PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 8 May 2008

(Extract from book 6)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

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Minister for Environment and Climate Change, and Minister for Innovation	The Hon. G. W. Jennings, MLC
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Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Roads and Ports	The Hon. T. H. Pallas, MP
Minister for Education	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects	The Hon. T. C. Theophanous, MLC
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Assembly committees

Privileges Committee — Mr Carli, Mr Clark, Mr Delahunty, Mr Lupton, Mrs Maddigan, Dr Napthine, Mr Nardella, Mr Stensholt and Mr Thompson.

Standing Orders Committee — The Speaker, Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell.

Joint committees

Dispute Resolution Committee — (*Assembly*): Mr Batchelor, Mr Cameron, Mr Clark, Mr Holding, Mr McIntosh, Mr Robinson and Mr Walsh. (*Council*): Mr P. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik.

Drugs and Crime Prevention Committee — (*Assembly)*: Mr Delahunty, Mr Haermeyer, Mr McIntosh, Mrs Maddigan and Mr Morris. (*Council*): Mr Leane and Ms Mikakos.

Economic Development and Infrastructure Committee — (*Assembly*): Ms Campbell, Mr Crisp and Ms Thomson. (*Council*): Mr Atkinson, Mr D. Davis, Mr Tee and Mr Thornley.

Education and Training Committee — (*Assembly*): Mr Dixon, Dr Harkness, Mr Herbert, Mr Howard and Mr Kotsiras. (*Council*): Mr Elasmar and Mr Hall.

Electoral Matters Committee — (*Assembly*): Ms Campbell, Mr O'Brien, Mr Scott and Mr Thompson. (*Council*): Ms Broad, Mr Hall and Mr Somyurek.

Environment and Natural Resources Committee — (*Assembly*): Ms Duncan, Mrs Fyffe, Mr Ingram, Ms Lobato, Mr Pandazopoulos and Mr Walsh. (*Council*): Mrs Petrovich and Mr Viney.

Family and Community Development Committee — (*Assembly*): Mr Noonan, Mr Perera, Mrs Powell and Ms Wooldridge. (*Council*): Mr Finn, Mr Scheffer and Mr Somyurek.

House Committee — (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Delahunty, Mr Howard, Mr Kotsiras, Mr Scott and Mr K. Smith. (*Council*): The President (*ex officio*), Mr Atkinson, Ms Darveniza, Mr Drum, Mr Eideh and Ms Hartland.

Law Reform Committee — (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan and Mr Foley. (*Council*): Mrs Kronberg, Mr O'Donohue and Mr Scheffer.

Outer Suburban/Interface Services and Development Committee — (*Assembly*): Ms Green, Mr Hodgett, Mr Nardella, Mr Seitz and Mr K. Smith. (*Council*): Mr Elasmar, Mr Guy and Ms Hartland.

Public Accounts and Estimates Committee — (*Assembly*): Ms Graley, Ms Munt, Mr Scott, Mr Stensholt, Dr Sykes and Mr Wells. (*Council*): Mr Barber, Mr Dalla-Riva, Mr Pakula and Mr Rich-Phillips.

Road Safety Committee — (*Assembly*): Mr Eren, Mr Langdon, Mr Mulder, Mr Trezise and Mr Weller. (*Council*): Mr Koch and Mr Leane.

Rural and Regional Committee — (*Assembly*): Ms Marshall and Mr Northe. (*Council*): Ms Darveniza, Mr Drum, Ms Lovell, Ms Tierney and Mr Vogels.

Scrutiny of Acts and Regulations Committee — (*Assembly*): Mr Brooks, Mr Carli, Mr Jasper, Mr Languiller and Mr R. Smith. (*Council*): Mr Eideh, Mr O'Donohue, Mrs Peulich and Ms Pulford.

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

Acting Speakers: Ms Beattie, Ms Campbell, Mr Eren, Mrs Fyffe, Ms Green, Dr Harkness, Mr Howard, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Mr Lupton, Ms Marshall, Ms Munt, Mr Nardella, Mrs Powell, Mr Seitz, Mr K. Smith, Mr Stensholt and Mr Thompson

Leader of the Parliamentary Labor Party and Premier:
The Hon. J. M. BRUMBY (from 30 July 2007)
The Hon. S. P. BRACKS (to 30 July 2007)

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. R. J. HULLS (from 30 July 2007)
The Hon. J. W. THWAITES (to 30 July 2007)

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr E. N. BAILLIEU

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. LOUISE ASHER

Leader of The Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
Mr P. L. WALSH

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Lobato, Ms Tamara Louise	Gembrook	ALP
Asher, Ms Louise	Brighton	LP	Lupton, Mr Anthony Gerard	Prahran	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	McIntosh, Mr Andrew John	Kew	LP
Barker, Ms Ann Patricia	Oakleigh	ALP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Batchelor, Mr Peter John	Thomastown	ALP	Marshall, Ms Kirstie	Forest Hill	ALP
Beattie, Ms Elizabeth Jean	Yuroke	ALP	Merlino, Mr James Anthony	Monbulk	ALP
Blackwood, Mr Gary John	Narracan	LP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
Bracks, Mr Stephen Phillip [1]	Williamstown	ALP	Morris, Mr David Charles	Mornington	LP
Brooks, Mr Colin William	Bundoora	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	Munt, Ms Janice Ruth	Mordialloc	ALP
Burgess, Mr Neale Ronald	Hastings	LP	Napthine, Dr Denis Vincent	South-West Coast	LP
Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Noonan, Wade Mathew [4]	Williamstown	ALP
Clark, Mr Robert William	Box Hill	LP	Northe, Mr Russell John	Morwell	Nats
Crisp, Mr Peter Laurence	Mildura	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Overington, Ms Karen Marie	Ballarat West	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Pallas, Mr Timothy Hugh	Tarneit	ALP
Delahunty, Mr Hugh Francis	Lowan	Nats	Pandazopoulos, Mr John	Dandenong	ALP
Dixon, Mr Martin Francis	Nepean	LP	Perera, Mr Jude	Cranbourne	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Eren, Mr John Hamdi	Lara	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Foley, Martin Peter [2]	Albert Park	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Fyffe, Mrs Christine Ann	Evelyn	LP	Ryan, Mr Peter Julian	Gippsland South	Nats
Graley, Ms Judith Ann	Narre Warren South	ALP	Scott, Mr Robin David	Preston	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Seitz, Mr George	Keilor	ALP
Haermeyer, Mr André	Kororoit	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Hardman, Mr Benedict Paul	Seymour	ALP	Smith, Mr Kenneth Maurice	Bass	LP
Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Ryan	Warrandyte	LP
Helper, Mr Jochen	Ripon	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [3]	Albert Park	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kosky, Ms Lynne Janice	Altona	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Weller, Mr Paul	Rodney	Nats
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Lim, Mr Muy Hong	Clayton	ALP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 6 August 2007
[4] Elected 15 September 2007

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THURSDAY, 8 MAY 2008

Thursday, 8 May 2008

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.33 a.m. and read the prayer.

RULINGS BY THE CHAIR

Anticipation rule

The SPEAKER — Order! Several members raised matters with the Chair on Tuesday, 6 May 2008, relating to discussing matters in the house that, in referring to the state budget, may infringe the anticipation rule. In particular, members sought guidance about the application of the anticipation rule during statements by members, and during the adjournment debate.

Standing order 40 states that members may make statements on any topic of concern. The standing order appears to allow statements on any subject the member wishes to bring to the attention of the house. I believe that it is in accordance with the standing order for members to raise matters relating to the budget during members statements.

The house has already suspended that ruling relating to anticipation of the budget during question time. In agreeing to that suspension, members made the point that the budget should be treated as a separate case and excluded from the normal rules relating to anticipation. I consider the same principles apply to requests made in an adjournment debate for ministers to take action, as they do to questions addressed to a minister. In both cases information or action is being sought from the minister, rather than members participating in a formal debate such as during the second reading of the bill. I therefore rule that members are entitled to raise matters on the adjournment debate that may concern matters in the budget.

Dr Napthine — On a point of order, Speaker, I seek your advice. I have not had a chance to look up the exact standing order. You referred to the standing order with regard to statements by members and you said that any matter could be raised in them. Do I take it from your advice to the house this morning that the rule of anticipation with respect to bills before the house is also not relevant in statements by members, or do you wish to make it clear that the rule of anticipation relates to bills in statements by members but does not relate to the budget? Does it apply to both? I think if you look at the standing order, from what you read out, it would imply that the rule of anticipation does not apply to statements by members at all. I think that would be perhaps inappropriate.

The SPEAKER — Order! A ruling concerning members statements was made previously by Speaker Maddigan on 17 September 2003, which clearly states:

> Members are allowed to speak about legislation before the house when making a members statement.

I am prepared to accept that ruling as it is. I understand that it is difficult because the member for South-West Coast does not have the written words in front of him. My ruling this morning is regarding matters raised on the adjournment and in members statements as they apply to the budget. I understand that the ruling has been made previously that legislation before the house can be raised in members statements.

NOTICES OF MOTION

Notices of motion given.

Mr Delahunty having given notice of motion:

The SPEAKER — Order! I suggest to the member for Lowan that that would have been a better contribution made as a member's statement.

Further notice of motion given.

Mr Weller having given notice of motion:

The SPEAKER — Order! I express my disappointment at that notice of motion also. It would be much more appropriate as a members statement.

Further notices of motion given.

Mr Walsh — I wish to raise a point of order, Speaker, but I am happy to wait until the notices have finished.

Honourable members interjecting.

The SPEAKER — Order! Government members will not behave in that way. If a member of Parliament chooses to show good manners, he should be congratulated, and I do so.

Further notices of motion given.

Mr Walsh — On a point of order, Speaker, I seek your guidance for the house as to why you have ruled one way on some notices of motion and another way on others. As I would have listened to them, the member for Eltham and the member for Forest Hill moved

notices of motion that congratulated people, similar to those of the member for Lowan and the member for Rodney. I wonder why you singled out the member for Lowan and the member for Rodney and not the member for Eltham and the member for Forest Hill.

The SPEAKER — Order! If that is indeed the case, I apologise. I have not ruled out in any way — because I cannot — the notices of motion from the member for Rodney and the member for Lowan. What I was expressing to the house was my disappointment that the discussion that was had at the Standing Orders Committee some time ago and which seemed to have had a positive impact on the time of the house to do its formal business had been transgressed. The Standing Orders Committee can have a look at this again, but we have an opportunity in formal business for members statements. It is my understanding that notices of motion need to be on a matter that can be debated by this house in a full and frank manner. A message of congratulations to particular people is a difficult concept to actually debate.

We had occurrences earlier in this parliamentary term where debates on notices of motion were going for more than 40 minutes, and that is taking the time of the house in a way that is an abuse of the orders that we have. There was a very frank and, I thought, constructive discussion by the Standing Orders Committee and some common sense applied. I suppose what I was flagging today was some disappointment that that seemed to have been breaking down. I apologise if I have seemed to pull up two members in particular and not other members. I did not fully appreciate the form of the notices of motion given by the member for Eltham or the member for Forest Hill. I apologise if that is the case.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that notices of motion 155 to 196 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

Ms Marshall — On a point of order, Speaker, chapter 17 of *Rulings from the Chair* states:

> Notices of motion should relate to government business.

Both of the notices of motion given by the member for Eltham and me did relate to government business, not to an individual.

The SPEAKER — Order! While I appreciate that the member for Forest Hill felt the need to make that point, points of order are not a forum to continue a debate.

PETITIONS

Following petitions presented to house:

Bass electorate: health services

To the Legislative Assembly of Victoria:

With the withdrawal of local doctors to operate the accident and emergency service for the Bass Coast, the demise of the Warley Hospital on Phillip Island, the rapid increase in growth and ageing population, the increasing tourist population and the proposed desalination project has put and will increase further pressure on the local hospital and ancillary services of this community. To provide specialist services within this community instead of travelling to Melbourne or Traralgon. This has also put extreme pressure on the Rural Ambulance Service to cover the lack of hospital services in this area.

We, the undersigned concerned citizens of Victoria, ask the Victorian Parliament and the Minister for Health to support our petition for funding the upgrade of the health services in the Bass Coast region.

By Mr K. SMITH (Bass) (387 signatures)

Water: desalination plant

To the Legislative Assembly of Victoria:

The petition of residents of Victoria points out to the house that, given the lack of information and consultation with the public, we are totally opposed to the proposed desalination plant on the following grounds:

Desalination is an energy-intensive and unnecessarily costly means of addressing water shortages. Any renewable energy offsets need first to be directed to reducing the impact of current levels of energy use.

The construction of the plant poses potential risks to marine and marine park environments.

Aboriginal heritage sites are also at risk.

Inappropriate siting of the plant has potential detrimental effects on coastal space, with the likelihood of destroying the very values which attract visitors and residents to Bass Coast.

The development is at conflict with state and local government policies, especially marine protection, Victorian coastal strategy, Victorian coastal spaces study and Bass Coast strategic coastal framework.

The petitioners therefore request that the Legislative Assembly of Victoria directs immediate consultation between government and the local community's representative committee to address the issues as listed above.

By Mr K. SMITH (Bass) (316 signatures)

Frankston bypass: Pines Flora and Fauna Reserve

To the Legislative Assembly of Victoria:

The petition of the people of Victoria draws to the attention of the house the Frankston Pines Flora and Fauna Reserve as being the most botanically significant Crown land in Melbourne's south-east; the closest home to Melbourne of the nationally endangered southern brown bandicoot, swamp skink, the black-faced wallaby and over 30 species of indigenous orchids.

The petitioners therefore request that the Legislative Assembly direct that an alternative route be found for this road and that all the Crown land within the reserve's boundaries be set aside as a national park.

By Mr PERERA (Cranbourne) (315 signatures)

Abortion: legislation

To the Legislative Assembly of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the house:

1. the avowed desire of some members of Parliament to decriminalise later-term abortion;

2. there are around 90 000 abortions in Australia annually, which is 10 per hour, or 1 every 6 minutes;

3. the command of Almighty God 'You shall not murder' in Exodus 20:13; His clear instruction that human life begins at conception, as stated in Psalm 139:13–16; Matthew 1:18, 20, 21; and Luke 1:39–44; and His express command not to kill the unborn in Exodus 21:22–25;

4. the scientific fact that a new human life begins at conception, with its own DNA, blood group, blood type, separate blood supply, heartbeat and gender;

5. the fact that today's modern medicine and medical treatment ensures a high survival rate for babies born prematurely, as early as 23 weeks' gestation and improving continually ('67 per cent survival at 23 weeks: Royal Women's Hospital' in 'Premature baby debate needed — Pike', the *Age*, 07/06/05).

The petitioners therefore request that the Legislative Assembly of Victoria:

preserve and retain the current provisions of the Victorian Crimes Act 1958 that make it a crime to deliberately kill babies capable of living outside the womb (section 10 'Offence of child destruction');

expand the provisions of sections 65 and 66 of the Victorian Crimes Act 1958 to prohibit all forms of abortion at any stage of pregnancy, excepting those extremely rare instances of indisputable medical emergency where the mother's life can only be saved by ending the pregnancy;

require, through appropriate legislation, that all such emergency deliveries be performed with the goal of delivering the baby alive together with supply of modern medical care for the premature baby.

By Mr TREZISE (Geelong) (60 signatures)

Water: catchment logging

To the Legislative Assembly of Victoria:

We the undersigned draw to the attention of the Parliament of Victoria that logging of high-conservation forest is occurring at the Armstrong Creek catchment.

We the people, are outraged that at a time when Victoria is experiencing its most severe drought, logging of this catchment is reducing our water supply.

We are equally concerned at the fact that logging of this catchment is destroying the habitat of Victoria's endangered faunal species, the Leadbeater's possum.

We therefore call on the Victorian government to immediately cease logging of the Armstrong, Thompson, Cement, McMahons and Starvation catchments.

By Ms LOBATO (Gembrook) (44 signatures)

Water: north–south pipeline

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to develop a pipeline which would take water from the Goulburn Valley and pump it to Melbourne.

The petitioners register their opposition to the project on the basis that it will effectively transfer the region's wealth to Melbourne, have a negative impact on the local environment, and lead to further water being taken from the region in the future. The petitioners commit to the principle that water savings which are made in the Murray–Darling Basin should remain in the MDB. The petitioners therefore request that the Legislative Assembly of Victoria rejects the proposal and calls on the state government to address Melbourne's water supply needs by investing in desalination, recycling and capturing stormwater.

By Mrs POWELL (Shepparton) (221 signatures)

Tabled.

Ordered that petitions presented by honourable member for Bass be considered next day on motion of Mr K. SMITH (Bass).

Ordered that petition presented by honourable member for Shepparton be considered next day on motion of Mrs POWELL (Shepparton).

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Financial and performance outcomes 2006–07

Dr SYKES (Benalla) presented report, together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Statutory Rules under the following Acts:

County Court Act 1958 — SR 33

Subordinate Legislation Act 1994 — SR 34

Subordinate Legislation Act 1994:

Ministers' exception certificates in relation to Statutory Rules 33, 34.

BUSINESS OF THE HOUSE

Adjournment

Mr HELPER (Minister for Agriculture) — I move:

That the house, at its rising, adjourn until Tuesday, 27 May.

Motion agreed to.

MEMBERS STATEMENTS

Water: Mornington Peninsula

Mr DIXON (Nepean) — Mornington Peninsula residents have been shocked to learn that they will now be hit with a new tax from the Brumby government — a water and drainage charge which will slug ratepayers up to an extra $57 a year on their water bills. The average water bill for South East Water is approximately $495. The Brumby government's announced water price hike of 14.8 per cent will add a further $73, so that together with the new water tax of $57, residents on the Mornington Peninsula will be paying on average an extra 26 per cent for their water. The vast majority of my constituents are on pensions, are superannuants or have low incomes. This new tax will not be appreciated by residents, who are finding it hard enough to make ends meet.

Police: Mornington Peninsula

Mr DIXON — On another matter, following my visit to a number of local police stations last week, I have learnt that currently there is no divisional van operating in the southern peninsula at the moment. The area should have two divisional vans, but that has not been the case for years now. Following a recent accident, the only van is out of commission while it is being repaired, leaving no van at all available for patrols. When a government makes a police force operate on the edge in terms of resources, one incident, like the van's accident, can leave a whole district without this important aspect of police work. It is about time the Mornington Peninsula was given police resources that its growing population deserves. It cannot afford to be protected by the same sized force it had 20 years ago, which is what it has now.

Werribee Mercy Hospital

Mr PALLAS (Minister for Roads and Ports) — I rise to acknowledge the important work of the Werribee Mercy Hospital, which is the local hospital in my electorate. Werribee Mercy covers the areas of Hobsons Bay and Wyndham, which are some of the fastest-growing municipalities in Victoria, and also people from as far as Brimbank and Geelong. The Brumby government has continued its strong support of the important work of this hospital with the allocation of $14 million in this year's budget for stage 1 of the Werribee Mercy Hospital extension. This money will provide an extra eight obstetric beds, with four extra special care nursery cots, giving capability for an extra 800 births a year.

I would like to commend Werribee Mercy's chief operating officer, Stephen Cornelissen, the director of nursing, Wendy Dunn, and all the doctors, nurses, health professionals and staff who provide so much care and respect for all the patients. In the last year it saw 24 000 inpatients, 38 000 emergency patients, 7500 surgery patients and almost 2000 births in a 186-bed hospital. The hospital is one of only three in the metropolitan area that provides a 6-bed mother-baby unit, which ensures support for mothers experiencing postnatal depression. The provision of mental health services is of extreme importance, and with 700 registered clients the hospital provides crisis assessment and treatment, a 25-bed inpatient unit, a 4-bed short-stay unit and a homeless outreach psychiatric service. The hospital also provides excellent

palliative care services, which provide for a 150-patient program that cares for people in their homes and a 12-bed inpatient unit.

East Wimmera Health Service: dialysis services

Mr WALSH (Swan Hill) — Now that the budget is over the challenge is still there for the East Wimmera Health Service in meeting the demand for dialysis services in its health catchment area. It desperately needs assistance from the Brumby government to recruit and fund a second dialysis nurse at its Donald campus. The health service has converted its disused theatre at the Donald campus into a specially designed dialysis service to cater for three people at a time — the most that can be safely managed by its sole dialysis nurse. But this is not enough to meet the demand for dialysis services within the East Wimmera catchment.

At the top of the list is a man from St Arnaud who has to travel to Ballarat three times a week for dialysis services, which involves a four-hour round trip each time. A Birchip mother in her 60s has to travel three times a week to Swan Hill for dialysis services and undergoes a 3-hour round trip each time. For both of these people the travel is physically and emotionally exhausting. A second dialysis nurse at the Donald campus would significantly reduce the travel time for these people and others who require dialysis services within the East Wimmera Health Service district.

The board and the staff of the health service are doing a great job of providing health services at Birchip, Charlton, Donald, St Arnaud and Wycheproof, but they need assistance from the Brumby government in recruiting and funding a second dialysis nurse. The community is not interested in the billions of dollars in the budget, just a small simple request: please Mr Brumby, help East Wimmera Health Service meet the demand for dialysis services.

Hugh McMenamin

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I rise to honour the memory of Kilsyth and Mountain District Basketball Association great, Hugh McMenamin, who passed away last month. The legacy he leaves for basketball in this state is enormous. From his beginnings as an administrator with the Kilsyth Cobras basketball team to his position as chair of the South East Australian Basketball League, Hugh has helped grow the sport like few others have. He served on almost every board associated with both Kilsyth Basketball and Basketball Victoria, and his work was crucial to Kilsyth Basketball growing into the largest basketball association in Australia, catering for thousands of players every week. His impact and influence was no better highlighted than at the recent memorial service in his honour. Hundreds packed court 1 of the Kilsyth basketball stadium — a mixture of players past and present, administrators from across the country, community leaders, families and many friends. I would like to quote from what the Kilsyth Basketball Club said about him:

> Hugh was a tireless servant and figurehead at every level. Hugh was a wonderful gentleman among men and a loyal servant to the sport …
>
> His loyalty and passion for basketball will be forever remembered and celebrated.

Anzac Day: football derbies

Mr MERLINO — I would like to pay tribute to the thousands of Victorians who came together on Anzac Day at commemoration sporting matches right across the state. Inspired by the now traditional Collingwood-Essendon clash, dozens of local Anzac Day derbies were held in places such as Ballarat, Bendigo, Mildura, Kilmore, Mornington and Reservoir helping raise thousands of dollars for local RSLs. I attended a clash in my electorate between Upwey-Tecoma and Monbulk, which began with a moving service conducted by the Upwey-Belgrave RSL sub-branch. It was a fantastic day, with Upwey-Tecoma flying home to a 35-point win. But the real highlight was the way we again witnessed how sport can bring communities together.

Box Hill Hospital: redevelopment

Mr CLARK (Box Hill) — Eastern suburbs residents are entitled to be disappointed and angry at the Brumby government's breaking of Labor's election promise to redevelop the Box Hill Hospital. The hospital's waiting lists and waiting times are the worst of any hospital in Melbourne, despite the best efforts of the doctors, nurses and other hospital staff. The medical needs of residents of the eastern suburbs and beyond are suffering because the hospital is struggling to cope with growing numbers of patients, including elderly patients and young families, in the hospital's current old and inadequate facilities. Patients in pain are left waiting for hours unattended in the emergency waiting room or are turned away from long-awaited operations.

The last major upgrade of the hospital was in 1998. Previous redevelopment plans were scrapped by the government after the 2002 election. In its eastern suburbs election policy at the last election, Labor promised to redevelop the hospital, saying:

The first stage of the Box Hill Hospital redevelopment will be completed in 2008 and the staged redevelopment of the hospital will be continued until a new facility is completed.

The first preliminary stage of the redevelopment is now almost complete, but the redevelopment of the hospital is not being continued. The failure to provide funding in this year's budget means the project will come to a halt, the project team will be wound up and the drawings filed away.

It adds insult to injury that the government set up a community consultative committee for the redevelopment chaired by the member for Burwood, which consumed hundreds of hours of volunteer time, falsely raised expectations and left the community abandoned. The health needs of hundreds of thousands of eastern suburbs residents cannot simply be brushed aside. Labor must be forced to honour its promise and continue this much-needed redevelopment.

Casey: maternal and child health

Mr DONNELLAN (Narre Warren North) — I wish to talk about the maternal and child health service in the city of Casey. I am concerned that the Casey City Council still will not accept the need for its nurses to engage directly with the Casey Hospital in relation to at-risk discharges to ensure mothers have the support they need in relation to breastfeeding, depression and other emotional and physical difficulties. It is the only council in Victoria not to do so.

The Community Indicators Victoria wellbeing report indicates that in 2005–06 the participation rate of children at 3.5 years of age in the city of Casey's maternal and child health service was 28.9 per cent, compared to the state average of 58 per cent. Further, recent Department of Human Services figures on breastfeeding indicate that Casey has the worst rate in Victoria. These problems have been around since 2002. Every time the council is caught out it seems to put a spin on it. The City of Casey can find money to fund the Melbourne Football Club, but cannot seem to find time or money to protect the health of their local rate-paying mothers. It can promise pokies for the Casey Scorpions, but cannot find money for healthy babies. There is still no guarantee to the Department of Human Services or the Minister for Children and Early Childhood Development that the council will allow nurses to directly liaise with hospital staff regarding at-risk discharges. It is no use the state government putting more money into maternity services at Casey Hospital if the City of Casey is not going to pull its weight.

Police: G20 protesters

Mr R. SMITH (Warrandyte) — I rise to speak in support of the policemen and policewomen of Victoria. In November 2006 our overworked and underresourced police were sent to deal with organised protesters on the day of the G20 riots. Police were outnumbered by those protesters and were viciously attacked on what has become a sad and black day for Victoria. We have all seen the pictures time and again of police trying to contain those protesters who tried to break through police blockades and who threw anything they could get their hands on at police.

One of my local police, Senior Constable Kim Dixon, a police officer of 22 years, may never return to front-line duties due to the injuries she sustained during the G20 riots. She has two torn tendons in her left elbow and is unable to perform a number of daily duties such as pushing her young son in his pram. Ten protesters from the riots who the magistrate described as 'defiant' and 'aggressive' recently escaped jail sentences. Five received suspended jail terms and five received community-based orders. Kim, conversely, has received a sentence of chronic pain and the struggle of trying to complete the daily tasks we all take for granted. She may yet be pensioned off from the police force because she may not be able to carry out a full range of duties in the future. Our police are on the front line day after day, working to protect our communities and, in return, they see that those who have committed acts of violence on them are given little more than a slap on the wrist.

If our lenient sentencing is so soft that it does not protect those who protect us, then what does that say to police? Why should they put themselves on the line when there are no real consequences for those who have no respect for the law or for those who are charged with enforcing those laws? It is time this government gets tough on crime and ensures that tougher penalties are enforced on those who break the law.

Chris Dower and Russell Elliott

Mr TREZISE (Geelong) — I take this opportunity to mark the retirement of Mr Chris Dower, former principal of Western Heights Secondary College, and Mr Russell Elliott, former principal of North Geelong Secondary College. I assure members that both Russell and Chris were principals who provided dedicated and quality leadership to their respective school communities.

Chris Dower began teaching in 1972, and in 1973 he commenced his lifelong association with Western Heights Secondary College. In 1979 he was appointed to the education department's regional office, but he returned to the school in 1993 and became principal in 1999. As the principal, Chris Dower was a man of vision and the driving force behind what will be a state-of-the-art redevelopment of the Western Heights Secondary College as a single campus incorporating facilities for the local community. When built, this building will be a testament to Chris Dower's commitment to education.

Russell Elliott was also a driven principal. He was driven to ensure that the youth of the northern suburbs, many of them from financially and socially disadvantaged backgrounds, including newly arrived refugees, were given the quality of education opportunities they deserved. In partnership with the school community, Russell ensured that the school took a holistic approach to interracial harmony and oversaw the development of the school's specialist English language centre. The $3.3 million refurbishment of North Geelong Secondary College is also a testament to Russell's relentless commitment to the school.

I commend both Russell Elliott and Chris Dower on their fine careers. They were committed to ensuring the best possible outcomes for their students, teachers and staff alike. I wish them both well and all the best for where their future may take them.

Gaming: industry restructure

Mrs POWELL (Shepparton) — On Thursday, 24 April, I met with representatives from gaming venues in my electorate to hear their concerns about the new format of the gaming licence structure after 2012. Mr Rod Drill, manager of the Shepparton Club, Mr Craig Prothero of Mooroopna Golf Club, Mr Alex Howson of Hill Top Golf and Country Club, Tatura, and Mr Ron Poole, also from the Shepparton Club, told me they met with the Minister for Gaming in Benalla. He told them that the new format would promote competition within the industry and that the new bidding processes will find the true worth of gaming machines in Victoria.

Mr Rod Drill also wrote to me concerned that the new regime creates an invitation to irresponsible gaming practice because of the desperation to meet financial commitments which are taken on to get into the industry. He is also concerned about the new bidding process. He believes the process does not require a venue to borrow money or have a loan approval, as you would when you are bidding for property. He believes the government is going to take the winning bid and the bidder will pay it off in time. With this process there is nothing to stop the bid reaching amounts that are unaffordable within the 10-year term. Desperation from existing venues to bid into their existing third share will be possible as there will be desperation on the part of new players who do not know the true expense of running a gaming venue and will bid any amount just to get machines.

The club representatives are concerned that if the cost of the licences becomes too high smaller venues will close. Also, clubs will be quarantining money to bid on the licences instead of using that money to support their community or to upgrade their venues for the benefit of their customers. I call on the minister to ensure that smaller clubs do not miss out on poker machine licences.

Anzac Day: Yan Yean electorate

Ms GREEN (Yan Yean) — I wish to record my congratulations to the record number in my community who turned out to honour the fallen at Anzac Day commemorative services held across the Yan Yean electorate. It was wonderful to see veterans and their descendants, together with the army and air force cadets, local schools, local clergy, scouts, cubs and guides, Country Fire Authority brigades, Victoria Police, other service clubs, the Watsonia RSL pipe band, the Diamond Valley Brass Band, and other musicians solemnly join together to pay tribute to those who have made the supreme sacrifice in the service of our nation. All these beautiful services would not be possible without the enormous work of RSL sub-branch executives and members from the four sub-branches that operate in my electorate, being Hurstbridge, Epping, Diamond Creek and Whittlesea. They ensure the solemn statement of 'Lest we forget' is very much kept alive for our young people.

At a very personal level I would like to thank those sub-branches for allowing me to participate. It keeps it very real for me as the granddaughter of someone who served in the Australian Imperial Force both in World War I and World War II. Thank you very much to those sub-branches.

Budget: Ferntree Gully electorate

Mr WAKELING (Ferntree Gully) — The people of Ferntree Gully can be rightly upset with the way in which this government has treated them with the recent budget announcement. Despite the fact that we have record spending and record debt, which will see repayments and servicing of debt of up to $1.8 billion

annually from 2012, people in my community have missed out in terms of new educational and important public transport infrastructure.

If we look at health in terms of the Angliss Hospital, there will be no infrastructure upgrade at that facility. There was no major announcement made with respect to either the Dorset Road extension or upgrades to Napoleon Road. The long-awaited promise of more police on our streets is not going to be delivered as a consequence of this budget. If one looks at the way in which this government has treated public transport, one sees that people in Rowville have been waiting for nearly 10 years for a feasibility study. The people of South Morang have received a funding announcement, but the people of Rowville have missed out. The Ferntree Gully railway station has missed out by not being given premium status. We can only hope that it is one of 10 stations that may get a car park upgrade.

Turning to education, last year one of my schools received a funding upgrade announcement, but in this year's budget it did not get anything in terms of a major infrastructure upgrade as part of a $123 million investment. We can only hope that the school is one of the 70 schools that might get a funding announcement as part of the $35 million upgrade. The only upgrade the people in my community got was a funding announcement from last year's budget.

Anzac Day: Glen Waverley

Ms MARSHALL (Forest Hill) — On 22 April with the member for Oakleigh I attended an Anzac Day service organised by the Rotary Club of Monash at Central Reserve in Glen Waverley. The year 2015 will be the 100th anniversary of the Gallipoli campaign, and the recognition of Anzac Day by young people in our community is vitally important. Over 1000 student representatives listened to inspirational speeches about the true meaning of the Anzac spirit and how it was formed 93 years ago on the beaches of Gallipoli in Turkey.

The students were absolutely captivated by not only the content but by the way in which retired Colonel John Coulson described in detail how the landing of troops at Gallipoli might have been seen through the eyes of a 19-year-old. Asking everybody to close their eyes, leave behind their iPods and mobile phones and climb into an imaginary time machine, he set the scene. On exiting, each of us had become a young man wading ashore in bloodstained water, a rifle held above his head, while machine-gun fire raged around him, killing and wounding his comrades and mates. There was silence as John described the mixed emotions that might have been felt by this soldier as he tried to take shelter against the steep cliffs from which enemy fire rained down. After reaching this relative safety he realised that he had not even fired a shot.

The Gallipoli campaign was not a successful battle, but it was on the beaches and scrubby hillsides of Gallipoli that the legend of the Australian and New Zealand soldiers was forged and their the bravery was demonstrated. Here was a group of soldiers who would battle against any odds and conditions in the pursuit of freedom and peace.

We stood silently while the *Last Post* was played, and I believe every student genuinely understood that the men and women from that time had made the ultimate sacrifice, and did so in order that future generations could live freely. These soldiers fought for Australia, and now our country's future is one of a bright and vibrant society.

