

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL  
FIFTY-FIFTH PARLIAMENT  
FIRST SESSION**

**4 November 2004  
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**Thursday, 4 November 2004**

The **PRESIDENT** (Hon. M. M. Gould) took the chair at 9.32 a.m. and read the prayer.

**PETITIONS****Wind farms: planning**

Ms **HADDEN** (Ballarat) presented petition from certain citizens of Victoria requesting that the Victorian government prohibit any further wind farm developments until such time as:

1. local government shires can, with the financial support of the state government, properly assess landscape values and develop appropriate overlays to planning schemes;
2. the current wind farm guidelines be amended to provide communities with greater knowledge of local wind farm proposals, and greater opportunity to participate in the planning process; and
3. the benefits of wind energy can be evaluated against other forms of renewable and fossil fuel energies to assess the economic, social and environmental benefits of wind-generated power (43 signatures).

Laid on table.

**Tertiary education and training: regional agricultural campuses**

Hon. **DAVID KOCH** (Western) presented petition from certain citizens of Victoria requesting that the Victorian government:

1. fully support the retention of Longerenong campus;
2. support the retention of full-time student courses at Longerenong campus by the University of Melbourne;
3. provide and maintain adequate infrastructure and provide sufficient recurrent funding for such infrastructure renewal;
4. allow the Longerenong campus to further develop and provide an extension of its educational opportunities;
5. ensure a long-term commitment to the Longerenong campus; and

6. ensure that the Longerenong advisory board be given representation on the board of management of the Institute of Land and Food Resources, University of Melbourne (114 signatures).

Laid on table.

**PAPERS****Laid on table by Clerk:**

Albury-Wodonga Development Corporation — Report, 2003-04.

Alpine Resorts Coordinating Council — Minister's report of receipt of 2003-04 report.

Australian Grand Prix Corporation — Report, 2003-04.

Barwon Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Barwon Region Water Authority — Report, 2003-04.

Calder Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Central Gippsland Region Water Authority — Report, 2003-04.

Central Highlands Region Water Authority — Report, 2003-04.

Central Murray Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Coliban Region Water Authority — Report, 2003-04.

Consumer Utilities Advocacy Centre — Report, 2003-04.

Corangamite Catchment Management Authority — Report, 2003-04.

Desert Fringe Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Eastern Regional Waste Management Group — Report, 2003-04.

East Gippsland Catchment Management Authority — Report, 2003-04.

East Gippsland Region Water Authority — Report, 2003-04 (two papers).

EcoRecycle Victoria — Report, 2003-04.

Emerald Tourist Railway Board — Report, 2003-04.

Environment Protection Authority — Report, 2003-04 (two papers).

Federation Square Management Pty Ltd — Report, 2003-04.

First Mildura Irrigation Trust — Report, 2003-04.

Gippsland Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Glenelg Hopkins Catchment Management Authority — Report, 2003-04 (three papers).

Glenelg Region Water Authority — Report, 2003-04.

Goulburn Broken Catchment Management Authority — Report, 2003-04.

Goulburn Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Goulburn Valley Region Water Authority — Report, 2003-04.

Grampians Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Grampians Region Water Authority — Report, 2003-04.

Highlands Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Innovation, Industry and Regional Development Department — Report, 2003-04.

Lower Murray Region Water Authority — Report, 2003-04.

Mallee Catchment Management Authority — Report, 2003-04.

Melbourne Convention and Exhibition Trust — Report, 2003-04.

Mildura Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Mornington Peninsula Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

North Central Catchment Management Authority — Report, 2003-04.

North East Catchment Management Authority — Report, 2003-04.

North East Region Water Authority — Report, 2003-04.

North East Victorian Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Northern Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

Overseas Projects Corporation of Victoria Ltd — Report, 2003-04.

Phillip Island Nature Park Board of Management — Report, 2003-04 (three papers).

Portland Coast Region Water Authority — Report, 2003-04.

Port Phillip & Westernport Catchment Management Authority — Report, 2003-04.

Prince Henry's Institute of Medical Research — Report, 2003-04.

Regional Development Victoria — Report, 2003-04.

South Eastern Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

South Gippsland Region Water Authority — Report, 2003-04.

South Western Regional Waste Management Group — Minister's report of receipt of 2003-04 report.

South West Water Authority — Report, 2003-04.

Statutory Rules under the following Acts of Parliament:

Local Government Act 1989 — No. 130.

Prostitution Control Act 1994 — Nos. 128 and 129.

Road Safety Act 1986 — No. 132.

Subordinate Legislation Act 1994 — No. 131.

Subordinate Legislation Act 1994 —

Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 131.

Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 132.

Sustainable Energy Authority Victoria — Report, 2003-04.

Tourism Victoria — Report, 2003-04.

Trust for Nature — Minister's report of receipt of 2003-04 report.

Victorian Environmental Assessment Council — Report, 2003-04.

Westernport Region Water Authority — Report, 2003-04.

Western Regional Waste Management Group — Report, 2003-04 (two papers).

Western Region Water Authority — Report, 2003-04.

West Gippsland Catchment Management Authority — Report, 2003-04.

Wimmera Catchment Management Authority — Report, 2003-04.

Zoological Parks and Gardens Board of Victoria — Report, 2003-04.

**Hon. Bill Forwood** — On a point of order, President, I was listening intently as the Clerk read the list of papers. I notice that on page 2 of the list provided to members the Sustainable Energy Victoria Report for 2003-04 was listed. I did not hear it read by the Clerk. Could he clarify the status of that report?

**The PRESIDENT** — Order! I will respond to the member's point of order. The Clerk is provided with an

abridged version and obviously that item was omitted. It is on the list of papers that was presented to all members, so the member can take it that it has been incorporated into today's papers list.

## MEMBERS STATEMENTS

### United States of America: election results

**Hon. BILL FORWOOD** (Templestowe) — I rise this morning to congratulate the President of the United States, George W. Bush, on — —

*Honourable members interjecting.*

**Hon. BILL FORWOOD** — You don't like it much, do you? You all got creamed again!

I congratulate the President of the United States and the Republican Party on an outstanding win. As honourable members would know, not only did the President get the required number of electoral college votes but he also carried the most states in the United States, and he carried the popular vote by over 50 per cent — an outstanding performance. On top of that, the Republican Party carried Congress and the Senate. We also know that the leader of the Democrats in the Senate lost his seat. Obviously this is the quinella — —

**Mr Smith** interjected.

**Hon. BILL FORWOOD** — I will get to the trifecta. This is the quinella between the Howard coalition in Australia and the Bush presidency in the United States. We only have one to go — Tony Blair, who is Labour — to get the trifecta — and if he does not win it will only be because he is a member of the Labour — —

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

### Sandringham: beach renourishment

**Mr PULLEN** (Higinbotham) — The member for Sandringham in the other place, Mr Thompson, claimed in the *Bayside Leader* of 26 October that the government had failed to commit funding for the renourishment of Sandringham beach and that the Minister for Environment in the other place had failed to meet local residents. The major problem with this beach is the unstable cliffs, which have been subject to extensive investigations by the Department of Sustainability and Environment and the Bayside City Council. Beach renourishment has been considered, but DSE considers the rock revetment proposal the most

effective means of addressing concerns about public safety and protection. I met with members of the Black Rock and Sandringham Conservation Association, and they did not request a meeting with the minister. However, following a rally at the beach I offered to lead a delegation to him.

Mr Thompson further claimed that in 1988 a Labor Party candidate promised to build a new police station in Sandringham. We lost office in 1992, and Mr Thompson was a member of the Kennett government for seven years, during which no station was built. Regarding the Dingley bypass, on 27 March 1996 a member of the Kennett government, the then member for Mordialloc, said that construction would begin during that term. It did not. No such commitment was made by us during the last election campaign.

Finally, the reason it is necessary to impose tolls on the Mitcham–Frankston project is that the Labor government had no idea that the Kennett government's privatised public transport system would collapse, costing the government \$1 billion. It is high time the Liberal Party, after five years in opposition, developed some policies instead of whingeing, carping and being negative, and put Victoria first and the Liberal Party second, not the reverse.

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

### Barmah State Forest: access

**Hon. E. G. STONEY** (Central Highlands) — The local community surrounding the Barmah forest on the edge of the Murray River is becoming concerned that a promise made by the Bracks government at the last state election may have dire consequences for the forest and for local communities.

Local communities are concerned that Barmah forest will shift from being a multiple use forest open to all to a locked up forest available only to a select few. With the impending Victorian Environmental Assessment Council (VEAC) study, Barmah Forest Preservation League has combined with Timber Communities Australia to call an information meeting at Nathalia on 5 November at 8.00 p.m. I quote from the press release sent out by Peter Newman from the Barmah league. It says:

The two groups are expecting a huge turnout by local people to send a message to the state government that we are sick and tired of people in Spring Street, although meaning well, telling us how to manage our forest. Many in our community have been associated with the forest for many decades, fished there, fought fires, sandbagged floods, served on management

groups, worked and camped in the forest, many telling stories going back through the generations about our forest.

The president of the Barmah Forest Preservation League, Mr Stan Vale, a well-known local, urges all the local community to attend the information evening to hear how the VEAC process will work. He urges people to demonstrate to the government everyone's commitment to the Barmah Forest Preservation League's motto which reads: 'Barmah forest for all and for ever'. I congratulate the local people for their stand on this issue.

### **Ballarat Court Network**

**Ms HADDEN** (Ballarat) — I wish to give hearty congratulations to the Ballarat Court Network, and also to the Ballarat court registrar, Mr Stephen Merbach. Last month I had the very great pleasure of attending a celebration in the jury room of the new courthouse at Ballarat to celebrate Ballarat Court Network's 15 years of volunteer service to the community. The network provides a shoulder to lean on and someone to support people in their time of need, whether they be witnesses in the court or parties. It is unbiased and its volunteers are very highly regarded. Many court networkers have been there from its beginning in 1989. It is a wonderful group of people, and I commend it for its continued support of criminal justice and justice generally in this state.

I also want to congratulate the Ballarat court registrar, Steve Merbach, who has been in Ballarat for 15 years. Before that he spent 2 years in Bendigo and before that in Frankston. Steve Merbach has provided 35 years of service to this state. I congratulate them both.

### **World Teachers Day**

**Hon. ANDREW BRIDSON** (Waverley) — Today I rise to mention an extremely special day which passed us by last week. I am surprised that not one member of either this house or the other house has to date mentioned this day, given that about 23 per cent or 24 per cent of members of the 55th Parliament are teachers. Last Friday was World Teachers Day, and I am sure that all members in both chambers would agree with me that it was a great opportunity for students, parents and the community to thank their teachers.

Last Friday was a special day and should not go unnoticed. Many teachers go about their daily duties without the recognition they deserve. On this day the work of teachers is officially recognised throughout the world. The day was inaugurated by the United Nations in 1994. It was established to focus attention on the contributions and achievements of teachers and on their

concerns and priorities. There are 92 000 registered teachers in Victoria, and in today's climate they confront enormous challenges such as information technology, globalisation, international insecurities et cetera. Teachers do a great job, and the Parliament thanks them.

### **Gas: Barwon Heads supply**

**Ms CARBINES** (Geelong) — As the member for Geelong Province I was delighted recently to attend with my upper house colleague John Eren and my lower house colleague Michael Crutchfield the announcement of the extension of gas to Barwon Heads by the Minister for State and Regional Development, the Honourable John Brumby. This announcement was excitedly received by all present, including representatives of the Barwon Heads residents association, the Barwon Heads Traders and Tourism Association, Barwon Coast Committee of Management and the many local residents who joined us at the community hall.

The Barwon Heads community has worked long and hard to have access to natural gas. I would like to thank Steve Craddock in particular for his tireless advocacy on behalf of everyone in Barwon Heads. The securing of the gas extension to Barwon Heads fulfils a commitment the Bracks government made to the people of Barwon Heads prior to the 2002 election and is yet another demonstration by our government of our commitment to the people of regional Victoria. It also builds on the successful rollout of the extension of natural gas to the North Bellarine townships of Portarlington, Indented Head and St Leonards facilitated by our government in our first term, which has now seen more than a thousand connections to natural gas.

### **Local government: review**

**Hon. J. A. VOGELS** (Western) — It is interesting to note that the Minister for Local Government has without question now accepted the final recommendations submitted to her on 100 per cent of the Victorian Electoral Commission (VEC) reviews of council electorate structures. As at 19 November 2004, 22 councils will have been reviewed or be near completion, with another 12 under way. It is hard to believe not once did the VEC get it wrong, according to the minister. No matter what the local communities wanted or asked for, there was a complete lack of understanding of local issues! The VEC undoubtedly has a mind-set on the way local government will go to the polls into the future. I would say that all small rural councils in Victoria will get five councillors, all of the

wards unsubdivided; medium sized councils will get seven councillors, one ward with three councillors and four single wards; and, the worst of all scenarios, Melbourne's metropolitan councils will all finish up with nine councillors — three by three by three. It is an absolute and complete waste of money. The VEC writes to the councils and says, 'We have been commissioned to review your council. Send us a cheque for \$30 000 and we will carry on with the review'. This is going to cost local government \$5 million over the next two or three years. This is an absolute disgrace because the VEC, or the minister, is taking —

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

### **Willowmavin Primary School: 125th anniversary**

**Hon. R. G. MITCHELL** (Central Highlands) — On the weekend of 18 and 19 September I attended the Willowmavin Primary School's 125th anniversary celebrations. It was a fantastic weekend. The Willowmavin Primary School is no. 3479 and is near Kilmore. It was made up of the mining schools at Kilmore and the no. 1452 primary school. On that weekend we celebrated in style. It was a beautiful weekend and lots of people turned up. I had the pleasure of meeting Ms Alma Goss, 92 years old, and Mr Erne Strong, 92 years old, who were the district's oldest students. It was also attended by Mr Jack Hiscock who is 82 years young.

The committee that organised the weekend was comprised of Margaret Dymock, Jennifer Cowell, Joan Hiscock, Jenny Hayes, Gail O'Donnell, Christine Hunt, Nancy Hiscock, Dennis Heather and John Fogarty. All these people either attended the schools themselves or are parents of students who are attending the school now. It was a very successful weekend with over 300 people attending on the Saturday. In the evening there was a dinner that attracted 165 people. The entertainment was in the form of a concert of past and present students. A school barbecue was attended on Sunday by 120 people. The Willowmavin Primary School prides itself on its achievements and ability to offer quality education for children over the last 125 years.

### **Circolo Pensionati Italiani**

**Hon. B. W. BISHOP** (North Western) — I wish to congratulate a small but dedicated band of people, all of whom are members of the Italian Pensioners Club, or more correctly Circolo Pensionati Italiani, who have for

the seventh year in a row staged an annual luncheon for Sunraysia's frail aged and their carers. These community-minded residents work hard to produce a three-course feast for about 200 people, doing all the cooking, waiting and cleaning up themselves. They do it on a tight budget with assistance in part from the Mildura Rural City Council. Amongst the guests it was great to see Ms Darveniza attend and also assist in gaining some funding from the Victorian Office of Multicultural Affairs.

I commend in particular Domenic and Filomena Caldarelli, who are the chief organisers of the luncheon and tireless workers in the community as a whole. It is great to go along and see those who rarely get to enjoy a lunch and a celebration many of us take for granted enjoying the companionship of a few hours, a good meal and great entertainment. There is no push for them to put the luncheon on. They do it because it gives them and their small band of volunteers a sense of giving something back to the community, and they do indeed do that through this selfless act that requires hard work for the reward of bringing pleasure to those who are aged and frail and their carers.

### **Housing: neighbourhood renewal program**

**Ms ROMANES** (Melbourne) — Recently on a Saturday evening I went with family members to the Atherton Gardens housing estate in Brunswick Street, Fitzroy, for a performance of *Outside In*. As director Graham Pitts described it, *Outside In* invites audiences to discover life in a high-rise public housing estate, life rarely seen by outsiders. The performance began with an initial induction and compulsory English lesson and then we visited four flats in two high-rise towers. With each visit through installations and theatre performance we found ourselves transformed into another world and experienced waves of migration through the estate; from the English and Eastern Europeans in the 1960s, the Vietnamese and East Timorese in the 1970s, Chinese and Kurds in the 1980s, and the 1990s room physically empty and evocative of those who tried to enter Australia but were denied entry or detained.

The performance was extremely moving and a credit to all involved — the production team; the performers, many of whom were former public tenants; the lifts and stairwell singers; and sponsors. It confirmed for me how critically important the role of the arts and cultural activities is to the neighbourhood renewal program and how important it is to invest in arts and culture. The neighbourhood renewal program is an important initiative by the Minister for Housing in the Bracks government which has been introduced by the Office of Housing on to a number of estates.

### Dame Phyllis Frost

**Hon. B. N. ATKINSON** (Koonung) — Yesterday another member referred to Dame Phyllis Frost and the loss to the community of this very formidable and wonderful Victorian. I simply want to add some remarks to those that were made yesterday. I had the opportunity of working with Dame Phyllis Frost in a number of areas in the community in the eastern suburbs and found her to be one of the most inspiring Victorians that I have ever had the opportunity to meet. She was a woman who certainly set a formidable pace in the work she undertook. She was involved in a great many organisations. While yesterday Ms Mikakos principally spoke about her work in the prison system, this woman was involved in a wide variety of organisations from Keep Australia Beautiful right through to neighbourhood houses and many welfare groups, including the Victorian Relief Committee.

One of the pieces of evidence of just how significant this woman was as a Victorian was the fact that she is one of the very few people I know who could ring the private line of any Premier and have that Premier pick up the phone and talk to her almost instantly — in other words, she was a lady who everybody regarded very highly and sought the counsel of. Everybody certainly recognised her as a person who made a considerable contribution to Victoria.

### Baha'i community: Manningham

**Ms ARGONDIZZO** (Templestowe) — On Friday, 22 October, I had the pleasure of attending a function organised by the Baha'i community in the City of Manningham. The function is one the organisation holds as an annual event. The purpose of the function is for the Baha'i community to express its appreciation to the schools and teachers in the City of Manningham. The theme of the evening was Manningham teacher appreciation night. The Baha'i community places a great deal of emphasis on education being an important component of society, and in turn recognises the important contribution educators make in our society. The evening required a great deal of organisation and contribution by people from the Baha'i community. This included guest speakers, presentation of certificates of appreciation to teachers from the local schools and contributions to school libraries.

The guest speakers included Liz Beattie, the member for Yuroke in the other place representing the Minister for Education and Training; Kath Podger from the Baha'i community; and Tony Raunic, mayor of the Shire of Nillumbik. The food on the evening was prepared by volunteers from the Baha'i community of

Manningham, and the entertainment included performances by children and members of the Baha'i community. I congratulate the Baha'i community on a successful evening and its recognition of the teaching profession.

### United States of America: election result

**Hon. C. A. STRONG** (Higinbotham) — I would like to add my congratulations to the President of the United States on his re-election and also my congratulations to the United States Republican Party for a wonderful result, because I am led to understand it has increased its majority in both houses of the federal Parliament.

*Honourable members interjecting.*

**Hon. C. A. STRONG** — It is a wonderful result, and I think it is interesting to hear the catcalls from opposite because democracy is a wonderful thing, and it really does not matter what the left zealots on the other side may like to say, the people make up their minds. The people made up their minds, and they returned George Bush to continue the good work that he is doing for the free world, just as they returned John Howard for the good work he is doing for Australia. It is all very well that people try to campaign with slogans like 'Ease the Squeeze' we heard from Mark Latham and things like 'Listening and Acting' we hear from the members opposite. One has to remember that slogans do not work — you actually have to do something and democracy will tease that out. Democracy will consign you to where you should be — the dustbin of history!

### Tourism: Melbourne's West brand

**Hon. S. M. NGUYEN** (Melbourne West) — I would like to thank Western Melbourne Tourism for the work it has done in the past few years. It launched the new Melbourne's West brand identity booklet last month on Tuesday, 26 October. The launch was held at the Melbourne Planetarium at the Scienceworks Museum in Spotswood. The launch was well attended by members of the local community, especially the business community. Melbourne's west offers a lot of opportunities and is especially attractive to overseas and interstate tourists. There is plentiful accommodation and places to visit such as Werribee Mansion, Werribee Zoo, Williamstown cafes and restaurants, and the rich multicultural community nearby in Footscray with good shopping centres. In the past the council has worked with others to try to promote the region and encourage more people to come to the western suburbs. I would like to thank the council and the many



organisations who have funded this recent project and — —

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

### **Bendigo Volunteer Resource Centre**

**Hon. D. K. DRUM** (North Western) — Last week I had the opportunity to assess the Bendigo Volunteer Resource Centre during the opening of its new reception centre. It has involved volunteer work for up to six months, as well as getting help from the corporate sector, to get the resource centre up and running. Certainly the new building in Allans Walk, Bendigo, is Spartan looking, but it is neat, clean and will enable many people to be assisted throughout Bendigo.

The mayor of Bendigo, Cr Greg Williams, was there to help open the new reception centre, as was the new district manager for the Department for Victorian Communities, Colin Brady, who has moved into a position that we hope will benefit the area. Karen Larkins was also there. Karen is someone who has recently moved to Bendigo and realised how tough it is to move into an area where you do not know anybody. Karen has started up the Bendigo newcomers group, which is working with all the people who find themselves in Bendigo without too many friends and helping them to more easily make the adjustment.

The new reception centre is doing remarkable work in allocating different roles to so many volunteers, such as for the Commonwealth Youth Games, which are coming to Bendigo in a few weeks. Hundreds of positions have already been filled by the Bendigo Volunteer Resource Centre.

**The PRESIDENT** — Order! The time for members statements has expired.

## **STATEMENTS ON REPORTS AND PAPERS**

**The PRESIDENT** — Order! The question is:

That reports and papers tabled in the Council be noted.

### **Small business commissioner: report 2003–04**

**Hon. B. N. ATKINSON** (Koonung) — I want to address some remarks on the small business commissioner's report. I commend the commissioner and his staff — some 14 people in that office — for the work they have done during the 13 months leading to June 2004. The Office of the Small Business Commissioner was established by legislation in this

house, and the appointment made by the government was an outstanding one. Mark Brennan is very highly regarded by those on both sides of the house, and his appointment has led to the establishment of a very successful jurisdiction in small business.

I am particularly encouraged by some of the work this office has done on dispute settlement, because one of the major concerns of small business is to gain access to cheap and fair settlement of disputes. The small business commissioner has provided, as was envisaged by legislation, an avenue of dispute settlement that is low cost and has demonstrated by way of the statistics presented in this report a significant advance for a number of people. It is interesting to note that 527 disputes were notified to the commissioner during the 13-month period and 420 of those were referred to a mediation process. I notice that of those 69 per cent were settled before or at mediation. I have a slight concern in that I have been advised by people who have some knowledge of the Office of the Small Business Commissioner that there is a constraint on the availability of meeting rooms or facilities to allow further mediation processes to proceed. It might well be that a better result would be achieved if the government were to better resource the office.

Of the disputes that were settled it is interesting to note that 64.5 per cent of the complaints were lodged by tenants and 29 per cent by landlords, and 6.5 per cent were lodged by other parties. Particularly telling about these statistics is that only 17.3 per cent of the disputes that were referred to the small business commissioner involved shopping centres — in other words, less than one-fifth of the disputes referred. Of those, almost one third — 31.9 per cent of the disputes involving shopping centres — were on applications from landlords. Those statistics clearly indicate the need for the office to look at expanding the provision of education and information on lease obligations to people generally in business. That most of the complaints — four-fifths — are coming from outside the shopping centre environment for which this legislation was actually drafted suggests to me that the major problems occur with people who are less experienced, either as tenants or as landlords, and are involved in commercial leases in strip centres or other locations other than shopping centres.

The small business commissioner has done a sterling job. I have come across him at a range of events where he has moved around the community and maintained contact with industry associations, spoken in regional areas and made every effort to promote the work of his office and the availability of its services which, I believe — and I support the government's belief on

this — are very advantageous to small business. I have some concerns about the office — for instance, the small business commissioner was to oversee a liquor code of conduct. That code of conduct has now been drafted and circulated for comment, but it is still not within his jurisdiction. I note that he has undertaken some investigations, including some into concerns about liquor stores and about improper use of confidential information by Coles and Woolworths. I welcome those investigations, and hope this part of his work will be expanded in the future.

### **Department of Justice: report 2003–04**

**Ms MIKAKOS** (Jika Jika) — I want to take this opportunity to make some brief remarks in respect of the Department of Justice annual report 2003–04. I am very pleased to be speaking on this report as the Parliamentary Secretary for Justice. I note at the outset that the Department of Justice delivers an extensive range of services to the Victorian community through its portfolio areas of law, policing, corrections, emergency services, the courts, consumer protection and the regulation of gaming. It has been a great pleasure for me to be involved in my capacity of parliamentary secretary working with four ministers across six portfolio areas. I believe the department has made some significant achievements during the financial year covered by this report. The department has made a significant contribution to several key aspects of the Victorian government's policy framework Growing Victoria Together by creating safe streets, homes and workplaces, and promoting rights and diversity.

I want to quickly touch on some of the department's key achievements and focus in particular on two committees of which I have the pleasure to be the chair that are featured in the report. The first is the Aboriginal justice forum. It is the peak coordinating body responsible for overseeing the development and implementation of the Aboriginal justice agreement. That agreement was launched in 2000. It is an initiative which aims to address indigenous overrepresentation in our criminal justice system, to improve indigenous access to justice services and promote a greater awareness of civil, political and legal rights. This forum meets at least twice each year; its most recent meeting took place on Thursday and Friday of last week when it met at Williamstown. It was a successful forum. It was an opportunity for indigenous community representatives and government agencies to come together and discuss issues of great importance to Koori Victorians and the development of a range of initiatives which the government is working on in partnership with Koori Victorians to address.

The annual report also touches on a number of related initiatives including the establishment of Koori courts. I have discussed this matter on a number of occasions. The courts are working extremely well. The report notes the establishment of Koori courts in Shepparton and Broadmeadows. Members would be aware that since then, as is noted in the report, a further Koori court has been opened in Warrnambool, with more funded in this year's budget for Gippsland and Mildura. The report notes that a formal evaluation will be taking place to determine the success of Koori courts as they were set up as a pilot program.

The report touches on a range of initiatives in the Aboriginal justice area. I do not have time to discuss these in any detail, but it talks about the Aboriginal liaison program, which is hugely important in supporting rehabilitation and people facing the criminal justice system. The report talks about the Lake Tyers community renewal project — something I have spoken about in recent times. It is a 10-year project which aims to address the dire needs of the Lake Tyers community.

The report also talks about the Women's Correctional Services Advisory Committee, which I alluded to in my members statement yesterday when addressing the contribution of Dame Phyllis Frost. It talks about the work that committee is doing to try to reduce the growing trend of women entering our correctional system. The committee reports directly to the Minister for Corrections.

I take this opportunity to thank all members of that committee for the work they have done to date, members of the Aboriginal justice forum and members of other committees I have the pleasure to chair, and which are also referred to in the report. I commend the report to the house.

### **Department for Victorian Communities: report 2003–04**

**Hon. J. A. VOGELS** (Western) — I would like to make a few comments on the 2003–04 annual report of the Department for Victorian Communities. I have had a glance through this report and, typically, it is full of motherhood statements. On page 9, in the corporate summary, the report reads:

We put communities first. We take the time to listen properly, and actively invite views. In other words, we plan and engage with people before doing. We respect people, their ideas, contributions and needs, and out of that we build collaborative relationships with a range of partners.

I thought local government was there to do that in the first place.

The report also talks about the importance of community strengthening indicators. I know the Minister for Local Government is continually talking about community strengthening, and when I went to some of the eastern suburbs councils the other day they had a book running when the minister turned up on how many times she would use the words 'community strengthening' in her speech. The highest bet was 13, but she actually used them 19 times in a 5-minute speech. The words 'community strengthening' are obviously buzz words for the Labor Party at the moment.

These are the sorts of things the Department for Victorian Communities has been researching. It has asked 7500 people these questions, and no doubt spent a lot of money doing that. I cannot understand why it cannot just go to local government and ask councils who employ staff to do these jobs. Councillors are also at the coalface and know exactly what is needed in their local communities.

Eleven questions were asked, and I will go through some of them:

1. Can you get help from friends, family or neighbours when you need it?

That is obviously an important question. Other questions are:

2. Do you feel safe walking alone down your street after dark?
3. Do you feel valued by society?
4. Do you feel there are opportunities to have a real say on issues that are important to you?
5. Do you help out as a volunteer?
6. Are you a member of an organised group, such as a sports or church group or another community organisation or professional organisation?

**Ms Hadden** — They are good questions.

**Hon. J. A. VOGELS** — Brilliant questions! They are very basic questions, but why do you have to have someone from Spring Street in a bow tie coming down to Corangamite, Towong, Buloke, or wherever to ask these questions? Councils employ staff to do these things. Council staff know what their local communities want and they do not need someone in a bow tie turning up for three days having to fork out \$30 000 or whatever for the consultancy and then have it published in a book.

Another question is:

9. Do you think that multiculturalism makes life in your area better?

Of course it does! We do not need someone from Spring Street to come and tell us that:

10. Do you enjoy living amongst people of different lifestyles?

I love living amongst people with different lifestyles:

11. Could you raise \$2000 within two days in an emergency?

Probably not! These are the sort of questions that are being asked.

I note that the Department for Victorian Communities has a budget of half a billion dollars, and it employs 606 staff to go and research these issues.

The report also talks about engaging with the community and delivering library services. Library services in local government are in the worst position they have been in since libraries were invented. If we look around we can see that, especially in rural Victoria, static libraries are closing down and mobile library services are being pulled out because they do not have any funding. If the Department for Victorian Communities, with its \$500 million budget, started delivering the money to where it is really needed — that is to local councils — we would have a much better service.

Someone told me the other day about the terrible time they had in East Gippsland during the bushfires. What did they get? They got people from the Department for Victorian Communities telling them how to get over it. Locals have been getting over those sorts of things for the last 100 years; they do not need the Department for Victorian Communities to come and show them how to do it. Who started the fire in the first place? It probably started in a state government park because of the negligence and neglect that has been happening in those parks for the last 10 years. I believe the Department for Victorian Communities is a slush fund — —

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

### **Economic Development Committee: economic contribution of Victoria's culturally diverse population**

**Mr SOMYUREK** (Eumemmerring) — I am pleased to have the opportunity to speak on the

Economic Development Committee's report into the economic contribution of Victoria's culturally diverse population, which was tabled in the house last month. I congratulate those who chose this issue as a subject of inquiry for the Economic Development Committee, given the volatile international climate that prevails at the moment. Victoria is one of the most culturally diverse regions in the whole of Australia, and considered in the context of the world there is a whole concentration of different cultures. For example, 40 per cent of Victoria's population were either born overseas or have one or both parents born overseas. There are some regions in Victoria that have higher concentrations of migrants. Dandenong in my electorate is certainly one of those areas, with the City of Greater Dandenong being the most culturally diverse municipality in Victoria, with 55 per cent of the population either being born overseas or having one or both parents born overseas. Our diversity clearly enriches Victoria economically, socially and culturally. Our cultural diversity has made Victoria a dynamic, open and inclusive society that readily embraces the rest of the world.

This report notes that successive generations of migrants have made a unique contribution to the development of this country. The debate or discussion in Australia on immigration has traditionally focused on the economic impact of migration. There is a popular perception — or misconception — that migration increases unemployment and puts a strain on the nation's finances. The inquiry clearly demonstrates that this is not the case.

The report details a speech given by Mr Chris Richardson of Access Economics, in which he points out that economic growth is comprised of two parts — working-age people entering work and improvements in productivity. Mr Richardson asserts that over 170 000 people of working age enter the Australian work force every year and that this leads to more than half the economic growth of Australia as a nation. He also asserts that the other half of our economic growth is due to improvements in productivity. According to Mr Richardson, in 20 years time the growth in the working-age population will be down to 12 000 people a year, thereby halving our economic growth from this source.

The effects of this are pretty obvious: it will put a strain on the revenue base of the nation and its ability to look after our increasingly ageing population. We could never cover this gap by bringing in migrants, because it would take a lot of people and obviously we could not cope with that, but it will have an impact. The report also quotes from the 2002 assessment of the economic

consequences of the various components of the migration program from Access Economics as follows:

Skilled migrants, particularly from the business skills and independent categories, contribute significantly to the commonwealth net operating surplus. Over time, migrants from the family stream contribute marginally, while direct expenses exceed outlays for those from the humanitarian stream.

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

### **Equal Opportunity Commission Victoria: report 2003–04**

**Hon. A. P. OLEXANDER** (Silvan) — I would like to take note of the annual report of Equal Opportunity Commission Victoria for 2003–04. In doing so I congratulate the commission on what I view to be on the whole a reasonably successful year. There are a few areas where improvement is obviously required, and I will get to those. In the year 2003–04 we saw 3186 complaints lodged with the commission, which shows that its role is very relevant in the community in protecting community members against discrimination. There were 8685 inquiries answered. Visits to the web site of the commission increased by over 10 per cent on the previous year. Education programs delivered by the commission were delivered to more than 11 000 Victorians last year, and that is a very fine record.

The commission also began a successful series of forums on human rights, on values, on freedoms and upon the Australian way of life. We as legislators may take those things for granted. In many respects we have been schooled and educated in those concepts and in their implementation, but for new arrivals to our country in particular these sorts of forums and educative processes are very important. Many people arrive on our shores from lands where those values are not instilled in society and are not upheld by the institutions of society, so I see those activities as being very important.

I congratulate the commission on the whole on its work for this year, although I will put a caveat on that: there is still a very high proportion of complaints lodged that are unresolved. Too high a proportion — around 25 per cent — of those complaints that are lodged which are seen to be legitimate by the commission are still unresolved, and that proportion needs to be reduced significantly if the commission's charter is to be adequately met.

In Victoria we have a very proud bipartisan history in equal opportunity, and both sides of politics — the

Labor Party and the Liberal Party — have played a very significant role in the development of our equal opportunity infrastructure in this state. The report outlines that history as far back as 1977, when the Hamer Liberal government introduced groundbreaking legislation and established the Equal Opportunity Board and the Office of Equal Opportunity Commissioner. That act outlawed sexual harassment and discrimination because of marital status and gender in employment, education and accommodation and in the provision of goods and services back in 1977. That was groundbreaking legislation for the time.

In 1982 the Cain government amended that act by extending it to protect people with disabilities — a move which the Liberal Party supported at the time and which built upon our equal opportunity infrastructure. In 1984 the Equal Opportunity Act was amended again, and race, religion, ethnic origin, political belief and de facto spouse status were added to the list of personal attributes for which people could be protected against discrimination. The Liberal Party also supported that act of the Cain government.

