — Order! As the motion to adopt the report has been agreed to, the amendments recommended by the Legislation Committee are deemed to have been made to the bill pursuant to sessional order 58(3).

Committed.

Committee

Clauses 1 to 36 agreed to.

Clause 37

Hon. D. K. DRUM (North Western) — Clause 37 deals mainly with the state disability plan. I refer to the conversations in the Legislation Committee, which are recorded at page 84 of the report. I would like the minister to answer a simple question: when does the minister envisage that the state disability plan will conclude in 2012 — mid-year or at the end of the calendar year?

Mr GAVIN JENNINGS (Minister for Aged Care) — In the process of making myself extremely unpopular by spending too much time — 9 hours and 25 minutes — in the Legislation Committee and not satisfying the expectations of some members of the committee and some members of the chamber in terms of answering questions, I have replicated the problem by allowing further opportunities. I have made myself very unpopular by not seeking to move the third reading immediately. I want to put it on the record that I continue to bend over backwards to provide members of this chamber and members of our community with an explanation. In so doing I have made myself extremely unpopular with people by allowing this conversation, as Mr Drum has described it, to continue.

Having said that as the preamble to my contribution, the issue that Mr Drum has raised is a matter that we discussed. The issue that Mr Drum has now drawn to the attention of the committee of the whole is the matter that is covered by clause 37 of the bill, which is the way in which the government, through the minister, will renew the state disability plan. As the provision in clause 37 says, clearly it is anticipated that there will be

a new plan prepared, to be implemented as of 1 January 2013. As I would understand it, it is clearly implied that during the course of 2012, if not earlier, a new state disability plan would be prepared, to enable it to be implemented as of 1 January 2013. That in practice is what will happen.

During the life of the current 10-year plan — in its last year of operation — a new plan will be prepared. In terms of what might be implied by Mr Drum's question, that there will be a gap between the provisions of one plan and the other, that is not envisaged by the government. We envisage that there will be a continuity of effort of the various measures — the programs, review mechanisms and all of the elements that currently exist within the plan — which will be augmented by this new piece of legislation when it comes into effect. They will have an ongoing life; they will not conclude. Specific programs may come and go with specific funding allocations, but in its overall scope the state disability plan will continue in its life until it is replaced by a new one.

Hon. D. K. DRUM (North Western) — During the Legislation Committee process the minister was of the opinion that the current plan would conclude on 30 June 2012. So there is no confusion at all that the existing plan will carry on until the end of the calendar year of 2012, the funding models, the programs and the overall structure in place will carry on without any breaks in the program. Some programs may cease naturally, but there will be no six-month period when the state is without a plan such as the one we have at the moment.

Mr GAVIN JENNINGS (Minister for Aged Care) — I acknowledge the understanding that Mr Drum described, including a caveat to say that there may be natural conclusions to certain programs which may be funded for a specific period. Subject to that caveat the net effect of transference of one state plan to the other will be as he described it.

Hon. D. K. DRUM (North Western) — Also on this clause and dealing with the state plan, about halfway down page 85 of the transcript the minister is recorded as speaking about the needs register in answer to a question I put to him about the fact that the state plan does not meet the demand in the community. I talked about what is met and what is unmet through the state disability plan. The minister spoke about the needs register being published twice a year. He said there are measures for dealing with issues and that the government is not shirking its obligations and will make known the details of the reports. He said that while some of the things are painful for the government, the evidence is in the documentation, and the department and the minister recognise their obligations to make that material available.

But the fact is that the needs register goes only to three very small areas of the disability sector. Those areas include shared support accommodation, which covers 5 per cent of people, those people who are lucky enough to get Home First, and those who are included in day programs. There is a whole raft of other needs that are not on the needs register. Some of them include therapy support; early childhood intervention; behaviour specialists; intervention counselling for individuals, families and groups; case management; recreation and holiday programs; aids and equipment; independent living training; respite; community options; futures for young adults; recreation outreach; family options; and flexible support packages. There is a long list of community needs which are not covered by the needs register talked about by the minister. Does the minister see dramatic shortcomings in what the plan achieves? Do we need to be more open and accountable in posting some of the areas we are not meeting?

Mr GAVIN JENNINGS (Minister for Aged Care) — Mr Drum's intention to tease out further commitments or obligations in relation to assessing needs is acknowledged in the bill. During Mr Drum's question I took the opportunity to retrace my steps through the provisions of the bill and remind Mr Drum of the obligations and the role and function of the secretary as outlined in clause 8, which states that the role of the secretary is to:

> plan, develop, provide and fund or purchase comprehensive services, programs and initiatives for persons with a disability …

I encourage Mr Drum to look at clause 8(2), which outlines the functions of the secretary. There are various obligations in relation to developing programs and policies, specifically under clause 8(2)(d), which states that the secretary is responsible:

> to develop and publish criteria to enable priority of access to disability services to be determined in a fair manner …

And under (f):

> to monitor, evaluate and review disability services;

In terms of the obligations of the secretary to undertake those functions appropriately, material will be published which makes assessments about both the effectiveness of services and their reach in terms of the appropriate group of people who may receive them, and to publish under 8(2)(d) the criteria that would enable:

> … priority of access to disability services to be determined in a fair manner;

I think the cumulative effect of those responsibilities, as outlined in the bill, will provide some degree of rigour and broaden the concept of what might be the state of the needs register, as is currently provided for. It will be augmented when those responsibilities are enacted by the secretary.

Ms HADDEN (Ballarat) — Could the minister outline how the needs of carer families will be met when the state disability plan is renewed in 2012, given the objectives and principles of the bill have been amended to acknowledge the important role which families play and acknowledge that important role in assisting family members? The amendment provides, where possible, for the strengthening and building of capacity for families who are supporting persons with a disability. Given all of that, what will be the process to include the needs and concerns of carer families, and how will they be identified? I am looking at clause 37(4), which states that the state disability plan must:

> (a) identify the needs of persons with a disability;
>
> (b) establish goals and priorities for the support of persons with a disability —

et cetera. My question is: how will the new state disability plan take into account, and how will it identify, the needs and concerns of carer families. given that the term 'carer family' is not defined in the bill nor included in it?

Mr GAVIN JENNINGS (Minister for Aged Care) — The reason I am furrowing my brow at this time — which Hansard had probably not recorded until I drew attention to it — is that we spent a long time discussing these issues in the Legislation Committee. My estimation would be nearly 9½ hours, a substantial amount of which time was spent discussing the importance of those who provide for the needs of people with disabilities through their caring relationship. That issue was contested philosophically and in terms of the implementation of the bill, including how you address the obligations, rights and opportunities for people with disabilities and take account of the stresses and strains and overwhelming commitment that families — carers — provide each and every day for people in our community with disabilities.

We have spent a lot of time and a lot of effort in the Legislation Committee trying to get an understanding of the way in which the programs, powers and responsibilities that are outlined not only in the state disability plan but in the bill itself, and the way the department is structured, address this question on the relationships that are undertaken each and every day. I am a bit reluctant, given that we have 100 pages of transcript of the Legislation Committee, to retrace our steps in relation to clause 37.

Hon. D. K. DRUM (North Western) — Back to the area of a needs register, I would like the minister, if he is able, to put himself on record as saying there will in fact be a far greater, improved and accurate register of needs made available, possibly on the Department of Human Services web site, where there will be a comprehensive list of the respective services that are needed in the entire disability sector.

At the moment people like Mr Forwood and me have to come to Parliament and we have to go through questions on notice, and sometimes we have to wait two or three months to receive some of that information; and some of that information we receive from the department, from the minister, is at odds with the data on the web site in that small and narrow area of numbers and figures.

I suppose, quite simply — without an amendment to talk through — we are looking for regional breakdowns, we are looking for age breakdowns of people waiting for services and we are looking for career details. We are looking for a totally comprehensive needs register of the entire range of services that are not quite being met by the state disability plan.

Mr GAVIN JENNINGS (Minister for Aged Care) — I think in terms of the continuity of the recording of this committee, we have lost that continuity a bit because of Ms Hadden's question, but let me go back to my answer to Mr Drum's previous question. In talking about the way in which needs would be assessed and reported on in the future, my answer related to the obligations that are clearly spelt out within the bill: the obligations of the secretary to monitor the effectiveness of services to actually make sure appropriate criteria are set. My understanding of what that means in practice is that there is an obligation to try to correlate the demand and supply questions in terms of the demands of people's needs, and match them in terms of priority setting and evaluation programs. So it is totally acknowledged that there is an obligation within the bill — and it will be in the act — for the secretary to undertake that function.

As to being more specific about that, I do not have the operational responsibility for the way that will be implemented and the scope of issues. Obviously there

are operational matters. The way in which that data would be collated over time, I think, is an appropriate issue for us to be respectful of and to pursue with vigour. So I accept Mr Drum's intention in relation to this, but I cannot go into the operational matters beyond what I have actually described.

Ms HADDEN (Ballarat) — Making the proposed amendments to the objectives and principles of the act to acknowledge the important role of families is not the same as committing in this bill to include the right of carer families to make decisions regarding the disabled family member. So I am asking the minister to explain to the house how a state disability plan will identify the needs of the carer families with respect to the disabled person being cared for within the family unit.

Mr GAVIN JENNINGS (Minister for Aged Care) — We are not going to do too well here because in fact my substantive answer to Ms Hadden's last question, which was the same question as the one she has just asked me, was that in fact in the heart of the 100 pages of transcript are many references to this concept of the way the government envisages the continuity of support that is provided through the notion of the caring relationship and our obligations to meet the needs of people with disabilities in the first instance and then to be responsive to and respectful of the caring roles that are played by family and other carers. It is embedded in those 100 pages time and again, and in fact it is not something that will be identified as separate from the caring relationship.

Clause agreed to; clauses 38 to 48 agreed to.

Clause 49

Hon. D. K. DRUM (North Western) — On clause 49 in the Legislation Committee we entered into a debate on the words 'must', 'may' and 'should', and we had a difference of opinion on what is meant by them. Again, in my opinion this issue is still left unresolved. As seen in the report at pages 90 and 91, pertaining to clause 49, and specifically 49(2), the bill provides:

> (1) A person with a disability or a person on behalf of a person with a disability may request disability services from a disability service provider.

It then goes on to state:

> (2) If a disability service provider receives a request under sub-section (1), the disability service provider may —

And it lists a whole range of things that that service provider may do.

The word 'must' has been very clearly taken out of the Disability Services Act and the Intellectually Disabled Persons' Services Act, where the word 'must' is very clear: the act is very insistent that a service provider shall do this, it must do this and it must do that. We have replaced the word 'must' in this new legislation with the word 'may'. My contention to the minister is that, yes, the provider may do something, and they may not do something, but they may also do nothing. The word 'may' carries no imperative that something has to happen. 'Must' has been deliberately taken out of the legislation and the word 'may' has been put in its place, whereas the word 'must' carries all of those imperatives that something must happen.

Again, the minister has said there is no possibility for inaction, but the way the bill has been written, with the deliberate taking out of the word 'must' and the inclusion of the word 'may', certainly has opened this option up and we need clarification.

Mr VINEY (Chelsea) — I just want to be very brief in saying that in 9 hours of deliberations by the Legislation Committee we actually spent a considerable amount of time on this matter of the question of 'may' and 'must', and I do think it is disappointing that there is a reprosecution of this issue at this stage when we have had a comprehensive discussion on the matter in the Legislation Committee. I know Mr Forwood shares the view, because he and I have discussed it, that really this process now is verging on the reprosecution of issues that were dealt with comprehensively in the Legislation Committee, and I think it is diminishing the spirit of what was agreed in establishing the Legislation Committee in the first place.

Mr GAVIN JENNINGS (Minister for Aged Care) — As a matter of principle I agree with Mr Viney, but I will answer the question because Mr Drum and I have a fundamentally different understanding of how the word 'may' is used in this context. This came from a proposition where Mr Drum moved an amendment to replace the word 'may' with the word 'must'. As a matter of English, I would have opposed that. If he had replaced the word 'may' with the words 'must do either of the following', I might have agreed with him. My understanding of the word 'may' is that it means just that. My argument to Mr Drum — I have put it on the public record once and I am putting it on the public record again — is that the word 'must' can only apply to one option. If you are prescribing that somebody must to do something, then they must do one thing. It is not an optional extra; they must do one thing.

Hon. D. K. Drum — Or they must do something else.

Mr GAVIN JENNINGS — That is the concept I am conveying to Mr Drum. The word 'must' and then leaving two options without the qualifier of saying that you have to do one of them is insufficient. What I put on the public record once and I am putting on the public record again is that the government has drafted this legislation to allow for two actions, but two actions only, through the word 'may'. That is our intention, and that is what I am committing to on the public record. Regardless of whether Mr Drum likes the way we have done it or not, I am committing to Mr Drum on the public record that 'may' in this clause allows for two options, but two options only. It does not allow for the option of doing nothing, which is what Mr Drum is concerned about. It does not allow for that.

Hon. D. K. DRUM (North Western) — I am happy with that answer. Clause 5(3) says 'disability service should'. This type of language replaces the word 'must'. Is it the same philosophy? Is the minister going to give an undertaking that there is a watering down of the language where previous legislation has insisted that disability services must do a range of things. In paragraphs (a) to (n) of clause 5(3) it says that disability services must do various things. Under this legislation we are saying disability services 'should' do various things. Will the minister give the same categorical insistence that it means the same thing: they cannot not carry out the actions?

Mr GAVIN JENNINGS (Minister for Aged Care) — I have detected one or two wry smiles in the committee about this question, because we are specifically on clause 49. I have responded specifically and will give a specific response to the proposition that is put. Depending upon the circumstances, throughout the bill my answer may be a little different. I will give a specific answer when I can, but I am unable to give an answer to a generic question such as that when it is not referring to a specific clause.

Clause agreed to.

Clause 50

Hon. D. K. DRUM (North Western) — Clause 50 refers to a request to the secretary for decision as to disability. What has to be looked at is that clause 50 effectively relates to eligibility. Would the minister agree with that? Before we move on, just to go piece by piece, would the minister agree that a request to the secretary for a decision as to disability is in fact a request to get a decision on the eligibility of one's disability?

Mr GAVIN JENNINGS (Minister for Aged Care) — The clause has a number of mechanisms that relate to the process by which the secretary would make a decision about whether somebody has a disability and then the way in which that decision would be undertaken and the way in which that decision could be appealed if it were seen to be an unfavourable one. It provides an obligation and says there is an accountability mechanism. That is what it does. Mr Drum's suggestion that that mechanism may only be in place because it serves the purpose to determine whether somebody is eligible or not may be the real application of that clause, but the clause itself just lays out that process.

Hon. D. K. DRUM (North Western) — I thank the minister. Where I am coming from is that clause 50(6)(b) effectively allows for a person to apply to the Victorian Civil and Administrative Tribunal for a review of a decision. Obviously a request has been made to the secretary for a decision as to their disability, and that decision has gone against them. Under clause 50(6)(b) they can go to VCAT to have that decision reviewed. But that is only an opportunity to question their eligibility, not their access. We are talking now about division 2. Am I accurate in saying that there is no pathway to VCAT to review a decision about their lack of access, even though they have proven eligibility?

Mr GAVIN JENNINGS (Minister for Aged Care) — Certainly not under clause 50.

Hon. D. K. DRUM (North Western) — So you are saying that in clause 50, even though division 2 is under the broad context of accessing disability services, the option they have there to go to VCAT to review the decision which has gone against them regarding access and the provision of services, is not open to them?

Mr GAVIN JENNINGS (Minister for Aged Care) — That is right. It is not under clause 50 or in fact any other clause in the bill.

Hon. D. K. DRUM (North Western) — Is that vehicle open to people who have been proven to be eligible for a service and are not able to access that service? Is there a vehicle by which they can take that decision to VCAT?

Mr GAVIN JENNINGS (Minister for Aged Care) — No.

Hon. D. K. DRUM (North Western) — Is there any other vehicle available to people who have been denied access to services? Can they take that situation anywhere to have that denial of services overturned?

Mr GAVIN JENNINGS (Minister for Aged Care) — I wanted to take some advice because the answer to the question skips around various provisions in the bill and aspects not covered by clause 50. I will run through the process. In the first instance a person with a disability on a waiting list for service would have a mechanism through the prism of a regional priority review panel to make sure that an assessment of the priority of their need was being addressed appropriately. If they were dissatisfied because they believed a regional panel, which would be made up of departmental representatives, various stakeholders and providers within the regional catchment, had treated them unfairly administratively, they could, depending on the type of concern they had, make an appeal to either the Ombudsman in relation to an administrative matter or to the disability services commissioner in relation to priorities not being established in accordance with the clear criteria. If people believed that was the case, they could take it to the disability services commissioner, who would have powers created under the bill.

Hon. D. K. DRUM (North Western) — The minister is expecting people with disabilities which are sometimes severe and profound to make their own case for services and find their way to a regional review panel or maybe go to the Ombudsman to have their case heard. Surely we need to simplify the system. We are talking about people with a whole range of disabilities. There will be both people with low needs and people with high needs. The system is not going to discriminate and some will get left out. A wide variety of people will miss out on the services they deserve in the basic course of everyday life. It would seem to be hard enough for an everyday lawyer to work his way through the convoluted appeal system the minister has just described, let alone someone with a disability or their family. We get back to the situation where families do not have any legal right to make representations for adults within their family.

Mr GAVIN JENNINGS (Minister for Aged Care) — I understand Mr Drum is concerned about the degree of complexity and how difficult it may be for people to navigate service systems and find their way through to get legal recourse. I do not come from a position that does not recognise that as a concern. To help the committee to understand the way in which it is conceptualised within the bill and the legal framework, I will outline the two streams. The appeal to the Victorian Civil and Administrative Tribunal (VCAT) relates to whether somebody, as Mr Drum quite rightly said, has been assessed as being eligible for a service in the first instance. Does that effectively mean you are then eligible within the scheme or not? VCAT's responsibility relates to that decision: whether you are in the scheme or not. Once you are assessed as being eligible within the scheme the review mechanism relates to the allocation of service provision. Assessing it on regional priorities is relevant because it is an operational matter as well as an appeal mechanism. In day-to-day practice it tries to match the needs of people and the service provision allocation within that region. It is a very active interface between the provision of service and the review of that service. That is within the scheme.

Then there are the remedies I have described: appeals to the Ombudsman and the disability services commissioner. The assessments of both lie within the prism of asking: is the scheme being administered appropriately? It is an independent review, but it is a review of how the scheme works. That is the reason the government has adopted a different model. I can see from a potential user's perspective that having one place to go might have been more convenient in terms of understanding it, but I have tried to explain to Mr Drum and members of our community why there is a separation of those responsibilities in the bill.

Hon. D. K. DRUM (North Western) — I understand from the way the minister has explained it that we can make all the representations and go to all the people we like, but the role of Ombudsman, the disability services commissioner or the review panel in assessing a complaint is simply to make sure that the system is being administered correctly. If they look at the sector and its finances, they can at least say it is being run without anything being amiss, but we still get back to the situation where families have to get their heads around the fact that they have no right of access to services. If the services are not available, effectively they will have to wear that.

While we are talking about clause 50 and the Victorian Civil and Administrative Tribunal — we touched on this slightly in the Legislation Committee — does the automatic right of parents and other family members to represent adult children at VCAT not apply? Are we missing something in this regard?

Mr GAVIN JENNINGS (Minister for Aged Care) — I was going back because I want to make sure that legally I answer the question correctly. If you look through how the bill is structured, you see that the terms of the appeal mechanisms under clause 50 do

actually apply to people who act on behalf of the person who has a disability. I say that because clause 50(1) says:

> (1) A person to whom section 49(4)(b) applies —

and that can include an advocate —

> may request the Secretary to decide whether or not the person has a disability.

So clause 50(1) outlines who is eligible to pursue that process, which culminates in the latter part of clause 50, which is the appeal to the Victorian Civil and Administrative Tribunal (VCAT). That applies to a person who is acting as an advocate. I say that with confidence, as clause 49(1) says:

> A person with a disability or a person on behalf of a person with a disability may request disability services from a disability service provider.

So an advocate is roped in under clause 49(1). That reference to an advocate is repeated in 49(4)(b), which is the hook back to the provision of clause 50(1).

Hon. D. K. DRUM (North Western) — I ask the minister: would it not have been simpler and better and more respectful of the families if families had been given automatic right of representation of their children and adult children at these hearings rather than having to firstly work out whether they have a legal right to represent their children, and once they have had that fight, make the representation on behalf of their children and/or adult children?

Mr GAVIN JENNINGS (Minister for Aged Care) — I am assuming that I convinced Mr Drum a minute ago that what I said was correct. If that is the case then he and I as bush lawyers were convinced in about a minute. A passionate family member who wants to pursue advocacy on behalf of a loved one would presumably be able to find that out relatively quickly. Whilst. Like Mr Drum, I may be one of the community that likes everything in legislation as simple and straightforward as possible — I might agree with him in that regard — very often that is not the way legislation is written.

Ms HADDEN (Ballarat) — On clause 50, and in particular the sections on application for review — which laypeople might know to be an appeal process to VCAT — is it the government's intention to put extra resources into VCAT? Also, does the government intend to establish a separate list within VCAT, as is done with the planning and environment list? Is the government proposing to set up a specialist disability list within VCAT in view of the bill's appeal provisions?

Mr GAVIN JENNINGS (Minister for Aged Care) — There are a couple of things to relation to my answer. The first one relates to the separation of powers issue. Primarily this is the responsibility of VCAT. It will make a determination about resource allocation and whether there is a separate list, although from the advice that the officers have just provided to me and their advice from VCAT, I believe it is not disposed to have a separate list. But VCAT would be making that decision about the appropriate way in which its court would be structured and the resource allocation provided to it.

Secondly, in relation to the question of demand in terms of additional pressure on VCAT, the mechanism currently within the scope of the pre-existing act has been used on average only about 20 times during the course of a year, so it is not anticipated that there will be a high volume of cases going through VCAT involving exercising the rights outlined in these provisions.

Clause agreed to.

Clause 51

Hon. D. K. DRUM (North Western) — Clause 50(1) was a clause of certain contention. Due to the fact that there is only a limited amount of money to run the total disability sector — and we acknowledge that the government has increased spending dramatically in this sector, but not as dramatically as some of us might like — I will use this clause to talk about a funding arrangement.

As is reported at page 85 of the record of the proceedings of the Legislation Committee on the Disability Bill, when I put the question to the minister as to whether or not the government is working towards a population-based funding benchmark to meet the needs in the community, the minister replied, after advice from Mr Rogers:

> … that there is an equity formula that applies in terms of the allocation of money which incorporates the known number of people with disabilities —

in a given area.

I want to talk about this in the committee of the whole, because we are not talking about the same thing. The question I put to the minister was as follows. With all the data that is available, the figures, we know the problem that exists in the community. I asked whether the government is working towards a system over a

period of years where we will look at the needs, look at the costs of meeting those needs and then work to put in place the necessary money to provide the services to meet those needs? It is a population-based benchmark for a funding model versus what we currently have — the allocation of funding based on historical levels which gets aggregated out each year for other people to increase. But effectively there is no correlation between the money the government makes available each year in its budget to look after the disability sector and the needs that exist in the community. Quite clearly I asked the minister if the government has plans over a period of time to actually go in search of a population-based benchmark for a funding model.

Mr GAVIN JENNINGS (Minister for Aged Care) — Some of the things Mr Drum and I are talking about are exactly the same and some things might be slightly different. I will try to tease out what they are. Effectively, as Mr Drum himself has just described, there are historical funding models that have been in place and certain allocation of funds that exist. The decision has been made not to recast that historical expenditure at the expense of withdrawing funds from certain programs and regions in the name of addressing equity questions and the growth in new allocation and in trying to meet a population-based equity model. The area where we are talking the same language is that the ultimate aim is to account for the growth in the program and to have an equity-based, population-based model. There are additional factors within that model beyond the pure mathematical numbers to account for service provision, such as geography and a lot of other social and environmental factors.

Fundamentally over time the system is moving towards an equity-based model in the way in which growth money is allocated. The challenge for all governments — Mr Drum, with an air of graciousness, has actually acknowledged that there has been significant investment by our government in relation to growing disability program — is to try to meet those needs and expectations in an appropriate fashion by putting in the appropriate growth into those programs. That is a challenge for all of us. I may say our track record is comparatively extremely good in relation to trying to bridge the gap. It is a continuing challenge for our government, or any government, to try to meet. Ultimately the effect of those programs will be to address access to services on an equitable basis. I think there is a mindset that satisfies at least the concept Mr Drum is putting to us that there should be an equitable population-based access to service. Our argument might be about the rate of growth that actually achieves that effect.