Planning: Hampton East heritage precinct

Mr THOMPSON (Sandringham) — I rise to express major concern regarding the impact of compulsory heritage listing resulting from the interwar and postwar heritage study in my electorate. I am advised that some constituents invested in a property in Heath Crescent with a view to rebuilding, and that the study classifies their property as significant. While I appreciate the academic aspects of the interwar and postwar heritage study I regard it as ludicrous to permanently restrict the redevelopment of this precinct. I am certain that the local historical society will be able to capably document and store relevant photos, maps and commentaries which record our important history. I do not support residents' dreams and future plans being destroyed by the proposed precinct limitations. I have had an avalanche of correspondence from numbers of people who have also expressed their concerns. One constituent wrote:

> I object most strongly to the inclusion of my property on this list, and to the procedure which has led to its inclusion at all without my knowledge or consent.
>
> In addition to this I object in principle to the inclusion of private property on this list — neither the council nor the community in general contributes to the upkeep and maintenance of heritage-listed properties and yet the owners of such properties are greatly restricted in being able to make changes to their buildings in the future in comparison with owners of non-listed properties.
>
> In practice the imposition of a heritage listing weakens the meaning of the concept of freehold property with little or no benefit to the owners of the properties so afflicted.

On the other hand there are some people who are very happy for their properties to be listed, and worthily so. A voluntary heritage listing would be the solution.

Eltham electorate: Parliament House bowls day

Mr HERBERT (Eltham) — I rise to congratulate the Eltham Recreation Bowling Club on its historic victory at the recent bowls competition on the greens of Parliament House. Each parliamentary term the Eltham bowling club, the Montmorency Bowling Club and the Heidelberg Golf Club/Bowling Club play off for the esteem of being crowned Eltham parliamentary bowling champion for that term. This year Meryl Spargo, Judith Furlong, Cath Andrew, Lorraine and George Reid, Mike Theodore, Eric Langford and Garry Battershell bowled two absolutely terrific games to end the day five up, giving them victory in the 2008 leg of the 56th parliamentary bowls competition.

The Eltham electorate has a terrific sporting scene, stretching all the way from junior sports clubs right up to the very active, and traditionally older, constituents and members of the bowling clubs. Our local bowling clubs are a very important place for people, especially our more senior locals, to socialise, exercise and, often during the winter break, go to sunnier climates to compete. The great enjoyment people get from bowling clubs was apparent on the parliamentary bowls day, as it appeared everyone had a fantastic day, great friendships were renewed and good times were had.

In finishing, I would like to congratulate the Eltham bowling club on its first ever victory in the parliamentary bowls competition, and I very much look forward to hosting next year's competition, which I know, once again, will be quite a thriller.

Scrutiny of Acts and Regulations Committee: Police Integrity Bill

Mr McINTOSH (Kew) — As the house will recall, the Police Integrity Bill passed this chamber recently and was not opposed by the coalition. The house will also recall that, apart from the case of the government's apparent misuse of telephone-tapping powers nearly three years ago, which was eventually resolved, the coalition has always supported the government's legislative program relating to the Office of Police Integrity and indeed the OPI itself in its fight against corrupt cops. This was again reiterated by the coalition members during the debate on the Police Integrity Bill.

However, the Police Integrity Bill itself has raised substantial concerns about the way the Scrutiny of Acts and Regulations Committee (SARC) has gone about its important task of reviewing this bill and its impact upon rights and liberties. Of course I am aware that the committee proceedings are confidential, and I do not propose to breach that privilege. Importantly, in relation to this bill, though, SARC had already identified, for the benefit of this house, substantial concerns about its impacts on rights and liberties, and these were not fully investigated. Apparently a unanimous decision of SARC, which is on the public record, to conduct a public hearing was shut down amid allegations of inappropriate interference by the government. It is a taint upon the legislation itself and a taint, unfortunately, on the Scrutiny of Acts and Regulations Committee. Unless it conducts a full inquiry and provides an explanation to the house, it will be tainted, as will the important work that could be done with the Police Integrity Bill itself.

Music from the Wetlands Festival

Ms RICHARDSON (Northcote) — On Sunday, 13 April, my family and I spent a wonderful afternoon at the fourth annual Music from the Wetlands Festival held at the wetlands alongside the Yarra River in South Alphington. Celebrating music, environment and community, Music from the Wetlands showcases the history, culture and life of the community. This year's festival included a free concert on the river flats, environmental displays, guided tours of the wetlands and activities for families and children, such as storytelling and kids' craft.

Located to the south of Alphington Park, the area was originally home to the Wurundjeri-willam people. Later the area was extensively cleared for farming and little of the original bush remained. In recent years it has been replanted with many indigenous trees, shrubs and grasses.

I wish to congratulate the event organisers, namely the South Alphington and Fairfield Civic Association (SAFCA) along with the Alphington Community Centre and the sponsors, the City of Yarra and Amcor. I also wish to acknowledge Kate Herd, who again opened her property for the event. She is a wonderful example to us all. The event's success came only through the hard work of many volunteers, whom I wish to acknowledge and thank. They are members of the SAFCA Festival Committee, consisting of David McKenzie, Elspeth Chambers, Carol Ride, Beth Hatch, Greg O'Brien, Brian Moran, Geoff and Sandra Kelly and sound engineer, Andy Moore, without whom the festival would not have happened.

From the Alphington Community Centre I thank Pauline Rantino, Mary Jo Straford. Kate Morton and

Anne Crehan, who provided invaluable contributions. Other wonderful volunteers included Jack Morgan, Michael Meszaros, Katriona Fahey, Linda Angel, Linda Peterson, Megan Utter, Andrew Goatcher, Anne Watson, Chris Rangan, Darryl Hewson, Dianne Ryan, Phil Ryan, Fiona Currie, Geoff Fidler, Helen Uwland, Jane McCoy, Jeff Katz, John Ride, Julie Smith, Karen Sims, Kellie Robinson — —

The ACTING SPEAKER (Mrs Fyffe) — Order! The member's time has expired.

Mental health: Wimmera

Mr DELAHUNTY (Lowan) — As we all know, Victoria is bigger than Melbourne, and people in the community of western Victoria are very angry with the lack of support for mental health services in the Wimmera region. The budget handed down this week has no funding for a much-needed second ambulance paramedic unit in Horsham. The crisis in mental health services in the Wimmera is well known by this minister and by the government. There are major concerns about after-hours services on weekdays, but particularly at weekends. Our health system is overburdened, underfunded and in crisis. This budget gives no joy to mental health patients or to their families and carers. Patients have had to wait up to 16½ hours for an ambulance to transport them. We have chronic underfunding of mental health services, and in this case the lack of funding for a second paramedic team for Horsham is false economy that will lead to larger social problems.

The Nationals, and now the coalition, strongly believe that those who live in the country are entitled to top-quality ambulance services for mental health patients. The budget brought forward by Labor this week has the stamp of a budget for increasing taxes and decreasing services. I pass on my heartfelt sympathies to patients and their carers and families for the ongoing problems with the delivery of mental health services in the Wimmera. I will not give up supporting them in relation to services and particularly in relation to the provision of a second paramedic unit at Horsham.

Lara electorate: government initiatives

Mr EREN (Lara) — Following on from my last 90-second statement relating to my electorate I have more good news this week. I will start with the huge announcement that was made recently by the Premier. It involved a major investment by one of India's largest information technology companies, Satyam Computer Services — that is, to build a new software development and training campus in Geelong which will deliver 2000 jobs. It is expected that this will boost Victoria's economy by around $175 million annually within a decade. This is of course on top of the hundreds of jobs associated with the relocation of the Transport Accident Commission to Geelong. The Satyam announcement is without a doubt a vote of confidence in the information and communications technology industry in Geelong, and indeed in this government's initiative in creating a good environment for the business community to invest in.

On another issue, Lara's Elcho Park Golf Club has been awarded $100 000, and Barwon Prison will receive $75 000 in funding from the Brumby government's Smart Water Fund for an innovative water-saving project. Corrections Victoria will use the $75 000 grant to upgrade the current class C sewage treatment plant at Barwon Prison to enable it to supply class A recycled water for toilet flushing, laundry and boiler room operations. The City of Greater Geelong will use its $100 000 grant on a pledge to divert water from the Barwon Prison sewage treatment plant to nearby Elcho Park golf course for irrigation purposes. This $630 000 project will save up to 87 million litres of water per year across the two facilities.

I want to also mention that a grant of $11 500 was given to a Lara chemical company, Ronic International, under the Brumby government Grow Your Business grant program. This Lara-based company, which produces plant growth regulators — —

The ACTING SPEAKER (Mrs Fyffe) — Order! The member's time has expired.

Lloyd Street Primary School: funding

Mr O'BRIEN (Malvern) — Another year, another budget, and again this Brumby Labor government has turned its back on the students of state schools in the Malvern electorate. I have five state schools in my Malvern electorate which are stretched to capacity and which have a large maintenance backlog, yet Labor has neglected each of them again. What will it take to stop this government from punishing innocent kids based on their postcode?

Lloyd Street Primary School in Malvern East is by anyone's definition in desperate need of a major rebuild. Even my Labor opponent at the last election went into print and joined me in calling for an immediate upgrade. The school council president, Simon Richards, was quoted in this week's *Stonnington Leader* as saying that the school was 'desperate' for funding. 'When is it going to be Lloyd Street's turn?' he pleaded. 'The building needs painting, if it is not

done soon, there will be structural damage …', Mr Richards told the paper. But such is the neglect and callousness of the Brumby Labor government that the Lloyd Street school, like every Malvern state school, has been denied proper funding. I share the anger and frustration of the students, the parents, the teachers and the staff of these schools, who have been ignored by this government.

I give them this commitment: I will not stop fighting for them and I will not stop raising their plight until this government is forced to act or is thrown out of office and is replaced by a government that will not play politics with our children's education.

Abortion: Tell the Truth pamphlet

Mrs MADDIGAN (Essendon) — A number of complaints were made to the Advertising Standards Bureau about an anti-abortion leaflet distributed by the rather inappropriately named Tell the Truth coalition. One of those complaints was from a well-respected community activist who is known to some members of the house, Lance Wilson. In his complaint he said:

> The images are extremely graphic and disturbing. They would cause distress to anyone who has had an abortion or who has suffered a miscarriage. They imply that women who have had abortions are murderers and state that women who undergo abortions suffer a range of mental illnesses and even claim they have a higher risk of breast cancer.
>
> Whilst I support everybody's right to present political views, I do not support the use of graphic, violent and extremely distressing images in what is essentially a political campaign. I do not believe these images make a constructive contribution to the public debate, yet they risk a very negative impact on some sections of the community who view them.

I am glad to say that the Advertising Standards Bureau upheld the complaints, and there were a number of them, about that leaflet. In its determination it said:

> The board viewed the advertisement and agreed that the images were extremely graphic and had the potential to cause alarm and distress …
>
> The board considered that the content of the advertisement had the potential to affect the mental health of women who have had an abortion or women who are pregnant and not happy with their situation.
>
> …
>
> The board considered the advertiser's right to free speech and their right to share their views. However, the board considered on balance that the images depicted were contrary to prevailing community standards on health and safety.

At the time of the report, 9 April — —

The ACTING SPEAKER (Mrs Fyffe) — Order! The member's time has expired.

Budget: Bayswater Secondary College

Mrs VICTORIA (Bayswater) — I rise to express my disappointment at the omission of funding for stage 2 of building works at Bayswater Secondary College in this year's budget. This was promised with much fanfare by the then Minister for Education Services before the 2006 election. It was reaffirmed by the then Minister for Education and current Treasurer in the other place at the opening of stage 1 in 2007, and dismissed by the current Minister for Education in 2008.

Bayswater deserves much better. It is not the only area lacking funding in this year's budget in the eastern suburbs but it is one that affects so many young lives. Labor should be utterly ashamed.

Bulleen electorate: government performance

Mr KOTSIRAS (Bulleen) — I stand to condemn this lazy government for ignoring the needs of the residents of Bulleen. After nine long years it is refusing to take any action to alleviate some of the problems that are found in my electorate. It is a shame that the minister is refusing — —

The ACTING SPEAKER (Mrs Fyffe) — Order! The time for making members statements has now expired.

APPROPRIATION (2008/2009) BILL

Second reading

Debate resumed from 6 May; motion of Mr BRUMBY (Premier).

Mr WELLS (Scoresby) — I advise the house that I have 12 graphs which I seek leave to have incorporated in *Hansard*.

Leave granted; see graphs pages 1747–1758.

Mr WELLS — Throughout its tenure the Victorian Labor government has enjoyed the budgetary fruits of a good fortune made by others. Despite the massive largesse bestowed upon it by Australian taxpayers, Labor has failed to use those resources for the benefit of the Victorian people. Since 1999 the Labor government has been spending money for nothing, or at least for very little.

On Tuesday, 6 May, the Treasurer presented the government's budget for the next financial year. It is a critical budget that comes at a critical time. On so many levels and in so many places the governance of our state is a real mess. The basic problem is simple. As the Brumby Labor government has benefited from a record level of tax revenue, it has failed to increase basic services to keep pace with our growing population. Let me repeat — the basic problem is simple. As the Brumby Labor government has benefited from a record level of tax revenue, it has failed to increase basic services to keep pace with our growing population. As a result the failures of the Brumby Labor government are piling up like peak-hour traffic on the Monash Freeway.

Major public works programs have been marred by cost blow-outs and delayed delivery dates. This in turn has led to a massive debt blow-out that is projected to reach $22.9 billion in 2012. While record amounts of revenue are flowing into Treasury coffers, Victorians face an overburdened and underfunded health system that is in crisis mode; a health system which features a patient waiting list of 38 000; a health system which keeps sick children in limbo as they wait for vital cardiac surgery; a health system where government mismanagement and poor allocation of resources have bequeathed to Victoria the lowest funding per capita and the fewest hospital beds per capita of any state hospital system in the nation.

Victorians face also an education system that produces the lowest literacy and numeracy levels of any mainland state, according to the OECD (Organisation for Economic Cooperation and Development); mismanaged major public works programs that are both behind schedule and over budget; a public transport system that suffers from chronic overcrowding and erratic performance levels; a disgraceful neglect of our water supply caused by flawed planning and underinvestment in infrastructure; increasingly congested roads and streets that feature bumper-to-bumper gridlock during peak hour traffic; soaring rates of violent crime that are overwhelming an underresourced police force; and stagnant infrastructure that has failed to keep pace with our growing population.

We are swimming in money, so the Premier and his predecessor cannot escape the verdict of history for their failures by plausibly pleading poverty. The Howard government's extraordinary record of economic competence has produced a tax and revenue windfall for state and territory governments, and the coffers of the Victorian Treasury have been literally awash with money. Since 1999 our state government's budget revenues have risen by over 99 per cent. Victoria's share of GST revenues has increased from $5.1 billion in 2000–01 to an expected $10.3 billion next financial year, an increase of 102 per cent. By 2009, Victoria's own state taxes will have generated a total amount of around $93 billion since 1999.

The government claims in its current budget to cut land tax by 10 per cent, yet, as we see in graph 1, the fact remains that land tax will continue to be one of Labor's biggest money earners. In fact, it is expected to generate over $1 billion next year. So despite Labor's purported cuts, land tax revenues are projected to have risen by 155 per cent since 1999, with an anticipated increase of over $300 million since last year.

Taxes that are based on property values are highly susceptible to the peaks and troughs of the economic cycle. Labor has ignored the budgetary vulnerability created by its excessive dependence on a narrowly focused tax base. Even worse is the yearning for additional revenue that has caused Labor to dig Victoria even deeper into the land tax hole. Eager to exploit recent rises in property values, the Brumby government cancelled the 50 per cent cap on annual land tax increases. By so doing it continues to callously expose many a Victorian small business to the prospect of financial ruin.

Victorian Labor has demonstrated a similar greed towards another major property value-related state tax. Despite the government's claim to have increased the threshold by 10 per cent, the amount of stamp duty payable on a Melbourne median-priced owner-occupied home will remain the highest of any state in Australia. An owner-occupier who purchases a median-priced Melbourne house costing $432 500 will pay a whopping $17 995 in stamp duty. As graph 2 clearly demonstrates, the total amount of land transfer stamp duties forecast to be collected in 2008–09 of around $3.7 billion will remain close to the record level expected to be achieved in the current financial year, and they are a major contributor to our state's housing affordability crisis. The Brumby government is so addicted to this source of easy revenue that it has rebuffed most proposals to ease the stress on home purchasers by meaningfully reforming Victoria's stamp duty.

The problems of excessive reliance on stamp duty extend well beyond the personal trials and tribulations of individual Victorians who are struggling to own a home. A number of noted economic analysts have predicted that the housing market will see an inevitable correction that could lower prices by more than 20 per cent. This could mean a revenue shortfall for the

Victorian government of over $700 million. In such a scenario, the outlook for a rapid recovery of the real estate market would be bleak.

The devastating impact on state revenue of such a downturn would be further aggravated by the sharp narrowing of the stamp duty tax base. In financial year 2006–07, the number of properties subject to stamp duty fell by 12 per cent in comparison to the previous year. Any serious consideration of this risk is absent from Victorian Labor's budget or economic forecasts. Like the proverbial grasshopper in Aesop's famous fable, the government is making little provision for the hard times that must come sooner or later.

The Premier's insatiable appetite for revenue has encompassed other state taxes as well. Victorian Labor has refrained from considering any substantive reforms or adjustments to state payroll tax, despite it featuring the lowest threshold in the nation. The payroll tax was conceived as a levy that would be confined to medium and large businesses. But, as we see in graph 3, despite this budget's small reduction in payroll tax rates from 5 per cent to 4.95 per cent, there has again been no change to the threshold. As a result, threshold creep has increasingly applied this tax to small businesses as well. Companies with workforces as small as 8 to 10 employees are now paying taxes on salaries. Thus Victoria's payroll tax is fast becoming a burden on small business, in violation of its original intent.

This policy contradicts the ALP's 2006 election commitment in its *Time to Thrive — Supporting the Changing Face of Victorian Small Business* statement to make Victoria more commerce friendly by reducing business taxes. Like so many counterfeit Labor promises, this one has all the integrity of a Zimbabwean dollar. Since last year, payroll tax revenue has risen by 10 per cent, with the Victorian business sector projected to pay $4 billion, an all-time record amount.

The money is rolling in from other internal sources. Since 1999 insurance taxes have risen by 109 per cent to $1.2 billion. No reform has occurred, despite the obvious inefficiencies of this tax. Police fines will have more than quadrupled to almost half a billion dollars, with most of this due to the proliferation of speed cameras around Victoria. Gambling taxes are estimated to reap over $1.65 billion this year and are growing over and above the inflation rate. Labor has raised the tax on gaming machines by an extra $39 million — 1200 per cent above the tax in 1999.

Graph 4 shows that over eight years in power the ALP has imposed 15 new or extended taxes that are now contributing significantly to the surge in state tax revenues and are extracting hundreds of millions of dollars extra from Victorian communities and businesses. These taxes include a gaming machine levy; payroll tax on fringe benefits, eligible termination payments and leave payments; payroll tax on apprentices and trainees; stamp duty on mortgage-backed debentures; annual indexation of fines, fees and charges; the transit city tax; stamp duty extensions on land-holding bodies; payroll tax on employment agencies; a 5 per cent water levy; a long-term parking tax — the so-called congestion tax; land tax on trusts; a land development levy; rental business duty; the inbound international airline stamp duty extension; and the waste landfill levy.

Add to that the Brumby government's intention to raise water and energy charges sharply over the next five years. Never mind that in 1999 Labor's own affordable and reliable utilities policy promised low-cost gas and electricity.

Let us talk about debt. Victoria's direct government net debt is projected to increase sixfold, from $1.5 billion in 2005 to $9.5 billion in 2012. But as we see in graph 5, of total public sector net debt, including non-financial public corporations such as water authorities, is also forecast to soar from $3.5 billion in 2002 to an estimated $22.9 billion in 2012. What is worse is that there are no strategies in place by the Brumby government to ever repay this debt. This debt will become a millstone around the necks of our children.

In essence this category of debt represents unfunded state government mandates that are imposed upon utilities and other public non-financial institutions. By 2012 the debt service payments are expected to reach $1.8 billion per year. Just to provide a bit of perspective, $1.75 billion is the entire annual budget of Victoria Police. With what we will be paying each year to service the Brumby government's debt, we could be putting twice as many police on the street, and presumably we would benefit from substantially reduced levels of violent crime. Excessive levels of public sector debt can also cripple a state's finances, as happened during the Cain-Kirner Labor governments of the 1980s and 1990s.

Last year the Liberal opposition warned the Labor government that this rising tide of red ink exposes the state to serious risk in the event of a global economic downturn. We are now in the midst of precisely such a scenario. The spike in Victoria's debt will worsen as the growing international credit crunch heightens the cost of debt financing public works.

Labor is spendthrift. Victorian Labor has not been hesitant about spending all this money for nothing, or at least for very little. The state budget has soared from $18.2 billion in 1999 to an estimated $35 billion this financial year, and the expectation is that in 2008–09 government spending of $37 billion will be double what it was when Labor came to power. Over recent months soaring interest rates and rising consumer prices have put a real financial squeeze on Victorian families.

As we speak, the Rudd government has deployed a razor gang to contain inflationary pressures by cutting commonwealth expenditures. But while the federal government practices fiscal restraint, the Victorian government is splurging as though it has won Tattslotto. The key to whether government spending is responsible or not turns on the question of productivity. Let me repeat that point: the key to whether government spending is responsible or not turns on the question of productivity. If the government's spending were being used to build productive infrastructure such as bridges, roads and railway lines, and if Labor were doing something to address the bottlenecks in Victoria's freight transport system, then inflationary pressures would be minimised. But that is not the case. There is no discipline or strategic focus behind the Labor government's spending plans.

Victorian Labor is in the midst of a scatter-shot multibillion-dollar spending spree which stokes the fires of inflation which the Prime Minister is trying to contain. Thus the spendthrift behaviour of the Brumby government is sabotaging the counter-inflationary policies of its federal counterparts in Canberra. The Premier's fiscal policy represents a gigantic rolling of the dice. In essence Victorian Labor is gambling that the good times will go on forever. But the game is up.

Economic commentators already believe that America is in the throes of recession. As the old saying goes, when the US economy sneezes, the rest of the world catches a cold. In the current era of economic uncertainty the folly of such recklessness is obvious. When our domestic economy experiences the inevitable downturn that awaits, the Victorian government could easily be faced with a budgetary black hole — a black hole that will have to be filled through cuts in services and/or tax increases.

Let us talk about service delivery failures. In that famous scene from the film *Jerry Maguire*, Cuba Gooding, Jr, leads Tom Cruise in the chant, 'Show me the money'. But, as we have seen, there is money galore from a variety of sources that the Brumby government has at its disposal, so the real issue at hand is not, 'Show me the money', but rather, 'Show me the results'. The most compelling question that must be asked is: what has Victoria's Labor government done with the unprecedented largesse that good fortune has brought its way? Has the Brumby government used its windfall income wisely? Has the ultimate source of this funding — the Victorian people — received value for money? The simple answer is no.

The Premier based his development plans for Melbourne's road, rail and social infrastructure on the prospect of an annual population growth rate of 39 000 people, and yet in reality Melbourne has been growing at a pace of more than 60 000 people per year. This gross underestimation by state Labor represents a planning failure of monumental proportions.

As graph 6 demonstrates, Victoria spent fewer dollars per capita on infrastructure in the financial year 2006–07 than any other Australian state. The Brumby government's $1386 spend on infrastructure per head of population fared pretty poorly against the $1571 spent in New South Wales, the $1606 in South Australia and the $3096 in Queensland, and Victoria was positively put to shame by the $7791 per person infrastructure commitment made in Western Australia.

Let us talk about transportation and the Eddington report. There is ample evidence that the Brumby government does not build things to fix things. Metropolitan Melbourne's growing transportation woes have recently been in the news. Sir Rod Eddington submitted to the Brumby government his much anticipated *Investing in Transport — East-West Link Needs Assessment*, but the contents of the report reveal that the document's title was something of a misnomer. The Eddington report should really have been entitled 'Underinvesting in Transport' because it reveals an eight-year history of Victorian Labor's indifference, lethargy and complacency. The report warns that Melbourne's overburdened commuter rail system will soon 'hit a wall', and this is because the ALP has been fiddling around the edges of the problem while Victorians burn millions of litres of fuel on streets and highways that are chock-a-block with congestion.

Labor's 1999 election promise in its new solutions policy statement to create the world's best transport infrastructure in Victoria was just empty rhetoric. You do not have to be an urban planning expert to know that our road and rail network is overburdened and overstressed. Our trams hold the dubious honour of being the slowest in the world, with an average speed of only 15 kilometres per hour. As we see in graph 7, peak-hour traffic on the Monash, Eastern, Westgate and Calder freeways flows like molasses, crawling along at between 20 kilometres per hour and 40 kilometres per

hour. Our suburban and V/Line trains will remain overcrowded and subject to delays and cancellations. Victoria's transportation infrastructure is an absolute shambles, and we all know it.

Meanwhile, back in the real world, the Eddington report cites the threat to Melbourne's economic competitiveness caused by the government's failure to improve our less efficient freight network. But Eddington's damning assessment stands in stark contrast to the utopian view expressed by Labor as recently as 2006 in its transportation election policy statement. The ALP's 2006 *Linking Melbourne* policy statement proudly proclaimed that one of Melbourne's strengths is its freight infrastructure — its ports, airports and road and rail systems.

It appears that denial is not just a river in Egypt. In June 2002 the Minister for Transport at the time, the member for Thomastown, issued a media release promising gauge standardisation on the Mildura–Portland rail line. That was a key component of the government's regional freight links program, but as we speak, some six years later, not a single centimetre of track has been converted to standard gauge.

Labor's rose-coloured attempt to deny the undeniable explains the government's record of poor planning and worse execution. There are simply not enough trains, not enough trams and not enough tracks for the city's public transport system. Between 1999 and 2007 the number of metropolitan area residents grew by a whopping 10 per cent — from 3.4 million to 3.8 million persons. Public transport patronage rose by over 50 per cent during the same period, yet only 10 new rail carriage sets have been brought into service over the eight years of the government's tenure in office. The stopgap, impoverished policies of the government have sometimes descended from incompetence into farce. A case in point is the great recycled trains affair.

In 2002 the Victorian government decided to retire its ageing fleet of Hitachi train carriages. It sold some of them to railway enthusiasts at the bargain basement price of $2600 per unit. However, by November 2006 the Brumby government was so desperate to find additional rolling stock that it repurchased three of these Hitachi carriages for $20 000 apiece, thus Victorian taxpayers were forced to pay a price marked up by 700 per cent for train carriages the state had disposed of only four years previously.

At this stage we have no way of knowing which elements of the Eddington plan will ultimately be adopted by the Brumby government, but the inept management practices that Victorian Labor has demonstrated on other major projects do not portend well for future initiatives. The Brumby government has frittered away billions of dollars on bungled infrastructure programs that have come in behind schedule and over budget. The cost overruns incurred by the government are enough to stagger the mind. The problem-plagued myki transport ticketing system is almost three years behind schedule and has doubled in cost from a promised $500 million to $1 billion.

The cost of Labor's fast train program blew out from $80 million to over $900 million, and it is only managing to shave 4 minutes off a 100-kilometre trip from Melbourne to Ballarat. The cost of the Port Phillip Bay channel-deepening project has spun out of control, going from less than $100 million to almost $1 billion. Just last week we learnt that the West Gate–Monash M1 freeway upgrade project cost had skyrocketed by 40 per cent — from $1 billion in 2006 to $1.4 billion today. By comparison, the $32 million cost overrun at Melbourne's Southern Cross station renovation is small change, but that small sum alone would be enough to fund 80 sorely needed public hospital beds for an entire year.

All in all, Labor's managerial incompetence has cost Victorian taxpayers $5 billion, and the meter is still ticking. Never in the history of Victoria have so many paid so much with so little to show for it. We should have little or no confidence that the mammoth $18 billion infrastructure program recommended by the Eddington report will be handled with any greater effectiveness.

Turning to health care, in the run-up to the last election Labor's Meeting Our Health Challenges policy promised the state would treat more patients sooner, reduce cancellations and invest in our hospitals. Despite these promises, after eight years of Labor government, Victoria's public health care system is in dire straits — and it should come as no surprise. As we see in graph 8, Victoria features the fewest hospital beds per capita of any state hospital system in Australia. To make matters worse, Victoria also has the lowest level of per capita health funding of any state.

Nothing better illustrates the Brumby government's failure to accommodate our health-care needs than the contrast between its inpatient forecast and actual patient usage. For the financial year 2006–07 the Victorian government planned and budgeted for 901 353 separations — 'separations' is a technical term for one person's course of hospital treatment — but the inadequacy of that estimate should have been obvious to the Brumby government, because the preceding year's patient numbers had already exceeded that figure

by 18 664. In the financial year 2005–06, 919 917 patients were treated by Victoria's public hospitals, yet Labor continued to employ flawed forecasting methods that grossly underestimated the needs for the subsequent 2006–07 year. It is little wonder that Victoria's public health care system is plagued by backlogs, overcrowding and chronic delays.

The Brumby government is applying only bandaid solutions to a systemic crisis in the state's public hospital system. The Premier recently announced that this government would reduce waiting lists for elective surgery by increasing its funding of acute health care treatment by 0.25 per cent. But the ALP has not been able to solve the crisis, even though the current annual public hospital budget will reach $7 billion, so the Premier is feeding accounting gimmicks to seriously ill Victorians rather than providing timely health care for their medical conditions. If members of the Brumby government are incompetent practitioners of public policy, they are masters of political sleight of hand. Victorian Labor is desperately trying to obscure its past faults and present failures, and it is precisely the sort of voodoo politics it does so very well.

Let us talk about law and order. By its very nature, law enforcement is a tough job. Victorian police need all the help they can get. At the last state election Labor's community safety policy promised to provide record numbers of operational police. Let me stress here that the reference is to operational police and not to desk-bound administrators or police looking after prisoners in police cells. As is the case with so many other ALP policies, during its eight years of government real assistance for front-line police has been in short supply. While violent crime is increasing, police on the street are being asked to do more with less. The Brumby government's neglect of front-line policing has caused Victoria to lag behind the rest of Australia on a per capita scale when it comes to the number of officers and the funding allocated to law enforcement. Since Labor came to power the number of violent crimes reported to police has soared to record levels. Last year 42 000 violent crimes were reported, up from 31 000 in 1999. Assaults have increased by about 20 000 to over 31 000 in just seven years. In this context it is frightening that Labor has allowed the number of police officers per 100 000 of population to drop in Victoria over the last year.

In education, in 1999 Labor promised 'new solutions' for the Victorian state school system. The ALP solemnly undertook to attract our brightest and best graduates to the teaching profession. In a recent speech to Parliament the Premier declared, 'Education remains our government's no. 1 priority', but the Brumby government has until this week failed to bestow sufficient material rewards on teachers to attract the finest of our young people to this vital profession. Only last week was the government forced, kicking and screaming, to adopt the Victorian coalition's well-received policy on teachers pay and conditions. We need to have people banging on the doors for admission to the faculties of education at Australian universities, yet this year's tertiary offer statistics reveal a 6.8 per cent drop in first-round preferences for undergraduate teaching slots. It should come as no surprise that Victorian 15-year-olds had lower performance levels in science, maths and reading than students in any other mainland state.

As a result our underresourced state schools are receiving a vote of no-confidence from parents who are concerned about the quality of their children's education. Graph 9 shows the results from the Organisation for Economic Cooperation and Development.

As graph 10 clearly demonstrates, over the last two years state schools lost 752 students while private school enrolments soared over that same period by 8658 students. Those students who remain in our state school system are studying in increasingly dilapidated schools that are being swamped by a $270 million maintenance backlog. The Brumby government is so penny-wise and pound-foolish it is even forcing sweltering schools to pay for their own air-conditioning units. This is despite a massive forecast of a budget surplus of $828 million.

In regard to water, talk is cheap — and so is the track record of investment in water infrastructure by the Victorian Labor government. Just a few weeks ago the Auditor-General issued a report that savaged the Brumby government's water policy. The looming crisis facing our state has been clearly apparent since the early part of the present decade, and yet as graph 11 shows, since coming to power the Victorian ALP has expended fewer than half the dollars per head of population in water infrastructure than nearly every other state.

The Auditor-General noted that Victorian Labor's stalled water program was ad hoc and hastily cobbled together over only six months before its release in June 2007. During that short half-year a panic-stricken government promised nearly $5 billion to various water projects and programs. The Auditor-General discovered a seriously flawed decision-making process that was devoid of real cost-benefit analysis. The Auditor-General found that Labor had kept secret the highest cost projections for its desalination plant, while

using the lower $3.1 billion estimate for public consumption. One wonders even about that more modest amount, because based on past performances Labor's tendency to underestimate spending estimates will lead to serious cost blow-outs in the future. After all, just a few years ago the Israelis built the world's largest reverse osmosis desalination facility for a mere $825 million.

The Auditor-General also revealed that other elements of the Brumby water plan were subject to budget blow-outs — for example, the Melbourne–Geelong pipeline has tripled in cost from its original $40 million estimate to $120 million. In what can only be explained as a cynical policy of partisan obstructionism, Victorian Labor stalled the Council of Australian Governments Murray-Darling agreement for many months. Why do I say this? It is because the final Murray–Darling plan accepted by the ALP was virtually identical to the original proposal put on the table by the Howard government, yet only after Kevin Rudd was settled in the Lodge did the Premier agree to sign this agreement.