In 1993 under the Kennett government, work began on a new Equal Opportunity Act, and this was a major initiative in 1995. The Equal Opportunity Act 1995 made it against the law to sexually harass or treat someone unfairly because of their age, carer status, disability, industrial activity, lawful sexual activity, marital status, parental status, physical features, pregnancy, race, religious belief or activity, sex and personal association with someone else perceived to have one or more of the listed attributes. This again was groundbreaking legislation.

In recent years the Bracks government has also passed legislation that builds upon that infrastructure, which I am proud to say has also been supported by this side of politics. On the whole the year 2003–04 has been a year of progress and growth in the area.

### **Heritage Council Victoria: report 2003–04**

**Ms HADDEN** (Ballarat) — I rise to take note of the Heritage Council Victoria annual report 2003–04. I want to start by thanking and acknowledging the great work done by the Heritage Council and its members, and I wish to place on record my gratitude to the chair, Ms Chris Gallagher, and the deputy chair, Mr Peter Hiscock, who is one of my constituents. Mr Hiscock has a very fine history of commitment to and passion for heritage things and places and to their protection. Mr Hiscock lives at Buninyong. He was the executive director of Sovereign Hill in Ballarat for some 22 years, retiring just two years ago. I am very pleased that we

have a very fine person as the deputy chair in Mr Peter Hiscock, given his great knowledge and understanding of heritage in this state.

The Heritage Council has a number of committees, including one to do with collections which is chaired by Mr Peter Hiscock. The collections committee's role is to provide the Heritage Council and Heritage Victoria with advice on its involvement with heritage collections and their relationship to heritage places. One of the most recent heritage places to be protected was the archaeological diggings in Camp Street, Ballarat, which was the location of the original police camp. The diggings occurred over the last three years and exposed a number of historical items from the mid-1850s when the police camp was in residence. Importantly that archaeological dig was available for the community, visitors and schoolchildren to view from a viewing platform behind the Mining Exchange, and I can tell you that it was a very popular and very busy place over about two months. The diggings located plates and bottles and the original sewerage system under the ablutions block. They also exposed buttons from the uniforms of the British redcoats.

Another important matter the report raises is archaeological activities across the state. Archaeological survey projects have increased by 27 in the last 12 months from the previous year. In fact the amount of survey work conducted in the state has doubled over the last four years, which is a good thing to see. One of the major projects the Heritage Council had in the last 12 months was to place the Royal Exhibition Building and Carlton Gardens on the World Heritage listing, and they are now included for cultural reasons. It is interesting to note from the report that Australia has 15 places inscribed on the World Heritage list for natural values, with a few such as Kakadu and Willandra Lakes having indigenous cultural values.

Another matter that the report mentions, and one which I want to congratulate it on, is the continued assistance and support which the Heritage Council provides to local councils by way of heritage advisory services. A total of \$320 000 was distributed to councils in grant funding through the heritage program in the last financial year for that purpose. In particular I want to acknowledge the great support by Ms Mandy Jean, a heritage adviser to the Hepburn shire, for her tremendous commitment and passion for historic and iconic places, and especially indigenous places such as Mount Franklin, for which she has provided a very informative and thorough heritage advisory report. I commend this annual report of Heritage Council Victoria to the Parliament and I wish to thank the

council again for its continued passion and commitment to heritage places in this state.

### **Melbourne 2006 Commonwealth Games Pty Ltd: report 2003–04**

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I rise to speak on the annual report of Melbourne 2006 Commonwealth Games Pty Ltd. From 15 to 26 March 2006 Melbourne will host the 18th Commonwealth Games. This will be the largest event that has ever been staged in Melbourne. It will involve more than 4500 athletes from over 70 countries, and more than 1500 officials visiting from those countries. I place on record at this point that the Commonwealth Games continues to enjoy the strong support of the Liberal Party, both here in Victoria and nationally. It was through the efforts of the previous state Liberal government from the mid-1990s. Over three years a team put together by Jeff Kennett and led by Ron Walker worked assiduously to secure the games for Victoria, and in October 1999 Victoria was formally awarded the Commonwealth Games for 2006. Following the awarding of those games the organising committee was charged with responsibility for putting together those games, and that was done through Melbourne 2006 Commonwealth Games Pty Ltd, which has produced the report we are considering this morning.

For the last four years that body has had the responsibility as the organising committee until the passage last year of amendments to the Commonwealth Games Arrangements Act, which provided for the creation of a statutory authority — that is, the Melbourne 2006 Commonwealth Games Corporation which has assumed responsibility for the organisation of the games. The report before the house today for the proprietary limited company is a transitional report from the old organising body to the new statutory corporation, and as such it does not of itself provide a full picture of the activities and performance of the organising committee for 2003–04. Indeed I note that the report of the proprietary limited company records that for the 2003–04 year the organising committee recorded a deficit of almost \$36 million as an operating result. Of course that is as a consequence of its assets and liabilities being transferred to the statutory corporation.

I raise that point simply to emphasise that reading either the proprietary limited annual report or the statutory corporation's annual report in isolation does not provide a picture of the performance of the Commonwealth Games organising committee for the 2003–04 year. I also note that it is not possible to do a

simple reconciliation of the two because the report for the proprietary limited company has been prepared in accordance with the Corporations Law, whereas the report for the statutory authority has been prepared in accordance with the Financial Management Act. Unfortunately for this year we do not have a complete reconciliation for the organising committee for the 2003–04 year.

I also note that for reasons that are not clear the proprietary limited company continues to exist a full 12 months after the statutory corporation was formed and assumed the operations for the organising committee. Presumably because of that next year the board of the proprietary limited company will be required to table a report to this Parliament despite the fact that it has only \$1 in equity and has not traded for 12 months.

I would like to touch briefly on the issue of the chairman's foreword to the corporation's annual report. As chairman, Ron Walker has made a number of observations that are worth putting on the record. One is his thanks to the commonwealth government for the \$270 million contribution that it is making towards the Commonwealth Games, which consists of a substantial cash contribution of more than \$100 million and a contribution of security aspects. I also note that the chairman has thanked the Prime Minister, John Howard, and the Treasurer, Peter Costello, for their support — —

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

### **Small business commissioner: report 2003–04**

**Ms ROMANES** (Melbourne) — I would like to take note of the annual report of the small business commissioner for 2003–04. The Office of the Small Business Commissioner was created by the small business commissioner Act 2003. It is also mentioned in the Retail Leases Act 2003. This is the first annual report of the commissioner, and it provides a comprehensive overview of the work of the first year of operations.

I note that earlier this morning Mr Bruce Atkinson commented that the small business commissioner, Mr Mark Brennan, is doing a sterling job in his support for small business in Victoria and in promoting the various services that the Office of the Small Business Commissioner has to offer. It is timely to give credit where credit is due and remind the house that the idea for the office's establishment was that of the Minister for Small Business, the Honourable Marsha Thomson.

Her important initiative is producing important outcomes for the state.

The annual report outlines the responsibilities of the small business commissioner to investigate unfair market practices and mediate disputes involving small businesses, including disputes arising over leases of retail premises. It provides further insight into the methods by the commissioner as he pursues his prime objectives. The primary focus for the office is its dispute resolution function. The report shows that of retail tenancy disputes referred to the small business commissioner in the time covered by the report the number resolved was around 150 per cent higher than would have been the case without the involvement of the office. The office has also enabled speedier resolution of disputes because they were being handled significantly faster — that is, seven weeks from application to mediation — than under the former Victorian Civil and Administrative Tribunal process.

The speedier resolution of disputes, and also the significant resolution of business-to-business disputes handled by the office, has saved many businesses throughout Victoria the expense of lengthy and costly litigation which they might otherwise have had to use as an alternative. That has had a very important economic impact on the state, with the Office of the Small Business Commissioner successfully resolving 70 per cent of the disputes that have come before it. This is a very significant outcome for the first year of operation. It is important to note that the focus of the mediation and alternative dispute resolution activities of the small business commissioner is on pragmatic commercial settlements. These must be consistent with the law but allow all parties concerned to re-establish fractured landlord-tenant or business relationships or to move on without the debilitating effects of a lingering commercial dispute.

This is very important work, and while there are areas for improvement — and Mr Atkinson touched upon those — such as the code of conduct, which is yet to be completed, there will be ongoing investigations, and systemic issues will be tackled by the small business commissioner. As he himself remarks, with such success he expects increased business in the near future.

#### **Gambling research panel: report 2003–04**

**Hon. D. K. DRUM** (North Western) — I would like to take note of the Gambling Research Panel's annual report for 2003–04. I acknowledge the chair of the panel, Linda Hancock, as well as her associates, Mr Peter Laver and Mr David Weston.

The funding to enable the panel to conduct its research is derived from the Community Support Fund, which is a special fund derived from hotels in the state, in most years amounting to \$130 million. I have often raised in the house my opinion, and that of my party, that a lot of the funding for the research on gambling in Victoria should come from the \$1 billion the government takes in straight-out, direct taxes from both clubs and hotels. The government should look at spending some of that money to do its problem gambling research. It would then be in a position to return so much more of the \$130-odd million out of the Community Support Fund to the communities that generated the income in the first place.

I will begin my discussion of some of the activities conducted by the research panel by talking about the study conducted on measuring problem gambling last year. The purpose of that study was to assess the Victorian gambling screen, which is used to work out the impact that problem gambling is having here. Researchers can compare that impact to the impact it has in other places, such as the United States of America and Canada.

It is vitally important that we get this area right. We need to spend more money to truly differentiate between problem gamblers and recreational gamblers, and that is what this report seeks to do. It is very difficult to make that clear differentiation, and we are not trying to downplay that. The Melbourne Cup on Tuesday is a clear example of where 130 000-odd people at the racecourse plus millions of others around Australia are all having a bit of a flutter without too much concern. Obviously those people are considered to be recreational gamblers, but in amongst them are a few who not only bet excessively but are certainly betting outside of their financial means, and it is very difficult to tell who those people are. That is something we really need to do, because if we cannot get that right we will put in place measures to supposedly help problem gamblers but that will in fact only upset recreational gamblers.

Other studies involved in the research include the evaluation of electronic gaming machines (EGMs) and harm minimisation. The studies looked at some of the areas where we need to make an impact. They looked at the restriction and supply of cash — that is, limiting how much cash people can take out of an automatic teller machine in the facilities — and also the introduction of smoking restrictions. I am glad the report mentions that those restrictions were introduced for health reasons, because the government has been very quick to introduce smoking bans in these areas for health reasons only, and then turned around and

claimed that it will help problem gamblers. It is the typical spin we are used to coming up against. The report also recommends limits on the accepting of notes by EGMs. All these practices are still in place. It also recommends limiting the opening hours of the various EGM venues.

It is interesting that the spin rate was not looked at, because that is another area that has been widely questioned. The study did not take that into account. A whole range of other research studies have been undertaken, and I commend the gambling research panel for its work as well as — —

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

### **Victorian Multicultural Commission: report 2003–04**

**Hon. KAYE DARVENIZA** (Melbourne West) — I rise to take note of the 2003–04 annual report of the Victorian Multicultural Commission. This report clearly outlines the very important work the VMC does. I particularly want to acknowledge Mr George Lekakis, the chair of the commission and the commissioners who all do an excellent job. They are Mr Sam Aziz, Mr Joe Caputo, Dr Stanley Chiang, Mrs Melba Marginson, Mrs Vicki Mitsos, Mr Joe Pavlovic, Ms Dalal Smiley and Mr John Zika.

The role of the commission is outlined in the annual report in some detail. It is also outlined in the chairperson's report. It is about giving advice to government about the needs of our very culturally and linguistically diverse (CALD) community here in Victoria, and the commission consults very widely with the CALD community. It also administers the VMC grants program. During the last year it has been involved in a whole range of community engagements and consultations. It was involved with the Multicultural Victoria Act and conducted nine community consultations which were coordinated through the Victorian Office of Multicultural Affairs but auspiced by the commission. The consultations were held in both rural and regional Victoria, including in Mildura, Geelong, Box Hill, Broadmeadows, Springvale, Traralgon, Shepparton, Footscray and Ballarat as well as in metropolitan Melbourne. The consultations were conducted by an independent panel.

Regional consultations are a very important part of the commission's work, because we have communities in rural and regional Victoria that have been accepting, welcoming and settling migrants for many generations and the commission works closely with those

communities. The report outlines the consultations that have taken place in Albury-Wodonga and Wangaratta as well as places such as Myrtleford and of course there were wide consultations in metropolitan Melbourne.

The commission also runs ethnospecific consultations. I was very pleased to attend a whole range of the consultations that have been run by the Victorian Multicultural Commission not only around the introduction of the Multicultural Victoria Act but also its general program of engagement and consultation with these communities. It has recently conducted consultations with the Afghani community as well as the Iraqi community. These community consultations are very well attended. Leaders of communities come to them, and the commission is highly regarded. We also see the commission being involved in collaboration with government departments. The grants program is a very important part of its work, and the Victorian government allocated some \$2.8 million to the VMC community grants program to cover buildings and facility improvements, after-hours ethnic schools, multicultural festivals and events, senior citizens' organisational support, community partnerships and community building. I congratulate the VMC for its excellent work and look forward — —

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

### **Department of Justice: report 2003–04**

#### **Chief Commissioner of Police: report 2003–04**

**Hon. RICHARD DALLA-RIVA** (East Yarra) — I wish to make my contribution on a variety of reports, but before I do so I note that in the last two days an extreme number — a barrage — of reports have come in and been dumped on to us. That makes it very difficult for members to go through them all. In my role as the opposition spokesman on the scrutiny of government I must record my concern about the number of reports that have been tabled in such a short period and the ability of members to go through them.

Today I have selected two reports, the justice department report, 2003–04 and the Chief Commissioner of Police report, 2003–04. However, 25 reports are listed on today's notice paper, and given that the sessional orders only give us an hour — 5 minutes for each report — it makes it impossible for every member in this house to make a contribution. So if I had a choice I would speak on a few more reports, but it is difficult at this time to go through them all.

**Mr Lenders** — You have every Thursday.



**Hon. RICHARD DALLA-RIVA** — I will take up the interjection from the Leader of the Government, who says, ‘You have every Thursday’. He knows full well that it is very difficult to expose any issues in a report if it is not a recent one, but he would not understand about dealing with the media, and he would not understand anything about scrutiny of government. This is the person who avoids every question at question time. Today we have a situation where a huge number of reports have been tabled, and I will now get to them in my remaining time if there are no more rudely put interjections.

The Victoria Police annual report 2003–04 and the Department of Justice annual report 2003–04 paint a picture of a government that is fundamentally soft on crime. This is a government that on the one hand clearly says it is delivering on outcomes, but if you look at the statistical — —

**Mr Pullen** — The statistics!

**Hon. RICHARD DALLA-RIVA** — Thank you very much! Mr Pullen knows that I am always looking at statistics. I thank Mr Pullen again for his rude interjection. I am always looking at the statistics which quite clearly show that there is a lack of direction by the relevant minister who oversees police and also corrections in the way that they are dealing with crime in this state. I refer to page 6 headed ‘Reducing the crime rate’ in the Victoria Police annual report. It is interesting to note that the target that it had set in terms of the proportion of crimes against the person resolved was 77.1 per cent, and the result was 72 per cent — in other words, the police did not meet their target. It set its target for the number of household burglaries investigated at 41 435, and the result was only 36 330. People on the other side will say, ‘That means that there are not as many burglaries occurring’. The realities and facts of the matter are that the less police you have on the beat, the less the capacity for investigations to be conducted. That is the outcome you will have. I say that because this government came on a promise at the last election that it would increase police numbers by 600.

**Mr Pullen** interjected.

**Hon. RICHARD DALLA-RIVA** — The report quite clearly shows to those who have had any statistical understanding — as opposed to the member interjecting to whom I will give some advice; page 59 would be a good start for Mr Pullen to look at — that the number of police that are now in our state has only increased by 70 since the last annual report, not the 600 and certainly not by a huge amount. The reality is that the government is not meeting its objectives of

giving the community more police. This government hates scrutiny. It is a government that avoids scrutiny on all occasions and as usual it is — —

**The PRESIDENT** — Order! The member’s time has expired!

### **Melbourne Cricket Ground Trust: report 2003–04**

**Mr PULLEN** (Higinbotham) — It is a pleasure to rise and speak on the *Melbourne Cricket Ground Trust — Annual Report 2003–04*. I wish to declare an interest because I am a member of the Melbourne Cricket Club (MCC). I could speak for an hour on this report because it is wonderful. The Melbourne Cricket Ground (MCG) is famous for football, cricket and the coming Commonwealth Games, which will be run extremely well by this government. The chairman’s report covers a number of issues. I will pick up a couple of points in the report. It states:

2004 will go down in the history of the MCG as the year when the magnificent new northern stand and facilities started to become a reality.

...

The public’s response has been fantastic. People love the quality of the facilities, the ease of access, the proximity of the action, the overall sense of spaciousness, and the comfort.

The number of toilets that it has is fantastic. Everywhere you go there are toilets! No-one has a problem with that when they are at the MCG! The report further states:

A spectacular feature of the new stand is a roof which includes a glass leading edge. This provides cover for 80 per cent of seats and a much brighter atmosphere within the stand. Only a few of the most modern stadia internationally, such as the Athens Olympic Stadium and the Stade de France in Paris, have such a feature.

...

The new stand will be completed in readiness for the 2006 Commonwealth Games —

and I know that upsets many members of the opposition —

when the eyes of the world will again be on Melbourne.

We have to remember how we got duded by the federal government in the redevelopment of the MCG. Further on the report says — —

**Hon. P. R. Hall** interjected.

**Mr PULLEN** — We got duded, Mr Hall! The report also states

Total capacity at the MCG will once again exceed 100 000. Capacity for the Commonwealth Games will be slightly less at 98 000.

This is because of the people who make a project of this magnitude happen. I want to acknowledge the efforts, skills and dedication of the large project team, together with the MCC staff, who got on with the job. A number of big games played there fill the stadium. There was a particular game between Collingwood and Essendon which saw the ground fill up. I must say that it is crazy that Essendon left the MCG and went to Colonial Stadium, now Telstra Dome. It is madness that the number of games is being reduced to 41 at the MCG, particularly when you consider it is the best stadium in the world. Telstra Dome will have 49.

I will touch briefly on the financial side. Revenue from non-operating activities was approximately \$40 million, which brought about \$105 million to total revenue. This is an increase. Most of the revenue from non-operating activities included a \$38.5 million grant from the state government of Victoria relating to the MCG redevelopment. I notice that Mr Drum has left the chamber — —

**Hon. D. K. Drum** — No, I am here!

**Mr PULLEN** — He is here. He is dressed in red and black, which are the right colours! On page 23 of the report there is a lovely picture of kids training for football. It is good to see that they all have Essendon jumpers on. A lot of them have 18 on their back, which is Matthew Lloyd's number. I knew Matthew Lloyd's grandmother very well when I lived in Yarrowonga. Matthew is a wonderful player for the Essendon Football Club. There is also a picture of Ron Barassi, and we saw him in the chamber and Parliament yesterday with Mr Drum and Mr Hall. This is a magnificent document that has been put together by the Melbourne Cricket Ground Trust. I congratulate John Wylie and the other members of the trust for producing an annual report on the MCG, a facility that will go from strength to strength.

**Question agreed to.**

**DRUGS, POISONS AND CONTROLLED  
SUBSTANCES AND THERAPEUTIC  
GOODS (VICTORIA) ACTS  
(AMENDMENT) BILL**

*Second reading*

**Debate resumed from 3 November; motion of  
Mr GAVIN JENNINGS (Minister for Aged Care).**

**Hon. J. G. HILTON** (Western Port) — I am very pleased to make a brief contribution to the Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Bill. As this bill is not being opposed by either the opposition or The Nationals, and given the time constraints of the house, I do not intend to be overly long in my comments.

The main purpose of the bill is an amendment to existing legislation, the Drugs, Poisons and Controlled Substances Act of 1981. In December 2000 and January 2001, Rhonda Galbally authored a report into the national competition review of drugs, poisons and controlled substances and made a number of recommendations. Some of those recommendations require changes at the commonwealth level. However, as a number of these changes need to be implemented at a state level, and Victoria is pleased to support these initiatives, Victoria has decided to incorporate these recommendations into this legislation.

One of the main recommendations in the Galbally review was that the adoption of scheduling decisions in relation to drugs, poisons and controlled substances be consistent across Australia. This is obviously commonsense. We may have state parochialism on the cricket and football fields but it should not affect how dangerous drugs, poisons and other substances are scheduled.

Victoria participates in the national drugs and poisons schedule committee so that any scheduling decisions reflect the views of the majority of the jurisdictions and rely on expert advice to promote national consistency. These scheduling decisions are published in a document entitled the *Standard for the Uniform Scheduling of Drugs and Poisons*.

The purpose of this bill is to remove a somewhat complicated and cumbersome mechanism for incorporating these decisions into Victorian law. Essentially decisions for the uniform scheduling of drugs and poisons can now be adopted by reference, and it is worthwhile pointing out that other jurisdictions

have already adopted this mechanism, including New South Wales.

It should also be noted that decisions by this committee have been adopted by Victoria. The bill includes an opt-out clause of scheduling decisions should it so wish, although it would appear that circumstances leading to such a decision would be most unlikely.

Another objective of the bill is to repeal provisions relating to the licensing of Victorian manufacturers and wholesalers of schedule 5 and schedule 6 substances. The reason this has been included in the bill is that the national competition policy review indicated that there was no community benefit in having such a licensing system, but it should be pointed out that the absence in the future of a licensing system will not prevent appropriately authorised people from the Department of Human Services inspecting premises where these substances are manufactured or stored and obviously ensuring that the normally expected safeguards are in place.

The purpose of this bill is not to remove safeguards but to essentially streamline the process. It should be pointed out that extensive consultation with stakeholders was carried out during the course of the national competition policy review of the drugs, poisons and controlled substances legislation. This consultation took place through the professional associations, medical practitioners, veterinary practitioners, pharmacists and also industry associations.

In March 2004 all key stakeholders were advised of the government's intention to act on the national competition policy review recommendations and were invited to comment. The majority of the stakeholders who responded have welcomed the changes to the legislation. It is my understanding that other organisations, such as the Pharmaceutical Society of Australia and the Pharmacy Board of Victoria, have previously expressed concerns. They have been consulted and have subsequently given their support to the changes.

This bill is yet another example of the commitment of the Bracks government to the implementation of national competition policy to streamline legislation across the various state and federal jurisdictions. Before I conclude I wish to make some comments on the contribution to this debate by the Honourable David Davis. Mr Davis seems to think it is de rigueur for him to spend a considerable amount of his time criticising the performance of our public hospitals. It is absolutely

rank hypocrisy for a person in this place who was a member of a government which actually cut nurse numbers and closed hospitals to criticise the performance of our public hospitals.

Our public hospitals are staffed by very dedicated, professional and committed people — nurses, doctors, administrators and even bureaucrats. Everyone is committed to providing healthy outcomes for all Victorians. I look forward to the day, although I suspect I will need to hold my breath, when Mr Davis will come into this place and comment positively on the fantastic work our public hospitals do. I commend the bill to the house.

**Hon. KAYE DARVENIZA** (Melbourne West) — I support the Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Bill. The bill amends the Drugs, Poisons and Controlled Substances Act of 1981 as well the Therapeutic Goods (Victoria) Act of 1994. All states and territories have acts that govern the supply of medication and poisons and also impose restrictions on who is able to supply substances, who is able to be supplied with these substances as well as how they can be supplied and under what circumstances.

As has been pointed out, under the competition principles agreement Victoria has participated in a national review of drugs, poisons and controlled substances legislation which was endorsed by the health ministers council in October 2003. Many of the recommendations are from that review but are unable to be progressed by Victoria unilaterally because we rely on action being taken by the commonwealth government.

The commonwealth government proposes to implement a number of recommendations from the national competition policy review through the establishment of the Trans-Tasman Therapeutic Products Agency which is planned for July 2005. The bill implements those recommendations from the review that Victoria can progress immediately which demonstrates its commitment to the reform process. Adopting by reference decisions regarding the classification of drugs and poisons into the schedules of the commonwealth *Standard for the Uniform Scheduling of Drugs and Poisons* will simplify the process by which this becomes law in Victoria. It makes changes to a whole range in the schedule of drugs. Schedules 2 to 9 of the commonwealth *Standard for the Uniform Scheduling of Drugs and Poisons* will no longer have to be contained in the Victorian poisons list in order to operate here in Victoria. Amendments that are being proposed in this

bill to the Victorian poisons code will provide that the poisons list contain the schedule 1 poisons only, being those relating to the practice of Chinese medicine, and we have had a number of debates on and legislation governing Chinese medicine as well as amendments which have come before Parliament. There will be no other poisons in schedule 1 other than those relating to Chinese medicine.

The bill will repeal the requirement for a licence for the manufacture and wholesale of schedule 5 and 6 substances while allowing inspection of wholesalers and manufacturers of those substances. Schedule 5 substances include such things as household poisons that we commonly see, such as methylated spirits and turpentine, which have a very low potential to cause any harm. Schedule 6 poisons are used in agricultural and industrial chemicals such as strong acids and pesticides.

The bill will also clarify the operation of division 4, which governs the issue of licences, permits and warrants. It will clarify that health service permit-holders may sell or supply poisons and controlled substances through authorised persons. It will repeal section 12M, which allows the regulations to add, delete or subtract or alter an item in schedule 11, which lists drugs of dependence and sets out trafficable quantities of those drugs. Those are the main amendments being proposed. There are a couple of other amendments to schedule 11, which deals specifically with trafficable quantities of buprenorphine as well as amending existing record-keeping requirements.

There are a couple of amendments to the Therapeutic Goods (Victoria) Act 1994. This bill, like other bills, has had extensive consultation. Consultation has taken place with all the major stakeholders during the course of the national competition policy review — with veterinary practitioners, dentists, nurses, pharmacists, Chinese medicine practitioners and podiatrists, as well as with industry associations including manufacturers, wholesalers and retailers of drugs and poisons.

In March 2004 all the key stakeholders were advised of the government's intention to act on the national competition policy review recommendations and were invited to comment. Those who responded have welcomed the changes to the legislation. Some had concerns about it, such as the Pharmaceutical Society of Australia and the Pharmacy Board of Victoria. However, following consultation and discussions they have subsequently given their support to the amendments we see before us today.

I recommend that everyone in this chamber support this bill. It is an important bill which deals with how we handle drugs and poisonous substances — how they are manufactured, how they are supplied and how we deal with trafficable quantities of these drugs. It is good legislation, and I commend the bill to the house.

**Hon. S. M. NGUYEN** (Melbourne West) — I would like to speak in support of the Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Bill 2004. The bill is very detailed and contains a lot of aspects that need to be updated in addressing the concerns of the community. The bill will amend many provisions of the Drugs, Poisons and Controlled Substances Act 1981 and the Therapeutic Goods (Victoria) Act 1994. These amendments are in line with the recommendations arising from two national competition policy reviews. Before the government made any decisions it reviewed what needed to be changed and how to improve the operation of the legislation. The major objective of this bill is to promote and protect public health and safety by preventing accidental poisoning, deliberate poisoning, medicinal misadventures and diversion for abuse or manufacture of substances of abuse. These are all important parts of the review.

Many other details needed to be reviewed, such as the operations of the blue gum distilleries. These operations include the harvesting of gum leaves for the distilling of eucalyptus for wholesale and retail sales. What effect will this bill have on such operations? These questions arose through public awareness, because there is a demand by the public to use such products for treatment, especially in relation to therapeutic goods. There is a big demand in Australia, as well as elsewhere in the world, from people who use these products for relaxation, especially in massage, to promote healthy bodies.

Because of this we as the government made sure we tidied it up and that we addressed issues of health and safety because it is easy for people to get burnt if they put too much oil on the skin. Sometimes people do not know how much oil they have to use when they are rubbing it on the body, so these things are very important for the people who want to use them.

There are also some points to do with the poisons code. We have allowed some aspects of the poisons code to be retained. One is to allow Victoria to continue its pilot to develop a list of Chinese herbs for inclusion into schedule 1 of the poisons list that will one day be included in the standard, subject to the national agreement. Another is to specify a list of substances not

for general sale by retail; and a third is to specify exemptions from schedule 1 of the poisons list or the schedules of the standard.

A lot of people are now using Chinese herbs for treatment. We have to keep an eye on what is good for the public health because a lot of herbs come to Australia from overseas, and consumers should know more about them. Retailers should be informed of the legal requirements before they sell their goods to the public. Also the wholesalers who import things from overseas should know what things are allowed to come into Australia and what things they can and cannot sell, because these things can be very confusing and very complicated.

Herbs have to be mixed together before they are cooked to produce medicines, and a lot of times the consumers do not know what is being cooked or at what volume or strength the medicines are to be consumed. A lot of the time people buy herbs, bring them home and cook them; now they will have to be clear and understand more about what they are cooking. These are old, traditional Chinese medicines, and a lot of older people have been using them for many years. It is a big market, specially in Asian communities, and I am glad the government is looking at the issues to do with the use of Chinese herbs. The report in this review is very comprehensive, and in conclusion I support the bill before the house.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## PLANNING AND ENVIRONMENT (GENERAL AMENDMENT) BILL

*Second reading*

**Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Lenders.**

**Mr LENDERS** (Minister for Finance) — I move:

That the bill be now read a second time.

Victoria enjoys one of the most robust and inclusive planning systems in Australia. It also enjoys continuing record highs in building activity — we recently recorded the 17th consecutive month with building activity exceeding \$1 billion. This activity is very welcome; however, it puts heavy pressure on the planning system.

Improving the quality of planning applications is an important component of the government's metropolitan strategy Melbourne 2030 and a key election commitment. The government's economic statement *Victoria — Leading the Way* recognises the importance of facilitating decision making in the planning system.

Better Decisions Faster is about promoting better prepared applications and speeding up decisions on planning permits. It also includes a number of initiatives to improve the processing of planning scheme amendments and to strengthen enforcement procedures. Estimated savings to the development industry are of the order of \$50 million. Work on these initiatives is already well under way.

This bill delivers seven initiatives in Better Decisions Faster that require legislation. It will improve the efficiency of the planning permit process and the planning scheme amendment process and promote better outcomes from planning decisions for the community.

The government's economic statement *Victoria — Leading the Way* recognises the importance of cutting red tape in development approvals and has committed \$3.1 million to implementing Better Decisions Faster. The funding will be directed toward projects such as a new electronic permit activity reporting system, implementing pre-lodgment certification across all councils and simplifying the current system of planning application referrals. Supplementary funding to VCAT (the Victorian Civil and Administrative Tribunal) is also part of this package.

These proposals are all practical improvements that will make processes more efficient and effective for both applicants and decision-makers.

I now turn to the bill.

For planning permit applications the bill significantly improves the processes in the Planning and Environment Act for requesting further information and modifying applications. The bill also clarifies the matters that the Victorian Civil and Administrative Tribunal is required to take into account when reviewing a decision under the act.

The bill will also improve the processes for modifying a planning permit that has been issued.

In relation to planning schemes, the bill will ensure a proposed amendment is assessed against state policy before it can be prepared. There will be a simpler approval process where the amendment to a planning scheme is of local significance only.

The bill also introduces monitoring to ensure continuous improvement of planning schemes and business processes.

I will outline each of these matters in more detail.

### **Approval of amendments to planning schemes**

Councils as planning authorities currently prepare and exhibit most planning scheme amendments. Amendments to planning schemes are amendments to subordinate legislation and, rightly, must go through a process of rigour before they are approved. The Minister for Planning only becomes formally included at the end of the process — the approval stage.

The bill allows amendments that might affect state policy or interests to be identified 'up front'.

The bill creates a requirement for planning authorities to seek the authorisation of the Minister for Planning to prepare any planning scheme amendment. This is already required in the case of green wedge areas. The need for parliamentary ratification will continue to apply only for green wedge areas.

A number of councils and the Municipal Association of Victoria have indicated that the authorisation proposal will be a useful early warning mechanism for all amendments.

The minister will be able to authorise an amendment subject to any conditions, including the giving of notice of an amendment. The bill also requires the minister to indicate whether the planning authority can approve the amendment or whether it must be returned to the minister for approval.

The ability for a planning authority to approve an amendment if authorised by the minister will remove an unnecessary stage in the amendment process and will allow quicker approvals for about two-thirds of planning scheme amendments every year. The initiative is consistent with government's policy to restore local democracy. All councils will applaud this measure.

If a planning authority has been authorised to approve an amendment, the bill requires the authority to obtain 'certification' from the Secretary of the Department of Sustainability and Environment that the amendment is acceptable prior to the approval of an amendment. This certification is intended as a technical check on the quality of the amendment to protect the integrity of planning schemes in Victoria.

The new provisions will be explained to planning authorities before they come into force. Procedural arrangements will be established that assist them to implement the new process.

#### **Regular review of planning schemes and processes**

Councils as planning authorities must regularly review their planning schemes but there is no specified time period when they must do this. The act also includes a requirement for planning authorities to review their municipal strategic statement every three years. The bill removes the requirement to review the strategic statement and establishes instead a general responsibility for planning authorities to review and improve their planning scheme every three years. By setting out clearer requirements for reviews, the bill will promote continuous improvement of planning schemes and processes by councils.

Councils already do some reporting of planning matters through the Best Value program of the Department for Victorian Communities. This proposal will link with requirements for that reporting.

#### **Amendment to applications before notice**

A responsible authority can currently amend an application with the agreement of the applicant and after giving notice to the owner. Amendments are limited to changes to the use or development mentioned in the application or a change to the description of land. It is most often the applicant that would like to initiate changes to the application.

The bill replaces section 50 of the Planning and Environment Act with a new section that enables an applicant to amend an application before notice, provided notice is given to the owner of the land.

#### **Requests for further information**

Some responsible authorities report that up to 90 per cent of applications contain inadequate information when they are lodged.

Applicants often do not respond to requests for further information. Responsible authorities are then obliged to follow up requests before they can make a decision. This reduces the time planners can spend on making decisions about development proposals.

Therefore the bill provides that when a responsible authority requests further information for a planning permit application it must also specify a date within which the information must be received. The date specified must be reasonable in relation to the nature of the information requested.

An application will lapse if the requested information is not provided by the date specified by the responsible authority. Once an application has lapsed an application will not be able to be recommenced.

The bill enables the responsible authority to extend the date specified upon request from the applicant if the request is made before the application lapses. The applicant may appeal to the Victorian Civil and Administrative Tribunal for a review of a decision not to extend the time to submit the information.

The existing ability for an applicant to appeal against any unreasonable information request is maintained.

#### **Modifying an application**

Development proposals often change during the permit process. This is a good thing because it allows a proposal to be improved in response to the concerns of objectors and the responsible authority.