Hon. D. K. DRUM (North Western) — It is close, I acknowledge that, but the minister is still on a different road. If we can draw a comparison to the aged care sector, which is effectively funded between the state and federal governments. If an aged person is getting to the stage where they need accommodation because the family members who look after them can no longer do it or they can no longer look after themselves, we are able to find a residence for those members of our aged population. We understand how many aged persons who need care are in the community and the various levels of care that certain percentages of that population need. We allocate the funding respectively to meet those needs so that we do not have elderly people who are desperately in need of access to an aged care facility falling over while living at home because they are not able to get into one. We make the money available because we understand that the option of not doing that is unthinkable. We have taken that step to a population-based benchmark funding model in the aged care sector.

Does the government have the will this time to put a similar model of funding in place? It is not about taking the bucket of money we have at the minute and sharing that equitably. I understand that is a program the minister is possibly leading to. Some definite work needs to be done in the regions, because it has been shown by the Auditor-General that there is very much an inequitable slice-up of the money throughout the various regions. On that particular issue, if we keep going on today's trends, according to the Auditor-General it might take 60 years before we reach equity across the regions. I am not talking about that. I am just asking the question: are we looking at this overall so we actually end up working towards a model where we will have 100 per cent capture of the need?

Mr GAVIN JENNINGS (Minister for Aged Care) — You would hope so, but going back to pretty much how we started in the Legislation Committee and the way in which I described the way the bill is constructed and the programs that are attached to it and the state disability plan, the government does not want to be disingenuous in its commitment to people by creating an expectation that is out of kilter with what it can deliver. That is the programmatic tightrope we are walking in trying to push roles, responsibilities, programs and opportunities through this bill. The reality is that we are dealing with large needs that will continue to grow. The simple course would have been just to answer yes and sit down, but the real world is a very complicated thing. Going to the example Mr Drum described in relation to aged care, I can assure him that even though there is a degree of collaboration between the state and commonwealth governments in aged care,

we have different views about what the appropriate benchmarks should be. Overall we get on and try to achieve a sensible outcome. We try to see how the program can be retailored to meet that need.

I certainly know that I and the people who work in my department have tried assiduously to find a more equitable basis for the allocation of home and community care funding. We try to do it at the fastest rate possible that will not undermine the allocation and will not take money from regions. We could reach equity very quickly, within three years probably, on the basis of geographic relocation. But we have chosen not to do that because for some regions — for instance, the region Mr Drum represents — we have made the assessment that their historically higher levels of funding per capita should be maintained because of the geography question and the isolation factor. Geography, isolation and the stretch of service provision will compromise the ability to deal with this issue on a per capita basis.

So in trying to marry up these needs, we have to have a number of factors in place, which means that with the perfect model on a per capita equity basis we cannot get there as quickly as we might otherwise do if we took out all those other factors.

Clause agreed to; clauses 52 to 250 agreed to.

Reported to house without further amendment.

Report adopted.

Third reading

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the bill be now read a third time.

I thank all members for their patience and their consideration of this matter. Even in the imperfect world in which we operated in the Legislation Committee, I think we have probably learnt some lessons about the way it may be done in the future.

House divided on motion:

Ayes, 23

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr (*Teller*)
Carbines, Ms	Pullen, Mr (*Teller*)
Darveniza, Ms	Romanes, Ms
Eren, Mr	Scheffer, Mr
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr
Madden, Mr	

Noes, 18

Atkinson, Mr (*Teller*)	Drum, Mr (*Teller*)
Baxter, Mr	Forwood, Mr
Bishop, Mr	Hadden, Ms
Bowden, Mr	Hall, Mr
Brideson, Mr	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Vogels, Mr

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

EDUCATION AND TRAINING REFORM BILL

Legislation Committee

Mr VINEY (Chelsea) — I move:

That the Council adopt the report of the Legislation Committee on the Education and Training Reform Bill.

In doing so I want to express my appreciation to members of the Legislation Committee for their support in my role as chair in this process. As members are aware, the house established the Legislation Committee as a trial process, and it had referred to it from this house two pieces of legislation — the one we have just dealt with, being the Disability Bill, and this one, the Education and Training Reform Bill.

We had a public hearing for one afternoon, spending 3 hours going through the bill in some detail. There are a couple of interesting aspects to the way the Legislation Committee dealt with this piece of legislation, which was different from the way it dealt with the first one in the spirit of it being a trial. We were trying to exercise some different mechanisms for dealing with legislation in detail.

One of the changes worth noting was that the committee exercised the power given to it by this house for the substitution of committee members with the substituted members having full voting rights. We had different committee members representing the positions of the Liberal Party and The Nationals on the Disability Bill. That enabled people who had a special interest in

the legislation to be substituted in the consideration in detail of the bill.

The second important difference between the way the committee dealt with this legislation and the way it dealt with the Disability Bill was that the Honourable Lynne Kosky, the Minister for Education and Training from another place, attended the hearing as a minister from the other house. That was done with the authority of the lower house, which gave leave to ministers for the duration of the trial to attend hearings of the Legislation Committee. On behalf of all the members of the committee — I am sure — I particularly thank Minister Kosky for her preparedness to get into the spirit of the trial of the Legislation Committee process, attend the committee and give her time to consideration of this very important and detailed legislation.

It was interesting for both members of the committee and the minister to experience a process that is different from what is done in either house. If we go into the full system of using the Legislation Committee, then I think we will need to work with members, including ministers, of the other house. If they wish to appear, we will provide some opportunities to explain the processes by which the Legislative Council deals with legislation. In some areas it may be a little different to what they are used to in the Legislative Assembly.

I would also like to thank the minister's advisers and departmental representatives who gave their time to the committee. They answered on a number of occasions on behalf of the minister about some of the complex and detailed aspects of the legislation. They gave the committee great assistance in that regard. The minister undertook to respond to a few matters raised by the committee and she has written one letter to me which I have passed on to Mr Hall. She has also written one letter directly to Mr Hall about three issues and gave explanations for them. From discussions with Mr Hall I understand he is going to seek leave to incorporate those responses in *Hansard*. I think that would be beneficial for understanding the questions and answers that were dealt with during the committee process. I particularly want to thank all the members of the committee. It was a very good process and another example of how this house is on the path to becoming a genuine house of review.

Hon. ANDREW BRIDESON (Waverley) — I rise to talk about the adoption of the report tabled previously by the earlier speaker. I would like to make some comments on the process that was followed but before doing that I would really like to thank the minister and her advisers, Michael Kane and the chief legal officer, John Livi, for attending. I think it was very important that the minister who is responsible for this bill attended that committee. When the report on this trial process is completed, I think it ought to be a recommendation that ministers be encouraged to attend, because we were obviously able to ask questions directly of the minister and/or her advisers and gain responses.

I probably took a different approach to the committee. I did not put forward the amendments on behalf of my party. I did not have any preconceived plan, and I do not know why I did not do that, because the intention of the committee is to actually put your amendments to the committee rather than putting them forward in this chamber. But that does not then stop members from putting forward further amendments in this chamber.

I think it was a very good process, because it enabled us to get responses to questions asked by either myself or Mr Hall — and in one instance Ms Mikakos. Those responses from the minister actually satisfied not only me but my party, because I took those responses and put a submission to my party to reconsider its position on the bill. Initially — and this is on the record — the Liberal Party was going to oppose this piece of legislation. In response to the answers we got from the minister and a submission that I put to my shadow cabinet, the position on the bill was reversed. We are now not opposing the bill.

It is important to note that there was a time lapse between the committee meeting and the Parliament sitting today. There was a period when we could have our internal party discussions. Under the old system we would not have been able to have changed our position — probably full stop — because there was no time available to do it. As it worked out, the fact that I did not prosecute the amendments has probably given us another way of looking at how to use the committee. I think the process is a good process. I heard what Ms Hadden said, and I do not necessarily agree with everything she said, because any member of this Council can attend the committee meeting — and some other members of the chamber who were not members of the committee did attend. Such members can have some input. They may not be able to put forward amendments, but they have the right to come back into this chamber — as we have seen today — and put forward amendments. I think the success of this process depends a lot on the goodwill of all parties and members here.

To date we have demonstrated goodwill. I would like to see the process refined, although it is a trial process. I think it will certainly add a lot to the review of legislation within this chamber. The only caution I give

is that we have to be careful we do not remove the process of Parliament out of the chamber. So far, we have been able to prevent that.

I would like to thank all members of the committee. The committee was a comfortable environment to prosecute the amendments in. I think everybody felt very comfortable. That was in part due to be flexible leadership shown by the chair.

I put on the record my congratulations to the chair of the committee. He did allow flexibility of discussion. He allowed communication to occur directly with the ministers and their advisers without everything always having to go through the chair — although there were occasions when he had to draw us back. I commend the process, which is well worth developing further. I look forward to perhaps participating in another Legislation Committee hearing.

As a result of the committee process, the Liberal Party will not be proceeding with some of its proposed amendments. We will now be proceeding with others, which members will hear about after the adoption of the report.

Hon. P. R. HALL (Gippsland) — The Nationals will have to vote against the motion to adopt the report of the Legislation Committee. As members of the committee and those who have read the report would know, I put forward a number of amendments which I hoped to have the committee adopt and each of those was rejected by the committee. Therefore The Nationals do not accept the report and will be voting against the motion to adopt it.

However, some positives have come out of the committee's deliberations. They have been mentioned by the chair of the committee, Mr Viney — who I agree with Mr Brideson did a good job of chairing the committee hearings — and Mr Brideson. I mention some overall observations and some specific issues following the committee's hearings.

First, while I was disappointed that my proposed amendments relating to home-education were all rejected, some issues came out that probably supported the stance that The Nationals took in putting forward those amendments. We objected to a registration and regulation regime being imposed upon home-educators in this state. When I asked the Minister for Education and Training how many instances caused the government concern about home-education, the answer I got, which appears on page 9 of the Hansard transcript, was that since 1990 the department has had come to its attention four cases about which it had concerns. With four cases in 16 years it seems to me that there is precious little need to put in place a registration and regulation regime for home-education. I would have thought that there were far more pressing issues in education toward which resources should have been directed.

Another point I make is about the proposed regulations for minimum standards in schools and home-education. I was disappointed that the minister would not give a commitment that those regulations would be subject to a regulatory impact statement (RIS) process. I specifically asked for that, as appears on page 17 of the Hansard transcript, and at page 18 the transcript shows that the minister is not prepared to require that. That is a disappointment because these things will be very much controlled by the regulations. They will not necessarily be subject to an RIS nor, as was made clear in the process, will they automatically come back to the Parliament for disallowance by either house. I was extremely disappointed about that aspect but nevertheless there was a clarification and we know where we stand.

I am grateful to the minister for responding to some specific issues I raised. First, I raised questions with the minister about the registration of teachers with the Victorian Institute of Teaching, particularly those who are not currently employed in a school. I asked how they would be treated by VIT and whether they would still be eligible for ongoing registration. The minister has replied to the chair of the committee, Mr Matt Viney, in a lengthy two-page letter with no date which has come to light in just the past couple of days. I am pleased with and prepared to accept the response the minister has given and I thank her for it. Just an hour and a half ago in the chamber I received another letter about a specific amendment to clause 2.1.10 which I withdrew during the committee stage. The minister gave me a commitment that she would consider it in the interim, between the committee stage and the debate that we are having today in the house. While I would like to have my amendment made to the legislation, I accept that the government will not agree to it for the reasons outlined by the minister in the three-page reply on the issue. Therefore I will not pursue that amendment today. However, so that all members can have the benefit of the responses to those two issues, I seek to have both the letters to which I have referred incorporated into *Hansard*. I have spoken to the other parties and to Hansard and have been told that technically it is possible for that to be done.

Leave granted; see letters pages 1758 and 1760.

Hon. P. R. HALL — The committee process has been helpful in clarifying some of the issues between the committee's deliberations and the final deliberations in the chamber today. As I said, members of The Nationals are still bitterly disappointed that our amendments relating to home-education were rejected by the committee and therefore the Parliament. However, this is a big bill covering a range of measures, most of which are positive. We are just disappointed that those amendments were not adopted.

Sitting suspended 1.00 p.m. until 2.03 p.m.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Government: financial reporting

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for Finance. Section 46 of the Financial Management Act allows departments and public bodies to table their annual reports as late as the first parliamentary sitting day after the end of October. Given that Parliament is not scheduled to sit beyond 6 October this year, will the minister assure the house that all departments and public bodies will be required to table their annual reports before Parliament rises for the election?

Mr LENDERS (Minister for Finance) — I thank Mr Rich-Phillips for his question and, I guess, for the new-found interest of those opposite in transparency and reporting to Parliament. This government got elected on a platform of the Parliament meeting 50 days a year — and we have been. We have been meeting on — —

Hon. J. A. Vogels — We have not!

Mr LENDERS — I invite Mr Vogels, who says we have not, to look at the Legislative Council notice paper. This is our 162nd day in three and a half years, so we are well on track towards that, so on the idea of this house being used as a vehicle for, firstly, the tabling of parliamentary documents, and secondly, the capacity to debate reports coming to Parliament under the sessional orders brought in by this government in this house, we now have an hour set aside every Thursday for any member to debate any report. As far as transparency goes, let us just put the picture right that there is a framework in place and that the Parliament meets more frequently and has a designated time every week to debate any report that any member wishes to raise. Instead of debating a single report, which was the previous regime in this place — one Auditor-General's report — now we can debate anything.

Thirdly, on a number of occasions we have amended the Financial Management Act and other legislation to bring forward a capacity for reports to be tabled while Parliament is out of session. Whereas under the Kennett government you had six-month sabbaticals, you now have that capacity when you are not in a six-month sabbatical. No wonder Jeff Kennett wanted to take six months leave as Premier. If I recall correctly, at the start of his second term he was talking of taking a sabbatical. Good on Mr Kennett for wanting a sabbatical, but this team wants to get on with the job.

Mr Rich-Phillips asked a specific question about a clause of the Financial Management Act. I can assure Mr Rich-Phillips of two things. Firstly, this government goes out of its way to get its reports in here on time. It has set up a level of scrutiny — not just what I announced before — where every single minister is subjected to scrutiny by the Public Accounts and Estimates Committee (PAEC) on any area in their portfolio and where reports will be tabled out of session.

I am absolutely confident that every government department and agency will make its best endeavours to get its reports in as normal. We do not like to see reports coming in late. In fact ministers are held accountable and are embarrassed if reports come in late. I will certainly take on notice the details of what mechanisms there are for us to enforce that outside of parliamentary sittings, but I can say to Mr Rich-Phillips that we have a greater accountability than at any time in the 149-year history of the state.

Hon. Bill Forwood — That is nonsense!

Mr LENDERS — At any time in the 149-year history of this state, and I put a challenge to those opposite — —

Hon. Bill Forwood interjected.

Mr LENDERS — And a challenge to Mr Forwood — I challenge him to a bottle of red wine if he can show me a government that was more accountable and more likely to be open and to present its reports to Parliament than the Bracks government, which stands proudly on its record.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — In his answer the minister waxed lyrical about the number of sitting days we have in this place and the

capacity to debate reports, but of course we cannot debate them if they have not been tabled. In 2005 not a single departmental report was tabled in Parliament before 6 October, which is the day we are scheduled to rise this year. Will the minister assure the house that he will use his powers either under ministerial orders or the Financial Management Act to ensure that all departmental and public body reports are tabled in Parliament before we rise this year?

Mr LENDERS (Minister for Finance) — Mr Rich-Phillips asked for an exercise of powers. I assume what Mr Rich-Phillips is looking for is for reports to be transparent and to provide information to the Parliament. If he is talking of an arbitrary— —

Honourable members interjecting.

The PRESIDENT — Order!

Mr LENDERS — Members opposite get very excited here. I reiterate my earlier answer. We have more transparency in this place now than at any time in the 149-year history of this state — than at any time! The challenge is out not just to Mr Forwood but to any member opposite to show a government that has been more transparent than this one. I am prepared to have a very good bottle of red wine on that one. I urge the opposition to judge us on our actions, which are more sitting days, more time in Parliament to debate, more ministers appearing before the PAEC, more ministers appearing in this house, the government answering questions, longer question times in both houses and 90-second statements.

Honourable members interjecting.

Mr LENDERS — Judge us by our actions, which are open, transparent and accountable.

Occupational health and safety: Comcare

Hon. KAYE DARVENIZA (Melbourne West) — My question is for the Minister for WorkCover and the TAC, Mr Lenders. Can the minister inform the house of recent developments in occupational health and safety that affect the lives of all working Victorians and how the Bracks government is working to protect them?

Mr LENDERS (Minister for WorkCover and the TAC) — I thank Ms Darveniza for her question and acknowledge her ongoing interest in matters of occupational health and safety. Ms Darveniza is one of those model members of our community who has gone through the hard yards as a trade union and occupational health and safety official.

Honourable members interjecting.

Mr LENDERS — I invite Mr David Davis to call her a thug like he called all other trade union officials thugs the other day.

Ms Darveniza's question goes to the core of what is happening with the Occupational Health and Safety Act. In this state we have seen tripartite work between unions, employers and the independent regulator to come up with a decent set of occupational health and safety laws. In her former incarnation as a union official Ms Darveniza worked under a far less liberal scheme than the one we are under now; a scheme far less focused on safety. But she worked under it and went through those times. We know most employers are good and look after their workers, but there is an element who do not, and a climate where a person could be fearful of their job if they raise a safety issue in a workplace. Without the likes of union officials like Ms Darveniza going out and standing by those workers and holding a minority of employers to account, our workplaces become less safe.

In our state we now have a regime that tries to regulate and provide a good balance and where occupational health and safety representatives in the workplace or registered employment organisations from outside can come in to deal with safety issues. That regime is being undermined by the commonwealth government which is half-hearted about occupational health and safety. In one breath it says it wants national uniformity, and in the next breath it says it will get workers into the inferior Comcare scheme — a white-collar scheme which does not have an enforcement regime worth its salt and does not generally bother enforcing or prosecuting when there are issues in the work force. Essentially it reports to a government that is not particularly interested in occupational health and safety.

Here in Victoria we have a modern act, and we have an opposition that opposes that act. In this state we have a regime that is working and bringing down the number of injuries and deaths. We have a commonwealth government that wishes to bring in an inferior regime and wishes to do it by using the corporations power to give it its capacity for the WorkChoices legislation. Let us just reflect on what Robert Menzies, Malcolm Fraser or Harold Holt — any of those Liberal Prime Ministers — would have thought about using the corporations power to bulldoze states rights. Let us not just talk about workers rights; let us talk about states rights and using the corporations power to sledgehammer through states rights.

Hon. Philip Davis interjected.

Mr LENDERS — Mr Philip Davis is now the enamoured friend of the orange-bellied parrot. What is going to happen if the commonwealth government uses the corporations power to override our environment protection laws? That is an option. What is to stop the commonwealth from interfering in any of the other laws in the state of Victoria dealing with occupational health and safety, the environment or any of the other laws which are important to us?

All eight states and territories are in the High Court today taking on this iniquitous legislation. I hope the High Court sees through it. I hope it sees that the use of the corporations power is brutal. The federal government ought get real and see what is happening in the real world.

Government: financial reporting

Hon. BILL FORWOOD (Templestowe) — My question to the Minister for Finance deals with section 54B(b) of the Financial Management Act, which under the section dealing with the functions of Victorian Government Purchasing Board says that one function is:

> to monitor departmental compliance with supply policies and Ministerial directions and to report irregularities to the relevant Minister and the Minister …

How many irregularities have been reported to the minister this financial year?

Mr LENDERS (Minister for Finance) — I am absolutely flattered that Mr Forwood thinks I have such a detailed knowledge across all my portfolios that I can answer a question about an absolute number. I will take that part of the question on notice. But what I can say to Mr Forwood is that through its compliance framework this government prides itself on getting the balance right. We have 10 departments, Victoria Police and hundreds of agencies out there. The departments are bound by policies and for the agencies they are a guide. We try to get compliance in place so that people abide by the law and get value for money in all their operations, and when things do not work we deal with them.

We have done some fairly basic things. We absolutely stamped on the rort of the Kennett government when the then Premier used his government-funded credit card to do all sorts of nefarious things while on holiday in Greece and other places; where we had minister after minister and public sector employee after public sector employee who were not particularly accountable for what they did with their credit cards. We brought in a regime which, for example, stamps out some of those practices, which means that no minister or their private office staff has a government-funded credit card to take around the world treating it as if it is their own private property. To deal with some of these compliance issues we look at the systemic issues in government and deal with them, plus the symbolic ones.

We have a mix where we give departmental agency-approved purchasing units discretion to make value-for-money decisions without the central government having 46 layers of red tape and public works departments signing at every level. We try to get the balance right on that, and when a department or agency has gone beyond its scope then it is required to report to its minister. When it happens I might have dialogue with the minister in that department to address the systemic problem as well as the particular instance.

Hon. B. N. Atkinson — You cover up.

Mr LENDERS — Mr Atkinson said we cover up. I am intrigued by Mr Atkinson's comment. He is aware that this is a very open, transparent and accountable government: one that is not afraid to call the Parliament into session, have it sit on 50 days of the year, have every minister appear before the Public Accounts and Estimates Committee, and have a non-executive chair of that committee rather than, as happened under the former government, a humble servant of former Premier Kennett who dutifully — as Mr Forwood did — exercised the brief of the executive government to ride roughshod over people and make sure that independent body was accountable to the executive government.

We look forward to making improvements, so I welcome Mr Forwood's question. If he can suggest any more effective ways of keeping the correct balance between red tape and an efficient process, I welcome it. But I assure him we take seriously any breaches reported to us and we deal with them. As to the exact number. I am happy to take that on notice.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I will be very interested to get the actual number. What action did the minister take when he was notified of the irregularities surrounding the iSOFT tender, and in the interests of transparency and accountability will he make available to the house the report of the Victorian Government Purchasing Board's inquiry into that tender?

Mr LENDERS (Minister for Finance) — Again, I will take the specifics of Mr Forwood's question on notice as is appropriate.

Ms Hadden interjected.

Mr LENDERS — Ms Hadden laughs in her normal uninformed way. Mr Forwood has asked a question of me as a minister — and it is an important question on accountability under the Westminster system — and I will take it on notice and get a specific answer back to him. Question time is a balance. Do government or opposition members want answers to their questions? They do, and we will give an answer in policy terms and on general direction. Do they want a minister to give specifics? A minister will do so if he or she is absolutely sure they are not misleading the house and have the specifics available. That is the correct balance. We discuss the policy and we take the specifics on board. Mr Forwood understands that. He is a man who has been in this place for a long time, and he is a reasonable man. It is a pity that all members do not understand it; some are less reasonable. I will take it on notice and be happy to report to Mr Forwood.

Industrial relations: WorkChoices

Mr PULLEN (Higinbotham) — My question is addressed to the Minister for Local Government, Ms Broad. The Bracks government has rejected the alleged merits of the federal government's WorkChoices act and is challenging the legislation in the High Court. What effects will the WorkChoices legislation have upon local government services?

Ms BROAD (Minister for Local Government) — I thank the member for his question and for his concern about this very important matter. The government believes that all Victorians deserve decent and reliable services from local government, and that is certainly what we are working to deliver to Victorian families in partnership with councils.

Hon. G. K. Rich-Phillips — On a point of order, President, I just seek clarification. In asking the question Mr Pullen referred to matters before the High Court and I am wondering whether, as was raised by the Minister for Local Government herself the other day, we have an issue of sub judice if indeed these matters are before the High Court.

The PRESIDENT — Order! With respect to the point of order raised by the Honourable Gordon Rich-Phillips, the matters are before the High Court, which is not a criminal court so far as I am aware, so in that case the issue of sub judice does not apply. I do not uphold the point of order. I invite the minister to continue.

Ms BROAD — The federal government's WorkChoices — badly named — legislation will not help local government to deliver decent services for Victorian communities for the simple reason that this legislation is extreme and it is fundamentally unfair. These commonwealth laws also share elements with the compulsory competitive tendering (CCT) legislation of the former National-Liberal party government here in Victoria. Like CCT, the WorkChoices Act is driven by ideology rather than compelling, let alone persuasive, evidence.

Like CCT, WorkChoices encourages labour cost cutting rather than productivity growth. It seeks to rob workers of reasonable employment conditions rather than encouraging employers and employees to focus on improving the quality and innovation of service provision. In short, it is a race to the bottom.