The final proposal accepted by Victorian Labor will yield $1 billion in additional funding to address the water deficiencies of northern Victoria. This sum is a mere fraction of what is really required to make a dent in the water wastage problem. Even worse, this money will only become available four years hence at the earliest.

In country Victoria the flawed water policies of Victorian Labor are also representative of a Melbourne-centric bias that pervades the policies of the Brumby government. The north–south pipeline has raised the wrath of the Goulburn Valley residents who justifiably see it as theft of Australia's scarcest resource from the country by the city. The flawed pipeline project is even more hypocritical in light of a previous commitment by Labor never to augment Melbourne's water supply from sources north of the Divide. This is just another counterfeit Brumby promise. When country Victorians assembled to exercise their democratic right of peaceful protest, senior Labor ministers called them 'ugly, ugly people' and 'quasi-terrorists'.

State Labor also compounded the injury to regional Victoria by scuttling the network tariff rebate scheme that kept rural electricity bills within reasonable limits. The cancellation of the rebate violated yet another Labor pledge in its 1999 agriculture policy to ensure that rural Victorians have access to a cost-effective electricity supply.

A trail of broken promises litters the track record of this government. All this is reflective of a deep and abiding contempt for the bush that pervades the trade union dominated thinking of a Labor government. One of the most damning characteristics of the Victorian Premier's tenure is his uncanny ability to unite people in anger against him.

Housing affordability in Melbourne 2030 represents yet another Brumby government planning failure that in this instance has worsened the housing affordability problem plaguing Victoria. It is the oldest principle of economics in recorded human history, but then the government must have missed that day in the classroom when the law of supply and demand was discussed.

As previously mentioned, since 1999 metropolitan Melbourne's population has boomed by almost 350 000 persons from 3.46 million to 3.81 million. Yet at the same time the Labor-driven urban growth boundary established by Labor's 2030 scheme has created an artificial land shortage by limiting the number of lots coming onto the market.

As graph 12 demonstrates, the number of available housing lots has not kept pace with Melbourne's growing population. It comes as no surprise that housing prices have exploded in value and rents have gone through the roof. There are simply not enough houses out there for people to buy or lease. Underlying new housing demands were around 46 000 dwellings in 2007 but only 38 000 dwellings were built — a housing deficiency of 8000 dwellings across Melbourne. As this deficiency is predicted to hit 14 000 by June this year and 33 000 by June 2009, supply is actually tightening while demand continues to strengthen. The average price of a building lot has more than doubled from $70 000 in 2001 to $150 000 today. At the same time the supply of land has plummeted from a recent high of 20 000 available lots in 2004 to barely 7500 lots last year. This represents a collapse of 62 per cent in the supply of housing lots over just three years.

Melbourne's population expansion continues to pick up steam. While the Melbourne 2030 scheme based itself on a projected population growth of 1.3 per cent, the true rate for 2006–07 is more in the area of 1.7 per cent. This translates to 1100 people settling in Melbourne every week during the 12 months leading up to June 2007. If the current trend continues, Melbourne's metropolitan population will reach 4.5 million in 2020 — a full decade before the Labor government's predictions. This represents a 50 per cent underestimation of metropolitan Melbourne's growth rates. As a result many Victorians have been forced to assume expensive mortgages, and this has left them

vulnerable to rising interest rates. Many thousands of other Victorians are being squeezed out of the housing market altogether, but they find little relief with a tight rental market that is overheated and unaffordable as well. The result is a recipe for disaster that is becoming more apparent as the storm clouds of the global economic crisis gather on the horizon.

As usual, the Brumby government has responded to the housing affordability crisis with media-driven policies that focus more on looking good than doing good. A case in point is Victorian Labor's much-hyped plan to fast-track more than 90 000 home sites in outer suburban Melbourne. The Premier introduced this plan with much fanfare and publicity, but we since have learnt that at least one senior bureaucrat at the former Department of Infrastructure expressed serious doubts about the benefits of this scheme. The DOI's manager of transport policy and analysis even warned in an internal government memorandum that this initiative might do more harm than good. The memorandum expressed a clear concern that the proposed new process will not fix the situation; rather it has the potential to make it worse. It noted that the Brumby government's proposal would also put greater pressure on planning process, creating more delays, negating any benefit from a proposed process streamlining — a far cry from Labor's promise in its Planning in Partnership policy at the last election to create a Victorian planning system that stands up to the very best in Australia.

This is a classic Labor government reaction to any problem or difficulty that it might encounter. The Premier responds to adversity with fly-by-night plans that are both ill-conceived and ill-considered. They are plans that focus on perception rather than reality. They are plans that only work in a political universe where spin is more important than substance — and the citizens of Victoria be damned. Not only is the government doing nothing to help the plight of Victorian homeowners and renters, Victorian Labor also persists in its addiction to the revenues that come from the highest stamp duty of any Australian state — the stamp duty payable on a Melbourne median-priced owner-occupied home. By so doing, the ALP is unnecessarily putting an obstacle in the way of potential homeowners and is keeping thousands out of the housing market.

In conclusion, we must remember that Victorian Labor has been in office since 1999. Over the past eight years Labor has enjoyed a once-in-a-generation opportunity to remake Victoria for the better. It has failed to deliver on that promise and on that opportunity. Instead the Brumby government has demonstrated what I call the reverse Midas touch. Put politely, it seems that every issue it tries to address turns out worse for having had its attention. As a result our health-care system is a mess, our state school sector is a shambles, our police force is in crisis and our public transport is at a standstill.

The budget that Labor Treasurer John Lenders presented to Parliament on Tuesday was full of platitudes and disingenuous rhetoric. However, past performance is the best predictor of future outcomes in politics. A visionless, flush-with-cash Brumby government is set to continue its pattern of unfocused and ill-disciplined splurging that yields few tangible benefits for Victorians. The future facing Victoria is now uncertain. We see slowing economic growth, rising unemployment and a public sector debt level that is skyrocketing. These are serious times and serious problems. These are problems that only a Liberal-Nationals coalition can be relied upon to address effectively for the betterment of our people and our state.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — The truth is: this is a good budget for all Victorians. The 2008–09 budget is a good budget for all Victorians because it is a good budget for young families on the urban fringe of Melbourne. This is a good budget for young working families in regional Victoria. This is a good budget for business, because it reduces payroll tax and land tax and other business costs that industry in Victoria has to bear.

This is a good budget for Victorians because it invests in vital infrastructure that will improve services to all Victorians. The budget invests in schools. It invests in hospitals. It invests in roads and public transport. It invests in economic infrastructure which will not only improve service delivery for Victorian families but also help make our economy more efficient and help drive improvements in productivity. It is a good budget for working families. It is a good budget for the urban fringe. It is a good budget for regional Victoria. It is a good budget for business. It is a good budget because it invests in infrastructure. It is a good budget because it does these things within the context of financial responsibility and economic prudence.

This is a good budget for Victoria, but listening to the opposition you would not think so. Listening to the opposition you would think that the government is taxing too much and not spending enough on services. You would believe the government is borrowing too much and that net debt is too high. If you listened to the opposition, you would believe we should spend more, tax less and borrow less. That is what the opposition

says: spend more, tax less and borrow less. The only world in which you can spend more, tax less and borrow less is the world of Santa Claus. The opposition believes that somewhere there is a magic pudding which enables you to spend more on services, borrow less and tax less. That is the prescription of the opposition. That is the critique of the Brumby government's budget that you have just heard from the shadow Treasurer, the member for Scoresby.

The opposition believes that somewhere there is a magic pudding that you can dip into. Why does the opposition believe that? Because it says all things to all people. It believes you can be all things to all people. It believes you can go to one audience and promise to spend more on services, go to another audience and promise to tax less and go to yet another audience and say that net debt should be lower than it will be over the forward estimates period, and that it would be if a coalition government were in place. That is what the opposition believes: that you can say anything to any group, regardless of the inconsistencies between all the positions it is putting.

Do not take my word for it; take the word of the opposition that it is busy trying to be all things to all people. We all remember Phil Davis in another place saying exactly this, and I quote from an article in the *Age*:

> I think we would all be aware of a perception that the electorate has not understood what the Victorian Liberal Party stands for.
>
> From 1999, since we have been in opposition (after Steve Bracks defeated Jeff Kennett), we have not articulated a clear and consistent message that establishes the basis for our policy direction.
>
> …
>
> We have tended to position the party at the opposing poles of the environment debate. We want to say to business we support resources utilisation, but suddenly the thought of the political consequences of that position turns us green …
>
> Consequently, we have come out of these debates offside with everybody, and everybody can paint us as having a different position. In other words, a lose-lose position with all groups.
>
> …
>
> We have tended to come out with bold but stand-alone policy initiatives …
>
> We have ended up with an incoherent policy mix that sends no clear message.

That is the position of the opposition itself, and it has never been better demonstrated than by the contribution we just heard from the member for Scoresby. He tried to be all things to all people, saying that the opposition would tax less, borrow less and spend more on services.

Let us look at each of these propositions in isolation. Firstly, let us look at the critique of debt. The opposition says that over the forward estimates period net debt will be too high. We make this very clear: over the forward estimates period by the time we reach 2011–12 net debt as a proportion of gross state product — in other words, net debt as a ratio of the state economy — will be lower than it was when we came to office in 1999. In other words, if we accept the position put by the Leader of the Opposition in the *Herald Sun* today that 'the budget outlined a massive and alarming blow-out in debt over the next four years', then we are accepting a critique by the opposition of its own performance during its period in government — that net debt was out of control.

That is the critique that has been offered by the shadow Treasurer today. It is the critique that was offered by the Leader of the Opposition in today's *Herald Sun.* It is a critique that is completely rejected not only by this government but also by Standard and Poor's, which said in a press release on budget day that the:

> … budget announced today for the state of Victoria is consistent with the state's AAA rating. The AAA rating is the highest assigned by Standard and Poor's, and reflects Victoria's strong balance sheet, strong operating performance, solid economic outlook, and a supportive system of government …
>
> The Victorian state government can easily afford its projected net-debt increases … The strength of the government's forecast operating performance and existing low debt enables the state to maintain high capital spending without affecting its current credit rating.

So the critique offered by the shadow Treasurer and the Leader of the Opposition is not only rejected by this government, by comparison with the opposition's own performance in relation to net debt as a percentage of gross state product when it was in government, but also by key ratings agent Standard and Poor's, which says that the net debt projected by this government over the forward estimates period is responsible, sustainable and economically prudent.

The opposition says we are taxing too much. Let us look at Labor's tax record. The top land tax rate we inherited when we came to office was 5 per cent; the budget cuts this to 2.25 per cent. The tax-free threshold for land tax was $85 000 when we came to office and is $250 000 now. This means that virtually every land taxpayer who owns property in Victoria worth between $400 000 and $5.7 million will be paying less land tax than they would if their property were in New South Wales or Queensland. This creates a competitive land

tax regime for Victoria compared with some of our major competitors. The member for Scoresby mentioned payroll tax. We are happy to talk about payroll tax, because we inherited a top payroll tax rate of 5.7 per cent when we came to office, and the measures taken in this budget bring that rate down to 4.95 per cent.

The opposition talks about the increase in receipts over the life of the government. We are proud of the fact that because of a growing economy and growing employment we have seen payroll tax receipts increase, but the rate has come down substantially. It is the lowest rate in 30 years. We have raised the threshold to take many payroll tax payers out of the system, and that is something we are proud of.

Let us look at average WorkCover premiums. When we came to office we faced a WorkCover scheme with unfunded liabilities of $1 billion. We have now turned that scheme around and reduced the average premium rates from 1.9 per cent to 1.387 per cent as a consequence of the measures taken in this budget. We are proud to have our record on tax contrasted with that of those opposite. In fact when we came to office total taxation revenue as a percentage of gross state product was 4.8 per cent. Hold the front page, Acting Speaker, because by 2011–12 total taxation revenue as a percentage of gross state product will be 4.6 per cent, lower than the percentage we inherited when we came to office in 1999. That is something we are proud of. We are happy to have our record and our performance juxtaposed with that of those opposite.

The other element of the opposition's critique is that it says that at the same time as we should be taxing less and borrowing less we should somehow be spending more on services. We are happy to have our service performance judged across a whole range of different portfolio areas. Let us have a look at health. In 2005–06 Victoria recorded the best performance of any state in the proportion of emergency department patients treated within benchmark waiting times, with 82 per cent of Victorian category 2 patients treated within 10 minutes compared to 77 per cent nationally, and 79 per cent of Victorian category 3 patients treated within 30 minutes compared to 64 per cent nationally. Victoria is ranked second nationally for elective surgery efficiency and first for hospital efficiency — and we had the lowest length of stay. Yet we are still experiencing significant demand pressures with 34 per cent more admissions, 43 per cent more emergency presentations and 21 per cent more specialist outpatient treatments since 1999.

In education, since coming to office we have improved the year 12 or equivalent completion rate from 81.8 per cent in 2000 to 86.1 per cent in 2007. Average class sizes are down significantly from the numbers that existed when we came to office. We have funded new primary schools and new secondary schools like the Lyndhurst Primary School, which is listed in this year's budget and which is in my electorate of Lyndhurst.

In community safety, crime has been reduced by 23.5 per cent since 2000–01, with Victoria having the lowest crime rate in Australia. We now have the lowest crime rate since computerised reporting began. We have the lowest prevalence of crime against the person, both reported and unreported, and the second lowest prevalence of property crime in Australia. Victoria's crime victimisation rate is significantly lower than the national average, and police numbers are up. We promised 1400 additional police in our first two terms in office. We have delivered those additional police. We have 350 more police on the way. We remember when the opposition was in office it promised 1000 extra police but cut 800.

Mr Tilley interjected.

Mr HOLDING — The member for Benambra interjects and says, 'What about front-line policing?'. I am very pleased to inform the member for Benambra that the city of Casey has seen an 85 per cent increase in front-line policing and an 11 per cent drop in overall crime. The city of Greater Dandenong has seen a 35.5 per cent increase in front-line policing and a 21 per cent drop in overall crime. We are proud of our record in reducing crime and increasing front-line policing, and we are happy to be judged against the record of those opposite.

What matters in politics is not what you say but what you do, and when opposition members were in government they cut services, destroyed our hospital system and shut hospitals. You do not have any new beds in the 12 hospitals that those opposite closed when they were in government. You do not have any more teachers teaching in the schools that those opposite closed where they were in government. You do not fight crime by reducing police numbers as those opposite did when they were in government, having promised they would increase police numbers.

We are happy to have our record on service delivery juxtaposed against the record of those opposite. We are happy to have our record in net debt judged against the record of those opposite who say that debt is too high, even though at the end of the forward estimates period of 2011–12 net debt as a percentage of gross state

product will be lower than it was when they left office in 1999. We are happy to have our record in taxation judged against those opposite, because we know that taxation revenue as a percentage of gross state product (GSP) will be lower in 2011–12 than the taxation revenue as a percentage of GSP that we inherited when we came to office. The truth is that you cannot be all things to all people, as those opposite would have us believe. You cannot promise lower taxes, you cannot promise lower net debt and you cannot promise increases in services unless you come forward with a coherent plan as to how you are going to achieve those things.

The member for Scoresby had an opportunity to outline the opposition's vision for what it would do differently in Victoria. Our action plan is on the table. People can see what this government promises to do to improve Victoria even further, and they can judge us on our record over the last eight years. Those opposite were rejected and lost office because they lacked the capacity to invest in and deliver services to help all Victorians and because they lacked a capacity to invest in regional Victoria and help grow the entire state. They were rejected by the Victorian people for that. That they have been unable to articulate a coherent vision since then is established by comments by members of their own party, including comments by a member for Eastern Victoria Region in the other place, Philip Davis, who said the opposition has an inability to articulate a coherent vision to take this state forward. We think this is a good budget for all Victorians.

The ACTING SPEAKER (Mrs Fyffe) — Order! Before I call the Leader of The Nationals I understand an arrangement has been made to extend the speaking time to 40 minutes. Is leave granted?

Leave granted.

Mr RYAN (Leader of The Nationals) — Labor cannot manage money and Labor cannot manage major projects. That is a deadly financial cocktail for all Victorians, and we are on a path to where we have been before. This applies in the context of rural and regional Victoria just as it applies in the metropolitan area of this great city of Melbourne. I want to direct my comments most particularly to regional and rural interests whilst also making some observations about the position at large.

Labor's financial management is appalling. The member for Scoresby gave a superb outline this morning of the various factors which lead one to that inevitable conclusion, and the comments of the Minister for Finance, WorkCover and the Transport Accident Commission a moment ago reinforced that conclusion in my mind.

I want to make a few salient points in relation to the overall budgetary position before moving to rural and regional interests in particular. Since 1999–2000, when Labor came to government, it has overspent its budgets by a total of $12 billion. Fortuitously in that time the revenue flowing to the state of Victoria has exceeded the budgeted figures by about $16.35 billion and accordingly we have a net excess of $4.35 billion; otherwise we would also be in the red in the sense of our recurrent expenditure. In 2007–08 Labor overspent its budget by $1.85 billion. Fortuitously in the same year income to the state of Victoria exceeded budget by $2.5 billion. The key question around this particular issue is: what happens when the music stops? I have been posing that question rhetorically over a number of years, and it is as outstanding today as it has been over those years.

We have issues such as rising interest rates; the subprime market effect and the way in which Australia is yet to see that play out fully; the market slowdown in its various forms; the reductions in property values that many people fear will occur as a result of current events; and the fact that last night on the international markets the price of oil closed at US$123.62, which is a record. Many commentators are saying that the price of oil will go to US$150 or even to US$200 a barrel. Indeed only in the last couple of days Exxon Mobil and BHP Billiton have been involved in discussions in London, where Goldman Sachs has given advice to the effect that the price of oil is likely to go to between US$150 and US$200 a barrel. These are dark clouds on the horizon. In the course of all of this Labor is simply unable to manage money.

On the issue of budget cuts, we have again seen the pea and thimble trick that we have seen played out over so many years under this government — with the purported payroll tax cuts, when in fact payroll tax will increase by $360 million over the amount of money that the government raised last year; with the purported tax cuts in relation to land tax, when in fact the government will raise an extra $300 million this year over and above what it did last year, an increase of 20 per cent; and with the purported cuts in stamp duty, when this year it will raise a figure of almost $900 million in excess of what it raised last year. The total just out of those three areas is $1.5 billion additional taxation in an environment in which the government is handing back by way of its so-called tax cuts some $300 million. There is a net gouging therefore of $1.2 billion just out of those three areas.

But that is not the end of it, of course. We are seeing the dividends from government businesses increase by $63 million, an increase of 17.5 per cent. And it is no surprise that most of that will come from the water authorities, which have contributed about $2.5 billion over the last eight years. What do we have to show for it, I ask again, rhetorically? Gambling taxes are going to increase by $66 million — and as I speak we are joined at the table by the Minister for Gaming. He is a Melbourne supporter so he is not a complete loss, I am pleased to say. When we compare the commentary from Labor before it was elected and the situation we face now, we see that the total gambling income this year is going to be about $1.65 billion. They are going to reap just over $1 billion from gaming machines — this is the Labor Party that had so much to say about gaming and gambling before it came to power. There will be an increase of 14.5 per cent, or $62 million, in relation to speeding fines — $492 million from speeding fines which this government is looking to incorporate into its budget of about $37.5 billion this year.

Then of course we have the absolutely crucial figure in relation to debt. This is a discussion about public sector net debt. It is about the total liability of the government in the event that things go pear shaped. It is not only the issue, as some would say, of the general government sector net debt; that is not the only issue at stake here. What is at stake here is the question of what happens to all of those authorities which are 100 per cent government owned if things go pear shaped in their respective areas. The answer is of course that the government has to pick up the tab. When you look at the budget papers, what they tell you is that the figure at the moment is about $5.7 billion. By 2012 it is going to rise to about $22.9 billion. We are going to see an increase of $17.2 billion in a period of four years. I say again that this is a discussion not only about general government sector net debt; this is about the public sector net debt taken in totality.

You have to look at this on the basis of the real deal. We are exposed to an interest obligation of $1.8 billion by the year 2012, and the critical thing about this is the trend. That is the issue to be looked at; you must look at the trend. We have a problem here because the government keeps running the furphy that this is a discussion about the gross state product. That is not the issue at all; the important issue is the trend.

Those of us on this side of the house who were here to pick up the bits and pieces that were left of Victoria after 1992 remember it very well. We worked hard to repair it. Labor is working hard to undo it. We have been there before and we are going there again. And it is hard to get it back in order when it goes wrong. We all remember former treasurers Tony Sheehan and Rob Jolly. We all remember the assurances that were given that the state could afford it, it was all in hand, it could all be managed. It always reminded me of Custer's famous last words, 'This looks like a nice, friendly group of Indians'. We saw it all come unglued when Labor was there before, and it is in the process of going that way again.

We were able to engage in the privatisation of the power industry. It raised something in the order of $23 billion. We took every cent of it down to the bank and paid off the credit card. It is interesting that the Labor Party which is now in government opposed it every step of the way. We now have these born-again capitalists sitting over there on the other side proclaiming what a competitive state economy Victoria has. They were over there opposing the whole thing every step of the way.

I give Morris Iemma his due in New South Wales. At least he is prepared to stand his ground. He has the troglodytes up there again — John Robertson and the Godzillas, that well-known band. There they are playing the usual tune. They are not going to stand for it, the unions say; they are not going to have it happen. Of course it has cost that state about $25 billion. Back when Bob Carr and his mates wanted to do it and the unions blocked it they could have done it for $35 billion. Now they are talking about $10 billion. At least Morris Iemma, to give him his due, has been able to stand his ground. But let the record show that those opposite who proclaim our competitive advantage here as a state, including the now Premier, were over there, in the days of yore, preaching that this would never happen under their watch. We had the fortitude to make sure it could be done. The unfortunate thing was we had to dedicate it all to paying off Labor debt — and here we go again.

Is it any wonder that those of us who have been there before are worried about the prospect of it all happening again? Is it any wonder that when you listen to and read what people are saying out there in the public arena, you hear that the public of Victoria is also petrified about it happening again. Amongst all of the commentary that we have had over the past few days, amongst all the clapping and cheering for those who have said this budget is a good one — although it has been pretty muted, I might say — no-one has asked the really key question, and that question is this: does anybody realistically think that Labor, having set out on this path, is going to stop? Does anybody realistically think that come 2012 if Labor is still the government — and heaven knows we all hope that is not the case —

that it is going to stop this path that it has now set us on?

You cannot help but be filled with dread about it. As we know, at the moment we are facing investments to do with the food bowl, the desalination plant — although we do not know how much it is; the government will not tell us; it is a cabinet-in-confidence issue, apparently. We are looking at expansion of the Monash link, the cost of which has blown out almost $400 million before anybody has laid a brick; it has gone from $1 billion to $1.4 billion — classic Labor management. We have got Rod Eddington's transport proposals sitting out in the wings somewhere or other at a potential cost of $18 billion. We have got the bay deepening. Where is the money going to come from for these projects when Labor cannot manage its own state finances? You cannot help but wonder where we will be in 2012 if Labor is still running the show. If you look at the history of fast rail, Spencer Street, HealthSMART, the myki imbroglio — no wonder everyone is filled with dread.

If we had an observable outcome from all of this for all Victorians it might well be that people would have a different point of view. We have got Mr Lenders, the Treasurer in the other place, talking about building for a future. If we had another two or three CityLinks, if we had another 10 or another dozen hospitals, if we had a functioning transport system, if in country Victoria we had a road and rail system that worked, it might well be different, but unfortunately such is not the case. Across country parts of Victoria it is a sorry state of affairs.

I want to deal with some of the issues, not necessarily in the order of their priority. The Maffra Secondary College imbroglio — what an absolutely classic piece of Labor mismanagement! Here are the college people, told in a press release they are going to get $5.7 million. The assistant principal of the school appeared on air on Kathy Bedford's show on the ABC celebrating this grant for which he was so thankful. Within the hour of course the department rang up and he had to recant. The same person, the assistant principal, Andrew McIntosh, had to go on air after having been in the awful position of being told, 'Sorry, slips no go; it hasn't happened at all'. The government says basically that there is many a slip between the cup and the lip, and that that is just the way it goes. It ought to do the honourable thing and fund this school. This is a classic piece of Labor Party mismanagement.

Members might remember the promise about the train to Leongatha. That was one of the government's foundation promises going into the 1999 election. It promised it would return the train service to Leongatha. Last Friday afternoon there was a press release — it is gone, it is done, it is not coming back to Leongatha. I say, in a measure of fairness, we have had a response from the government that there will be a $14.7 million package for bus services. I reserve judgement on that for the moment because we simply do not know the detail, but here we are again with a promise that the government has failed to honour. I might say that if the government realistically thinks that $14.7 million is going to satisfy the South Gippsland community after eight years of waiting for the return of the train service it is sadly mistaken. We have many needs down there insofar as transport and transport infrastructure are concerned, not the least of which is access to VicTrack land in both Leongatha and Korumburra, but that story is yet to be fully told.

On the issue of rail freight, the industry has been pleading with the government for years to do something about it. There was the promise made in the 2001–02 budget to inject $96 million for rail standardisation. That has gone out into the ether somewhere with that famed figure, Pig-Iron Pete, who has been shifted from one industry to another. Somehow or other that did not happen. We had the Fischer report, which was commissioned by this government. Mr Fischer reported in November under what he called 'switchpoint'. He recommended that $141 million be spent. The response from the government has been a package in this budget of $42.7 million — $23.7 million for infrastructure, the rest to fund maintenance. The problem is that we end up with four-fifths of nothing. What we are going to have done is what are termed the 'gold lines' recommended in Tim Fischer's report, but the rest of it is out there somewhere. Nothing is happening, particularly in regard to the extension of the work down to Portland. I know that the member for South-West Coast will talk about this when he makes his contribution to the debate.

How can it be that the government can turn its back on the balance of this report? What it should have done was announce perhaps a three-year program to have the whole of that report implemented. It would have been the sensible thing to do. I say to members of the rail alliance in northern and north-western Victoria who have worked so hard to resolve this issue over the years, 'Keep the faith' because members on this side of politics will address that issue in the event that we are given the opportunity to do so. In the meantime government should do so. The trucking industry is a great industry in this state and across Australia — of course it is — but the rail freight system is one that we should have functioning properly and we do not.

The next issue I want to deal with is the Regional Infrastructure Development Fund (RIDF). It is most instructive when you look at the figures within this budget. I refer particularly to a table, which I have sought permission to have incorporated. The Speaker has approved its inclusion; Hansard has approved, and I have distributed it to all parties.

Leave granted; see table page 1759.

This document is instructive. What it shows is that since 1999 through the Regional Infrastructure Development Fund the government has budgeted to spend $580.7 million. What it also shows is that its actual expenditure to the end of 2006–07 has been $276.5 million. It is short $300 million. Worse still, this year the government has budgeted to spend $41.4 million. It has cut the allocations to the Regional Infrastructure Development Fund by 50 per cent. It is all there in budget paper 3 for even the most ignorant amongst us to see — and on that point, I see that the member for Melton has joined us. If he would care to have a look at page 152 of budget paper 3 he will see reference to the figure of $41.4 million. If regional and country Victoria is going to be able to do what it is able to do, then the government should properly fund these promises and not do what the Treasurer is doing in the course of this budget.

I might say that it is reflected also in table 3.4 at page 145 of budget paper 3, which shows the overall figures relating to regional development. Those figures show that there is a cut of 40.1 per cent in regional development funding. A note on that cut is also interesting. It says:

> The major reasons for the variance in regional development is due to annual variations for the Regional Infrastructure Development Fund in 2008–09 consistent with its budget funding profile, and —

importantly —

> cessation of funding for drought initiatives.

That is a relief for us all from the country — the drought is over. It is finished; the government has declared that the drought is over. I am just delighted. That will ring true in the hearts of not only those who follow the Blues but those who love rural and regional Victoria; they will be delighted to know the government has declared the drought is over. This is simply not good enough.

The next issue is the fact that the government allowed the tariff rebate to lapse. Eighty thousand rural and regional Victorians enjoyed the benefit of this. It was trumpeted by Mr Bracks back in 2005 as being a $110 million program, and those 80 000 Victorians enjoyed the benefit of it. This government has allowed it to sink.

I refer also to the Auditor-General's recent report in relation to the capacity of people to afford water for their residential usage throughout Victoria; 94 per cent of those who are struggling come from rural and regional Victoria. That is what the Auditor-General's report said. It talks about the fact that the figures for every benchmark — those who are now having reduced service provision of water to their homes; those whose accounts are now being chased by the various authorities; those who are struggling to meet their costs — are getting worse. I ask the Acting Speaker to remember that we have been told by this government the price of water in Melbourne is going to double over five years; we already know in rural and regional Victoria that that path is being followed.

I ask again, rhetorically of course, what happened to the great traditions of the Labor Party which once proudly proclaimed it would look after the disadvantaged in our community? What has happened to those great principles? Why would it allow a network tariff rebate to lapse so that these poor people cannot get the benefit of it? Why is it that it will not give the appropriate levels of assistance to those who struggle to meet the cost of the water for their own households? It is nothing less than a disgrace.

The issue of water is its own sorry story. The desalination plant is supposed to cost $3.1 billion. I have with me the recently released report by the Auditor-General entitled *Planning for Water Infrastructure in Victoria*. It is a litany of commentary on what a disgraceful performance this government has engaged in over the course of the last 12 to 18 months in the water industry. In an environment where this government is pursuing full cost recovery, we do not even know the price of the desalination plant that it is seeking to recover the cost of. It is an appalling state of affairs. If it were not so serious, it would be a joke. The scoping documents have been released for the environment effects statement for the desal plant. Those scoping documents are worth a read. This is supposed to be a carbon-neutral plant, but they are now talking about building gas-fired turbines beside the desal plant to provide the power for it. And it is supposed to be carbon neutral! It is just a joke, and the sorry thing is those fools who sit over there on the back bench swallow this nonsense. It is absolutely unbelievable.

Regarding the pipeline issue, Labor policy in 2006 was never to pipe water from north of the Great Dividing Range. What did we get 11 months ago? It was a

cobbled-together patchwork quilt of rubbish by way of a pipeline and desalination plant. The Labor government swore it would never do either, and now it is going to do both. God knows how much money it is going to cost us. The government was panicked into it, because as usual all it ever did was talk about the demand side of the equation and never about the supply side — supply was going to look after itself. It was subterfuge on the way through.

Who will ever forget the helicopter advertisements with Premier Bracks out there in the red helicopter? Country Victorians will never, ever forget it. There is now community division destroying one of the great competitive edges that we have in country Victoria, and that is the use of water. Mr Lenders, the Treasurer in the other place, was sent over to the Municipal Association of Victoria conference to flog them with the threat that if they did not agree to what this government wanted to do, then they had better look out because there would be no more money spent out in the country regions.

Mr Nardella interjected.

Mr RYAN — Is that policy now, is it? You do not spend money in country Victoria unless Melbourne somehow gets its cut; is that the policy?

Regarding the circus over the national water plan, we remember the Premier in here day after day talking about this whole thing being cobbled together on the back of a postage stamp or on the back of an envelope. What did he do? He signed it. I wonder if there was room at the bottom of the envelope for his signature. The funny irony is that the architect of Victoria's opposition to the national water plan was Terry Moran, who now works with Prime Minister Rudd and who was in the room at the time this deal was apparently done. It was the biggest deal since the Blues knocked off Greg Swann from under Eddie's nose and picked him up from Collingwood. Mr Rudd has pinched Terry Moran from straight under the nose of the Victorian state government. He is not sitting on the couch this time; he is over on the bed. Gee, it would have been very interesting to have been there.

We heard all the fictional games Mr Brumby talked about in terms of now being able to sign up to the national water plan. As I have demonstrated in this place and outside its walls before today, that is exactly what they are — a fiction. There was the $5 million bribe to try to persuade people to be sucked into the business of supporting the flawed idea for a pipeline. There is the money the government is spending on advertising around Victoria and particularly in the Goulburn Valley; it is pouring taxpayers money into trying to prop up its own ridiculous arguments to justify this dreadful project. There are the false figures in relation to the savings. There has been no solution to any of that yet.

The Auditor-General's report, to which I have already referred, is absolutely replete with commentary which shows the lengths to which this government will go to get what it thinks it needs to do — and it is all done in a panic. It has committed $1 billion on the back of a proposition advanced to it by the group who wanted this to happen without subjecting it to proper scrutiny from a governance point of view. There is ongoing unrest, as I say, and what a great job the Plug the Pipe group is doing! I give all credit to the Murrindindi Shire Council, which on 15 April passed a motion telling this government that it should suspend the whole thing.

All of this is happening in circumstances where we have known, as the Auditor-General's report refers to at page 10, that we have been in drought since 1997. All that ought to done is that any savings that are achieved out of this project should be dedicated to those who no longer get their full allocation of water under their entitlement — but who, by the way, continue to pay the full tote odds even though they do not get the water. How would that go in Prahran, I wonder? I wonder how that would go out in Melton, if people found they had to pay for the total amount of water they are supposed to get and they were not getting half of it? That would go down really well; you can just imagine. Yet this government is proposing to pinch water from north of the Divide.

What about doing this project on its merits? Of course the project should be done, but if it were done and the water stayed north of the Divide, it would add to the productive capacity of those great communities up there. It would grow their communities and our export capacity. It should be done on its merits.