The current process does not recognise this and changes cannot be made to an application after notification has occurred. This means that changes have to be specified as conditions on the permit. Objectors do not get to see the final form of the development and applicants are not provided with an opportunity to fully resolve their application before a decision is made.

At its worst, the current process encourages applications to be modified through a review of a decision rather than during the course of the application.

The bill sets out a new process to allow an applicant to modify an application while the application is being assessed, to respond to any concerns of objectors or the responsible authority. Any modification to an application must not be so substantial as to be a new application.

The responsible authority can consider whether any additional notification is needed where the proposed modifications may cause material detriment.

The responsible authority must also consider the extent to which a referral authority's interests may be affected by the proposed modifications.

If a modification to the application is made then the statutory clock for the purposes of the act begins again. This will be provided for in the planning and environment regulations. This will ensure that the periods for notification and referral authority consideration are reasonable and that responsible authorities are not penalised by the threat of 'failure to determine an application'.

A decision is made on the application in its final form. This allows a much more flexible process and builds efficiencies into the planning system while retaining the protection of neighbours' rights to make comment.

#### **Matters to be taken into account by VCAT**

In relation to decisions about planning permits, the Whitney committee recommended that the act be amended to clarify and consolidate the matters that must be considered by a responsible authority and the Victorian Civil and Administrative Tribunal.

The bill restructures section 84B of the Planning and Environment Act to clarify the matters the tribunal must take into account when reviewing a decision, including a decision about a planning permit made by a responsible authority.

These amendments are not intended to change the actual requirements applying to either responsible authorities or the Victorian Civil and Administrative Tribunal, but simply state them more clearly.

#### **Modifying a permit after it is issued**

Currently, responsible authorities can make only 'minor' changes to planning permits. Many responsible authorities are reluctant to classify a change to a permit as 'minor'. The alternative is to require a new application to be submitted and the whole proposal is reassessed. This would be costly and inefficient and would open the whole application to reassessment.

The bill allows an applicant to request modification to a permit, including any associated plans, without being unnecessarily restricted to 'minor' modifications. The existing provisions in relation to minor amendments to permits are repealed.

The responsible authority will now simply need to consider whether material detriment is likely to be caused by the proposed modifications. Notification will be given in the normal way if the modifications may cause material detriment. The tests for notification will be the same as for any permit; however, only the effect of the proposed modification will be assessed, so that the whole development is not opened to reassessment.

The bill also provides for a review of a decision about modifying a permit by the Victorian Civil and Administrative Tribunal, in the same manner as a decision about the original permit application.

The new process will avoid the need to make artificial judgments about whether the effect of a proposal is minor or not. This means that the processes for determining a permit or a modification to a permit will be essentially the same. A new

fee will be prescribed in the planning and environment regulations for this new process.

Allowing an existing permit to be modified will also reduce confusion where a number of 'live' but superseded permits continue to exist for a single piece of land.

The new process for modifying permits will not be applicable to permits issued at the direction of the tribunal or the minister under sections 96J or 97F.

The bill is an important step in maintaining the strength of the Victorian planning system. It provides benefits for local government, industry and the community and is well supported.

I commend the bill to the house.

#### **Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).**

#### **Debate adjourned until next day.**

## **TEACHING SERVICE (CONDUCT AND PERFORMANCE) BILL**

### *Second reading*

#### **Debate resumed from 3 November; motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).**

#### **Government amendments circulated for Hon. T. C. THEOPHANOUS (Minister for Energy Industries) pursuant to sessional orders by Mr Lenders.**

**Hon. ANDREW BRIDESON (Waverley)** — I rise to make a contribution on the Teaching Services (Conduct and Performance) Bill and also to speak on the contingent notice of motion which was put on the notice paper yesterday. I propose to make only a relatively brief contribution on this bill, because it has been very well debated in the other place — in fact I think there were some 24 speakers on this bill in the other place.

It is the job of the upper house to review legislation, and I am now reviewing each of the speeches that were made in the other place. I must say that many of the speakers strayed from the bill. I also propose to do something relatively rare in this place: to speak strictly on the bill and to be relatively precise in the comments that I make on my way through the bill.

I speak with some authority on this bill, having been a practising teacher for some 20-plus years. When I was putting some notes together for this bill I realised that I was last in the classroom well over 20 years ago — so

time really flies. But I still think I can speak with some authority from the perspective of a classroom teacher and an administrator, and perhaps more importantly, from the aspect of being a teacher union official who on odd occasions was called to assist teachers when they had to face disciplinary procedures.

I might also say at the outset that the Liberal opposition does not oppose this bill or the notice of motion given yesterday. When we send our children, and I now include grandchildren, to school, we expect our young people to be taught by dedicated teachers, by highly skilled teachers, by teachers who are beyond reproach in all aspects, particularly with respect to moral values. We want teachers who do not have criminal records. To put it simply, we want the best. The legislation before us today will do two important things. It will give parents and grandparents more confidence in the school system in that teachers will undergo probity checks, and teachers who have criminal pasts and teachers who have dealt in pornography and paedophilia will be weeded out of the system. I might add that this applies to an absolute minority of teachers — in all of my experience of the teaching profession I personally have not come across any teachers who would fit into those criminal or pornography and paedophilia behaviour categories. As well as instilling confidence in the system among parents and grandparents, an important outcome of this bill is a fairer and much more transparent process for teachers who find themselves confronted by the disciplinary processes. For those two reasons alone, the Liberal opposition will not be opposing this bill.

It is probably important for me to have a look at the purposes of the bill. It is very much a mechanical bill. It will simplify and streamline procedures that relate to serious misconduct, serious inefficiency and mental or physical incapacity involving teachers and principals. It will remove the requirement for court-like, formal disciplinary hearings involving the examination of witnesses under oath and the cross-examination of witnesses such as students. It will also enable the Secretary of the Department of Education and Training to apply the same procedures to both officers in the teaching service — principals and teachers — and temporary teachers, who are also known as employees. The bill will establish an independent and, I am pleased to see, robust disciplinary appeals board which will hear appeals in relation to disciplinary action taken by the secretary. There are some other minor miscellaneous amendments at the rear of the bill.

As I said earlier, the bill was well debated in the other house. I would like to put on the record that the second-reading speech for this bill, which was

presented to this house yesterday, would have to be, in my view, the most thorough, comprehensive and self-explanatory second-reading speech I have seen in my dozen years in the Parliament. It sets out precisely the processes which will be involved. It is a model for departmental officials in other departments when they are putting together second-reading speeches. I am not sure who wrote this second-reading speech but they certainly have the compliments of the Liberal opposition.

**Hon. P. R. Hall** — Blame John Livi!

**Hon. ANDREW BRIDESON** — It might be John Livi, I do not know. I think it smacks of John Livi or maybe one of the other people sitting beside him in the box — but I am not supposed to make mention of those people so I will not continue down that track.

In discussing the purposes of the bill I would like to make reference to the circulated amendments. They will close the loophole regarding obligatory police checks on teachers. While obligatory police checks have been conducted on teachers who have entered the profession or changed schools for whatever reason, whether it be for promotion or just a simple transfer, since 1995, many who have stayed in the same positions for long periods of time have not undergone these police checks; there has been a loophole there and these people have slipped through. A newspaper article which appeared in the *Age* in mid-October reported that some 4000 teachers have missed this scrutiny. The Liberal Party welcomes these circulated amendments — we certainly do not approve them, we welcome them. As I said earlier, these amendments will mean we will have a more professional and highly regarded teaching service. They will also boost confidence among the users of the system.

I will try to go through the bill very briefly. Clause 4 of the bill inserts proposed section 3A in the Teaching Service Act 1981 setting out the employer powers of the secretary — who replaces the Queen — and reflecting the common-law position.

**Mr Lenders** — Republicanism by stealth!

**Hon. ANDREW BRIDESON** — As the Leader of the Government says, it is republicanism by stealth.

Clause 5 of the bill substitutes the existing section 45 of the principal act to provide that the secretary may terminate the employment of an officer or employee where that officer or employee is incapable of performing his or her duties on account of physical or mental incapacity. New section 45(2) provides that an officer or employee whose employment is terminated



under this section is deemed to have retired on account of ill health for the purposes of accessing certain long service leave benefits in section 37 of the principal act. New section 45(3) provides that:

The Secretary must establish procedures for the investigation and determination of an inquiry under this section.

Paperwork will substantially replace the requirement for a formal oral hearing unless requested — the teacher concerned has that option.

The Liberal Party had some minor areas of concern. One specific concern I had was that a teacher facing these processes be treated fairly. My concerns were more than adequately catered for with the assurance in the second-reading speech that natural justice will apply to the teachers concerned. I do not propose to take members to that specific section other than to say that the view that natural justice should form the basis of any process was obviously at the forefront of the minds of the legal people who were advising the minister in relation to this bill. That is a good thing.

The opposition has consulted widely in relation to this bill. We requested responses from all of the major teacher and principal organisations and individual teachers. It is disappointing when you take the trouble to consult widely and you do not really get much of a response. We have assumed that the poor response means there is a general consensus. I guess this is another reason why the Liberal opposition is taking this position.

I do not propose to say anything more on the bill, but I will briefly address the contingent notice of motion which was given yesterday. I only found out about this motion by chance on Friday afternoon, and I rang the shadow minister for education and member for Doncaster in the other house, Victor Perton, to get more detail on it. When I rang the shadow minister late on Friday afternoon he told me it was news to him that these amendments were being proposed. The government was perhaps a little remiss in not advising the opposition about it, and I am sure The Nationals would have the same reaction — that is, we like to be kept in the loop, we like to be informed, and we like to have plenty of time to look at proposals that are put to the Parliament. Perhaps officials in the Department of Education and Training could take on board the fact that we would like to be included in the loop at an earlier time. That would be much appreciated.

The other comment I want to make is that the government should have acted earlier in relation to these specific amendments. It probably reacted more to newspaper reports, particularly an editorial in the *Age* a

couple of weeks ago that exposed the problem that the amendments address. The editorial talked about the checks and balances that are needed in the classroom, and the fact that this legislation resulted from work that the *Age* had done in exposing the loophole which I previously mentioned.

There is nothing more that I wish to add by way of introductory comment, but I will be dealing specifically with the amendments. They are going to empower the Victorian Institute of Teaching and the secretary of the department to seek police records on schoolteachers and school staff in all state, Catholic and independent sectors without the consent of the teacher or staff member. The purpose of the amendments is so that the chief executive officer of the VIT can ask the Chief Commissioner of Police for the police record of any teacher without the teacher's consent. The chief commissioner must report back within 14 days. We certainly do not have any issue with that.

The secretary may also seek a criminal record check from the police commissioner on any employee in a state school — and again the chief commissioner must report back within 14 days. The Victorian Institute of Teaching will seek the consent of employees in the first instance, and it will also have the power to ask employers whether they have teachers in their employ who have not had a criminal record check. It is expected that this process will be implemented by the start of the next school year. It is also important to note that the provisions of this specific amendment will come into effect on the day the bill receives royal assent.

As I said earlier, we would have liked more time to consult various groups and individuals on the specific amendments. However, I went through some press clippings and I note that Andrew Blair, the president of the Victorian Association of State Secondary Principals, very much approves of the amendments, and I quote from the newspaper — I think it was the *Age* — that printed this article. Andrew Blair is reported to have said:

Bring it forward, get it done, and allow people to move on and be sure they've got confidence in our system.

The president of the Victorian Primary Principals Association, Fred Ackerman, is reported to have said:

Lagging behind on police checks was intolerable, given the recent Internet child pornography crackdown that involved a teacher, principal and cleaner at three Victorian schools.

We certainly support that statement. The deputy president of Parents Victoria, Elaine Crowle, who was also approached by the newspaper, is reported to have

said that immediate criminal checks on all school staff would ensure that no-one fell through the gaps. She is also quoted as having said:

I think that every day parents would expect that their child's teacher would have had a police check.

We certainly concur with that statement. Yesterday the Victorian Institute of Teaching tabled its annual report, and I will take members to that report because it contains some quite insightful information. I refer to the section on page 20 which contains a report by the professional practice and conduct branch on the disciplinary process. It is interesting to note that:

On 15 October 2003 the Department of Education and Training ... lodged 57 complaints and advised of 42 actions being taken against teachers in relation to teachers who had been deemed registered.

The report goes on to state that this had:

... placed a heavy burden on the resources of the branch.

The government ought to provide more resources so that this process can be completed. I also note — and I think I said in my opening statement — that only very few teachers actually succumb to this process.

It is pleasing in a state where we have some 80 000 teachers employed — or maybe more — and approximately 40 000 teachers in the state education system that there are so few complaints laid against teachers. I did a rough calculation, and only 0.25 per cent of teachers are placed in the position of having to go through these disciplinary processes. That is a good thing, and it shows that the teachers who are employed are employed correctly, that the processes in place in schools for starting teachers are obviously working, and that teachers who for a wide variety of reasons are perhaps not the best teachers are counselled out of the profession and hopefully find fruitful work elsewhere.

There is another part of this report which is a little bit alarming. Under the heading of 'Formal hearing' it says:

Four formal hearings have been conducted in the first six months of this year. The institute has been limited in the number of hearings it could hold —

and a very good reason is given for why that is. It is an almost unbelievable reason. It is unbelievable that in this day and age the institute could not hold these hearings —

because it does not have hearing rooms. Hearing rooms have been hired from the Medical Practitioners Board, the Administrative Appeals Tribunal and the Psychologists Registration Board. Decisions have been notified in three

matters. In all three matters the decision of the panel was to cancel the teacher's registration.

It is pretty bad administration when a department cannot find the funds or cannot make the necessary arrangements for these hearings to be dealt with. That is a minor aside to the matters that are before the chamber today.

All in all, as I said at the outset, this is a good bill. It will assist in maintaining the professionalism of the teaching service, it will make schools a safer place for our students and it will enhance the educational outcomes of our students. For those reasons this is a worthy bill. The opposition does not oppose the bill, and it does not oppose the amendments that were given by way of notice of motion yesterday.

**Hon. P. R. HALL** (Gippsland) — As usual I am pleased to have the opportunity to comment on matters relating to education in this state and, in this instance, on the Teaching Service (Conduct and Performance) Bill and the amendments to the bill that have been circulated. My initial comments will be restricted to the bill in its original form — that is, the Teaching Service (Conduct and Performance) Bill as printed — and I will make some comments briefly on the amendments later on.

First I can indicate that The Nationals do not oppose this piece of legislation, but at the same time I signal the fact that this does not imply our enthusiastic support for the bill before the chamber today. Contrary to the claim in the second-reading speech that this bill will bring about some very significant changes to the way hearings are conducted into the performance of teachers and principals in our schools, we believe the changes are not all that significant and will not have a dramatic effect or impact on the way the efficiency, effectiveness and performance of teachers and principals in this state are assessed. We do not believe the changes are all that dramatic.

I will clarify that statement by way of a couple of examples. The first example I refer to is clause 5 of the bill, which substitutes a new section 45 into the act. Old section 45 sets out the procedures by which an assessment of a person's capacity to teach is to be conducted. It states:

Consideration is not limited to his or her physical fitness but may also be given to any other relevant matters, including his or her character and any conduct in which he or she has engaged.

And it goes on.

In new section 45, which is headed ‘Termination due to physical or mental incapacity’, there is not much difference in the wording, except there is no inclusion of ‘character or conduct’. Indeed those matters have now been transferred to another section of the act, which I will come to in just a minute.

The only simplification of these matters under new section 45 is that the secretary may make a decision on a written report without necessarily having an oral hearing. That is certainly a simplification of the process, but, as I said, I do not think it is all that dramatic a change to the current procedures that were adopted in the original act. Under this new section appeals will still be made to the merit protection board as before.

Clause 6 of the bill deals with matters relating to misconduct and inefficiency, and it substitutes part 5 of the act. Old part 5 is entitled ‘Discipline’ and sets out the types of offences that can be dealt with under this section, the procedures to be followed, the outcomes that may arise as a result of a hearing and the mechanism for appeal, which is once again to the merit protection board. New part 5 as contained in the bill before the chamber today is entitled ‘Misconduct and inefficiency’, and again it sets out matters like the grounds for action, the procedures to be followed in such an investigation and the outcomes that may arise from such an investigation, and it establishes an appeals mechanism. This time appeals are to be made to a disciplinary appeals board, which is a new body set up specifically to deal with appeals under this section of the act and nothing else. Again under this new section the secretary may make a decision ‘on the papers’, to quote the terminology used in the second-reading speech. That may simplify things a little bit. Decisions can be made on the papers without going to formal hearings, but again the process is not that much different.

I want to comment on three issues arising from those principal changes to the act. The first comment I will make is about new section 66, which sets out the grounds for action that can be taken following a hearing about misconduct and inefficiency. New section 66 is substituted by clause 3 and is set out on pages 7 and 8 of the bill. If you look at the list of grounds for action against a principal or teacher under the category of misconduct and inefficiency, you will see that some of those grounds are very clear cut and totally unambiguous. For example, one of the grounds on which action could be taken against somebody is if during their period of service they are convicted or found guilty of a criminal offence punishable by imprisonment. That is very clear cut. We can measure

that, and there can be no doubt whatsoever. Grounds for action could also include a teacher or principal dishing out corporal punishment in a school, which is not allowed. Once again there is clearly no ambiguity about that particular ground. Another ground is contravening or failing to comply with a lawful direction given to a teacher or a principal by an authorised officer. Again they are fairly well-defined, clear and unambiguous grounds for taking action.

But some of the other grounds for action are not quite so clear. For example, proposed section 66(1)(a) refers to an officer or employee who:

... conducts himself or herself in a disgraceful, improper or unbecoming manner in an official capacity ...

What is meant by a ‘disgraceful’ or ‘improper’ manner? We would all have different values for what we believe to be behaviour unbecoming of a teacher or principal. There is no clear definition of what we mean by those terms.

It is the same with proposed section 66(1)(b). It simply says:

... commits an act of misconduct ...

What is misconduct? I am sure that in the eyes of some people ‘misconduct’ probably means different things. Once again it is fairly vague. Proposed section 66(1)(d) says:

is negligent, inefficient or incompetent in the discharge of his or her duties ...

What is incompetence? Once again we would all have different measures and views about what we believe incompetence to be. These are difficult terms to deal with but without a clear definition of ‘negligent’, ‘inefficient’ or ‘incompetent’ these are the sorts of grey areas that leave ambiguity in the bill in dealing with these matters.

The last one I will cite is proposed section 66(1)(i), which states:

is unfit on account of character or conduct to discharge his or her duties.

Once again, how do you define the fitness of somebody to undertake the job? I believe that all of these terms are a bit ambiguous and open to interpretation, and these are serious matters we need to look at.

I tried to search for a greater understanding of those terms — that is, what we mean by ‘unsatisfactory performance’ and ‘incompetence’. Having received some advice from the people who provided me with a

briefing, I went to one of the education department web sites — that is, eduweb.vic.gov.au. — where there is a section about unsatisfactory performance for both teachers and principals. Given that there are half a dozen pages or so for each of those categories, I thought that would give me a better understanding of exactly what is meant by ‘unsatisfactory performance’. The document on unsatisfactory performance says:

For the purposes of these procedures ‘unsatisfactory performance’ means:

the failure of a teacher to efficiently or satisfactorily discharge his or her duties ...

Again I am not sure what that means. It is not very clearly measurable to me what ‘efficiently’ or ‘satisfactorily’ actually means. Does it mean that you have to control behaviour of all students in a classroom? Does it mean that all students have to achieve a pass at particular assessments that might be undertaken from time to time? Once again it does not spell things out very clearly. It is the same for the principal class, where it uses a similar definition.

I add, though, that the section on misconduct is far more specific. For example, under ‘Misconduct’ the same web site says:

Serious misconduct is most likely to relate to, but is not limited to, allegations of:

sexual offences;

criminal charges;

other serious incidents including:

harassment of other staff members, students or the public;

serious negligence;

behaviour which endangers others;

striking a student ...

et cetera. That is a bit more clear and specific about what is meant by ‘misconduct’, but I am concerned that issues related to performance and competence to teach are still not clearly defined for anybody who is entering the service or participating in it in some way or another. That is the first comment I wanted to make about some of the changes in this bill.

The second comment is about appeals. These matters were previously dealt with by the merit protection board but now we find that in cases of misconduct and inefficiency that appeals on those grounds are going to be to a new board called the disciplinary appeals board. There are some three and a half pages of amendments

in this bill which go about establishing the disciplinary appeals board presumably, as I said before, purely to hear appeals under this particular section of the act. I do not know whether it is worth all the bother of setting up a new appeals board when you already have the merit protection board in place. Previously these matters were appealed to the merit protection board so I was curious to find out exactly how many appeals under this heading of discipline ever went to the merit protection board.

I looked at the last available annual report — that is, the report for 2002–03. I noticed that on page 3 of that report under the heading ‘Appeals and grievances’ it states:

During the year to 30 June 2003 the merit protection boards for the teaching service received a total of 122 appeals and grievances comprising 46 promotional grievances, 4 discipline appeals and 72 personal grievances.

So under this heading of discipline — and this is why we are setting up this new disciplinary appeals board — in 2002–03 the merit protection board only dealt with four disciplinary appeals for the whole year. At the end of the section on page 3 the report goes on to say:

Of the four discipline appeals received two were withdrawn, one was deemed to have lapsed and the other is still pending.

The outcome of that is that during the year 2002–03 only one appeal was heard by the Merit Protection Board relating to the area of discipline. Correct me if I am wrong — and I would be pleased to be corrected if I am! — but why are we going ahead and establishing a new disciplinary appeals board when it seems to me that it will have little work to carry out given the experience of the merit protection board on this matter?

The third issue I want to comment on, and congratulate the government for, is a pleasing new provision relating to the outcome of both incapacity and misconduct and inefficiency hearings. No longer will the department be able to simply transfer an underperforming teacher or principal from one school to the next or from one school to a regional office as an outcome of any hearing against them on those matters. That is a very positive measure. I am sure that we have all had the experience of complaints from school communities where it seems an underperforming teacher or principal has been shuffled from one school to another, and the problem has tried to be hidden without success. I believe this is a good measure in this bill in that now that will not be possible. Any outcome of a hearing will have to be other than simply a transfer of an underperforming principal or teacher to another school. That is a positive measure.

As I said at the outset, I am not sure whether this bill is necessarily a great improvement in the way underperformance will be dealt with insofar as teachers and principals are concerned. If you ask school communities, including parents, what they want, they want a clear and transparent process — a process that can deal with the issues as quickly as possible. We know that under the current process it can sometimes take 12 months to two years or more to resolve some of these matters. This piece of legislation gives us no indication that the time frame for dealing with a matter of misconduct or incompetence will be shorter than what we have had in the past. Once again, people would like to see some commitment from the government that this will speed up the time in which such matters can be dealt with.

The last comment I want to make on the bill concerns an issue raised with me early in July this year regarding the performance of principals and teachers. It is very relevant to this bill. Indeed I seek some guidance as to how the matter I raise will relate to the piece of legislation before us. To set the scene I want to quote to the house from an article that appeared in the *Age* of 3 July headed ‘Teachers told: shape up’. It states:

A number of Victorian principals have been told to find new jobs or sack some of their staff as part of a state government plan to improve performance in struggling schools.

In an unprecedented move, 52 underperforming schools have been identified by the education department for an intensive, performance-based review designed to lift their game.

But the new ‘diagnostic reviews’ — a central part of the government’s education reforms announced last year — have proved contentious.

Principal groups have told the *Age* that at one school in regional Victoria, a reviewer suggested that the principal be removed after a three-and-a-half-day investigation last term.

I am aware of the particular incident referred to in that newspaper article; indeed I made some comments — indirectly I might add — to the department about the matter. I was most concerned because the report from this three-and-a-half-day supposedly intensive review of the school appeared to have total support from the department. Departmental officers were intimidating in their zeal to implement the recommendations of this report. All of this was without any guidelines, hearing procedures or appeal mechanisms being set in place. It sent the wrong message; what was occurring seemed totally unfair.

I note the response when the department was asked for a comment — and I quote from later on in the article:

The Victorian deputy secretary of school education, Darrell Fraser, said he was not aware that principals were being told to find new jobs or remove their staff as part of the process.

Knowing that Darrell Fraser is relatively new in the job, I made an effort to contact the department to tell him, ‘Do not get caught with egg on your face, because you may not know about it, but I can tell you from my personal experience that it is happening, and I do not think what is occurring is a proper and satisfactory process’. Darrell did not get back to me within a period of time, but the message was hopefully passed on to him through another officer, where I explained the situation as I knew it to be locally.

The article also says, once again referring to Darrell Fraser’s comments:

He conceded the system had room for improvement, but added that an information kit would soon be available with guidelines for the department, reviewers and schools to follow.

I am not aware of such a kit being produced, and I ask: has such a kit been produced and is it available? How does it relate to this bill, which sets up a mechanism to investigate the conduct of both teachers and principals in schools? How does this relate to the diagnostic reviews that the government has said it will be undertaking with underperforming schools as part of its education blueprint? I am not sure how these matters relate to each other, but I know that the events of the middle of this year were totally unsatisfactory. Teachers and principals employed in schools subject to these reviews were not treated fairly. I do not believe it is possible for someone to waltz in, hit a school for three and a half days and recommend that the principal should be sacked; that is not a fair mechanism, particularly when there are no guidelines or appeal mechanisms in place. Perhaps the hearing mechanisms and appeal procedures as defined in this bill will cover those diagnostic reviews in schools, but I do not know, so I ask the question.

Those are my comments on the bill as presented. Finally, I turn to the amendments that have been proposed to deal with the fact that some teachers still in the system have not undergone police checks. I think I am right in saying that in recent years any new teacher or transferring teacher has been required to undergo a police check as part of the process, but teachers who have been in the system for a long time may not have transferred out of schools, and therefore there may be quite a number of teachers in both government and non-government schools who have not undergone police checks.

I understand the intent of these amendments is to ensure that the secretary of the Victorian Institute of Teaching has the ability to require a police check to be undertaken for all the teachers in the work force who have not previously had one. There are a few issues regarding that. I am not sure how it will work, but I will seek some explanation from the advisors, and hopefully that can be explained to me. Otherwise I might need to ask some further questions in committee, but at this point in time I will just say that the principle of all teachers and employees of both public and private schools having to have police checks is commendable, and The Nationals support it. Subject to an explanation of how some of the practicalities will work, I indicate that we will be happy to support those amendments.

With those words I am happy to indicate, as I said at the outset, that The Nationals will not be opposing the bill. At the same time we are not jumping for joy, because we do not think it will be a radical change to the current system of assessing conduct and performance. However, the bill contains measures that improve it in some ways, and because of that I am happy to indicate that The Nationals will not oppose the legislation.

**Mr SOMYUREK** (Eumemmerring) — I am pleased to make a brief contribution in support of the Teaching Service (Conduct and Performance) Bill. Teaching and education are very important issues for the Labor Party. In fact we like to say that education is our no. 1 priority, as it is for most social democratic parties throughout the world. Through education there is potential to overcome some of the structural inequalities of society. In that respect education is very important, and the Bracks government has taken solid steps to make sure that education continues to be important by employing thousands of new teachers since 1999.

Getting back to the legislation, as Mr Brideson said, it is pretty much a mechanical and procedural bill, but it is nevertheless very important. Clause 1 of the bill sets out its purposes, which are:

... to amend the Teaching Service Act 1981 —

- (a) to reform procedures for taking action against officers and employees for misconduct, inefficiency or physical or mental incapacity; and
- (b) to establish Disciplinary Appeals Boards; and
- (c) to make other miscellaneous amendments.

The bill contains a number of important measures, and I will speak to a few of them today, with a particular focus on the streamlining and simplification of the

misconduct, inefficiency and mental and physical incapacity provisions.

Section 45 currently provides that the secretary may terminate the employment of an officer or employee where an employee is incapable of performing his or her duties on account of physical or mental incapacity, matters of fitness related to character and conduct and inefficiency and capacity.

Clause 5 proposes tidying up section 45 by restricting the termination of employment of an officer or employee to where an employee is incapable of performing his or her duties on account of mental and physical capacity only. Allegations relating to fitness on account of character and conduct, and inefficiency and capacity associated with unsatisfactory performance will now be dealt with under new part V, which I will speak about in a minute.

New section 45(9) and new section 73 in new part V enable the secretary to make a determination without holding an oral hearing or aspects of an oral hearing such as receiving evidence orally and permitting the examination or cross-examination of all or any witnesses. The secretary may still hold an oral hearing or aspects of an oral hearing if the secretary considers it appropriate to do so.

I know there is some concern about natural justice being seen to be done. I do not think it is an issue, because we are already going down the path of oral rather than written hearings anyway with the various pieces of state and federal legislation. Going back to the issue of natural justice, there are two components of natural justice in this bill: one is the hearing requirement; and the other is the bias requirement. With respect to the hearing requirement, there is a right to be heard. It does not specify whether that is orally or in written form. The bias requirement is simply the right to have a decision-maker who is not biased. The hearings being in written or oral form does not change the equation in any shape or form so far as that is concerned.

The current part V entitled 'Discipline' will be replaced with new part V entitled 'Action for misconduct and inefficiency'. Matters listed as offences in the current part V will remain and be merged with current section 45 with the exception of physical and mental incapacity, thus creating a simplified, streamlined provision establishing the grounds on which the secretary may take action, as set out in new section 66, against employees and officers including misconduct, negligence, inefficiency or incompetency, failing to comply with lawful instruction and being unfit on

account of character or conduct, whether before or after becoming an officer or employee.

The bill also lists other penalties which may be imposed by the secretary. These are: reprimand, fine, reduction in classification and termination of employment. I am glad to see that the punishment of transfer has been removed. It was a bit rich to transfer a teacher away from a school who was potentially engaged in serious misconduct or underperforming. It was fine for the school that the teacher departed from, but what were the consequences for the school receiving that teacher? It would not have helped the performance or wellbeing of students to receive a teacher who was charged with serious misconduct offences or underperformance. I am happy to see that form of punishment go.

Mr Hall raised issues concerning the definition of the words 'performance' and 'competence'. I am advised that these were originally defined in the Teaching Service Act 1981, and this current bill replicates those definitions.

In conclusion, the changes in this bill are sensible and important. They streamline and simplify procedures for taking action against employees and officers in the teaching profession. I commend the bill to the house.

**Hon. B. N. ATKINSON** (Koonung) — This legislation is quite straightforward, as has been indicated by other speakers in the house today. It is not opposed by the opposition. The notice of motion that has been given to the house that will form amendments to the legislation when we get to the committee stage is certainly supported as an initiative by the opposition, although I must say that I do not quite understand why it was necessary to put this in the legislation. I assume the government has had legal advice to the effect that it needs this provision to obtain the police checks.

It certainly seems to me that most schools have carried out extensive police checks on staff who are not involved in new appointments or transfers from other schools. They have already sought to undertake police checks of staff, particularly where those staff are involved in activities outside the school — such things as music camps and trips away for students. Schools are not necessarily delinquent in addressing this issue for the most part, but it seems that this whole process is bogged down. It involved thousands of police checks, and as the Honourable Andrew Brideson indicated in this debate, it seems that about 4000 are outstanding. I am not sure that we need a provision such as this in the legislation to ensure that those 4000 are checked, but given it is there, there is no reason to oppose that

initiative and we say, 'Yes, it is consistent with what we need to do across the teaching service'.

As other members of this house have indicated, there is no doubt that teachers are held in high regard by members of Parliament. Indeed, they perform one of the most important duties in our community. Perhaps it is rather unfortunate that we see a skewing of recognition and remuneration for some of the activities in our community. People like footballers earn hundreds of thousands of dollars even as teenagers. Radio announcers earn hundreds of thousands — or indeed millions — of dollars for a fairly short stint on the radio chatting to people each day. We have our teachers in the classroom preparing the next generation with a range of life skills and learning that they can take into jobs and careers. These teachers are not compensated as adequately as we would like in a society that we would like to think is advanced and sophisticated.

There is no doubt that teachers are a very dedicated group of people. They have a great commitment to their vocation. They are very professional for the most part, and they are working harder today than at any other time. My wife is a teacher and other members of this house have wives who have been in the teaching service. The concept of a 9.00 a.m. to 3.30 p.m. or 4.00 p.m. job is a ridiculous proposition in the teaching service of today. Teachers spend a great deal of time at school before and after school opens, in their own time of an evening, on weekends and during holiday periods.

Teachers are a committed group but sadly a number of individuals let them down. As I move around schools, particularly those in my electorate, I have experienced the dismay and the disappointment of principals, teaching staff, and school councillors representing their school communities when they have a teacher that lets them down. I am aware of instances in my electorate where a number of teachers have cost their school communities thousands of dollars. The budget allocations to the school communities have cost the Department of Education and Training thousands of dollars because some teachers have played the system and have not turned up for work. In some cases they have made WorkCover claims that are questionable. In other cases there has been a range of unexplained absences and so forth.

This has occurred in particular situations like the one Mr Adam Somyurek referred to, where a certain teacher who had been underperforming at a particular school was moved to another school. It is very often some of those individuals — very few — who have engaged in these sorts of activities that have cost those

school communities a great deal of money and have disrupted the staff as much as the education of some of the children in those schools. The Department of Education and Training, and particularly principals in schools, need an opportunity to deal with those sorts of issues.

I am concerned about the problems that we see in many schools. I talk to principals about their flexibility in the management of the staffing of their schools. Many principals have been trying for some time to get a greater balance of skills and ages of teachers within their schools. Smaller schools are particularly trapped in this conundrum, where most have older teachers. They are unable to attract young people because in many cases they are cutting their staff complement rather than looking to add new teachers. We find that schools in growing areas or larger schools with increasing populations are able to attract more young graduates and teachers who bring new energy and skills to those schools. That does not happen with some of the smaller schools because they are trapped with their staff complement. That is a real concern. The government needs to start thinking carefully about smaller schools in the system. It needs to announce its position on smaller schools and to resource those schools. Many smaller schools are dying a death of a thousand cuts.

Whilst the government is quick to criticise the former coalition government for the closure of some small schools and the amalgamations of schools, many of the small schools that I talked to are now more concerned about their position than they were under those Kennett policies. The staff and school councils within small schools see that their situation is now very difficult. Some smaller schools have to declare a teacher in excess almost every year because of the decline in their school population. They find that neighbouring schools are consistently promoting the fact that because it is a small school it might have to close, has less teachers and can offer less options to students, particularly in extra study areas like music, drama, physical education, library and art. Small schools are able to offer students fewer options because they have fewer teachers. The larger schools around the smaller ones are becoming predators. The whole thing is a race to the bottom for smaller schools.