In contrast the Bracks government has spent almost seven years now working in partnership with councils on best-value principles rather than taking the scorched-earth approach of CCT that occurred under the former government. The best-value principles ensure that all services provided by councils meet quality and cost standards, are responsive to community needs and are accessible to members of the community who need those services.

Under best-value principles councils are required to regularly consult with their communities about the services they want and the achievement of those services, and they must ensure that continual improvement is achieved. Rural and regional Victorians remember very well the devastating effects of CCT on their communities. They remember what it was like to have the heart and soul ripped out of their communities. They remember their schools closing and their train services being stopped. Councils also remember their jobs being cut and their services being removed as a consequence. Essentially these communities were left to wither on the vine.

The Bracks government has brought these communities back to life. We have invested heavily in rural and regional Victoria. We have opened new schools; we have opened new police stations; we have employed more nurses and teachers; and we have delivered a lot more services. Importantly, we have done this in partnership with councils, which are also delivering more much-needed services to their local communities.

I believe the local government sector would be much better served with the WorkChoices legislation going exactly the same way as CCT went. It is a divisive and

wrong approach that will not assist Victorian families, which rely upon vital local government services.

Mining: licences

Hon. P. R. HALL (Gippsland) — My question without notice today is directed to the Minister for Resources, the Honourable Theo Theophanous. Under section 15(6)(a) of the Mineral Resources Development Act an applicant for a mining licence must be a fit and proper person. Could the minister explain the process by which a licence applicant is assessed as being fit and proper?

Hon. T. C. THEOPHANOUS (Minister for Resources) — I thank the member for his question and I indicate to him that of course it is the case that we in my department, the Department of Primary Industries, take very seriously the questions surrounding to whom we grant mining and exploration licences, and a range of criteria are applied by the department in examining this issue of a person being a fit and proper person for the purpose of granting a licence. I am happy to make available to the member the general criteria that might be used by the department and to provide him with a brief, if that is what he is requiring.

Hon. P. R. Hall — Tell us about the process. I do not need the criteria, I want to know about the process — who assesses them.

Hon. T. C. THEOPHANOUS — In relation to the process, obviously this is a process which the department is responsible for. It examines — and there is plenty of precedent around — the concept of a fit and proper person that is applied. The exact process that the department uses in order to determine who is a fit and proper person is not something that I as a minister would normally get involved in because it is something the department should be allowed to independently assess. It therefore makes an assessment about a particular individual. The only other person that might come into play in relation to this kind of issue might be the mining warden, who might be involved in such a process. But in either case these issues are done and determined in an arms-length process, away from the minister, as is appropriate.

Supplementary question

Hon. P. R. HALL (Gippsland) — I thank the minister for his answer, but I suggest he needs to get involved in this issue because I note in the *Business Review Weekly* of 27 April comments from the Mining Warden, Noel Laidlaw, calling for an improved system for assessing people and companies involved in planned mining investments in Victoria. I ask by way of supplementary question to the minister: is it not true that the only mining liaison officer position in the state, currently based in Bendigo, who had the task of assessing fit-and-proper criteria has been now abolished; and if so, who, how and under what jurisdiction will such checks be undertaken in the future?

Hon. T. C. THEOPHANOUS (Minister for Resources) — I can confirm to the honourable member that the mining warden has in fact written to me and raised this issue with me in relation to the determination of a fit-and-proper-person test before a licence is granted. As a result of that I have asked the department to examine the issues that were raised by the mining warden in relation to this matter. I am aware of the issue that the honourable member has raised in the house. I am not in a position to provide any further information, partly because the mining warden raised it in relation to a specific case and it would not be appropriate for me to enter into debate here. However, I am prepared to provide further information to the member at a later date.

Industrial relations: WorkChoices

Hon. C. D. HIRSH (Silvan) — I have a question without notice for the Minister for Aged Care. Can the minister inform the house of the mechanisms the Bracks government has put in place to ensure nurses in Victoria are protected from the prospect of arbitrary dismissal as a consequence of the WorkChoices legislation?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Ms Hirsh for her question and her concern about not only the wellbeing of the work force within aged care but also about the potential implications of the WorkChoices legislation. In fact, I agree with Mr Rich-Phillips. I reckon it is criminal too! I reckon it is outrageous behaviour which has been perpetrated on the work force of Victoria, indeed of Australia, and which is creating conflict in workplaces right across this nation.

The reason Ms Hirsh's question is pertinent to my portfolio is that as recently as yesterday this Parliament passed legislation which had an important saving provision to ensure that nurses will not be subject to unfair dismissal or subject to inappropriate behaviour that may intimidate them or incite them to act in an unprofessional way. As recently as yesterday the Drugs, Poisons and Controlled Substances (Aged Care Services) Bill was passed in this chamber. One of the

three major elements of that bill was the provision to protect nurses. It states:

> A person must not direct or incite a nurse to do any thing, in the course of professional practice, that would constitute unprofessional conduct or professional misconduct.

Hon. Andrea Coote — Do you have the guidelines yet?

Mr GAVIN JENNINGS — The guidelines are perfectly relevant. Mrs Coote knows that the guidelines are very pertinent to this question.

Hon. Andrea Coote — When are they coming in?

Mr GAVIN JENNINGS — They will be in by 31 May. There is clearly a need for them to be in place before the current regulatory regime is completed. The important reason this provision was inserted in the bill, a bill that was supported by all sections of the Parliament, was to make sure that members of the work force could not be subjected to inappropriate or undesirable direction that may jeopardise their professional standing.

Why did we introduce this clause? Because we wanted to move in a productive and harmonious way to change work practices that occur in aged care facilities right across Victoria. We did so in the name of changing the work practices of nurses and personal care workers and to provide guidelines that will allow for the appropriate change of practice that will better reflect the needs of residents of those services, and indeed for that change to occur for the protection of the careers and livelihoods of members of the work force.

The Australian Nurses Federation (ANF) and other unions that are involved in the aged care sector were concerned that employees could be subject to unfair dismissal. They also had some concerns about the implementation of the new guidelines and that employees would be bullied into behaving in an unprofessional way that was not consistent with the guidelines.

We want to introduce progressive change to the working practices in aged care, and that is what the bill provides for. The bill also provides for protection to ensure that nurses and personal care workers will not be abused by supervisory staff who may not be respectful of professional standards. The ANF and other unions in the sector, on behalf of their members, and appropriately so, required those guarantees as a condition for their agreement to the work changes that will take place within the aged care sector. This Parliament recognised that need by wholeheartedly supporting this bill in face of the WorkChoices legislation.

WorkCover: employer liability

Hon. B. N. ATKINSON (Koonung) — I raise a matter with the Minister for WorkCover and the TAC, Mr Lenders. A Victorian Automobile Chamber of Commerce member has been subject to an investigation by WorkSafe Victoria over an incident in which an off-duty employee entered the workplace with a non-employee associate and engaged in a dangerous activity that led to a hearing loss injury. I ask the minister: what is his view and policy position on the liability of an employer for the activities of an employee who is injured or causes injury to someone else where that employee has access to a workplace outside business hours and without authorisation or a reasonable basis for being on the premises?

The PRESIDENT — Order! I have some concern about Mr Atkinson's question, and I was trying to take some notes while he was asking it. Initially he referred in his question to an investigation due to a hearing loss injury but then asked for the minister's view about somebody working at a place outside working hours. It was along the lines of almost being hypothetical and asking for an opinion. Could you rephrase the question so that those two areas are eliminated from your request of the minister.

Hon. B. N. ATKINSON — Do you want me to read the whole thing again?

The PRESIDENT — I think it needs to change a bit.

Hon. B. N. ATKINSON — I am not sure that it does need to change, because what I actually sought was the minister's policy.

The question is, and this is what actually happened: a Victorian Automobile Chamber of Commerce member has been subject to an investigation by WorkSafe Victoria over an incident in which an off-duty employee entered the workplace with a non-employee associate and engaged in a dangerous activity that led to a hearing loss injury. I ask the minister: what is his position on the liability of an employer for the activities of an employee who is injured or causes injury to someone else where that employee has access to a workplace outside business hours and without authorisation or a reasonable basis for being on the premises?

The PRESIDENT — Order! The member in rephrasing the question that initially asked for the

government's policy on this matter has now given extensive details to the house. I ask the Minister for WorkCover and the TAC to respond on the government's policy.

Mr LENDERS (Minister for WorkCover and the TAC) — My mind stretches back to the last parliamentary sitting week in 2004. I vividly recall a three-day-long committee process where — —

Hon. J. H. Eren — President, the clock is not running.

Mr LENDERS — It just goes to show that the government believes it should be accountable to Parliament and not run over time. I thank Mr Eren for keeping us accountable and allowing more time for questions. My mind goes back to that debate in December 2004 when Mr Forwood, Mr Baxter and the Minister for Energy Industries and I spent a lot of quality time in committee going clause by clause through the Occupational Health and Safety Act and discussing what it would all mean.

The first thing I say to Mr Atkinson is that we had a long debate about what issues the executive government micromanaged case by case, policy by policy and what were issues that were left to the independent regulator, the Victorian WorkCover Authority (VWA). If Mr Atkinson's position is coming from the opposition as a view, and if the opposition is suggesting that policy issues and guidelines rather than the macro settings of the act should be dealt with by the minister and the executive government rather than having an independent regulator that manages these cases, then that is a seismic shift from what we traditionally had. If Mr Atkinson is saying that as the minister I should be dealing case by case with individual employers, then let us enter the debate, but I think it will change the whole nature of the debate we have had.

We have set up an independent regulator to manage, one, individual cases, and two, the guidelines and policy. Some areas go through the executive government, some are internal guidelines on prosecutions and other things for inspectors that are done in the VWA. I suggest to Mr Atkinson that he reflect before he pushes too hard on this as to policy area.

Secondly — the President has ruled on this — I am obviously reluctant to comment on some of these areas that are verging on the hypothetical. I am also reluctant to comment on individual cases that are before the Victorian WorkCover Authority. I will take a leaf out of the book of my predecessor, Mr Hallam, whom I watched with some interest regarding his answers on individual WorkCover cases. I think I will adopt a Roger Hallam approach and say that commenting on individual cases is probably inappropriate.

I would welcome an ongoing dialogue with Mr Atkinson. We are always looking to improve through legislation and regulation the way the occupational health and safety and WorkCover regimes work. The authority itself is always seeking continual improvement and dialogue with stakeholders, unlike the commonwealth government, which does things unilaterally. I think that answers his question.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — Given the importance of this to employers in terms of their future premium liabilities and risk assessments for their businesses, I ask the minister whether he is prepared to introduce a legislative provision to indemnify employers against WorkCover claims by employees who enter premises after hours without legal or authorised access, and in the event that he is not prepared to clarify the legal position, will he give a policy direction to the WorkCover Authority to exclude claims generated in such circumstances from the claims record, risk assessment and future premium calculations of affected employers?

Mr LENDERS (Minister for WorkCover and the TAC) — Today, 4 May 2006, is a day when eight jurisdictions have come together to challenge in the High Court of Australia the federal government's inappropriately named, inappropriately designed and ham-fisted WorkChoices legislation, and for Mr Atkinson to come in here and raise these issues misses the main game.

The regime that has been put in place under successive governments is a tripartite one between employers and employees, unions and an independent regulator, but it is under an acute threat from the sledgehammer approach of the federal Minister for Employment and Workplace Relations, Kevin Andrews, and his regime of imposing a system on this state that does not allow for thinking and is directed one way. On this day, when Mr Atkinson is talking about another area, his focus should be on getting a regime that brings down the number of deaths and injuries and brings down the premiums in a collaborative sense to reinforce those issues and not undermine them by using the corporations powers. I say to Mr Atkinson that he should reflect on where he is coming from. He should

talk to Kevin Andrews and his federal colleagues, look at what is happening in Victoria and learn from it.

Information and communications technology: broadband access

Hon. R. G. MITCHELL (Central Highlands) — I refer my question to the Minister for Information and Communication Technology. Previously the minister informed the house of the Bracks government's $6 million commitment to driving investment in state-of-the-art broadband services for regional Victoria, which form part of the government's $500 million Moving Forward blueprint for growing provincial Victoria. Can the minister please provide the house with details of the progress of this initiative?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the member for his question. I know he is interested in the provision of broadband in regional areas. There is no doubt that the lack of broadband access in regional areas is a serious obstacle to economic growth. Last year the Australian Local Government Association released its *State of the Regions* report in which it estimated that an extension of broadband access to regional areas could create up to 10 000 jobs and benefit Australia by $920 million per annum. That having been said, one would have thought that the federal government would be acting quickly to provide broadband services right across Australia, but in fact it is not. It has been inactive and has certainly not been looking towards providing real solutions for regional Victoria to access broadband.

The Bracks government is not standing back idly waiting for the federal government. We have been putting in place initiatives to make broadband happen right across country Victoria. One of those initiatives is the $6 million the government has committed to driving investment in state-of-the-art broadband services into the Loddon and Grampians regions. Anyone who has been reading newspapers cannot help but notice that the lack of a cohesive telecommunications policy from the federal government means that there is no real investment going into telecommunications infrastructure. It is hurting Australians, particularly Victorians.

It is damaging our ability to move forward. It is almost as damaging as the Howard federal government's WorkChoices legislation, which is hurting all Victorian families. The uncertainty the Howard government is creating, not just in regulation but in finalising its position on how it is going to spend the Connect Australia money, is of real concern to us. It almost got to the point where we were not going to be able to release for comment what we might do with the $6 million of state government money to encourage investment in this state. But we worked around that, and I am pleased to be able to say that an expression of interest (EOI) was released to the market to determine how that $6 million could contribute towards driving investment in next generation broadband services to the Loddon and Grampians regions. The EOI will allow telecommunications companies to submit how they could best access and utilise this money to provide the best possible range of services to these regions based on a number of scenarios.

Not only have we invited telecommunications companies to participate, but we have also invited the federal government to respond to the EOI. It will give it an opportunity to use its money to build an innovative pilot right across Australia to provide new broadband services to the rest of regional Australia. This will reveal whether the Howard government is seriously committed to providing regional communities with broadband services. The Bracks government is getting on with its commitment to provide broadband to Victorians and making sure broadband happens.

Wind energy: employment

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Energy Industries. The government, in its policy of increasing wind-powered electricity generation, is seeking to artificially create a new manufacturing industry in Victoria. On 28 March 2004 the minister claimed that up to 300 jobs would be created in country Victoria by 2006 from investment in the manufacturing of wind energy components. Will the minister inform the house of whether the target of 300 manufacturing jobs to be created in country Victoria has been reached?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I am interested that the Leader of the Opposition wants to describe the 80 jobs of people who work in the Vestas factory at Portland, which produces blades for wind turbines, as artificial jobs. Let me tell him, they are not artificial families — those jobs belong to 80 people with families who are getting a livelihood as a result of this government's actions. Nor would I think that the 80-odd jobs at the Keppel Prince facility, which makes the towers for the turbines, are artificial jobs. These two lots of jobs are merely the tip of the iceberg in relation to the capacity to provide a significant number, hundreds, of jobs — many more than the 300 jobs the honourable member referred to. There is only one thing standing in the way.

An honourable member — The parrot!

Hon. T. C. THEOPHANOUS — No, it is not the parrot that is standing in the way. What is standing in the way is the Liberal federal government. It is not prepared to support the scheme for wind energy in this state. It decided some time ago that it would wind down — nobble — the mandatory renewable energy target scheme, and as a result of that decision there is no other thing that can happen in relation to wind energy than its going into decline. Nothing else can happen, because if the funding source is gone, you cannot get the jobs, you cannot get the investment and you cannot get the facilities built. That is absolutely true.

It is well known that this government is examining the question of going to a Victorian-based funding scheme for renewable energy. We are in consultation in relation to that because we have a responsible attitude to these families in regional Victoria. It is not 80; it is not 160; it is hundreds of jobs that will be created as a result of this renewable energy — jobs that would be forgone if we allowed the federal government to continue on this path of, first of all, drying up all the funding sources, and secondly, going around and knocking off every single wind farm that comes up because the federal minister, Senator Campbell, happens to have a mate somewhere who does not want this wind farm, and that is a good enough reason for him to go off and cook up some excuse about a non-existent parrot in order to stop this investment.

The Liberal Party in Victoria would do itself a lot of good if it distanced itself from the federal government, which is adopting the approach of economic and environmental vandalism when it comes to renewable energy in this state.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his response and for acknowledging that he has failed to achieve his target, but as a result I would like to ask further: is it a fact that his proposed renewable energy industry policy will require an effective subsidy of $1 million for every job created?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The honourable member's figures are wrong. First of all no decision has been made in relation to this matter. There is quite a lot of modelling, and as far as I am aware the honourable member opposite does not have access to any of that modelling, so whatever figure he has made up is just part of the continuing scare tactic that he is engaged in.

Hon. Philip Davis — Haven't you read the submissions, Theo?

Hon. T. C. THEOPHANOUS — These are scare tactics. You should get on the side of renewable energy if you want to have any hope at all of getting any credibility in regional Victoria. You should get on the side — —

The PRESIDENT — Order! The Leader of the Opposition has asked his question. The minister is responding. The minister will respond through the Chair and members will stop having barrages of interjection across the table at each other. I ask both members to desist and the minister to respond through the Chair.

Hon. T. C. THEOPHANOUS — If the opposition wants to have any credibility in regional Victoria it should get on board for renewable energy and jobs in regional Victoria.

Gas: Portland smelter

Hon. S. M. NGUYEN (Melbourne West) — My question is to the Minister for Energy Industries. Can the minister advise the house of any recent decisions by the Bracks government that will lead to further securing gas supplies to Victorian families and industries into the future and say how this decision may assist the greenhouse gas abatement policies of the government?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for his question. Last week with ExxonMobil Australia managing director, Mark Nolan, I visited Bass Strait, where I announced that the Bracks government had offered ExxonMobil and its partners a production licence to begin development of the Kipper field. Victoria's gas supply will be dramatically strengthened when the Kipper gas field comes into production.

Hon. Philip Davis interjected.

Hon. T. C. THEOPHANOUS — The opposition leader might make light of this, but the development of this field would not have occurred had it not been for the strong stance taken by the government in relation to that time line. It will deliver a supply of gas in excess of 620 billion cubic feet, enough to provide natural gas for 1 million families in Victoria for 15 years. So I was pleased to make this very important announcement on the Esso Snapper platform.

Mr Nolan confirmed that his company was in discussions with other companies about using some of this gas for power generation. I know that the Leader of

the Opposition has an interest in gas being used for power production. He has asked me about it several times in the house. We welcome this development because, as members of the house would know, electricity generation through gas is much better for the environment. It results in about a 30 per cent or 40 per cent or more reduction in greenhouse gas emissions compared to even the best practice coal-powered station.

We will continue to encourage companies to find resources such as gas and to use them in a variety of ways. But I have to inform the house that Mr Nolan indicated to me that currently the federal government levies federal taxes on the Bass Strait operations, which are calculated by ExxonMobil to be equivalent to about $1 per gigajoule. This compares with the current Victorian royalty rate on coal of not much more than 5 cents a gigajoule. This disparity between $1 and 5 cents is part of the reason that there is a differential — —

Hon. Philip Davis — You are going to put the coal royalty up now, are you? Is that a budget initiative this year, as it was last year?

Hon. T. C. THEOPHANOUS — The Leader of the Opposition came in here and made a big song and dance about the fact that gas was not viable because it was more expensive to use for the production of electricity. Guess what? One reason it is more expensive to use for electricity is due to the federal government. Again I would encourage members of the opposition to distance themselves from the federal government in relation to energy policy and to come out strongly and say that they support ExxonMobil and the companies down there in getting a fair deal on gas so that we can actually use some gas for the production of electricity and thereby create jobs and help the environment.

Hon. G. K. Rich-Phillips — On a point of order, President, in relation to the earlier point of order in question time on the matter of whether discussing a civil matter before a court constitutes its being sub judice, without reflecting on your earlier ruling this afternoon I draw your attention to a ruling you made in question time on 11 August last year, when you ruled that, if there is a civil action and a court date has been set, that is sub judice and should not be referred to. I ask you to take your ruling last August into consideration with your ruling today.

The PRESIDENT — Order! On the point of order, I am aware that the member has made some inquiries about this, and I have been looking at the House of Representatives, *Erskine May* and a number of other sources, and I will take it under advisement and report back to the house in due course.

Hon. B. N. Atkinson — On a point of order, President, I wish to raise the issue that yesterday in the course of question time, in response to a question I put to Mr Lenders as Minister for WorkCover and the TAC, he undertook to get back to me with information on the substance of the question. I want to seek clarification as to when that might be.

The PRESIDENT — Order! That is not a point of order, and I will leave it to the minister to have a conversation with the member when it is convenient.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I can assure Mr Atkinson that I will fax him a copy this afternoon of the letter I signed on the weekend.

I have answers to the following questions on notice: 7462, 7464, 7479, 7564, 7606, 7648, 7690, 7732, 7774, 7816, 7858.

EDUCATION AND TRAINING REFORM BILL

Legislation Committee

Debate resumed.

Ms HADDEN (Ballarat) — I wish to make some comments in relation to the Legislation Committee report that was tabled on Tuesday after 3.00 p.m. I appreciate that Mr Brideson does not agree with everything I say — I do not expect everyone to agree with everything I say, especially not Labor Party members. What is important to note here is that I am not a member of the Legislation Committee. As an Independent member in this place, I am not a member. There are six members on the committee — three Labor Party members, two Liberal Party members and one member from The Nationals. The chair has the casting vote, and he is a member of the Labor government and his vote is assured of being the Labor way.

The sessional orders do not allow me to vote or to put forward a motion on this committee. The word ‘participate’ has not been defined. I cannot vote, I cannot form a quorum and I cannot put forward a

motion. Clearly I cannot participate in the real sense of the word in the Legislation Committee. I can sit there and watch from the public gallery. That is the extent of sessional order 48(4). I want to make that very clear — I cannot participate in that committee in the full sense of the word.

I went through the reports on both the Disability Bill and the Education and Training Reform Bill after they were tabled in this house at 3.00 p.m. on Tuesday, which was when they were first available to me. The only persons participating were the members of the committee and the witnesses, who in this instance were the minister and her chief legal adviser. The other persons in attendance were in the public gallery: one was the Assistant Clerk of Committees, one was the Chair of Committees and one was the papers office manager.

I maintain my position that this committee excludes my contribution as an Independent member. Mr Brideson and Ms Lovell, as Liberal Party members of that committee, were not gagged, but to use Mr Brideson's words were forced to vote under duress. They did not put their amendments to that committee because they discovered that, had they done so, those amendments could not have been moved in the committee of the whole. Clearly the Legislation Committee needs to take a long, hard look at itself. If the amendments put to that committee are lost — and they are lost when they are put up by members of the opposition parties— then those amendments cannot be put to the committee of the whole in this place. That is clearly a shutting down of the democratic processes of this Parliament. It is a major concern to me and my constituents and to those members who were foolish enough to raise amendments in the Legislation Committee on the Disability Bill and then discovered they could not move them in this house. It goes further too — if an amendment is put by one of the six committee members in the Legislation Committee to remove a clause, I am then forbidden from putting that same amendment to remove a clause from the bill in this house. Clearly my rights as an Independent member of this place are severely curtailed.

The Legislation Committee needs to take a long, hard look at itself. It is not representing its constituents or the people of Victoria by shutting itself away in a little room upstairs. It excludes members from participating. Again I go back to sessional order 48(4), where 'participation' means I cannot vote, form a quorum or move a motion. Therefore I have no rights on that Legislation Committee.

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

Hon. C. D. HIRSH (Silvan) — I rise to speak on the report of the Legislation Committee's consideration of the Education and Training Reform Bill. This process was an extremely interesting one in which the clauses of this very comprehensive bill were discussed in great detail. As I said earlier on the Disability Bill, the committee processes were very interesting and useful. I remind Ms Hadden that any member of the Legislative Council can attend and participate in the debate at the Legislation Committee. I recall that Ms Romanes attended and showed great interest during the examination of the education bill, but I certainly did not see anyone else. I do not know what Ms Hadden's problem is in relation to her total lack of interest in the hours that the Legislation Committee put in under the very competent chairmanship of Mr Viney and with great assistance from the clerks and great cooperation from all parties.