What about the notion of this government doing something to require Melbourne to live within its water means? I think Melburnians are also embarrassed by this stupid proposition the government has advanced over this dirty great big garden hose running from north of the Divide, from a system which cannot provide even for itself, and taking water into Melbourne. There is not a single substantive initiative that anyone can point to which indicates that this government has invested any of the $2.5 billion of water dividends into a program which would see Melbourne provide for itself properly. We are still waiting to learn what will happen with the 100 billion litres of treated water that will come out of the eastern treatment plant — if the government ever gets that project finished.

I say to the people up there in the north: keep the faith; just remember what has happened recently; the taxidrivers were able to have a win eventually. The policy adopted by this government was again the policy of the two parties which now comprise the opposition. The government fell over in the space of a day. Maybe we ought to get Kenny Harrison and a few of the other boys down here to rip off their shirts on the front steps. Let us see how they go — although, on reflection, when I think of what might be on show, that might not be a good idea!

We have seen the public win over the issue of the helicopter to the south-west. More power to the member for South-West Coast, the member for Lowan, those members in the other place and those others on this side of politics who in the end forced the government to adopt what has been longstanding coalition policy!

Then there was the issue in relation to the teachers, with the government again falling over in the face of a proposition advanced by the coalition through the leader, Ted Baillieu, only about four weeks ago. Now the government has been dragged kicking and squealing to that. So I say again to the people in the north: keep the faith, just keep the faith.

There are other issues in relation to this budget to which I want to make some reference. There is a commentary about the Snowy River. I have with me the press release that was released by that pipe hugger, the Minister for Water, on Wednesday, 5 March. It says:

> Victoria, New South Wales on track to meet Snowy River flows target.

When you look at page 397 of budget paper 3 it tells us that the aim is to get a flow of 21 per cent into the Snowy River. In fact now, after all these years, we are up to 4 per cent.

The Minister for Gaming is at the table. On the gaming industry, as someone once asked rhetorically: what is this government doing; what is it thinking? What the government has done is throw this industry into absolute chaos. At the moment the minister is on the grand tour around Victoria where he is talking to people at the clubs.

Mr Robinson interjected.

Mr RYAN — Oh, yes, we know where you go. You are in our territory, mate; don't you forget it. You leave Melbourne and we know where you are going, not a problem at all. We have you taped, no worries at all.

The interesting thing is that people come along to get some insight into what is going to happen in the future. They say to the minister, 'How's it going to work?', and the answer is, 'I dunno'. They say to the minister, 'Are we going to be able to buy the machines? If so, what's going to be the approximate figure and how is it going to be financed?'. The answer is, 'Oh, I dunno'. It goes on and on.

The worst possible circumstance for business to operate in is one of uncertainty. What this government has done is throw this industry into absolutely chaotic uncertainty. I will tell you what is worse, Acting Speaker: in the end, whatever money is paid to buy these gaming machines, it will be paid substantially by the finance sector. It will be the banks that pay; the money will be borrowed. Let us say there will be 27 500 machines at $100 000 each. That is $2.75 billion. If they are $200 000 each, it is $5.5 billion. I say to the minister and the house that as a principle about 75 per cent of that money will be paid by the finance industry, which will lend it. What people in the finance industry are saying is, 'How is it all going to work? What is the licensing system? What are the tax rates? How is it actually going to function?'. All the clubs have long-term plans for what they are going to do by way of expansion of their facilities and the like, growing their employment and so on. Now those plans are all on hold — because no-one knows how it is going to operate. The minister has thrown the industry into complete and utter chaos. Again, classic Labor.

In the last week in the power industry we have had announcements by the government about clean coal in the Latrobe Valley. I was down in the Latrobe Valley, coincidentally, when the clean coal announcements were being made, with these sorts of buzzwords of carbon capture and clean coal being used. As principles, I think they are both terrific initiatives, and I support them. But in the style of the good old USA's political system, there is a lot of dog whistling going on here. The issue that the government will not face and will not talk about is what is to happen with Victoria's coal reserves. In the speech by the Treasurer there is reference to coal reserves: there are 500 years worth of them, at current usage. At the other end of the scale we have a program in relation to clean coal.

Let us say that that technology comes on stream, as many would say it will, in 2015 or 2020. What does the government say should happen with the coal, given that that technology is actually developed? Is the government's view that we need more generating capacity in Victoria and that the clean coal will be used for it? It needs to say what its position is. We have about an 8500-megawatt capacity in Victoria. I might

say that China adds 1000 megawatts a week. In Australia we have a total grid of about 32 000 megawatts and China replicates it every seven or eight months. That is the world in which we live: we produce about 1.5 per cent of the global energy. We have all this coal down there and we have clean coal technology. The government needs to say what we are going to do with it. Current predictions are that in 18 months we will not have the capacity to supply our power needs throughout summer. What does the government say ought to happen in relation to this?

In the last 12 months the price of coking coal, which we do not have, has gone up by about 260 per cent. Australia will reap about $18 billion additional income out of exports of coking coal and iron ore, without having to add another single tonne by way of the quantities. Wayne Swan is going to pocket $6 billion or $8 billion of it for taxation purposes. What does the Victorian government say about all this, with a background of climate change? There is a lot of dog whistling going on.

The *Age* of 7 May, in its editorial summary of the budget, which is headed 'The budget of small things and good intentions', says:

> Despite its tax reforms and spending measures, this was a state budget of missed opportunities on the big issues.

That *Age* editorial finishes:

> Where is the evidence in this budget that the government is serious about looking at both sides of the energy equation: supply and demand?

Therein lies the question: where is the government in relation to this?

We got into trouble over water because for eight years the government ignored the supply side of the equation. Here we stand on the cusp of a similar problem with regard to power. I tell the house here, on 8 May 2008, that unless this government declares its position and gets active about this, we are going to have a problem.

Honourable members interjecting.

Mr RYAN — We have a comment over here about wind farms. Can you believe this? When we are facing what we are facing, this dill is talking about wind farms. Goodness, gracious me! Is it any wonder?

What has happened with the development of the smart meters? The Labor Party had the capacity to at least have an influence in the development of smart meters. There are various other issues in country Victoria. The policing issue remains a problem for front-line police officers. Regarding the education issue, we got three new schools in non-metropolitan Melbourne out of this budget and another nine are supposed to share in the ill-fated $39 million fund, which was also supposed to be shared by Maffra Secondary College, and there is some more money for relocatables at small rural schools. All those things are good as far as they go, but the government has got to get serious about putting some real money into investing in education.

On the question of farming, the big farming statement sank with all hands lost. It has got weeds over it already. The regulations that farmers face these days are just impenetrable. These are global competitors. These are people who are the best in the world at what they do, and the government needs to conduct itself accordingly. Research issues are fine, but we need much more in the way of partnering programs in concert with our farming sector to make sure that we can do the best not only for our farmers but for agribusiness generally and for all the manufacturing sectors and many communities that are dependent upon them.

By way of a general summary of all of this, I say about this budget that there is no focus to it; there is no centre point to it. In the whole 11 pages of the Treasurer's speech he did not once use the word 'vision'. That is reflective of the fact that the speech has no vision, and that is what Victorians are demanding from this government. There is no public policy around this budget which gives people hope for what we should see as being Victoria at its best.

I offer a vision now just from the Gippsland perspective, and I will quickly run through it. We should have more water storages. They do not have to be on stream; we could have them off stream. We can do it for the benefit of farming and agribusiness and the benefit of the lakes. They do it interstate, so why not do it here?

Planning issues are so important for us. The Kipper gas field is coming on stream in Bass Strait, a $1.6 billion development, and another gas plant is going to be built, a multibillion-dollar development. The Royal Australian Air Force base at Sale has expanded. It is a $60 million federal investment, and it is going to be bigger again. I had the pleasure of speaking there at the officers mess on Friday night. The things that will happen at that base in time to come will be wonderful.

We need planning to accommodate our needs. In education there is capacity for university development in the city of Sale, where I live, to capture some of the kids who are presently missing out on that sort of

education. Regarding the energy industry, I have mentioned coal in particular but there are many other facets. We have the issue of the investment by utilities in water and sewerage, particularly in small towns in the southern coastal area, to enable the people who come and live with us on a part-time basis throughout the year to have decent facilities. Local government support and regional development support are so important to us.

The budget is a disappointment. It does not have the sort of vision that Victorians are entitled to expect. As I speak, in Burma 20 000 people are dead and 41 000 are unaccounted for. We live in the greatest nation in the world, and we are in the best state in the best nation in the world. We have an obligation to do better than what this budget gives us. I say to the government: for heaven's sake, you can do better. I implore it to please not bury us in debt again, to clean up its act and to run its budgets according to how it says they should be run. If it does those things, we will all be the better for it in this great state.

Mr HULLS (Attorney-General) — I rise to support the Appropriation (2008/2009) Bill. As we know, this is Treasurer John Lenders's first budget, and I want to congratulate him on continuing the fine tradition of this government of growing Victoria and growing the economy whilst delivering on the key services of health, education and addressing social disadvantage. I have just come from the launch of A Fairer Victoria, and I have to stay it was indeed a great launch. As Attorney-General I am particularly pleased that the budget provides an unprecedented $198.3 million justice package which will give people faster access to justice services and offer a new way to resolve disputes.

As part of the government's program for reform of Victoria's justice system we are currently working on a new justice statement which builds on the work of the first justice statement but also delivers some new forward-thinking themes and initiatives. The justice statement mark 2 will continue the themes of modernising justice and addressing disadvantage but will also introduce two subthemes — reducing the cost of justice and creating a unified and engaged court system that will be more responsive to public needs and expectations. This budget means that we can commence the process of delivering some of the goals of justice statement mark 2, particularly by improving the efficiency of the court system and providing people with quicker access to justice.

The justice package in the budget includes $38 million to further improve Supreme Court efficiency by providing more prosecutors and three new judges as well as ongoing funding for a further two judges to support the government's crackdown on organised crime. It also provides for support staff, increased transcript capacity, prisoner transport and support for juries. The budget will tackle the huge increase in the workload of the Children's Court. There will be $6.5 million for two new magistrates, four registry staff, one assistant registry manager and the use of additional courtrooms for a period of time. This extra funding will also deliver new Children's Court services at the Moorabbin Justice Centre.

To ensure we have a modern court system which is safe and secure for all court users the budget also includes $15.6 million over four years for the Magistrates Court to fund additional security personnel and weapons screening right across the state. I was at the Frankston Magistrates Court yesterday where this initiative was certainly welcomed. One of the major initiatives we are exploring as part of the second phase of the justice statement is the development of alternative or appropriate or complementary processes to the current adversarial system of justice. Whilst the adversarial system of justice has generally served us well, in some cases it can lead to very lengthy and costly court proceedings.

You really have to ask whether the process, particularly in civil disputes, of interrogatories, discovery and the like is really aimed at getting to the nub of the problem and resolving a dispute or whether it simply adds to increased court delays. We are certainly entering a new era where the public demand for more accessible and affordable justice is ever growing, and the adversarial system is not necessarily the most effective and efficient way to resolve issues. I certainly believe we have to find new and innovative ways of doing things, and an alternative dispute resolution strategy including, I might say, judge-led mediation is central to reducing the cost of justice.

This budget includes a landmark $17.8 million for alternative, or appropriate, dispute resolution initiatives across the state. These include mediation programs in our courts, judge-led mediation pilots for both the Supreme and County courts through the appointment of two new judges, one for each jurisdiction, and a range of other new dispute resolution services and initiatives. There is no question that as a result of this budget Victoria will become the appropriate dispute resolution capital of Australia. I use the term 'appropriate dispute resolution' because we have continually referred to it as alternative dispute resolution as though there are only two ways to resolve disputes and this is an alternative to the more mainstream way, which is our court system.

We have to change that mentality. Courts should be a last resort. But if matters get to court, we should also be thinking of more innovative ways of resolving disputes when that happens. That is why this judge-led mediation pilot is so important. It is based on the model that works very well in Canada. Justice Louise Otis heads up the dispute list in Canada, and I think something like 95 per cent of matters that go before her are resolved by way of mediation. She has nothing to do with a case when it is in a particular list — they come to her cold — and she is able to resolve these matters. Why? It is because the mediation process has the imprimatur and oversight of a judge. Mediation works well, because people take ownership of the actual dispute resolution process, so it can be far more effective than the traditional adversarial system of our courts.

We will also be providing over half a million dollars for a new Koori County Court. I am proud to say that this will be an Australian first at this level of the court system. I remember when we opened the first Koori Court in Shepparton in 2002. I was there again just recently, and I have to say that the Koori courts are working extraordinarily well throughout the state. There were plenty of nay-sayers at the time who called it a deluded social experiment and used other derogatory descriptions, but those who ridiculed the reform at the time now have to face up to the reality that the Koori courts have proved so overwhelmingly successful that in just 5½ short years we have opened eight more of them; we have opened Australia's first ever Koori Children's Court; and we look forward to opening the first-ever Australian Koori County Court.

Some of the usual suspects continue to carp about the Koori Court system. I noticed the other day that Peter Faris, QC, repeated a ridiculous claim that he has used before — that is, that the Koori Court dispenses apartheid justice. That was the term he used. He is reported as having said that when he read about the Koori Court initiative he felt sick. Not only do I find these comments appalling but they are misleading and false. I sincerely hope that they indicate — I expect they do — a complete lack of understanding of what these courts do, rather than something more malicious.

As we all remember, the Royal Commission into Aboriginal Deaths in Custody made it crystal clear that we need a culturally appropriate legal system if we are ever to break the cycle of overrepresentation of indigenous offenders in our nation's jails. Koori courts in Victoria lead the nation when it comes to reducing recidivism rates and dealing with Koori offenders in a culturally sensitive manner. For Mr Faris's interest — and anyone else who still questions the validity of Koori courts — I remind him that Koori courts apply exactly the same sentencing laws that apply in every Victorian criminal court.

The presence of elders is a powerful way of shaming and making Koori offenders accountable. As the Chief Magistrate has said only very recently, these courts have been tremendously successful in reducing recidivism rates amongst Koori offenders to approximately half that of the general rate. Offenders who plead guilty and elect to go to a Koori Court do not get lighter sentences. In fact many Kooris find the experience of appearing before the Koori Court so traumatic that they would rather not appear before it. They do not get a lighter sentence, but they do get a system that is far more meaningful to them and a system with which they can readily engage.

For far too long Kooris have been disengaged by the justice process. I have told this story before, but it is worth repeating. When I was doing Aboriginal legal aid work up in Mount Isa I remember sitting in on the Mount Isa Magistrates Court during a simple coronial inquest. The only witness to a single-vehicle accident was an old Aboriginal fellow who was sitting on the side of the road from Camooweal to Mount Isa. He was called to give evidence as to what he saw in relation to this accident. He got into the witness box, looked around and said, 'I will plead guilty'. As funny as it may sound, that is what the justice system meant to him — it was a place where you have to go and plead guilty.

We have to deal with matters in a far more culturally appropriate way, and we have to do so because Aboriginal males are still being incarcerated at something like 12 times the rate of their non-indigenous counterparts. Aboriginal kids are being incarcerated at something like 16 times the rate of their non-indigenous counterparts. Before the introduction of Koori courts, recidivism rates were skyrocketing. We have now reduced recidivism rates by half, and that is a good thing. By and large the orders that Aboriginal kids and Aboriginal adults are being placed on are being adhered to. That was not happening prior to the Koori courts, so Koori courts are indeed working well.

It is now time to have a trial of the Koori Court in the County Court jurisdiction. I am pleased to say that the Chief Judge, Michael Rozenes, has embraced this initiative and is looking forward to setting up a Koori County Court. I call on all those misinformed critics to take the time to go and poke their heads in at one of these Koori courts. The Koori Court at Broadmeadows is probably the closest to the central business district. I urge those nay-sayers to go and have a look at it; I have

no doubt that they will quickly understand how very wrong they are when they criticise Koori courts and how they work.

As well as the Koori courts, we are also going to fund some $61.8 million worth of upgrades of mortuary facilities and forensic services. That includes rebuilding the mortuary building, providing additional pathologists and establishing a world-first Victorian coronial council.

As far as the Attorney-General's portfolio is concerned, and as far as the justice area of government is concerned generally, this is a great budget that delivers on justice. It delivers justice for families, for businesses, for our regional and rural communities and for our community sectors. This budget has the hallmarks of a great budget, because it weaves together two vital strands: building strong economic growth, while at the same time delivering on a solid social justice program.

If any evidence was needed in relation to the latter, one only had to be at the launch of A Fairer Victoria to see how well the initiatives in A Fairer Victoria were received, in particular by the community sector. As the Premier said, we are leading the nation when it comes to our A Fairer Victoria strategy. When the Premier was at the 2020 summit recently, he heard that Victoria was seen as an icon when it came to addressing disadvantage. Many people were talking about using the A Fairer Victoria strategy in the federal jurisdiction to look at having A Fairer Australia strategy based on the Victorian model. We take pride in that, and we take pride in leading the nation when it comes to a lot of these social justice initiatives.

Certainly we take pride — and I take pride — in leading the nation when it comes to setting up the first Koori County Court in Australia. I still believe we are leading the nation when it comes to our Koori courts in Victoria, and we will also lead the nation when it comes to looking at alternative ways of resolving disputes outside the traditional adversarial system. I welcome this budget, and I fully support the appropriation bill before the house.

Ms ASHER (Brighton) — When we were voted out of office in 1999 the budget was around $19 billion. This budget today is around $37 billion — almost double — and the question I encourage the public to ask always is: what has the public got for the budget increase from $19 billion in 1999 to $37 billion in 2008-09?

The public would do well to reflect on what it actually got. Is there double the service for double the money in the core areas that state government operates? I will just go through a number of areas of core state government responsibility. In the area of health, we have the longest waiting lists and the lowest number of beds per capita. In the area of education our students leave school with literacy and numeracy at the lowest levels, as exemplified in the graphs distributed by the member for Scoresby. In the area of transport, on a daily basis people experience congestions on roads. Trains are packed, late and cancelled. In the area of water, the government has failed miserably on the supply of water. Melburnians cannot even water their gardens except on specified days and at specified times. In terms of safety, assaults are at record levels. A number of people do not even feel safe to walk on the streets.

I want to make reference to the government's tax cuts. The Treasurer came in here the other day and spoke about land tax cuts, payroll tax cuts, stamp duty tax cuts and the like. But it is very important to look at what these cuts actually mean. Nothing better illustrates that than page 179 of budget paper 4. If you look at the section on land tax, where the government was boasting of significant tax cuts, you see there that the government expects next year to have a 20.5 per cent increase in collections of land tax. That is off the revised 2007–08 estimates. It is a funny sort of cut when the government expects an increase in total tax take in that particular area. The same applies to the so-called payroll tax cuts. A real tax cut is in fact a tax cut when the government anticipates collecting less tax in the next year.

I also want to make a couple of comments about debt. According to these budget papers, in 2012 the total debt is now going to be $23 billion. What should be of significant alarm to Victorians is that total debt servicing costs taken out of the recurrent budget will be $1.8 billion in the year 2012. The last time I spoke about debt servicing costs in this Parliament was in 1992. I just pick up on this absurdity that the Labor Party talks about when it looks at the level of debt under the Kennett government. Whose debt was it? It was debt from the Cain and Kirner governments that we were elected to eradicate, and we did. To invoke the level of debt in 1992 as if it is somehow attributable to my political party is an absolute joke.

I heard the Premier yesterday in question time talk about the level of debt and quote from Standard and Poor's, saying the government's AAA credit rating was going to mean this level of debt was fine. Admiration for Standard and Poor's was not always so forthcoming from members of the Labor Party. As an aside, I cannot resist putting on record comments made in this place on 19 November 1997 by one member for Thomastown,

Peter Batchelor, now minister for energy, who in reference to a previous Treasurer, Alan Stockdale, said:

> … the Treasurer can achieve his single objective or obsession of the restoration of a credit rating with Moody's, Standard and Poor's or some other overseas credit agency.

The now minister for energy went on to say:

> It has to do only with satisfying the ideological drive of the Treasurer and the people to whom he feels responsible — that is, overseas credit agencies.

Standard and Poor's was willingly described by a prominent member of the Labor Party as an 'objective or obsession' with overseas credit agents. The then Treasurer was described as having an ideological drive — a desire to achieve ratings. I reflect on how much things have changed in this place.

I want to make a couple of comments in relation to water. Water is this government's greatest failure. From 2002 to 2010 the government will have done nothing about water supply. If you look at other states, you see that other states have built dams, have upgraded treatment plants or have built desalination plants. This government has done nothing between the period from 2002 to 2010. In terms of the 2008–09 budget, what we have is a series of reannouncements about the government's contributions on water. The government has referred to the $600 million for the food bowl project and the $20 million for the Geelong–Melbourne pipeline — and already the Auditor-General has identified a significant blow-out in the cost of this pipeline from $80 million to $120 million. The Hamilton–Grampians pipeline project has been reannounced, as has the government's contribution of $10 million out of a total cost of $30 million. All of these projects were in fact announced on 19 June 2007. The gaping hole in this budget is the upgrade to the eastern treatment plant, which, even on this government's reckoning, will not even be finished by 2012. That is the gaping hole in this year's budget, and it should have been brought forward.

I also want to make reference to the fact that the government has now confessed in this budget to the fact that it will be using the environmental contribution levy to pay for capital projects. I refer to page 354 of budget paper 3, footnote (b), where it says that $14.5 million from the environmental contribution levy will be put towards the food bowl project. At the time that bill was before the house the government told us that the environmental levy would go to protecting and repairing water resources, smart urban water initiatives, smart water farms, water security for cities, towns and the environment and COAG (Council of Australian Governments) Living Murray. The government has confessed publicly in this budget to the fact that it is raiding the environmental levy for one particular project.

I also refer to the fact that there have been a raft of new KPIs (key performance indicators) for water in the budget, most of which are ridiculous. For example, the government claims that the statutory obligations of water corporations will be complied with 100 per cent. If that is a KPI, I am amazed. I thought that would have been a statutory requirement which would be met automatically. Again, we see that there are five new KPIs, all of which, quite frankly, are irrelevant to an average urban water user, for example, in Melbourne.

The KPI for people in Melbourne is: when are water restrictions going to be eased? That is the KPI. The KPI is: when will the augmentation of supply actually come online? I refer to the document *Our Water Our Future* at page 17. Why does the government not run an $8 million campaign on this one, because this is where the public finds out how long we will be on water restrictions in Melbourne? It states:

> If the scenario based on the past three years … is taken as a guide, the new supply will enable Melbourne to move to stage 2 water restrictions by 2010 and progressively move back to low level or no restrictions by 2013. If inflows closer to the average of past 10 years are restored, Melbourne will move out of water restrictions earlier.

The government is saying that Melburnians are likely to remain on water restrictions until 2013, and if that is the case the inaction of the government between the period 2002 and 2010 is absolutely pivotal.

I also refer to the issue of the government's failure to invest in water. Again I refer to the chart distributed by the member for Scoresby, graph 11, headed 'State investment per capita in water infrastructure, 2006–07'. We note that in Queensland, for example, $284 per capita was spent on water infrastructure in 2006–07; however, in Victoria only $71 per capita has been spent in the vital area of water infrastructure. State investment in water infrastructure, as a percentage of GSP (gross state product), is 6.1 per cent in Queensland, 3.2 per cent in New South Wales and only 1.5 per cent in Victoria. If we look at Australian Bureau of Statistics figures for engineering and construction activity, we can see that in the years 2005, 2006 and 2007 the state with the greatest investment in water infrastructure is Queensland. It spent $3.2 billion. New South Wales spent $2.4 billion in that period. In terms of government and water authorities Victoria spent $786 million.

Mr Andrews interjected.

Ms ASHER — More spending on capital would be a really good idea, particularly in this area. Use the surplus. I also want to refer to concessions.

Mr Robinson — You did not apply this logic to buying a house in Brighton, I bet!

Ms ASHER — No. Minor changes to concessions for low-income people having difficulty meeting their water bills are outlined in budget paper 3 at page 36. There has been a small increase to the concession for water and sewerage for low-income earners. I am of the view that, given the government is going to double water prices in metropolitan Melbourne, there should be some concessions for low-income earners and pensioners. However, we note that in this paper just the cap will be increased for the water and sewerage concession by 14.8 per cent from 1 July 2008. This will come nowhere near to covering the sorts of price increases the government has already flagged.

The Minister for Water knows that this is the case, because he makes it clear in his press release that the sorts of concessions that are outlined in this budget as small assistance to low-income people are not the sorts of increases that we were led to believe from answers the previous Premier gave in question time. I find it amazing that the member for Brighton is pointing out that the ALP, traditionally the supporter of low-income people, has made a very lousy effort at a small increase in the cap to assist these people on low incomes who will be adversely affected by the government's proposal to double water prices in Melbourne.

We see with this budget a range of inadequacies. No doubt I will get opportunities in the future to speak on the shortcomings in the small business and tourism areas as well, but what we see here is a budget with significant expenditures. We see Clayton's tax concessions, because the government is budgeting to get 20 per cent more revenue from land tax next year as a result of the so-called tax concessions. It is a very ordinary budget, and the government should have done more with the money.

Ms RICHARDSON (Northcote) — I am pleased to rise in support of the Appropriation (2008/2009) Bill. This is John Lenders's first budget as Treasurer, and I congratulate him on the excellent work he has done and on his vision for Victoria's future. This is a great Labor budget that delivers to working families and reaffirms to each and every person in Victoria that it does not matter where you live in Victoria, that that does not determine what services you will receive nor how you will be regarded by the Brumby Labor government. The budget provides for $180 million for maternal and child health, which is great news for residents of my electorate, who are experiencing their own mini baby boom. There is also $592 million to modernise schools across the state and $79 million for early childhood education and care. The budget allocates $502 million to add capacity and improve the reliability of public transport; $491 million for hospitals, health care and community services; $663 million for new and upgraded roads; $490 million for road and rail infrastructure; and $476 million to improve police services across the state.

Over the last few days I have listened to and read the views of members opposite on the budget, and I have to say they are rather confused and contradictory. Members opposite are all over the place, a bit like a toddler's piece of artwork — although there has been a bit more toddler and a little less art in what we have heard today. Not only are there inherent contradictions in their arguments, but if you follow them through to their logical conclusions, you reveal what the Liberals and The Nationals truly stand for.

The first obvious contradiction appears in their discussion of the state's debt levels. Even in 2012 Victoria's general net debt will be 2.9 per cent of gross state product, which represents a modest and sustainable level of debt. Standard and Poor's has stated:

> The strength of the government's forecast operating performance and existing low debt enables the state to maintain high capital spending without affecting its current credit rating.

The level of debt is lower than the level that was inherited from the Kennett coalition government. Nonetheless, the Liberals and The Nationals have declared that the end of the world is nigh as a consequence of this level of debt.

We all know that the former leader of the Liberal Party and Premier of this state, Jeff Kennett, is revered by members opposite. They overlook what he did to country Victorians, what he did to services and how he drove Victorians out of the state in ever-increasing numbers. The former Premier, who some describe as a bit of a boofhead, is dearly loved by members opposite. If the projected level of debt in 2012 is unsustainable and unreasonable, where does that put poor old Jeff? Is the love affair over? Of course it is not. Members opposite can rest assured that they can still take their teddy, who no doubt they have nicknamed Jeff, to bed tonight and tuck him in lovingly. They should not throw him in the corner just yet. The reason they can hang on to him is that the standards by which they

judge themselves and the standards by which they judge others are clearly very different.

The Liberals have totally misunderstood the views of Victorians on debt. What people want is a government that manages the books and provides excellent economic stewardship of the economy, and that is precisely what they have in this state government. They are not alarmist about state debt, as the Liberals are, because they want services. In short, you have to spend in order to build, provide services and meet the challenges of the future. The Liberals are more beholden to their ideological position on debt than they are to the belief in the need to deliver services to all Victorians. We all know the contradictions do not stop there. On the one hand, they bleat about the level of state debt; on the other hand, they bleat about the need to increase services. The Liberals have a very clear choice to make: either be the economic zealots that we all know they are and stand up for it, or argue that the state debt levels are reasonable, as concluded by Standard and Poor's, and provide the services that the community wants. This is precisely what the Victorian Labor state government is doing.

The contradictions do not stop there either. In their desperate bid to be all things to all people, the Liberals have called for a further reduction in state taxes. Even though this budget has introduced tax and WorkCover premium savings of over $1.4 billion, even though Victorians now pay less tax than Queenslanders and even though Labor has progressively driven down or abolished state taxes since coming to office, the Leader of the Opposition, the shadow Treasurer and members opposite have all called for a further reduction in state taxes. In yesterday's question time we saw the Leader of the Opposition respond to a question from the Premier — simply put, it was 'Do you support a further cut in taxes and a cut in services?' — by nodding in agreement.

This is the heart of the problem for the Liberal Party and The Nationals. The only way you can further cut taxes is by cutting and slashing services. That is the only way you can do it. That is precisely what they did when they were in government. Do not believe what they say; believe what they did when they were in government. They closed 370 schools across the state, including countless schools in country Victoria. They sacked over 8000 teachers, slashed police numbers and watched the crime rate soar across the state. They closed hospitals, slashed hospital funding and sacked thousands of nurses across the state. They ripped the heart out of country Victoria, describing it as the toenails of the state.

If you were a member of a working family in Victoria and had listened to the contributions to the debate from the members opposite, you would have to ask them the following questions: which school will you close next time? Which school will you flog off so that the Leader of the Opposition can get a tidy profit from its sale? Which railway lines will you close next time? Which hospitals will you close while members of my family sit on a waiting list or wait in an emergency room? Victorian families have a right to know the answers to these questions. The Liberals and The Nationals must be held to account for their shameless record when in government.

Let us talk about vision. Members opposite talked about a lack of vision. The people of Victoria well remember their vision for the state. We remember the school closures, hospital closures, expanding class sizes and the closure of country rail lines. The vision it provided for Victoria was bleak, dark and black; may it never return to Victoria.

In stark contrast this budget rises to meet the challenges of the future. Do not take my word for it, look at what others had to say about this great Labor state budget. The Property Council of Australia said:

> The Property Council of Australia applauds the government on its record infrastructure spending announced in today's budget.

It went on:

> There is no doubt the additional spending will have a significant impact.

Victorian Employers Chamber of Commerce and Industry said:

> Today's state budget provides business cost relief in the context of a healthy tax take, to keep Victoria competitive with other states …

It went on:

> The WorkCover premium cuts are the fifth consecutive reduction and will provide immediate relief to businesses.

Kindergarten Parents Victoria said:

> It is great to see a key focus of the state budget will again be on ensuring vulnerable children have access to kindergartens.

My favourite quote is from the Victorian Farmers Federation, which said about the state budget:

> Farmers welcome this budget and the commitments that have been made on agriculture, and regional development.

That is what the Victorian Farmers Federation said. This budget has been welcomed wholeheartedly by

everybody in this state other than by members of the Liberal Party and The Nationals. This budget invests in Victoria's key services. It recognises the changing global circumstances that we find ourselves in, and acknowledges that interest rates are on the rise and inflation is on the rise. It addresses those concerns. Clearly there is nothing contradictory in this great state Labor budget which is delivering for Victoria.

I am proud to be part of a Labor government that has delivered this budget to Victoria. I am very keen for members opposite to be held to account for their record in government, because in debate after debate when members opposite talk about the budget and talk on the countless bills that come before the house, they want to convince Victorians that what they did in government actually did not happen, and that in fact it was all just someone else's terrible, horrible mistake. It was not up to them that people were leaving in droves in their cars outside — —

The SPEAKER — Order! I need to interrupt the member for Northcote. When this matter is next before the house she will have the call.

The time has arrived for this house to meet the Legislative Council in this chamber for the purpose of sitting and voting together to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Robert Francis Ray. The joint sitting will conclude at an appropriate time for the lunch adjournment, so I propose to resume the chair at 2.00 p.m. for question time.

Sitting suspended 12.45 p.m. until 2.00 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Australian Labor Party: marginal seats group

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer the Premier to a leaked copy of minutes of the meeting of the Victorian ALP marginal seats committee on 16 April of this year, which records the complaint — —

Honourable members interjecting.

The SPEAKER — Order! The member for Pascoe Vale will not behave in that manner. The member for Albert Park!

Mr Batchelor — On a point of order, Speaker, the Leader of the Opposition said he was referring to an ALP committee. I put it to you, Speaker, that has nothing to do with government business, and if that is the case, it should be ruled out of order.

Honourable members interjecting.

The SPEAKER — Order! I do not uphold the point of order. I have not heard the question.

Mr BAILLIEU — Thank you, Speaker; I will start again. I refer the Premier to a leaked copy of minutes of the meeting of the Victorian ALP marginal seats committee, dated 16 April this year, which records the complaint from the member for Eltham, that: 'The Premier's office in Parliament House seems out of bounds. Is there any chance of tours or introductions?' I ask: will the Premier — —

Honourable members interjecting.

The SPEAKER — Order! The member for Yuroke is warned and so is the member for South-West Coast.

Mr BAILLIEU — I ask: will the Premier now admit that his office is isolated and out of touch, or is this contempt just part of the plan?

Honourable members interjecting.

Mr Nardella — On a point of order, Speaker, as the chair of the marginal seats group, I can say that we do not keep — we do not write — or have any minutes of those meetings. I request of the Chair that the document referred to by the Leader of the Opposition be tabled before any question is answered.

The SPEAKER — Order! I do not believe it is necessary for the document to be tabled. If the member for Melton is questioning the authenticity of the document, I can seek an assurance from the Leader of the Opposition that it is authentic.