There is no doubt that teachers at smaller schools have an enormous workload. The range of responsibilities that apply across a school is the same for a small school as for a large school, but there are simply fewer hands to the pumps. Many teachers I have spoken to in large schools have said, 'We just do not understand how they cope in those small schools. There is no way we would ever apply for a position in a school that was suffering

declining enrolments because the workload has increased too much. It is too onerous'. The government has to address that because, as I said, there are many small schools around the state that are dying a death of a thousand cuts because of a policy vacuum on that issue. In some cases those small schools need additional resources. They need to be recognised for the educational values they offer in their areas. They need considerably more support in a number of areas, particularly in the education choices they can offer young people.

It is important to have legislation in place that enables the Department of Education and Training to address issues where a teacher's competence or professional conduct is a matter of concern. Teachers are role models as much as educators. They are people who have a very important duty of care, a much greater duty of care in many respects than most other people in other professions who come in touch with young people. They can have a tremendous influence on the lives of young people.

Many of us remember teachers who had a very positive effect on us in our schooldays, and indeed acknowledge the skills of particular teachers who might have contributed to the advancement of our schooling, but we are also painfully aware at times of teachers who have not been as effective as educators, and more importantly, we have been aware in some instances of teachers who have shown a degree of professional misconduct or possibly even incompetence.

It is obviously important that teachers have an opportunity to appeal judgments made against them in their careers. It is important that the processes involved are satisfactory, and I believe they are satisfactory in terms of the legislation already in place in the state. We need to understand that the processes involved are processes that are fair and, to use the words that Mr Somyurek used earlier, provide natural justice in the assessment of issues where a teacher's abilities or capabilities have been called into question.

There is also no doubt that we have a strong duty as a government to make sure that the teaching service is the best possible teaching service and that every teacher who goes into a classroom is confident and is likely to display the attributes and certainly the professionalism and conduct of a teacher who will advance and develop the young minds of the people in their charge.

We need to ensure that teachers who create circumstances which give rise to the community losing confidence in that teacher, or indeed more broadly to the school or the education system itself, are dealt with



to ensure the integrity of our education system, not for the system's sake, certainly for the children's sake but also for the sake of all those other very dedicated and committed teachers who work in the teaching service and day in and day out do a splendid job in teaching our young people and preparing them not only for careers but for their lives ahead.

**Ms CARBINES** (Geelong) — I am delighted to speak on behalf of the government in support of the Teaching Service (Conduct and Performance) Bill and the circulated amendment. As members of this house have heard me say many times in the past, education has been and will remain the Bracks government's no. 1 priority. As a member of the government I am extremely proud of our demonstrated commitment to state education, a system which was cruelly decimated when those opposite were last in power. Mr Atkinson might like to look back with rose-coloured glasses now, but some 300 schools — —

**Hon. Andrew Brideson** — On a point of order, Acting President, this is a very narrow bill, which I made abundantly clear in my opening statement. The honourable member opposite has already after 56 seconds strayed from the bill, and I ask you, Acting President, to draw her back to the contents of this narrow bill.

#### **The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! There is no point of order. The member has only started her contribution. I am sure within the next 13 minutes and 50 seconds she will address the bill

**Ms CARBINES** — I remind Mr Brideson that the truth hurts, and I am disappointed that he decided to jump up so readily. Those opposite when in government closed 300 schools and sacked 9000 teachers. We have worked really hard to rebuild state education over the last five years with an extra 4000 teachers and staff in our schools, and we have undertaken an upgrading of more than one in three schools.

Teaching is a fantastically rewarding profession, and I certainly enjoyed my time as a state secondary school teacher spanning some 20 years across four different colleges: the former Banyule High School and South Barwon Secondary College, which sadly the Kennett government closed, and the current Western Heights College and Corio Community College. They were all very different schools serving very diverse communities.

I consider myself to have been extremely fortunate as a first-year-out teacher to have been appointed to Banyule High School under the leadership of the then principal Flora Dickson. The staff were highly professional, inspirational teachers and extremely dedicated to the students they taught. At each of my subsequent schools I have been pleased to work among colleagues who cared deeply about their students, and many went far beyond their duty to ensure that students in their classes had the best possible chance of gaining the key to the rest of their lives — a great education.

Of course in any working environment, and the teaching service is no exception, there are employees who are not suited to the job, some of whom may not act in the professional interests of the student for whom they are responsible. It is important that the teaching service has in place transparent protocols and procedures for taking action against employees and officers for misconduct, inefficiency or physical or mental incapacity.

The bill seeks to reform the established procedures in dealing with such issues by clarifying the powers invested in the secretary of the department specifically in relation to: the assigning of duties; transfer of employees; the ability to take action against employees; the grounds of which such action may be taken, ranging from misconduct, negligence, incompetency to being unfit on account of conduct or character; the establishment of procedures for the investigation and determination of whether there are grounds for action; and to allow for the secretary to make a determination without an oral hearing.

The bill also sets up a new disciplinary appeals board to hear appeals against decisions taken by the secretary when taking action against employees. This board will be independent of the department, and members will all be Governor in Council appointments. These types of appeals are currently heard by the merit protection board. That board was set up a decade ago by the former Kennett government to hear selection and promotion appeals from teachers.

The Bracks government believes it is appropriate to set up a separate disciplinary appeals board to deal exclusively with disciplinary appeals. From my own experience as a teacher under the former government and in taking a case to the merit protection board, it certainly was a toothless tiger when those opposite were in power. The board certainly did not act in the interests of the teachers and was not prepared to listen to cases brought before it. I hope the merit protection board today is a much more robust board than it was when it was first set up and will work to assist teachers

to settle natural justice issues affecting their employment.

The amendment is in response to community concerns expressed about the need to check the records of all staff employed by the Department of Education and Training. Since 1995 it has been compulsory for all new staff and staff seeking promotion or transferral to undergo a police check. In 2002 the government set up the Victorian Institute of Teaching and now all teachers in the state, both government and non-government, have to be registered with the Victorian Institute of Teaching.

Some teachers have not transferred from their positions for a long time or have not sought promotion. There are still about 4000 teachers in the state system who have not undergone police checks. The bill sets out the process whereby all people employed in the state school system will have undergone police checks by the start of the new school year in 2005.

The department has recently sought the consent of teachers to voluntarily have their police records checked. If consent is not granted, through this bill the secretary of the department will be authorised to obtain a criminal record check without the individual's consent. For non-government school staff, the chief executive officer of the Victorian Institute of Teaching will have the same powers to obtain a police check without the consent of the individual. I am assured that the cost of the police checks will be borne by the department and by the institute and will not be at the individual staff member's expense.

Whilst the community is demanding that those employed in all schools undergo a check of their police record, it is important to realise that such a checking process has its limitations and to keep the issue in perspective. Obviously those people who only have a current criminal record will have information revealed by this process. As most of the members of this house will be aware from current media reports on the issue of child pornography, close to 200 people across Victoria are being investigated. Media reports state that none of those people under investigation has a current police record. This system does have its limitations. Whilst there is a heightened sense of community concern about the issue of child pornography, the community can have confidence in Victorian schools and Victorian teachers. I would not like to see the integrity of this great profession undermined, and the amendment before us will work to assist in maintaining community confidence in the teaching profession.

I certainly believe that education is the key to the rest of your life, and I know that Victorian teachers play a wonderful and great role in educating our young people. This bill before us today and the amendments in it will work to improve the integrity of the profession, and I wish it a speedy passage.

**Mr SCHEFFER (Monash)** — The purpose of the teaching Service (Conduct and Performance) Bill is to reform the way that the Department of Education and Training can take action against principals, teachers and temporary teachers who are found to be unsuitable for work in government schools.

The bill makes the Secretary of the Department of Education and Training the employer of principals and teachers. The secretary under this bill will now have control over how and where principals and teachers are deployed and will have the responsibility to terminate the employment of those who are no longer capable of carrying out their duties because of a mental or physical incapacity. The departmental secretary under this bill can take action against principals and teachers for misconduct, negligence, inefficiency or incompetence, failing to comply with a lawful instruction, and being unfit on account of character or conduct, even if this was the case prior to being employed by the Department of Education and Training.

I would like to focus on the measures that enabled the secretary to conduct inquiries into allegations of misconduct or inefficiency and mental and physical incapacity on paper and without having to hold formal face-to-face meetings. Inquiries under the current Teaching Service Act are generally associated with face-to-face hearings. The current practice involves the secretary charging a teacher with a disciplinary offence, then conducting a hearing and imposing a penalty. The current practice involves the secretary providing a notice of inquiry to the teacher concerning his or her efficiency, capacity or conduct and then conducting either a paper-based or face-to-face hearing. Face-to-face hearings are not, however, always the best way to ensure fairness. A critic of the new procedure might say that removing face-to-face hearings amounts to a denial of natural justice.

Before looking at whether the procedures set out in this bill are fair, the characteristics of the current procedures should be looked at. Firstly, under the current procedure witnesses are called by the department to give evidence in support of the allegations. The teacher who is the subject of the allegations is also free to call witnesses and to give evidence. These witnesses can be teachers, principals or students. All witnesses are subject to cross-examination and this includes, importantly,

student witnesses. Where a teacher who is the subject of the allegations decides not to have representation at the hearing, he or she may personally cross-examine the student. This has been found, as you can imagine, to be very stressful for a student who has made a complaint against a teacher.

Face-to-face hearings involve disruption to schools because they have to arrange for teachers and students to both give evidence at the hearings and also to attend the hearing itself. Face-to-face hearings can be quite lengthy — in general they last about 5 days but some can last for 10 days or more. This can be the case even where in the end the penalty or the outcome does not result in dismissal. The current provisions require a full face-to-face hearing even in those cases where a dismissal is not even being considered. Face-to-face hearings are costly because of the expensive nature of professional and legal services for the parties. The hearings also incur the cost of the salary of the executive officer who presides over the hearing as the delegate of the secretary as well as the cost of the salaries of the teachers, who need to be replaced at their schools. Then there is the additional cost of recording and documenting the hearing.

Finally, under current provisions for teachers and principals, face-to-face hearings held at the employment level need to be duplicated if there is an appeal to an external body. On appeal the whole process is repeated at similar cost. Any reasonable measure to remove the requirement for face-to-face hearings at the employment level should be supported. Under the new arrangements face-to-face hearings will be replaced with a process that is fair as well as streamlined and effective — a process that protects the principles of natural justice. My colleague Mr Somyurek has already noted in his contribution that natural justice involves two important principles: the first is the right to be heard, and the second is the right to an unbiased decision-maker or judge. The hearing requirement is satisfied where the decision-maker acts in good faith in hearing both sides of the matter and where the affected person has an opportunity to refute the material that is put forward. The right to an unbiased decision-maker is satisfied by the requirement that the secretary gives due regard to the seriousness of the allegation, whether a face-to-face hearing would assist in evaluating the information submitted for the inquiry and a consideration of the reasons submitted by the parties in support of the request for a face-to-face hearing.

As well teachers and principals will, under the new procedure, continue to be entitled to legal representation. This can be obtained at any stage during

the inquiry, on the preparation of written documentation or where the secretary decides to conduct a full face-to-face hearing. For reasons of natural justice the decision-maker will not be the same person as the investigator. The bill intends that where a teacher is the subject of the allegations the principal will be the investigator and the regional director will be the decision-maker. The principal will have no decision-making powers in relation to the cases involving teachers. Where the principal is the subject of the allegations the investigator will be the regional director and the decision-maker will be the deputy secretary, Office of School Education.

Face-to-face hearings will be permitted where the secretary determines that a face-to-face hearing should be held. These changes create a fair process whereby the secretary can manage discipline and related matters concerning teachers and principals. Without these amendments the Department of Education and Training will continue to be required to conduct face-to-face hearings which are unnecessarily stressful, time consuming, expensive and in most cases not necessary for the achievement of natural justice. I commend this bill to the house.

#### **Motion agreed to.**

#### **Read second time.**

#### **Ordered to be committed later this day.**

#### *Instruction to committee*

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

That it be an instruction to the committee that they have power to consider —

- (a) the insertion of a new clause amending the Victorian Institute of Teaching Act 2001 to enable the chief executive officer of the Victorian Institute of Teaching to obtain a criminal record check of any registered teacher without the consent of that teacher and to require the employer of a registered teacher to disclose to that chief executive officer whether the teacher has at any time undergone a criminal record check; and
- (b) to amend the Education Act 1958 to enable the secretary to the Department of Education and Training to obtain a criminal record check of any person employed under that act. The Public Sector Management and Employment Act 1998 or the Teaching Service Act 1981 who performs duties in a state school without the consent of that person to enable a school council to disclose to the secretary information relevant to a check of a person employed by that council and to enable the secretary to disclose to a school council a copy of a criminal record report relating to a person employed by that council.

**Motion agreed to.**

**Sitting suspended 12.56 p.m. until 2.02 p.m.**

**Business interrupted pursuant to sessional orders.**

### ABSENCE OF MINISTER

**Mr LENDERS** (Minister for Finance) — I advise the house that the Minister for Small Business and Minister for Information and Communication Technology is on her way back from government business in India and will not be here for question time today.

### QUESTIONS WITHOUT NOTICE

#### **Wodonga Regional Health Service: borrowing guidelines**

**Hon. D. McL. DAVIS** (East Yarra) — I direct my question to the Minister for Finance. I refer to the new state government rules promulgated jointly by the Department of Treasury and Finance and the Department of Human Services that prevent Wodonga Regional Health Service in conjunction with the Upper Hume Community Health Service from borrowing funds to purchase new buildings for the expansion or permanent housing of badly needed local mental health services. Will the minister explain why the government's new rules have prevented the building of the new facility, forcing the health service to lease unsatisfactory facilities at much greater long-term cost?

**An honourable member** — You are in the wrong house!

**Mr LENDERS** (Minister for Finance) — That is really interesting. Mr David Davis should take that advice, run against Mrs Shardey and go to the lower house where these questions are more appropriate; but I will take his question on notice. Certainly my understanding of the administrative arrangements is that loans are approved by the Treasurer and the general construction in the health sector will be done by the Minister for Housing, but I will take his question on notice and refer it to the appropriate ministers.

#### *Supplementary question*

**Hon. D. McL. DAVIS** (East Yarra) — In light of the minister's decision to take this on notice, can he provide the house with a list of any other health care services that have had their plans put on hold by the government's new rules on borrowing?

**Mr LENDERS** (Minister for Finance) — President, I can certainly facilitate that. Rather than Mr David Davis filling in the form and putting it in for the minister, I will take that on notice and pass it on to the appropriate ministers.

#### **Commonwealth Games: athletes village**

**Ms ROMANES** (Melbourne) — My question is directed to the Minister for Commonwealth Games, the Honourable Justin Madden. I ask the minister to outline how the Bracks government is getting on with the job of delivering a socially responsible and environmentally friendly athletes village for the 2006 Commonwealth Games, which will deliver benefits for Victoria long after the event itself.

**Hon. J. M. MADDEN** (Minister for Commonwealth Games) — I thank Ms Romanes for her particular interest in the Commonwealth Games athletes village, the progress of the development to date and the associated initiatives. Members of the chamber would appreciate that since the Athens Olympic Games an enormous buzz and momentum have been created in the lead-up to the Commonwealth Games in March 2006. As part of that, the government is developing the games village in Parkville where a new community is being born. The games village has two critical roles. The first is a functional and enjoyable village for the athletes participating in the 2006 Commonwealth Games. The second is to provide an ongoing legacy — a sustainable and sensitively designed community for Melbourne which will exist long beyond the games.

An important milestone was reached in October when we opened the first completed homes in the village for Victorians to see. I had the pleasure of officially opening those display homes on 18 October. They were fully opened to the general public for exhibition on 23 October. I am pleased to advise the chamber that a number of prospective buyers have walked through those houses. They were obviously impressed, because a significant number of those properties have already been sold. In March 2006 the site will be the hub of games activity. We will see 4500 athletes and 1500 team officials at the village or involved in and around the village. During the games the athletes village will include 155 detached houses, 25 townhouses, 105 apartments and around 115 temporary accommodation buildings.

In terms of the environment, this will be one of the greenest large-scale inner urban residential developments in Victoria. It has been designed with sustainability in mind, and the reduction in the use of energy and water is considered a significant premium in

terms of the development. In addition, the houses are being built to a 6-star energy rating. They are being fitted with low-energy-use fittings, sensor lighting and solar hot water systems. They will also have rainwater collectors and reuse systems as a new standard. More than 1000 predominantly native trees will be planted and about 15 per cent of the site will remain as public open space. The parkland system will include pedestrian and cycling paths that link to the open space network in Royal Park. The government is also contributing \$5 million towards the wetlands development, which will be a great place for locals to enjoy and will provide an important new habitat for native flora and fauna.

In addition, the government is investing \$5 million to retain and refurbish the heritage buildings on the site. They will act as a focal point for the Commonwealth Games village both during the games and long beyond that time. We will see public amenities being offered with the provision of aged care facilities, child-care facilities, a landscaped park and oval and a mix of residential living. In addition, we will see 100 social housing apartments and townhouses and an aged care facility with 100 beds for people eligible for public housing.

The village will set a new benchmark for an urban community. It will be a community rich in social and environmental assets. It will be a community founded upon a landmark event in Victoria's history. It will be a community which celebrates heritage, and the village itself will become an important piece of Victorian history.

### **Commonwealth Games: schools programs**

**Hon. BILL FORWOOD** (Templestowe) — I direct my question without notice to the Honourable Justin Madden, Minister for Commonwealth Games. On numerous occasions in this place the minister has referred to the Commonwealth Games as being bipartisan. For example, in the second-reading speech for the Commonwealth Games Arrangements Bill, the minister said:

It is pleasing to note that there is bipartisan agreement ... to the holding of this great event ...

Given the minister's commitment to a bipartisan approach to the Commonwealth Games, can he explain to the house why I, as the other member for Templestowe Province, was not invited to participate in the launch of the Commonwealth Games schools program referred to by the minister in question time yesterday? It took place at Serpell Primary School in

the Templestowe electorate last week. Ms Argondizzo was invited and she attended.

**Hon. J. M. MADDEN** (Minister for Commonwealth Games) — I welcome the member's question. I appreciate the member's sensitivities in relation to this matter. If there was an oversight in relation to invitations either to members of the opposition in respective electorates or shadow portfolios, I will ask my office to include those people on the list of VIPs for any future events to ensure that the goodwill the Commonwealth Games establish prevails throughout this chamber as well.

### **Gas: regional supply**

**Ms HADDEN** (Ballarat) — I direct my question to the Minister for Energy Industries. Can the minister inform the house how the Bracks government is getting on with the job of providing natural gas to people in regional Victoria and whether he is aware of any alternative views?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I thank the honourable member for her excellent question and for her great interest in getting gas into regional Victoria. The government's response to getting gas connected to regional Victoria shows that we are getting on with the job in the energy area.

**Hon. Bill Forwood** — How many have been connected?

**Hon. T. C. THEOPHANOUS** — I want to talk about gas connections. In fact, I am very pleased to talk about gas connections because over the past few weeks Mr Brumby — the best Minister for State and Regional Development this state has ever had — has made a series of announcements about gas extensions. Twelve towns have been announced altogether.

**Hon. Philip Davis** — Again?

**Hon. T. C. THEOPHANOUS** — Twelve towns. I will run through the list for members opposite, because I know they hate the fact that regional Victoria is going to get gas. Just to refresh the memories of those opposite, the announcements are — —

*Honourable members interjecting.*

**Hon. T. C. THEOPHANOUS** — Just listen to the list: Bairnsdale, Creswick, Woodend, Gisborne, New Gisborne — —

**Honourable members** — When?

**Hon. T. C. THEOPHANOUS** — You are hopeless. Romsey, Lancefield, Macedon, Riddells Creek, Barwon Heads, Maiden Gully, Port Fairy and Camperdown. Twelve towns have been announced, and they will be connected to natural gas courtesy of the Bracks government. How many towns were connected courtesy of the Kennett government?

**Honourable members** — None!

**Hon. T. C. THEOPHANOUS** — Absolutely none. This is great news for regional Victoria. You would think the opposition would do the right thing and welcome it, but what do its members keep saying? The Leader of the Opposition in the other place, Robert Doyle, in relation to Creswick and the fact that an agreement has been signed with the company to bring this about, tried to suggest on 3BA that a deal was not a deal. The opposition is making a habit of this. The Honourable Philip Davis has been running around peddling the same line that a deal has not been agreed to. Members opposite should face facts. Regional Victoria is getting gas extensions. The fact is the opposition hates that. It hates the fact that this is happening.

We had Dr Napthine, the member for South-West Coast in the other place, carrying on in the middle of October about the south-west of Victoria until Port Fairy and Camperdown were announced. That shut him up, because he then looked as silly as the rest of the opposition does. These towns, and others, will have natural gas connected in the biggest infrastructure rollout — —

*Honourable members interjecting.*

**Hon. T. C. THEOPHANOUS** — When it happens, members over there will be eating their words.

**The PRESIDENT** — Order! The house is now making up for yesterday, when members were a bit quiet during question time. I ask members to reflect on how they behaved yesterday and bring that behaviour to the chamber today. Let us have less interjection from both sides of the house.

**An honourable member** interjected.

**The PRESIDENT** — Order! I ask members to cease interjecting and allow Hansard to record the minister's answer. I am sure all members will be interested in it because no-one would have been able to hear it. If I do not have order in the house I will invoke sessional orders and remove members from the chamber.

### Fuel: prices

**Hon. B. W. BISHOP** (North Western) — I direct my question without notice to the Minister for Consumer Affairs. Is the minister aware that diesel fuel is now considerably more expensive than unleaded petrol, which is a reverse of the situation that has been the case for decades? Bearing in mind that diesel is less refined than petrol and should therefore be cheaper, has the minister undertaken any inquiry into why diesel prices should have overtaken petrol prices?

**Mr LENDERS** (Minister for Consumer Affairs) — I thank Mr Bishop for his question, and I have a couple of things to say. Firstly, as to the genuine question about who should have responsibility for this issue, as I have pointed out to Mr Bishop's leader on a couple of occasions, I recall that The Nationals — it might have been called the Country Party or the National Country Party at that stage — opposed the referendum for powers on fuel. The party was led by Doug Anthony at the time of that referendum in 1974.

*Honourable members interjecting.*

**Hon. Bill Forwood** — How old were you?

**Mr LENDERS** — Members scoff, but when there was a referendum on the issue of fuel prices — and Mr Bishop was probably in this place then — the National Country Party at the time vehemently opposed the whole concept of any government price control on fuel, and the coalition that The Nationals are part of now basically gutted the Prices Surveillance Authority.

I will happily take on board the question of what a state jurisdiction can do on fuel prices, but it is certainly pertinent to remind the house that The Nationals, or the National Country Party, or the Country Party, or The Nationals, or the VicNats — or whatever name the agrarian socialists call themselves — have consistently opposed the regulation of fuel prices.

The issue of diesel prices in rural communities is one that Mr Bishop's colleague Mr Delahunty, the member for Lowan in the other place, has raised with me in correspondence on a number of occasions. I am certainly aware that some time ago in western Victoria there was a shortage of diesel fuel during harvest time and a range of other issues. At the time there was a shortage of diesel in the Wimmera — I think it was last year — we made inquiries and my recollection is that at the time our inquiries were being made that shortage was being addressed. However, I will certainly ask Consumer Affairs Victoria under its limited powers to

check what the status is and report back to Mr Bishop on that issue.

*Supplementary question*

**Hon. B. W. BISHOP** (North Western) — I thank the minister for his answer. I ask whether the minister would be prepared to put a time line on the inquiry he has just promised he will put into place.

**Mr LENDERS** (Minister for Consumer Affairs) — I am certainly happy to get back to Mr Bishop within 14 days, if that is suitable to him, on what Consumer Affairs Victoria has done in looking into the issue, but the material fact is that although the Victorian government can legislate on terminal gate prices and a few other areas to try to make some of these issues more transparent, fundamentally excise — which is one of the largest single components of the price of fuels generally, not necessarily diesel — and GST — which is again one of the largest single components of the price of fuels, although not necessarily diesel — are areas that come exclusively within the domain of the commonwealth government.

I suggest to Mr Bishop that he refer his inquiry to Mr Forrest, his Nationals colleague in the federal government, and seek some redress from the federal Treasurer and the federal Nationals ministers on this particular area.

**Supported residential services: government initiatives**

**Mr SCHEFFER** (Monash) — My question is directed to the Minister for Aged Care. Can the minister advise how the Bracks Labor government is getting on with the job of improving the level of support provided to residents of supported residential services?

**Mr GAVIN JENNINGS** (Minister for Aged Care) — I thank the member for his question, and I thank the chamber for earlier this year unanimously supporting changes to the Health Services Act, which regulates supported residential services in Victoria.

I remind members of the house that these are privately owned and operated services that are regulated under the Health Services Act, and nearly 7000 Victorians live in these forms of accommodation in about 205 settings throughout the state. Quite often, particularly in the sector which is known as the pension-only sector — and the reason it is called that is because the residents pay over their pension and it is the sole source of revenue for the proprietor — it is quite often a hand-to-mouth existence for both the proprietors

who provide the services and the residents of those facilities.

The amendments made to the Health Services Act earlier this year give greater certainty in the provision of quality care in the future. They provide opportunities where there are restrictions and obligations placed upon what proprietors should do in relation to holding money or taking money from residents and using that in the name of providing services. The act provides for greater quality controls in terms of our capacity to regulate the industry, and it has met with a high degree of good results.

A report of the community visitors who play a role on behalf of the people of Victoria by visiting these facilities is soon to be tabled, and that report will say there has been some improvement in terms of the quality of care. We have not gone the whole distance, but quite a degree of improvement has been made.

I am pleased to announce to the house that recently I launched packaged care which will be provided to residents of these facilities through a pilot program that will be rolled out over the next 12 months to see if we can provide intense quality personal care to the residents through service providers who will assist them and make sure they have a better day-to-day quality of life. We will also be interested to assess what impact that will have on the financial viability of these services. I was very pleased to announce funding of \$605 000 to support that pilot program. It builds on our significant investment through home and community care, and it will be a specific pilot program over the next 12 months to see what difference we can make to the quality of life of residents and the financial sustainability of the services in question.

The pilots will range throughout Victoria at Ballarat, Bright, Boronia, Healesville, Lalor, Noble Park and St Kilda. They will be provided in clusters of up to 20 packages in any one service through service providers who will provide a range of activities including nursing care, personal care, assistance with providing for meals and other matters that may be relevant to the needs of the individual residents of these facilities. We are talking about people who may be elderly and frail, and we are talking about people who may be severely intellectually disabled or who may have some degree of mental illness. These are people who, in public policy terms, have been in a bit of a blind spot of public policy because they have been living in private accommodation. We are trying to find ways in which we can provide that quality of care and add to the resilience of the sector.

I have great confidence in the program. In fact there was a great event that brought together service providers and community visitors in the one setting. They do not get together too often and have a pleasant experience, so it was a great breakthrough for the sector. I am very pleased with the degree of receptivity to this important new initiative.

### **Commonwealth Games: athletes village**

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I address my question to the Minister for Commonwealth Games. Having noted the minister's answer to Ms Romanes, will the minister now assure the house that the Commonwealth Games village construction is on time and completely within budget?

**Hon. J. M. MADDEN** (Minister for Commonwealth Games) — I welcome the member's question, which is again in relation to the village. I am very happy to talk about and talk up the prospects of the village, and I welcome the member's interest. The village is going through extensive works, as honourable members would appreciate, and significant works are involved in that development. Given that there have been significant elements of contamination in relation to the village site, some of the minor works also relate to the repatriation of the site. They are being managed accordingly through the appropriate processes, and that has been factored into the overall cost of the redevelopment.

We are confident that the redevelopment will achieve its budgeted targets not only in terms of cost but also in terms of revenue. We are very confident that the progress of the development itself is well and truly on time, while appreciating that a significant number of developments are being rolled out. One of the most impressive elements of that process is that a dwelling will be rolled out at the village every 111 days. There are extensive works taking place. The level of interest is such that the developer is buoyed by the response, and we are confident that all the appropriate measures, milestones and targets will be achieved in relation to the Commonwealth Games village.

### *Supplementary question*

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — Have there been any cost overruns with the village development, and, if so, what is the extent of those overruns?

**Hon. J. M. MADDEN** (Minister for Commonwealth Games) — I again welcome the member's interest, and I am glad to see that he is

focusing on the village at this point in time rather than talking about its prospects. The government is very confident about all those measures I have already mentioned. I repeat the fact that there has been and was always expected to be some soil contamination. That is being dealt with through the appropriate measures, and in no way will that upset the development or the time lines. It is an additional cost, but that should be considered in the context of the overall contingencies for the village and also the anticipated revenues to be generated from the village, which will potentially be higher than expected. We are confident that the budgets will be adhered to and that all targets will be reached.

### **Women: local government**

**Ms CARBINES** (Geelong) — My question is addressed to the Minister for Local Government. Will the minister outline to the house how the Bracks government is getting on with the job of strengthening local democracy in Victoria by encouraging more women to contest local government elections and supporting elected women councillors to fulfil their roles effectively?

**Ms BROAD** (Minister for Local Government) — I thank the member for her question and for her continuing interest in the continuing efforts of the Bracks government to increase participation of women in all elections, but particularly in local government elections. On 27 November this year 25 Victorian councils will go to the polls as we make the shift to the new system of fixed four-year terms created by the Bracks government's Local Government (Democratic Reform) Act. Following the close of nominations last week there are 806 candidates contesting the 208 positions at these elections. I am pleased to advise the house that 283 of those candidates — 34 per cent — are women.

However, it is still the case that women are significantly underrepresented at the local level, and on current trends I am sorry to say that women will not achieve equal representation with men in Victorian councils until some time around 2025. It would be great to see local government mirror the progress we have made at the state level, where women comprise almost half the Bracks government's cabinet, around 39 per cent of the Labor members of the state Parliament and 40 per cent of recent appointments to government boards and committees. Sadly that is a record not matched by the other side of this house.

The Bracks government has provided funding to a study to examine the challenges faced by women elected to local office as part of a continuing campaign



by me and my colleague the Minister for Women's Affairs in the other place to encourage women into local government. The result of that study is a report called *Moving On — Women and Retirement from Victorian Local Government* prepared by the Women's Participation in Local Government Coalition, a voluntary coalition which the Bracks government has been pleased to support. This report is based on the experiences of 19 of the 21 women who retired from local councils at the March 2003 elections. The women surveyed felt they had made a positive contribution to their communities through local government but found it challenging, to say the least, to balance council commitments with work and family commitments due to some council practices and aspects of council culture.

The report provides some very clear and direct recommendations to the state government, to the Victorian Local Governance Association, to the Municipal Association of Victoria and, most importantly, to individual councils on how to create the sorts of environments that will support councillors to carry out their roles effectively. This report is being distributed with my strong support to all Victorian councils and provides a general guide to the sorts of changes required to attract more women into local government and to help those women stay for as long as they feel they have something to contribute.

Since it was elected in 1999 the government has taken action to strengthen the position of local government in this state as a valued and equal partner, and helping councils to ensure that they reflect the full diversity of the Victorian communities they represent is a another step in that process. We will continue to build a better future for Victorian communities, including by strengthening local government.

### **Commonwealth Games: economic impact**

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — My question is to the Minister for the Commonwealth Games. The minister told the Public Accounts and Estimates Committee earlier this year that the government would complete a new economic impact statement on the Commonwealth Games by the end of June 2004. Given that time line, what is the government's latest estimate of the net economic impact of the 2006 Commonwealth Games?

**Hon. J. M. MADDEN** (Minister for Commonwealth Games) — I welcome the member's interest in relation to the economic benefit of the Commonwealth Games; it will be quite significant. There is no doubt about the economic benefit to

Melbourne, but there will also be economic benefit across the region and impressive economic benefit right around Australia. Those benefits will be quite significant any way you measure them, but it is worth appreciating that in terms of the delivery of the games the government has been moving towards making sure that the economic benefit is shared around Victoria as well as in central Melbourne. To make sure that benefit flows to regional centres we will have a number of regional events in Bendigo, Ballarat, Geelong and Traralgon. Not only will there be events in those respective areas, but there will also be celebrations and community involvement that are part and parcel of the games. A range of measures — quite a number of those in whatever form — has been provided to the Office of Commonwealth Games Coordination. I am happy to provide the member opposite with a more detailed briefing in relation to those matters in an appropriate forum where we can give fuller consideration to them.

### *Supplementary question*

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I note that the minister has previously articulated a figure of \$2 billion as the net economic impact. Can we assume that that is no longer an accurate figure?

**Hon. J. M. MADDEN** (Minister for Commonwealth Games) — I again welcome the member's interest. A couple of figures have been mentioned. I have mentioned a particular figure, and the chairman of the Commonwealth Games had mentioned a specific figure. The figures differ insofar as his figure relates to the economic benefit for the entire country, and the economic benefits I have alluded to are specific to the Victorian economy. It is worth appreciating that there is in the order of about \$500 million to \$1 billion difference in those figures, but they are just estimates. An expected economic benefit of at least \$1 billion over and above the investment made in the Victorian community will come from the games. It is expected that that will be replicated doubly when considered in light of the rest of Australia — that is, given the levels of activity, the levels of tourism and the levels of production in relation to the event.

### **Consumer affairs: infant bathing aids**

**Hon. S. M. NGUYEN** (Melbourne West) — My question is addressed to the Minister for Consumer Affairs. Can the minister outline how the Bracks government is getting on with the job of introducing regulations for infant bathing aids to ensure the continued safety of Victoria's children?

**Mr LENDERS** (Minister for Consumer Affairs) — I thank Mr Nguyen for his question, for his ongoing interest in consumer matters and particularly for his ongoing interest in the safety of children with some of the products that are around. Mr Nguyen raised the issue of bathing aids for children. Anybody who went to the children's appliances show at the place that some call Jeff's Shed a few weeks ago will understand the broad and wide variety of bathing aids that are available. Many people buy these bathing aids and the whole point of them is so that a child can sit in a seat in the bath. These are not pieces of safety equipment; they serve no particular purpose other than being things that people put in baths, and sometimes children like to sit in them.

Often the danger with these things is that if a child is not properly supervised in the vicinity of water and slips, then the circumstances can be catastrophic. The government and the community have struggled with how to deal with this issue, because communication of the dangers is important. Mr Nguyen more than most will appreciate this, because we need to communicate these things to people so that they do not think that simply leaving a child in a seat in a bath is safe. A child left in a bath unattended is a child in danger. The government wants to have warnings put on these seats and devices so that every time they are used an adult who is supervising a child will know and be reminded that the child should not be left unattended. This is very important. I had the privilege of being at a show with Tim Wain from the Infant and Nursery Products Association of Australia. I thank Tim for his enthusiasm in this area. The manufacturers are conscious that under their own voluntary code they will no longer have any other picture on any of these products so that when a child is in a bath attended by an adult a picture of an adult's hands can be seen on the products warning that children should not be left in baths. We cannot have situations where children are left in baths. There have been too many tragic circumstances.