On the debate before the Legislation Committee, I first of all understand fairly clearly from what Minister Kosky said — it was very good to be able to communicate directly with one of the lower house ministers rather than through her representatives — that the right of non-government schools established for children of a particular faith to teach and promote that faith will continue, and I am reassured by the discussion that it will. I make these points to reassure the Mountain District Christian School and the Donvale Christian College in my electorate. They were also concerned about and consider it important that the Victorian Registration and Qualification Authority consider the independent nature and value of our schools when they monitor minimum standards. I understand, again from the discussion in the Legislation Committee, that these issues will be protected and covered in the bill. I want to reassure both of those very good faith-based schools in my electorate on those matters.

The issue of home-schooling, which has been quite a contentious and difficult one and about which I know Mr Hall feels very strongly, is satisfactorily addressed in the bill. I was very much reassured on that issue by the minister's comments on what she termed 'light touch', which I believe to be very appropriate. The registration of home-schoolers is appropriate, but it is also appropriate that there be an assurance that people engaging in home-schooling are in fact educating their children. As a psychologist in schools in a past life I worked with a number of families the children of which were not attending school because of anxiety, usually anxiety of the mum. That resulted in anxiety and some

depression and fear in the children. They just did not want to go to school and did not go, but were not receiving appropriate education at home. I think such children come officially under the truanting component of the Education Act.

We need to be aware of some of the problems that some families — a minority of families — have with educating their children. In this regard I think the very light touch regulation on home-schooling is most appropriate. Again I congratulate all the participants in the Legislation Committee process on the goodwill they brought to the committee. I look forward during the next Parliament to visiting and seeing it go ahead.

Ms MIKAKOS (Jika Jika) — I am pleased to speak in support of the Legislation Committee's report on the consideration in detail of the Education and Training Reform Bill. I thought it was a very productive process. I acknowledge the very capable chairing of the committee by Mr Viney and the contributions made by all the members who participated. There needs to be goodwill on all sides to make the committee work effectively. I think we saw that in this case, particularly given Mr Brideson's indication earlier that the answers he received from the minister were able to satisfy him in relation to some issues, although I accept not on all issues. That clearly indicates that this committee is working well and has the potential to greatly assist the deliberations of this chamber in the future. I note that the committee spent approximately 3 hours considering this bill — time that has been made available to this chamber to debate this and other pieces of legislation.

In relation to Ms Hadden's comments, I reiterate that all members have the opportunity to speak at the Legislation Committee on any clause before the committee and to speak on amendments. I did note that Ms Romanes attended and that Mr Scheffer was in attendance in the public gallery. I hope to see other members of Parliament also attending and participating in this process in the future.

I thank the Honourable Lynne Kosky, the Minister for Education and Training in the other place, for attending the consideration of the bill by the Legislation Committee. I hope the minister's answers, particularly in relation to the ability to profess a faith in one's education and also in relation to the home-schooling, have gone a long way towards clarifying some concerns of people who home-educate. She made it very clear that the approach was going to be one of using a light touch, as Ms Hirsh said. I commend the report to the house. I congratulate all members involved, the minister and the bureaucrats who attended for assisting the house in considering this bill.

Mr VINEY (Chelsea) — I want to get on the record some points of clarification about the process we have been through with the Legislation Committee. First of all, this is a trial. Everyone in this house knows that it has been a trial to find better and improved mechanisms for dealing with legislation. I point out that this trial gave members of this house more time than they would have otherwise had to consider the detail of the legislation. We had the hearings about three weeks after the legislation was first introduced into this house, and we provided a full afternoon for a public hearing.

Ms Hadden interjected.

Mr VINEY — The fact that Ms Hadden could not be bothered to turn up to the committee does not mean that the process was illegitimate. She has come in here and challenged other people's legal training by suggesting that they do not understand the process. I do not know what legal training the honourable member has, but let me point out that sessional order 48(4) says:

> Members of the Council who are not members of the committee may participate in the public proceedings of the committee, but will not vote …

That is clearly the process. Ms Hadden could have come in — —

Ms Hadden — On a point of order, President, if Mr Viney is going to quote from the sessional orders, I ask that he quote the full paragraph. If he — —

The PRESIDENT — Order! Ms Hadden will sit down. That is not a point of order. Mr Viney to continue.

Ms Hadden interjected.

Mr VINEY — I love it when Ms Hadden interjects, it just adds to the theatre. I will keep going. This is an improved opportunity for members of the Legislative Council to participate in the consideration of detailed legislation in this house. It does not make the process illegitimate for the honourable member to shout at other members and impugn the integrity of their legal training.

House divided on motion:

Ayes, 24

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr (*Teller*)
Carbines, Ms	Olexander, Mr
Darveniza, Ms	Pullen, Mr
Eren, Mr	Romanes, Ms
Hilton, Mr	Scheffer, Mr
Hirsh, Ms	Smith, Mr (*Teller*)

Jennings, Mr	Somyurek, Mr
Lenders, Mr	Theophanous, Mr
McQuilten, Mr	Thomson, Ms
Madden, Mr	Viney, Mr

Noes, 18

Atkinson, Mr	Drum, Mr
Baxter, Mr (*Teller*)	Forwood, Mr
Bishop, Mr	Hadden, Ms
Bowden, Mr	Hall, Mr
Brideson, Mr (*Teller*)	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Vogels, Mr

Motion agreed to.

Report adopted.

Committed.

Committee

Clause 1.1.1

The CHAIR — Order! Mr Brideson has circulated 100 amendments, many of which are related to home-schooling and non-government schools. It is my understanding that Mr Brideson will move his amendment 1 to clause 1.1.1 to test his other amendments relating to home-schooling and non-government schools. He will also seek to withdraw a number of amendments.

Hon. ANDREW BRIDESON (Waverley) — I will begin by informing the house that the Liberal Party has somewhat changed its position in relation to the bill. I indicated today during the debate regarding the report that we will now not be opposing the bill. I think this is now a much better position to take. In response to answers we received from the minister, we have modified the proposed amendments which we have on the table.

I will inform members of the house of the amendments which we are firstly going to withdraw. I seek the indulgence of the house to withdraw those amendments. We will withdraw amendment 4 and the consequential amendments in relation to it, which are amendments 5 to 11 — therefore amendments 4 to 11 will be withdrawn. We withdraw those amendments because we were satisfied with the responses we received from Minister Kosky, the Minister for Education and Training in another place. We will also withdraw amendment 15, again because we were well satisfied with the responses from the minister.

Amendments 4 to 11 and amendment 15 withdrawn by leave.

Hon. ANDREW BRIDESON — I will proceed with all other amendments. However, on my reading of them, amendment 1, which is based on the purposes clause, will test every other amendment. I seek the indulgence of the house to speak to amendment 1 and cover all the amendments, and I can do that relatively briefly.

Hon. T. C. Theophanous — Leave granted.

Hon. ANDREW BRIDESON — I move:

1. Clause 1.1.1, page 2, lines 12 to 14, omit "and the regulation of non-Government schools and home schooling" and insert "and the registration of non-Government schools".

This amendment will have the effect of deleting all reference to home-schooling. It is the desire of the Liberal Party that home-schooling — I consider home-education to be a better term — not be included at all in this bill. It is not necessarily my personal view; I am putting the view of my party. The amendment will also have the effect of deleting the regulation of non-government schools. They are the only two points I want to canvas today.

I touch briefly on home-schooling, or home-education. Whilst members of the Liberal Party received a lot of comfort from the response by the Minister for Education and Training, it was not enough for my party to withdraw that amendment. We received comfort from the minister in that she stated that she intends to set up an advisory group and consult with the home-education people. We also received a lot of comfort — as I am sure did the home-education networks and those who are not involved with the networks but educate their children at home — from a guarantee that there will be no fees and that if consent to enter a home is refused, that alone will not constitute a reason for the opportunity of home-schooling to be taken from that family.

We also received comfort from the fact that if a key learning area, particularly a language or information technology, is not taught in the home, that in itself will not be a reason for a home-educator not to be reregistered. While we take comfort from that, it is, as I said, the position of the Liberal Party that there be absolutely no regulation of home-schooling. The issues were canvassed enough during the second-reading debate and in the committee hearing. I do not wish to elaborate any further on them.

On the second point, the self-regulation of the non-government school system, members of the Liberal Party seek to amend the bill so that the direct power of self-regulation be given to all non-government schools in both the independent and Catholic sectors. The Liberal Party received some strongly worded submissions from the Catholic education sector. In particular, Archbishop Denis Hart informed our shadow minister of his position on this. That is essentially why we are pursuing this particular amendment.

Briefly, Archbishop Hart, in correspondence to the minister, a copy of which the archbishop supplied to us, said that he was disappointed to note that there is no recognition in the legislation for the role of the Catholic education system and that, as it currently stands, the propositions of the bill appear to encroach upon the capacity of the bishops to fulfil their obligations under church law. Agreement to the Liberal Party amendment would meet the wish of Archbishop Hart.

All members know that the Catholic education system is the largest non-government education provider. I gave the statistics in the second-reading debate and do not wish to go over them again. It is a shame that those in the Catholic system are not accorded an automatic right to self-regulation. We all know that the Catholic education system in particular has been around for years and years and that it will be around for years and years. Those in the system self-regulate now and are part of a very competent system, but under the legislation they are not given any rights to self-regulate. Members of the Liberal Party do not believe that those in the system ought to be regulated at all by the state. We do, however, believe that they ought to be registered — that is a different argument.

The concerns of Archbishop Hart go to the very governance of Catholic education. If the authority — that is, the Victorian Registration and Qualifications Authority (VRQA) — has the power to deal directly with Catholic schools in matters of standards and accountability, that threatens the traditional forms of governance, and that should be not the case. The Catholic education system should have foremost responsibility for monitoring its own educational performance across its schools and reporting outcomes to the new authority.

I note that the white paper produced in the development of this bill states that the VRQA can license school owners and operators for the regulatory approach required under that part of the bill dealing with the VRQA.

The minister uses the term ‘light touch’. Its meaning was investigated during the Legislation Committee process. We gained some comfort and have a better understanding of what it means. In response to a question I asked, the minister said in relation to drafting regulations that there will be ongoing consultation with all sectors, particularly with home-schoolers and the non-government and independent school sectors.

Members of the Liberal Party wanted to get the opinions of Archbishop Hart on the public record. We ask the government to consider the request for self-regulation and the amendments that the Liberal Party proposes.

It is probably appropriate to cover all matters in my remarks so that they do not have to be revisited later. I see that the Minister for Energy Industries is nodding his head. By our amendments 21 to 25 to clause 4.3.3 on page 262 we seek to insert the word ‘government’ before ‘school’ wherever it appears in that clause. Then the review of operations by the VRQA would be of only government schools. That is fairly simple and clearly shows our intention that the VRQA should review the operations of only government schools and allow the other schools under licence to review and regulate themselves.

I do not wish to add anything more. I hope I have made clear the position of members of the Liberal Party on both home-schooling and the self-regulation of the non-government school sector. I urge the government to accept our amendments.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the member for his contribution and for his participation in this process, which I think has been valuable for all members of the house. We cannot accept his amendment, but I want to put on the record our thanks for his positive participation.

Hon. P. R. HALL (Gippsland) — I indicate that The Nationals will be supporting amendment 1 moved by the Honourable Andrew Brideson — although, I might add, it is not the position that we advocated for the committee stage. Those who have read the Legislation Committee report would be well aware that I moved my own amendments along the same lines as clause 1.1.1. Essentially the difference is that the Liberal Party seeks to remove home-education from both registration and regulation, while the amendment that I moved in the Legislation Committee sought the middle ground, I suppose, between the government’s position and the Liberal Party position — that was, to have no-fee registration for home-educators, but no regulation whatsoever.

I thought that was an acceptable middle ground that the government should have adopted, and I was disappointed that we did not get to a position where it felt it could adopt that. However, I made the comment in the Legislation Committee that many of the amendments I moved have now been reflected in the proposed regulations. We are yet to see those fully developed, but at least the government has picked up on some of those in the regulations.

With respect to the amendment moved by the Honourable Andrew Brideson, the fact that, if it is accepted, there will be no registration or regulation of home-education is a position The Nationals can support. As clear evidence of that I note the government's announcement in the Legislation Committee that there were only four issues of significant concern over a period of 16 years regarding home-education. So why do we need to register? Why do we need to regulate? It seems the number of times an issue arises is extremely small, and it could still be dealt with under present sections of both the Education Act and the Community Services Act. We tried to steer a middle course, but that having failed, we have no option but the fall-back position — that is, to support the Liberal Party on its amendment.

The other aspect of this, as the Honourable Andrew Brideson said, is that non-government schools will only be required to register and will not be subject to the minimum-standard regulations that will be applied by the Victorian Registration and Qualifications Authority. I would support that position as well. The position for non-government schools for many years has been a requirement that they register. I cannot think of instances where appropriate standards of education were not being delivered through non-government schools, and I would be interested to hear from the government if there were such cases. I see the additional requirement to regulate minimum standards in non-government schools as being unnecessary. That is the second reason why I am prepared to support the amendment.

Ms HADDEN (Ballarat) — I wish to place on the record that I propose to support the amendment moved by Mr Brideson. It is a pity the government is not prepared to support the amendment, which has been noted by the Minister for Energy Industries, who is at the table, because there are a number of anomalies with home-education. The first one is that the government insists on calling it home-schooling. Clause 1.1.1, the purpose clause of the bill, talks about home-schooling, and at subclause (2)(c) states:

> (c) the establishment and regulation of Government schools and the regulation of non-Government schools and home schooling …

Further on, in the definitions clause, is the definition for 'school'. In that clause 'school' does not include:

> (a) a place at which registered home schooling takes place …

It really is confusing for the home-education community. It implies that home-education is some kind of illegal activity. If registered home-education is not deemed to be a school, it logically follows that unregistered home-education should not be deemed to be a school either. It is unfortunate that the submissions of the Home Education Network and the home-educators have not been considered thoroughly and thoughtfully by the government. First and foremost the phrase 'home-schooling' should more correctly be 'home-education'. I believe the fears of home-educators across the state would have been allayed had the government referred to them properly and correctly in the bill. It has not, and that is most unfortunate, because it raises all sorts of fears and rings alarm bells within the home-education community. I support the amendment, and I would urge the government to rethink its position and support the amendment moved by Mr Brideson.

The CHAIR — Order! In relation to Mr Brideson's amendment 1, which is a test for all the amendments related to home-schooling and non-government schools, which he has foreshadowed in his remarks, the question is:

> That the words proposed to be omitted stand part of the clause.

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

Ayes, 23

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms	Olexander, Mr
Darveniza, Ms	Pullen, Mr
Eren, Mr (*Teller*)	Scheffer, Mr
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr (*Teller*)	Viney, Mr
Madden, Mr	

Noes, 18

Atkinson, Mr	Drum, Mr
Baxter, Mr	Forwood, Mr
Bishop, Mr	Hadden, Ms (*Teller*)
Bowden, Mr	Hall, Mr

Brideson, Mr	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr (*Teller*)
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Vogels, Mr

Amendment negatived.

Clause agreed to; clauses 1.1.2 to 6.1.3 agreed to; schedules 1 to 8 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The PRESIDENT — Order! The question is:

That the bill be now read a third time.

As I am of the opinion that the third reading requires to be passed by an absolute majority, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! I am of the opinion that the third reading requires to be passed by an absolute majority. In order that I may ascertain whether the required majority has been obtained, I ask those members who are in favour of the question to stand where they are.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

STATUTE LAW (FURTHER REVISION) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Finance).

ABORIGINAL HERITAGE BILL

Second reading

Debate resumed from 3 May; motion of Mr GAVIN JENNINGS (Minister for Aboriginal Affairs).

Hon. W. A. LOVELL (North Eastern) — I rise to speak on the Aboriginal Heritage Bill. In doing so I record my strong support and respect for the heritage of our land.

In my life I have been fortunate to travel extensively overseas. I have been fortunate to witness some of the many ancient wonders of our world, and many of the great archaeological sites including the pyramids and the Valley of the Kings in Egypt; the city of Petra in Jordan, Ephesus in Turkey and Pompeii in Italy. But nothing compares to a site I was fortunate enough to see in Western Australia very early in my parliamentary career when as a member of the Environment and Natural Resources Committee I attended a national environment conference in Karratha with the Honourables Andrea Coote and Damian Drum and the members for Macedon, Carrum and Keilor in the other place.

As part of that conference we were lucky enough to go on a field trip to see some rock paintings just outside Karratha which are among the most incredible ancient wonders I have seen in my life. They are very basic paintings and tell the story of our land in ancient times. One of the rock paintings depicted a tall ship with sailors wearing Spanish-looking hats. It showed that the indigenous people of that time had seen the ships sailing past the coast well before European settlement of this land. The paintings are a national treasure and deserve to be preserved. It would be a tragedy to see them destroyed.

As an Australian I value the history and heritage of the traditional inhabitants of this land. I have a deep love of this country and consider the heritage of the traditional owners to also be the heritage of all Australians, including me. Whether we are indigenous or whether we are sixth, seventh or first generation Australians, this is the land we all share. We all value its past, and we all share in its future. In sharing in the future of this land we need to find a way to move forward together. Unfortunately I do not believe this legislation is the platform for that future.

The purpose of this bill is to establish a scheme for the protection and management of Aboriginal cultural heritage in Victoria. The current legislative framework

for the protection and management of Aboriginal cultural heritage is provided through the Archaeological and Aboriginal Relics Preservation Act 1972 and part IIA of the commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984. This legislation will replace part IIA of the commonwealth act, which is to be repealed, and that legislative framework will be replaced by the one provided for in this bill.

The situation where the Victorian government administers protection for Aboriginal heritage in Victoria through a commonwealth law is an anomaly that was initiated by the Hawke federal Labor government and the Cain Victorian Labor government. In 1986 the Cain government made a request of the federal Hawke government to insert part IIA into the federal act. Part IIA specifically applies to Victoria and also provides for the commonwealth to delegate powers to the state minister to administer the sections of the act covered by part IIA.

Members of the Liberal Party strongly support indigenous heritage. In fact it was the Liberal Party that introduced the Archaeological and Aboriginal Relics Preservation Act in 1972. It is because the Liberal Party has such strong support for indigenous heritage that it pains me to inform the house that we cannot give our support to this piece of legislation. It would appear from our consultation with both the indigenous and non-indigenous members of our community that this bill does not have much support at all. The content of this legislation is likely to increase the cost of development, increase the bureaucracy and add to delays at the Victorian Civil and Administrative Tribunal (VCAT). While we all value the preservation of heritage, the resources that under this legislation will be spent on lawyers and bureaucracy may well be better spent on providing real outcomes for indigenous Victorians — that is, outcomes in the areas of health, education, housing and employment, or in addressing the disproportionate number of indigenous Victorians in the criminal justice system. They are areas that would deliver real outcomes for indigenous Victorians.

I now turn to what the legislation will actually provide. It expands the definition of 'cultural heritage significance' to also include matters of contemporary and social significance. It establishes a ministerially appointed Aboriginal Heritage Council with wide powers. Membership of the council will be limited to Aboriginal persons. Many indigenous Victorians have raised significant concerns regarding the non-elected appointees managing heritage decisions. The Liberal Party has been lobbied by indigenous groups across the state objecting to the appointment of members of this council. One indigenous community member questioned the minister's qualifications for appointing these members, saying, 'I do not think the minister is qualified to make the decision as to who is to be appointed'.

Henry Atkinson of the Yorta Yorta nation was quoted in the *Bendigo Advertiser* in November last year — this was when the Yorta Yorta people were talking about their threat to boycott the opening ceremony of the Commonwealth Games — speaking about the heritage council. The article says:

> Under the bill, a cultural heritage council will be established, which will be able to advise the minister on issues of cultural heritage.
>
> Mr Atkinson is concerned a council decision on who should speak for the community would not necessarily represent the wishes of the traditional owners.
>
> He said the proposed bill had the potential to divide the indigenous community if several groups within the community make submissions to the council. 'Who has the right to say what can and cannot be destroyed and speak about someone else's culture?', he said.

So even the indigenous community is questioning a number of aspects of this bill and the Aboriginal Heritage Council, and the appointment of members to that council by the minister is just the first of the questions they have raised.

The bill contains provisions for the creation of registered Aboriginal parties and provides that more than one party can be registered in a particular area. This in part arises from disagreements amongst indigenous Victorians as to who is a legitimate representative of an area. Applications to become a registered party will be considered by the heritage council, and developers will be obliged to liaise with each registered Aboriginal party. This has also raised many concerns. Many of the indigenous groups are not keen on there being more than one registered party for an area.

Certainly we have an example in my electorate, in the area that is assigned to the Yorta Yorta nation. The situation is that the Bangerang, who are also the traditional inhabitants of the land along the Murray River, have been totally disenfranchised and left out of all decision making. I have a lot to do with many members of the Bangerang community, and I know the pain and suffering that it causes them to be totally disenfranchised from their land. I hope under this legislation there may be the opportunity for both these groups to have a say in the cultural heritage of the land along the Murray River in my electorate.

In the second-reading speech the minister stated:

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

Under the commonwealth act the schedule of local Aboriginal communities refers to trusts and cooperatives. Again this has raised concern among some of the indigenous groups, with one indigenous Victorian telling the Liberal Party that the philosophy underpinning this legislation has the potential to institutionalise division across Victoria. That division would be not only between the indigenous communities but also between the indigenous and non-indigenous communities.

VCAT will become the vehicle for dispute resolution in relation to cultural heritage management plans, cultural heritage permits and protection declarations where alternative dispute resolution or mediation procedures have failed. Another layer of state bureaucracy is being established under this legislation, with the inspectors being appointed by the minister and becoming employees under the Public Administration Act 2004 and fees being set by the regulations.

The structure of the legislation is likely to set up a new industry around Aboriginal heritage assessments in every municipality in this state, which has raised concerns with a number of local council areas. There is also provision under the act for a range of entities, including the municipal council or registered Aboriginal party to initiate the preparation of a cultural heritage management plan. The preparation of the cultural heritage management plan obliges proponents of the plan to engage a cultural heritage adviser. This raises questions as to who will bear the cost of the work that is undertaken to do this cultural heritage management plan.

In the event of an ongoing protection declaration being placed on land which would restrict the use of that land, there is no compensation other than land tax and rate remissions. This has also raised concerns amongst developers. If somebody purchased land for development and suddenly a large chunk of that is deemed to be under a protection declaration they can no longer make use of that land and they will be financially disadvantaged because there is no requirement for that land to be compulsorily acquired. They feel they deserve some sort of compensation if their land is deemed to be not available to them for the purposes for which it was originally purchased.

One of the objects of the bill is to conserve cultural heritage. There is an obligation under the legislation to transfer ownership and possession of secret or sacred objects from the state to the owners without there being any prescription for the safekeeping of those objects. It would be a disaster if these secret or sacred objects were just transferred to a group that did not have the know-how or the ability to preserve them. Certainly we have all seen examples of various museums where ancient artefacts have not been preserved in the manner that they may be in some Western countries. One of my great disappointments when I visited the museum in Egypt was to see so many of that country's very ancient and very precious artefacts exposed to direct sunlight and not kept in climate-controlled conditions that would preserve them for many years to come. Because they are not being preserved these artefacts will further deteriorate, and certainly nobody wants to see that happen. It would have been nice if the bill had included some prescription for the safekeeping of the secret and sacred objects.

There is an obligation under section 149 of the bill that a registered Aboriginal party must act in good faith, but there are no penalties in the event of such a party not acting in good faith other than the power of the Aboriginal council to suspend or revoke the registration of the party. This is in stark contrast to the penalty of $180 000 in the case of an individual or $1 million in the case of a company if there is an intentional act to harm Aboriginal cultural heritage, and to the penalty of $60 000 to $300 000 if Aboriginal cultural heritage is negligently harmed. While I think there should be penalties if anybody wilfully harms something I also think there should also be some sort of penalty if somebody is wilfully standing in the way of a developer and causing disruption to something without it being a genuine case. As I said, no-one would support the wilful destruction of indigenous heritage. We all want to see significant artefacts and significant sites preserved, but the penalties in this bill are among the heaviest of those applying in Australian states. Penalties of up to $1 million are quite hefty compared with the fines in legislation in other states.

In Queensland the penalty for individual unlawful harm is $100 000 or two years jail. In the Northern Territory the penalty is $40 000 or two years jail, and in the case of a body corporate it is $200 000. In Tasmania it is $1000 or six months jail. In South Australia damage to a site would cost an individual $10 000 or imprisonment for six months. In Western Australia it is a $20 000 fine or nine months imprisonment for a first offence, and $50 000 for a first offence by a body corporate. Under the current federal act a natural person would incur a $10 000 fine or five years jail. As we have seen in this bill, an individual would incur a fine of $1000, and in the case of a company the penalty

would be $1 million. They are quite hefty penalties. As I said, they are amongst the heaviest penalties in Australia.