Mr Nardella — On a further point of order, Speaker, I seek an assurance from the Leader of the Opposition that the document he is referring to is authentic, because there is no such document.

The SPEAKER — Order! The Leader of the Opposition is being asked to authenticate the document.

Mr Baillieu — The document is a record of the meeting of the marginal seats committee.

The SPEAKER — Order! However, I do not believe that the question relates to government business and thus rule — —

Honourable members interjecting.

Mr Baillieu — On the point of order, Speaker, the Premier is the Premier of this state. His office in this Parliament is a part of his job. My question was: will the Premier now admit that his office is isolated and out of touch? That was the question.

The SPEAKER — Order! I do not believe that the question relates to government business in that it relates quite specifically, as the Leader of the Opposition has stated, to an ALP group.

Mr Baillieu — On a further point of order, Speaker, the question was clear. If the Premier of this state's office does not relate to government business, what does? It was a question about this Premier being isolated, arrogant and out of touch.

Mr Batchelor — On the point of order, Speaker, you have previously ruled that the question by the Leader of the Opposition does not relate to government business. If he is unsatisfied with that ruling there are avenues open to him, but to continue asking the question in defiance of your ruling is not one of them.

Dr Napthine — On the point of order, Speaker, in the preamble to the question the Leader of the Opposition referred to leaked minutes of an ALP meeting, but the question itself related directly to government business. It related directly to the Premier's office and to whether the Premier and his office are isolated and out of touch. That is directly related to government business. It is asking whether the Premier is arrogant and out of touch, as expressed by his own backbench committee. It surely relates to government business.

The SPEAKER — Order! I am prepared to rule again on the point of order. I rule the question out of order.

Mr Wells — You are kidding!

The SPEAKER — Order! The member for Scoresby is warned.

Mr Baillieu — On a further point of order, Speaker, can I invite you to reconsider your ruling? The preamble — —

The SPEAKER — Order! I do not believe that this is a point of order. I have ruled on the status of the question.

Mr Baillieu — I have not begun, Speaker.

The SPEAKER — Order! I have ruled on the status of the — —

Mr Baillieu — I have not begun my point of order. On a further point of order, Speaker — —

The SPEAKER — Order! I have ruled on the status of the question, and I will hear — —

Mr Baillieu — On a further point of order, Speaker — —

The SPEAKER — Order! I will hear no further points of the order from the Leader of the Opposition on this matter.

Mr Baillieu — On a further point of order, Speaker — —

The SPEAKER — Order! I call the member for Clayton.

Honourable members interjecting.

The SPEAKER — Order! The member for Clayton has the call. I will take further points of order from both the Leader of the Opposition and the member for Melton after the question from the member for Clayton, who has been given the call. If the Leader of the Opposition would like to continue with question time, he will not question the Chair.

Burma: government assistance

Mr LIM (Clayton) — My question is to the Premier. I refer the Premier to the humanitarian crisis in Burma and ask: is the Victorian government providing any assistance?

Mr Nardella — On a point of order, Speaker, the Leader of the Opposition picked up and referred to two pieces of paper that he had been referring to in his prior question. I seek the tabling of those documents.

The SPEAKER — Order! I did state that I would hear points of order from the member for Melton and the Leader of the Opposition following the member for Clayton's question. Does the Leader of the Opposition wish to make a further point of order?

Mr Baillieu — Speaker, you have just had a point of order. I do not wish to contribute to the member's point of order; I wish to make a separate point of order.

The SPEAKER — Order! The member for Melton has asked whether the Leader of the Opposition is happy to make the document that he has — —

Honourable members interjecting.

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

Mr Baillieu — On a point of order, Speaker, you invited my point of order, so I will make the point of order. I invite you to consider the consequences of the ruling that you made previously, where a comment was referred to in a preamble and as a consequence of the source of the comment, you have ruled the question out of order. If that were to apply across the board, Speaker, then I think we would have very few questions in this house. I invite you again to reconsider your ruling, albeit you might wish to consider that in your own chambers.

Mr Haermeyer interjected.

The SPEAKER — Order! The member for Kororoit is warned.

As the Leader of the Opposition knows, question time is regularly reviewed by the Chair, and in discussions with other members of the chamber I will do so, but I have ruled the question out of order. I do so on the basis that the basis of the question is a document from the ALP in the same way as I would rule on a document from the Liberal Party. This can be discussed, and I am quite happy to discuss it further, but I believe question time should continue.

The member for Clayton has asked a question regarding the humanitarian crisis in Burma and any Victorian government assistance that is being provided. I call the Premier.

Mr BRUMBY (Premier) — I thank the member for Clayton for his question. I would like to offer condolences on behalf of the house, the Victorian government and the Parliament to the families and friends of those who are lost in the wake of the recent cyclone in Burma. The scale of the disaster is truly horrific. As each report comes in, we hear that the numbers of casualties and deaths have increased. Our thoughts are obviously with those affected by the tragedy in Burma and their relatives and friends here in Australia. Official reports have stated that the death toll from the cyclone is already at 22 000 with a further 41 000 people missing. Unofficially there are reports of a much higher death toll, and the Red Cross estimates that up to 1 million people may have lost their homes.

There are some 12 400 Burmese-born people in Australia and just under 2000 of those live here in Victoria. In that context I am pleased to advise the house that the Victorian government will donate $500 000 to the Red Cross Myanmar cyclone appeal to help get much-needed aid into Burma following this devastating event. The Red Cross is on the ground in Burma providing emergency assistance to the thousands affected by the cyclone. It is working to deliver food, water and medical supplies as well as providing shelter for the many who have been left homeless by the cyclone.

After the initial emergency and relief stage there will be the huge long-term task of rebuilding shattered communities. I know I speak on behalf of all members of the house today when I urge all Victorians to donate to cyclone relief appeals organised by the major aid organisations, many of which are now under way. Those donations will obviously help in the huge task of delivering desperately needed emergency relief to the victims of the tragedy.

Budget: health and transport infrastructure

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer the Premier to a leaked record of a sensitive meeting of government members which refers to the member for South Barwon complaining that ministers are running out of excuses, and I ask: what excuse does the Premier now have for failing to provide funding for major health and transport infrastructure in this week's budget?

Ms Thomson interjected.

The SPEAKER — Order! I warn the member for Footscray.

Mr BRUMBY (Premier) — I want to thank the Leader of the Opposition for his question. It is good to see that the Leader of the Opposition is continuing his focus on budget issues. The budget that was brought down this week provides a huge boost to health and transport initiatives right across the state. As I said in the Parliament on Tuesday, referring to the announcement that we had made in relation to country health — I made this announcement in Bendigo last Friday at the rural health conference — there is $135 million in new capital works for health: $70 million for Warrnambool, $9.5 million for Bendigo, $5.5 million for Ballarat, $21 million for Latrobe Valley and about $7 million for Trentham. There are hospital projects across the state. In this budget in Melbourne there are things like the Sunshine Hospital — a huge increase in funding for that hospital — Dandenong, Kingston and the maternity package. We are spending almost as much in one year on hospital and health funding right across the state as the former Kennett government spent in seven years.

I take umbrage at this question. We have already opened a new Austin Hospital, which was going to be privatised and closed by the former Liberal-National coalition. We have opened a new hospital at Berwick. We are just about to open the new Royal Women's Hospital and we are spending $1 billion to build what will be the best children's hospital in the world — and the Leader of the Opposition says we are not doing anything on health funding!

Transport projects in this budget are: Craigieburn rail project, $30.2 million; Laverton rail project, $92.6 million; Dandenong rail corridor, Westall, $153 million; Windsor and Prahran station upgrades, $3 million; metropolitan park-and-ride stations, $29.2 million; South Morang rail development, $10.4 million; and train electrical renewal and maintenance, $4 million. They come on top of $64 million for new metropolitan bus contracts; the South Gippsland service improvement package, $14.7 million; the regional passenger maintenance package; and the $250 million we are putting into freight across north-western Victoria. There has never been a government which has made investments of this size and scale in our public transport system or our health system. In this state we have record jobs growth. The Australian Bureau of Statistics figures that came out today show that the state which in the last month has created more than half all the jobs across Australia was Victoria.

We have strong population growth, we have jobs growth and we have babies — we have a baby boom, with 73 737 births last year. These are substantial investments in the future of our state.

Budget: cancer initiatives

Mr LANGDON (Ivanhoe) — My question is for the Minister for Health. I refer the minister to the government's 2008–09 budget overview document, *Taking Action for Our Suburbs and Our Regions*, and I ask: can the minister outline to the house the actions the Brumby government is taking to support patients in their fight against cancer?

Mr ANDREWS (Minister for Health) — I thank the honourable member for Ivanhoe for his question and his interest in high-quality care right across his region, but most notably in cancer care out in Melbourne's north.

In this budget, we have announced a comprehensive package to give a very substantial boost to cancer services right across our state — a $150 million boost to support those who do important cancer research and those who treat patients. Right across the spectrum of care, right across the board, this is a substantial boost to what is one of the great health challenges of our time. Cancer is relevant to all of us. Each day 70 Victorians are diagnosed with cancer; one in three of us will be diagnosed with cancer before we turn 75; and each year 10 000 Victorians lose their lives to cancer, so this is a key health challenge that is relevant and important to every single person across our state.

This package builds on our record spending. We invest around $600 million a year in supporting cancer patients, but it is important to take that next step to continue to support those who do the world-leading research and those who provide care to meet the challenges that will face us in the years to come.

I was very pleased yesterday to visit the Sunshine Hospital. The Premier just made reference to a very substantial boost to that fine health service, a $73.5 million boost not only to build the teaching, training and research facility there that will deal with some of the workforce challenges we face but also to construct four radiotherapy bunkers. This tells the story of our investment in health. The western suburbs have never had access to public radiotherapy services. Thanks to this budget, families in that local community in Melbourne's west will, for the first time, have access to public sector radiotherapy cancer care. That will be possible only because of the investment by this government and because we have a comprehensive plan to support those right across Victoria who suffer from cancer. There are a $150 million boost and additional investments like the investment in the radiotherapy bunkers at the Sunshine Hospital.

The member for Ivanhoe would be pleased to learn that in this package $25 million is provided in furtherance of our election commitment to support the Olivia Newton-John Cancer Centre at that fine health service, Austin Health, which was saved and rebuilt by this government. Cancer is a key priority for our government because it is a key priority for Victorians, not just in metropolitan Melbourne but also in rural and regional parts of our state. This package delivers for them as well, including extending the access in rural and regional communities to palliative care, for dignified end-of-life care at home. We know that cancer patients and their families want that.

It is also about making sure that we boost the percentage of rural and regional cancer patients who get access to multidisciplinary care, packages of care that are tailored to help them in their own cancer journey. Across this package and across the state, this is about giving cancer patients the support and care they need.

It is not just about more money, as important as that is. It is about setting a bold and ambitious target. In 1990, 48 per cent of cancer patients survived their cancer; in 2004, it was 61 per cent. As we have always said, there is more to be done in health. We can do more — —

Ms Asher interjected.

Mr ANDREWS — I would not be laughing about cancer care, if I were you!

Honourable members interjecting.

Mr ANDREWS — You've got to be joking! It is about a bold and ambitious target, with funding to back it up.

Ms Asher interjected.

Mr ANDREWS — Stupid slogans — that is what the Deputy Leader of the Opposition thinks this is.

The SPEAKER — Order! The minister should ignore interjections, and I ask the Deputy Leader of the Opposition to not interject across the table.

Mr ANDREWS — This is a plan with $150 million of ongoing funding over the next four years and capital works investments like those for the Olivia Newton-John Cancer Centre and for bringing public radiotherapy to an entire region for the first time. It is a plan to save lives and a bold and ambitious target to underpin it. In 1990, 48 per cent of cancer patients survived; in 2004, it was 61 per cent. Under this plan and this government's commitment, we aim to raise that to 74 per cent by 2015.

I would have thought that every member of this house could sign up to a target like that, because I know communities right across this state expect nothing less of a Labor government.

Transurban: concession notes

Mr MULDER (Polwarth) — My question is to the Premier. I refer the Premier to his comments before the Public Accounts and Estimates Committee in June 2006 relating to the Transurban concession notes deal:

> I do not think it matters how you cut the arrangements — how you analyse it — the state achieved excellent value for money.

And I ask: is it a fact that Transurban was indemnified for any cost blow-outs in the M1 project, and who was it who foolishly signed up to a contract which has already cost Victorians an extra $363 million, the current Treasurer or the former Treasurer?

Mr BRUMBY (Premier) — I am just finding my notes from what I said the last time the member asked me this question. The notes that the member refers to were valued by the Kennett government at $130 million and $269 million — and we sold them for $700 million.

Honourable members interjecting.

Mr BRUMBY — That is what the Kennett government valued them at, $130 million to $269 million — and we sold them for $700 million. In terms of all the assessments that were made at the time, this represented good value for money for the state.

In terms of the question about the M1, the Monash–West Gate upgrade, this is a good and important project for our state. It is a project which will substantially improve traffic flows east–west across Melbourne, it will be the biggest publicly funded road project this state has seen in decades and it is one that this government fully supports.

Budget: A Fairer Victoria

Mr PANDAZOPOULOS (Dandenong) — My question is to the Minister for Community Development. I refer the minister to the government 2008–09 budget overview document *Taking Action for Our Suburbs and Our Regions*, and I ask: can the minister please inform the house how the Brumby government is taking action to expand opportunities for all Victorians through the A Fairer Victoria strategy?

Mr BATCHELOR (Minister for Community Development) — A Fairer Victoria is the Brumby government's $1 billion campaign to address disadvantage and create opportunities for families, individuals and communities right across Victoria. A Fairer Victoria has two basic ingredients for building its objective of social and economic inclusion, and they are simple and straightforward: strong people and strong communities. Those two ingredients are reflected in the four key priority areas of A Fairer Victoria, which was successfully launched by the Premier today in the parliamentary precinct. It is important to understand what those priorities are, because they address disadvantage, and this is important for a Labor government and important for the Brumby government. It is about Labor values because Labor cares.

The first of our priorities is to continue — —

Mr K. Smith — Just more Labor lies!

Mr BATCHELOR — I know this is of no appeal to members of the Liberal Party, but we care about people, we care about disadvantaged communities — —

The SPEAKER — Order! I ask the minister not to debate the question, and I ask for some cooperation from the member for Bass.

Mr BATCHELOR — Our first priority is improving the early years support services for children and families who are most at risk. We know that intensive early support for these children and families will make a profound difference, not just now but throughout the whole of their lives. This year we have announced an extra $163 million to further improve those services. This will mean more access to maternal and child health services, more help for women to give up smoking and drinking during pregnancy and better services for families affected by domestic violence.

Our second priority area in A Fairer Victoria will be to increase educational opportunities to help more young people get into work. Providing a job and getting young people job ready is the best help you can offer young people. In Victoria we already have the highest rate of year 12 completions of any Australian state — 86 per cent. But we are going to try to do better for those who have not reached that benchmark. This year we have announced an extra $218 million to expand upon these achievements. With that money we will create 60 new school improvement leader positions to help schools work with high-needs students, and we will expand the student support program that provides targeted support to those students. We will also expand the literacy improvement teams, whose work already has a dramatic impact on improving literacy amongst those struggling students.

The third priority will be to improve health and community wellbeing. You have got to be healthy to have a job, you have got be healthy to get a job and you have got to be healthy to keep a job. Everyone knows that good health is needed for a person to fully participate not only in community life but also in employment. This year improving health and wellbeing is the biggest single area of funding under A Fairer Victoria, with an extra $400 million being provided to meet this objective. Disability is a major focus of this extra investment. Our new funding will dramatically expand the range of individualised supports that are available to people with a disability.

Our fourth priority area will be to continue developing livable communities. Wonderful programs like the neighbourhood renewal program and the community renewal program have already made major contributions in creating opportunities in areas of concentrated disadvantage. We will also be looking at community enterprises, which in the past have created hundreds of employment and training opportunities. This year we have announced an extra $224 million to further strengthen local neighbourhoods, to reduce the risk of homelessness and to provide extra help for low-income families.

These are just some of the initiatives that are contained in our $1 billion A Fairer Victoria package. It is a great initiative. It is a Labor initiative, because we care about ordinary people, we care about working families, we care about places that are disadvantaged and we want to make sure people do not fall between the cracks.

Gaming: public lotteries licence

Mr O'BRIEN (Malvern) — My question is to the Premier. I refer the Premier to the review by the former judge, Ron Merkel, of the lottery licensing process, which found that at an early stage of the licensing process Hawker Britton was given preferred access to a licensing process document by someone in the minister's office. I also refer the Premier to the report of the Select Committee on Gaming Licensing, tabled in the other place, which found:

> This places in doubt the probity of the process as this breach of the tender process rules was never investigated by the probity auditor, the VCGR or the steering committee.

I ask: will the Premier now sack those responsible, and will he guarantee that the awarding of lucrative gaming machine licences will not be similarly corrupted by special access for Labor Party mates?

Mr BRUMBY (Premier) — I thank the honourable member for Malvern for his question. If my memory is correct, he is referring to something from October last year, so he has certainly had plenty of time to prepare the question. But since then other events have occurred. Those events include of course the government's decision in relation to future licensing arrangements, which, as I thought all members of this house knew, has been fully signed off in every way, shape and form by Mr Merkel — the whole lot. This question today is from a Liberal Party which is profoundly embarrassed by the upper house report — —

The SPEAKER — Order! I will not allow the Premier to debate the question!

Mr BRUMBY — Speaker, the question was about probity issues in the gaming industry, and that is what I am responding to. Those probity issues were examined in another place by another upper house inquiry, and after all of the smear, all of the innuendo, all of the invective, all of the claims about corruption, there was not one single piece of evidence, not one single conclusion, not one iota of evidence, not one skerrick.

After 15 months, 48 witnesses and 12 days of the committee sitting the Liberal Party did not produce a thing — not a thing. We always said from the start that this process was a witch-hunt. Events today have confirmed that this was a witch-hunt. There is nothing at all from this, and Ron Merkel, QC, has signed off on every aspect of the government's process and has given it a tick in every single box.

Gaming: public lotteries licence

Mr SCOTT (Preston) — My question is for the Minister for Gaming. I refer the minister to allegations regarding the government's handling of the gaming licence processes, and I ask the minister to detail for the house whether these allegations have been substantiated.

Mr ROBINSON (Minister for Gaming) — Timing is everything in politics, is it not, Speaker? I thank the member for Preston for his question on what is a very important issue. The Bracks and Brumby governments have been the first governments in Victoria's history to open up the gambling industry and gambling licences to competition. Others in this place talk about it, but when it comes to the crunch it is only Labor governments that have the ticker to do these things on a competitive basis.

Mr O'Brien interjected.

The SPEAKER — Order! I ask the member for Malvern to cease interjecting in that manner.

Mr ROBINSON — As a government we have provided the licence review process with a very robust probity framework. That of course is given expression through the independent review panel, which the member for Malvern so kindly alluded to in the last few minutes. That panel is headed by the very respected former judge, Ron Merkel, QC, who delivers fearless and frank reports. In fact on two occasions he has delivered reports to this Parliament. The most recent of them, which went to the regulatory review phase of the keno wagering and gaming licences, was tabled here only a few weeks ago. I might just allude to that in part.

On page 34 of that report Mr Merkel stated he was:

> … satisfied … all parties … have been treated impartially …

Page 35:

> No complaint or issue has come to the panel's attention …

Page 37:

> … the panel is satisfied that no probity issue has tainted those reports or processes …

Page 38:

> The panel is satisfied that the steering committee papers exhibit a robust, independent and fair approach to the relevant issues …

And:

> … the panel has concluded that … no significant probity issues arose in respect of the regulatory review.

Now, there is an independent report panel that is earning its keep. It is actually going about doing a very thorough analysis of the government's processes, and it is giving it the tick of approval, as the Premier has said.

Earlier — in October last year — the independent review panel delivered a report which gave an endorsement of the processes adopted by the government insofar as the lotteries licence was concerned. But, sadly, it is a matter of record that not all parties agreed that the independent review panel was the right way to go. Such was the determination of the opposition to run the line that that process had been tainted — by the former Premier in particular and claims of untoward activity by him — that the opposition established a select committee of the Legislative Council. I am pleased to advise the house that that committee has delivered its report today.

The government welcomes that report, because it demonstrates how baseless these criticisms and claims of the opposition against the government and former Premier are. After 15 months of bluster, 12 days of hearings, 44 hours of evidence and 58 witnesses, and endless cups of tea and iced vo vos in the Legislative Council committee room, and after a huge expense to taxpayers, what has the select committee come up with in respect of the lotteries licence? It has come up with a big fat zero. Specifically, no evidence has been produced to sustain any allegation of interference in the lotteries licence process, or that the former Premier had any discussion with parties that could be construed as in any way improper — a big fat zero!

On 18 July last year in this place in a debate on a matter of public importance the opposition leader claimed in respect of the lotteries licence process that the 'cock' was 'crowing' — they were his words — the cock was crowing. But the select committee report today demonstrates very clearly that the cock has lost its voice, and we all know there is only one thing to be done with a crowless cock, and that is the chop. You

have got to give the crowless cock the chop chop, because a crowless cock is absolutely useless.

The government stands by the very robust processes it has established in respect of gambling licences. We make no apology for putting in place this robust framework, which is given expression through the independent review panel. In conclusion, we refute entirely the wild and baseless claims that have been made by the opposition, particularly in respect of the former Premier of this state — a very decent and honourable individual. If the opposition has a shred of decency, it will do the right thing and issue to Steve Bracks an unconditional apology.

Budget: Maffra Primary School

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer the Premier to his claims in the house yesterday that:

> The budget papers refer to funding for Maffra Primary School …

I ask: given that a search of the budget papers reveals no reference whatsoever to Maffra, let alone the Maffra Primary School, can the Premier inform the house what page of the budget papers he was actually referring to, or was he simply misleading the house?

Mr BRUMBY (Premier) — As I indicated yesterday to the house, the press release referred to Maffra Secondary College. It should have referred to Maffra Primary School. My understanding is that the reference was in the papers. If it is not, I apologise for that. The school which was selected for funding was Maffra Primary School, and the Minister for Education advised me yesterday that that is, I think, a project of $4.1 million. As I indicated yesterday, in respect of Maffra Secondary College we promised before the last election that during our next term of government we would undertake works at that school and, as I said yesterday, we will do that.

Budget: justice services

Mrs MADDIGAN (Essendon) — I have a question for the Attorney-General. I refer the Attorney-General to the government's 2008–09 budget document *Taking Action for Our Suburbs and Our Regions,* and I ask: will he explain to the house how the Brumby Labor government is taking action to improve access to justice for Victorians?

Mr HULLS (Attorney-General) — I thank the honourable member for her question. As members of this house would know, demand for justice services in this state has certainly risen dramatically in recent years. Courts are now dealing with higher caseloads and more complex and costly cases. In response the state budget provides an unprecedented $198.3 million justice package that will improve access to justice and improve the efficiency of our court system, from the Supreme Court to the County Court and Magistrates Court, and indeed the Children's Court as well. This of course means additional judges, additional prosecutors, courtrooms, support staff, infrastructure and, just as importantly, security for our magistrates courts as well.

Sadly, for too long in the eyes of sexual assault victims courtrooms have represented fear and anxiety more than justice. That is why, as members would know, this government commissioned the landmark review of sexual assault law and procedure by the Victorian Law Reform Commission. This week's budget extends the new specialist sex offences unit of the Office of Public Prosecutions, which was opened in April 2007, to a regional office in Geelong, and I know that is welcomed by all members in the Geelong area. The specialist unit is about encouraging women to come forward and report sex offences and, when they do, being dealt with in a dignified and respectful manner.

In an Australian first we are also developing the first Koori County Court in partnership with the County Court and also with the indigenous community in Victoria. When we opened the first Koori Court in 2002, there certainly were many doom-and-gloom merchants about the Koori courts. For people who describe Koori courts as apartheid justice, I simply say: put your ignorant prejudices aside and visit one of the eight Koori courts in this state. They indeed are leading the nation in reducing recidivism rates and leading the nation in reducing breach-of-order rates as well.

The Koori County Court is our next step along this very important journey, and the court, I might say — just like the Koori Magistrates Court — will not hear matters involving sex offences. It will sit around 11 times a year, probably hearing about four or five matters on each occasion. We are still working through the process, obviously, with the Chief Judge of the County Court, who has embraced the Koori County Court proposal.

The adversarial system of justice has generally served our justice system well, but that does not mean we cannot question that system. The public is certainly demanding more accessible and affordable justice. I think we simply have to find innovative ways of administering justice in this state. The process of sending off a letter of demand, which often launches parties, as the Leader of The Nationals would know,

into long and protracted legal processes — I do not think he ever lost a case, or so he tells us — may be a tried and true system for lawyers, indeed lawyers reap the financial rewards of such a system, but it is not necessarily the best way of resolving disputes. So this budget provides nearly $18 million for alternative or appropriate dispute resolution initiatives across the state. The funding will deliver new mediation programs in our courts, including a judge-led mediation pilot in the Supreme and County courts, and that will also include the appointment of two new judges and a range of other new dispute resolution services and initiatives, particularly in regional areas.

I will conclude on this note, and this will be of particular interest to those opposite: the budget includes some $61.8 million to fund an upgrade of mortuary services and forensic services in this state. As the opposition and the member for Malvern would know, forensic services are all about finding evidence. Despite this huge injection of funds, no matter how much we spend on forensic endeavours, we would be hard-pressed to track down any decent policy of those opposite in relation to matters of importance to all Victorians.

The SPEAKER — Order! The Attorney-General will not debate the question.

Mr HULLS — This is a great budget for access to justice. It is unprecedented spending. I think in particular the alternative dispute resolution pilots and judge-led mediation will ensure that we lead the nation when it comes to alternative dispute resolution in this country.

APPROPRIATION (2008/2009) BILL

Second reading

Debate resumed.

Ms RICHARDSON (Northcote) — I am very happy to resume my contribution to the debate on the important Appropriation (2008/2009) Bill. I was also very happy to have been interrupted earlier to allow a joint sitting of the house to choose a person to replace Senator Robert Ray. The appointment of Jacinta Collins is a very welcome step that will no doubt further the aims of the Labor Party in the interests of working families across Australia.

The SPEAKER — Order! The member for Northcote will address the bill.

Ms RICHARDSON — In respect of the appropriation bill, no doubt the retiring senator, the iconic Robert Ray, would share the concerns of members on this side of the house, who are firmly of the view that what we have heard in the presentations, discussions and debates from members opposite, as well as what we have heard and read from them in the media, is nothing but the height of hypocrisy. No doubt he would comment on the fact that on the one hand Liberal and Nationals members want to cut taxes and take tax cuts even further while on the other they want to increase spending on services. We all know that this simply cannot be done. As I said earlier, we all know what the Liberal Party and The Nationals did in government. Victorians wisely decided that members opposite should be judged by what they did in government not by what they say in this place or what they say out in the media.

There is another important element that I would like to touch upon with regard to this great Labor budget. It is an important issue that I want to highlight in the interests of people in my electorate of Northcote. It concerns Labor's ongoing commitment to job creation and job growth in this state. I refer to what another great Australian, a former federal parliamentarian, former Treasurer and former Prime Minister, Paul Keating, said that creating 1 million new jobs over five years was what he thought keeping the faith is all about — that is, looking after the people we are supposed to be looking after.

This is precisely what this great Labor budget is all about. It recognises the challenges ahead. It recognises that interest rates have risen. It recognises that inflation is on the march, and as a consequence it introduces important tax reform for the state. It cuts land tax at the top marginal rate from 5 per cent to 2.5 per cent. It cuts payroll tax from 5.75 per cent to 4.95 per cent. It cuts the WorkCover average to 1.387 per cent. All in all, it provides a total of $1.4 billion in new tax initiatives and WorkCover relief for businesses across the state. In summary the budget takes pressure off Victorian businesses in order that they can avoid increasing prices or laying off employees as a consequence of the global pressures that face them.

Labor's record on jobs is one that Labor can be very proud of. This budget rounds out that ongoing commitment to jobs. I look forward to seeing continuing record low unemployment and continuing record participation rates arising directly from the initiatives that this budget implements. I again congratulate the Treasurer, John Lenders, on his first budget. I congratulate the Premier on introducing and holding true to Labor's commitments. I look forward to

seeing the budget proceed through the houses and seeing it implemented across the state.

Mr DIXON (Nepean) — The education section of this year's budget is all about spin. It is a budget of lost opportunity and a budget of pinched policies. For all the hype, for all the glossy brochures and for all the spin, leaking roofs, blocked toilets and frayed carpets are still everyday realities for students and teachers in the Premier's education system. The budget is meant to provide funding for the building, modernising and upgrading of 128 schools, but that promise probably holds less water than a bucket in Sandringham East Primary School that is catching the water leaking through its roof at the moment.

Last year the government promised to modernise and upgrade 131 schools. Of that number, just 89 school upgrades have been announced, so there are 42 schools there and no-one knows about them, least of all the schools themselves, and they do not know who is getting that money. I am sure that those 42 schools have been shifted to this year's promise of 128 schools to be modernised. For those 89 schools that we could find — the government refused to supply the names of those other 42 schools — those schools have been announced. Some may have started construction, others may have not even commenced construction, yet the government is saying, 'Trust us on our 128 this time, we will deliver them'. As I said, of the last budget's 131 schools only 89 have been announced let alone delivered. How can we believe this year's target of 128? The reality will be something down in the 70s and the 80s if we are lucky and a further 40 schools who are expecting funding for major capital works will again be disappointed.

Looking more closely at the figures for major funding, rebuilding and modernisation of our schools, there is $124 million for 22 schools. That is a windfall for those schools, and good luck to them. However, the process is incredible. All schools that want major redevelopment — and that is most Victorian schools — do not apply for funding; they have to be tapped on the shoulder. They are not told when they are going to be tapped on the shoulder. It is this great never-never. They do not know if it will be next year, in 3 years time or 10 years time. They cannot plan their future. They cannot plan their maintenance. They never, ever know when their school will be tapped on the shoulder. If they are tapped on the shoulder, they have to go through a three-year process of filling out forms and a three-year process of meetings before they receive the money. They may be one of those 42 schools that were expecting money, but they miss out and have to wait another year.

There is $101 million for regeneration projects. Theoretically these projects are excellent and much needed, but they are notoriously expensive. For example, up in Bendigo there is already $11 million uncommitted for a project there. That huge expense that was announced originally seems to be reducing.

It has been a farcical process for many school communities. The process that the Heidelberg community is going through at the moment is the best illustration of it. I refer to Macleod College, which is one of the schools in part of the regeneration project in the Heidelberg area. It was decided that Macleod College, which is a P–12 school, would become a P–9 school and there would be a senior secondary college in the area that all the schools would feed into. Everybody was happy with that. However, out of the blue, during the school holidays, everyone received a letter saying that the committee running this process said no, the government's preferred option is that there will be no more Macleod College and there will be a gigantic school, P–12, of 2500 children from the Heidelberg area. The government's preferred option is to close Macleod College.

Mr Wells interjected.

Mr DIXON — That is right, as the member for Scoresby says. The government will say that the community decided to do it. But the community is forced into these sorts of decisions because it is told, 'If you do not close this school, if you do not go down our preferred route, we will not give you any money for any of your schools'. So the community, starved of funds, reluctantly says, 'We are better off having one or two new schools than no schools that are funded at all'. It reluctantly decides to close the school and the government says, 'It is nothing to do with us; that was a community decision'.

It just so happens that the Macleod College site is a premium site worth a lot of money. It is next to a premium railway station, located in a very expensive suburb, and a block of land there is going to be worth a fortune. That is indicative of the regeneration process that is happening. Theoretically it is a good process, but in the end communities are being taken for a ride.

Three schools will receive $19 million between them as replacement schools, and this includes Wodonga South Primary School, which is great news. The member for Benambra has been fighting for that, as did the previous member for Benambra. I have visited that school on three occasions, and it is great to see that that community will get its new school.

There is funding of $30 million for land for new schools, and that is welcome but that is the government's job; there is $29 million for new schools in growing areas, and again that is part of what the government should be doing; and there is $26 million for new portable classrooms. There is no detail there, just more portable classrooms. There is a paddock out north of Melbourne, full of portable classrooms sitting there. There are a lot of poor quality, asbestos-ridden portable classrooms still in schools, and the sooner we get rid of those the better. I hope the funding is for replacement portable classrooms.

There is $19 million for two select-entry schools. That is a great idea. I wonder where that idea came from. I think that idea came directly from the 2006 Liberal education policy. It is something that the community wants, the government has recognised that it was behind the ball on this and finally decided — no, reluctantly decided, from what I hear from a few members on the opposite side — that it was going to have these select-entry schools. Those two are welcome, and it would be good to see a couple more too to better spread them around Melbourne.

There is $35 million for the Better Schools Today project. This is an interesting concept. About 70 schools are going to share in that $35 million, roughly $500 000 for each school. But that is it. Maintenance audits have found that there are hundreds of schools in Victoria needing hundreds of thousands of dollars worth of maintenance. Small-to-medium schools are going to receive $500 000 each, but that will be it for the next 10 years; it is the only capital funding that they will get for the next 10 years. Basically it is only maintenance money. It is not rebuilding money; it is not modernisation money. I know the government will come out and say, 'We have modernised this school. We have spent $500 000 on it'. You could spend $500 000 on hundreds of schools in Victoria and the works would all be underground; you could not even see the difference. Yet this government will claim and does claim that those 70 schools that are going to receive $500 000 each are modernised. You can hardly call some asphalt, new pipes and a new roof a modernisation.