The government is trying to make these products safer across Australia. Earlier this year I reported to the house that I had met with all the consumer affairs ministers of the state and territory governments. We made an agreement that we would try to replicate safety standards across the country, and the commonwealth also sought to be involved. Understandably the commonwealth has lost a little bit of focus because of an election, but I will certainly raise the matter with Chris Pearce, the new person with commonwealth responsibility in this area. By working together well on this matter we will be able to kick some goals. Getting

the message out correctly to people is always a challenge for the government.

Every piece of baby bathing equipment sold in Victoria will be required to have a safety label before it can be sold. The safety labels on the items will not be able to be taken off or peeled off. There also will be labels on the packaging as a warning so that we can get that information out.

The government is getting on with the job. We have listened to what the community has said in this area. We need to be proactive on getting advice and warnings on such products. Anybody in this chamber and anybody in the community who has bathed children knows that they wriggle around a lot. They like playing in water. If you leave them unattended they can do all sorts of things, so this is a timely warning to the community. I am pleased to be part of this initiative, because it should make our homes safer places for children.

## TEACHING SERVICE (CONDUCT AND PERFORMANCE) BILL

### Committed.

*Committee*

### Clause 1

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I move:

1. Clause 1, line 1, omit "**Purpose**" and insert "**Purposes**".
2. Clause 1, lines 2 and 3, omit all words and expressions on these lines and insert—  

“The purposes of this Act are—

(a) to amend the **Teaching Service Act 1981**— ”.
3. Clause 1, line 4, omit “(a)” and insert “(i)”.
4. Clause 1, page 2, line 1, omit “(b)” and insert “(ii)”.
5. Clause 1, page 2, line 3, omit “(c)” and insert “(iii)”.
6. Clause 1, page 2, line 3, omit “amendments.” and insert “amendments; and”.
7. Clause 1, page 2, after line 3 insert—  

“(b) to amend the **Victorian Institute of Teaching Act 2001** and the **Education Act 1958** to enable criminal record checks to be obtained without consent.”.

**Amendments agreed to; amended clause agreed to.**

**Clause 2**

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I move:

8. Clause 2, line 5, before “This” insert “(1)”.
9. Clause 2, line 5, after “Act” insert “, except sections 11 and 12,”.
10. Clause 2, after line 5 insert—
 

“(2) Sections 11 and 12 come into operation on the day after the day on which this Act receives the Royal Assent.”.

**Amendments agreed to; amended clause agreed to; clauses 3 to 10 agreed to.**

**New clauses**

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I move:

11. Insert the following New Clauses to follow clause 10—

**‘AA. New sections 18A and 18B inserted in Victorian Institute of Teaching Act 2001**

After section 18 of the **Victorian Institute of Teaching Act 2001** insert—

**“18A. Criminal record checks**

- (1) The chief executive officer of the Institute may, at any time, request the Chief Commissioner of Police to give to the chief executive officer information concerning the criminal record, if any, of a registered teacher and, for that purpose, may disclose to the Chief Commissioner the information concerning the registered teacher that is necessary to conduct the criminal record check.
- (2) The chief executive officer may make a request under sub-section (1) without the consent of the registered teacher named in the request but must give notice of the request to that teacher.
- (3) The Chief Commissioner of Police must, not more than 14 days after receiving a request under sub-section (1), enquire into and report to the chief executive officer on the criminal record, if any, of the registered teacher named in the request.

**18B. Employer to disclose whether criminal record check conducted**

On request by the chief executive officer of the Institute, the employer of a registered teacher must disclose to the chief executive

officer whether to the knowledge of the employer the registered teacher has undergone a criminal record check at any time.”.

**BB. New Division 2 inserted in Part I of the Education Act 1958**

After Division 1 of Part I of the **Education Act 1958** insert—

**‘Division 2— Criminal Record Checks**

**9. Secretary may request criminal record check**

- (1) In this section—

“relevant person” means—

- (a) a person employed by the Secretary under section 5 or 5A or under the **Public Sector Management and Employment Act 1998** or the **Teaching Service Act 1981**; or
  - (b) a person employed by a school council under section 15B or 15ZK.
- (2) The Secretary may, at any time, request the Chief Commissioner of Police to give to the Secretary information concerning the criminal record, if any, of a relevant person who performs some or all of their duties in a State school and, for that purpose, may disclose to the Chief Commissioner the information concerning the relevant person that is necessary to conduct the criminal record check.
  - (3) If a request relates to a relevant person employed by a school council, the school council may disclose to the Secretary the information concerning the relevant person that is necessary to conduct the criminal record check.
  - (4) The Secretary may make a request under sub-section (2) without the consent of the relevant person named in the request but must give notice of the request to that person.
  - (5) The Chief Commissioner of Police must, not more than 14 days after receiving a request under sub-section (2), enquire into and report to the Secretary on the criminal record, if any, of the relevant person named in the request.
  - (6) If the report relates to a relevant person employed by a school council, the Secretary may give a copy of the report to the school council.’.

This involves inserting new clauses AA and BB following clause 10.

**Hon. P. R. HALL** (Gippsland) — I want to make some quick comments. I thought we would have an explanation from the minister as to what these new clauses mean. No explanation was given in the second-reading speech about these government amendments. Consequently there has been no explanation at all from the minister as to what these new clauses do, although I say in passing that some government members talked about the issue and, because these amendments were circulated during the second-reading debate, there were some comments from government backbenchers about these new provisions. Nevertheless I think it is important for the committee's proceedings that we repeat what these provisions do — that is, facilitate a requirement for all teachers, whether employed in government or non-government schools, to have police checks.

Since 1995 those teachers who were new to the service or who have transferred between positions within the service have been required to undergo police checks, but those who were employed since 1995 and have not shifted yet may not have had police checks. These provisions require all these teachers, both in the public and non-government sector, to undergo police checks. We are assured this will happen as quickly as possible; I heard from government backbenchers that all this will have been completed by the start of the next school year, and we are pleased about that.

During my contribution to the second-reading debate I said that I needed some explanation of some practical applications of this legislation. I advise the committee that I have spoken to the minister's advisers since this time, and they explained to me how this will work in a practical sense. I thank them for that explanation. As I indicated during the debate, The Nationals support the principle of requiring all teachers to undergo police checks; these new clauses facilitate that. I have personally received an adequate explanation as to how the clauses will work, and am satisfied with that explanation. I indicate again the support of The Nationals for these provisions.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I indicate that these clauses have been supported by both the Liberal Party and The Nationals. The nature of the new insertions is self-evident once they are read. Mr Hall has eloquently outlined what their practical application will be, and I do not intend to reiterate that. Those arrangements will be put in place by the beginning of the school year. Everyone in this house is interested in ensuring that our children get the

maximum possible protection we can afford in relation to this issue, and these police checks will contribute to that. I thank members for their contributions and for their support for these amendments.

**Hon. ANDREW BRIDESON** (Waverley) — I place on record the fact that the Liberal Party does not oppose these amendments. Representatives from the Department of Education and Training contacted the shadow minister for education on Monday and gave him a full and thorough briefing on them. We are quite satisfied with the intent of the amendments, and wish this bill a speedy passage through the committee stage.

**New clauses agreed to.**

**Long title**

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I move:

12. Long title, after "1981" insert "the **Victorian Institute of Teaching Act 2001** and the **Education Act 1958**".

This simply indicates the long title of the bill.

**Amendment agreed to; amended long title agreed to.**

**Reported to house with amendments, including amended long title.**

*Remaining stages*

**Passed remaining stages.**

## MAJOR CRIME LEGISLATION (SEIZURE OF ASSETS) BILL

*Introduction and first reading*

**Received from Assembly.**

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

## CONSTITUTION (RECOGNITION OF ABORIGINAL PEOPLE) BILL

*Second reading*

**Debate resumed from 13 October; motion of Mr GAVIN JENNINGS (Minister for Aboriginal Affairs).**

**Hon. PHILIP DAVIS** (Gippsland) — The Constitution (Recognition of Aboriginal People) Bill is an important bill before this house. I preface my remarks by indicating that I do not regard any bills that come before the Parliament as more important than bills which deal with Victoria's constitution. Having said that, I want to make a couple of comments about the context of the opposition's position on this legislation to clearly indicate that the Liberal Party will support the bill but with very significant reservations about some of its detail and in particular the process by which it has been presented to the Parliament.

Before I go further it is my intention to indicate that like many people in this place I have a real concern for the disadvantage which is faced by many Aboriginal people because of what has now been, if you like, a generational challenge posed by lack of education, employment and economic opportunities and dispossession of the traditional social and cultural values which those Aboriginal people would clearly have been able to relate to were it not for the catastrophic change to their societies which occurred with the advent of European settlement. I am particularly cognisant of what these changes have meant because, like other members from country electorates, I am exposed a good deal to the opportunities and challenges that present for Aboriginal communities with whom we live side by side. I have taken a further interest in why it is that we have an apparent residual challenge from the evolution and development of our communities in Victoria such that Aboriginal peoples are in a position today which many of us who are more privileged would see as being unacceptable.

So the recognition of Aboriginal people, which the government has introduced with this bill, is a matter of principle which I think few could oppose. However, why is it necessary and what is it that the government has actually drafted in the legislation? I would like to refer to a little history from the parochial, Gippsland perspective which sets the scene for my thinking about the disadvantage born of dispossession of a people in Victoria, and indeed Australia.

Most members here would be aware that in a geographical sense, Gippsland is relatively isolated with mountains in the north and Bass Strait to the south. Historically, both since and certainly before European settlement there was and has been very limited traffic into and out of Gippsland. It is clear that before European settlement there were very viable clans, tribes or nations of Aboriginal communities. I refer to a very learned dissertation on the history of Gippsland entitled *The Settling of Gippsland — A Regional History* written

by Patrick Morgan. It was commissioned for the Gippsland Municipalities Association and was published in 1997. He refers to the Ganai people who were clearly a distinct people or tribe who inhabited Gippsland proper. I quote from page 15 which says:

Their pre-European numbers may be estimated, including the Bidwelli, at around 4000, a higher estimate than has been common until recently.

There were 4000 Aboriginal people before European settlement. By around 1860 things were dramatically different, and I quote from page 59 of the same publication which says:

The numbers of Ganai declined dramatically in the first two decades of European settlement. Figures at the time claimed there were only about 300 Ganai left by 1860, but like the assessment of the prewhite population, this was clearly an underestimate, since many had taken to the swamps, mountains and forests.

I read that for the record to put in context something that we in contemporary society miss entirely, which is that the contest for the land that our European forebears pursued led to the demise of significant populations of Aboriginal peoples not just in Gippsland but within Victoria and Australia.

It is often presumed — if people think about it at all today — that Aboriginal people were apathetic and gave up their land. That is far from the truth. In fact, there was vigorous contest for what the Europeans saw to be vacant land. To them Caledonia Australis — Gippsland's great plains — were attractive from the perspective of those who would be pastoralists or graziers. Progressively from about 1835 they started moving in flocks of sheep and herds of cattle to occupy lands which to the Highland Scots and the Irish early settlers appeared to be vacant. By vacant they meant in their own minds that the land was not farmed. There was no sign of agricultural activity.

But of course we know from a proper intellectual base today, after having undertaken long periods of research, that the Aboriginal communities may not have farmed in a European context but were certainly actively involved in the management of their land. Hence we have a great debate about native forest management practices today and we have problems dealing with bushfires. It was not uncommon for Aboriginal communities to be regularly burning our land for game management reasons and the purposes of renewal before European settlement. There are stories replete with details about how the huts that were used as part of a nomadic movement of an Aboriginal clan would be burnt following the decampment and movement of that clan to another place. The result of that burning was

sterilisation — to rid the encampment of any disease or infection. That burning process also regenerated that settlement — it freshened up the feed and encouraged the renewal of wildlife which would be available as a food source at a later date.

There is quite a clear difference between the way that we in an enlightened and contemporary context would view the habitation of our great land compared with the view of European forbears who came to Victoria and the rest of Australia and saw what for them was a vacant land. There was inevitable conflict between the occupants and the settlers, who could well be described as invaders. The result of the inevitable conflict which arose was that people who were less sophisticated and did not have the technological advances of the settlers were much less capable of defending their position. The result was that they were progressively displaced.

It would be useful for members who are interested in understanding more about this issue to refer to some of the well-researched publications that are available. I have read some of publications from a Gippsland context, and I refer to three further publications which are useful in this context: *Gippsland Massacres — The Destruction of the Kurnai Tribe 1800–1860* by P. D. Gardner, the second edition of which was published in 1993; *Our Founding Murdering Father — Angus McMillan and the Kurnai Tribe of Gippsland 1839–1865*, by P. D. Gardner again, the second edition of which was published in 1990; and there is a very well-researched paper entitled *The Captive White Woman of Gippsland — In Pursuit of the Legend* authored by Julie Carr, which was published in 2001 by the University of Melbourne Press. That is a sample of some of the publications which put a context around a relatively small piece of Victoria — Gippsland — and about the struggle for control of the land which there was in those early years of settlement.

Irrespective of what I describe as the more contemporary debate about state and federal Aboriginal policies over recent years and in reference in particular to events after the Second World War especially, I would argue that it is necessary for us to acknowledge that there was a profound impact on Aboriginal people as a result of European settlement.

I am not confident that the bill is expressly the best way to deal with those matters. The Liberal Party and I will support this bill on the basis of acknowledging what is in effect a reality. But my concerns about the bill revolve around these issues: the lack of consultation in the development of the bill, the fact that a proposal put at a federal referendum only five years ago on a similar provision failed, that there are problems with the

drafting of the bill, and that I am concerned about the entrenchment provisions because of all of the above. I will address this in some detail.

I am unaware of any attempt by the government to properly consult with the Victorian community on this legislation. I will put that in context. In March last year the Parliament dealt with constitutional reform and changes to the upper house in particular, changes to the electoral system in Victoria and other matters. No matter what view various parties and members of the Parliament express about those constitutional changes and the substance thereof, there can be no argument that the government had openly and conscientiously pursued a public debate about those matters over a long period of time, that it had a clear policy position and that by obtaining a majority in both houses of the Parliament in the 2002 election it had obtained the necessary mandate to implement what was the government's well-dictated policy, of which there was no doubt. It was understood by all who were participants in the electoral process at a parliamentary level, but even so, I am surprised by the number of well-informed, educated and well-read Victorians who still do not know that there has been any constitutional change to the Victorian Parliament. However, that is another issue.

I am not aware of any proposal being expressed by way of obtaining a mandate to amend the Victorian constitution further in relation to the matters in this bill. I am not aware of any serious attempt by the government to engage in consultation on this bill. I understand that the Minister for Aboriginal Affairs, Mr Gavin Jennings, and the Premier will make a claim that there was consultation with Aboriginal communities. I would like to know specifically which Aboriginal communities and who in those communities participated in any consultation. But there is not even a pretence to suggest there was any consultation process with the non-Aboriginal community.

The constitution of Victoria is not the property of the government nor indeed the Parliament as such; it is the template by which all matters relating to the organisation of our society are defined. It ought not be altered at the whim of a government; it ought only be amended from time to time when it is a matter that has been properly considered by the wider community. The community has effectively had no opportunity to participate in this. The mere fact that opposition parties are not opposing the bill has further in effect limited public discussion. If it were the case that there was an opposing view in the Parliament I have no doubt there would be a great deal more contention about this constitutional change, and consequently therefore there

would be in effect a desire to articulate the points of difference in the popular media which at least would bring into play an understanding by many more in the community to what is proposed.

I turn to the issue about whether the community, if it were consulted effectively, would have a view about this matter. Who would know because that opportunity has been denied by the government? Apparently the government did not want the community to know about this amendment. I turn to the most recent example of where the opinion of the community was tested, which was, of course, the 1999 federal constitutional referendum where two questions were put. Most people can recall the question in relation to amendments to the commonwealth constitution about the monarchy versus a republic, but the second question on that ballot was one to alter the constitution preamble. It included the following words:

... honouring Aborigines and Torres Strait Islanders, the nation's first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country.

That was contained within a proposed preamble. What was fascinating to me was the result on the second question was much more decisive than the question on the republic — profoundly more decisive. Indeed at the national level there was only a 39.34 per cent yes vote for that question and a 60.66 per cent no vote. Victoria had a higher yes vote than the national vote. It had a 42.46 per cent yes vote and a 57.54 per cent no vote. I was particularly interested in the view of people in Gippsland. For the record, in the federal electorate of Gippsland the yes vote was 30.82 per cent and the no vote was 69.18 per cent. In the McMillan federal electorate within my Gippsland region the yes vote was 31.86 per cent and the no vote was 68.14 per cent.

Going back to the point that voters as a whole in Australia and in Victoria have only voted no for a provision to amend the commonwealth constitution when they were given an opportunity to express a view, I find it perplexing that the Victorian government has so carefully managed this issue so as to deny public scrutiny of the proposal and therefore an expression of public view. That does not change my degree of support for the bill, but I say it is a fault and a flaw in the way this proposition has been brought to the Parliament.

That should be noted for the record because we know that at some future point legislators, commentators and the community will want to examine the debate in the Parliament about this amendment, as inevitably they do about any constitutional amendment, and they will want

to know why, they will want an explanation and will want to understand what was in the minds of the legislators at the time this amendment was adopted. I am simply setting out that it is clear what was in the minds of government members, which was to put a constitutional amendment through without any public criticism or concern. One can determine for oneself whether one believes this was a deliberate strategy or otherwise. My view is that it has been a deliberate strategy.

I shall make a brief comment on the actual drafting of the bill. Clause 3 of the bill proposes to insert:

1A. Recognition of Aboriginal people

- (1) The Parliament acknowledges that the events described in the preamble to this act occurred without proper consultation, recognition or involvement of the Aboriginal people of Victoria.

I note the use of the word 'proper'. I would argue that any objective analysis of the circumstances at the time of the development of the constitution of Victoria would have determined that the appropriate word would have been 'nil', 'none' or 'zero' rather than 'proper' in that context. There was no consultation with Aboriginal people in Victoria. Who in 1854 would have thought that it would be something that one would do? Times are different, but in 1854 there was no consultation, so it is not a question of whether proper consultation occurred — there was none.

I refer also to:

- (2) The Parliament recognises that Victoria's Aboriginal people, as the original custodians of the land on which the Colony of Victoria was established —

and I pause there and go back to the key word 'people' as in 'Victoria's Aboriginal people'. The implication is that Victoria somehow was defined as a region pre-European settlement with a boundary, a set of passports and a homogenous group of people, all of whom were designated Victoria's Aboriginal people, and they got a passport stamp each time they crossed the Murray River. What a ridiculous proposition that is. There were multiple language groups who did not understand the languages of other clans. There were tribes and subgroups within tribes. There were language differences within what we would describe as small geographical regions. There were significant language differences within greater Gippsland. If you took Aboriginal communities in West Gippsland and joined them with clans from East Gippsland they would not be able to communicate other than by signs because the language differences were profound.

These people did not have the opportunity we have of moving around freely or even in that era by horse, because there was no such mode of transport for them. They evolved in different tribal and subtribal groups, each with a very different history, culture and language. To propose that this bill should recognise Victoria's Aboriginal people as if they are one is totally inappropriate. There were many peoples, and that should be properly understood.

Clause 3 inserts a new section 1A into the original act. Paragraph (2)(b) recognises that the Aboriginal people:

... have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria ...

What does 'relationship' mean? What does the government purport this will mean in another 10 or 20 years? In 30 years how will this be interpreted by claimants upon the state of Victoria?

Are we acknowledging an economic relationship in the context of what we in a contemporary society understand as economics? The reality of life for pre-European settlement Aboriginal communities was absolute kinship with their land. They were part of the land. To use the word 'economic' implies some proprietary interest in the complex social structure that we have today as it relates to the exchange of moneys that is defined as being part of the economy. I find the use of that phraseology perplexing, and again I think it is poorly worded.

Of profound concern to me is proposed section 1A (3) which states:

... The Parliament does not intend by this section —

- (a) to create in any person any legal right or give rise to any civil cause of action ...

I think that is very sloppy drafting. What do we mean by 'intend'? Either it does or it does not. Whatever we say in a debate in this place and whatever this bill happens to say, at the end of the day this is a matter which will be tested by the courts. I am concerned, as I know many others are, that it would be preferable were the Parliament to be legislating unequivocally, not expressing a view about what it may or may not have intended when it adopted an amendment to the constitution of Victoria which will have inevitably profound consequences for decades to come. This is a poor bit of work on the part of the government.

I do not want to belabour it because it will, in a sense, undermine the case that I am making which is that in effect the principle which is set out in the bill of providing some recognition for Aboriginal people is

worthy of support, but I think the way the government has approached this is tawdry.

Finally I am concerned about the way the entrenchment provisions in the bill are drafted. The evidence is there that on previous occasions the government has failed to properly draft legislation and indeed as a consequence of errors brought to the attention of the government in the parliamentary reform bills last March, house amendments had to be moved urgently to correct some significant errors which, had they been incorporated in the passage of that legislation, could have only been undone by referendum. I am concerned that the entrenchment provisions for a special majority will make it more difficult to unstitch if I am correct and there are errors in the way this bill has been drafted and the consequent impact on the constitution of Victoria.

Despite those preceding remarks, the Liberal Party will support the bill. Quite obviously it has significant reservations about the way the government has brought the bill to the Parliament. There has been a lack of proper process in terms of community consultation. Indeed in my view there has been an abuse of the sacred trust in the sense that the government is taking improper advantage of its mandate of a majority in both houses of Parliament. I think we will regret the fact that the government has not been open with the Victorian community about its intentions with this legislation. Notwithstanding that, I support the bill.

**Hon. D. K. DRUM** (North Western) — I too take pleasure in rising to talk on the Constitution (Recognition of Aboriginal People) Bill and in doing so from the outset acknowledge that The Nationals will also not be opposing the legislation. But we also share some of the concerns raised by the Leader of the Opposition. The purpose of the bill is to amend the Constitution Act 1975 and to give recognition within the act to the Victorian Aboriginal people for the contribution they have made to the state of Victoria. It does so by including three clauses in the preamble of the state's constitution. It proposes to give due recognition to a range of Aboriginal claims that they are in fact the true custodians of the land in a traditional sense.

One of the main concerns of The Nationals is whether this legislation will consolidate the community and bring together the people of Victoria in a conciliatory way or divide them. That is the argument that keeps coming back through all of this. For the first time we have created in this constitution a special group of Victorians who will have rights over and above those enjoyed by other Victorians. That could very easily be seen as divisive. There is an argument that the only way



to address the negativity of having been subjected to significant negative discrimination over an extended time would be to go through a process of positive discrimination, and perhaps that is what this government is planning to do with this legislation.

As has been mentioned by the Leader of the Opposition, the bill is a symbolic gesture on behalf of the government because it does not effectively grant the Aboriginal people any rights. It does not intend to create any legal right, and it does not intend to affect any lawful outcome. It is just a recognition, and as such it is a symbolic gesture on behalf of the government. To be cynical, it seems as if the government is doing something without actually doing anything, but it does have the right to do that and it has elected to go down that path.

Clause 3 of the bill inserts a new section into the act which acknowledges that the events described in the preamble to the Victorian constitution occurred without proper consultation with, recognition of or involvement by the Aboriginal people. The Nationals looked at the wording very closely. As has been pointed out, back in the 1830s and 1840s there was no consultation whatsoever. Proposed section 1A(2) talks about the Aboriginal people as having been the original custodians of the land and having a special relationship with that land. The real problem I have with that part of the bill — it gets very complex — is that we are making a broad statement that the Victorian Aboriginals had a continuous link all the way back to the pre-European settlement days, but within the Aboriginal people, as has also been pointed out by the Leader of the Opposition, there are so many other groups that also believe they have this unbroken link.

In my area of Bendigo there is a lot of internal fighting within Aboriginal communities over which particular tribe, which particular group of elders, has the unbroken link to the land. They are extremely volatile when it comes to wanting to have rights over the cultural heritage of their lands. That will get this government into a bit of trouble, because by dealing with one section of the community the government will certainly alienate the other. It does not matter which way the government goes on this but handing over the cultural heritage to any particular group will certainly alienate those who believe they have a right and lawful claim to those cultural heritage issues. That is the biggest issue in my area.

Proposed subsection (3) states that there is no intention to create any legal right or to form the basis for any person to take civil action. The intent — I have written that word in my speaking notes because the intent of

this bill is honourable — has good meaning behind it. While we have certain concerns with the way it has been introduced into Parliament and certain concerns with the wording of the legislation, we believe that the intent is to simply place on the record a more accurate account of history. Our concern is where this legislation will end up. In the second-reading speech the Premier said he believed it was proper that the constitution of Victoria describe the circumstances of our founding and say who were the first people of the land. He said it was proper that the constitution should acknowledge the unique contribution which was made by the Aboriginal people and which they continue to make to this place that we who came here after 1835 have made our home and which was previously theirs.

The Premier went on to speak about the consultation process that ensued for three months through the Minister for Aboriginal Affairs. I was quite concerned about that when this bill first came to our parliamentary offices. We spoke to the people in our communities about their opinion of this change to the preamble of the constitution. We asked some of the respected Aboriginal people in our area what they thought. I received feedback from a number of people. One of the responses was from the Australians for Native Title and Reconciliation. Its response was harsh. It said that the Victorian government today remains reluctant to act honourably in its dealings with Aboriginal people. Further, it said that Aboriginal people have not been consulted properly, have had no information and are marginalised from this process. It said that the move will further alienate the indigenous people of Victoria and that their socioeconomic status will further decline. As I say, I have not met those people; I am simply putting on the record the response they gave.

The government has made a big deal about consultation. I know that the minister was in my region consulting with people, and to his credit he was consulting with a group of people who claim to have a link back to the pre-European times, but it is not the view shared by so many others in the community. This is where putting in place what the bill says will make it practically quite complex for the government to bring about the result that seems to be intended by the legislation.

I have met with the elders of the various groups in my area and, consistent with my experiences with the many Aboriginal people I have employed and worked with over the years, they were very clear that they have never wanted special treatment. They have always been very clear that they want to have exactly the same opportunities as any European, Asian or Anglo-Saxon. They also want the same responsibilities. If there was

one concession the elders I spoke to could agree that they wanted, it was an opportunity for the next generation to gain employment. They said the only way for them to control their future and to maintain their traditions and the cultural heritage of their regions into the future was for them to gain active and worthwhile employment. That is something we can take on board.

We do not need to be taking positive discrimination in the permanent sense. Positive discrimination to undo long-term negative discrimination has a really strong place in trying to right some wrongs. However, entrenching discrimination has the potential to cause long-term damage and we have to be very careful about that. Aboriginal people want to be given the opportunities they want and given the responsibilities that every one of their workmates has. I think that is the best way we can work towards reconciliation.

I reiterate that The Nationals will not be opposing this legislation. We wish the government well in its endeavours to work its way through the issues. We share some of the concerns expressed by the Leader of the Opposition about the wording of the legislation. We hope that does not come back to create a number of issues which will be very difficult to handle at a later date.

In closing, we have concerns about where this legislation is heading in the long term. It is worth noting that in 1993 Lois O'Donoghue from the Aboriginal and Torres Strait Islander Commission (ATSIC) suggested a range of amendments to the constitution. She argued, firstly, that the constitution requires a basic recognition of indigenous people; secondly, that it needs a separate and specific power to legislate for indigenous benefit; thirdly, that an unequivocal power should be given to the commonwealth so it can negotiate with indigenous people; and fourthly, that particular rights should be given to indigenous people and they should be enshrined in the constitution. It seems that in 1993 ATSIC started off asking simply for recognition, and its demands then became stronger and stronger. This legislation addresses the first of those four suggestions. The government has said that while it is changing this part of the constitution through legislation, any further amendments will need to be taken to a referendum. It seems to be a strange way to go about working on these very complex issues. Having said that and having put The Nationals' views on the table, I wish the government well in a very complex issue.

**Ms ROMANES** (Melbourne) — It is a privilege for me to make a contribution to the debate on the Constitution (Recognition of Aboriginal People) Bill this afternoon. I consider this to be a privilege because I

disagree with Mr Drum's assertion that this bill is about creating a special group of people and in that sense separating people in our community. I consider it to be a bill which is about recognising that Aboriginal people in Victoria are very special. They are the first people of this land; they are the traditional owners and the custodians of the land.

The bill we are considering today puts right a wrong made in 1854 when Aboriginal people were ignored, disregarded and made invisible by the first legislators who passed the constitution bill at that time. The bill before the house gives effect to a commitment made by the Bracks government to amend the constitution of Victoria to give recognition to Victoria's Aboriginal people and their contribution to this state. It is an extremely important initiative. Although it is a largely symbolic gesture, it is nonetheless extremely significant for Aboriginal people that the Parliament of this state should insert into the Constitution Act recognition of the Aboriginal people of Victoria as the custodians of the land and their unique contribution in so many ways.

It is significant also because it represents a shift in relationships over this 150 years. If we look at the two extremes — 1854 and 2004 — there has been a shift in the relationship between non-indigenous and indigenous people. My personal view is this is the most fundamental relationship in this land and we as legislators and people have to get it right. It is important to nurture and value this relationship. By setting the history and the intention of our Constitution Act right at this point of the history of this state we are taking a step which represents an ongoing commitment to a more equal and fairer relationship, a real partnership between indigenous and non-indigenous people in Victoria. It has to be based on a more healthy recognition and understanding and a respectful relationship between us all.

As I said, the bill highlights the past inequality of the relationship between the indigenous and non-indigenous people of Victoria at the time the Victorian Constitution Bill was passed in the Legislative Council of the colony of Victoria in 1854. At that time the preamble referred to the passing by the Legislative Council of the colony of Victoria in 1854 of a constitution bill, and to the Imperial Parliament passing an act authorising Queen Victoria to assent to that bill with certain amendments. There was no recognition of the indigenous people of the colony at the time. There was no consultation with, recognition or involvement of the Aboriginal people of Victoria in that major step in the life of the colony of Victoria.

When the preamble was written the colony was in the process of the final dispossession of Aboriginal people. I sought some assistance from the parliamentary library to get some sense of what were the prevailing relationships at the time. I wanted to find out whether like other parts of Australia Victoria was fraught and violent when the constitution of Victoria was introduced in the middle of the 19th century.

Some of the information given to me by the parliamentary library provides an outline of the historical context at the time. In his book *Blood on the Wattle*, author Bruce Elder says that the last recorded major massacre in the Gippsland area occurred in May 1851. Another book, *Scars in the Landscape — A Register of Massacre Sites in Western Victoria, 1803–1859*, also mentions in its title the massacres that took place in the Western District; massacres that were still occurring until 1859.

Mr Philip Davis mentioned two books by P. D. Gardner, one of which was titled *Gippsland Massacres — the Destruction of the Kurnai Tribes, 1800–1860*, with 1860 being cited in that book as the year of conclusion. Another publication titled *Who Killed the Koories?*, this time by Michael Cannon, contains this quote:

After Victoria achieved responsible government during the 1850s, Aboriginal affairs were placed under the Surveyor-General's department. A central board for protection of Aborigines was established in 1860.

While there is no definitive answer in our library collection — or through other searches undertaken by the parliamentary library staff — as to when the last actual massacre occurred in Victoria, it could be assumed that it must have been around the period of time that has been cited by all those researchers — that is, around 1860.

That is one perspective; but in conversation with a family from the Boonwurrung tribe in Victoria, based in Melbourne and around the eastern coast of the bay, I gained another perspective on what happened during the early years of the colony. The view put to me was that the settlement of Melbourne itself was not founded on massacres. The evidence cited was the various artworks hanging in the State Library of Victoria. In the beautiful new art gallery that is there for all of us to see and enjoy there are currently many treasures and many historical records and vignettes of life in the early colony of Victoria. As it was put to me, there are many examples of traditional owners sitting and talking with the new settlers, and there are many examples of interaction between the two parties.

Through this bill and through the many initiatives that are happening under the leadership of the Minister for Aboriginal Affairs, Gavin Jennings, I am heartened that indigenous and non-indigenous people in this state are talking again. I am also heartened that this bill was developed in accordance with the recommendations of the Premier's Aboriginal Advisory Council, and that it was developed in consultation with Aboriginal people throughout the state, because we all know that the Minister for Aboriginal Affairs travelled around the state with an exposure draft to talk to Aboriginal people about the intention to put this bill through the Victorian Parliament. That draft was also widely publicised throughout the Victorian community, and opportunities were provided for input from anyone in the state who was interested.

It is very important to note that this bill will formally recognise Aboriginal people as the original custodians of the land within Victoria. It will recognise their unique status as descendants of the original inhabitants, and recognise that they have a spiritual, social, cultural and economic relationships with their traditional lands and waters within Victoria. It will also recognise that they have made a unique and irreplaceable contribution to the identity and wellbeing of Victoria.

Much has been made by previous speakers of the use in the bill of the term 'Aboriginal people'. I see people as a plural term. It is an inclusive term. Just as we say 'Victorian people', we do not, by using that terminology, define Victorian people as homogeneous across the state. We understand that there are different groupings. There are different language groupings, different community groupings, and different age groupings. There are many ways in which you can define within that broad, inclusive term who the Victorian people are, just as you can define within the term 'Aboriginal people' that there are many different tribes, clans, language groups and groups that have different cultural heritage. I do not see it as terminology that is inappropriate in the way other speakers have done.

It is important that there be a bipartisan approach to the content of this bill, and I am pleased that Mr Philip Davis, although he has indicated some reservations, has also made it very clear that the principles underpinning it are very worthy of support. This continues the bipartisan approach that we have seen in the Victorian Parliament since both houses met on 31 May 2000 to hear the leaders of Victoria's indigenous communities speak of their struggle to survive, to keep their families together, to maintain their connection with the land and to keep alive their culture and traditions.

Members of this Parliament actively participated in the reconciliation marches and activities in the year 2000, and again in the year 2000 both houses unanimously passed a resolution acknowledging that there were stolen generations of indigenous Australians who were forcibly removed from their families. It acknowledged that that had caused these families deep and ongoing hurt because their children had been removed. That was an important act of reconciliation on the part of the Victorian Parliament and other parliaments throughout the country.

I note that whereas the Honourable Philip Davis has indicated the support of the opposition for the bill, the Honourable Damian Drum has only begrudgingly said that The Nationals would not oppose the bill. There is not the same understanding and recognition of the extremely important significance to the Aboriginal people in this state of the gestures embodied in this bill and the intent of the bill, and it is a matter of some regret that The Nationals are taking that position.

To conclude, in a sense we have taken about 150 years to correct a past injustice. We have an opportunity today to correct that injustice, to set the record straight and to acknowledge and recognise the very important position held by the first Australians in this state in which we are legislators. It is a very important opportunity for us all to support the bill before the house. I wish it a speedy passage.