The Liberal Party has consulted widely with the community, and I congratulate the member for Sandringham in the other place, the opposition spokesman on Aboriginal affairs, who has done a tremendous job in getting out and speaking with many of the Aboriginal groups and other stakeholders with an interest in this legislation. I shall raise some of the concerns that Aboriginal elders passed on to the Liberal Party. Some of those concerns include that only traditional owners should be represented on the council and that some groups will only be interested in the income generated by the act, which was an interesting comment coming from an Aboriginal elder. There is also concern as to the practical impact of having multiple organisations seeking to represent the geographic area of which we have already spoken.

The elders were also concerned about the scope for disputation being used to gain political leverage. They were concerned that the minister is trying to set up another Aboriginal and Torres Strait Islander Commission. They were concerned that if development becomes a referral process for councils and an archaeologist needs to be called in on everything, then developers will soon end up as poor as the Aboriginal people and the Aboriginal Affairs Victoria archaeologist will become rich. They see that there could be some scope for this to become an industry rather than something for the protection of Aboriginal heritage.

The government held a number of consultations around the state, and the Liberal Party attempted to have someone attend almost all of those meetings. In general the attendance at the meetings was relatively poor. I believe the Thornbury meeting was attended by about 40 people; in Geelong there were around 30 people; in Ballarat, 10 people; in Shepparton, 10 people; and in Echuca about 9 people were present. It should also be noted that those numbers included the public servants who were present. At Shepparton the public servants made up half the number of people who attended the meeting. My electorate officer attended the Shepparton meeting. At the morning session she was greeted warmly by our local indigenous people and sat there chatting with them. When the minister and his adviser arrived she was asked to leave but was invited to come back to an afternoon session that was supposed to be with council planners. When she arrived at the afternoon session she was the only one present, so she had a briefing all on her own, but it was interesting that there was no-one representing the council. I wonder how extensively the meeting was advertised in the local council area, because the council planners normally attend those sort of briefings when they are put on in Shepparton.

Some of the concerns that were raised during these meetings that have been fed back to the Liberal Party were that there was a lack of boundary definition within the bill, that no true consultation process had happened and that the bill had been rushed through. In the words of the person who said it, it had been put through at ‘whitefella’s pace’ and not at a pace of the indigenous community was comfortable with.

Another comment was that members of indigenous communities see themselves as coming from a diverse range of cultures, peoples and nations, and that this centralised act would create division and not be productive for them. Another concern raised was that traditional owners and not a hand-picked group of advisers should make decisions on traditional lands. It was also raised that the bill creates a potential for division and that there is a challenge to democratic principles because of non-elected officials. It was raised that there was no appeal process for indigenous communities in relation to the appointments to the Aboriginal Heritage Council and that they did not feel that the Victorian Civil and Administrative Tribunal (VCAT) had the experience to be the final arbitrator on Aboriginal heritage issues. They also felt that there was potential for too many Aboriginal parties to muddy the waters. They were concerned that registration of an Aboriginal party was not open to the public, and there was no provision for deregistration in light of new information coming forward. They also felt that there was a lack of definition of an indigenous site of significance. It was brought up that centralising the process is not the indigenous way. They also felt that this legislation would create uncertainty for developers. Another concern of the indigenous community was that the current cultural heritage officers could lose their jobs. They were concerned that the bill was a regression to the bad old days when the traditional owners had no rights. They also felt that this was a bill that had been put together by an autocratic minister who made all the decisions.

I shall quote from a couple of articles which appeared in my local newspapers and which referred to the consultations that were held in both Echuca and Shepparton. It disappoints me that I have to quote from these articles, because I have been trying to establish a meeting with our local Yorta Yorta representatives to discuss this bill. As I said, I talk with the Bangerang regularly, but the Yorta Yorta seem to be a little more elusive. I have been trying to seek a meeting to discuss

not only the Aboriginal Heritage Bill but also issues surrounding the Echuca–Moama bridge. Unfortunately I have not been able to gain that meeting. I shall give an idea of how we have attempted to get that meeting during the last six months.

On 8 December we wrote to the Yorta Yorta Aboriginal group but received no answer to that letter. We then rang them on 16 December and got an answering machine. We rang them again on 22 December, and my electorate officer, Emma, was able to talk to Lee Joachim. Dates were talked about with Lee, and he was going to get back to us. Some of those dates suggested in the conversation between Lee and Emma were 27, 28, 29, 30 and 31 January. Lee tentatively booked meetings with us for 28 and 29 January, but he never got back to us to confirm those meetings. Emma rang again on 25 January to make sure the meetings were happening on 28 and 29 January but again got the answering machine, and there was also no response to that.

She rang again on 20 February and left a message on the answering machine. Again, there was no response. She rang on 10 April and managed to speak to Uncle Colin Walker and left a message, and as a result of that message Lee did ring her back. Emma suggested a meeting date of 24 April, and Lee was to get back to us, but we never received a response to that call. It disappoints me that I have to quote from these articles, because I would have much preferred to have sat down with the local representatives of the Yorta Yorta and discussed their concerns first-hand. I guess the quotes will just have to do.

In an article by Kathryn Maddox headed 'Anger over bill' which appeared in the *Riverine Herald* of 5 December 2005 she said that the proposed legislation has angered the Yorta Yorta nation representatives, who believe the proposals would discredit individual indigenous groups. The article quotes Yorta Yorta chairman Lee Joachim as having concerns about who would sit on the council. Lee asks:

> If they have no knowledge of the local area, why should they have the privilege to make those decisions?

He went on to say that the Yorta Yorta people will voice their concerns about the proposed legislation and protest if the bill is passed. He said:

> If it does go through, it will be of no help to us .

In another article that appeared in the *Shepparton News* there is a nice photo of the minister! It is a picture of the minister with Petah Atkinson of the Yorta Yorta nation. The article published on 30 November 2005 is by David Wood and is headed 'Draft bill worries Yorta Yorta'. It starts by saying:

> Aboriginal representatives expressed their concerns about the Victorian government's proposed Aboriginal Cultural Heritage Bill at a meeting with a government minister in Shepparton yesterday.

The article says later:

> Yorta Yorta nation community member Petah Atkinson said she still had concerns based on Aboriginal cultural differences and how the council members would be selected.
>
> 'As a community member I have concerns, I certainly can't speak for Yorta Yorta nation or the organisation … my personal concern is that the minister and the government are assuming we are a homogenous group, and that we're all the same, and that we have the same customs, values and beliefs when it comes to our cultural heritage, and that is just not true', Ms Atkinson said.

Those quotes show that the Aboriginal groups in Shepparton and Echuca, particularly the Yorta Yorta group, were not happy with the bill. Certainly the interviews with them were taken straight after the meetings in Shepparton and Echuca, yet when my electorate officer returned in the afternoon from her private briefing at the Shepparton meeting she was advised by people from Aboriginal Affairs Victoria that the indigenous people who were present at the meeting in the morning were quite content about what was in the bill. It was interesting for her to be told that on the one hand and then to read those articles in the paper the next day.

Those in the indigenous community have not been the only ones to raise concern about this legislation. In an article in the *Herald Sun* of 20 October 2005 the Master Builders Association of Victoria warns that new laws requiring building sites to be checked for sacred Aboriginal links could add $2000 to the cost of an average new home and that additional planning restrictions on building would delay construction on family homes across the state and lead to additional costs for home owners.

The Master Builders Association of Victoria made a number of recommendations to improve the legislation that were not taken up by the government. These include recommendations that the government undertake a full Aboriginal heritage assessment prior to the release or rezoning of large tracts of land for development; that the bill be strengthened by including a list of activities that will not destroy, harm or damage Aboriginal heritage; that the government make explicit in the bill the exemption of small lot and infill development; that compensation to affected private sector parties should be based on payments that reflect

the market value of the land; that the regulations should outline activities that do not affect Aboriginal heritage and those that will fall within its objectives; that culturally significant land be included as part of the land development contribution by local government; and that more stringent time frames for heritage assessment need to be included in the bill.

I would like to talk about a particular issue affecting my local area — that is, the construction of a second river crossing at Echuca–Moama. Most people in the house would be aware of that issue because I have raised it in the house before, and it has certainly been the subject of some significant articles in the *Herald Sun*. I do not agree with the sentiments expressed in all of them. The need for a second river crossing in Echuca has been building over the last 40 years. We have one bridge that was originally a rail bridge built prior to the beginning of the 20th century. I think it is 128 years old now, and it is deteriorating rapidly and needs to be repaired or replaced so that we have a second river crossing.

There has been a lot of debate in the community about where the bridge should go. Both Echuca and Moama are growing out to the west of the current settlement, and both the Campaspe shire council and the Murray shire council deemed that the west would be the best option for the bridge. It is certainly the option favoured by most of the local community and even some of the local indigenous community. The Moama land council that has responsibility on the New South Wales side has no objection to the western option and the Bangerang people have no objection to the western option, but the Yorta Yorta people — quite within their rights under the current legislation — have said no, the western option area is of importance to them. All they had to say was no. There is no further requirement for any explanation to the community, and it has caused a lot of anxiety within the community.

I have tried to meet with the local group to discuss this, because I would like to be told why not as well. I always like to hear all sides of a debate, and I have heard the debate from the councils and the community. I have walked the site with the Bangerang people, who pointed out to me what they consider to be culturally significant on the site. They pointed out how they feel a bridge could be constructed without damaging anything culturally significant, but I have not heard the Yorta Yorta's point of view, and I would very much like to hear that directly from them. Also David Rhodes of Heritage Insight conducted an assessment of the site that seemed to indicate that perhaps a bridge could be constructed somewhere around that area without impacting at all on significant things such as scar trees and shell middens.

The Bangerang people pointed out to me that one of the shell middens was deteriorating through normal environmental effects. Through natural erosion the shells are actually falling out of the bank. Those people felt it would have been good to carbon date that shell midden and record the date for posterity, because it is obvious that in a very short time that shell midden is just going to be destroyed by the elements, the river and the weather. It would be a shame for it to be lost without having been carbon dated.

Uncle Sandy Atkinson of the Bangerang is a respected Aboriginal elder who has about 30 years involvement in Aboriginal heritage. I think he was the chair of the Koori Heritage Trust here in Melbourne and is still active in the trust. He has been an inspector under the act for quite some time, so I have no reason to doubt the information that he gives me, but I would like also to hear first hand the concerns of the Yorta Yorta people.

One of the little-known facts about the western option for the Echuca–Moama bridge is that five different alignments for the bridge have been put forward to the Yorta Yorta people, and they have vetoed all five options. Most members of the community think just the one option has been vetoed. It is causing a lot of concern in our community and is something that could and should be addressed. I know that recently the minister was able to have the Yorta Yorta people sit down with the Campaspe council and go through some of the concerns the council had about why the bridge was not going ahead.

We need to realise that this is all about heritage. None of us want to see anything significant destroyed. We want to preserve anything of significance, but we also have to realise that the future belongs to all of us, and the development of Echuca–Moama into the future is equally important to the indigenous community as it is to the non-indigenous community. I hope very soon we can get together and find a way forward that will provide a second river crossing. The central option is not a good option for the future growth of the two communities.

It would be a great opportunity for us to build bridges not only across the river but amongst the community by finding a location acceptable to members of both the indigenous and non-indigenous communities in Echuca and move forward. I would like to see that bridge — if we can ever come to that conclusion and it is ever built — called the Reconciliation Bridge. Let us build bridges between our communities, not create divisions.

The Shire of Campaspe has asked me to raise with the minister a couple of concerns that it has with the bill.

Before this debate I spoke to the minister about these concerns, and he indicated that he will address them in summing up the debate on this bill. Their first concern was the right of review to the Victorian Civil and Administrative Tribunal (VCAT) under part 8 of the bill. They want to know if local government will be able to review or participate in any proceeding for a review of any relevant decisions taken under the Aboriginal Heritage Bill.

The council says the issue affects refusals of approval of a cultural heritage management plan and disputes about protection declarations under part 8. The council says that the answer to whether local government can participate seems to be no. Its reading of the bill seems to suggest that the only parties to the VCAT reviews will be, in the first case, the sponsor — which in most cases will not be a local government authority — and one or more Aboriginal parties for the area concerned. Or, in the second case, the applicant would be the minister and any relevant registered Aboriginal party. It does not appear that there would be an avenue for local government.

The council says that the Aboriginal Heritage Bill leaves somewhat unclear whether or not the power of VCAT under section 60 of the VCAT act that allows joinder with other persons with interests affected would apply to a review of these decisions under this bill. It cites the Echuca–Moama bridge as an example of this. It says the sponsor of the project would be VicRoads and it would have to be an application — —

Business interrupted pursuant to sessional orders.

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — I move:

That the sitting be continued.

House divided on motion:

Ayes, 23

Argondizzo, Ms	Mitchell, Mr
Broad, Ms	Nguyen, Mr
Buckingham, Mrs (*Teller*)	Olexander, Mr
Carbines, Ms	Pullen, Mr
Darveniza, Ms	Romanes, Ms
Eren, Mr	Scheffer, Mr
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr (*Teller*)
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
Madden, Mr	Viney, Mr
Mikakos, Ms	

Noes, 17

Atkinson, Mr	Forwood, Mr
Baxter, Mr	Hadden, Ms
Bishop, Mr (*Teller*)	Hall, Mr
Bowden, Mr	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr
Dalla-Riva, Mr (*Teller*)	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Vogels, Mr
Drum, Mr	

Motion agreed to.

Debate resumed.

Hon. W. A. LOVELL (North Eastern) — As I was saying, the Shire of Campaspe has used the example of the bridge as being a project where either VicRoads or the minister and one of the Aboriginal parties would have to seek a review at the Victorian Civil and Administrative Tribunal. It wants to know if there is an avenue for the community and the local council to actually seek a review of that decision at VCAT under this bill.

Another concern it has is the effect of the provisions of the bill on projects existing at the time of the commencement of the bill. Again it uses the bridge as an example. Its letter says:

> Where, as with the bridge project, the now current planning and development legislative and administrative processes have been completed and the main proponent of the project (i.e. VicRoads) determines not to proceed with one option because of the … opposition of local indigenous groups, it is our understanding that the processes in the Aboriginal Heritage Bill (and in particular the opportunity for VCAT review of decisions to refuse approval of cultural heritage management plans or the like) may not apply —

after this legislation has been passed. The letter further says:

> We think that consideration should be given to extending the provisions of the bill at least to projects where the work has not commenced and where there is more than one option for those works and there has been no concluded decision on which option ought to be adopted.

That is exactly what has happened with the bridge. There are a number of options, and there has not been a decision on which option should be adopted.

The third concern is what the consequences are of a denial of approval under the bill. The letter says:

> If a development is designed —
>
> (a) who would manage or control the land after that decision?
>
> (b) would all future development of the affected area be in perpetuity or is the decision development specific?

The letter goes on to say:

> We do not consider that these issues have been addressed at all under the bill or not addressed with sufficient clarity. They

> are important matters that should be spelt out clearly in the legislation so that affected parties including local government are not left to guess at the answers.

As I said, I raised those concerns with the minister prior to the debate, and the minister has promised me that he will give a response in his summing up of the legislation.

In closing, I would like to say once again that I support the preservation of Aboriginal heritage in Victoria and throughout Australia. However, in light of the opposition that has been voiced by both indigenous and non-indigenous Victorians, the Liberal Party will be opposing this bill because it is a bill that has the potential to increase the cost of development across Victoria, increase the state bureaucracy and entrench delays at VCAT for planning approvals.

Hon. D. K. DRUM (North Western) — The Nationals propose a reasoned amendment to the Aboriginal Heritage Bill second-reading motion. Therefore, I move:

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

It is worth going through the background to the Aboriginal Heritage Bill. The exposure draft was put out in October of last year. Leading up to that, the government held a number of meetings around the state with both indigenous and non-indigenous groups. We do not have a large indigenous population in my area of Bendigo, but we have very strong indigenous communities in other parts of the North Western Province. As was noted by the previous speaker, many of the government consultative meetings had a mixed degree of success in getting people along to comment on the bill. Comments or submissions on the draft bill were made in December 2005. Whilst we were not able to view those submissions, we did talk about that during our briefing by officers of the department. Their answer was that they thought it best the submissions and various conversations that were taking place at many of those consultative meetings be kept away from public display.

This bill will effectively repeal the two bills that currently take care of Aboriginal heritage in Victoria. Aboriginal heritage is currently covered by the commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act of 1984, and a particular Victorian section deals with Aboriginal heritage. The Archaeological and Aboriginal Relics Preservation Act of 1972 also deals with Aboriginal heritage and will be repealed when the bill is ready to kick into action.

The main purpose of the bill is the formation of the Aboriginal Heritage Council. The minister will appoint the 11 members of that council. These people will have to be Aboriginals with strong family links to certain areas of Victoria. Once the members are appointed by the minister, including the chairperson, the council will have significant responsibilities in relation to carrying out many of the aims and objectives of the bill. Primary amongst those will be its responsibility to validate and register Aboriginal parties. The council will also have to advise the minister on a whole range of Aboriginal cultural and heritage issues.

The Aboriginal Heritage Council will be given the responsibility of registering Aboriginal parties. We have 23 respective Aboriginal areas throughout Victoria, and it is envisaged, and I suppose hoped, that the council will be able to appoint or register one particular Aboriginal party to look after the Aboriginal heritage of each of those 23 areas. However, it is more likely that many of the areas will have cooperatives that will in effect be given the responsibility and task of protecting Aboriginal heritage in their respective areas.

This is one of the reasons that unfortunately Nationals members, in consultation with various Aboriginal people in our areas, have been driven to believe they have to oppose this bill. We cannot see any way for this aspect of the bill to work. We hope it will, but our experience so far leads us to believe there will simply be too many claims and that it will create an awful amount of bad will amongst the Aboriginal communities themselves. We can envisage a reasonably high level of bad will being created as the Aboriginal Heritage Council, which may or may not have the respect of the various Aboriginal parties whether they are registered parties or not, grants Aboriginal heritage responsibilities to certain groups over and above others.

In my own area, where we have the Djadja Wurrung tribes in and around Bendigo, a certain group of people belong specifically to those tribes, but we also have the Jara people. They are part of the Djadja Wurrung, but believe they have heritage rights over all of the other groups in our area. I do not know how that is going to be sorted out and who will be the people representing that particular area. It is going to be extremely sensitive as to how we go about anointing the people who will be responsible for looking after and protecting our Aboriginal heritage.

Another criterion for membership of the Aboriginal Heritage Council is the ability to exhibit relevant experience and knowledge of Aboriginal heritage culture in Victoria. It is not just a matter of being Aboriginal and having strong links to a certain area, they have to have strong relevant experience and knowledge of Aboriginal heritage in their respective areas.

The regulations surrounding the need for people wanting to do work in and around Aboriginal areas are going to create a certain amount of angst and concern. It certainly raises serious concerns within The Nationals. The likelihood is that landowners who may want to undertake developments or simply create employment — and this will have to be set down when the regulations are developed at some later stage — will have to, in conjunction with the registered Aboriginal party of the particular area, develop an Aboriginal cultural heritage management plan. These plans will need to have an archaeologist's input to make sure that all the relevant details surrounding the area have been catered for, looked at and acknowledged.

It is uncertain as to what level and size of development will require a plan. As it is laid down in the bill, any development that requires an environment effects statement is certainly going to require an Aboriginal cultural heritage management plan. One of the worries we have about this is the ability of each of these respective parties to get hold of an archaeologist that has those skills that pertain to Aboriginal heritage, because we are led to believe that there are only five of these people in the state of Victoria.

Ms Hadden — Are they Aboriginals?

Hon. D. K. DRUM — They have to have Aboriginal knowledge; they do not necessarily have to be Aboriginal. It is going to be quite interesting to see how they are going to be able to spread themselves so thinly around the state that these plans can be completed without creating an overtaxing hold-up while also making sure that they do not stop all the developments around the state simply because developers can no longer get the plan that this legislation is going to call for.

The archaeologist or the heritage specialist, working with the developer and the Aboriginal community representatives, will produce the plan. Local government and the other decision-makers and authorities will not be able to issue a licence or permit for any sort of prescribed activities unless they have an Aboriginal cultural heritage management plan.

One of the better parts of the bill that The Nationals think is a very good idea is that, once a developer has lodged a plan and been knocked back and is unable to get the work done, they will have the opportunity to go straight to VCAT and have their dispute heard. I think that is something that is going to create an opportunity where people are at least going to be able to have their day before a panel hearing when effectively they have had a stop order put on them by one of the inspectors telling them that they cannot proceed.

The bill also includes a system of voluntary Aboriginal cultural heritage agreements for matters that do not require a management plan. This is said to be to allow the development of partnerships between Aboriginal people and landowners and also governments and others who protect and manage Aboriginal cultural heritage. On some of the smaller issues where everybody agrees what is on the site and understands that it is an area of Aboriginal significance and can see that an agreement is going to work and that the activity is not going to disturb or harm the area of significance, these partnerships between the Aboriginal people and the landowners and/or the developers are certainly going to make things a little bit easier.

The minister will be appointing some inspectors — again we are not quite sure how many. They will be new positions. Currently these positions are voluntary. Many of the Aboriginal people who now carry out the role of inspector— for instance, they might be employed through Parks Victoria or one of the other government departments — and have a responsibility to go out and make inspections and do this type of work will, under the new legislation, be employed wholly and solely as Aboriginal inspectors to the Victorian public service. They, with the approval of the Aboriginal Heritage Council, will have regulated powers which will be increased. They will have very strong responsibilities and powers — —

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! There are several conversations in the chamber that have been going on for a considerable period of time. I am having difficulty in hearing the contribution of Mr Drum, so I would appreciate it if members could have those conversations outside or, at the very least, minimise the noise.

Hon. D. K. DRUM — The activities and the increased powers of the inspectors will be more clearly defined when the regulations are set down. However, to back up their work and to back up those responsibilities, should they come across individuals who have harmed Aboriginal land, Aboriginal places or Aboriginal objects, the increase in penalties to those

individuals is going to be extremely steep. The penalties for individuals have been increased from $10 000 to $153 000 and the penalties for corporations knowingly harming Aboriginal land, places or objects have been increased from $50 000 to more than $1 million. The bill also has imprisonment provisions for people who harm Aboriginal cultural and heritage areas.

Recently Victoria's 40 volunteer inspectors were stood down. In Bendigo in my area we have a couple of very highly credentialled people in Uncle Brian Nelson and Bambi Lees who do a lot of work. I hope that they will be in line for inspector roles because I know how responsible they are and that they have a true knowledge and love of Aboriginal heritage. The legislation provides that inspectors will be full-time employees with their own set of powers.

Clause 31 is of some concern. It provides the minister with power to compulsorily acquire land, and subclause (4) states that a person is not entitled to compensation for the value of an Aboriginal object. I was going to ask the minister questions about that but I understand that they will be covered in the minister's summing up.

Most Victorians are proud of their indigenous Australians and we admire their customs and respect their heritage. Most Victorians cringe, as I do, when we see some of the problems that have crept into the communities. We wonder how many of the problems come from their own shortcomings and how many have been forced on them by the ways of the European settlers and are in fact our fault. That is an unspoken concern of many Victorians.

The Nationals do not believe that the bill is the best and most harmonious and practical way to protect Aboriginal heritage. We believe that it will create an awful number of problems. We are worried about the creation of the Aboriginal Heritage Council. We are worried also about the lack of security for landowners. If the minister is able to compulsorily acquire land, that will certainly not give landowners any great security.

My experiences in this job have included sitting down and listening to and talking with Aboriginal elders. At times I have been shocked by their plight. Sometimes I have been shocked by their attitudes not only to claims of discrimination against them but also towards each other. Many white people make a common mistake and tend to bundle Aboriginal people and issues into just one group. That is far from the truth. They have many different cultures within their own groups and many different needs. We must spend time with them.

I know that the minister is very passionate about his responsibility for Aboriginal affairs and that he has spent an enormous amount of time sitting down and listening to and talking with many Aboriginal groups around the state. I have spent many hours talking to the minister about many of the issues I have come up against in my own electorate. I know that it is a very, very tough job.