There is $171 million for PPPs (public-private partnerships). Again that is a backflip from this government. This process is something that it was never going to consider. It has backflipped because it is short of cash and it needs this process to fund new schools.

Many schools have missed out despite the promises. We have Maffra Secondary College, but not Maffra Primary School. It is interesting that a mistake was made, because in the last Parliament a similar mistake was made with Drouin Secondary College and Drouin West Primary School. However, because they were in a Labor seat both schools ended up with the money. This time there has been a mix-up with Maffra Secondary College and Maffra Primary School. They are in a coalition seat, so only one of them will get the money. There is a disappointed community down there in Maffra.

Tootgarook Primary School in my electorate was expecting funding but missed out. Others are Parkwood Secondary College, Western Port Secondary College, Western Autistic School, Lloyd Street Primary School, Bayswater Secondary College, Wandin Yallock Primary School, Inverloch Primary School, Caulfield Junior College — those two schools are probably in the worst condition of the schools in the state I have seen — Portland Special Developmental School, Nathalia Primary School, Pembroke Secondary College and Sandringham East Primary School, where the principal has said, 'Oh well, we missed out again — back to putting the buckets under the ceilings'.

There is no money in this budget for school maintenance over the next four years. There is a maintenance backlog in our schools of more than $260 million. It has more than doubled over the term of this government. The budget does not provide one cent for maintenance of schools in Victoria. The government should hang its head in shame about that. For so many schools, if you get a windfall it is great; otherwise you get absolutely nothing from this government.

The government debt has built up to the level that it is paying $860 million in interest. Just one-third of that could eradicate the maintenance backlog in all of Victoria's schools. That is the importance of debt and what it does to the community. Interest payments will blow out to $1.8 billion; imagine what we could do to our schools with the sort of interest that would have to be paid on that sum! The money is not going to our community; it is going to a bank somewhere.

Apollo Bay P–12 College and Kew High School are two interesting examples — and there are many other schools like this — of schools that signed a master plan, a contract between the department and the school community that says, 'This is our master plan, and it will be completed in so many stages'. These two schools were funded for their first or second stages but have been told, 'You will not get your third stage, even though we signed a contract with you. You have to start again. In fact, you cannot start until you get a tap on the shoulder. If you eventually get the tap on the shoulder, you have to work through a process for three years, and

you might get the money at the end of that'. That is a broken contract with those communities. If a school needed and was funded for a master plan in the first place, that should be seen to, as it means the needs are great. I have seen both those schools, and the areas of those schools that need the next stage of the master plan to be completed are in a desperate condition — they are Third World facilities.

The former Albert Park Secondary College is another example. The government refused to fund or support the school. In the end the government forced the community to close it down. It washed its hands of it like Pontius Pilate. It said, 'We will knock down the school, rebuild and have a brand-new school starting in 2009'. The old school is still standing. It has not been knocked down, and there is no way known that it will be ready in 2009. That is another broken promise to a community, and another community that was forced to close down one of its schools.

The former government introduced a laptop computer leasing program for teachers. Laptops are half the price they were then, yet teachers are paying more for the lease. That is just a small thing, but it says a lot.

I turn to education measures which have been discontinued in the budget. Why do we no longer have the year 3–6 or year 7–10 class sizes or pupil-teacher ratios? It is probably because they are going up. We always hear about it when the class sizes are dropping, but when they are going up the government does not want it in the budget any more — the measures are out the door, never to be seen again.

I support the increase in support for students. It is always welcome, but we need more than $33 million over four years given the massive problems we have with student support services. There is more money for the program for students with disabilities. I want to know whether that means that funding for children with language disorders, which was taken away from students — a small amount was given to schools to run a new program instead — will be returned with the extra funding for students with disabilities.

I could go on to say more about opportunities that have been missed with this budget and how it copies opposition policies, but I will spend the last 2 minutes of my contribution on my electorate. It is good to see that Dromana Secondary College finally has funding for the next stage of its rebuild, even though, as I said, Tootgarook Primary School missed out.

The government said that when it took control of the Point Nepean, which will happen in September, it would hand over $10 million towards the work that needs to be done. Is there $10 million for Point Nepean in the budget? No way, of course there is not. I remember the former member for Albert Park carrying on about the federal government and what it was doing to Point Nepean. He said the state government would show leadership, it would put its money where its mouth is by putting $10 million into Point Nepean; there has not been one cent. The government has conveniently forgotten that, probably because the $30 million or $40 million that the community trust received from the former federal government is yet to be spent. However, all along everybody has been trusting and relying on the state government to deliver the $10 million for Point Nepean. It is not there.

There is no extra money for public transport in the Mornington Peninsula. There is no roads funding. For years and years the community has been calling for the installation of noise barriers — and it is still on the top of the priority list that we requested from the department under freedom of information laws — but there is still no money for that.

There is no date for the closure of the outfall at Gunnamatta. The 2012 eastern treatment plant upgrade is yet to be started — will we ever see the start of that, after three promises? We desperately need more police resources. The budget says there will be 100 extra police around Victoria. The Mornington Peninsula has the same number of police that it had 20 years ago, and members would know how the population has changed since that time. As I mentioned this morning, there is not even a divvy van available on the Mornington Peninsula at the moment. There is $1 million extra for piers and jetties right around Victoria, which is nowhere near enough, since they are all crumbling. Rosebud pier was closed right through summer and is still sitting idle.

Dive companies and other recreational companies that use the bay for a living are already losing money because of the dredging and the filth in the water around the Mornington Peninsula — I was told that last Easter was the worst ever for the dive companies — but there is no money to compensate them. Our biggest industry has been torpedoed by the government, and there is no compensation at all. Dredging is a billion-dollar project, and the government cannot hand over a lousy few million dollars so that dive companies can survive for the next 18 months and start re-employing people.

Mr STENSHOLT (Burwood) — I am delighted to support this budget. The member for Nepean has misled the house by saying there is no money for

school maintenance in the budget. I suggest that he read page 302 in budget paper 3; he will find $20 million for maintenance.

The budget aims to secure our suburbs and regions. It continues the work that has been done over the last eight years. There is a silver thread running through the budget, a continuum in terms of fiscal management and financial responsibility.

What has been done? What have we seen since 1999? We have seen 8000 more teachers and school staff. We have seen 8000 more nurses. Hundreds of thousands more patients are now treated every year in our hospitals. We have 1400 extra police out there with 350 more to come, and hundreds of schools have been rebuilt and modified.

I am delighted that there is money in this budget for Surrey Hills Primary School. I was there yesterday as well as having been there several times earlier this year. That school will receive $6.2 million for modernisation with an absolutely marvellous design. It is a marvellous project. There is also $2.5 million for Hartwell Primary School.

Since 1999 we have seen well over 50 hospitals rebuilt, or new ones built, with more to come. There is more to come in so many things. In the budget there is also $1.2 million for MonashLink Community Health Service which provides health services to Ashwood. There is more money for hospitals and for hospital services at the Monash Medical Centre, which is used by people in the south of my electorate, and also $8.5 million for extra services at Box Hill. There is also money for ambulance services at Box Hill and Nunawading as well as at Ringwood.

Since 1999 we have seen dozens of police stations rebuilt and upgraded with more to come. In my area we are all looking forward to the rebuilding of the Box Hill police station. In the last few years we have seen the building of the Boroondara police station at Kew, which was on time and on budget. We have also seen $2 million spent on the modernisation of the famous art deco police station in Camberwell. Today the Minister for Police and Emergency Services and I visited Ashburton police station which is going to be one of the stations that will get a bit of a makeover, and there is $80 000 there for refurbishments. The senior sergeant was delighted to see us and delighted with the news that the station is going to have some refurbishment.

As I have already mentioned, there are more ambulances, more ambulance services and more paramedics. A wonderful program was announced a few days ago. The construction of a new ambulance station in Hartwell began in the year before last, and there is $6.1 million for a 24-hour ambulance station in Box Hill, and others that I have already mentioned throughout the eastern suburbs.

Since 1999 money has been provided, and continues to be provided in this budget, for sport and recreation. The Melbourne Cricket Ground has been rebuilt. Here in Melbourne we have the best sport precinct in the world. A new rectangular stadium is on the way, and there is money in the budget for that. There is action in our suburbs as well, including a grant for the Burwood Bowls Club, for example. Today I got an email from the president of that club saying that things are going really well in terms of the refurbishment of the greens. He thanked us for our support.

This year is the 150th anniversary of Aussie Rules — or footy as we call it. The Box Hill oval is part of a $10 million program for Australian Football League grounds. Box Hill is getting $600 000 of that, which adds to a wonderful program involving the cooperation of the Whitehorse City Council, the Victorian Football League and the Australian Football League, Hawthorn Football Club and the Box Hill Hawks Football Club. The facilities will be refurbished and extensions will be made. I think there is about $1.9 million for that.

The Bracks and Brumby governments have a proud record of sound financial management in what is clearly a prosperous state. Other speakers have already pointed out that we are seeing a bit of a baby boom. There is an increase in the population. People are coming here. More skilled migrants are coming to Victoria. We have strong job creation and low unemployment. Victoria is the fastest growing non-revenue state in Australia built on solid fiscal management and on our solid prospects, and because we have great objectives here in Victoria.

In terms of financial objectives, we are aiming to maintain a substantial budget operating surplus. There is now a new target of 1 per cent. Members can see the figures in the budget papers which show that $378 million is the target moving to $426 million over the out years. Of course, the estimated net result from transactions is predicted to be $825 million in the next year moving to $963 million. That is a very good buffer for very good reasons, because this is prudent, sensible fiscal management by the Brumby government. We are also in the process of delivering world-class infrastructure to maximise economic, social and environmental benefits.

We can see that the investment in Victoria is now more than four times what it was in 1999 under the Kennett government, with $4.3 billion total estimated investment (TEI) set aside in this budget for a whole range of infrastructure projects. What are they? There is $491 million for hospitals and health care; $592 million for the second tranche of the $1.9 billion being invested in our schools; $663 million for new and upgraded roads; $490 million for rail infrastructure; and $150 million for the channel deepening project. I noticed that a commentator in the *Australian* just a couple of days ago said that things are going very well in Victoria, including the wonderful channel deepening project. There is $476 million more in terms of infrastructure for police, corrections and justice, and $632 million for the food bowl project and the Wonthaggi desalination plant. There are a whole range of things happening there.

The third of the government's financial objectives is to maintain the state government's net financial liabilities at prudent levels. I have mentioned the word 'prudent' several times because that is the hallmark of this government. It is prudent, but it is also getting things done; it is doing things as well. We are maintaining our AAA credit rating. A number of speakers have said in the house in the last few days that the judgement of Standard and Poor's on this budget shows that our AAA credit rating has been maintained. In regard to debt, which we are maintaining at low and sustainable levels, Standard and Poor's said we can easily manage the level of debt which is being proposed. It is good to see that by 2012 the level of debt — and there is a very nice graph in the budget papers — will be lower than the level of debt at the end of the Kennett era.

A fourth financial objective of the government is to have a fair and efficient tax system which is competitive with other states. I think we have delivered on that. Eight years ago the competition was pretty tough, and when we were compared with Queensland, we were behind the eight ball. But now we are competitive with other states. Indeed there is a wide range of taxes that have been cut in this budget — $1.4 billion worth of taxes. The land tax relief package is $490 million; payroll tax is $170 million; stamp duty on land transfer is $420 million; and WorkCover is $350 million. I could go through our whole record, but it is too long, and I do not have enough time to do it because it is so substantial.

I will give an example in terms of land tax. If you have a property worth around $5.5 million — and I am looking at a graph — in 1999 in Victoria you would have paid $200 000 in land tax under the previous government. It charged 5 per cent land tax for properties worth over $2.7 million. These days land tax is less than $100 000 for a property valued at $5.5 million.

We are also providing improved service deliveries for all Victorians. There is a baby boom in Victoria; more babies are being born, and this service delivery is reaching out to those families. It is delivering services to working families. For example, $70 million is to be spent in this budget to expand maternal and child health services and maternity services, whether that is for check-ups or in increased demand for jointly funded maternal and child health programs run by local councils, providing services for babies and family needs support or extra money for antenatal care activities. Of course, there is an extra $31 million in TEI infrastructure to cater for an additional 2800 births every year.

Also in the budget is marvellous relief for first home buyers, reducing stamp duty through the adjustment to all thresholds, as well as enabling first home buyers to receive both the first home bonus and the principal place of residence stamp duty concession. I have to admit that I have received a number of messages from constituents and from other people I know saying, 'It is great, Bob, that when we go out to buy our first home this government is really helping us'. In regional areas there will be an extra $3000 first home bonus for newly constructed homes, and — not forgetting those who need it — the pensioner and concession card holder stamp duty concession has also been increased.

We are also driving investment in jobs. We are driving investment to ensure that there are more jobs, that there is more money for apprentices and more money going out to ensure we have a skilled workforce in Victoria. I am proud of what is being done at our very fine educational institutions, particularly those in my electorate. The Box Hill and Holmesglen institutes do a marvellous job, as do Deakin and Monash universities. I am proud of the investment which has gone into those institutions and which continues to go into them. I am also proud of the investment in training more doctors and more nurses, including at the new centre in Box Hill.

There is more investment in services for working families, as I have already mentioned, including an additional $1271.8 million in this budget for early childhood and education services. Not forgetting other areas such as climate change, there is $295 million for a climate change package, for renewable energy projects and also for carbon capture storage, as well as a new national park. We are the only government that puts in new national parks — and The Nationals have never

supported one. There will be more action on previously announced water projects to secure water supplies in Victoria.

What do we see from the opposition? What do we see from the man for whom the cock crows? We are talking about the member for Hawthorn. We see only poor economic analysis, voodoo economics and poor policy. You only have to read Paul Austin's article in today's *Age* to see that yesterday the Leader of the Opposition, for whom the cock crows, said, 'I would cut expenditure'. In other words there would be fewer services. What does it mean? It means less money and fewer services. Do opposition members not understand that? Do they not understand that there would be less for south-western Victoria? What does it mean in terms of recurrent services? What schools would be closed? How many nurses would be sacked? How many doctors would be sacked? How many did the coalition sack last time? How many police were made redundant? What hospitals would be closed?

I know what would happen, for example, with the Box Hill Hospital. I know the Kennett government was going to downgrade the Box Hill Hospital. It was all ready to do it in 1999. Would it downgrade the hospital if it actually had less money — in other words, if revenue was reduced? What services to the disabled would be cut? What concessions would be abolished? Would it be the rates, water and gas concessions? That is what we learnt yesterday from the Liberals — they have no policy.

In contrast, this particular policy reduces disadvantage. We have excellent policies and excellent programs right across the board to reduce disadvantage in this budget. We have $1 billion for A Fairer Victoria in the third part of this A Fairer Victoria package. There is a $111 million major boost for mental health services which is welcomed by many people throughout my constituency, and $233 million to support people with disabilities and their families, including early intervention support, which many people see as a key to helping young people with disabilities. There is $82 million to provide concessions and other assistance for essential services, as well as $18 million to support refugees. We know that the previous federal government did nothing for refugees. In fact it pilloried them and made them — —

Mr Walsh — That's not true.

Mr STENSHOLT — Well it is true in terms of the children overboard affair. It was just a disgusting phase in Australia's history; you ought to be ashamed of it.

This budget is good for families, good for business, good for schools, good for our health services and good for the disadvantaged. This budget is good for my electorate and good for the surrounding area. It is reducing disadvantage and building a fairer Victoria right around the state. It is also good for promoting a prosperous future for provincial Victoria. This budget is good for all of Victoria, and I commend it to the house.

Mr WALSH (Swan Hill) — I join the debate on the Appropriation Bill. It has already been said by a lot of the members on this side of the house, but I think it needs to be reinforced, that in this budget, debt is up to $23 billion. Although there have supposedly been tax cuts, the tax take is up significantly. Payroll tax goes up by $360 million, land tax goes up by $300 million and stamp duty goes up by $900 million. So despite the rhetoric, there is actually a $1.5 billion increase in the tax take in those three items alone. Future generations are going to be lumped with the interest bill, which is currently at $1.8 billion per year.

Those of us who were around and in business in the 1980s will well remember the same story leading up to the meltdown of Victoria in the Cain-Kirner era. It is all about how you actually build up debt and leave someone else to pay for it. That is what is happening again. It is a smoke-and-mirrors, a pea-and-thimble — however you want to put it — budget because this government is very good at making announcements, at rebadging things, at reallocating and giving an allusion that there is new money in the budget, when the truth is that a lot of these things have been out there before. In some cases there are actually reductions where there are said to be increases, and where there are said to be reductions in tax there are actually increases in the total tax take. It is a government that lives by press releases and advertising campaigns to make things seem good.

Coming to the issue of water, on page 398 of the budget papers are the measures on the return of environmental flows to the Snowy River. The Snowy River was the great first promise of the former Premier, Steve Bracks, when he was elected to government. The promise of the Snowy River was the thing that won over the three so-called Independents to support the Labor Party in forming government in 1999. The promise was that the government would return 15 per cent of flow to the Snowy River by 2009 — that is next year for those who have not done the arithmetic — and 21 per cent by 2012. Budget paper 3 says that the return of environmental flows to the Snowy is currently 4 per cent.

Magically the government is going to have to find another 11 per cent by next year to meet those targets.

The government has still not fulfilled the very first promise it was elected on, and it is interesting that two of those Independents have now left this place. I hope that the third Independent, who is still here, hangs his head in shame at the fact that that promise is not being met. The Minister for Water was out there in March talking it up, saying that the government was going to meet this target. He was out there saying, 'We are on track to meet these targets' in March this year, but the budget paper says they are only at 4 per cent.

It is interesting to look at all the savings this government has promised. If you look at the Murray–Goulburn system, you see we are now up to 520 000 megalitres in water savings promised by this government — 25 000 megalitres to come from the Goulburn–Murray reconfiguration project;
225 000 megalitres from the food bowl stage 1;
17 500 megalitres from Central Goulburn 1, 2, 3 and 4;
52 000 megalitres from the Shepparton modernisation;
and with the recent announcement by Penny Wong, the federal Minister for Climate Change and Water, of another 200 000 megalitres from food bowl stage 2, making a total of 519 600 megalitres. When you look at the fact that Goulburn-Murray Water this year only is losing 450 000 megalitres, you wonder how these savings are ever going to be achieved.

It gets worse. If you look at the promises that have been made in recent times by the Premier and the water minister and stack them up against the previous promises that are still unmet— that is,
70 000 megalitres for the first stage of the Living Murray project, which is unmet, and
100 000 megalitres that is still owed to the Snowy River project — you can see that far more water savings have been promised by this government than can ever practically be achieved. When people in the community rise up and say, 'We do not believe this; we want to question this. We have had the Auditor-General look at it, and he has said that all these promises are built on false premises', and you take into account the fact that the government only took advice from a lobby group in formulating a lot of these policies, you wonder what is really going on.

When the community rises up and wants to question these sorts of things, we have the Minister for Water saying they are quasi-terrorists and a sorry bunch of people. When people exercise their democratic right to object and to demonstrate, we also have the Leader of the House calling country people ugly because they do not agree with the government and would like more truth.

If you go through the budget papers, you see that the funding for the Wimmera–Mallee pipeline is mentioned on page 354 of budget paper 3. The government still owes the community of Wimmera–Mallee $25 million. The federal government did the right thing and stumped up for the additional $124 million to finish that project, but this government is stuck on $99 million. That $25 million would be a major incentive for the local community not having to pay back the cost of that pipeline, but this government will not match the federal government in funding what is a state project.

You can also see there is $20 million in the budget to build a pipeline from the Grampians to Hamilton. That is $20 million to build a pipeline from Rocklands Reservoir which, if I have been informed correctly by the member for Lowan, is at 1 per cent capacity and not looking like getting much water into it. I repeat: I would have thought a $20 million pipeline from an empty reservoir to a town that needs water was not very good public policy.

One of things which we have talked about a lot and which is reported in the budget is the environmental levy, a secret tax on the water bill of everyone in Victoria. That levy is underspent by $27 million, so the government has been collecting this secret tax to supposedly help the environment, but it has not actually spent that money. If you go to the outputs in the budget papers, you see there is a measure related to improving the health of rivers. The target for this year was 15 rivers to be improved, but the government has only managed one. It has not spent the money to achieve that target. What is even worse is that if you go to page 354 of budget paper 3 you can see that the government has raided $14.5 million of that environment levy— which is actually a secret tax — that was supposed to help the environment to help pay for the food bowl project. The government has raided its own environment levy to show its largesse in helping to fund the bowl project. How can anyone believe in the credibility of this government?

The last point I want to make about water concerns the national water initiative. We saw this government effectively playing cheap politics for the last 12 months in not signing up to that initiative as the other states did. It said it was sticking up for the rights of irrigators and that it was hanging out to get the best possible deal for Victoria. If members cast their minds back to the discussions around that issue, they will recall that the federal member for Wentworth and shadow Treasurer, Malcolm Turnbull, said that because Victoria effectively makes up 40 per cent of the irrigation drawn from the Murray–Darling Basin, he believed that with the right projects put forward it could probably expect

to get $2.5 billion of that money. But what do we have? The Premier, after playing cheap politics to try and undermine the Howard government, sold Victoria out for $1 billion.

Dr Napthine — Up to — no guarantee.

Mr WALSH — True; I stand corrected — up to $1 billion. My understanding is that the Premier of Victoria owes the irrigation community in northern Victoria $1.5 billion.

Dr Napthine — And an apology.

Mr WALSH — And an apology. I agree with the member for South-West Coast. That is how much the Premier has sold Victoria out by.

Mr Cameron interjected.

Mr WALSH — The problem with this government is that it is looking at restricting the use of water. It is effectively looking at piping water from empty reservoirs to other places when it should have a vision for water. It should be thinking about some new dams and new storages and making a serious commitment to recycling and stormwater harvesting in Melbourne, but if you look at the budget papers you see that there is effectively no money for urban recycling.

Turning to my shadow portfolio of agriculture, we had the deliberate strategy of spreading the budget news over a number of weeks. We had the Future Farms strategy put out a few weeks ago which gave the illusion that there was a whole heap of new money in the budget for agriculture; supposedly $205 million was going to be made available for a Future Farms strategy. Of that, $42 million was for rail projects. I do not know what rail has got to do with agriculture, apart from actually carting the grain that is grown. There is a $77 million commitment to research, but the government was already spending $50 million. I cannot see how it was not doing any research today and magically it is going to spend all of this money on research tomorrow. This is just a slight top-up for the continuation of a project.

We have a government that has not done anything effective on water for eight years and now there is a major panic to try to find water. You have the issue and the discussion worldwide about food security, about the potential shortage of food for the human race on this planet, yet the government is actually reducing funding to the Department of Primary Industries. If you worked backwards and put today's dollars invested in the Department of Primary Industries into real terms, you would see that there has been a halving of the DPI budget since this government came into office.

Mr Cameron interjected.

Mr WALSH — The previous Minister for Agriculture says that is not true. If you go to budget paper 4, at page 263, and you put the dollars into today's dollars terms, you will find there has been a halving of the money going to the Department of Primary Industries. That would have been more significant if it had not been for the top-up for the drought.

When this government was elected it picked up the previous government's targets for exports out of this state. The things that really drive this state are food, fibre and merchandise production. Exports have stalled as we have gone forward in this state. In the seven years from 1994 to 2000 the value of exports out of Victoria increased from $12.4 billion to $20.8 billion — an increase of 68 per cent. If you take the seven years from 2000 to 2007, merchandise exports out of Victoria actually fell. The value was $20.8 billion in 2000 and that fell to $20 billion in 2007. We have seen over the seven years of the life of this government a 4.2 per cent fall in the value of merchandise exports out of this state versus a 68 per cent increase in exports in the life of the Kennett government. I am getting sick and tired of those on the other side of this house constantly rewriting history. You just need look at what the Kennett government did for the state in getting it moving compared to what this government is doing in driving it backwards.

If you go to the table on page 200 of budget paper 4, you will see that the government believes the drought is over. It will be great news to the people in my electorate that the Premier has said the drought is over. I can hear the tractors starting now, and the trucks are taking the fertiliser out because the drought is over. The drought has been taken out of the budget so the drought is over. It is fantastic news. I just hope it is true. I have not been home since Sunday, but obviously it has rained significantly since I left home because the government says the drought is over!

I would like to touch on a couple of issues for the Swan Hill electorate, and those couple of issues are that there is nothing in the budget for the Swan Hill electorate. The Swan Hill electorate is made up of two state government regions, the Loddon Mallee region and the Grampians region, and if you look at the budget papers, you will see there is nothing allocated north of Bendigo in the Loddon Mallee region and there is nothing

allocated north-west of Ballarat in the Grampians region for the Swan Hill electorate.

Mr Cameron interjected.

Mr WALSH — That was in the last budget, not in this budget. There is absolutely nothing for the Swan Hill electorate. If you look at the member for Mildura's electorate, there is very little up there. If you look at the member for Lowan's electorate, there is not much in the northern half of his electorate. I would like to put on the record that this reinforces the argument that was run a couple of years ago by Vernon Knight, the mayor of Mildura Rural City Council, that north-western Victoria should be a stand-alone state government region. We are sick of the money going to Bendigo and Ballarat and a lot being made about the money that goes into those two regions when north-west Victoria misses out. I would like to put on the record that north-west Victoria should be a stand-alone region so that we can get our fair share and that the money does not all go to Bendigo and Ballarat.

Mr LANGDON (Ivanhoe) — With a great deal of pleasure I wish to speak on behalf of the Ivanhoe electorate on this family-friendly and business-friendly budget. Even the *Australian Financial Review* said it was a win for business. Let me again advise the house that land tax is down from 5 per cent under the Kennett government to 2.25 per cent. Payroll tax has hit a 34-year low and is now below 5 per cent. The opposition raves on about government debt, and yet today we have less debt than we inherited from the previous Kennett government. We have borrowed some money but by 2012 we will have less debt than we inherited from the Kennett government. Standard and Poor's AAA rating for the budget endorses our position.

The Ivanhoe electorate has done quite well out of this budget. To be honest, the Ivanhoe electorate has done well out of all the state budgets presented to this Parliament by the Bracks and Brumby governments. Mainly that money has been spent on the Austin Hospital, I will concede that fact, but we are continuing on the great work with the Austin and building and investing in Victoria's future. Again, I take the opportunity to emphasise that our forward estimates for debt are well below those which we inherited. We are borrowing some money, minor though it is, to invest in our future.

I want to speak on a few other aspects, such as public transport, for example. I can advise the house that the Hurstbridge line that runs through the middle of my electorate has since 1999 had an additional 128 train services. That is remarkable. As a matter of fact I was quite surprised when I looked at the figures to see that it had the biggest increase of all the metropolitan lines. I am not sure how we managed to do that. On the Hurstbridge line there will also be a duplication of the railway bridge between Westgarth and Clifton Hill, which hopefully will help to speed up the trains and make sure they are not delayed at that bottleneck.

I wish to comment also on education. I was not in the house but I could hear from my room a previous speaker today, the member for Nepean, speaking on education, and he mentioned Macleod College. I know Macleod College very well because it is the secondary college I attended. It is opposite the railway station at Macleod. Heidelberg is having a school regeneration project for which I am chairing a public consultation meeting process. The project involves includes many schools, and I pay tribute to Northland Secondary College and the former La Trobe and Banksia secondary colleges. Banksia and La Trobe have combined and now are one college, so freeing up the La Trobe Secondary College site, which was formerly the Macleod tech site when I was a young child. The school regeneration program includes also three primary schools: Haig Street Primary School, Olympic Village Primary School and Bellfield Primary School.

People at Macleod College had been invited and were involved in the consultation for some time for a new senior school to be built somewhere, and it was allocated to the La Trobe Secondary College site. The education department and the school have come up with a different process. Perhaps Macleod College in total could be part of the regeneration of that site. I heard the scare campaign by some locals. Again, the member for Nepean seemed to dwell on that — that the reason Macleod College was included was so that the prime real estate land opposite the railway station could be sold. What a complete and utter furphy. The education department has guaranteed that that land will remain for use by an educational facility. It is just a constant beat-up some people, including some local councillors and now members of the opposition, seem to have made up.

Besides that, the other week the people at Macleod College voted for the college not to be part of the Heidelberg regeneration. The college is staying on its current site, so the beat-up is even bigger. I do not think it is the wisest decision that the school could have made. As I said, I am a former Macleod High School student. I very much appreciate the school's history and tradition and I wish that to remain. Again, that is an example of members of the opposition saying that the

government is doing something only to be able to sell the land.

I can assure members opposite that if the state government was about selling land the La Trobe Secondary College site, which is opposite an industrial area and right next to La Trobe University, it would have a far higher retail value than any other land. That is where the proposed new school is going to be, with a P–4, a middle school from 5–9 and a senior school. The funding component of the senior school is still to be met, but before the last state election the then Premier said that it will have a maths-science component of about $4 million. I suspect it will cost more when it is actually built, but that is one of the things that my electorate is looking forward to in the future as part of the Heidelberg regeneration.

I wish to comment also on cancer, about which I asked a question this afternoon. I am very pleased to announce that the government has honoured its commitment to Olivia Newton-John and people suffering with cancer and that the Olivia Newton-John Cancer Centre has received funding of $25 million in this year's budget. As all members know from recent press coverage, Olivia has been doing a fabulous job pushing her cause of cancer research with a walk along the Great Wall of China. I congratulate her and all those other people involved.

My electorate has also done exceptionally well with pedestrian safety. The Heidelberg shopping centre has been granted $245 000 for a pedestrian crossing to be installed. The people there have been working hard for that, and I congratulated them yesterday morning in a member's statement. The shopping centre is part of a sustainability hub; it has already been given another $200 000. All bodes well for making Heidelberg a very livable area where people can walk, ride a bike, live, raise a family et cetera.

I am also very pleased to advise the house that the Heidelberg Magistrates Court is part of a $15.6 million magistrates courts refurbishment scheme for security and safety. I am exceptionally pleased that the Minister for Police and Emergency Services is here, because Statewide Forensic Services, which is just in my electorate, behind the La Trobe Secondary College site — I share the facility with the member for Bundoora — is receiving $19.4 million for another upgrade. It received an upgrade two years ago and prior to that, when it was not in my electorate, I think it received another upgrade, so the forensic service is certainly getting an enormous boost under this government. I have visited the facility several times. I get a little frustrated about police forensic services because the programs on TV show that forensics have the results of their findings within 5 minutes, and our service is not quite as efficient as that. It takes several weeks if not months for our service to get DNA samples worked out, so it is not as fast and efficient as the movies or TV programs indicate it might be.

I appreciate also, and the Minister for Children and Early Childhood Development is here, the $55 million extra for maternal and child-care services in this baby boom budget. I know that last year a record number of children were born in this state, and I suspect a few more will be born in the coming year — I am very close to home, I might add. The other funds that she also announced, the $29 million, $15 million and $10 million for other facilities, are exceptionally welcome.

I cannot speak on the budget without mentioning the Austin once or twice, especially with the Minister for Police and Emergency Services here. Apart from receiving the $25 million for the Olivia Newton-John Cancer Centre, a section of Austin Health is also receiving $3.6 million for a new peak-period ambulance service. The unit, which was located there only recently, will be much improved and will provide more services.

I wish to raise something that is very close to my heart and that I have been working on closely with the veterans in my electorate. Apart from the Austin, the Heidelberg Repatriation Hospital — both of which are part of Austin Health — is a major part of my electorate. The veterans have been working for some considerable time and with numerous governments over the years to get many services there improved and increased. One of the things they wanted was a hydrotherapy pool, which was funded in last year's budget. I am pleased to advise the house that work has already commenced on that.

The veterans have also been longing for years for what I can now gladly say was their old ward 17 and 18 to be replaced. In this budget $15.5 million is announced for a new ward 17 and 18, which is the expression that the veterans like to use. Its official title is trauma-related mental health services for veterans. That is a bit longwinded for veterans; they like the ward 17 and 18 expression. I know that the veterans are exceptionally pleased about this. As I said, they have been longing for this. I also chair the community consultation committee of Heidelberg repat and I know that they are very pleased.

On a darker side, I am terribly disappointed about services for mental health, be they for veterans or

whatever. The repat hospital has a long and strong history of dealing with mental health patients. Many years ago, when Larundel and Mont Park hospitals were closed, many patients were placed in large sections of the repat hospital which, to be honest, were not the most ideal facilities. Governments over the years have certainly upgraded the facilities, but they were not ideal. Previous budgets have provided $18 million for mental health facilities on the Austin site. The government is considering putting more purpose-built mental health beds at the repat hospital. As I said, it has a long history — 60 years — of dealing with veterans as mental health patients. It has a more recent history of more than 10 years of dealing with people who were previously at Mont Park and Larundel.

I commend the previous government on locating a drug rehabilitation centre on the repat site. I did have some criticism at the time because I thought it was an ad hoc decision. I can advise the house that at a public meeting I asked if there was anyone present who had a complaint about the services provided over the past 60 years or 10 years or about any patients, and not one person raised a concern about the rehab centre; it has fitted in so well. The veterans community and the hospitals services group are to be commended for that.