**Hon. RICHARD DALLA-RIVA** (East Yarra) — I have pleasure in making my contribution on behalf of the Liberal Party to debate on the Constitution (Recognition of Aboriginal People) Bill and in doing so indicate my support for this bill. I note the previous speaker's contribution. The reality is that I would like to take more of a pragmatic approach in respect of the bill. It is noted that without question the bill is very brief in its outline. However, having said that, it does make a significant variation to the constitution of this state and in particular puts forward the proposition that the constitution will finally give recognition to Victoria's Aboriginal people and their contribution to the state of Victoria.

Why do I call it a pragmatic approach? Ms Romanes indicated that this legislation is largely a symbolic gesture, and she was correct in that assertion. It is symbolic in terms of recognising that when the constitution was formed many years ago there was no consultation in the process of identifying Aboriginal people. If you look at the comprehensive report *d-brief Number 06* by the parliamentary library research service dated September 2004, you will note that in particular it raises how and why the Aboriginal people

were explicitly excluded from the process. Indeed there were relevant sections within the Commonwealth of Australia Constitution Act that made specific reference to excluding Aboriginal people.

Because the bill has been through the other place, today will be an historic event in the life of this Parliament in the sense that we are moving forward in terms of the recognition of Aboriginal people. That is not to say the work is done. It is interesting to note that the second-reading speech by the Premier consists essentially of two pages in its entirety. I am a bit perplexed by that, because given the nature of the bill before the house I would have thought there would have been a bit more discussion explaining why the bill was being introduced.

The second-reading speech points to a number of issues about respect, treating each other as equals and making right as best we can past injustices. Yes, those three issues are acknowledged, but where to from now? If it is a small step that we make today, then that is good, but it is important to put on the record some of the outcomes that have been achieved along the long road of working with Aboriginal people not only in Victoria but right across Australia. There is no doubt that this Parliament and other parliaments throughout Australia have a significant task ahead of them.

There are many issues facing indigenous Victorians, and it is important to look at some of the key indicators. I refer to a publication from the Productivity Commission which is available at [www.pc.gov.au/gsp/reports/indigenous/keyindicators2003/index.html](http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2003/index.html). I have a copy of this publication from the Productivity Commission, which includes the key indicators of indigenous disadvantage in Australia, and it goes through a vast range of issues. What I am trying to say is that, yes, today we will create history in terms of the constitution recognising the Aboriginal community, but we still have a hell of a lot of work ahead of us in identifying the key issues, addressing them and moving forward.

According to this report, the life expectancy of indigenous people is around 20 years lower than that for the total Australian population. In relation to retention rates in school, non-indigenous students in Victoria are approximately 2.3 times more likely to continue to year 12 than indigenous students. Indigenous unemployment in Victoria for 2001 was 17.9 per cent compared with 6.7 per cent for non-indigenous people. Indigenous Victorians had a higher income than the national indigenous average — \$280 per week compared to the national average of \$226 — but the non-indigenous national average

income was \$500. In 2001 only 31.9 per cent of households with indigenous residents owned or were buying a home compared with nearly 70 per cent of non-indigenous households. The suicide rate for indigenous people in 2001 was 35.5 deaths per 100 000 compared to the rate for the non-indigenous community of 13.1 deaths per 100 000.

Homicide — I have heard previous debate in this house on this particular issue — is significantly greater in the indigenous community, representing 2.1 per cent of total deaths compared with only 0.2 per cent of total deaths in the non-indigenous community. There has been much debate in this house about imprisonment rates, and there is no doubt that we all know indigenous people are 15 times more likely to be imprisoned than non-indigenous people. Indigenous juveniles are 19 times more likely to be in detention than non-indigenous juveniles. Young indigenous clients are significantly overrepresented in the supported accommodation and assistance program population. Nationally 16 per cent of clients aged 12 to 24 years are indigenous, compared to only 3 per cent for the Australian population of the same age group.

This paints a bleak picture if you look at the productivity report and the way that we as a nation have been handling issues associated directly with the indigenous population. Therefore it is a shame that the bill before the house does not expand beyond — as the former speaker from the government said — a largely symbolic gesture. That is what this is — a largely symbolic gesture; they were the words of Ms Romanes. In the context of the bill before the house, whilst the notion is apparent and appropriate, the realities of the application in the real world — and that is why I said I would be taking a pragmatic approach — seem less than ideal when we are talking about dealing with these matters.

To put it in context the report states that in Victoria in the 2001 census 25 078 people identified themselves as being of indigenous origin. This represents an increase of nearly 17 per cent since the 1996 census. It is interesting to note the local government areas where the highest proportion of indigenous Victorians in 2001 are apportioned. The highest number is the local government area of Darebin, which has 1087 indigenous Victorians. Then come the local government areas of Casey, Yarra Ranges, Whittlesea, Hume, Mornington Peninsula, Frankston, Wyndham, Brimbank and Greater Dandenong. I guess people have a perception that there are certain parts of Melbourne where there is a higher proportion of members of the indigenous community, but if you look at the figures in those areas, Melbourne is significantly low with only

176 indigenous Victorians in its local government area. The numbers in central Melbourne are quite low.

As I said, this bill moves in the right direction; however, it is largely a symbolic gesture, to quote the previous government speaker. I have outlined a raft of concerns for me personally. I think they should concern all in this house and people throughout Australia — that is, the clearly overrepresented indicators that we face in terms of dealing with the Aboriginal community. As I said, I support the bill and its underlying principle, but I find it difficult when we have these significant issues that the bill does not go further in understanding and trying to deal with particular matters.

I wish this bill a historic pass today. I assume it will be passed today, and I look forward to an outcome that will work for Aboriginal people rather than being a symbolic gesture.

**Ms HADDEN (Ballarat)** — I rise to speak in support of the Constitution (Recognition of Aboriginal People) Bill. Before I commence my contribution I wish to acknowledge and pay my respects to the traditional owners and custodians of this land, their elders and descendants. I am pleased to have heard the contributions in this chamber throughout this afternoon, including the Liberal opposition's stance and its noting that this bill is worthy of support. I note the stance of The Nationals is that its members are not opposing the bill.

The bill's purpose is to recognise the Aboriginal people of this state and their great contribution to Victoria, and in order to do that the Constitution Act is to be amended. This bill and this amendment to the Constitution Act will be the very first time that any of the Australian constitutions has explicitly recognised an indigenous community in the preamble to a bill.

This bill recognises Victoria's indigenous people as the original custodians of the land, as having a special and particular relationship with traditional lands and waters and for their unique contribution to our society. It is important to note it will also be the first occasion since the High Court's decision in *Mabo 2* in 1992 that an Australian constitution document will be amended to reflect the reality of indigenous prior occupation. Some very good research has been prepared by Dr Greg Gardiner, a senior research officer in the parliamentary library, and I recommend that those members who have not yet obtained a copy do so and read it. He goes through this bill and through the background of indigenous people, their history and their great contribution to this state. He also gives a brief history of the constitution federally and of how over probably the

last 30 years we have made many attempts to be inclusive of all peoples, especially the original inhabitants of this land. But we have not got it right, except and until today.

It was not until 1967 that the national referendum raised the issue of indigenous rights, and indigenous people were given some form of constitutional redress; however, that referendum did not give them the right to vote. They had already been given the right to vote by the commonwealth in 1962, but the 1967 referendum achieved the deletion of references in sections 51 and 127 of the commonwealth constitution. It provided for an important change in the place of the commonwealth government in indigenous affairs and the place of indigenous people within the thinking of the broader community. That period also marked an improvement in recognition and a general thinking by the majority of Australians that indigenous people should have equal rights to the rest of the community.

It is important also to acknowledge the very great contribution of Lois O'Donoghue at an international forum on indigenous people in 1993. She was then the chairperson of the Aboriginal and Torres Strait Islanders Commission (ATSIC), and she suggested the following four amendments to the commonwealth constitution: firstly, that the constitution requires a basic recognition of indigenous people and that the appropriate first place for this is in a new preamble; secondly, that a separate and specific power to legislate for indigenous benefit should replace section 51(26); thirdly, that there should be an unequivocal power given to the commonwealth to negotiate with indigenous people; and fourthly, that particular rights for indigenous people should be enshrined in the constitution.

Then came along the reconciliation convention, which was held in Melbourne in 1997, and there was general agreement and consensus that a new preamble to the constitution should recognise indigenous people. The Constitutional Convention held in 1998 resulted in a broad consensus that a new preamble be added to the constitution. Amongst other elements it contained an acknowledgment of the original occupancy and custodianship of Australia by Aboriginal peoples and Torres Strait Islanders.

During the debate one of the delegates, Gatjil Djerrkura, outlined a number of goals that ATSIC had adopted for constitutional change, and it is important to note these. They included: a new preamble recognising indigenous people as the first Australians, and an indication of respect for the land and indigenous cultural heritage; a bill of rights including specific

recognition of the rights of indigenous Australians; constitutional protection against adverse discrimination on the grounds of race; a change to section 51 to make it an affirmative power; and reserved seats in Parliament for indigenous representatives.

Following the convention the Constitutional Centenary Foundation formed a preamble quest. It received nearly 400 submissions, with an overwhelming preference for a new preamble acknowledging the unique contribution of Aboriginal people to Australia. However, the drafting of the new preamble created problems and many detractors. It is important to note that the new preamble was put to the electorate in 1999 as one of the two referendum proposals for constitutional change. It contained the following reference to Aboriginal people:

... honouring Aborigines and Torres Strait Islanders, the nation's first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country.

Indigenous people in Victoria today should be recognised and included in our constitution. We have seen a significant increase in the rate of Aboriginal people being incarcerated. We have seen continuing disadvantage across the indicators of income, education, health and criminal justice. We have also seen the studies and indications that Aboriginal people have a life expectancy of something like 20 years less than their white counterparts. This is not acceptable in 2004.

But there is hope, and we all need to congratulate ourselves and look forward. We have the establishment of three Koori courts in this state — at Shepparton, Broadmeadows and Warrnambool. We have the proposals for a children's Koori court. We also have the Victorian Aboriginal justice agreement. We have the Yorta Yorta Cooperative Management agreement and the Koori Business Network. We have Mr Gavin Jennings in the position of Minister for Aboriginal Affairs, and he is genuinely committed to Aboriginal people in this state and to improving their position. That is backed by the government and by the initiatives contained in our budget.

It is important to note the comment by the minister in a media release of 26 August this year. The media release states:

... amending the constitution was more than just symbolic.

'The constitution of Victoria is a living document that embodies who we are as a people and what we aspire to be', Mr Jennings said.

'It's a gesture backed by action — this government has introduced many practical initiatives to improve the lives of indigenous Victorians.

One of my constituents, Susan Rankin — Auntie Sue — has asked me as a member of Parliament and as her representative to read into my contribution parts of the letter she addressed to the Premier, the Leader of the Opposition, the Leader of The Nationals and the Minister for Aboriginal Affairs. I quote from the letter:

As a Jaara Ballug ... of the Dja Dja Wurrung language group of the Kulin nation I absolutely reject being implemented into the Victorian constitution on the following grounds:

I am bound by the oldest lore/law ... that goes back to the beginning of creation. I am not bound by this invading illegal law system that continues to perpetrate the ongoing genocide of my people.

...

If this amendment goes ahead it shows clear intent to commit genocide against myself as a Jaara Ballug ... by further forcing me to be part of an invading law system. I have never ceded and cannot cede my sovereignty, which was given to me by the creator, Bunjil.

I have been a participant in the Harmony Cafes in Ballarat this year as part of the Ballarat Living in Harmony initiative — a federally funded initiative. One of the cafes was about the indigenous community in Ballarat. I would like to read a letter from Murray Harrison, an elder at the Ballarat and District Aboriginal Cooperative. It says:

Dear friends of the Harmony Cafe,

The cafe held at Sovereign Hill to me as a Koori elder was a huge success. So many people who had attended had no idea of what was happening in the Koori community. We needed them to be part of the voice that had been missing and needed to be heard in the wider community.

The problems of health, housing, employment and education were made clearer on the night. The guest speaker, Mr Mervyn Atkinson, spoke excellently of the things that needed to be done better in our time now.

... at the conclusion of the evening, Mervyn, Ms Karen Heap, the CEO —

of the cooperative and other elders —

... were able to answer questions from the floor. That night to me was personally fulfilling.

These are two examples of the diversity of the Aboriginal community within my electorate. Members of this community should have a voice and should be recognised.

This bill is important, and it should be supported. It goes some way — perhaps a small way, but at least some way — to recognising that the indigenous people

of this state are the original custodians of the land. They have a unique status as descendants of Australia's first people. They have a deep and abiding spiritual and cultural connection to their lands and waters, and they have made and continue to make a unique contribution to the identity and wellbeing of Victoria. I commend the bill to the house.

**Ms MIKAKOS (Jika Jika)** — Before I begin my contribution to the debate on this bill I acknowledge the traditional custodians of the land on which we are standing, the Kulin nation, and pay my respects to their elders, past and present.

Both in 1998 and 2000 the Victorian Parliament formally expressed its sorrow at the damage that past policies and practices have inflicted on indigenous people in Victoria. We have also heard the Premier and the Minister for Aboriginal Affairs speak in the other place and here during this parliamentary sitting, renewing the Bracks' government's commitment to addressing indigenous disadvantage.

On each of those occasions the issues were discussed in a spirit of bipartisanship, and it is a spirit that I think is important we continue here today. The bill we are debating today is historic and one with which I am proud to be associated as a member of the Bracks government.

This bill will insert a new section 1A into the Constitution Act 1975. The new section specifically states that the legislative steps that led to the formation of the colony of Victoria did not involve proper consultation, recognition or involvement of the Aboriginal people in Victoria. The section will formally recognise that Aboriginal people as the original custodians of the land within Victoria have a unique status as descendants of the original inhabitants. They have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria and they have made a unique and irreplaceable contribution to the identity and wellbeing of Victoria. The section indicates that this statement of acknowledgements and recognition does not create any legal right nor provide a basis to take civil, legal action or affect the way in which other laws in Victoria can be interpreted. The content of this section and the words that have been used are the product of what I understand to be a very comprehensive range of consultations with Koori communities across Victoria. Of course, all Victorians have had the opportunity to make comments on the legislation.

The desirability and importance of constitutional recognition of indigenous Australians has been a

consistent theme in the reconciliation debate. A proposed new preamble to the Australian constitution was part of the referendum on an Australian republic in 1999. Sadly the wording of the proposed preamble was the result of an imperfect process and did not have the necessary support of the Prime Minister to be successful. I am optimistic that our proposal will not meet the same fate. The sad history of indigenous people in Australia has moved along a continuum from annihilation to segregation to assimilation. In the last decade or so the fashion has been to speak of tolerance. To me tolerance suggests a reluctant willingness to exist side by side, and I think we can do better than that. Mutual respect and understanding are what we should be striving for. I have spoken about the work and achievements of the Aboriginal justice forum many times in this place and the wonderful things being done under the auspices of the Aboriginal justice agreement.

Another area of indigenous affairs where the government has taken significant steps is in respect to native title. In July this year the Attorney-General signed the historic Yorta Yorta cooperative management agreement. The agreement is the product of extensive negotiations between the government and the Yorta Yorta people and highlights what can be achieved through negotiated outcomes. The agreement gives the Yorta Yorta a say in the management of the Barmah State Forest, the Kow Swamp and other areas of land along the Murray and Goulburn rivers. It involves the establishment of a joint management body that will advise the environment minister on work programs and land and water protection plans on Crown land in Yorta Yorta country. I congratulate the Attorney-General and the Yorta Yorta on this achievement and express a fervent hope that it represents a model for future indigenous land use agreements.

One of my key responsibilities as Parliamentary Secretary for Justice is to chair Aboriginal justice forum meetings. At these meetings I can see the sadness and pain felt by those speaking about their own, their family's and their community's experience with a justice system which has such a great impact on the lives of indigenous Victorians. What I can see are the relationships being built between communities and Victoria Police, between government agencies and local organisations and between individuals who have a common commitment to building a better future for indigenous Victorians. I believe that constitutional recognition is as important for these grassroots-level relationships as for progress in the more formal reconciliation process. It is symbolic change that we are talking about here. My view is that symbolic and practical change must occur in tandem, the former

indicating a formal commitment to progress and the latter delivering a concrete difference to individual lives. The meaning of this constitutional change cannot and should not be underestimated.

I cannot finish without saying a few words about the state of indigenous affairs policy at the federal level. The federal government is significantly changing the way services are delivered to indigenous Australians with no commitment to ensuring that they have an independently elected and representative voice on key issues of policy. We are also seeing the dismantling of indigenous legal aid through the contracting out of these services by the commonwealth. The threat to specialised services such as the Victorian Aboriginal Legal Service is the result of this short-sighted policy, and it is something that I am greatly concerned about. The regressive nature of federal government indigenous affairs policy — or a lack of a policy — threatens the welfare of indigenous Australians and their ability to participate fully in the social, political and economic life of our country. As the Aboriginal and Torres Strait Islander social justice commissioner observed in his 2003 social justice report, the federal government's policy of practical reconciliation has failed to address disparity between indigenous and non-indigenous Australians.

In the debate on this bill many honourable members have used historical references to reflect on where we stand today in relation to Aboriginal reconciliation. I want to refer to the story of Richard Windeyer, who arrived in Sydney from England in 1838 and quickly established himself as an eminent barrister and a politician. Windeyer was no supporter of Aboriginal rights or sovereignty. In a lecture he delivered in 1842 entitled 'On the rights of Aborigines in Australia' Windeyer made — and here I quote the eminent author Henry Reynolds:

... perhaps the most sustained and intellectually powerful attack on Aboriginal rights ever mounted in early colonial Australia.

At the end of his lecture, despite the arguments and analysis he himself had presented, Windeyer's own conscience on just treatment of indigenous Australians was not quiet. He asked:

How is it our minds are not satisfied? ... What means this whispering in the bottom of our hearts?

In closing I challenge the federal government, those opposite me and any who would question the need for this legislation to listen to the whispering in their hearts. Should they do so they will surely realise that we have here an opportunity that should not be missed. It is the



opportunity to right a longstanding wrong and strengthen our partnership with indigenous Victorians in building a better future for all of us. I commend the bill to the house.

**Ms CARBINES** (Geelong) — As a member for Geelong Province I am very proud to speak in support of the Constitution (Recognition of Aboriginal People) Bill, and in doing so wish to acknowledge the traditional owners of the land upon which we meet this afternoon, the Kulin nation. I pay my respects to their elders and any other elders who may be present today.

This bill will amend the Victorian constitution and give recognition to Victoria's Aboriginal people and their contribution to the state. It will be an important step towards reconciliation with our indigenous people. It is important to acknowledge that prior to white settlement more than 200 years ago the indigenous people of this country had lived in peace and harmony with their land for tens of thousands of years. It is therefore most appropriate that Aboriginal people and their contribution to Victoria be formally recognised in the Victorian constitution.

As it is currently worded the Victorian constitution makes no reference to and provides no recognition of the Aboriginal people of Victoria. The passage of the Constitution (Recognition of Aboriginal People) Bill corrects this historical oversight which has been perpetuated through successive generations since the formation of the Victorian constitution in 1854.

Clause 3 inserts a new section 1A into the Constitution Act 1975 headed 'Recognition of Aboriginal people'. Proposed subsections (1) and (2) state:

- (1) The Parliament acknowledges that the events described in the preamble to this Act occurred without proper consultation, recognition or involvement of the Aboriginal people of Victoria.
- (2) The Parliament recognises that Victoria's Aboriginal people, as the original custodians of the land on which the Colony of Victoria was established —
  - (a) have a unique status as the descendants of Australia's first people; and
  - (b) have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria; and
  - (c) have made a unique and irreplaceable contribution to the identity and wellbeing of Victoria.

Four years ago in a historic sitting of both houses in the Legislative Assembly our Parliament heard leaders of Victoria's indigenous communities speak of their proud

culture and history. It was the first time that an indigenous person had addressed Parliament.

### **Business interrupted pursuant to sessional orders.**

### **Sitting continued on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).**

**Ms CARBINES** (Geelong) — I was saying that four years ago we had a historic sitting of both houses of Parliament in the Legislative Assembly. Members of Victoria's indigenous community spoke of their proud culture and history. It was the first time that indigenous people had addressed Parliament. I remember feeling very honoured to be present on such an important occasion. In that year I was very proud to move a motion on behalf of the government in this place to acknowledge the stolen generations, and that motion was unanimously endorsed by this house. Before my time here in 1997 this house apologised to the Aboriginal people on behalf of all Victorians for past policies which had removed Aboriginal children from their families.

These are constructive bipartisan demonstrations of Victoria's commitment to reconciliation. They have been an important part of the healing process, not just for Aboriginal peoples but for the whole nation. We cannot change the past. We cannot change the dispossession of their land. We cannot change the decimation of Aboriginal people early in white settlement through loss of traditional food supply, loss of traditional spiritual connection and the introduction of devastating diseases to this continent. We cannot change the historic marginalisation of Aboriginal people across the nation, nor can we even begin to mend the families that were broken for all time through the removal of their children under government policy. What we can do is to be honest about it. We cannot change the past, but part of the healing process and one of the steps towards reconciliation demands an acknowledgment of that past. We must not shirk our responsibility to our indigenous people and their past. I support this bill because it is appropriate that Aborigines are recognised in the Victorian constitution. It is long overdue and it is the right thing to do. I commend the bill to the house.

**Mr SCHEFFER** (Monash) — I pay my respects to the people of the Kulin nation, the traditional owners and custodians of the land on which we stand, and I pay my respects to their elders, past and present. On behalf of the people of Monash Province I join all members of this house in supporting the passage of the Constitution (Recognition of Aboriginal People) Bill. This formal

recognition of Victoria's Aboriginal people as the original custodians of the land is long overdue. As I will try to show, the bill is powerfully but positively confronting.

By recognising Victoria's Aboriginal people, all Victorians formally and publicly acknowledge that indigenous Victorians are unique as the descendants of the original inhabitants, and that they — as the bill states — have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria and that they have made a unique and irreplaceable contribution to the identity and wellbeing of this state. This recognition is important because it goes some way to acknowledging the wrongs that were done to Aboriginal people who were here when the new colony was established, and to the generations that followed.

This bill recognises that the colony of Victoria was established without proper consultation with or involvement of the Aboriginal people. As a non-indigenous Australian, the sense of trespass runs deep. There is scarcely a corner of the world where European colonialism has not left its mark. Wherever the colonisers went, the lives of the colonised were irrevocably altered through economic exploitation, political interference and cultural turmoil. Much of the wealth and power of the west was derived from the exploitation of its colonies.

The consequences of colonialism and imperialism are complex, but those of us who are of European descent are bound to acknowledge that it involved great hardship for those who were colonised. The European slave trade alone took tens of millions of people from central and west Africa from the late 15th century to its abolition in England in 1833. The impacts of this human trafficking have affected Africa and North and South America to the present day. The massive movement of people fleeing the colonisers, the redrawing of maps, the reassignment of territories, renaming sites, the separation of families and the reorganisation of production threw millions into insecurity. The instability of many parts of the contemporary world can to a great extent be traced back to the effects of 500 years of colonisation and Western expansionary imperialism.

Wherever European powers sought to colonise they met with indigenous resistance. The establishment of colonies is necessarily a violent process. The story of white settlement in Australia is at root one of the many stories of colonial trespass and contains the same elements of violence, disruption and suffering that we find elsewhere in the world. Because trespassers are

resisted and people suffer, colonisers create myths to justify and extol their actions. European explorers, cartographers and the first settlers are eulogised for taming and civilising the wilderness. Indigenous people on the other hand are demonised, edited out or romanticised. Generations were taught that Australia was discovered rather than invaded. The story of the European invasion was and still is a struggle for power and meaning. The transplantation of Europeans has been explained through the myth of empire, the self-evident superiority of the ever-expanding culture of the west.

The inclusion of unattributed Aboriginal stories contained in the set of Victorian readers provided to every primary school student from the 1930s to the early 1960s was one important way that our true history was hidden from generations of school children including myself. These stories were never connected to the Aboriginal people or their culture. Greek and Roman myths, for example, were sourced. But the Aboriginal stories were never recognised as tales of the Kulin nation or myths of the Wurundjeri. Mary Gilmore tells us in *The Lost Tribes*:

Never again from the night, the night that has taken,  
Shall ever the tribes return to tell us their tale;  
They lie in a sleep, whence none shall ever awaken  
To make a shadow at noon or follow the quail.

And Henry Kendall's poem *The Last of His Tribe* tells of the inevitable passing of the Aboriginal people. The material causes of the tribesman's loss and loneliness are unexamined and unrecognised — there is no history, no place, no politics. In this ballad the destruction of a people passes as naturally as the annual departure of swallows. There is not a shred of rage or confusion.

The true recognition of Aboriginal people by non-indigenous Australians for me involves facing up to this history. It involves recognising at all times that I stand on Aboriginal land. The European colonists in Victoria found wetlands in the bay area, abundant with water plants and bird life. But from the first arrival in the 1830s the colonisers chopped down the trees, cleared tracks and laid roads, hunted animals and birds and fished the waters. They ploughed the land and planted orchards, grazed cattle and sheep and released exotic animals, birds and fish with little regard for anything other than themselves and their own aspirations. The loss, disorientation and grief, the sense of powerlessness, increasing hunger and ill health, exposure and insecurity this caused local Aboriginal people could not have gone unnoticed — but it was unrecognised.

The bill gives recognition to the contribution Aboriginal people made to Victoria. Most importantly, Aboriginal people preserved and held the precious land and all its creatures for 30 000, 40 000 or 50 000 years until the 1830s. We are so immersed in this great contribution that we can sometimes fail to recognise it.

The ministerial statement *Building a Better Future for Indigenous Victorians*, which was delivered by the Minister for Aboriginal Affairs, Minister Jennings, in this chamber earlier in the sitting, was remarkable for its measured optimism. The bleak history of the treatment of Aboriginal people by European people and their governments in Victoria was clearly acknowledged, as were the inequalities and injustices that Aboriginal people in Victoria continue to experience. Both the Premier and Minister Jennings have set out a program for the government that, in partnership with Aboriginal Victorians, will make a material difference. This work includes addressing deep-seated human rights issues relating to the stolen generations, land justice, cultural heritage, supporting indigenous young people, health and employment.

The Constitution (Recognition of Aboriginal People) Bill is one step towards reconciliation. While at one level recognition of Aboriginal people is symbolic because the bill specifically says that there is no intention to create a right to legal action, at another level recognition in itself makes a real difference. An apology or a public statement of recognition is critically important to anyone who has been harmed. Public recognition can help unburden people who have been wronged

Since the early 1990s there has been a strong public movement in support of reconciliation. In Monash Province I am proud to say that there is a citizens for reconciliation group working in each of the cities of Port Phillip, Stonnington and Glen Eira. There are not very many Aboriginal people living within those municipalities, but to worry about this is to miss the point. Reconciliation is also non-indigenous business — non-indigenous Australians learning to recognise indigenous Australians and their historical presence in the trespassed land. I believe strong local government engagement with these groups is very beneficial for non-indigenous Victorians as well as for Aboriginal people. The flying of the Aboriginal flag wherever possible and the acknowledgment of the land and the original custodians at all official events, for example, are symbolic but raise consciousness and change attitudes and eventually behaviour because they recognise at many levels both the harm Europeans have done and the path to reconciliation.

Our European past is deeply troubling, and as descendants of European colonisers I believe we are each called upon to answer for the actions of our predecessors. But the world is as we find it. Non-indigenous Australians are in their own way connected or connecting to the land and have a powerful cultural investment in it, making Australia one of the most successful multicultural societies in the world. The Constitution (Recognition of Aboriginal People) Bill is an important and confronting piece of legislation for both non-indigenous and indigenous Victorians alike, and I commend it to the house.

**Mr GAVIN JENNINGS** (Minister for Aboriginal Affairs) — I am grateful for the opportunity to conclude this important second-reading debate, which will mark the amendment to the Victorian constitution to recognise that Aboriginal people were here prior to the settlement of what became known as the colony of Victoria. In my view it corrects a blind spot in the original constitution as it was drafted in 1854. Some 150 years later we are correcting that blind spot to recognise that Aboriginal people were here prior to European settlement, and from that date which preceded the settlement of the colony of Victoria until this day they have made a unique and irreplaceable contribution to the wellbeing of the Victorian community.

In the words of Mr Scheffer, who preceded me in this debate, this bill will benefit the entire Victorian community because we will be a better and stronger place. We will be more respectful of our cultural heritage, more respectful of the history of this state and we will have better laws because the very foundations of our constitution will be amended to address that blind spot.

The bill makes it very clear that it does not amend any other statute in Victoria. However, as a foundation stone for our parliamentary democracy, our constitution is vital in that it should accurately convey a sense of history and place. Some 150 years later we are doing something to address that. There has been some debate in the Victorian community on whether this bill and the amendment to the constitution create first-class and second-class citizens within the state. I would say as a proponent of this bill that all citizens of Victoria must be understood to be equals before the law and before the constitution of Victoria. Clearly major historical inequalities have existed in the state that have had an impact on the quality of life of Victorian Aboriginal people from European settlement to this day — unequal outcomes to life expectancy, unequal outcomes to education and job opportunities and unequal outcomes

in a whole range of health and other indicators of the quality of life.

A number of members in their contributions to this debate have said that this is symbolism in the constitution. Yes, it is symbolism. In terms of the government's advocacy of this position, no-one has advocated that it plays a more significant role than re-establishing the correct foundation for a better future for Aboriginal people. The Premier in his statement in the Legislative Assembly outlined a range of government activities that are designed to support the wellbeing of Aboriginal people. They range from the Aboriginal justice agreement to the creation of Koori courts, the introduction and establishment of the stolen generations organisation, programs designed to militate against family violence within Aboriginal communities, programs that support the artistic endeavour of Koori arts within the state and programs designed to assist the capacity of community wellbeing and community organisations in the state.

To coincide with the introduction of the bill in this place I made a ministerial statement that referred to a number of important initiatives, such as the Council of Australian Governments trial program within the Shepparton region, which brings together a partnership between Aboriginal communities and the commonwealth, state and local government jurisdictions to try to find better ways to provide better services to Aboriginal communities in the future. I emphasise hope for the future and want to establish a sense of optimism within young people in the Aboriginal community by trying to build bridges to their future through appropriate education programs and the support that we can provide them.

I have pointed to a number of initiatives where we try to achieve land justice for Aboriginal people in a way that has not been achieved in Victoria, with very rare exceptions. The Yorta Yorta agreement and the impending Wotjobaluk agreement could be a foundation for more land justice opportunities in the future. I reported to the house extensive consultations that have taken place throughout the Victorian community, in particular with the Aboriginal communities, about the desirability of this amendment to the constitution and that range of programs.

A number of members who contributed to this debate said that the bill is good but will not do much to improve the quality of the daily lives of Aboriginal people in this state. I hope collectively by our efforts through government programs and through our involvement as members of the community that we as members of this Parliament will play a role in building

a greater sense of reconciliation in the state and a better Victoria for all of its citizens by supporting this constitutional amendment. I thank people who have contributed to the debate. I thank people from all political persuasions who are part of a movement to pursue reconciliation for all Victorians and indeed all Australians.

**Motion agreed to.**

**Read second time; by leave, proceeded to third reading.**

*Third reading*

**The PRESIDENT** — Order! I am of the opinion that the third reading of the bill requires to be passed by a special majority. I ask the Clerk to ring the bells.

**Bells rung.**

**Members having assembled in chamber:**

**The PRESIDENT** — Order! In order that I may ascertain whether the required special 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 special majority.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## STATE CONCESSIONS BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Mr GAVIN JENNINGS (Minister for Aged Care).**

## PHARMACY PRACTICE BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Mr GAVIN JENNINGS (Minister for Aged Care).**

## MAJOR CRIME (INVESTIGATIVE POWERS) BILL

*Introduction and first reading*

**Received from Assembly.**

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

### ADJOURNMENT

**Mr LENDERS** (Minister for Finance) — I move:

That the house do now adjourn.

### Professional indemnity: Malvern playgroup

**Hon. ANDREA COOTE** (Monash) — My issue tonight is for the Minister for Finance, John Lenders. The Malvern Special Needs Playgroup provides a service within our community that is very much needed. There is a great shortage of special needs playgroups, and the Malvern playgroup fulfils a very special need within our community for which it requires recognition. It has been operating for 30 years. I have a letter dated 26 October from the secretary, Margaret Lawrence, which says:

The playgroup operates on Tuesday and Thursday mornings. Of recent years we have been very fortunate to obtain some funding from the federal government that has allowed us to employ a coordinator, physiotherapist, speech pathologist, occupational therapist and an early childhood educator. In addition, we have many volunteers, as the playgroup operates on a one-on-one basis with the children.

The problem is that the paid staff of this playgroup have to have professional indemnity insurance. This insurance is both costly and very difficult to get. This added cost will be beyond the means of this special needs playgroup. If the insurance premium is not paid, the federal government has no other option but to be forced to withdraw its funding. The solution is quite complicated. Mrs Lawrence's letter further says:

Unsubstantiated advice has been given that if funding is received from the state government that the playgroup would fall under the state's PI [public indemnity] policy thus avoiding the need for the playgroup to take out this costly form of insurance, and so guaranteeing the continuance of this special playgroup. An alternative option is to obtain additional funding at least sufficient to cover the PI insurance premium, provided cover can be arranged.

Given that it fulfils a very important role within our community, I ask the minister if he will investigate the option of providing professional indemnity insurance to this very special Malvern Special Needs Playgroup.

### Greater Geelong: mayor

**Hon. J. H. EREN** (Geelong) — I wish to raise an issue for the attention of the Minister for Local Government. The action I seek is for her department to investigate the possibility of the City of Greater Geelong residents directly electing their mayor. There has been a fair bit of media coverage in Geelong over the past few years in relation to this matter, and it was resurrected in the *Geelong Advertiser* last Saturday when the current mayor, Ed Coppe, raised the issue. I have been approached by many people in my electorate asking me whether, considering that Geelong is the second largest city in Victoria, it is possible to publicly elect the mayor. I am also informed that many states of Australia have directly elected mayors — for example, Queensland, Northern Territory and Tasmania all have popularly elected mayors for all their councils; South Australia has 47 directly elected mayors and New South Wales has 27.

**Hon. W. R. Baxter** interjected.

**Hon. J. H. EREN** — Here in Victoria, Melbourne has a directly elected mayor, which I understand has been successful, Mr Baxter, particularly in terms of the stability and cohesion needed for good governance.