In closing, I would like to quote from an article written by Neil Mitchell which appeared in the *Herald Sun.* It states:

> These new laws are designed to protect Aboriginal heritage and there is no problem with that.
>
> No sensible person would want to trample over a genuine sacred site or bulldoze rock paintings for a block of flats.
>
> But this has the potential to tilt the balance unfairly and lock up the state.
>
> The government is building a planning nightmare.
>
> What it is creating is not only unfair, inherently racist and antidevelopment, it will make building more expensive and much slower.
>
> It is also adding a painful level of bureaucracy to a system already bogged in gobbledegook and paper shuffling.

Many Victorians would share those concerns.

The Nationals will be opposing this legislation. We have moved a reasoned amendment and hopefully the government will see fit to support it.

Mr SCHEFFER (Monash) — I speak in support of the Aboriginal Heritage Bill. I pay my respects to the people of the Kulin nation, the traditional owners and custodians of the land on which we are gathered.

The primary purpose of the bill is to protect and conserve Aboriginal cultural heritage in Victoria. However, importantly, in reference to clause 3 the explanatory memorandum adds that this protection and conservation happens through the recognition of Aboriginal people as the primary knowledge-holders, keepers and guardians of Aboriginal cultural heritage. The point here is that heritage is what is inherited, what comes down the line from our ancestors. It consists of places and objects that are, of course, invested with meaning and cultural significance and that in turn constitute — shape and construct — identity. Remove the objects and the places and you no longer have meaning and so you lose identity and you no longer know who you are and you are lost. It is both as simple and as complex as that: if you lose your inheritance, you lose your sense of self.

So while the bill is concerned with the establishment of the Aboriginal Heritage Council, with the establishment of a comprehensive register of Aboriginal parties to assist in the recognition of Aboriginal nations within our legal framework, with cultural heritage plans, permits and agreements, and with various enforcement measures, the deep purpose of the bill is, as the minister's second-reading speech states:

> to recognise the role of traditional owners in managing their heritage —

managing their heritage, their Aboriginal heritage.

The Minister for Aboriginal Affairs, Mr Jennings, and all those who have participated in the development of this legislation deserve high praise for the efforts that have been made to genuinely consult with Aboriginal communities. The second-reading speech states that one of the strongest messages taken from these consultations was the need to recognise the role of traditional owners in managing their inheritance.

Late in 2004 a group of young people from Framlingham came to the Parliament and gave a presentation to a small group of MPs about the achievements and challenges confronting the Framlingham Aboriginal Trust and its community. As a follow-up, Ms Romanes; Mr Trezise, the member for Geelong in another place; and I spent a couple of very memorable days at Framlingham in 2005. There we met members of the community and were briefed on the work of the trust in the management of community facilities, the operation of the dairy farm, the management of the Framlingham Forest and Deen Maar Indigenous Protected Area, the delivery of a range of services and the provision of cultural heritage services to organisations such as Parks Victoria, the Department of Sustainability and Environment and Tourism Victoria.

We also visited the ruins of the mission at Lake Condah and the magnificent, windswept south-west coast. We inspected the wind farms and watched the sun set at Deen Maar Island as we heard about how Bunjil, the creator, left the world. This was a transforming experience, and I owe a debt of gratitude to Geoff Clark and the members of the Framlingham community for their generosity and hospitality.

As a non-Aboriginal Victorian from an immigrant background I had not in my life had much direct experience of Aboriginal people, and I suspect I am not unusual in that regard. However, my work with the Parliament's Drugs and Crime Prevention Committee has brought me into contact with Aboriginal communities and organisations in Victoria and in other states. It has been a great privilege for me to have been able to listen to the stories of communities and families separated from each other and frequently forcibly removed from one end of the state to another. There are tales of disconnection from family members, from country, from language, and from cultural narrative and continuities, resulting in personal pain, loss, and in many ways deep and inconsolable grief.

Speaking for myself, I feel a personal responsibility for what has befallen Aboriginal Australians because I am a direct beneficiary of their loss of country. I speak for many residents of Monash Province when I say that we bear a responsibility to support Aboriginal Victorians in any way we can in their work to strengthen their communities. I believe that supporting this bill is one way of doing that.

The bill makes sure that matters relating to protecting Aboriginal cultural heritage are linked to planning and land development processes. Presently the representative structures for Aboriginal groups are not well coordinated and are unregulated. The provisions of the bill will bring coherence to this situation and will give registered Aboriginal parties responsibility for protecting and maintaining Aboriginal places and objects of cultural heritage significance within their areas, and they will do this through the development of cultural heritage management plans. The provisions of the bill will also give greater certainty to developers and land managers regarding the sorts of developments that will need to have heritage management plans and will also broaden Aboriginal community involvement in heritage protection.

The bill establishes the Victorian Aboriginal Heritage Council, a body of 11 Aboriginal Victorians who have connection with, expertise in and knowledge of Victorian Aboriginal cultural heritage. Members of the council will be appointed by the minister for three years. The council will provide advice to the minister on matters relating to Aboriginal cultural heritage, such as the cultural significance of Aboriginal remains or places or objects. But more specifically, the council will be empowered to make decisions regarding applications for registration as an Aboriginal party for an area, to approve cultural heritage plans, and to promote public awareness and understanding of Aboriginal cultural heritage in Victoria.

The bill spells out a range of responsibilities and functions that are assigned to a number of bodies and individuals. These matters are very complex and in practice can clearly involve delicate negotiations, so the bill necessarily goes into considerable detail, setting out how these responsibilities and functions should be

carried out. It is here that we see the result of the extensive consultations that have been conducted with all stakeholders over many months. It is an error to understand this as simply another layer of bureaucracy.

The opposition and The Nationals say they strongly support indigenous heritage in this state, and even lay claim to having set the ball rolling with the introduction of the Archaeological and Aboriginal Relics Preservation Bill in 1972. But they oppose this bill because they say it is likely to increase the cost of development in Victoria, increase bureaucracy and entrench delays in the planning process. I find it astonishing that so little heart, so little empathy, and so little generosity comes through in the contributions of some members of the opposition.

They say they agree on the importance of Aboriginal heritage but find they cannot support the legal and organisational measures that will make a practical and palpable difference to the lives of Aboriginal Victorians through strengthening the law so that places and objects of meaning and significance are no longer diminished by being treated as curios, commodities and the subjects of scientific research, as the explanatory memorandum states.

This is important legislation and I congratulate the Minister for Aboriginal Affairs, Victorian Aboriginal communities, stakeholder organisations, and businesses representing property interests in Victoria for their participation in and contribution to preparation of the legislation. I commend the bill to the house.

Hon. BILL FORWOOD (Templestowe) — This is an important piece of legislation; in many ways I find it disappointing that I will be voting against it. The protection of Aboriginal heritage is a particularly important part of the governance structure of the state, not just for indigenous Victorians but for all of us, and we should understand and accept the importance of legislation such as this.

It is disappointing that the legislation is not good enough for us to be able to stand here and applaud it in such a way that we would accept its going through, but it is not, and for that reason the Liberal Party will be opposing it.

It is ironic in many ways that the piece of legislation we are dealing with today is fixing up the mess created by the Cain and Hawke governments when, in an attempt to circumvent the rights of the Victorian Parliament, they decided to offload responsibility for these issues to the commonwealth government. Mr Baxter was probably here at the time and probably spoke on the bill at the time.

Hon. W. R. Baxter — No doubt I did.

Hon. BILL FORWOOD — I look forward to his contribution later on. What we are doing now is in effect remedying some of the errors — misjudgments — that occurred at that time. What is particularly disappointing about this piece of legislation is that it is now being rammed through this place in a couple of days.

Ms Hadden — It is disgraceful.

Hon. BILL FORWOOD — I agree — disgraceful, particularly because, as honourable members know, the minister responsible started the process in 2004. He has been going through a long process of trying to get this piece of legislation right. It is not easy to get it right, as we all know, and now because he has got particular problems he decides that the easy way of fixing it is to ram the legislation through the Parliament. I think it is extraordinary that we are here now at quarter past 5 on a Thursday night. As honourable members know, three-quarters of an hour ago we voted against the continuation of the sitting. We did not think that this bill, having had its genesis in 2004, required this sort of speed, and I look forward to the minister explaining to the house why he believed it to be important that this piece of legislation be debated on Tuesday in the Legislative Assembly and rammed through that house in time for it to be first-read in this place on the same day so that it would have the opportunity to get through this place two days later.

Ms Hadden — It was second-read here on Wednesday.

Hon. BILL FORWOOD — Yes, it was second-read here yesterday and passed in this place today. I will be listening to your contribution — —

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! Mr Forwood will speak through the Chair.

Hon. BILL FORWOOD — Through the Chair, I look forward to the contribution that Ms Hadden will make on this important piece of legislation.

My concern is that in the unseemly haste that is now being displayed we have ended up with a deficient piece of legislation. This is the second occasion in recent times that I have engaged with Minister Jennings and said, ‘I do not have a problem with the fundamental principle of what you are trying to do’ — I said exactly

the same thing in relation to the Disability Bill which went through this place today — 'but if you are going to do it, get it right'. That is exactly my attitude towards this legislation. I do not think this legislation is going to do what the minister says it will do or thinks it will do.

Unlike Mr Scheffer I have had a bit to do with some indigenous Australians — I admit not a lot in Victoria, but in over 10 years in the Northern Territory I had a lot to do with them. I want to share a particular anecdote with you from my days in the territory. I was involved in an executive capacity in the development of a tourist resort on Aboriginal land in a national park, and we negotiated for a considerable period of time with those we knew as the TOs — traditional owners — on a one-to-one basis and with their advisers as well, and after over a year of negotiations we ended up with a heads of agreement that was substantial.

Included in the agreement was a sign-off which related to sacred sites. They had seen the plans; they knew what we were doing and they had signed off to say we were not going to contravene any of their sacred sites. Part of the agreement was that we were able to construct a jetty. We got the barge around from Darwin, started it up and took out a pile of rocks which were right where the jetty was going to go. It was shown on all the plans which had been signed off by all the traditional owners.

What then happened was a remarkable scene, as every woman within cooee came hurtling down to the beach and quickly made it very clear that this was not what they expected to be happening. It turned out that while the men had signed off in good faith — and we believed they had signed off on behalf of all the traditional owners — they had not consulted with the women in enough detail. There was then considerable angst in the local community over what was going on — and there is not a happy end to this story. Unfortunately we built the jetty, but the senior Aboriginal woman responsible for that sacred site had an awful time until she died very quickly thereafter.

This is not a story of some trumped-up charge of people using an Aboriginal sacred site to stop a development. This is a story of what happens if you do not know what is going on. I see in this legislation a bureaucratic mechanism being put in place that takes away the fundamental rights of the local indigenous people. It is dangerous to put in place a bureaucratic structure where the minister appoints people to the public service. We end up with a system that does not have the capacity, which I would like to see, for people to be able to say, 'This is a site of particular importance to us'.

I understand and accept there are differences between the Northern Territory and Victoria. I am not qualified to speak in great detail on the habits and traditions of local Victorian Aboriginals, but I know that in the Northern Territory there were a lot of sacred sites that people did not know about. That is why we had a process set up through what was originally the Sacred Sites Authority, which was run by Bob Ellis, which enabled there to be a way through these issues. It is why we got into the system of having people from the museums sign off on particular sites in the territory.

While I am not qualified to speak in detail about how it will work in Victoria, what I am genuinely concerned about is that we are putting in place a system that does not have enough association with local Aboriginals to enable them to say when necessary, 'This is important to us for these reasons'. I believe the vast majority of Aboriginals are completely responsible and do not misuse the provisions of the archaeological heritage act or the current federal legislation to hold up pieces of development willy-nilly; I just do not believe it happens. What we need to do is assure ourselves that we have legislation that enables the protection of the important heritage sites , and I am not sure this legislation achieves that.

I foreshadowed to the minister that I intended to suggest we take this legislation off to the Legislation Committee where he and I could sit down over — probably — another 8 hours, like we did with the Disability Bill — —

Ms Hadden interjected.

Hon. BILL FORWOOD — And you could come, even if you are not a member of the committee.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! Mr Forwood will address his remarks through the Chair. Ms Hadden will stop interjecting.

Hon. BILL FORWOOD — Thank you for your guidance, Acting President. Ms Hadden could come as well and make her contribution for as many hours as she cared to be there; and Minister Jennings and I could work out whether or not the bill does what he wants it to do and covers the concerns that I have — and, I am sure, other concerns that have been raised by the lead speaker, and those of The Nationals, which are probably different concerns from mine, but we would be able to spend a considerable period of time doing this.

However, I understand that the government has decided that because of recent events at Kings Domain, where it

believes there was — and I believe there is every evidence to suggest it — a misuse of the current powers, it needs to get this bill through so that those sorts of unseemly and unfortunate events no longer occur.

The minister has persuaded me that it is important that this legislation go through immediately; and he has informed me, for which I am grateful, that he has no intention of allowing the bill to go off for a sensible 8-hour discussion between him and me in a different forum, and because of that — —

Mr Gavin Jennings — We could go to the footy.

Hon. BILL FORWOOD — Yes, we could go to the footy — we could probably do it at the footy!

Ms Romanes — That is a very egocentric statement.

Hon. BILL FORWOOD — Well, he and I could do it at the footy, but I don't know about you.

Ms Romanes — Relate it to the committee.

Mr Gavin Jennings — The Aboriginal committee likes the footy.

Hon. BILL FORWOOD — They do!

I know the minister is going to take the opportunity later on to explain why he believes this piece of legislation should go through today, and for that reason I have decided that I will not move that this legislation go off to the Legislation Committee so I could have better understood it.

I look forward to watching it in operation. I hope that the grave fears I have for the way it will operate are not found to be true, but I must say that my experience of legislation produced by this government is that it arrives in an under-prepared state, that it always has unintended consequences and that invariably it comes back quite quickly for remedial action.

I am pretty sure that I will not be around for the remedial action that this particular legislation will require, but I am absolutely certain that it will be back before this house pretty soon as it is shown to be another piece of flawed legislation. Despite the fact that it is very important we have robust legislation of this type, I must say that I, along with my colleagues, will be opposing the bill before the house.

Ms ROMANES (Melbourne) — I rise to support the bill and to oppose the reasoned amendment. I begin by acknowledging the traditional owners of the land, the Kulin nation, and the elders of the land on which Parliament stands.

This is a very significant piece of legislation, and in one sense it is unfinished business. By that I mean that the business of this bill has its genesis in the Victorian Aboriginal Cultural Heritage Protection Bill which was blocked by the opposition in 1986. It was at that time that the Cain government asked the Hawke federal government to insert in commonwealth legislation, powers that replicated the bill that was blocked, and those powers were delegated back to Victoria for management of cultural heritage in this state. That has been the legislative framework under which we have been operating in Victoria since then.

Back in 1986, as I said, the opposition blocked the heritage protection bill through a reasoned amendment, and here we are in 2006 where we again have the opposition parties saying in rhetoric that they support indigenous cultural heritage and that there should be support for indigenous cultural heritage, but they have some concerns and therefore oppose the bill until those concerns can be addressed. So nothing has changed in 20 years: the opposition parties still have great difficulty with an issue like indigenous cultural heritage. It is not about them; it is not about their culture; they do not understand it.

Honourable members interjecting.

Ms ROMANES — They do not understand the centrality of cultural heritage for indigenous people and the special relationship to the land or that the way indigenous people see the need for protection of objects, places and human remains is inextricably linked with the land and that very strong connection with the land that indigenous people have.

I think the explanatory memorandum sets that out very clearly in the explanation of clause 3, which sets out the objectives of the bill. It states:

> Fundamentally, the bill seeks to protect and conserve Aboriginal cultural heritage in Victoria through recognising Aboriginal people as the primary knowledge holders, keepers and guardians of Aboriginal cultural heritage.
>
> Aboriginal heritage management is to be treated as an integral part of land and resource management.

While the opposition has continued to oppose the principles of the bill that was introduced in 1986 and has stated it will oppose the bill before the house today — attitudes have not changed in that direction — some things have changed. The opposition no longer has the numbers to block such legislation in this house. Also the government has an opportunity to transfer the

management of indigenous cultural heritage back to the state of Victoria.

It is also interesting to see that the opposition is acting as if what we are dealing with here is an entirely new bill and denying the fact that we have had a cultural heritage protection framework operating in Victoria for the last 20 years. The changes that we are dealing with in the house today have been developed not in a vacuum but within that context. The bill attempts to remedy some of the difficulties with the current framework and to update and improve existing legislation. That is a result of consultation over the last two years in which the minister and officers from the Aboriginal affairs department have undertaken to talk with traditional owners and indigenous communities across the state. There may have been different numbers present at different meetings, but there has been that ongoing opportunity that has been providing forums for the discussion of the principles behind the bill and the exposure draft over quite a considerable period of time.

The bill before the house today provides for greater integration of indigenous cultural heritage into the planning and land development processes and putting that up front. It establishes a system of Aboriginal cultural heritage management plans to provide clearer processes for consideration of indigenous cultural heritage matters. That is in comparison with the very ad hoc, hit-or-miss situation that currently exists.

A regulatory impact statement will be developed over the months ahead to prescribe the circumstances in which cultural management plans will need to be prepared. It is important that there be that clarity and certainty for industry, for developers and for the community, and it is not helpful to have scaremongering that suggests to the community that this legislation might rope in ordinary mums and dads because that is not what it is intended to do. This bill is applicable to sites such as greenfield sites or undisturbed areas, sensitive areas, pipelines and other developments that even within the current cultural heritage management framework involve some responsibilities in this area, but as I mentioned earlier, it is sometimes a little bit hit or miss.

There will be improvements in the time lines on critical stages for the execution of cultural heritage management plans and more clarity on who can make these assessments and on how to resolve disputes through alternative dispute resolution processes, with an appeal mechanism available for proponents who are applying to the Victorian Civil and Administrative Tribunal (VCAT) for approvals. It is extremely important to understand that the intention of the bill is to improve the operation and certainty of indigenous cultural management processes within the state of Victoria.

This legislation will be an improvement on the current situation, and I give as an example the Venus Bay area, where many known sites currently exist. Under the current proposals it is likely that the subdivision of land in this area would require the preparation of a cultural heritage management plan. This would form the basis of ensuring that any subdivision is designed to avoid or minimise harm to Aboriginal sites. If a registered Aboriginal party refuses to endorse a management plan, the developer can appeal this decision to VCAT, unlike the current situation. Under the new proposals a developer will be able to appeal to VCAT on a decision to refuse a permit. This is not possible under the current law.

Another benefit of this legislation is in the area of fees. Currently unregulated fees are charged for processing a ‘consent to disturb’, and these are often proving to be a significant cost to smaller developers in some areas of the state. The new bill regulates such fees, giving certainty to developers and landowners when dealing with heritage issues.

I go back to my point about the centrality of cultural heritage for indigenous people and their link with the land. The nub of this bill is how to put indigenous people, in particular traditional owners, into the centre of the process of decision making to protect Aboriginal cultural heritage in Victoria. How can we achieve that very difficult objective?

One of the mechanisms that is put forward in the bill is the formation of an Aboriginal Heritage Council. It will have up to 11 members and comprise Aboriginal traditional owners who will decide which Aboriginal organisations or registered Aboriginal parties will have cultural heritage decision-making responsibilities, and those responsibilities may be given to more than one registered Aboriginal party. The council will advise the Minister for Aboriginal Affairs on broader cultural heritage issues and be responsible for applications for approval of heritage management plans. The secretary of the department will be responsible for education and awareness programs and for general advice to the minister in this area.

I understand that expressions of interest will be sought, and the criteria for the selection of those very special 11 people is outlined in clause 131, which states, in part:

(3) each member of the Council must be an Aboriginal person who —

(a) has, and can demonstrate, traditional or familial links to an area in Victoria; and

(b) is resident in Victoria; and

(c) in the opinion of the Minister, has relevant experience or knowledge of Aboriginal cultural heritage in Victoria.

The Minister for Aboriginal Affairs, Mr Jennings, commented to me that this group of people who will be selected to take up this weighty responsibility on the Aboriginal Heritage Council will need the wisdom of Solomon. I suggest that the minister will need such wisdom too so as to work through all the many different issues that will arise out of almost nowhere at times or to handle the unpredictable things that will happen — for example, Camp Sovereignty — but a lot people will be watching the Aboriginal Heritage Council as it works through many tricky issues and works to make sure that the registered Aboriginal parties are equipped to play their important role in providing advice regarding Aboriginal cultural heritage, each within its area of custodianship and interest, and to make sure that the decision-making in the area of indigenous cultural heritage rests firmly with Aboriginal people in this state.

It is a weighty task that the council and the minister will share, along with the wisdom, training, tolerance and the many skills that will be needed to mediate and to work through some of the cultural heritage issues into the future.

In that sense it is treading new water. It is an area where a lot of work will need to be done, but it is putting the responsibility for decision-making in this area in the right place — that is, with the native titleholders, the traditional owners, and the Aboriginal communities and organisations of Victoria.

The bill updates and improves the legislation. It repeals the Archaeological Act 1972, and it is contingent on the commonwealth repealing relevant sections of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 — but the federal government has committed to that — which will lead to an enhanced system of cultural heritage with responsibility and decision-making with the people for whom it matters the most. With those words, I wish the bill a speedy passage.

Hon. R. H. BOWDEN (South Eastern) — The opposition opposes the bill, which is a decision that was not taken lightly. I do not think any member on either side of this chamber does not support the retention and protection, and who does not value the heritage, the sacred objects and the sentiment that is reflected in many ways through our care for the impact that the heritage values have on members of the indigenous community and the wider community.

Opposition members have some very real concerns about this bill, because essentially under the cover and stated intention of protecting and recording heritage and developing a mechanism to do that the state is granting land rights across every piece of land in the entire state. This is granting land rights as an umbrella situation across every piece of land in this state, whether it be Crown land or freehold land. It is difficult enough to get projects, developments and approved uses for necessary purposes through the planning process, but now we will see that the real impact on the community of this well-intentioned legislation will be an increase in bureaucracy, an increase in delay and an increase in cost.

In the speeches I have read and in the speeches I have heard from government members there has been no real appreciation of the time or cost element involved. Indeed if this legislation does apply to greenfield situations, as it will, it will impact on houses, so that young families, regardless of their heritage, will be dramatically and negatively affected. There will be more complexity, time delays, more bureaucracy and uncertainty, and definitely increased costs.

In my electorate we have some experience in this matter. The Blairgowrie Yacht Squadron incurred enormous cost and delays through wanting to extend its marina and safe harbour. The situation at the Somerville Secondary College was an absolute disgrace. Students should have been in that college in January 2005 for the 2005 calendar year. The opposition believes that because of an argument, because of intransigence and because of a lack of care and attention by certain elements in the state government, there has been a cost to the wider community of at least a year of delay. The college was not ready until January 2006. The difference in the calendar year 2005 was exactly the result of a very complex and, shall we say, in many ways undocumented claim involving sacred objects. The community was outraged, and still is, at the lack of professionalism the state government brought to the Somerville Secondary College project by not handling it well or efficiently. The performance of the state government was disgraceful.

If that is an example of the practical result of this type of legislation, it is no wonder the opposition is nervous

and will oppose it. We will oppose it because our experience of these issues on the Mornington Peninsula, a small part of this state, is not good at all. Anecdotal evidence is available that in the past few years a small element of the indigenous community has already attempted to seek to profit and has exerted pressure on people who are going about their legitimate development businesses. This is very much a matter for concern. I suggest to honourable members that it is very strange there is no offence in this bill of seeking payment for or paying to prevent cultural heritage claims. In a regulatory balanced approach there should be a provision for it to be a criminal offence to seek payment to prevent claims of this nature. That is a very real problem people have with this bill.

We in Australia have to continue considering whether we want to be one nation in the future. We cannot consider splitting and dividing our nation. We are so successful because we do not tolerate division, and I suggest to the government that the more we have bills like this the more there is a chance of divisions starting to arise in the community.

I was absolutely disgusted and outraged by the Kings Domain performance. It was a total disaster for good community relations. The wider community was disgusted and outraged by the insults that were given to it. The community supports the retention of heritage and has provided billions of dollars over the years for resources and support through the government to the indigenous community. Certain people associated with the Kings Domain situation were a disgrace. I suggest that the government has not given enough thought on behalf of the wider community to the very practical and desirable goal of protecting heritage and indigenous values. There will be impacts, costs, delays, more bureaucracy and uncertainty. This is not a good bill.