However, the local ward councillor loves to campaign against mental health services and likes to raise issues such as that we are moving the criminally insane and closing the Thomas Embling Hospital. To say that the Thomas Embling Hospital site is going to be used for multistorey units is false. The councillor is constantly beating up this story at the expense of mental health. I find it incredible that someone could use mental health as a political football. It should be beyond that sort of thing. I am sure we all know people who suffer from some form of mental illness. The person I am talking about is an independent councillor who has failed her electorate but campaigns on state issues all the time. I know the minister wants a very quick summation on the bill, so I commend the bill to the house.

Debate adjourned on motion of Mr MULDER (Polwarth).

Debate adjourned until later this day.

JOINT SITTING OF PARLIAMENT

Senate vacancy

The DEPUTY SPEAKER — Order! I have to report that this day this house met with the Legislative Council in the Assembly chamber for the purpose of sitting and voting together to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Robert Francis Ray. Jacinta Collins has been duly chosen to hold the vacant place.

CHILDREN'S LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 7 May; motion of Ms MORAND (Minister for Children and Early Childhood Development).

Ms MORAND (Minister for Children and Early Childhood Development) — I want to briefly thank members who participated in the debate on the Children's Legislation Amendment Bill. They were the members for Doncaster, Eltham, Morwell, Geelong, Sandringham, Northcote, Lowan, Yuroke, Mildura, Ballarat East, Swan Hill, Forest Hill, South-West Coast, Ivanhoe, Hastings and Keilor. I also want to acknowledge a range of peak bodies that have provided support for this bill, including Kindergarten Parents Victoria, Family Day Care Victoria, Community Child Care Association, UnitingCare, Playgroup Victoria and Lady Gowrie centres.

The need for the legislation has been articulated very well by the members who have contributed to the debate, and it has been a very good debate with a lot of discussion about the history of legislation governing the safety of children in this Parliament. We maintain responsibility for setting and monitoring minimum quality standards — —

Business interrupted pursuant to standing orders.

The DEPUTY SPEAKER — Order! The time set down for consideration of items on the government business program has arrived. I am required to put the questions necessary for the passage of the bill.

Motion agreed to.

Read second time.

Circulated amendments

Circulated government amendments 1 to 4 as follows agreed to:

1. Clause 3, lines 8 to 16, omit all words and expressions on these lines and insert—

"***family day care service*** means a children's service providing a network of family day carers each of whom provide care or education for up to 7 children (including the carer's own children) of whom no more than 4 children may be under 6 years of age unless the children who are under 6 years of age are—

(a) students enrolled at preparatory level or above at a school; or

(b) siblings, who are not the carer's own children, in which case no more than 6 siblings may be under 6 years of age;".

2. Clause 3, page 4, after line 15 insert—

"***school*** means Government school or non-Government school, within the meaning of the **Education and Training Reform Act 2006**;".

3. Clause 4, page 6, line 15, after "of 6" insert "who are not students enrolled at a preparatory level or above at a school".

4. Clause 4, page 6, line 23, after "over" insert "or who are students enrolled at a preparatory level or above at a school".

Third reading

Motion agreed to.

Read third time.

NATIONAL GAS (VICTORIA) BILL

Statement of compatibility

Ms MORAND (Minister for Children and Early Childhood Development) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the National Gas (Victoria) Bill 2008.

In my opinion, the National Gas (Victoria) Bill 2008, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main purpose of the bill is to establish a framework to enable third parties to gain access to certain natural gas pipeline services. This is done by applying the National Gas Law set out in the schedule to the National Gas (South Australia) Act 2008 as Victorian law.

In December 2003, the Ministerial Council on Energy responded to the Council of Australian Government's report *Towards a Truly National and Efficient Energy Market*, also known as the Parer review, by announcing a comprehensive and sweeping set of policy decisions for its major energy market reform program. These policy decisions were publicly released as a ministerial council's report to the Council of Australian Governments on Reform of Energy Markets. All first ministers endorsed the ministerial council's report.

The 2004 Australian Energy Market Agreement, as amended in 2006, commits the commonwealth, state and territory governments to establish and maintain the new national energy market framework. An important objective of the Australian Energy Market Agreement is the promotion of the long-term interests of energy consumers, which have been enshrined as a key objective of the new National Gas Law.

Also in 2004 the Productivity Commission completed its *Review of the Gas Access Regime*. The new National Gas Law implements the policy responses of the Ministerial Council on Energy to that review and incorporates a number of resulting regulatory reforms.

As the honourable members are aware, an existing cooperative scheme for the regulation of pipeline services came into operation in 1997. The lead legislation was the Gas Pipelines Access (South Australia) Act 1997. Victoria passed the Gas Pipelines Access (Victoria) Act 1998 in response to that legislation. The existing cooperative scheme is known as the gas code.

Under the proposed reforms the gas code will be replaced with the National Gas Law.

Under the proposed reforms, the National Gas Law and the national gas regulations made under the South Australian act and rules will be applied in all Australian jurisdictions by application acts.

Part 2 of the National Gas (Victoria) Bill 2008 will apply the National Gas Law as set out in the South Australian act as a law of Victoria and as so applying may be referred to as the National Gas (Victoria) Law. The regulations in force for the time being under the South Australian act will apply as regulations in force for the purposes of the National Gas (Victoria) Law and as so applying may be referred to as the National Gas (Victoria) Regulations.

Human rights protected by the charter that are relevant to the bill

As stated, the bill will apply the National Gas Law as set out in the National Gas (South Australia) Act 2008 as Victorian law. Accordingly, the National Gas Law provisions have been assessed against the charter.

The National Gas Law establishes a framework to enable third parties to gain access to certain national gas pipeline services by providing functions and powers to gas market regulatory entities. One of these entities is the Australian Energy Regulator (AER) established by section 44AE of the commonwealth Trade Practices Act 1974. Included in the function and powers of the AER is monitoring compliance with the National Gas Law, the regulations and rules, and investigating breaches or possible breaches of provisions of the National Gas Law, the national gas regulations or the rules.

Search warrants

In exercising its powers, the AER can seek, by an authorised person, the issue of a search warrant from the Magistrates Court of Victoria and also has the power to obtain information and documents in relation to the performance and exercise of functions and powers.

Section 35 of the National Gas Law provides that an authorised person may apply to a magistrate for the issue of a search warrant on reasonable grounds or reasonable suspicion that there has been or will be a breach of a relevant provision. The search warrant authorises an authorised person to enter, search, examine and seize. This provision engages the right to privacy and the right to property.

Insofar as a person owns or occupies the place, the person's right to privacy is engaged. However, the issue of a search warrant is lawful and has a clear public purpose, the entry and search is not arbitrary and is clearly lawful. In so far as a person's property is seized, it is seized lawfully pursuant to a warrant.

Information gathering powers

The National Gas Law adopts the AER's information gathering powers under the national electricity law. They are designed to address ongoing issues of information asymmetry between regulated businesses and the AER. These information gathering powers do not raise privacy issues as the information relates to businesses.

Section 42 of the National Gas Law makes it an offence to provide false and misleading information. This section engages a person's right to freedom of expression. However, special duties and responsibilities are attached to this right and the section 42 limitation is reasonably necessary to ensure compliance. Accordingly, the right is not limited. Further, section 42(8) of the National Gas Law protects legal professional privilege and section 42(6) of the National Gas Law protects against self-incrimination.

Section 60 of the National Gas Law makes it an offence to provide false and misleading information. This section engages a person's right of expression. However, special duties and responsibilities are attached to this right and section 60 is reasonably necessary to ensure compliance. Accordingly, the right is not limited. Further, section 62 of the National Gas Law protects legal professional privilege and section 63 of the National Gas Law protects against self-incrimination.

Access

The National Gas Law also provides for applications for access to pipelines. If access is disputed, the dispute is to be heard by the dispute resolution body. The Australian Energy Regulator (AER) is the dispute resolution body under the National Gas Law as that law applies as a law of Victoria.

Proceedings conducted by the dispute resolution body may engage the right to a fair hearing in section 24 of the charter if one of the parties to the dispute is a natural person. The right to a fair hearing states that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The right is engaged because section 196 of the National Gas Law provides that a dispute hearing is to be held in private. However, under section 24(2) of the charter, proceedings may be private if permitted to be so by a law other than the charter. In this case, the law provides for the proceedings to be in private and as such the right is not limited. In any event, the National Gas Law provides that a dispute hearing may be held in public subject to both parties agreeing.

Dispute resolution proceedings also engage the right to freedom of expression. This right includes freedom not to impart information. The right is engaged by section 200 of the National Gas Law which makes it an offence for a person to divulge certain information. Section 201(2) of the National Gas Law gives the AER the power to summons a person to appear before the AER to give evidence and section 203 of the National Gas Law makes it an offence to fail to answer questions. These powers can only be exercised for the purposes of hearing and determining an access dispute. As stated, the right to freedom of expression can be lawfully restricted and section 203 is a lawful restriction reasonably necessary to enable the dispute resolution body to function. In addition, under section 203 a person may refuse or fail to answer questions or produce documents if the answer or production of the documents might incriminate the person or expose the person to a criminal penalty.

Bulletin board

The National Gas Law provides for a bulletin board operator which must maintain a website. Section 228 of the National Gas Law provides that a person must keep confidential certain information. Again this engages the right of freedom of expression. However, this is a lawful restriction reasonably necessary to protect confidential information.

Conclusion

I consider the bill is compatible with the Charter of Human Rights and Responsibilities as any limitation is lawful and reasonably necessary for the operation of the National Gas Law.

Peter Batchelor, MP
Minister for Energy and Resources

Second reading

Ms MORAND (Minister for Children and Early Childhood Development) — I move:

That this bill be now read a second time.

The bill will facilitate implementation in the Victorian gas sector of the second phase of the national energy market reform program under the Council of Australian Governments (COAG). In particular, the bill contains transitional provisions to transfer responsibility for economic regulation of gas access distribution networks from Victoria's jurisdictional regulator (the Essential Services Commission) to the Australian Energy Market Regulator (AER) under a new national framework.

The national energy market reform program is being implemented through the Ministerial Council on Energy (MCE). In 2005, in the first phase of the reform program, the Australian Energy Market Commission

(AEMC) and the AER were established as rule-maker and economic regulator respectively, and a new National Electricity Law (NEL) was enacted, together with new National Electricity Rules (NER), for regulation to the national wholesale electricity market and electricity transmission networks. On 1 January 2008, the economic regulation of electricity distribution networks was transferred to the AER from various state and territory jurisdictional regulators pursuant to amendments to the NEL and NER.

In the second phase, a bill was introduced on 9 April 2008 into the South Australian Parliament for the National Gas Law (NGL) and the National Gas Rules (NGR) to provide for the transfer of economic regulation of gas transmission and distribution networks from the Australian Competition and Consumer Commission and various state and territory jurisdictional regulators to the AER under a new national framework.

The NGL contains new incentives to encourage investment in gas infrastructure, which are important in light of the important role gas is expected to play as we move to a carbon-constrained economy. These incentives include the continuation of the greenfields pipeline incentives, a new light-handed regulatory regime and improvements to the rules around cost recovery for investment in expanding existing gas infrastructure capacity.

A further major reform is the streamlined rule change process, now embodied in the new National Gas Law. As a result of these reforms, the rules that govern the regulation of pipeline services, and which are currently embodied in the national gas code, will be replaced with rules made under the National Gas Law.

The National Gas Law also makes significant advances in transparency in the market for gas by establishing a bulletin board to provide information about natural gas services and assist in the response to gas emergencies.

Overall, the National Gas Law will strengthen and improve the quality, timeliness and national character of the governance and economic regulation of pipeline services while increasing consistency between electricity and gas regulation and improving transparency.

The COAG Australian Energy Market Agreement requires transfer of responsibility to the AER progressively as gas distribution access reviews become due in the various jurisdictions. The AER will therefore be responsible for the next review in Victoria which is scheduled to apply from 2013.

The agreement also allows for earlier transfer of responsibility for current access arrangements. Accordingly, this bill provides for the ESC to continue to administer the Access Arrangement Review 2008–2012, Gas Pipeline Access (Victoria) Act 1998, Gas Industry Act 2001 and the Essential Services Commission Act 2001 until a nominated date and for the AER to assume responsibility on and from that date.

Statement under section 85(5) of the Constitution Act 1975

I now wish to make a statement under section 85(5) of the Constitution Act 1975 of the reasons why clause 14(2) of the bill will alter or vary section 85 of that act.

Clause 16 of the bill states that it is the intention of section 14(2) of the bill to alter or vary section 85 of the Constitution Act 1975.

Clause 14(1) of the bill provides that if a pipeline is a cross-boundary pipeline, any action taken under the national gas legislation of a participating jurisdiction in whose jurisdictional area a part of the pipeline is situated (by a relevant minister or court) is taken also to be taken under the national gas legislation of each participating jurisdiction in whose jurisdictional area a part of the pipeline is situated (by a relevant minister or court as the case requires).

Clause 14(2) of the bill provides that no proceeding for judicial review or for a declaration, injunction, writ, order or remedy may be brought before the court to challenge or question any action, or purported action, of a relevant minister taken, or purportedly taken, in relation to a cross boundary distribution pipeline unless this jurisdiction has been determined to be the participating jurisdiction with which the cross boundary distribution pipeline is most closely connected.

The relevant minister in relation to a cross-boundary distribution pipeline is determined by the National Competition Council under the National Gas Law.

The reasons for the variation to the application of section 85 of the Constitution Act 1975 are as follows.

The purpose of clause 14(2) is to prevent jurisdiction-forum shopping in relation to decisions of a relevant minister relating to cross-boundary distribution pipelines. The effect of the provision is that proceedings may only be brought in the Supreme Court of the jurisdiction with which a cross-boundary distribution pipeline is most closely connected.

Clause 14 of the bill is a uniform provision that forms part of the nationally consistent scheme for regulation of pipeline services provided by means of transmission and distribution pipelines. It is the intention that it will be enacted in identical terms by all of the parliaments of the state and territory participating jurisdictions. The provision is necessary for the integrity of the nationally agreed scheme.

Victoria continues to be a leader in the national energy market reform process. This bill, together with the amendments introduced in South Australia, will streamline and improve the quality of economic regulation of the national energy market to lower the cost and complexity of regulation facing investors, enhance regulatory certainty and lower barriers to competition.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 22 May.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (VOLATILE SUBSTANCES) (REPEAL) BILL

Statement of compatibility

Ms NEVILLE (Minister for Mental Health) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In my opinion, the bill, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

Division 2 of part IV of the Drugs, Poisons and Controlled Substances Act 1981 currently sets out a scheme whereby police are granted particular powers when dealing with young people under the age of 18 who are using inhalants. The aim of the scheme is to protect young people and others from the effects of inhaling volatile substances.

The scheme was inserted into the Drugs, Poisons and Controlled Substances Act 1981 on a trial basis in 2004, and its utility has been subject to review and analysis since then. The scheme is due to sunset on 1 July 2008.

On the basis of positive reports and feedback received, it has been decided to keep the scheme operating. Accordingly, the bill revokes the sunset clause relating to division 2 of part IV, thereby making the scheme and the powers granted to police relating to young people affected by volatile substances an ongoing part of the Drugs, Poisons and Controlled Substances Act 1981.

Human rights issues

Human rights protected by the charter that are relevant to the bill

Part 2 of division IV of the Drugs, Poisons and Controlled Substances Act 1981, to which the bill relates, engages a number of rights which are specifically protected and promoted by the charter.

Section 8 — right to recognition and equality before the law

Section 8(2) of the charter establishes the right of every person to enjoy his or her human rights without discrimination. In this context, 'discrimination' refers to both direct and indirect discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of that act. The attributes listed in section 6 of the Equal Opportunity Act 1995 include age, impairment and religious belief.

Section 8(3) of the charter recognises that every person is entitled to the equal protection of the law without discrimination. As a result, legislation should not have a discriminatory effect on people.

In general, the scheme established in division 2 of part IV of the Drugs, Poisons and Controlled Substances Act 1981 engages the right to equal protection before the law. This is because the provisions in division 2 of part IV apply to persons under the age of 18. This is prima facie discrimination on the basis of age and results in unequal treatment of those under the age of 18 because young people under the age of 18 can suffer the potential detriment of being subjected to the particular search, apprehension and detention powers contained in part 2 of division IV without the police requiring a warrant and without first committing an offence. Those over 18 are not subject to these particular and potentially invasive powers.

Reasonableness of the limitation

Nature of the right

The rights engaged relate to the prevention of discrimination and equal access to protection against discrimination.

Importance and purpose of the limitation

The effect of this bill is that division 2 of part IV will be made an ongoing part of the Drugs, Poisons and Controlled Substances Act 1981. That is, police will continue to be able to search for volatile substances and items used to inhale volatile substances and to apprehend and detain young people under the age of 18 who are affected by volatile substances. The powers of the police contained in division 2 of part IV will remain in the Drugs, Poisons and Controlled Substances Act 1981 because studies have shown that young people are more likely to be involved in inhaling volatile substances because of the cost, availability and accessibility. Whilst under the influence of volatile substances, young persons are more likely to have accidents and injure themselves in some way. According to Victoria Police data in the period between 2004 and 2006 there were a total of 97 searches of young people under 18 and 57 young people under 18 apprehended and detained due to concern of the possibility of serious harm to self or others.

Nature and extent of the limitation

There are important safeguards on the exercise of these powers granted to police under division 2 of part IV of the Drugs, Poisons and Controlled Substances Act 1981. The search powers granted to police enable them to search for volatile substances and items used to inhale volatile substances only when police have a reasonable belief that the person is inhaling or will inhale a volatile substance. Similarly, persons under 18 years of age are only apprehended and detained with the specific intention of preventing them from causing immediate serious bodily harm to themselves or others.

In addition, a person under 18 years of age may only be searched under certain circumstances (see section 60E) and can only be detained until the police can release them into the care of a suitable person (see section 60M(3)). There are also limitations on where a young person can be detained (see section 60M(6)).

The relationship between the limitation and its purpose

Limiting the right to equal treatment before the law by applying the provisions of division 2 of part IV only to those under the age of 18 is directly related to the purpose of the limitations. The purpose of the limitation is to protect young people under the age of 18 from serious harm caused by inhaling volatile substances.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve?

There is no less restrictive alternative available that would achieve the purpose the limitations set out to achieve.

Conclusion

Accordingly, the limitations imposed on sections 8(2) and (3) of the charter by the overall scheme of division 2 of part IV can be demonstrably justified and are reasonable.

Section 12 — freedom of movement

Section 12 of the charter protects various rights in relation to freedom of movement. These rights include the right to move freely within Victoria; the right to choose where to live in Victoria; and the right to be free to enter and leave Victoria.

Section 60L and 60M of the Drugs, Poisons and Controlled Substances Act 1981, which are part of the scheme in division 2 of part IV, permit young individuals to be detained. While the detention of a person will limit their freedom of movement, lawful detention affects more specifically the right to liberty and security of persons (see General Comment 27: Freedom of Movement by the Human Rights Committee of the United Nations). As a result, where this statement considers the compatibility of these clauses with section 21 of the charter, it does not separately consider section 12.

Section 13 — privacy and reputation

Section 13(a) of the charter recognises a person's right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The requirement that any interference with a person's privacy must not be 'unlawful' imports a requirement that the scope of any legislative provision that allows an interference with privacy must specify the precise circumstances in which interference may be permitted. The requirement that an interference with privacy must not be arbitrary requires that any limitation on a person's privacy must be reasonable in the circumstances and should be in accordance with the provisions, aims and objectives of the charter.

Sections 60E and 60F of the Drugs, Poisons and Controlled Substances Act 1981, which are part of the scheme in division 2 of part IV, engage the right to privacy because they enable a person to be searched in certain circumstances. Sections 60E and 60F provide a lawful basis for any search under division 2 of part IV of the Drugs, Poisons and Controlled Substances Act 1981. Furthermore, those sections require that the police can only exercise the power to search if the police have reasonable grounds for believing that the person to be searched intends to provide a volatile substance or item used to inhale volatile substances to a person under the age of 18 years. These conditions are consistent with the purpose of the division of protecting the health and welfare of young people and are therefore not arbitrary.

For these reasons, sections 60E and 60F are compatible with section 13 of the charter.

Section 17 — protection of families and children

Section 17(1) of the charter provides that families are entitled to be protected by society and the state. Section 17(2) specifically provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of them being a child. 'Child' is defined in the charter as a person under 18 years of age.

In general, the scheme established in division 2 of part IV of the Drugs, Poisons and Controlled Substances Act 1981, which is the subject of this bill, engages the right protected by section 17(2) of the charter because it gives police the power to search, apprehend and detain people under the age of 18 who are considered children for the purposes of the charter.

Overall, the scheme established in division 2 of part IV is consistent with the human rights contained in section 17(2) as the stated purpose of the division is the protection of the health and welfare of those under 18. The division is particularly designed to ensure that young people are protected. In exercising any powers under the division in relation to a young person under the age of 18 police must take into account their best interests.

The provisions in division 2 of part IV enhance the right under section 17(2) by recognising that it is in the best interests of a young person who is inhaling a volatile substance to be subject to a welfare response.

Section 20 — property rights

Section 20 of the charter recognises a person's right not to be deprived of his or her property other than in accordance with law. The requirement that a permissible deprivation can only be carried out 'in accordance with law' imports a requirement that the law not be arbitrary.

Sections 60J and 60K of the Drugs, Poisons and Controlled Substances Act 1981 which are part of the scheme in division 2 of part IV, engage section 20 of the charter because they authorise the removal or seizure of volatile substances or items. These provisions are not arbitrary. The reasons for the removal are clearly set out in section 60J and section 60K.

Removal of property can only occur if there is a risk that the substances or items may be used by a person under the age of 18 for the purpose of inhaling a volatile substance.

Accordingly, sections 60J and 60K are compatible with section 20 of the charter.

Section 21 — right to liberty and security of person

Section 21 of the charter establishes an individual's right to liberty and sets out certain minimum rights of individuals who are detained to minimise the risk of arbitrary or unlawful detention. More specifically, section 21 of the charter recognises the following rights:

the right not to be subjected to arbitrary arrest or detention

the right not to be deprived of his or her liberty except on grounds, and in accordance with the procedures, established by law

the right to be informed at the time of detention of the reason for detention and to be promptly informed about any proceedings to be brought against him or her.

Sections 60L and 60M of the Drugs, Poisons and Controlled Substances Act 1981, which are affected by this Bill, engage section 21 of the charter because they enable police to apprehend and detain a young person under the age of 18 in certain circumstances. The conditions of detention are specifically set out in section 60L, which provides that a detained person must be informed why they have been detained and also that they are not under arrest. Safeguards also exist in section 60M where the provisions stipulate when a young person must be released and into whose care.

Accordingly, detention under these provisions is neither arbitrary nor unlawful and sections 60L and 60M are compatible with section 21 of the charter.

Section 23 — children in the criminal process

Section 23 of the charter provides that a child detained without charge must be segregated from all detained adults.

Sections 60L and 60M of the Drugs, Poisons and Controlled Substances Act 1981, which are part of the scheme in division 2 of part IV, engage this right because they provide for the detention of children under the age of 18. However, the relevant provisions specifically state that a detained child must not be detained in a police gaol, cell, or lock up, which means that they will be segregated from detained adults. It is the usual practice for people under the age of 18 to be detained by the police at the location where they were apprehended (for example a park or a private residence) until they can be released.

Therefore, sections 60L and 60M are compatible with the human rights protected by section 23 of the charter.

Conclusion

I consider that the provisions of the Drugs, Poisons and Controlled Substances Act 1981 which will remain in force by virtue of this bill are compatible with the charter because to the extent that some provisions may limit rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Lisa Neville, MP
Minister for Mental Health

Second reading

Ms NEVILLE (Minister for Mental Health) — I move:

That this bill be now read a second time.

The Brumby government is committed to protecting the health and welfare of Victoria's children and young people, who are among the most vulnerable members of our community.

Victoria is a national leader in initiatives that minimise harm caused by the inhaling of volatile substances, or 'chroming', as it is known.

To help protect children and young people under 18 from the harms of 'chroming' the Victorian government introduced the Drugs, Poisons and Controlled Substances (Volatile Substances) Act in 2003. The powers granted to police under that and subsequent amendments are due to sunset on 30 June 2008.

Following the introduction of that legislation, a range of other strategies have also been employed, including the introduction of the responsible sale of solvents — retailers kit, funding of a Koori inhalant abuse kit for the Victorian Koori community, and the development of management guidelines for staff working with young people in alcohol and drug services and out of home care services.

The Department of Education and Training has developed and distributed an information package for schools entitled *Volatile Solvents — A Resource for Schools*. This is accompanied by a comprehensive training kit.

The Victorian government has also provided leadership on the National Inhalant Abuse Taskforce, and the funding and establishment of youth-specific drug and alcohol services. These include:

a Koori youth residential rehabilitation service,

five specialist alcohol and drug treatment worker positions to support young people with drug problems, including inhalant abuse, in residential care, and

youth outreach, withdrawal and rehabilitation services.

Last year, the government went further, taking action to ban the sale of spray paint to young people aged under 18.

The primary purpose of the bill now before the house is to make the provisions of the Drugs, Poisons and Controlled Substances (Volatile Substances) Act 2003 permanent. By repealing the Drugs, Poisons and Controlled Substances (Volatile Substances) Act 2003, the volatile substances provisions in division 2 of part IV of the Drugs, Poisons and Controlled Substances Act 1981 will remain permanently in force.

Under the volatile substances provisions in division 2 of part IV of the act, police are granted limited civil powers under which they can apprehend and detain young people whom they reasonably suspect of abusing volatile substances or at risk of doing so. Under the legislation, police are empowered to search persons and seize volatile substances and items used to inhale, and to link the young person with an appropriate adult, such as a parent or a health service worker.

The legislation's sole purpose is to protect the health and welfare of children and young people. In exercising these powers, police officers take into account the best interests of the young person who is subject to those powers.

The act does not make it an offence to possess or inhale a volatile substance and it is not the intention of the legislation to bring young people into the criminal justice system.

Inhaling volatile substances is dangerous and harmful behaviour. Health and welfare agencies are an important part of the response to young people abusing inhalants. These agencies have a key role in supporting the police response to volatile substance abuse by young people. There are a range of options for police to access when exercising their powers under the legislation. These include the capacity to connect young people to their families or a residential care service, to a hospital emergency department if required, or to an appropriate drug and alcohol service for immediate recovery and care.

Since the legislation does not criminalise volatile substance abuse, any detention of the person does not occur in a jail or police cell.

The legislation also explicitly provides that police must not interview a person being detained in relation to known or alleged offences.

As soon as practicable after a young person is apprehended, police officers must release them into the care of a person whom the officer reasonably believes is capable of taking care of the person and who consents to taking care of the person. This would include a parent or guardian.

In evaluating the success of the 2003 legislation, the government used the Protocols Advisory Committee, who reviewed the data collected since 2004 from Metropolitan Ambulance Service (MAS); public hospital accident and emergency departments; Victoria Police; and alcohol and drug treatment services.

The reviewed data shows that the majority of chroming incidents occur in the age group of people up to the age of 18. In 2004–05 the MAS attended 123 incidents of inhalant abuse in the under-18 age group. This equates to 51 per cent of all attendances by MAS staff being to young people aged under 18.

Public hospital accident and emergency departments show a similar trend, reporting that where inhalant abuse was the primary concern, 62 per cent of presentations in 2004–05 and 53 per cent in 2005–06 occurred in the under-18 age group.

The Protocols Advisory Committee found that police are using their powers as prescribed, in the best interests of young people, and that police interventions under the act are a positive means of keeping young people safe.

This bill therefore allows Victoria Police to continue to remove potentially dangerous substances and materials from the hands of young people who abuse them and to connect young people with appropriate services.

The government believes we need to continue this legislation in order to protect young people from the risks associated with inhalant use.

This bill is a positive initiative in protecting the health and wellbeing of young people in the state of Victoria. It focuses on substance abuse prevention and on providing supportive interventions to redirect vulnerable young people away from such harmful activities.

I commend the bill to the house.

Debate adjourned on motion of Ms WOOLDRIDGE (Doncaster).

Debate adjourned until Thursday, 22 May.

PUBLIC HEALTH AND WELLBEING BILL

Statement of compatibility

Mr ANDREWS (Minister for Health) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In my opinion, the Public Health and Wellbeing Bill 2008, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to enact a new legislative scheme which promotes and protects public health and wellbeing in Victoria. It provides a modern and flexible legal framework that strengthens Victoria's ability to respond quickly and decisively to existing and emerging risks to public health, while at the same time safeguarding the rights of individuals who may be affected by measures taken to improve public health.

The right of everyone to enjoy the highest attainable standard of health is recognised by international human rights law, including article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 12 requires parties to the ICESCR to take steps to achieve the full realisation of this right, including measures necessary for the prevention, treatment and control of epidemic diseases, the improvement of all aspects of environmental hygiene, and the healthy development of children. Health is a fundamental human right that is essential for the enjoyment of many of the individual rights protected by the charter, and in particular the right to life.

International human rights law recognises that a state may have to limit certain rights of individuals in order to address serious threats to the health of the population or individual members of the population. Such measures must be specifically aimed at preventing disease or injury and must not be arbitrary or unreasonable. In addition, the law must provide adequate safeguards and effective remedies against the illegal or abusive imposition or application of limitations on human rights. The bill clearly defines the circumstances in which coercive measures may be taken against individuals who, for a range of reasons, are unwilling to accept constraints voluntarily and who, by their actions, may pose a serious risk to public health. The bill also provides a range of mechanisms that enable decisions to be reviewed.

The bill is in 12 parts which are each directed at achieving discrete public health outcomes.

Part 1 sets out the purpose of the bill and defines key terms used in the bill. It does not engage any of the rights protected by the charter.

Part 2 sets out the objective of the bill and the principles that are intended to guide its administration. Clause 9 of the bill is particularly relevant to any assessment of the bill's compatibility with the charter because it specifically requires that decisions made and actions taken in the administration of the act should be proportionate to the public health risk sought to be prevented, minimised or controlled and should not be made or taken in an arbitrary manner.

Part 3 sets out the roles and functions of the Secretary to the Department of Human Services, the chief health officer (CHO) and municipal councils for the purposes of the act.

Part 4 makes provision for consultative councils.

Part 5 requires the Minister for Health to ensure a state public health and wellbeing plan is prepared, enables a public inquiry to be conducted with respect to serious public health matters; and makes provision for the collection and disclosure of information.

Part 6 confers specific responsibilities on councils in relation to investigating and remedying nuisances and the regulation of certain businesses that may pose a risk to public health.

Parts 3–6 engage but do not limit any of the rights protected by the charter.

Part 7 sets out the regulatory scheme that will apply to cooling towers and pest control and which will be administered by the Secretary to the Department of Human Services. Part 7 limits the right to equal protection of the law without discrimination but this limitation is reasonable in the circumstances.

Part 8 of the bill creates the legal framework for the management and control of infectious diseases and notifiable conditions. Part 8 limits a number of rights but in each case the limitation is reasonable and compatible with the charter.

Part 9 sets out the powers and responsibilities of authorised officers. This part engages but does not limit any of the rights protected by the charter.

Part 10 confers various powers that are needed to investigate, eliminate or reduce public health risks and the powers available if the minister declares a state of emergency arising out of any circumstances that are causing a serious risk to public health. Part 10 contains some limitations on rights protected by the charter, but these are reasonable in the circumstances.

Part 11 sets out various mechanisms that enable people to challenge various decisions made under the bill. Several of the clauses in part 11 that engage rights protected by the charter are identical to clauses in part 12 of the bill that will amend the Food Act 1984. The compatibility of these clauses is considered together.

Part 12 makes provision for various matters to enable the bill to be implemented smoothly.

Parts 11 and 12 engage but do not limit any of the rights protected by the charter.

Human rights issues

Human rights protected by the charter that are relevant to the bill

The bill engages a number of rights which are specifically protected and promoted by the charter. This statement provides an overview of the nature of each of the rights protected by the charter and the parts of the bill that engage each of these rights. The statement then discusses each part in turn. It examines the particular clauses which engage rights, and, to the extent that certain rights may be limited by the bill,

whether such limitations are reasonable and can be demonstrably justified in a free and democratic society.

Section 8 — right to recognition and equality before the law

Section 8(2) of the charter establishes the right of every person to enjoy his or her human rights without discrimination. In this context, 'discrimination' refers to both direct and indirect discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of that act. The attributes listed in section 6 of the Equal Opportunity Act include age, impairment and religious belief.

Section 8(3) of the charter recognises that every person is entitled to the equal protection of the law without discrimination. As a result, legislation should not have a discriminatory effect on people.

The rights protected by section 8 of the charter are engaged by some clauses in parts 7 and 8 of the bill.

Section 10(1)(c) — right not to be subjected to medical treatment without his or her full, free and informed consent

Section 10(1)(c) of the charter protects a person's right not to be subjected to medical treatment unless the person has given their full and free informed consent. In this context 'medical treatment' encompasses all forms of medical treatment and medical intervention, including compulsory counselling, examinations and testing.

In its general comment on article 12 of the ICESCR, the United Nations Economic and Social Council stated that the right to health embraces the right to control one's health and body, and includes the right to be free from non-consensual medical treatment. It also observed that article 12 of the ICESCR imposes an obligation on state parties to respect the right to health by refraining from applying coercive medical treatment.

The right not to be subjected to unwanted medical treatment is not, however, an absolute right in international human rights law. It is an accepted principle of international human rights law that it may be legitimate to require a person to undergo medical treatment in exceptional circumstances, including where it is necessary for the prevention and control of infectious diseases.

Clauses in part 8 of the bill engage this right.