People in Geelong are not happy with all the politicking that too often takes place every year leading up to the council electing a mayor. It can be very disruptive. In March this year the residents of Geelong saw first hand how nasty it can get when the previous mayor did not want to hand over the baton to the current mayor, when clearly the councillors had decided it was time for a change. This obviously caused a lot of friction among the councillors, and Geelong cannot afford to have these types of disruptions. I therefore seek the assistance of the minister to look into this matter.

### Fernlea House: funding

**Hon. A. P. OLEXANDER** (Silvan) — I raise a matter for the Minister for Health in the other place. The issue I raise again in this chamber is that of inpatient palliative care services in the outer east of Melbourne. The reason I continue to raise this issue is that there has not been a satisfactory resolution to my many queries of the minister on this matter. The last time I raised it was 14 September this year. I asked the minister at that time whether, in recognition that the state government has a critical role to play in the provision of palliative care in the outer east, she would establish a working party to work with the Fernlea House group. It is establishing such a facility to identify sources of funding and make funding available before

the next state budget. I did this in full accord with the local community and with the Fernlea House group.

After I made that request the federal government announced on 5 October that it would make a grant of \$800 000 available to Fernlea House for the establishment of that badly needed facility in the east. Of course, still no funding from the state government had been made available. On 7 October I received a letter from the Minister for Health in which she made some bizarre statements. The first thing she said was that the \$892 000 that the group had petitioned the state government for was not funded for several reasons. Chief amongst them was that she and her department were concerned about the quality of services that would be provided to the terminally ill patients in that facility — a facility which has not admitted a single patient because it has not opened!

She also said that there was no need to meet or to establish a working party because they had already met with them, looked at their costings, found them to be unfeasible and decided to take no further action. The minister also said in her letter that her department was working on developing a proposal to establish a specialist inpatient palliative care facility in the outer east, and the implementation of a new facility would obviate the need for residents in the eastern suburbs to use this other facility.

Given that the federal government has funded nearly \$1 million to Fernlea House, I ask the minister: will she outline to the group her specific concerns about the care of patients in that facility? Will she also tell us where and when she will establish her alternative facility for residents in the outer east?

### **General practitioners: community health centres**

**Mr SOMYUREK** (Eumemmerring) — I direct to the Minister for Health in the other place my question concerning the allocation by the state government of \$2.8 million for its GPs in community health centres strategy. As I understand it, this \$2.8 million initiative will provide more than 120 000 extra GP bulk-billing appointments for Victorians who find it difficult to access GP services at the moment.

I understand this \$2.8 million is the first instalment of a project that will eventually end up being valued at \$8 million over the next four years. The first instalment will fund the establishment of 14 new bulk-billing facilities across the state with other facilities coming on stream as we go through the next four years. This initiative will help more disadvantaged Victorians to

secure GP appointments by establishing new GP clinics in growth areas, increasing bulk-billing services and providing additional after-hours services to meet community demands. I would have dealt with the Howard government's form on GPs, but I have federal election fatigue, so I will move on!

This initiative should also target areas where there are low rates of bulk-billing and where high numbers of people are presenting at hospital emergency departments seeking primary care. This is naturally placing increasing pressure on emergency departments and clogging up hospital services with people who should be seeing GPs. I congratulate the minister on this new GP initiative. As I said, it should assist in easing the burden on emergency departments.

Given that the Dandenong region has a heavy concentration of people from low socioeconomic backgrounds and given that the City of Casey is one of the fastest growing municipalities in Australia, I specifically request that the minister extend the GPs in community health centres strategy into these areas within my electorate.

### **Parks Victoria: land purchase**

**Hon. BILL FORWOOD** (Templestowe) — I rise to seek a specific action from the Minister for Environment in the other place. A once-in-a-100-year opportunity has occurred to purchase some land along the riparian strip of the Yarra River between Heide and Birrarung Park. Members of this place would know that it has long been the ambition to have a track from the headwaters of the Yarra down to where it meets the sea. Public acquisition overlays have been placed on a lot of the land down there, the basis behind it being that when this land comes up for sale that is the opportunity for Parks Victoria to move in and negotiate with the purchaser and the vendor to ensure that the government gets the riparian strip. In that way access back to the river becomes available.

Honourable members will therefore be pleased to hear that the Yarra Valley Country Club, situated quite close to Heide and quite close also to the Bulleen driving range with which I am familiar, has come on the market. The advertisement states,

For sale: Yarra Valley Country Club. 100 TAB machines, 9-hole golf course, tennis courts, swimming pool, gym, squash courts, bowling greens —

et cetera, plus 6 acres of land suitable for commercial use. As I said, this is an opportunity for the government to negotiate to ensure that the riparian strip comes into the hands of Parks Victoria.

The middle Yarra strategic advisory committee, with which I had quite a bit to do in the 1990s — it was chaired at that stage by Garry Griffin and was a very strong committee — has gone out of operation. The government has put a new advisory committee in place, but I know that the new committee, like the old committee, has had a long and dedicated attitude that as the opportunity becomes available it should be taken to ensure that we continually build along the river. As we did with the Bulleen driving range site and with the Veneto Club, these opportunities need to be taken to ensure that as time goes by we can ensure that the track goes the whole way through.

**Hon. J. H. Eren** — What do the local councils say?

**Hon. Bill Forwood** — I hope like heck, and believe, the local councils will also support this. Councils on both sides of the river certainly have in the past. However, this is a public acquisition overlaid by the government and it is the government's responsibility under Parks Victoria to buy this land — just the strip, not the whole property — to ensure it becomes public open space. The acquisition overlay is on this land, and the land is now up for sale. Now is the time. It is important that the government acts immediately to get involved in this process to ensure that this opportunity, which only comes around once in a lifetime, is not missed.

### **National Youth Week: funding**

**Hon. S. M. NGUYEN** (Melbourne West) — I would like to ask a question of the Minister for Employment and Youth Affairs in the other place. National Youth Week 2005 will be held between 9 and 17 April. It is a joint initiative of the commonwealth, state and territory governments. In Victoria National Youth Week is organised by the Office for Youth in the Department for Victorian Communities. The Office for Youth and young people in Victoria have organised activities and events throughout Victoria. The office also helps people access grant applications. Grants of up to \$5000 are now available online. They are available to community organisations, local councils and young people who are supported by their school who want to organise and hold a diverse range of events and activities during National Youth Week 2005.

This year's events included live performance, dance parties, art exhibitions, youth forums and workshops, and community projects like tree planting and mural painting. In my electorate Vietnamese community organisations, the Maribyrnong City Council, the Western Bulldogs and many youth organisations have

organised community events for young people. I would like to ask the minister to continue to support many important projects in my electorate of Melbourne West.

**The PRESIDENT** — Order! The adjournment matter raised by the Honourable Sang Nguyen does not meet the guidelines. I will call the next member so the Honourable Sang Nguyen can amend his request. I have made it abundantly clear to the house that when raising a matter on the adjournment members must make a complaint, make a request or pose a query. To ask a minister to continue to do something does not meet those guidelines. If that is not achievable, I will rule the member's adjournment matter out of order.

### **Road safety: Koonung Province**

**Hon. B. N. ATKINSON** (Koonung) — I, like the Honourable Andrew Olexander in a members statement he raised yesterday, wish to draw attention to the Royal Automobile Club of Victoria's traffic trouble spot survey. I direct my issue to the Minister for Transport in another place in regard to that survey and government funding of traffic trouble spots around the metropolitan area. The survey by the RACV is called the 2004 red spot survey. It has received quite a deal of publicity in the past few days. It identified 14 intersections or traffic bottlenecks in and around the metropolitan area which are of concern and represent dangerous driving conditions.

I note that 5 of the 14 trouble spots identified by the RACV in its survey are actually in my electorate of Koonung. Those intersections are: Springvale Road and Maroondah Highway, Nunawading; Blackburn and Central roads, Blackburn; Ferntree Gully Road between Springvale Road, Glen Waverley, and Stud Road, Scoresby; the Mitcham-Whitehorse road intersection in Mitcham; and Wellington Road between Springvale Road, Mulgrave, and Napoleon Road, Rowville. All five of those intersections are of major concern.

While the Scoresby freeway — indeed the Scoresby tollway — which is being constructed by the government will provide some improvement in traffic conditions in the eastern suburbs, the survey has correctly identified that it will not address all of the issues at each of these intersections. There is a need for further works at each of the five intersections I have just named.

I seek the support of the Minister for Transport for funding applications submitted by the cities of Whitehorse, Knox and Monash seeking to address these traffic red spots and make some improvement to the

safety aspects of these roads and intersections which will result in some better traffic clearance.

### **Youth: arts participation**

**Hon. KAYE DARVENIZA** (Melbourne West) — I wish to raise a matter for the attention of the Minister for Employment and Youth Affairs in another place. The matter I wish to raise concerns actions which are being taken by the minister and her department to ensure that young Victorians are being encouraged to get more involved in the arts. I note that the minister recently made an announcement regarding advocating the arts to young people. I am particularly interested in the actions being taken or proposed to be taken in regard to this and other initiatives in my electorate of Melbourne West.

Melbourne West is one of Melbourne's growth corridors. It is one of the fastest growing areas in Melbourne, with a very large and growing number of young people. Keeping young people active and engaged can be an ongoing challenge for the community. The arts are extremely important to young people. There is strong evidence to prove that a young person's mental health and wellbeing, performance at school and level of involvement in the community can all be improved by participation in the arts. In fact a Victorian Health Promotion Foundation study found that at-risk young people who are involved in arts projects made the transition from social isolation to meaningful engagement by being involved in plays, performances, exhibitions or song writing.

Given these findings of the VicHealth study and the strong evidence available of the positive benefits of young people being involved in the arts, the specific action I am requesting is that the Minister for Employment and Youth Affairs and her department take all necessary steps to ensure that this important arts information is made as widely available as possible and is accessible to the many young people who make up my electorate of Melbourne West.

### **Drought: preparedness**

**Hon. W. R. BAXTER** (North Eastern) — I raise for the attention of the Minister for Agriculture in another place the issue of drought preparedness. I regret to inform the house that October has passed by with virtually no rain at all in northern Victoria. Traditionally October is our wettest month. There were many farmers, particularly grain growers, who were pinning their hopes of getting any sort of decent harvest on some rain falling in October. It is very disconcerting that the rains failed almost totally. I know that stress

levels amongst farmers and town businessmen who supply the farming community have risen quite dramatically in the last few days.

Bearing in mind that this is the eighth successive year of below-average rainfall, that our irrigation dams are nowhere near full, that in 2002 there was a very serious drought with little recovery time during 2003 and that 2004 has seen a very serious deficiency in rainfall, it seems to me that there will be a need for some sort of assistance. Much of Victoria is already suffering under exceptional circumstances (EC) caused by the 2002 drought, and I understand that the federal Minister for Agriculture, Fisheries and Forestry, Mr Warren Truss, is going to roll those declarations over in the next few days. In fact only today he declared EC for two new areas in South Australia and around Goulburn.

However, it seems to me that in the north-west, which has not qualified for EC, we could have a situation where farmers with failed crops on top of failed crops in 2002 and poor harvests in 2003 miss out on assistance while other areas that are not in good condition but are better off than the north-west benefit from the rollover of EC.

I point out to the minister — and I am in no way being critical of the minister or this government — that we have a serious situation caused by drought staring us in the face in northern Victoria again. I know the department has a drought manager in position, but some message needs to go out to the farming community that the government is well and truly on top of this and is ready to act should the situation worsen — which, regrettably, it appears likely to do.

### **Western Port Highway, Lyndhurst: traffic control**

**Hon. R. H. BOWDEN** (South Eastern) — I seek the assistance of the Minister for Local Government. It may initially seem to be a transport matter, but it will be apparent when I have made my request that it needs to be dealt with by the Minister for Local Government.

As honourable members know, on many occasions in this chamber I have brought to the Parliament's attention my growing concern about the increasing interference in the safety and traffic situation on the Western Port Highway at Lyndhurst. When it was originally designed, this road was intended to be a high-speed, high-capacity and high-efficiency regional road artery. It was regrettably downgraded some years back to the concept of a highway, and that enabled the City of Casey to encourage and assist developers in the Lyndhurst area to consider the Western Port Highway



as a potential opportunity for the entrance and exiting of subdivisions.

In recent months we have seen the very unwelcome arrival of a set of traffic lights — the first of several sets, I am informed, that will be located over several kilometres of this section of road. I have requested, and repeat, that I want those lights removed, and I do not want others installed on that same section of road. I am concerned that the City of Casey is continuing to take the attitude that, if VicRoads has approved this matter, it only concerns VicRoads and has nothing to do with the City of Casey. I suggest that the City of Casey is not only being unfair to VicRoads, but it is attempting to mislead the community and in a way mislead the Parliament, hence my repeated contributions. I am not happy about this, and the City of Casey should have a long, hard think about its attitude and the way it is not cooperating.

My concern is that the installation of traffic lights along this section of road is not only undesirable but is a gross imposition on both the level of safety and the efficiency of this extremely important road artery. The City of Casey is not being cooperative; it is trying to be clever and smart, but it is actually being counterproductive. What it is doing is reprehensible. My request is simply this: in view of the unsatisfactory attitude of the City of Casey, I want the Minister for Local Government to initiate a full departmental inquiry into each and every aspect of the development of roads in this section of Lyndhurst.

### Hospitals: ambulance bypass

**Hon. D. McL. DAVIS** (East Yarra) — In my adjournment item today I seek the assistance of the Minister for Health in the other place on the matter of ambulance bypass and diversion, and I seek leave to incorporate into *Hansard*, if possible, a table. If that could be done it would be helpful.

**The PRESIDENT** — Order! Just to clarify the situation for the member, when it comes to incorporating material into *Hansard*, the requirement is to check with the party leaders, to check with *Hansard*, and to advise the President that all those things have been done. Rule 5.03 of the *Standing Orders and Rules of Practice of the Legislative Council* states:

In considering any request for incorporation the President must be satisfied that —

- (a) the material is strictly relevant to the debate; and
- (b) no matter is included which otherwise would be inadmissible in debate; and

- (c) the source of the material is identified; and
- (d) the information is not readily accessible elsewhere; and
- (e) it is technically feasible to reproduce the material in *Hansard*.

Since I do not have the answer to any of the above questions, I cannot give the member the opportunity to incorporate the table into *Hansard*.

**Hon. D. McL. DAVIS** — That is all right. I will deal with the figures anyway; I will read them in. With respect to ambulance diversion and bypass, in the June quarter 1999, 130 ambulance bypass occasions occurred — that is, diversion of ambulances away from hospitals. By the June quarter 2003 this figure had grown to 178; and in the June quarter 2004 it had grown to 238. However, during that period the hospital early warning system — which Mr Viney will be well aware of — was introduced. This happened in December 2002. In the June quarter 2003 there were 632 occasions when the hospital early warning system (HEWS) was used, bringing the number of ambulance diversions to 810.

We do not know the number of ambulance diversions for the June quarter 2004, because the Bracks government does not declare those matters. But it seems there has been a massive increase in the number of ambulance diversion incidents comprising both bypass in the formal sense and the so-called hospital early warning system. The fact is a bypass is a bypass by whatever name the government proposes to give it. When an ambulance is speeding towards a hospital and the beep goes out advising it to head elsewhere because the hospital is unable to manage that patient, that is a bypass — that is a diversion — in any sense of the word, and it will affect the patient in the same way.

The Auditor-General said there is a risk that the HEWS may be used as a substitute for bypass. Unfortunately that warning has been shown to be accurate. In the June quarter 2004 there may in fact be up to 700 HEWS occasions, bringing up to between 900 and 1000 the number of ambulance diversion incidents. That is a massive blow-out from just 130 occasions in the June quarter 1999. The massive number of ambulance diversion incidents that has occurred in that last quarter is now causing great concern in the government. Finally the government is beginning to wake up to this. What is required is a declaration of the hospital early warning system data the government collects, which the Auditor-General collected for some months and reported on in his report of May this year.

I seek from the minister a declaration of the June quarter hospital early warning system figures and a commitment to include them in all quarterly reports from then on.

### Corrections: community-based orders

**Hon. RICHARD DALLA-RIVA** (East Yarra) — I refer my request on this adjournment debate to the Minister for Corrections in the other place. This issue relates to the community correctional services (CCS) program, which provides an overseeing role for those offenders on community-based orders (CBOs) or intensive correction orders. Corrections Victoria's own figures show there are about 8500 offenders on CBOs across Victoria at any one stage. In a recent report in the Warrnambool *Standard* of Thursday, 14 October, under the headline 'Lazy crims' there was an exposé in relation to a number of persons who were on CBOs who had been simply failing to attend relevant workplace orders. It reported that a Terang man failed to appear for community work nine times but had never been charged with breaching his CBO. He had only been brought before the Warrnambool Magistrates Court in that week for breaching the order because he had stolen a clothes dryer from a hotel.

The interesting issue I raise in this adjournment debate is the range of local community-based charities that have been rejecting offers of work by offenders who are under CBOs. Lifeline South West chief executive officer Georgia Richmond is reported as saying that her organisation had stopped taking offenders earlier this year because they were more of a hindrance than a help. She said it was disappointing that the system had been let down, because they were always desperate to find additional volunteers.

The Warrnambool Salvation Army — it is unusual to have the Salvos complain about particular matters — is reported as saying that the community work system is failing and that the charity had cut back on the number of offenders it took under its wing. Further the Warrnambool Cemetery Trust secretary, Jack Daffy, is also reported as saying that offenders were not providing the necessary service and that in fact it was becoming a bit of a joke in terms of trying to manage them.

The realities are that the government has said much about the fact that it is putting additional resources into overseeing the community correctional services. My request is that the Minister for Corrections advise what action he will be taking to ensure that offenders who are on CBOs are actually doing community work pursuant

to the relevant court orders in the Warrnambool and surrounding areas.

**The PRESIDENT** — Order! I ask Mr Sang Nguyen to clarify his request to the minister.

### National Youth Week: funding

**Hon. S. M. NGUYEN** (Melbourne West) — I ask the Minister for Employment and Youth Affairs to take specific action to financially support the important events for National Youth Week 2005 in my electorate.

### Responses

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — The Honourable Andrea Coote raised the matter of the Malvern Special Needs Playgroup and professional indemnity insurance, and I will refer it to the Minister for Finance.

The Honourable John Eren raised a matter regarding having a directly elected mayor in the City of Greater Geelong, and I will refer that matter to the Minister for Local Government.

The Honourable Andrew Olexander raised the matter of inpatient palliative care services, and I will raise that with the Minister for Health in the other place.

Mr Somyurek raised the matter of the GPs in community health centres strategy in relation to the Casey area, and I will raise that matter with the Minister for Health in the other place.

The Honourable Bill Forwood raised the matter of the sale of a riparian strip of land along the Yarra and the Yarra Valley Country Club. I will refer that matter to the Minister for Environment in the other place.

The Honourable Sang Nguyen raised the matter of National Youth Week and resources in his electorate, and I will refer that to the Minister for Employment and Youth Affairs in the other place.

The Honourable Bruce Atkinson raised the matter of the traffic red spot survey, also known as the trouble spot survey. I will refer that matter to the Minister for Transport in the other place.

The Honourable Kaye Darveniza raised the matter of support for young people in the arts in Melbourne West Province, and I will refer that to the Minister for Employment and Youth Affairs in the other place.

The Honourable Bill Baxter raised the matter of drought preparedness, particularly in the north-west of

the state, and I will refer that to the Minister for Agriculture in the other place.

The Honourable Ron Bowden raised the matter of the Western Port Highway at Lyndhurst and associated matters, and I will refer that to the Minister for Local Government.

The Honourable David Davis raised the matter of ambulance diversions in the June quarter, and I will refer that to the Minister for Health in the other place.

The Honourable Richard Dalla-Riva raised the matter of the community correctional services program in Warrnambool and surrounding areas, and I will refer that to the Minister for Corrections in the other place.

**Motion agreed to.**

**House adjourned 5.30 p.m.**



**QUESTIONS ON NOTICE**

*Answers to the following questions on notice were circulated on the date shown.  
Questions have been incorporated from the notice paper of the Legislative Council.  
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.  
The portfolio of the minister answering the question on notice starts each heading.*

**Wednesday, 3 November 2004**

**Education services: workplace bullying**

**1763. THE HON. DAVID KOCH** — To ask the Minister for Energy Industries (for the Minister for Education Services):

- (a) How many cases of bullying in the workplace have been reported to each department or agency under the responsibility of the Minister between 1 January and 31 December 2003.
- (b) How many of these claims resulted in WorkCover cases being established.
- (c) What was the total cost of WorkCover claims for bullying in the workplace for each department or agency under the responsibility of the Minister between 1 January and 31 December 2003.
- (d) What has been the dollar increase in premiums for each individual Department or agency due to claims for bullying in the workplace.

**ANSWER:**

I am informed as follows:

There were 7 incidents of bullying in the workplace recorded on the Department's incident reporting system over the period 1 January 2003 to 31 December 2003. It should be noted that these incidents relate to the 56,540 Department of Education and Training employees based in state schools, regional offices and head office.

Of these 7 reported incidents, 3 resulted in WorkCover claims being lodged by the employees who reported the incidents.

It is not possible at this stage to assess the impact of these claims on the cost of the Department's WorkCover premium as claims lodged over this period will continue to affect the calculation of the Department's WorkCover premiums until the end of the 2006/07 financial year.

**Treasurer: Transport Accident Commission — stress-related leave**

**2058. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to staff members of the Transport Accident Commission on stress related leave in 2002-03, what was the — (i) number of days taken; (ii) estimated cost; and (iii) total number of staff involved.

**ANSWER:**

I am informed that:

The organisation which is the subject of your question does not fall within my portfolio responsibilities.

**Treasurer: Victorian Funds Management Corporation — stress-related leave**

**2059. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to staff members of the Victorian Funds Management Corporation on stress related leave in 2002-03, what was the — (i) number of days taken; (ii) estimated cost; and (iii) total number of staff involved.

**ANSWER:**

I am informed that:

- i) The number of days taken was nil.
- ii) The estimated cost was nil.
- iii) The number of staff involved was nil.

**State and regional development: Regional Infrastructure Development Fund projects**

**2068. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): What was the value and number of Regional Infrastructure Development Fund projects that have been ‘re-phased’ by the Department into the next financial year in each year since 2000-01, including the projects ‘re-phased’ for 2004-05.

**ANSWER:**

I am informed as follows:

Individual RIDF projects have not been ‘re-phased’.

**State and regional development: Regional Infrastructure Development Fund projects**

**2069. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): What are the names of the Regional Infrastructure Development Fund projects ‘re-phased’ by the Department into the next financial year in each year since 2000-01, including the projects ‘re-phased’ for 2004-05.

**ANSWER:**

I am informed as follows:

Individual RIDF projects have not been ‘re-phased’.

**State and regional development: Regional Infrastructure Development Fund projects**

**2070. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development):

- (a) What was the completion date and total completion cost for each Regional Infrastructure Development Fund project announced since the inception of the Fund.
- (b) If the announced projects have not been completed, what was the estimated completion date.

**ANSWER:**

I am informed as follows:

| <b>Actual Completion Dates</b>      | <b>Number of Projects</b> | <b>Total Completion Cost</b> |
|-------------------------------------|---------------------------|------------------------------|
| 2000/2001                           | 1                         | \$1.4 m                      |
| 2001/2002                           | 7                         | \$5.4 m                      |
| 2002/2003                           | 12                        | \$35.3 m                     |
| 2003/2004                           | 22                        | \$66.1 m                     |
| <b>Anticipated Completion Dates</b> |                           |                              |
| 2004/2005                           | 19                        |                              |
| 2005/2006                           | 8                         |                              |
| 2006/2007                           | 4                         |                              |
| 2007/2008                           | 3                         |                              |
| <b>Under Negotiation</b>            | 10                        |                              |

Projects funded under the Small Towns Development Fund, Rural Community Infrastructure Allocation and Customer Access Network Demonstration Program have various completion dates and are not included in the above.

**State and regional development: Regional Infrastructure Development Fund projects**

**2071. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): Have each of the Regional Infrastructure Development Fund projects been assessed and reviewed on completion to ensure they achieved their stated objectives and delivered the projects on time and on budget.

**ANSWER:**

I am informed as follows:

RIDF funding is provided through performance-based contracts, which specify the level of funding and project time lines. As projects are delivered by applicants, such as Councils, Statutory Authorities and Community Groups, Regional Development Victoria (RDV) does not directly manage the delivery of projects. RDV sets realistic time lines in consultation with the applicant and continually monitors progress against these time lines.

Each RIDF project is reviewed on completion. Further, as the benefits of many RIDF projects are realised over a period of time, not necessarily on completion of the physical works, RDV monitors RIDF projects on an ongoing basis to allow for future assessment of projects. The Auditor General has noted that the monitoring processes put in place by RDV are sound.

**State and regional development: Regional Infrastructure Development Fund projects**

**2072. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): Which Regional Infrastructure Development Fund projects have not been assessed and/or reviewed on completion.

**ANSWER:**

I am informed as follows:

RIDF funding is provided through performance-based contracts, which specify the level of funding and project time lines. As projects are delivered by applicants, such as Councils, Statutory Authorities and Community Groups, Regional Development Victoria (RDV) does not directly manage the delivery of projects. RDV sets realistic time lines in consultation with the applicant and continually monitors progress against these time lines.

Each RIDF project is reviewed on completion. Further, as the benefits of many RIDF projects are realised over a period of time, not necessarily on completion of the physical works, RDV monitors RIDF projects on an ongoing

basis to allow for future assessment of projects. The Auditor General has noted that the monitoring processes put in place by RDV are sound.

**State and regional development: Regional Infrastructure Development Fund projects**

**2073. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): Have any analyses/reports/assessments/investigations been made into the economic and social impact of the Regional Infrastructure Development Fund on the economy and communities of regional Victoria; if so, what are the titles of each of those studies and will they be made available to the public.

**ANSWER:**

I am informed as follows:

Regional Development Victoria has completed two reviews;

- Regional Infrastructure Development Fund – Economic Impact Evaluation; and
- Regional Infrastructure Development Fund – Regional Revival Shared Growth.

RIDF – Regional Revival Shared Growth is a public document, and includes a summary of the RIDF Economic Impact Evaluation.

**State and regional development: Regional Infrastructure Development Fund projects**

**2074. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): How many analyses/reports/assessments/investigations into the economic and social impact of the Regional Infrastructure Development Fund on the economy and communities of regional Victoria have been undertaken and by which State Government agencies.

**ANSWER:**

I am informed as follows:

Regional Development Victoria has completed two reviews;

- Regional Infrastructure Development Fund – Economic Impact Evaluation; and
- Regional Infrastructure Development Fund – Regional Revival Shared Growth.

RIDF – Regional Revival Shared Growth is a public document, and includes a summary of the RIDF Economic Impact Evaluation.

**State and regional development: Regional Infrastructure Development Fund projects**

**2075. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): How many Regional Infrastructure Development Fund projects have been applied for and been rejected for funding since August 2000.

**ANSWER:**

I am informed as follows:

The Government does not propose to release details of unsuccessful RIDF applications.



**State and regional development: Regional Infrastructure Development Fund projects**

**2076. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): What are the names of the Regional Infrastructure Development Fund projects that have been applied for and been rejected for funding since August 2000.

**ANSWER:**

I am informed as follows:

The Government does not propose to release details on unsuccessful RIDF applications.

**State and regional development: Regional Infrastructure Development Fund**

**2077. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): How much of the \$180 million first tranche of the Regional Infrastructure Development Fund was uncommitted as at 30 June 2003.

**ANSWER:**

I am informed as follows:

All of the \$180 million from the first tranche of funding was committed as at 30 June 2003.

**State and regional development: Regional Infrastructure Development Fund**

**2078. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): How much of the \$180 million first tranche of the Regional Infrastructure Development Fund was uncommitted as at 31 December 2003.

**ANSWER:**

I am informed as follows:

All of the \$180 million from the first tranche of funding was committed as at 30 December 2003.

**State and regional development: Regional Infrastructure Development Fund**

**2079. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): How much of the \$180 million first tranche of the Regional Infrastructure Development Fund was uncommitted as at 31 April 2004.

**ANSWER:**

I am informed as follows:

All of the \$180 million from the first tranche of funding was committed as at 30 April 2003.

**State and regional development: Regional Infrastructure Development Fund**

**2080. THE HON. PHILIP DAVIS** — To ask the Minister for Small Business (for the Minister for State and Regional Development): How much of the \$180 million second tranche of the Regional Infrastructure Development Fund announced in the 2003-04 Victorian State Budget has been committed as at 31 April 2004.

**ANSWER:**

I am informed as follows:

\$16.2 million of funding has been approved from the \$180 million second tranche of the RIDF at 31 April 2004.

**Treasurer: Transport Accident Commission — advertising**

**2294. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to the Transport Accident Commission's advertising undertaken between 1 July 2002 and 30 June 2003:

- (a) What was the — (i) date of approval of each contract; (ii) cost of each contract; (iii) purpose of the advertisements; and (iv) duration of each advertisement.
- (b) Where and when was each advertisement published or broadcast.
- (c) To whom was each contract awarded.

**ANSWER:**

I am informed that:

The organisation which is the subject of your question does not fall within my portfolio responsibilities.

**Treasurer: Transport Accident Commission — media research and public opinion polling**

**2526. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to the Transport Accident Commission's media research and public opinion polling conducted since 1 January 2002:

- (a) What is the title of each poll or item of research.
- (b) What is the date of approval and duration of the contract.
- (c) What is the cost.
- (d) Who are the personnel conducting the project.
- (e) Was it put to tender.
- (f) What recommendations were made.
- (g) Were any actions taken by the Department or Minister.

**ANSWER:**

I am informed that:

The organisation which is the subject of your question does not fall within my portfolio responsibilities.

**Treasurer: Transport Accident Commission — funding**

**2758. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to the Transport Accident Commission's allocation of funds to major capital works, including major maintenance, replacement, and upgrades, what were the priority major projects that were approved for the year 2002-03 and were each of those priority projects achieved.

**ANSWER:**

I am informed that:

The organisation which is the subject of your question does not fall within my portfolio responsibilities.

**Treasurer: Victorian Funds Management Corporation — funding**

- 2759. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to the Victorian Funds Management Corporation's allocation of funds to major capital works, including major maintenance, replacement, and upgrades, what were the priority major projects that were approved for the year 2002-03 and were each of those priority projects achieved.

**ANSWER:**

I am informed that:

VFMC is an investment and funds management service provider for Victorian Government entities and non-profit organisations. As such the Corporation does not undertake major capital works or conduct major maintenance, replacement or upgrades.

**Treasurer: Transport Accident Commission — external legal advice**

- 2992. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): What has been the expenditure by the Transport Accident Commission on external legal advice since 1 January 2003 to date.

**ANSWER:**

I am informed that:

The organisation which is the subject of your question does not fall within my portfolio responsibilities.

**Education and training: Adult, Community and Further Education Board — office accommodation**

- 3013. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Energy Industries (for the Minister for Education and Training): In relation to the Adult, Community and Further Education Board's leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed as follows:

The Adult, Community and Further Education Board has no leases for office accommodation.

**Education and training: Victorian Curriculum and Assessment Authority Board — office accommodation**

- 3016. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Energy Industries (for the Minister for Education and Training): In relation to the Victorian Curriculum and Assessment Authority Board's leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry

date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed as follows:

The Victorian Curriculum and Assessment Board and the Victorian Qualifications Authority share the same lease for 41 St Andrews Place. The answers below for part (a) of each section are a total for the two Statutory Authorities, as the response cannot be split between the two.

- (i) The location of the leases for the Victorian Curriculum and Assessment Board are:
  - a) 41 St Andrews Place, East Melbourne
  - b) 1-13 Railway Pde, Camberwell
- (ii) The expiry date of these leases are:
  - a) 30 January 2011
  - b) 17 October 2006

The Department and its agencies are major leaseholders in the State of Victoria. Providing this information would be prejudicial to its commercial interests.

**Education and training: Victorian Learning and Employment Skills Commission — office accommodation**

**3018. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Energy Industries (for the Minister for Education and Training): In relation to the Victorian Learning and Employment Skills Commission's leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed as follows:

The Victorian Learning and Employment Skills Commission has no leases for office accommodation.

**Education and training: Victorian Qualifications Authority — office accommodation**

**3019. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Energy Industries (for the Minister for Education and Training): In relation to the Victorian Qualifications Authority's leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed as follows:

The Victorian Qualifications Authority and the Victorian Curriculum and Assessment Board share the same lease for 41 St Andrews Place. The answers below are a total for the two Statutory Authorities, as the response cannot be split between the two.

- (i) The location of the lease for the Victorian Qualifications Authority is 41 St Andrews Place, East Melbourne
- (ii) The expiry date of the lease is:
  - 30 January 2011

The Department and its agencies are major leaseholders in the State of Victoria. Providing this information would be prejudicial to its commercial interests.

**Education and training: Victorian Schools Innovation Commission — office accommodation**

**3020. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Energy Industries (for the Minister for Education and Training): In relation to the Victorian Schools Innovation Commission’s leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed as follows:

The Victorian Schools Innovation Commission currently leases office accommodation at Suite 3, Ground Floor, 35 Spring Street, Melbourne.

The expiry date of this lease is 30 April 2007.

**Education and training: Adult Multicultural Education Services — office accommodation**

**3021. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Energy Industries (for the Minister for Education and Training): In relation to the Adult Multicultural Education Services’ leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed as follows:

The schedule below identifies all leases entered into by the AMES Board however the cost of each lease or the cost per square metre of each lease is not identified because this information is commercial-in-confidence to AMES and to AMES lessors.