Members of the opposition, like everybody else, wish to support the retention, protection and values of indigenous heritage — we do, but the way this bill is constructed, with the power to coerce other elements of the community, is antisocial. This bill has to be rejected, and that is what the opposition is going to try to do. We oppose the bill.

Ms HADDEN (Ballarat) — I stand here today wishing to speak against the Aboriginal Heritage Bill in its current form, and I support the reasoned amendment moved by the Honourable Damian Drum. I just wonder why the government wants to pit Aboriginal communities against Aboriginal communities. I wonder why the Labor government, in particular the Minister for Aboriginal Affairs, wants to put out the sacred flame, because that is exactly what has been done. I have a long involvement with Aboriginal people in my electorate of Ballarat Province. I do not intend to go into the detail of my friendships in my representations of those people here.

Mr Gavin Jennings interjected.

Ms HADDEN — Yes, it would take too long, Minister, that is right! When I asked on behalf of the Djadja Wurrung for the government's help, in particular the minister's help, to save the sacred site, which is a culturally significant site at Mount Franklin, I did not get any at all. That case went before the Victorian Civil and Administrative Tribunal (VCAT). It was a very long and difficult case where we were up against Telstra and its Queen's Counsel and big lawyers. We were little people — the ratepayers of the Shire of Hepburn. The Djadja Wurrung were dragged into it. The Ballarat and District Aboriginal Cooperative was dragged into it; in fact it was subpoenaed by VCAT. Unfortunately it was played out over many days of hearings in both Melbourne and Daylesford. It created enmity between the traditional owners of Mount Franklin, the Djadja Wurrung, and certain members of the Ballarat and District Aboriginal Cooperative, which is the statutory custodian, the only local community organisation recognised under statute. The traditional owners are not recognised, so we had them pitted against each other within the white so-called justice system. It was absolutely awful.

I could give the minister a copy of the VCAT decision on Mount Franklin — I think his department needs to read it. I was given permission to speak in certain respects on behalf of the Djadja Wurrung, but I had to seek the leave of VCAT to appear, and the Djadja Wurrung traditional elder descendant also had to seek leave to appear. He had to prove who he was, and he had to prove the sacredness of that site.

It is despicable and disgusting that he was put through that. It was awful. It did nothing for our parliamentary system and it did nothing for our justice system. We won that fight, but it was hard.

We have another fight on our hands with the traditional owners of Djadja Wurrung at Learmonth, where again we have the recognised committee under the act — the local community — pitted against the traditional owners because the proponent of the project, the Ballarat City Council, has done a cursory inspection of the site through a white archaeologist who has not consulted the traditional owners. That presents problems.

In that case I made a submission before the planning panel, trying in my own white way to explain to the panel members how they should be seeking representation from the traditional owners and not just from the community recognised under the statute — section 10 — because they are not traditional owners of the land.

It all came up again the other night when I watched the *Stateline* coverage of the Camp Sovereignty event and listened to the Wurundjeri woman, Vicky Nicholson-Brown. Her concern was that people were talking about other people's country. The minister knows, I think, from being the Minister for Aboriginal Affairs, that that is something that Aboriginal people are forbidden to do. They cannot speak for someone else's country.

My grave concern with this bill and the setting up of a heritage council, with the appointment of up to 11 select members, hand-picked by the minister, will pit communities against each other and traditional owners against each other, because not everyone will get a seat on that heritage council committee. There is not room for everyone.

A question I ask of the minister is: is there going to be a position on that council offered to the traditional owners in my electorate, the Djadja Wurrung. They do not need to be trained up as to what their country is. It is perhaps the white bureaucrats within the department who need to be trained up; it is certainly not Aboriginal people.

I find this legislation offensive. It smacks of paternalism; it smacks of the days of the Aboriginal protectorate legislation; it smacks of racism and discrimination, of the pitting against each other of Aboriginal people by a group of hand-selected people who sit on the heritage council. It makes me sick to the stomach that the bill is being rushed through Parliament today when it was only second read on Wednesday, with house amendments proposed by the minister. On top of that we get the minister dismissing the 47 or 48 cultural heritage officers, and then he had the gall to say to the media that nobody had produced evidence to him about the cultural heritage significance of the sacred fire at Kings Domain. That says to me that the minister understands nothing of Aboriginal culture, their heritage and their beliefs. The Aboriginal belief system is very different from ours, and we have a lot to learn from them.

I must apologise to my Aboriginal brothers and sisters. As I stood up here I should have acknowledged and paid my deep respects to the traditional owners of this land on which I stand, the Bunurong and the Wurundjeri people and their descendants and elders.

It is a sad day when this bill is being rushed through Parliament. It does not need to be. It could be dealt with properly and at length. Mr Forwood has made a suggestion that it go before the Legislation Committee. Unfortunately I am not a member of the Legislation Committee. It is made up of three Labor government members, two Liberal members, and one member of The Nationals. But this bill needs a lot of reworking, or I think we are going to have some problems on our hands.

I raised another problem with the minister the other week or two months ago about Mount Egerton mining. I was at a public meeting in February at Mount Egerton and the hall there was packed with about 300 people, and people were spilling out onto the street. A Wathaurung traditional owner was there and an elder from the Ballarat and District Aboriginal Cooperative who is the local community representative recognised under statute.

They asked a number of questions of the government departments on the stage, including the mayor. In particular they wanted to know why they had not been consulted about the mining that has been going on for 10 years on their sacred mountain. I urge the minister on his trip around my electorate — shortly, perhaps — to visit Mount Egerton and see the damage there on the Wathaurung country.

Aboriginal Affairs Victoria told the miner in a letter of 27 May 2004 — it is not his fault — that there are:

> no Aboriginal archaeological relics registered under section 10(a) of the Archaeological and Aboriginal Relics Preservation Act 1972.

But that act covers unregistered relics as well. The miner has gone along believing that he is in the right and there are no registered relics. He has two letters from the Department for Victorian Communities signed by the executive director of Aboriginal Affairs Victoria in August 2001 and May 2004. Both letters are the same. The letter goes on to say:

> In order to protect any unregistered relics which may be located within the subject area, it is requested that the following clause should be attached to any licence issued as a result of this application …

And it goes into the requirements under the act. But the issue here is that the traditional owners and the local Aboriginal community recognised under statute — Ballarat and District Aboriginal Cooperative — had not been consulted. It was the first time they knew their

land was being interfered with. That should not have happened and it has still not been rectified.

I raised it in the Parliament. I got a wishy-washy answer from the minister, who was not aware of it. He should have been made aware of it by his department, and certainly through the Department of Primary Industries, the Department of Sustainability and Environment and the Crown land department, which were represented at that public meeting. These are serious issues and I cannot see these issues being solved and/or rectified — made right — by this bill.

My other issue is with the minister's unfettered power to select people for appointment to the heritage council, and also as inspectors. I will deal with inspectors; I think I have said enough on the heritage council appointments. Under clause 160 the minister has what I term 'unfettered' power to appoint an inspector. It is a question of whether in the minister's opinion a person has appropriate:

> … knowledge and experience in the identification and protection of Aboriginal cultural heritage —

and has completed a course of relevant training to the satisfaction of the minister. The bill goes on to say that the heritage council may make recommendations to the minister regarding such training and that such persons must be capable of carrying out the functions laid out in clause 159. It concerns me again that this depends on the opinion of the minister. The minister has totally unfettered discretion. It is the minister only who determines who will be an inspector, and I bet it will not be the 47 or 48 he has just sacked. They will not get up again as inspectors. I do have cultural heritage inspectors in my electorate, though they are not the Djadja Wurrung. I am very concerned that this bill is discriminatory. It is racist. It smacks of paternalism and white supremacy. It smacks of the stolen generations all over again.

Given my intimate respect for, and my understanding and knowledge of, Aboriginal people, which I have gained over 30 years, I cannot support this bill. It is a rushed bill; it has not been properly thought out. Mr Forwood made the poignant comment in his contribution that most bills that are brought into this house by this government are rushed through, ill-prepared, bad and badly drafted.

I have been in this place since 1999, and I know that nothing changes with this government. It is most unfortunate that the Minister for Aboriginal Affairs seems to be replicating that pattern. I cannot and will not support this bill.

Hon. J. A. VOGELS (Western) — I would like to make just a few comments on the Aboriginal Heritage Bill, mainly on the concerns of local government and the Municipal Association of Victoria (MAV) about it. The Aboriginal Heritage Bill will result in each of the 79 councils in Victoria having to prepare a cultural heritage management plan. That will require immeasurable resources, the cost of which will be passed on to ratepayers. It is interesting to note that only a couple of weeks ago the Minister for Local Government proudly put out a media release which says:

> A new national agreement signalling improved cooperation between commonwealth, state and local governments will deliver better outcomes for local communities in Victoria and across Australia.
>
> …
>
> The agreement ensures that local governments are consulted when asked to provide extra services by either the state or commonwealth government. It also acknowledges that the financial capacity of local governments in particular needs to be considered when services and responsibilities are transferred from one level of government to another.

I think the minister's media release has already fallen at the first hurdle.

The MAV and local councils are very concerned about this bill. I think every member would agree on the importance of indigenous heritage and would support its conservation. However, this legislation will establish new levels of bureaucracy; it will increase costs at two tiers of government, establish new rights, introduce new criteria for decision making and impact upon every major development activity in the state.

The MAV assures me that it has written to the Minister for Aboriginal Affairs, asking that a working party be established with local government to ensure that the new requirements are practical and effective. The MAV's concerns include the lack of guidance on which land use or development permits will require Aboriginal cultural management plans. It is also concerned that this legislation could potentially expose councils to litigation if requirements for the preparation of Aboriginal cultural management plans are challenged.

It is concerned about a number of other things, too, but I will not go through all of them tonight as time does not permit that. However, I want to put on record that the MAV is concerned about this bill. It does not believe it has been brought to the table and had explained to it the guidelines, costs and various ramifications for councils as a result of this legislation.

We do not support this bill. We also do not believe that creating so-called Aboriginal nations within Victoria is a way to unite Victorians; in fact, it will probably have the opposite effect. At present — and I stand to be corrected — Victoria has about 28 Aboriginal councils.

Hon. D. K. Drum — Twenty-three.

Hon. J. A. VOGELS — Mr Drum says 23. Those councils have probably been taking a long time to sort out where the boundaries exist. It seems they were working fairly well, so why have a lot of new nations been created above that? The Aboriginal groups that visited me do not support that either. The opposition, as I said earlier, has grave concerns about this bill and believe it is unnecessary. We will not be supporting it.

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — Like many others who have joined in this debate, I pay my respects to the traditional owners of the land on which we gather — those of the Kulin nation. I pay my respects to their elders, past and present, and take the opportunity to acknowledge the many nations of Aboriginal people that have existed and continue to exist in the state of Victoria.

Like many other people — in fact I think just about everybody who has contributed to this debate — can I say that I acknowledge the importance of and the pride we must take in the cultural heritage of this land. I agree with the proposition that whilst we are providing support and structures to support Aboriginal cultural heritage in the name of greater confidence, certainty and security for the lives of Aboriginal people, we will all be better off in this country when we appreciate the rich Aboriginal cultural heritage of this land.

I start with that point because that is the point that people — at least at the level of rhetoric — have agreed on in this debate. Many people who have spoken in opposition to this bill have started with such a statement or peppered their contributions with that rhetoric. They have then immediately gone on to describe why they oppose any mechanism that is adopted within this bill or any legislative structure that is designed to provide for those protections. I have been struck by the absolute denial that has taken place not only during the course of the second-reading debate but also in the course of public commentary that has been led particularly by members of the opposition in relation to the denial of the existence, scope and law that is applied at the commonwealth level through the Aboriginal and Torres Strait Islander Heritage Protection Act and has applied to the state of Victoria since 1987. In fact time and again people have shown they are living in denial that such legislation and provisions exist.

I have to touch up successive state governments in Victoria which have lived in denial about the blind spots of that legislation. As worthy and laudable as it was, and as proud as we can be of that legislation in terms of providing scope and opportunities to Aboriginal people to protect their cultural heritage, it is deficient and has been glaringly deficient for the best part of 20 years. Successive state governments have chosen not to remedy those circumstances, and virtually every single example that has been provided by those who oppose this bill in an effort to undermine the passage of this bill, goes to the heart of the failures of the existing legislation. There has been an absolutely extraordinary denial that people have recognised that there are no remedies to ensure that cultural heritage is provided for in a timely way within the planning regime.

There are no mechanisms within the existing act to provide for certainty in relation to time lines or the structure by which cultural heritage assessments and planning decisions are made in connection with the planning regime and the need for people in Victoria to get on with their social and economic activity. There have been no standards that have been able to be maintained to ensure the rigour of the performance of inspectors and fees and charges which apply within the protection of cultural heritage. Certainly the fines that are embedded in the current legislation have not kept pace with modern-day realities. Nobody sees them as fair dinkum.

Those who enter this debate and say that there are circumstances and examples that are of concern to them but we can continue to have a legislative regime in the commonwealth that is silent on all of those issues are derelict in their responsibility to public office in Victoria. I contend that I would be derelict in my responsibility if I did not address those issues.

In fact I have actually been offended by the random set of complaints that have been listed by people who oppose this bill. That is what they have been — random complaints. This afternoon I sat and listened to a random set of objections to the bill that are mutually exclusive in their application. One speaker after another has argued mutually exclusive things. I do not mind scrutiny from anywhere. I do not mind scrutiny from the Aboriginal community, from the development community, from the local government community or from the opposition in this place. But what I do expect is that if people are assaulting the rigour and mechanisms in this bill there should be some proposals.

Despite the allegations about the passage of this bill, we have not run dead, run silent or slipped this bill in. This

bill has been subject to more consultation than any other piece of legislation during the life of the Bracks government or, I can virtually guarantee, any of its successors. An exposure draft of this bill was released in October last year and the bill has sat on the notice paper since 6 April — and it is now 4 May. The contention that we are slipping this bill in without consideration, without consultation and without a rigorous testing of the mechanisms within it is disingenuous, if not completely dishonest.

The reason the government has sought the passage of this bill this week is that we want to allow for the transitional arrangements between the commonwealth legislation — which has applied, with its many deficiencies, from 1987 to this very day — and this legislation at the earliest opportunity. In fact I thank the commonwealth government for having the good grace and good sense to recognise the need to repeal the provisions of its legislation in order to enable the provisions of the Victorian act to come into place at the earliest opportunity.

We will rely on a number of mechanisms in the transitional phase to allow that to be done in a professional and certain fashion that provides greater confidence for everyone in the community who has an interest in cultural heritage, whether that be because they want to preserve, cherish and be spiritually enhanced by it or because they perceive it to be an impediment to developing Victoria in the way they wish. Wherever you sit in the spectrum of interests in relation to this bill, there is something in it for you in terms of providing greater certainty and confidence in the years to come.

At the earliest opportunity in the transitional arrangements we will establish the Aboriginal Heritage Council. The council will be charged with very onerous responsibilities in terms of giving the Aboriginal community control over determining outcomes in both the near future and the years to come. It will provide dispute-resolution mechanisms for many of the disputes that currently exist, not only between Aboriginal communities and other elements of our community, particularly developers, but also through mediation and other dispute-resolution mechanisms within Aboriginal communities.

In the name of opposing this bill, the expectation is bandied about that every single Aboriginal person has to get along with every other, that they have to agree on everything — and how dare they not! The people who expect this are living in fantasy land. There is no cohort of people the size of the Aboriginal community in Victoria that is unanimous on every subject, and it is ridiculous and insulting to suggest that that should be the case. The remedy in this bill is to provide for mechanisms that will enable mediation and resolution of sometimes intractable problems. Through this bill that will be possible for the first time.

We recognise an obligation to ensure greater certainty and confidence, particularly for the development industry, in relation to what types of development will require a cultural heritage assessment and what types will require a cultural heritage management plan. There has been a lot of scaremongering, in particular by a lot of members of the Liberal Party in their local communities, trying to generate a degree of apprehension about backyards and small-scale developments being affected. On every occasion I have made a clear statement that that will not be the case. The regulatory impact statement (RIS) that will be issued shortly will provide a mechanism to enable certainty. The developments that will require assessment will be larger scale ones. Assessment will apply to areas that have had lower rather than intensive land use, and to areas that are currently known to have cultural heritage values, including those on the cultural heritage register.

After the RIS process we are extremely confident the mechanism will be easily managed and administered by local government and clearly understood by the development industry. Indeed we are absolutely confident that because of the rigour and certainty that is provided within this regime, the cost structures associated with cultural heritage assessments in achieving planning approvals will be reduced and capped over time rather than unfettered and unregulated as they currently are.

In relation to decisions about speaking for country, Mr Forwood is sorely wrong in his assumption, probably because he did not spend enough time in committee with me to clarify the circumstances of the bill. The role of inspectors is only one aspect of the control of cultural heritage management in the state of Victoria. The most profound and lasting element that applies on a day-to-day basis is the involvement of registered Aboriginal parties, who will be responsible for local decision making under the cultural heritage regime. They will be the people who are locally based and who know the nature of their own country and who will be responsible for speaking for country under the bill.

Many people have drawn attention to the disparity between the financial penalties that may apply to people who fall short of their obligations under cultural heritage compared with the lack of financial penalties

that apply to Aboriginal people who are responsible under the act. May I say that that shows a profound lack of regard and respect for and lack of knowledge of what we were talking about. The sanction that applies to Aboriginal people who do not comply with their obligations is to lose their responsibility for speaking for their own country; to lose responsibility for speaking for their cultural heritage. That is the sanction that is within this bill, and that, regardless of a dollar value, is a far more profound sanction than any other sanction that applies in this bill or any other bill that is on the statute book in the state of Victoria. If you lose your right to speak for your country and your cultural heritage, there can be no greater sanction that applies. If it is an unequal system, it is unequal in terms of the sanction that will apply and the onerous requirement for Aboriginal people to comply with their obligations under this bill.

A range of questions have been raised in conjunction with issues surrounding developments that may or may not have been approved previously — they may have been subject to consent-to-disturbs in the past — and I have given a clear undertaking to the Aboriginal communities, to the development industry and to local government that decisions that have been made under the prior act will stand and last the test of time in terms of the transition to the new act.

In particular there are a number of issues that I need to clarify in relation to the aspirations of Campaspe shire in relation to the Echuca–Moama bridge. My answer today is exactly the same as that I gave to the Campaspe shire when its representatives visited my office on 30 May 2005. I have not changed in terms of my advice. The appeal mechanisms to the Victorian Civil and Administrative Tribunal will apply to proponents of a development and to the registered Aboriginal party that is responsible for that decision. They will be the parties that can take a decision to VCAT.

Hon. W. A. Lovell interjected.

Mr GAVIN JENNINGS — Local government authorities will not be able to appeal in their own right unless they are proponents of a development. If they are proponents, they can exercise appeal rights.

In terms of the provision of the VCAT act, under section 60 they will have access if VCAT determines to join them to an event as an interested party. That is a decision that VCAT would make. But it is very important for the people of Campaspe to understand that I have made it clear since 30 May last year that this bill cannot be used to overturn that decision, and this bill has to be complied with in terms of starting the process again. So any assessment of the current proposals or any new proposal would require the process to start again, and that needs to be considered in the context of the urgency of replacing the bridge in Echuca, and people should not hang their hats on a vague hope about how this bill will work, because they have been clear about it since 30 May 2005. That is not the most positive way to end.

I am confident that this bill will be a great success, regardless of the naysayers. I thank the people who have been involved in its preparation.

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

Ayes, 22

Argondizzo, Ms	Mitchell, Mr
Broad, Ms	Olexander, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms (*Teller*)	Pullen, Mr
Eren, Mr	Romanes, Ms
Hilton, Mr	Scheffer, Mr
Hirsh, Ms	Smith, Mr (*Teller*)
Jennings, Mr	Somyurek, Mr
Lenders, Mr	Theophanous, Mr
Madden, Mr	Thomson, Ms
Mikakos, Ms	Viney, Mr

Noes, 16

Atkinson, Mr	Forwood, Mr
Baxter, Mr	Hadden, Ms
Bowden, Mr	Hall, Mr (*Teller*)
Brideson, Mr	Lovell, Ms
Dalla-Riva, Mr (*Teller*)	Rich-Phillips, Mr
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Drum, Mr	Vogels, Mr

Amendment negatived.

House divided on motion:

Ayes, 22

Argondizzo, Ms	Mitchell, Mr
Broad, Ms	Nguyen, Mr
Buckingham, Mrs	Olexander, Mr
Carbines, Ms	Pullen, Mr
Eren, Mr (*Teller*)	Romanes, Ms
Hilton, Mr (*Teller*)	Scheffer, Mr
Hirsh, Ms	Smith, Mr
Jennings, Mr	Somyurek, Mr
Lenders, Mr	Theophanous, Mr
Madden, Mr	Thomson, Ms
Mikakos, Ms	Viney, Mr

Noes, 16

Atkinson, Mr	Forwood, Mr (*Teller*)
Baxter, Mr	Hadden, Ms
Bowden, Mr	Hall, Mr
Brideson, Mr	Lovell, Ms

Dalla-Riva, Mr	Rich-Phillips, Mr
Davis, Mr D. McL. (*Teller*)	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Drum, Mr	Vogels, Mr

Pair

Darveniza, Ms	Bishop, Mr

Motion agreed to.

Read second time.

Third reading

The PRESIDENT — Order! The question is:

That the bill be now read a third time, by leave, and that the bill do pass.

House divided on question:

Ayes, 22

Argondizzo, Ms	Mitchell, Mr
Broad, Ms	Nguyen, Mr
Buckingham, Mrs	Olexander, Mr
Carbines, Ms	Pullen, Mr
Eren, Mr	Romanes, Ms
Hilton, Mr	Scheffer, Mr
Hirsh, Ms (*Teller*)	Smith, Mr
Jennings, Mr	Somyurek, Mr
Lenders, Mr	Theophanous, Mr
Madden, Mr	Thomson, Ms
Mikakos, Ms (*Teller*)	Viney, Mr

Noes, 16

Atkinson, Mr	Forwood, Mr
Baxter, Mr	Hadden, Ms
Bowden, Mr	Hall, Mr
Brideson, Mr	Lovell, Ms (*Teller*)
Dalla-Riva, Mr	Rich-Phillips, Mr (*Teller*)
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Drum, Mr	Vogels, Mr

Pair

Darveniza, Ms	Bishop, Mr

Question agreed to.

Read third time.

Remaining stages

Passed remaining stages.

EQUAL OPPORTUNITY AND TOLERANCE LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Finance).

TERRORISM (COMMUNITY PROTECTION) (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Finance).

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Barwon Heads: sewage plant

Hon. D. McL. DAVIS (East Yarra) — My matter for the adjournment debate tonight is for the attention of the Minister for Environment in the other place, who is also Minister for Water. It concerns the issue of the state government's plan to build an industrial plant, a factory to reprocess sewage, at a place called Black Rock near Thirteenth Beach. I hasten to add that the Liberal Party supports recycling and supports the process of reusing the water and recycling the human wastes that are involved. The proposal that Barwon Water has come forward with has some merit, but there are questions about where it plans to site the plant.

Some weeks ago the government brought forward a coastal places strategy that sought to protect our sensitive and valuable coastline environment and to ensure that there was appropriate development on the coast around Victoria. It appears that the Minister for Planning and the Minister for Environment were quite near — in the Bellarine electorate — but not in the South Barwon electorate, where Barwon Water plans to site this new factory. When the government released the strategy, it said that it would protect the coast.

It is clear that the idea of building a new and expansive factory on the coast very near Thirteenth Beach is

abhorrent and a real concern to many people. The government has not thought this through and neither has Barwon Water.

Earlier this week Ms Carbines and I attended a public meeting of around 150 people at Barwon Heads to demand that the government halt its plan to build a sewage processing plant near Thirteenth Beach. A motion was passed that the government:

> … stop the signing of the public-private partnership contract to find time for a solution that is acceptable to the community and the environment.

The mood of the meeting was very clear: people do not want this to ruin an important and sensitive coastal zone. It is unfortunate that Labor members of Parliament in the area have not been prepared to stand up and fight for their area.

Ms Hadden — Name them!

Hon. D. McL. DAVIS — Well, Ms Carbines was at the meeting and she did her best to defend the attitude of Barwon Water and the executives and board members who were there. Michael Crutchfield, the member for South Barwon, was there, too.