AMES Lease Schedule

**AMES PROPERTY LEASES**

| SITE ADDRESS                                   | AREA M2 | CURRENT LEASE EXPIRY |
|--|---------|----------------------|
| 34 - 36 Prospect Street, Box Hill              | 1395    | 30/Jun/08            |
| Suite 1, 7 Elaine Street, St Albans VIC        | 228     | 31/Jul/04            |
| Level 2, 54 - 58 Wells Street, Frankston VIC   | 350     | 31/Dec/04            |
| 61 Warrigal Road, Oakleigh VIC                 | 250     | 30/Jun/04            |
| 63 Warrigal Road, Oakleigh VIC                 | 92      | 30/Jun/04            |
| 255 William Street, Melbourne VIC              | 3264    | 6/Jun/07             |
| Shops 2 & 3, 49 Douglas Street, Noble Park VIC | 150     | 1/Mar/06             |
| 16 Victoria Square, St Albans VIC              | 1160    | 30/Jun/08            |

| SITE ADDRESS                                      | AREA M2 | CURRENT LEASE EXPIRY |
|---|---------|----------------------|
| 533 Little Lonsdale Street, Melbourne VIC         | 566     | 31/Dec/05            |
| 122-132 Springvale Road, Springvale VIC           | 1161    | 30/Jun/08            |
| 289 Barkly Street, Footscray VIC                  | 1398    | 30/Jun/06            |
| 812 Pascoe vale Road, Glenroy VIC                 | 180     | 28/Feb/06            |
| 59 - 63 Evaline Street, Campsie NSW               | 350     | 30/Jun/06            |
| Level 2, 2 Hughes Street, Cabramatta NSW          | 350     | 30/Jun/06            |
| 199 Moreland Road, Coburg VIC                     | 318     | 30/Jun/06            |
| 10 Crames Street, Preston VIC                     | 376     | 30/Jun/06            |
| Level 1, 2 - 14 Meredith Street, Bankstown NSW    | 377     | 30/May/06            |
| 7 William Street, Fairfield NSW                   | 480     | 20/Sep/06            |
| Level 1, 75 Watton Street, Werribee VIC           | 402     | 30/Jun/06            |
| Suite A, Level 1, 224 Church Street, Richmond VIC | 241     | 30/Apr/04            |
| 16 Michael Street, Brunswick VIC                  | 866     | 31/Jan/07            |
| 280 Thomas Street, Dandenong VIC                  | 2050    | 31/Jul/08            |
| Level 1, 1100 Pascoe Vale Road, Broadmeadows VIC  | 250     | 28/Feb/06            |
| Suite 3, 56 Station Street, Parramatta NSW        | 226     | 28/Feb/04            |
| 42 Auburn Road, Auburn NSW                        | 350     | 28/Feb/06            |

**Education and training: Council of Adult Education — office accommodation**

**3022. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Energy Industries (for the Minister for Education and Training): In relation to the Council of Adult Education’s leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed as follows:

The Centre of Adult Education leases office accommodation and classroom space on levels 2, 3, 4 and 5 at 253 Flinders Lane, Melbourne as well as office accommodation and classroom space on the Ground floor and 1<sup>st</sup> floor for Visual Arts and Performing Arts at 96 Flinders Street, Melbourne.

The lease on 253 Flinders Lane expires on 16<sup>th</sup> December 2020 (with 5 year option).

The lease on 96 Flinders Street expires on 14<sup>th</sup> December 2007 (with 5 year option).

The Department and its agencies are major leaseholders in the State of Victoria. Providing this information would be prejudicial to its commercial interests.

**Treasurer: Office of the Administrator — office accommodation**

- 3223. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to the Office of the Administrator's (SECV, VicPower Trading) leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed that:

This information is commercial in confidence.

**Treasurer: Transport Accident Commission — office accommodation**

- 3226. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to the Transport Accident Commission's leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed that:

The organisation which is the subject of your question does not fall within my portfolio responsibilities.

**Treasurer: Victorian Funds Management Corporation — office accommodation**

- 3227. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Finance (for the Treasurer): In relation to the Victorian Funds Management Corporation's leases of office accommodation currently held, what is — (i) the location of each lease; (ii) the expiry date of the leases; (iii) the cost per metre of each lease; and (iv) the total cost of each lease over the term of the contract.

**ANSWER:**

I am informed that:

This information is commercial in confidence.

**Water: sales to New South Wales irrigators**

- 3317. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Local Government (for the Minister for Water):
- (a) What quantity of water was sold to New South Wales irrigators in 2002-03.
  - (b) What were the dates of any sales.
  - (c) Has any water been made available for environmental flows to wetlands in Victoria.
  - (d) Is there existing Government policy in respect of the provision of environmental water for streams and wetlands in Northern Victoria; if so — (i) is this a result of a Cabinet decision; and (ii) when was this decision taken and what is the substance of the decision.
  - (e) On what occasions has environmental water been provided.

**ANSWER:**

I am informed that:

I assume that the questions refer to environmental water allocations in Northern Victoria.

**(a) What was the quantity of water sold to New South Wales irrigators in 2002-03?**

No environmental water was sold to New South Wales irrigators in 2002-03.

**(b) What were the dates of any sales?**

No sales were made.

**(c) Has any water been made available for environmental flows to wetlands in Victoria?**

Yes

**(d) Is there existing Government policy in respect of the provision of environmental water for streams and wetlands in Northern Victoria; if so**

**(i) is this the result of a cabinet decision; and**

**(ii) when was this decision taken and what is the substance of this decision.**

There is existing Government policy in respect to the provision of environmental water for streams and wetlands in Northern Victoria. These policies are outlined in two documents:

- Healthy Rivers, Healthy Communities & Regional Growth - Victorian River Health Strategy (Department of Natural Resources and Environment 2002), and
- *Our Water Our Future* - White Paper (Victorian Government June 2004)

Both of these policy documents have been endorsed by Cabinet.

Broadly speaking, the basis of the environmental water allocation policies is to protect the health of rivers, streams, wetlands and floodplain by maintaining adequate environmental flows where these are already provided. Increased environmental flows for improved river health will be provided on a priority basis whilst recognising existing rights to water users. In some systems the environment has existing rights to water which have also been recognised.

**(e) On what occasions has environmental water been provided?**

Water has been formally made available for environmental flows to wetlands in Victoria in every year since 1996/97.

**Tourism: ministerial staff — mobile telephone services**

**3353. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Tourism): What has been the cost of providing mobile telephone services to the Minister's staff since 1999-2000.

**ANSWER:**

I am informed as follows

The Government cannot justify the diversion of public time and resources required to gather this information and answer these questions.

**State and regional development: Regional Infrastructure Development Fund projects**

**3361. THE HON. PHILIP DAVIS** — To ask the Minister for Finance (for the Minister for State and Regional Development):



- (a) Since August 2000 how many Regional Infrastructure Development Fund projects had not been commenced one year after the offer of the grant and which projects were these.
- (b) How many and which of these projects subsequently were reviewed.
- (c) How many and which of these projects were subsequently withdrawn.

**ANSWER:**

I am informed as follows:

- (a) All projects announced under the RIDF have commenced implementation within one year of the offer of the grant. Due to the different nature and size of RIDF projects, the implementation strategy and period varies significantly between grants.
- (b) Progress on all RIDF projects is reviewed and monitored on an ongoing basis.
- (c) Two projects have been withdrawn, with the agreement of the applicant, after announcement of the project. These are:
  - Greater Bendigo City Council: Industrial Development; and
  - University of Melbourne: Poultry Housing Evaluation Facility.

**State and regional development: Regional Infrastructure Development Fund projects**

**3362. THE HON. PHILIP DAVIS** — To ask the Minister for Finance (for the Minister for State and Regional Development):

- (a) Since August 2000 how many Regional Infrastructure Development Fund projects submitted progress reports.
- (b) How many projects submitted a final evaluation report.
- (c) How many final evaluation reports included an independently prepared Audit Certificate.

**ANSWER:**

I am informed as follows:

- (a) Progress of all RIDF projects is monitored by Regional Development Victoria, through formal and informal reporting.
- (b) All RIDF projects are required to submit a final report.
- (c) 38 final reports have included an independently prepared audit certificate.

**State and regional development: Regional Infrastructure Development Fund projects**

**3363. THE HON. PHILIP DAVIS** — To ask the Minister for Finance (for the Minister for State and Regional Development):

- (a) Since August 2000 how many Regional Infrastructure Development Fund projects did not submit progress reports and which projects were these.
- (b) How many projects did not submit a final evaluation report and which projects were these.
- (c) How many final evaluation reports did not include an independently prepared Audit Certificate and which projects were these.

**ANSWER:**

I am informed as follows:

- (a) None. Progress of all RIDF projects is monitored by Regional Development Victoria, through formal and informal reporting.
- (b) All RIDF projects are required to submit a final report.
- (c) Four projects have not required an independently prepared audit certificate, but have required statutory declarations and other appropriate evidence. These projects are:
  - Wangaratta Rural City Council: Wangaratta Industry Project;
  - Maryborough Shire Council: Maryborough Industry Project;
  - Department of Human Services: Housing and Community Building Maintenance Call Centre; and
  - Department of Infrastructure: Standard Gauge Rail Access to the Bulk Grain Pier at the Port of Geelong.

**Consumer affairs: business registration fees**

**3632. THE HON. PHILIP DAVIS** — To ask the Minister for Consumer Affairs:

- (a) What are all the business registration fees that fall under the Minister’s portfolio responsibility.
- (b) What was the level/rate of each of these fees in October 1999.
- (c) What is the current level/rate of each these fees.

**ANSWER:**

I am advised that:

- (a) There are two business registration fees, one for initial registration and one for renewal.
- (b) Registration fee - \$70, Renewal fee - \$50
- (c) Registration fee - \$71.60, Renewal fee - \$51.20

**Community services: protection orders**

**3643. THE HON. WENDY LOVELL** — To ask the Minister for Aged Care (for the Minister for Community Services): How many children have been made subject of protection orders as defined in Division 6 of the *Children and Young Persons Act 1989* for each year since 1999 under — (i) supervision orders; (ii) custody to third party orders; (iii) supervised custody orders; (iv) custody to the Secretary orders; (v) guardianship to the Secretary orders; and (vi) interim protection orders.

**ANSWER:**

I am informed that:

The numbers of protection orders made each year are published in the Annual Report of the Children's Court.

**Consumer affairs: Greater Shepparton — business name registration fees**

**3644. THE HON. PHILIP DAVIS** — To ask the Minister for Consumer Affairs: What was the value of revenue collected in the Greater Shepparton local government area from business name registration fees collected in 2003-04.

**ANSWER:**

I am advised that:

Business name registration revenue is not categorised by municipality for recording purposes.

**Consumer affairs: Greater Bendigo — business name registration fees**

**3652. THE HON. PHILIP DAVIS** — To ask the Minister for Consumer Affairs: What was the value of revenue collected in the Greater Bendigo local government area from business name registration fees collected in 2003-04.

**ANSWER:**

I am advised that:

Business name registration revenue is not categorised by municipality for recording purposes.

**Consumer affairs: Ballarat — business name registration fees**

**3660. THE HON. PHILIP DAVIS** — To ask the Minister for Consumer Affairs: What was the value of revenue collected in the Ballarat local government area from business name registration fees collected in 2003-04.

**ANSWER:**

I am advised that:

Business name registration revenue is not categorised by municipality for recording purposes.

**Consumer affairs: Greater Geelong — business name registration fees**

**3668. THE HON. PHILIP DAVIS** — To ask the Minister for Consumer Affairs: What was the value of revenue collected in the Greater Geelong local government area from business name registration fees collected in 2003-04.

**ANSWER:**

I am advised that:

Business name registration revenue is not categorised by municipality for recording purposes.

**Community services: protection orders**

**3675. THE HON. WENDY LOVELL** — To ask the Minister for Aged Care (for the Minister for Community Services): How many children subject to protection orders as defined in Division 6 of the *Children and Young Persons Act 1989* have been convicted of criminal offences resulting in a custodial sentence for each year since 1999.

**ANSWER:**

I am informed that:

The numbers of children subject to protection orders who have been convicted of criminal offences resulting in a custodial sentence for each year since 1999 are:

| Year      | Number | As a percentage of the total number of children on child protection orders |
|-----------|--------|--|
| 1999/2000 | 40     | 0.75%  |
| 2000/2001 | 48     | 0.90%  |
| 2001/2002 | 44     | 0.82%  |
| 2002/2003 | 44     | 0.83%  |
| 2003/2004 | 40     | 0.73%  |

**Consumer affairs: Latrobe City — business name registration fees**

**3676. THE HON. PHILIP DAVIS** — To ask the Minister for Consumer Affairs: What was the value of revenue collected in the Latrobe City local government area from business name registration fees collected in 2003-04.

**ANSWER:**

I am advised that:

Business name registration revenue is not categorised by municipality for recording purposes.

**Environment: noxious pests — infringement notices**

**3725. THE HON. PHILIP DAVIS** — To ask the Minister for Local Government (for the Minister for Environment): How many infringement notices were issued in 2003-04 to the Department of Sustainability and Environment and/or other State Government Authorities for failing to comply with the *Catchment and Land Protection Act 1994* concerning the management of noxious pests.

**ANSWER:**

I am informed that:

None. Infringement notices do not apply to the Catchment and Land Protection Act. The offence provisions relate to failure to comply with a Land Management Notice. The Secretary can not be served with a Land Management Notice and they are not enforceable on the Crown.

**Aged care: nurse numbers**

**3726. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care:

- (a) What strategic planning has been undertaken to increase the number of nurses in aged care.
- (b) What strategic planning has been undertaken to attract and increase the number of young people entering nursing in aged care.
- (c) What strategic planning has been undertaken to address the future increase in the demand for aged care, specifically the level of nurses and the associated increase in labour costs.

**ANSWER:**

I am informed that:

- (a) The Government has taken steps to analyse and respond to the need for additional nurses, including in aged care. Initiatives are broadly aimed to:

- Increase recruitment,
- Improve retention, and
- Increase capacity.

Some initiatives contribute to more than one of the objectives.

Initiatives include:

- *Refresher Re-entry*. Over \$7M since 2001 of government funding allocated to nurse refresher and re-entry programs resulting in 2,200 nurses returning to the profession via refresher & re-entry programs. A further \$740K has been committed to this initiative for the 2004/05 financial year.
- *Postgraduate Scholarships* were initially offered in 2001 as part of the Government's commitment to the recruitment and retention of nurses. To date more than 688 full and partial scholarships to a value of \$2.4M have been provided across different specialties of nursing practice. Their purpose is to increase the number of nurses undertaking postgraduate courses in areas of acute shortage. A very high proportion of applicants for gerontic nursing scholarships have been successful.
- The demand for scholarships has increased and reports from health services suggest that they have improved the retention of nurses in the targeted specialties. Since 2003 it has been a condition of scholarship funding that successful applicants participate in work force data collection.
- A *Training & Development* grant (including a Continuing Nurse Education Grant) contributes to the costs of teaching, training and research activities of teaching hospitals. \$16.5M was committed to this initiative in 2003/04.
- *Victorian Back Injury Prevention Program* funding is available for education programs and equipment to prevent the incidence of back injury in nursing. Public aged care facilities have benefited from this initiative.
- *Division 2 Paid Study Leave Program*. A package of study leave and course cost reimbursement for Division 2 nurses undertaking post basic study. 368 nurses have been granted funding at a total cost of \$0.5M. A high proportion of the nurses have been from aged care and/or undertaking training specifically aimed towards a career in aged care.
- *Victorian Taskforce in occupational violence in nursing* There is increasing violence and aggression in the health care system with the highest incidence in nursing, with a significant incidence in the aged care setting. The Minister for Health convened a Victorian Taskforce on Occupational Violence in Nursing in February 2004. The aim is to provide strategic advice to the Victorian Government regarding occupational violence in nursing and to develop strategies to reduce its occurrence.

- (b) Strategic planning undertaken to attract and increase the number of young people entering nursing in aged care.

- All nurses are trained and graduate initially as generalists. Nurses will be more interested in entering a particular field like aged care where a clear career path is available.
- Aged Care is one of the early areas where Nurse Practitioners are being developed. DHS has funded three demonstration projects in aged care in residential aged care, community nursing and inpatient settings.
- The Extended Scope of Practice for Registered Nurses Division 2 (which allows them to train to administer medication) will improve job satisfaction and career opportunities for nurses, particularly in aged care where a high proportion of Division 2 nurses work.

- (c) Strategic planning to address the future increase in the demand for nurses in aged care has been addressed by the development of projections of future need.

- Responses are largely in the hands of the Commonwealth as the funder of higher education, where Division 1 nurses are trained. Victoria continues to advocate for additional funded places in Victorian Universities.
- Within the VET sector, Victoria continues to fund the training of Division 2 nurses.

Other action taken to reduce the growth demand for residential care includes:

- Additional allocated funds through the Home and Community Care program, which provides for community nursing for older people. The Commonwealth/State shared funding program has consistently grown under the Bracks Government, at a rate exceeding the growth in population.

**Victorian communities: *Indicators of Community Strength in Victoria***

**3728. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care (for the Minister for Victorian Communities): What was the time frame for, and cost of, producing the ‘Indicators of Community Strength in Victoria’ Report.

**ANSWER:**

I am informed as follows:

The *Indicators of Community Strength in Victoria* report was written by DVC over the second quarter of 2004 at a cost of \$31,500.00.

**Victorian communities: *Indicators of Community Strength in Victoria***

**3729. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care (for the Minister for Victorian Communities): How were the 7,500 Victorians polled to compile the ‘Indicators of Community Strength in Victoria’ report.

**ANSWER:**

I am informed as follows:

The method used is the Computer Assisted Telephone Interviewing (CATI) survey of a representative sample of persons over 18 years who reside in Victorian dwellings. The sample is obtained through random digit dialling and the person with the most recent birthday in the house is selected for interview.

**Victorian communities: *Indicators of Community Strength in Victoria***

**3730. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care (for the Minister for Victorian Communities): What specific programs have been identified to address the fall in memberships of organised groups, and hence a decrease in community activity, as detailed in the ‘Indicators of Community Strength in Victoria’ report.

**ANSWER:**

I am informed as follows:

Only one indicator in the *Indicators of Community Strength in Victoria* report has fallen over the period 2001 to 2003 and that was the indicators for membership of organised groups.

In relation to specific programs, the Department for Victorian Communities has launched a Volunteering and Community Enterprise Strategy (VCES) given that volunteering is a fundamental component of communities that are active, confident and resilient. Volunteering actions within the VCES are designed to encourage, support and

extend the range of opportunities for people to volunteer in their communities. This will be achieved by investing in infrastructure, coordination and brokering services.

Major volunteering actions under way include:

- Volunteer resource networks project
- Volunteer small grants
- Volunteering in CALD communities project
- Actions to support leadership and change in volunteering in the State.

**Victorian communities: *Indicators of Community Strength in Victoria***

**3731. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care (for the Minister for Victorian Communities): What are the demographics of the 7,500 Victorians polled to compile the ‘Indicators of Community Strength in Victoria’ report, by location, age and ethnicity.

**ANSWER:**

I am informed as follows:

The sample is of 7500 Victorians over the age of 18 selected at random from the nine DHS geographic regions to ensure it represents the demographic mix across the geographic regions of Victoria.

The survey is conducted in English and six other community languages: Mandarin, Cantonese, Vietnamese, Italian, Greek and Macedonian.

**Victorian communities: *Indicators of Community Strength in Victoria***

**3732. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care (for the Minister for Victorian Communities): What programs and undertakings by the Department of Victorian Communities are directly and specifically the drivers behind the outcome of the ‘Indicators of Community Strength in Victoria’ report.

**ANSWER:**

I am informed as follows:

The Department for Victorian Communities (DVC) aims to create strong communities by encouraging participation, embracing diversity and through a more linked-up, integrated approach to planning, funding and delivering services at the local level.

The DVC indicators are essentially driven by community connectedness and participation at the local level and DVC has a wide range of strategies designed to foster this.

For example, DVC is the secretariat for the *Healthy Active Victorians Strategy*. It is also working towards improving participation by diverse population groups through strategies such as the *Equal First Strategy* - promoting inclusiveness in the 2006 Commonwealth Games.

DVC is also currently working to improve volunteering through its *Volunteering Strategy* and the recent release of a grants scheme offering small operational grants to volunteer organisations.

DVC is also working on a range of other initiatives related to young people and participation, especially through the involvement of the community in schools.

DVCs initiatives are targeted to improve community connectedness – the major driver behind the indicators of community strength in Victoria.

**Community services: protection orders**

**3803. THE HON. WENDY LOVELL** — To ask the Minister for Aged Care (for the Minister for Community Services): How many children subject to protection orders as defined in Division 6 of the *Children and Young Persons Act 1989* have been remanded in custody for each year since 1999.

**ANSWER:**

I am informed that:

the numbers of children subject to protection orders, who have been remanded in custody for each year since 1999 are:

| Year      | Number | As a percentage of the total number of children in child protection orders |
|-----------|--------|--|
| 1999/2000 | 92     | 1.72%  |
| 2000/2001 | 216    | 4.04%  |
| 2001/2002 | 132    | 2.45%  |
| 2002/2003 | 151    | 2.83%  |
| 2003/2004 | 129    | 2.37%  |

**Community services: protection orders**

**3804. THE HON. WENDY LOVELL** — To ask the Minister for Aged Care (for the Minister for Community Services): How many warrants have been issued to return children subject to protection orders as defined in Division 6 of the *Children and Young Persons Act 1989* for each year since 1999.

**ANSWER:**

I am informed that:

This question requires clarification as to whether it is asking how many warrants have been issued in relation to children subject to protection orders, or how many warrants have been issued to return children subject to protection orders to placements.

**Community services: protection orders**

**3805. THE HON. WENDY LOVELL** — To ask the Minister for Aged Care (for the Minister for Community Services): How many children subject to protection orders as defined in Division 6 of the *Children and Young Persons Act 1989* have had warrants issued to return them to their placements under Section 265 of the Act, for each year since 1999.

**ANSWER:**

I am informed that:

The Department of Human Services advises that answering this question would require an unreasonable diversion of resources.

**Community services: protection orders**

**3806. THE HON. WENDY LOVELL** — To ask the Minister for Aged Care (for the Minister for Community Services): How many children subject to protection orders as defined in Division 6 of the *Children and Young Persons Act 1989* are currently serving sentences in juvenile justice centres.



**ANSWER:**

I am informed that:

At 31 August, 15 children subject to protection orders were serving sentences in juvenile justice centres. This is 0.40% of the total number of children on protective orders at that time.

**Sport and recreation: Melbourne and Olympic Parks Trust — freedom of information requests**

**3889. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Sport and Recreation: In relation to the Freedom of Information requests received by the Melbourne and Olympic Parks Trust between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.
- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed as follows:

Between 1 July 2003 and 30 June 2004, the Melbourne and Olympic Parks Trust received one Freedom of Information request. I have been advised that documents relating to this request were released in part.

The Trust did not provide me with the response to the request before providing it to the applicant.

**Sport and recreation: Melbourne Cricket Ground Trust — freedom of information requests**

**3890. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Sport and Recreation: In relation to the Freedom of Information requests received by the Melbourne Cricket Ground Trust between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.
- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed as follows:

Between 1 July 2003 and 30 June 2004, no Freedom of Information requests were received by the Melbourne Cricket Ground Trust.

**Sport and recreation: Professional Boxing and Combat Sports Board — freedom of information requests**

**3891. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Sport and Recreation: In relation to the Freedom of Information requests received by the Professional Boxing and Combat Sports Board between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.
- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed as follows:

Between 1 July 2003 and 30 June 2004, no Freedom of Information requests were received by the Professional Boxing and Combat Sports Board.

**Women’s affairs: Queen Victoria Women’s Centre Trust — freedom of information requests**

**3893. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Local Government (for the Minister for Women’s Affairs): In relation to the Freedom of Information requests received by the Queen Victoria Women’s Centre Trust between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.
- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed as follows:

1. One FOI request was made.
2. This request was denied in full by the QVWC Trust.
3. This request was not given to me.

**Sport and recreation: State Recreation Camps Committee of Management — freedom of information requests**

**3894. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Sport and Recreation: In relation to the Freedom of Information requests received by the State Recreation Camps Committee of Management between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.
- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed as follows:

Between 1 July 2003 and 30 June 2004, no Freedom of Information requests were received by the Sport and Recreation Camps Committee of Management Inc.

**Sport and recreation: State Sports Centre Trust — freedom of information requests**

**3895. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Sport and Recreation: In relation to the Freedom of Information requests received by the State Sports Centre Trust between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.
- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed as follows:

Between 1 July 2003 and 30 June 2004, no Freedom of Information requests were received by the State Sport Centres Trust.

**Victorian communities: Victorian Grants Commission — freedom of information requests**

**3896. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Aged Care (for the Minister for Victorian Communities): In relation to the Freedom of Information requests received by the Victorian Grants Commission between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.

- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed that:

The Minister for Victorian Communities does not have portfolio responsibility for this matter.

**Commonwealth Games: Melbourne 2006 Commonwealth Games Pty Ltd — freedom of information requests**

**3898. THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Commonwealth Games: In relation to the Freedom of Information requests received by the Melbourne 2006 Commonwealth Games Pty Ltd between 1 July 2003 and 30 June 2004:

- (1) How many requests were received.
- (2) How many were —
  - (a) denied in full;
  - (b) released in part; and
  - (c) released in full.
- (3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER:**

I am informed that:

Melbourne 2006 Commonwealth Games Pty Ltd did not receive any FOI requests between 1 July 2003 and 30 June 2004.

**Community services: aged care facilities — young people with disabilities**

**3911. THE HON. DAMIAN DRUM** — To ask the Minister for Aged Care (for the Minister for Community Services): In relation to the large number of young people with disabilities or acquired brain injuries who are currently placed in aged care facilities:

- (1) Are young residents in nursing homes receiving the appropriate level of rehabilitative support, services and stimulation they need to live productive lives.
- (2) What range of support services is the Government planning to make available to young residents in nursing homes considering their vastly different abilities, disabilities and needs.
- (3) What form will any new facilities take and in what regions will they be located.
- (4) Will the Government accept full financial responsibility for the care of young people that need shared supported accommodation.

**ANSWER:**

I am informed that:

- Government is committed to developing options for younger people with disabilities and high care needs. The issue however, is a joint responsibility of the Commonwealth and the State Governments.
- The Victorian Government recognises that young people in nursing homes are a diverse group and is funding a range of initiatives, to improve services for those for whom a nursing home is the best solution and, to enable other residents to be supported back into community-based services. In 2003-2004 Disability Services funded flexible supports for younger people living in nursing homes include community access, additional attendant care and social support. This includes funding for 15 younger people with MS at Cyril Jewell House, a specialist nursing home service response in Keilor.
- The Acquired Brain Injury: Slow to Recover (ABI/STR) Program funded through the Aged Care program provides rehabilitation and support services to people with acquired brain injury who require nursing level of care and long-term support. The Program supports 130 people living in community and residential care settings.
- Government is also progressing a number of targeted initiatives:
  - Disability Services and the Commonwealth Department of Health and Ageing have committed to two pilot projects through the Department of Health and Ageing's Commonwealth Innovative Pool initiative.

The pilot projects were announced on Friday 28 May 2004. One project involves the development of a community housing option for three younger women who are currently residing in residential aged care. The State Government has committed over \$200,000 annually for flexible support packages and is providing access to an appropriately modified community housing property.

A second project involves provision of additional support funding for 16 people with multiple sclerosis who are currently residing in Disability Services funded group housing. These individuals are at risk of being admitted to residential aged care services. Project funding will meet increasing clinical care needs.

- The Department of Human Services is considering more appropriate and effective service options for younger people with disabilities who have been approved as eligible for residential aged care services. Members of the target group may be residing in nursing homes or hostels, or living in the community and assessed as eligible for admission to residential aged care.
- The Commonwealth, State and Territories Disability Agreement (CSTDA) states that providing accommodation for people with disabilities is a shared responsibility between the Commonwealth and the State. Minister Garbutt, the Minister for Community Services met with the Federal Minister Kay Patterson earlier in this year to draw her attention to this issue.

**Community services: disability services — shared supported accommodation**

**3912. THE HON. DAMIAN DRUM** — To ask the Minister for Aged Care (for the Minister for Community Services):

- (1) What was the total amount spent by the Government on capital outlay and maintenance for shared supported accommodation for Victorians with disabilities in 2003-04.
- (2) What is the projected outlay for capital and maintenance of shared supported accommodation for Victorians with disabilities in each of the five years immediately following the sale of the 27 hectares of land that houses Kew Cottages.

**ANSWER:**

I am informed that:

- (1) The total amount spent by the Government on capital outlay and maintenance for shared supported accommodation for Victorians with disabilities in 2003-4 was \$21,152,000.
- (2) The final timing of the sale of the KRS site is dependent on a range of factors and as such is not yet determined. I am unable therefore to answer this question, which relates to post sale expenditure.

**Community services: Kew Cottages residents — accommodation options**

**3913. THE HON. DAMIAN DRUM** — To ask the Minister for Aged Care (for the Minister for Community Services): Does the Government plan to build a range of accommodation options to cater for the existing residents of Kew Cottages whose needs and requirements, according to some parents, will be best met by living in congregate care, whether it is located at Kew or an outer suburban region.

**ANSWER:**

I am informed that:

- Yes, there is a range of accommodation options for KRS residents, however congregate care is not one of them because strong local and international research evidence, identified that people’s quality of life would be improved by living in the community rather than congregate care. Therefore the Government will not be developing congregate care. This would be a backward step;
- For those residents who have already moved to community houses, the improvements to their quality of life have been overwhelmingly positive;
- Living in community housing affords residents higher levels of staffing support and more opportunities to be a part of their local community;
- The majority of family members are expressing satisfaction with the move, even those who were initially apprehensive.

**Community services: housing associations — guidelines**

**3914. THE HON. DAMIAN DRUM** — To ask the Minister for Aged Care (for the Minister for Community Services):

- (1) How many organisations throughout Victoria have applied for and have been granted status as a Housing Association under the Government’s new guidelines.
- (2) How much of the Government’s \$70 million announced in the 2003-04 Budget, allocated over four years, has been spent.
- (3) What timeframe is available for other organisations to apply for status as a Housing Association.

**ANSWER:**

I am informed that:

The matters raised in the question do not fall under the portfolio responsibilities of the Minister for Community Services. The question should be directed to the responsible Minister for Housing.

**Aged care: aged care facilities — young people with disabilities**

**3922. THE HON. DAMIAN DRUM** — To ask the Minister for Aged Care: In relation to the large number of young people with disabilities or acquired brain injuries who are currently placed in aged care facilities:

- (1) Is the Minister aware that there are two Victorian children under nine years of age currently residing in Victorian nursing homes.
- (2) Does the Minister have any immediate plans to vacate the 1,526 young people who are currently inappropriately housed in nursing homes in Victoria; if so, how many new facilities is the Government planning to build.

**ANSWER:**

I am informed that:

- (1) As at September 2004 Australian Government data shows one child under 9 years of age is residing in a nursing home.
- (2) Not all young people who are currently living in nursing homes in Victoria are inappropriately housed. Many young people have complex care needs requiring specialised and technical nursing care that can be appropriately met in nursing homes.

My colleague the Minister for Community Services is engaged with the Australian Government, which has responsibility for nursing homes, on the broader policy and funding issues affecting this group of young people. Government is committed to developing options for younger people with disabilities and high care needs. The issue however, is a joint responsibility of the Commonwealth and the State Governments.

In the Department of Human Services there is work progressing on effective and appropriate service options for younger people with high care needs, including community based options.

**Aged care: state-owned nursing homes**

**3927. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care:

- (1) What is the average cost of maintaining a State owned nursing home with 30 beds.
- (2) What is the average cost of maintaining a State owned nursing home with 60 beds.
- (3) What is the average cost of maintaining a State owned nursing home.
- (4) What is the average cost of maintaining a State owned low care residential facility with 30 beds.
- (5) What is the average cost of maintaining a single bed in a State owned low care residential facility with 60 beds.
- (6) What is the average cost of maintaining a single bed in a State owned low care residential facility.

**ANSWER:**

I am informed that:

(1)(2)(3)

The Department does not collect the average cost of maintaining State owned nursing homes.

(4)(5)(6)

The Department does not collect the average cost of maintaining State owned low care residential facilities.

Due to the broad nature of the question the resources required to provide a response would place an unreasonable burden on the time and resources of the Department.

**Aged care: mental health residential services programs**

**3928. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care:

- (1) What programs will be undertaken in the planned expansion of aged persons mental health residential services in response to the growth in the aged population.
- (2) What funding has been allocated for the planned expansion of aged persons mental health residential services in response to the growth in the aged population.

**ANSWER:**

I am informed that:

- (1) The planned expansion of aged persons mental health residential care will be achieved as part of the policy of progressively refocusing some public sector residential aged care places on meeting specialist care needs, including the care needs of older people with a mental illness.
- (2) The planned expansion of aged persons mental health residential services will be implemented over time through service planning of health services within their local communities. Funding may be made available from existing budgets or growth funding allocated by the Government over time.

**Health: palliative care services**

**3929. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care (for the Minister for Health):

- (1) What is the planned level of increases to funding by the Government for palliative care services over the next 3 years.
- (2) What is the Minister's strategy to address the growing demand for palliative care services.

**ANSWER:**

I am informed that:

- (1) The Victorian Government has allocated an additional \$7m over the next three years for palliative care.
- (2) In order to meet the growing demand for palliative care services, a public discussion paper was developed in conjunction with the Palliative Care Strategic Framework Working Party and released for consultation in May 2004. Over 70 organisations and individuals across Victoria have responded and endorsed the policy directions of this document. A new palliative care policy is being completed following the community consultation. The new policy will meet the challenges of the growing demand for palliative care services from Victorians with life threatening illness, their families and carers.

**Aged care: psychogeriatric services**

**3930. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care:

- (1) What is the planned level of increases to funding by the Government for psycho geriatric services over the next 3 years.
- (2) What is the Minister's strategy to address the growing demand for psycho geriatric services.

**ANSWER:**

I am informed that:



The matters raised in the question do not fall under my portfolio responsibilities. The question should be directed to the Minister for Health.

**Aged care: staffing costs in state-owned aged care facilities**

**3931. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care: What was and is the total cost of staffing (salary and wages and on-costs) in both low and high care State owned aged care facilities for 1999, 2000, 2001, 2002 and 2003, in —

- (a) Gippsland;
- (b) Wimmera; and
- (c) Central Highlands.

**ANSWER:**

I am informed that:

The Department does not collect staffing costs information in low and high care State owned aged care.

Due to the broad nature of the question the resources required to provide a response would place an unreasonable burden on the time and resources of the Department.

**Aged care: accreditation status report — state-owned aged care facilities**

**3932. THE HON. ANDREA COOTE** — To ask the Minister for Aged Care:

- (1) Does the Minister have access to a complete accreditation status report for all State owned aged care facilities; if not, how does the Minister know that all facilities will achieve 2008 building accreditation standards; if so, does the Minister intend to make this report public so that the community can be assured that all facilities will achieve 2008 building accreditation standards.
- (2) In view of the Minister’s statement that “the majority of services meet the 2008 building certification requirements”, which services and facilities do not meet those requirements.

**ANSWER:**

I am informed that:

The Aged Care Standards and Accreditation Agency is responsible for accreditation of residential aged care services.

All public sector residential aged care facilities have been assessed for compliance with Commonwealth guidelines for accommodation of residents. Minor works to ensure compliance with 2003 and 2008 certification requirements have been undertaken.

Redevelopment works to meet the Commonwealth’s 2008 building certification requirements were assessed as required for 13 facilities. Redevelopment works have already been completed at 5 facilities, and capital redevelopment works or planning are under way at 8 facilities.

The Bracks Government has made a significant investment totalling \$217.5 million for the capital redevelopment of 34 residential aged care facilities up to this present time.