My request is that the minister halt the public-private partnership expression of interest process and release all documents relating to the alternate sites that have — —

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

Great Ocean Road, Moggs Creek: powerlines

Ms CARBINES (Geelong) — I wish to raise a matter with the Minister for Energy Industries. It concerns the Great Ocean Road, Victoria's iconic coastal road. Recently I have been approached by the Great Ocean Road Coast Committee, the management committee responsible for the foreshore in the Surf Coast shire. Its members are very keen to facilitate the relocation underground of the existing power supply infrastructure between Moggs Creek and Devils Elbow, some 3 kilometres along the Great Ocean Road. The committee informs me that it would involve removing 37 power poles and many kilometres of overhead cable.

The proposal would deliver considerable environmental, social and economic benefits — in particular, increased traffic safety, increased reliability of the power supply, reduced bush fire risk and a significant enhancement of the coastal vista. The proposal is supported by Geelong Otway Tourism, as the removal of the power poles would add to the visitor experience along the Great Ocean Road.

I am very pleased to support this initiative by the Great Ocean Road Coast Committee and would appreciate advice from the minister as to how best to proceed with the project.

Prisoners: outstanding warrants

Hon. RICHARD DALLA-RIVA (East Yarra) — My query is for the Minister for Corrections in the other place. It relates to the issue of prisoners serving a term in our jails and the sheriff executing warrants. A variety of former prisoners have found it amazing that when they come out after having been inside, as it were, serving their time and are rehabilitated and ready to re-establish themselves in the community the sheriff arrives, whether it be a couple of days, a month or a year later, to execute outstanding warrants. As members know, they can often be for quite substantial sums. A number of former prisoners have said that they could have served the time for the warrant whilst they were serving their sentence.

It appears rather draconian and backward that we have a system that would not allow the sheriff's office to examine who is a prisoner in the system and check that against its database and establish that, for example, Johnny Smith is in jail, he has $10 000 of outstanding warrants that could default to three months and therefore he could have that additional sentence added to the time he is in jail, if the prisoner so wishes. Of course, prisoners may wish to try to enter into an arrangement to pay it.

Some of the prisoners have said to me that they see it as a fair cop that they are slotted back in if the offences are reasonably recent, given that under the system it does take a while for warrants to be issued. However, they get quite annoyed with being sent back to prison later, for example, in 2004 for offences dating back to 2000. There needs to be a better system. I have asked the Minister for Corrections to look at this and perhaps put a system in place in prisons. Will the minister take action to ensure that a system is in place to have outstanding warrants executed while a person is in the prison system?

Former Premier: comments

Mr VINEY (Chelsea) — This evening I raise a matter for the attention of the Premier. The action I am seeking from the Premier relates to a news item I saw tonight reporting that former Premier Jeff Kennett has announced he might wish to return to this place, presumably to lead the Liberal Party. The action I seek from the Premier is for him to find ways of securing every school, every hospital and every railway line in

this state. He should consider entrenching these schools, these hospitals and these railway lines in the constitution. Just like we had to do with the Auditor-General to make sure we protected that office, we now have to protect every school, every hospital and every railway line in this state. We should think about protecting the jobs of our teachers, our nurses and our police. In the context of the information coming from — —

Hon. Richard Dalla-Riva — On a point of order, President, this is more about Mr Viney protecting his job than protecting Victorians. This is an adjournment debate, and he seems to be raising issues that are not relevant to the Premier. I ask that you rule this matter out of order.

The PRESIDENT — Order! The member would be aware that this is the adjournment debate. I warned members about set speeches last night. I am sure a couple of the comments the member has made could be rebutted, so it is a set speech. I ask the member to adhere to my rulings and ensure that his request to the Premier is in line with those rulings.

Mr VINEY — I think this is a very important issue. In a number of debates in this chamber on many occasions I have raised issues and contrasted the performance of this government, particularly in education, health and transport, with the actions of the previous government. Members opposite have consistently criticised me for going back into history. However, the interesting thing from the news tonight, and the reason I am seeking this action from the Premier, is that it has been appropriate for members on this side to raise these matters of concern about protecting the — —

Hon. Bill Forwood — On a point of order, President, the standing orders of this place clearly state that the adjournment debate is not the place to call for the introduction of legislation. The only way Mr Viney can achieve his purpose is through the introduction of legislation. I therefore request that you rule him out of order and sit him down.

The PRESIDENT — Order! I was waiting for the honourable member to conclude. If that is the only thing he is going to ask for, I will rule accordingly. However, I will wait for the member to conclude to ensure that it is. If he is asking for entrenchment in legislation, the matter is out of order. I have already advised the member to be aware of the rulings on the adjournment and not to breach them.

Hon. Bill Forwood — On the point of order, President, far be it for me ever to reflect on a ruling from the Chair, however, I put it to you that the only way something can be entrenched is through legislation.

The PRESIDENT — Order! I am going to, I told you that. Wait until the member is finished and I will rule.

Hon. E. G. Stoney — On a further point of order — —

The PRESIDENT — Order! Further on the point of order?

Hon. E. G. Stoney — No, on a further point of order, President, I put it to you that Mr Viney's adjournment question is totally hypothetical and that you should rule it out of order now. I ask you to rule it out of order now.

The PRESIDENT — Order! There are no grounds for ruling out adjournment matters for being hypothetical.

Mr VINEY — There is a range of ways I suspect the Premier could protect the future of the great assets of our education and health system, common-law deeds and long-term planning of budget estimates. The action I seek is for the Premier to investigate ways of protecting these things in light of the fact that there could well be a revisit to this place of Mr Kennett and his policies of closing schools, closing hospitals, closing railway lines, sacking police, sacking teachers, sacking nurses — —

Honourable members interjecting.

The PRESIDENT — Order! That is enough! Mr Viney has concluded his adjournment question, and I rule it out of order.

Northern Region Disability Network: funding

Hon. BILL FORWOOD (Templestowe) — I wish to raise a serious issue through the Minister for Finance, who is at the table, with the Minister for Community Services in the other place. Before I do, and before Mr Viney leaves the chamber tonight — he should sit down! — let me put on the record that it is very obvious that Mr Viney thinks Mr Kennett would win, otherwise he would not need to say all the things that he wants the Premier to do!

Mr Lenders interjected.

Hon. BILL FORWOOD — No, I have made my decision.

I turn to the issue I wish to raise with the Minister for Community Services in the other place, which is on behalf of the Northern Region Disability Network (NRDN). I seek urgent action from the minister to ensure that Department of Human Services (DHS) funding for the organisation does not cease at 30 June 2006, as is currently intended.

The network has been in existence for a number of years and has apparently been funded through slippage money, which is non-recurrent funds. The organisation and structure that was established has always been at the mercy of DHS, as there have never been any formal funding arrangements to ensure continuity and security. This lack of certainty, together with changes in direction by the north-west region, has resulted in the NRDN not being funded beyond this year. It is the only vehicle for the voices of families who care for children and adults with disabilities in this region to be heard. I make the point that this region covers eight separate municipalities and that once this voice goes, the voices of the families will go.

This organisation has a long history of working closely with the region in articulating policies of importance to intellectually and otherwise disabled children and adults and their families and carers. I put it to the house that today we passed legislation dealing with these sorts of issues and that one of the important things that needs to be done — and I know that the Minister for Aged Care, Minister Jennings, who ran the committee stage of that debate, would agree — is to ensure that there are mechanisms for those voices to be heard.

It is very important that the minister urgently look at the issue and ensure that the infrastructure and personal commitment that has been built up over many years by the organisation is continued into the future. I look forward to a positive response from the government.

Rail: Albury station

Hon. W. R. BAXTER (North Eastern) — I raise a matter for the attention of the Minister for Transport in another place. I refer to the V/Line broad-gauge train service to Albury from Melbourne. I have had complaints from some of my constituents in the Upper Murray and the Bethanga Peninsula who use the Albury station to catch the broad-gauge train to Melbourne. The train does not draw up at the end of the platform and usually stops more than 100 metres from the station building. That is very awkward for elderly people, because they have a long enough walk as it is without having to walk down what is Australia's longest platform. I took it upon myself a couple of weeks ago to go and check it out on two occasions, and I observed that their claims are in fact correct.

The only reason that I can detect, as a non-expert, why the train stops where it does is to accommodate relocating the locomotive from one end of the train to the other for the return trip. It seems that the drivers have taken it upon themselves to stop there, which means they do not have to then reverse the train in order to be able to disconnect the locomotive and use the crossover tracks to get it to the other end of the train.

I think it is time customer service was considered more than the convenience of the train drivers in this case, because I cannot see that it saves more than a minute or two of their time anyway. I ask the minister to have this matter investigated with a view to having the train draw right up to the station building at the end of the broad gauge so that elderly people in particular do not have to walk a long way to their transport.

Perrin Constructions: Mount Eliza dwelling

Hon. C. A. STRONG (Higinbotham) — The matter I raise is for the attention of the Minister for Planning in the other place, and not surprisingly it deals with a building issue. I had a telephone call today from a Peter Watts, who is building a new house at number 10 Bird Street, Mount Eliza. Mr Watts lives at 6 Lawrence Street, Somerville, and his house is being built by Perrin Constructions of 96 Cape Schank Road, Cape Schank. The building is over 14 months past its completion date. The builder has not been seen on the job since October 2005, and there is something like $100 000 worth of work still to be done on the house.

Mr Watts tried to proceed with this matter through Building Advice and Conciliation Victoria and the Building Commission. I particularly want to read part of the Building Commission's letter to him and ask the minister to direct the commission's attention to it. The Building Commission's inspectors found a great many faults with the building. The letter states:

> The Building Commission's inspector cannot direct the builder to carry out the rectification works; however, the Building Act 1993 … provides that the Building Practitioners Board can hold an inquiry into the conduct of the builder if the builder has failed to carry out the recommended works contained in the inspector's report.

The letter then goes on to say:

> As your case was referred for inspection only by Consumer Affairs Victoria, we have now concluded our involvement in your case and have closed the file.

In other words, the Building Commission has inspected the work, found there is faulty workmanship and outstanding work and simply said to Mr Watts, 'We have made a report, so we have finished'. The minister should direct the Building Commission to inquire whether the recommended works have been completed — and I am advised they have not — and if they have not been completed, then it should go to the Building Practitioners Board to ensure that this contractor loses his registration and other consumers are protected.

Rail: Trawalla accident

Ms HADDEN (Ballarat) — My adjournment matter is for the attention of the Premier of Victoria, the Honourable Steve Bracks. The matter is both serious and urgent and is in relation to the fatal Trawalla train crash last Friday evening, 28 April, at about 4.00 p.m. at the Ercildoune Road level crossing at Trawalla. There were two deaths and many were seriously injured in that accident. I wish to pay my respects here in this place to the family of Mrs Gwenda Glasson, who died on the train, and my prayers and thoughts go out to the train driver, Mr Ian Glasson, who is seriously ill in hospital at the moment.

I have publicly asked for the resignation of the Minister for Transport in the other place, Peter Batchelor, and I confirm that now. The problem is that the minister and the Bracks Labor government have allowed the V/Locity trains, which are capable of travelling at up to 160 kilometres an hour, to not be fitted with seatbelts. Secondly, the Ararat–Ballarat railway line has not been improved to the safety level required. One of my constituents told me that the V/Locity trains are poor copies of European high-speed trains that run on dedicated tracks with no level crossings, and that their front-end shape and construction is totally unsuitable for use in the country, with its open level crossings.

Further, the weak structure on the front end of these trains has no deflective capability. There is no protection for the driver and the train body could easily be torn open, allowing objects from the head of the train to enter the passenger area. This constituent also said that he would not have wanted the collision last Friday to have been with a petrol tanker. He fears the day when V/Locity trains travel at 160 kilometres an hour across open level crossings because they are too light, badly designed and have far too little structural strength on the front end.

Another constituent, who was a track maintenance worker for over 30 years, raised the issue of the lack of visibility at the Ercildoune Road level crossing, which is well known to everybody in the district. He says there must be clearance at the crossing because you need to see the trains. He said the residents had been assured the level crossing would be upgraded when the railway line was reopened, and that the works were to have included traffic lights at that crossing. The lights were supposed to have been installed six months before the line opened, but it has not yet been done.

My adjournment matter for the Premier is that before he recommissions the return of the V/Locity trains on the Ararat–Ballarat line he ensures that boom barriers, warning lights and flashing lights are installed at the Ercildoune Road level crossing at Trawalla.

Commonwealth Games: replica baton

Hon. PHILIP DAVIS (Gippsland) — I raise a matter for the attention of the Minister for Commonwealth Games, who, I regret, is not present in the chamber. I would have liked to have taken this up with him personally. I ask that the matter be passed on to him.

A constituent, Susan Evans of Morwell, contacted me on behalf of her son, Derek Evans, who had been very excited to be invited — he had accepted — to participate in the Commonwealth Games baton relay. In so doing he was congratulated by a number of people including the member for Morwell in the other place, Brendan Jenkins.

Mr Lenders — An excellent member!

Hon. PHILIP DAVIS — Well, there are reviews about that member. In any event Derek was proud to be congratulated by the track and field manager of Special Olympics Victoria — and I quote from a letter which states:

> It is encouraging that an athlete with a disability can be chosen for such a prestige event.

Derek was clearly very excited about the opportunity. However, he is now confused — as am I — and I am looking for an explanation from the Minister for Commonwealth Games about the offer which was included with the offer to participate in the relay relating to the official replica of the baton. The offer says, in part:

> Purchase your own replica baton

It talks about an exclusive opportunity to purchase a custom-made, full-size replica exactly like the official baton, with aluminium front and high-gloss back featuring the green and gold colours and so on, at a cost of $300 plus postage and handling. I have the baton in question in my possession, and all members can inspect it in my office immediately after this debate. Frankly, I think it is a disgrace. It is a piece of very poor-quality workmanship which I suspect, although I do not know, was not made in Australia. If it was, the business that made it should be ashamed. It is not even glued together effectively. The decals are just imitation.

I ask the minister to advise how Derek Evans can have a memento of what was, for him, such an important event but not have to pay the $300 that he is now out of pocket. Will the minister address a resolution for people — —

Ms Carbines — On a point of order, President, this issue was raised by the opposition in question time earlier this week. The Honourable Wendy Lovell raised the issue of the baton with the Minister for Consumer Affairs, who answered the question. I ask you to consider the fact that this issue has already been raised this week during question time.

Hon. PHILIP DAVIS — On the point of order, President, the member is correct that a question in relation to the fraudulent nature of this baton was raised with the Minister for Consumer Affairs, who responded inadequately. The issue here is that I am raising a matter on behalf of a particular constituent whose circumstances are such that the constituent does not and cannot reasonably understand why he has been charged $300 for this baton, which he wishes to have as a memento. He wants to keep the baton, but he does not think it reasonable that he should have to pay $300-plus for it.

The PRESIDENT — Order! On the point of order raised by Ms Carbines and the fact that there has been a question to the minister about it in question time, on this occasion the Leader of the Opposition, the Honourable Philip Davis, is speaking to the motion, which is that the house do now adjourn. On that basis he is entitled to raise his matter. His time has expired, but he has made the issue clear.

Responses

Mr LENDERS (Minister for Finance) — I wish the Leader of the Opposition would embellish his rationale about orange-bellied parrots and why they are not just trumped-up corellas, given the news of tonight, but I probably digress.

Hon. Philip Davis — On a point of order, President, on the question of relevance, I do not understand what relevance the minister finds in his comments about orange-breasted corellas, because I was not aware that anybody, in particular myself, had raised the matter.

The PRESIDENT — Order! As the minister has indicated, he has digressed, and he will get back to the matter at hand.

Mr LENDERS — Mea culpa, President.

Mr David Davis raised an issue for the Minister for Water in the other place regarding sewerage issues, and I will refer that to the minister for his attention.

Ms Carbines raised a matter for the Minister for Energy Industries about the Great Ocean Road, and I will certainly refer that to the minister for his prompt attention.

Mr Dalla-Riva raised an issue for the Minister for Corrections in the other place with respect to sheriff's warrants, and I will pass that on to the minister.

President, I assume you do not want me to respond to Mr Viney's issue for the Premier.

Mr Forwood raised an issue for the Minister for Community Services in the other place about Department of Human Services funding in the northern network, and I will pass that on to the minister.

Mr Baxter raised a matter for the Minister for Transport in the other place regarding V/Line services to Albury, and I will also pass that on to the minister.

Mr Strong raised a matter for the Minister for Planning in the other place regarding a building issue, and I will pass that and Mr Strong's copy of correspondence to the minister for his attention.

Ms Hadden raised a matter for the Premier regarding the Trawalla train crash, and I will pass that to the Premier.

Mr Philip Davis raised a matter for the Minister for Commonwealth Games — I am assuming he is not wanting us to refer Mr Ron Walker to Consumer Affairs Victoria — but I will certainly pass the issue of the baton on to the Minister for Commonwealth Games for his attention.

Motion agreed to.

House adjourned 7.03 p.m. until Tuesday, 30 May.

Minister for Education and Training

The Hon. Lynne Kosky, MP

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Mr Matt Viney MLC
Chairperson
Legislation Committee of the Legislative Council
Parliament House, Vic 3000

Dear Mr Viney

Re: Education and Training Reform Bill 2006 - response to 2 issues raised before the legislative committee on Friday 21 April 2006.

I refer to the proceedings of the Legislation Committee of the Legislative Council on 21 April 2006 concerning the Education and Training Reform Bill 2006.

Mr Hall raised two matters concerning the re-registration of teachers by the Victorian Institute of Teaching, and they were put to me as questions on notice. The two matters are recorded at pages 28 and 29 of the Hansard proof version of the proceedings as follows.

(i) "I have a teaching qualification; is there a requirement that I have to be a practicing teacher in the last two or three or four years or whatever to maintain registration?", and

(ii) "Consider the circumstance whereby somebody may continue to be teacher but be not employed by a school? I can think of, for example, VicRoads which employs education officers but they are not employed by a school as such. In terms of a response, you could tell me whether a person who is still teaching but not in paid employment by a school can still fit the criteria for re-registration?"

I am pleased to confirm the advice of my Department is that the Bill updates the current provisions to enable teachers to maintain their registration notwithstanding that the teacher may not have the practical experience because they are out of the school situation. The relevant details are as follows.

1. The current Victorian Institute of Teaching Act in section 18 (1)(b)(i), requires an application by a teacher for renewal of registration (re-registration) to be accompanied by "evidence satisfactory to the Institute that the applicant has maintained an appropriate level of professional practice in the preceding 5 years..." The current section is repeated as clause 2.6.18(1)(b)(i) in the Bill.

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The underlined words may create difficulty for some teachers seeking to renew their registration as in the examples raised by Mr Hall.

To address such situations, the Institute has developed the concept of "equivalent practice", so that in deciding whether a registered teacher "has maintained an appropriate level of professional practice in the preceding 5 years", consideration would be given to evidence that demonstrates that:

- the teacher undertook duties equivalent to those of a teacher in a primary or secondary school; and/or
- their professional practice has a direct relationship with the broad domains of professional knowledge, practice and engagement as described in the Standards of Professional Practice for Renewal of Registration.

Registered teachers working as teachers in non-school locations, for example TAFE or other education providers such as the State Library or VicRoads, would be assisted in their renewal of registration by the above approach.

2. To address other circumstances where equivalent practice cannot be demonstrated, a new clause 2.6.11 has been inserted in the Bill. The new clause deals with "**non practicing registration**", and sub clause (2) enables the VIT to renew the registration of teachers, notwithstanding that the teacher has not maintained an appropriate level of professional practice in the preceding 5 years as required under clause 2.6.18(1)(b)(i).

Teachers registered under the "non practicing registration" category, are not able to teach in a school, and a new sub clause (3) of clause 2.6.56 explicitly states this.

To assist such teachers, the Institute proposes to develop a simple and supportive process that will enable these teachers to move quickly back to full registration, where they wish to be engaged as teachers in a school. That process is likely to include granting the teacher "provisional registration" under clause 2.6.10 (which repeats the current section 12 of the VIT Act) on the condition that the teacher undertakes to achieve within a certain period the standard of professional practice required for registration.

Yours sincerely

Lynne Kosky, MP
MINISTER

Minister for Education and Training

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MIN015823

The Hon. Peter Hall, MP
Member for Gippsland Province
190 Franklin St
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Dear Mr Hall,

I refer to the proceedings of the Legislation Committee of the Legislative Council on 21 April 2006 concerning the Education and Training Reform Bill 2006.

The proof version of Hansard (refer to pages 23 and 24) records that you proposed an amendment to clause 2.1.10 of the Bill. That clause states -

> "(1) If a school attendance officer has reasonable grounds to believe that a child who is apparently of compulsory school age does not attend a registered school during school hours on a school day, the school attendance officer may stop the child in the street or a public place and ask the child for his or her name and address".

The amendment proposed by you is to insert the following at the end of the above clause:

> "If a child is asked for his or her name and address under sub section (1), a parent of the child may provide that name and address instead of the child".

The proof version of Hansard records that the reason for the change is due to clause 2.1.11 which states -

> "A person must not wilfully obstruct, hinder or interfere with a school attendance officer in the performance of his or her duties under this part. Penalty: 60 penalty units."

I understand that concern has been expressed that if a child is asked by an attendance officer for the child's name and address, and the child is with a parent, the parent who offers or volunteers that name and address might face a charge of wilfully obstructing, hindering or interfering with a school attendance officer in the performance of his or her duties.

I am advised that the following matters support the current clause, and that no amendment should be made to it.

1. First, any parent who supplied information to an attendance officer would not breach clause 2.1.11. This is because the word "wilfully" appears in the clause, and it would have to be proved as an essential part of the offence. The word means to undertake intentionally with the intended purpose, and -

   (i) should be contrasted to sections 51 and 52 of the Summary Offences Act 1966, which do not include the word "wilful" in creating the offences to "assault, resist, obstruct, hinder or delay" a police officer or ambulance officer in the execution of their duty;

   (ii) the wording of "wilfully obstruct" is used in other legislation. Some examples are section 60 of the Whistleblowers Act 2001, section 65 of the Information Privacy Act 2000 and section 240 of the Water Act 1989. The amendment could create adverse consequences in the interpretation of other legislation which did not specifically authorise parents or others to provide responses on behalf of children.

   In addition, a parent who provides the child's name and address to a school attendance officer must be said to have assisted that officer rather than be said to have wilfully obstructed, hindered or interfered with the officer in the performance of his or her duties. The words 'obstruct, hinder or interfere' connote acts which impede the officer in seeking to gain the child's name and address. A parent who provides the information sought by the officer cannot be said to have impeded the officer.

2. Secondly, the history of the clause shows there have been no proceedings against parents based on the similar section 74B(5) of the current Community Services Act 1970. It states -

   "(4) For the purpose of obtaining the name and address of any child who apparently does not attend school during school hours on school days, any summoning officer may during school hours, without further or other authority than this Division, accost and detain such child in any street or other public place.

   (5) Every person who wilfully obstructs hinders or interferes with any summoning officer in the performance or exercise of his duties shall be liable to a penalty ……."

The lack of recorded instances of parents being threatened with a prosecution or actually charged for a breach of the above section for providing a child's name and address adds further weight to the position that the amendment is unnecessary.

Also, many younger children may not be able to supply their address to the attendance officer, and in these cases the attendance officer may need to engage a parent's assistance to obtain the relevant information. In particular, children between the ages of 6 and 10 may have difficulty providing their address.

3. Thirdly, the proposed amendment is unsatisfactory in the following respects -

(i) it would have to be amended to deal with children in the company of persons other than a parent when approached by an attendance officer. For example, the child might be accompanied by an older brother or sister, an aunt, a police officer or a tutor. The proposed amendment could be interpreted (because only a parent was referred to) to impliedly deny these other persons the right to supply the relevant information to an attendance officer; and

(ii) the effect of the proposed amendment is uncertain as it is not clear whether it only deals with a situation where the parent was accompanying the child, or also includes a situation where the parent was not with the child when a child is asked by the attendance officer. In other words, if the amendment proceeded, could a child who was by him/herself, say in response to the attendance officer asking for his/her name and address, - "give me your phone number and I will get my parent to ring you with the details".

Having regard to all the above matters, I do not support the proposed amendement. Irrespective of the history of the clause - which reveals no legal action against parents of the type raised as the reason for the concern - the current clause will provide sufficient protection to parents by the use of the word "wilful". It will also cover the various situations that may arise and the various persons that may accompany a child, without restricting persons other than a parent from assisting the attendance officer, and without causing adverse interpretations to other similarly worded sections in Victorian legislation.

Yours sincerely

Lynne Kosky, MP
MINISTER