Section 11 — freedom from forced work

Section 11(2) of the charter recognises that people must not be made to perform forced or compulsory labour. Section 11(3) of the charter clarifies that 'forced or compulsory labour' does not include work or service that forms part of normal civil obligations. The Human Rights Committee (HRC) has considered the meaning of 'normal civil obligations' in the context of article 8 of the International Covenant on Civil and Political Rights (ICCPR). The HRC has expressed the view that to qualify as a normal civil obligation, the labour in question must, at a minimum, not be an exceptional measure; must not possess a punitive purpose or effect; and must be provided for by law in order to serve a legitimate purpose under the covenant (see *Faure v. Australia*, communication no. 1036/2001, UN Doc, CCPRC, 85, D/1036/2001 (2005)).

The right to freedom from forced work is engaged by clauses in parts 9 and 10 of the bill.

Section 12 — freedom of movement

Section 12 of the charter protects various rights in relation to freedom of movement. These rights include the right to move freely within Victoria; the right to choose where to live in Victoria; and the right to be free to enter and leave Victoria.

The right to freedom of movement is not an absolute right at international law. Article 12 of the ICCPR (which provided the model for section 12 of the charter) expressly recognises that this right may be subject to restrictions that are necessary to protect public order, public health or morals or the rights and freedoms of others.

The right to freedom of movement is engaged by various clauses in parts 8, 10 and 11 of the bill.

Several clauses in the bill permit individuals to be detained. While the detention of a person will limit his or her freedom of movement, lawful detention affects more specifically the right to liberty and security of persons (see general comment 27 by the HRC). As a result, where this statement considers the compatibility of clauses with section 21 of the charter, it does not separately consider whether such clauses are compatible with section 12.

Section 13 — privacy and reputation

Section 13(a) of the charter recognises a person's right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The explanatory memorandum to the charter explained that 'the right to privacy is to be interpreted consistently with the existing information and health records framework to the extent that it protects against arbitrary interferences'. The right to privacy recognised by section 13 of the charter goes beyond the right to information privacy, and embraces a right to bodily privacy and territorial privacy. Provisions that enable people to be required to undergo a medical examination, test or treatment without consent will therefore engage section 13 of the charter as well as section 10(1)(c) of the charter.

The requirement that any interference with a person's privacy must not be 'unlawful' imports a requirement that the scope of any legislative provision that allows an interference with privacy must specify the precise circumstances in which an interference may be permitted. The requirement that an interference with privacy must not be arbitrary requires that any limitation on a person's privacy must be reasonable in the circumstances and should be in accordance with the provisions, aims and objectives of the charter.

Various clauses in parts 3 to 12 of the bill engage the rights protected by section 13 of the charter.

Section 14 — freedom of thought, conscience, religion and belief

The right to freedom of religion and belief (including the freedom to demonstrate one's religion or belief in worship, observance, either individually or as part of a community) is protected by section 14 of the charter.

The application of some clauses in parts 8 and 10 of the bill could temporarily limit an individual's freedom to demonstrate his or her religion in community with others.

Section 15 — freedom of expression

Section 15 of the charter recognises a qualified right to freedom of expression. It embraces an individual's right to express information and ideas, as well as the right of the community as a whole to receive all types of information and opinions.

Section 15(3) of the charter provides that the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons; or for the protection of national security, public health or public morality.

A number of clauses in parts 4–9 and 11 of the bill engage the right to freedom of expression.

Section 16 — peaceful assembly and freedom of association

Section 16(1) of the charter protects the right to peaceful assembly, which encompasses the rights of individuals and groups to meet in order to exchange ideas and information and express their views publicly. The recognition of this right in the charter may give rise to a positive obligation on public authorities to take reasonable and appropriate steps to ensure that the right can be exercised.

The right to freedom of assembly is not an absolute right at international law. Article 21 of the ICCPR (which provided the model for section 16(1) of the charter) is subject to a number of permissible limitations, including those which are necessary in a democratic society in the interests of public health.

Part 11 of the bill engages the right to freedom of assembly.

Section 17 — protection of families and children

Section 17(1) of the charter provides that families are entitled to be protected by society and the state. Decisions made under a number of clauses in parts 8 and 10 of the bill have the potential to engage the right to protection of families and children.

Section 19 — cultural rights

Section 19(1) of the charter protects the rights of people from a particular religious background to declare or practise their religion. The clauses in parts 8 and 10 of the bill that may engage the rights protected by section 14 of the charter may also engage cultural rights.

Section 20 — property rights

Section 20 of the charter recognises a person's right not to be deprived of his or her property other than in accordance with law. The requirement that a permissible deprivation can only be carried out 'in accordance with law' imports a requirement that the law not be arbitrary. A provision that confers a discretionary power to deprive a person of their property will be consistent with the charter if the limits of the power are defined and the criteria that govern the exercise of the discretion are specified.

Parts 9 and 11–12 of the bill contain provisions that engage property rights.

Section 21 — right to liberty and security of person

Section 21 of the charter establishes an individual's right to liberty and sets out certain minimum rights of individuals who are detained to minimise the risk of arbitrary or unlawful detention. More specifically, section 21 of the charter recognises the following rights:

> the right not to be subjected to arbitrary arrest or detention;
>
> the right not to be deprived of his or her liberty except on grounds, and in accordance with the procedures, established by law; and
>
> the right to be informed at the time of arrest or detention of the reason for the arrest or detention and to be promptly informed about any proceedings to be brought against him or her.

Several clauses in parts 8 and 10 of the bill engage the right to liberty.

Section 24 — fair hearing

Section 24(1) recognises an individual's right to a fair and public hearing. However, section 24(2) of the charter recognises that a court or tribunal may exclude members of media organisations or other persons or the general public from all or part of a hearing if permitted to do so by a law other than the charter.

Several clauses in parts 8 and 12 allow courts and tribunals to determine proceedings in private in specified circumstances.

Section 25 — rights in criminal proceedings

Section 25 of the charter protects a number of rights that apply to a person who has been charged with a criminal offence.

Section 25(1) protects the right of a person charged with a criminal offence to be presumed innocent until proved guilty according to law. It requires the prosecution to prove the guilt of an accused beyond reasonable doubt. Provisions that merely place an evidential burden on the defendant (that is, the burden of showing that there is sufficient evidence to raise an issue) with respect to any available exception or defence are consistent with section 25(1) of the charter because the prosecution still bears the legal burden of disproving that matter beyond reasonable doubt.

When assessing whether a clause which creates a summary offence is compatible with section 25(1) of the charter, it is necessary to consider whether section 130 of the Magistrates' Court Act 1989 will apply. Section 130 of the Magistrates' Court Act applies to summary offences that provide exceptions, exemptions, provisos, excuses or qualifications, and only requires the defendant to point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the exception, exemption, proviso, excuse or qualification. The burden remains on the prosecution to disprove those facts beyond reasonable doubt. As a result, if section 130 applies to a clause it will be consistent with section 25(1) of the charter. Clauses 61, 69, 176, 183, 188, 193 and 203 of the bill are consistent with section 130 of the Magistrates' Court Act and are therefore compatible with section 25 of the charter. The compatibility of these clauses with section 25(1) of the charter is therefore not discussed further in this statement.

Section 25(2)(k) of the charter recognises that a person charged with a criminal offence is entitled not to be

compelled to testify against himself or herself or to confess guilt. The right against self-incrimination is an important aspect of the right to a fair trial. However, international case law suggests that obtaining evidence compulsorily from a person where the evidence has an existence independent of the will of the person does not limit this right (see the decision of the European Court of Human Rights in *Saunders v. United Kingdom*, 43/1994/490/572 at [69]). This right is engaged by clause 212 in part 11 of the bill.

ANALYSIS OF PARTS 3–12

Part 3 — administration

One of the key purposes of part 3 of the bill is to set out the statutory functions and powers of the Secretary to the Department of Human Services (the secretary).

Clause 17(2)(e) of the bill engages the right to privacy because it enables the secretary to establish and maintain a comprehensive information system with respect to the health status of persons and classes of persons in Victoria (including information about the extent and effects of disease, illness and disability); the determinants of individual health and public health and wellbeing; and the effectiveness of interventions to improve public health in Victoria. As the explanatory memorandum to the bill notes, this clause will continue a function already performed under section 9 of the Health Act 1958. Information collected by the secretary is used in the preparation of publications and reports such as the population health survey, epidemiological studies and infectious disease surveillance reports such as the *Surveillance of Notifiable Infectious Diseases in Victoria*. These reports and findings assist the secretary to adjust policy and resources as required. As the information is collected and used for legitimate purposes and the Information Privacy Act 2000 and the Health Records Act 2001 will govern how personal and health information is handled, the clause does not authorise an unlawful or arbitrary interference with a person's privacy. The clause is therefore consistent with section 13 of the charter.

Part 4 — consultative councils

The purpose of part 4 of the bill is to enable a consultative council to be established; to confer functions, powers and obligations on consultative councils that are created under this part; and to set out the functions, powers and obligations of the Consultative Council on Obstetric and Paediatric Mortality and Morbidity (CCOPMM).

There are three consultative councils in addition to CCOPMM that have been established under the Health Act:

Consultative Council on Anaesthetic Mortality and Morbidity;

Surgical Consultative Council; and

Quality Assurance Committee (QAC).

One of the most important functions performed by consultative councils is the review and analysis of cases of morbidity and mortality in the health system and the dissemination of the results of this research as widely as possible. The research conducted by consultative councils assists health service providers to make systemic changes to the treatment and care they provide.

Section 13 — privacy and reputation

Exchange of information

Clause 37 engages the right to privacy because it enables the chairperson of a consultative council to disclose information it has collected in the course of performing its functions to another consultative council. The council chairperson may only disclose information if he or she considers that the information is relevant to the functions of the other consultative council. The purpose of allowing a consultative council to disclose information in these circumstances is to enhance the ability of consultative councils to perform their functions as efficiently as possible using the most reliable information available. As clause 37 would not authorise an unlawful or arbitrary interference with a person's privacy, the provision is consistent with section 13 of the charter.

Provision of information to prescribed consultative councils

Clauses 38–40 and 47 engage the right to privacy because they allow the chairperson of a prescribed consultative council to request or require a health service provider to provide information the chairperson believes is necessary to enable the council to perform its functions (clause 264 of the bill will insert a clause into the Health Act that is identical to clause 47). These clauses will enable or require health service providers to provide information about their patients regardless of whether the patient has consented to the disclosure of this information.

These clauses authorise the collection of information for a legitimate public health purpose — to enable prescribed consultative councils to perform their statutory functions. The clauses also adequately specify the circumstances in which information may be collected — that is, where the chairperson of the council considers it necessary to perform the council's functions. This establishes an effective precondition to the collection of information. Clauses 41 and 42 impose appropriate restrictions on the ability of consultative councils to disclose information collected under these provisions. For these reasons these provisions do not limit the right to privacy because they are neither unlawful nor arbitrary.

Requirement to provide birth reports

Clause 48 of the bill engages the right to privacy because it requires a report of every birth of a live or stillborn child to be submitted to CCOPMM in the form approved by CCOPMM within the prescribed period. The form will be designed to collect information on, and in relation to, the health of mothers and babies which will be stored in the Victorian perinatal data collection unit. The information collected includes identifying information.

This information has been collected by CCOPMM since 1982. The collection of this information enables CCOPMM to identify and monitor trends in respect of perinatal health (including congenital abnormalities) over time; provide information to the Secretary to the Department of Human Services on issues relating to the planning of neonatal care units; and undertake research on the causes of infant and maternal mortality and morbidity. CCOPMM's review and analysis of this information promotes both public health and the right to life. As the collection of this data is neither arbitrary nor unlawful, and given that clauses 41–43 constrain the circumstances in which identifying information may be

disclosed, clause 48 is consistent with section 13 of the charter.

Restrictions on right to access information held about oneself

Clauses 42 and 43 engage the right to privacy because they provide that the Freedom of Information Act 1982 and part 5 and health privacy principle 6 of the Health Records Act do not apply to documents referred to in clause 42(4) and clause 43(1)–(2) respectively. More specifically, the clauses significantly restrict a person's right to request access to information held about them by an organisation and to seek that the information be corrected. The clauses do not, however, alter a person's right to obtain documents relating to their health care from the person or organisation who provided that care, unless those documents were created solely for the purpose of providing information to a consultative council.

The purpose of this limitation is to enable consultative councils to continue performing their important quality assurance functions, which in turn promote and protect public health. For example, the function of the Victorian Consultative Council on Anaesthetic Mortality and Morbidity (VCCAMM) is to identify avoidable causes of morbidity or mortality related to anaesthesia and to identify means to improve the safety and quality of anaesthesia practice. The ability of the VCCAMM to perform this task depends on the continued willingness of anaesthetists and other medical practitioners to provide relevant information. Given that information provided may be relevant to potential civil or criminal proceedings, it is unlikely that practitioners would continue to provide information to councils if that information could be readily disclosed. This would significantly impair the capacity of the councils to perform their functions. These clauses are therefore reasonable in the circumstances and do not permit unlawful or arbitrary interference with an individual's privacy.

Power to disclose information to specified persons and bodies if it is in the public interest to do so

A prescribed consultative council may disclose information to any of the persons or bodies specified in clause 41(1) of the bill if it considers it is in the 'public interest' to do so. Clause 265 of the bill will amend section 162FB of the Health Act by adding the secretary to the persons and bodies a consultative council may provide information. The disclosure of information would interfere with the privacy of any identifiable individual who is the subject of the information disclosed.

The use of the expression 'in the public interest' in this clause would enable a consultative council to disclose information in a range of circumstances. For example, a consultative council might determine that it is in the public interest to disclose information to the relevant professional registration board if information provided to it indicated that a registered health practitioner had engaged in professional misconduct within the meaning of the Health Professions Registration Act 2005. The *Report into the System for Dealing with Multiple Child Deaths* prepared in 2003 at the request of the then Premier, the Hon. Steve Bracks, MP, specifically recommended that CCOPMM members and staff should be able to provide information to the coroner and the Victorian Child Death Review Committee to assist their inquiries into child deaths and to notify the Child Protection Service if they form the reasonable belief a child is in need of protection. Permitting a prescribed consultative council to disclose information to the individuals and bodies specified by the clause is therefore reasonable in all the circumstances, and is not an arbitrary interference with a person's right to privacy. Moreover, even though the discretion conferred by this clause is cast in broad terms, the circumstances in which the discretion could be lawfully exercised are sufficiently clear from the context of the division and the bill as a whole to enable a person to regulate his or her conduct by it. For these reasons, clause 41 is consistent with section 13 of the charter.

Disclosure of information to facilitate medical research

The provision of information for research into the epidemiology of perinatal health including births defects and disabilities is one of CCOPMM's functions (clause 46(1)(c)). Clause 233(h) enables regulations to be made with respect to the conditions under which access to information held by a consultative council for the purpose of medical research and studies is to be permitted. The effect of clause 42(7) of the bill is that personal information within the meaning of the Information Privacy Act 2000 (personal information) or health information within the meaning of the Health Records Act 2001 (health information) could only be disclosed to a person who is not referred to in clause 42(1) if this were permitted by regulations made under the bill. The disclosure of information about identified or identifiable individuals in order to facilitate medical research may be legitimate. If regulations are made under clause 233(h) it will be necessary at that time to consider whether the conditions under which access is given to the information adequately protect the privacy of the individuals to whom the information relates.

Section 15 — freedom of expression

Clause 42 of the bill engages the right to freedom of expression because it prohibits members and employees of prescribed councils from disclosing information about an identifiable person and restricts access to information under the Freedom of Information Act and part 5 and HPP 6 of the Health Records Act.

These restrictions on an individual's right to freedom of expression are necessary to create an environment that enables the reporting of adverse medical events without fear of repercussions or inappropriate exposure of individuals' confidential information. If health service providers are not candid when they provide information to consultative councils the ability of the councils to perform their statutory functions effectively would be severely compromised. These restrictions are therefore reasonably necessary for the protection of public health and are compatible with the charter because they fall within the scope of section 15(3) of the charter.

Part 5 — general powers

Part 5 of the bill will assist the government to fulfil its obligations to protect and promote the health of all Victorians and to cooperate with other jurisdictions in protecting public health from risks that may arise on a state, national and international scale.

Section 13 — privacy and reputation

Clause 52 engages the right to privacy because it imposes an obligation on the secretary to publish the report of a public inquiry. The report could only disclose 'personal information' or 'health information' if the disclosure would be consistent

with the Information Privacy Act or the Health Records Act. Given that the clause must be exercised compatibly with both these acts, it does not unlawfully or arbitrarily interfere with a person's right to privacy.

Clause 55 authorises, but does not compel, a person to disclose information to those responsible for dealing with risks to public health. The chief health officer could request, for example, that he or she be provided with the names of persons who were present at a place, such as a medical clinic or a university lecture room, at the same time as a person who is later diagnosed as having a communicable disease. The chief health officer may wish to identify and contact those concerned to advise them to have a medical check in the interest of preventing further spread of the disease. This provision will allow people to disclose that information in response to the request. The provisions do not limit the right to privacy because such disclosures will be neither arbitrary nor unlawful. The clause establishes an appropriate balance between the privacy of the individual and the protection of public health by only authorising a person to disclose information if he or she reasonably believes that the disclosure is necessary for the administration of the act or regulations made under the act.

Clause 56 allows the secretary to disclose information to a range of government and international bodies where this is for the purpose of promoting or protecting public health and disclosure is in accordance with a formal agreement. For example, it will enable the secretary to disclose information to the commonwealth in accordance with a National Health Security Agreement made for one or more of the purposes specified in section 7 of the National Health Security Act 2007 (cth). This commonwealth legislation includes rigorous privacy protections for all information provided to it and provided by it to bodies such as the World Health Organisation. Such arrangements may include the sharing of information in relation to communicable diseases to enhance the ability within Australia to identify and respond quickly to public health events of national significance, and the sharing of information to protect against the international spread of disease.

Given the dual requirements that there be a formal agreement and that the purpose of the agreement must be to promote or protect public health, any potential interference with a person's privacy is neither arbitrary nor unlawful.

Clause 57 engages the right to privacy because it allows administrators to share information with each other in defined circumstances. Subclause (1) allows the secretary or the CHO to disclose information held by the secretary or the CHO to a council for the purposes of the bill if the secretary or CHO considers that the disclosure would assist the council to perform its duties or functions under the bill or any regulations made under it. Subclause (2) confers a similar power on councils to disclose information to the CHO and the secretary. These would not allow an individual's privacy to be arbitrarily interfered with because it limits the purposes for which information may be disclosed. These powers will allow councils and the secretary to share information to enable them to respond more effectively to complaints about nuisances, prescribed accommodation and prescribed businesses.

Subclause (3) enables the secretary or the CHO to disclose information they hold under or for the purposes of parts 6 and 7 of the bill or any regulations made under the bill for the purposes of those parts to a government department, statutory body or other person responsible for administering another act or regulations, if the secretary or the CHO consider that the disclosure would assist that person to perform their functions or exercise their powers under that act or the regulations made under that act. Subclause (4) confers a similar power on councils.

The discretion conferred by these subclauses is likely to be exercised in a range of circumstances. For example, the subclauses would allow:

> information relating to the use of pesticides (including information about a person who holds a pest control licence under the bill) to be disclosed to the Department of Primary Industry (DPI) where this would assist DPI to administer the Agricultural and Veterinary Chemicals (Control of Use) Act 1992. The disclosure of this information would assist DPI to protect and promote public health as well as to protect the environment;
>
> information regarding cooling tower systems to be disclosed to the Environment Protection Authority (EPA) for the purpose of enabling the EPA to take steps to ensure that cooling tower systems are connected to the sewer rather than the stormwater system. EPA performs this task to ensure the biocides in cooling tower system water are not released into the stormwater system;
>
> the secretary to disclose information to the Department of Sustainability and Environment so that it can take steps to encourage people who manage cooling tower systems to take various measures that would conserve water; and
>
> the secretary or a local council to disclose information about a nuisance to the EPA.

The secretary and councils will be required to comply with information privacy principle 1.3 when information is collected from individuals under or for the purposes of part 6 or 7 of the act. Individuals will therefore be aware of the kinds of organisations to whom DHS may disclose their personal information, and the circumstances in which this may happen. Clause 57 does not authorise unlawful or arbitrary interferences with a person's privacy and is therefore compatible with section 13 of the charter.

Section 15 — freedom of expression

Clause 51 provides that in the conduct of a public inquiry, certain provisions of the Evidence Act 1958 apply. The effect of this is that the convenor of that inquiry may compel a person to give evidence before the inquiry or to produce documents or materials the subject of the inquiry. Compelling a person to give evidence engages the right to freedom of expression. Clause 51 also engages the right to freedom of expression because it prohibits a person from giving information which he or she knows is false or misleading to the convenor.

The purpose of these restrictions on the right to freedom of expression is to ensure that the secretary can adequately investigate serious public health matters. It may be necessary to conduct an inquiry into a broad range of public health matters, such as the most effective way to respond to an emerging infectious disease or the contamination of a public water supply. The ability of the inquiry to achieve its objectives would be compromised however if it did not have

the power to require people to give evidence and produce documents. A person required to give evidence to such an inquiry would retain their privilege against self-incrimination and would have the right to legal representation if they were affected by a public inquiry.

These lawful restrictions on the right to freedom of expression are reasonably necessary for the protection of public health and therefore come within the scope of section 15(3) of the charter.

Section 25 — rights in criminal proceedings

Clause 51 is compatible with the rights contained in section 25 of the charter. It does not abrogate the right to protection from self-incrimination. It also provides that a person whose interests are affected by a public inquiry is allowed legal representation, and that others may be represented.

Part 6 — regulatory provisions administered by councils

Part 6 of the bill sets out the regulatory provisions administered by local governments. These provisions give councils the ability to address specific matters within their municipality for the protection of public health.

Section 13 — Privacy and reputation

Clauses 58 and 61 engage the right to privacy because they impose limits on the way a person uses their home. They regulate the activities that a person may engage in on their land by making it an offence for a person to cause a nuisance or knowingly allow or suffer a nuisance to exist on, or emanate from, any land owned or occupied by that person. For example, it would be an offence to keep chickens in a way that attracts rats. The ordinary use of residential premises does not constitute a nuisance. In imposing these restrictions the provisions protect the right to privacy of other property owners by ensuring they are not subject to unreasonable interferences that are dangerous to health (such as discharges of poisonous gases) or offensive (such as odours that are so unpleasant people are unable to enjoy spending time in their gardens).

Clauses 60, 62, 65 and 66 engage the right to privacy because they require that councils must investigate any notice of a nuisance and give councils the power to enter unoccupied or occupied land in limited situations if a nuisance exists on the land.

The provisions do not limit the right to privacy because they are neither unlawful nor arbitrary. The scheme ensures that there is an appropriate balance between an individual's right to use and enjoy his or her property with the rights of others to have use and enjoyment of their property, including their homes, without undue interference. The restrictions are also 'lawful' in the sense that the bill adequately specifies the circumstances in which interferences with a person's right to privacy will be permissible and decisions about whether to interfere with that right will be made by councils and the Magistrates Court on a case-by-case basis.

Clauses 67, 69 and 71 engage the right to privacy because they require the proprietors of prescribed accommodation and certain businesses to apply to the relevant council for a registration to be issued, renewed or transferred using a form approved by the council. Where the proprietor is a natural person, he or she will be required to provide the council with personal information.

The requirement to provide this information engages but does not unlawfully or arbitrarily interfere with a person's right to privacy. The proprietors of prescribed accommodation and the businesses specified in clause 68 are required to register with the relevant council because these businesses have the potential to pose a risk to public health. The maintenance of a register of these businesses assists local councils to monitor that they are complying with their obligations under the bill and any regulations made under the bill. Clause 71 of the bill limits the types of information that must be included in the application to that which is prescribed by regulations under the act and any information in respect of the prescribed accommodation or the premises required by the council. Councils are required to handle personal information in accordance with the Information Privacy Act. As a result, these clauses are compatible with section 13 of the charter.

Section 15 — freedom of expression

Clause 71 requires proprietors to provide certain information in order to be registered and therefore engages the right to freedom of expression. In this case, however, proprietors are required to provide the information for the purpose of protecting public health, and this falls within the exception contained in section 15(3) of the charter.

Part 7 — regulatory provisions administered by the secretary

Part 7 of the bill sets out the regulatory provisions administered by the secretary.

Section 8 — right to equal protection of the law without discrimination

Clause 101 engages the right to equal and effective protection against discrimination because it restricts a person's right to obtain a pest control licence on the basis of the person's age. More specifically, a person must be at least 16 years of age in order to be eligible for a pest control licence issued under clause 101(3) of the bill. The holder of a licence issued under clause 101(3) of the bill can only use the pesticides entered on his or her licence under the supervision of a person who holds a pest control licence issued under clause 101(2) of the bill (see clause 103(1)(d)). A person must be at least 18 years of age to be eligible for an unrestricted licence (see clause 101(2)).

Reasonableness of the limitation

Nature of the right

The nature of this right is considered above in the general overview of the nature of the rights engaged by the bill. There are many circumstances in our society where it is necessary to treat children differently from adults in order to provide them with the protection they need in accordance with section 17(2) of the charter.

The importance and purpose of the limitation

The pesticides that are used by pest control operators are dangerous to public health and the health of the operator if they are applied incorrectly or the operator fails to take adequate precautions. It is therefore important that licences are only given to individuals who have successfully

completed appropriate training and are sufficiently mature to understand the risks that are associated with applying pesticides, and the importance of taking adequate precautions. Adolescents, as a class, have repeatedly been shown to be more likely to engage in risk-taking behaviour than adults and to be less concerned about the immediate or long-term consequences of risky behaviour. The purpose of the limitation is to prevent young people from undertaking this work until they have reached an age where they are likely to be sufficiently mature to perform the work safely. This purpose is consistent with section 17(2) of the charter.

The nature and extent of the limitation

As individuals are required by law to attend school until they are 16 years of age, the selection of this age as the minimum age requirement for obtaining a restricted pest control licence does not significantly limit a young person's ability to engage in paid work. As individuals are required to attend school until they are 16 years of age, it would be very unusual for a person who is under 16 years of age to be enrolled in a prescribed course of training or to be undertaking training in the prescribed units of competency. This minimum age requirement for a restricted pest control licence would therefore rarely result in a person who is less than 16 years of age being treated less favourably because of their age.

An individual who is at least 16 years of age may be given a restricted pest control licence provided the secretary is satisfied that the person is enrolled in a prescribed course of training or undertaking training in the prescribed units of competency. In practice, it is unlikely that individuals who are less than 18 years of age would be working as a pest control operator without supervision because they would be ineligible for a probationary drivers licence.

The relationship between the limitation and its purpose

While individuals mature at different rates, the age of 18 is frequently used as a minimum age requirement for positions that require a person to exercise sound judgement or to make decisions independently. It is therefore appropriate to select the age of 18 as the minimum age requirement for a licence that enables a person to lawfully engage in activities that may potentially pose a risk to public health as well as their own health.

It is appropriate to allow individuals to commence their training as a pest control operator at the age of 16 because this is the age that some people commence vocational training.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

A less restrictive option would be to assess whether each applicant for a pest control licence between the ages of 16 and 18 is sufficiently mature to hold an unrestricted pest control licence. While this would have less impact on those adolescents who may be sufficiently mature to safely perform the tasks of a pest control operator, it would be administratively burdensome. It would also be difficult to develop or adapt a test that assessed the relevant components of a person's maturity. Given these difficulties, it is reasonable for the Parliament to use age as a proxy for maturity.

Other relevant factors

The national standard for licensing pest management technicians, which was developed by the National Environmental Health Forum in 1999, provided that an applicant for a licence must be at least 18 years of age (although individuals may begin training at an earlier age). However, it should be noted that the current Health Act does not provide that a person must be a particular age in order to be eligible for a licence.

Conclusion

This limitation on the right to equal protection of the law without discrimination is reasonable because it seeks to protect children and does not unduly restrict the participation of children in the paid workforce.

Section 13 — privacy and reputation

Clause 81 allows a person in one of the specified classes to apply to the secretary for registration of a cooling tower system in the approved form. Clause 101 allows a person to apply to the secretary for the issue or renewal of a pest control licence in the approved form.

If the applicant in either of these cases is a natural person, he or she will be required to provide the secretary with limited personal information relevant to the application.

The requirement to provide this information engages but does not unlawfully or arbitrarily interfere with a person's right to privacy. The secretary is required to handle personal information in accordance with the Information Privacy Act and the information is being collected for a specific purpose.

Section 15 — freedom of expression

Clause 81 requires owners of cooling tower systems to provide information to the secretary in order for the system to be registered. Clauses 87 and 88 require the owner to notify the secretary of further information during the registration period. Clause 108 obliges a pest control operator to maintain records.

In these cases, although the clauses engage the right of freedom of expression, owners and operators are required to provide the information for the purpose of protecting public health, and this falls within the exception contained in section 15(3)(b) of the charter.

Part 8 — Management and control of infectious diseases, micro-organisms and medical conditions

Part 8 of the bill provides for the management and control of infectious diseases, micro-organisms and medical conditions. Each division regulates a discrete aspect. This part of the bill engages a number of human rights and for this purpose each division is discussed in turn.

Division 1 — principles applying to the management and control of infectious diseases

The objective of this division is to set out the principles that should be taken into account when interpreting and applying the provisions in part 8 of the bill insofar as they relate to infectious diseases. The division does not limit any of the rights specifically protected by the charter.

Division 2 — examination and testing orders and public health orders

In broad terms, the purpose of division 2 is to ensure that people who have an infectious disease, or who have been exposed to an infectious disease in circumstances where they are likely to contract the disease, take steps to reduce the risk of transmitting the disease to others. The division gives the CHO the power to make two different kinds of orders — examination and testing orders and public health orders.

Clause 113 enables the CHO to make an examination and testing order that requires a person to undergo one or more tests or examinations. The CHO may only make such an order with respect to a person if the CHO believes that specified criteria are satisfied, including that the person has an infectious disease or has been exposed to an infectious disease in circumstances where a person is likely to contract the disease; if infected with the disease the person constitutes a serious risk to public health; and the making of the order is necessary to ascertain whether the person has the infectious disease.

Clause 117 of the bill enables the CHO to make a public health order that requires a person comply with conditions that are designed to minimise the person's risk to public health. These conditions range from being required to participate in counselling to undergoing specified pharmacological treatment and submitting to detention.

Clause 112 of the bill specifically requires that where alternative measures are available which are equally effective in minimising the risk to public health, the measure which is the least restrictive of the rights of the person should be chosen.

The powers in this division have been conferred on the CHO because the CHO must be a registered medical practitioner (see clause 20). This ensures that decisions are only made by people who are skilled at assessing whether a particular person poses a serious risk to public health, and the measures that need to be taken to reduce that risk.

The division includes a number of mechanisms that will safeguard the rights of individuals who are subject to an examination and testing order or a public health order.

The following rights protected by the charter are engaged by this division:

> the right of every person to enjoy his or her human rights without discrimination is engaged by the division generally;
>
> the right not to be subjected to medical treatment without one's full, free and informed consent is engaged by clause 117;
>
> the right to freedom of movement is engaged by clauses 113 and 117;
>
> the right not to have one's privacy, family or home unlawfully or arbitrarily interfered with is engaged by clauses 113–115 and 117–119;
>
> the protection of families and children is engaged by clauses 113 and 117; and
>
> the right to liberty and security of person is engaged by clauses 113, 117 and 123 of the bill.

Section 8 — right of every person to enjoy his or her human rights without discrimination

The powers available in this division can only be exercised in relation to a person who has an infectious disease or has been exposed to an infectious disease in circumstances where a person is reasonably likely to contract that disease. The availability of these powers therefore directly discriminates against people who have, or have been exposed to, an infectious disease on the basis of impairment or personal association with a person who has an impairment.

Reasonableness of the limitation

Nature of the right

The nature of this right is considered above.

Importance of the purpose of the limitation

Taking measures to minimise the spread of infectious diseases that pose a serious risk to public health is one of the government's most important responsibilities in relation to public health.

Nature and extent of the limitation

The way in which the clauses in this division could affect a person who has or may have an infectious disease is outlined above. However, discrimination against a person on the basis that they have an infectious disease is lawful under both the Equal Opportunity Act (see section 80) and the Disability Discrimination Act 1992 (cth) (see section 38).

It is also important to note that the equivalent powers conferred by the current Health Act have only been exercised in relation to people who have refused to voluntarily take steps in order to minimise the risk of transmitting an infectious disease to others. In practice, the overwhelming majority of people who have or may have an infectious disease are anxious to take steps to minimise the risk they pose to others. As a result, most people who have or may have an infectious disease that may pose a serious risk to public health will not be subject to the exercise of the powers conferred by this division.

The relationship between the limitation and its purpose

The ability to require people who have or may have an infectious disease to take measures that would reduce their risk to public health is directly and rationally connected to the purpose of protecting the community from individuals who may pose a serious risk to public health.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

There is no less restrictive alternative available that would achieve the purpose the limitation seeks to achieve.

Conclusion

The limitations on the rights protected by section 10(2) of the charter are reasonably and demonstrably justified in a free and democratic society.

Section 10(c) — right not to be subjected to medical treatment without his or her full free and informed consent

Clauses 113 and 116 limit a person's right not to be subjected to medical treatment without his or her full, free and informed consent because they enable the chief health officer (CHO) to make an order that requires a person to undergo an examination and/or test, and make it an offence to fail to comply with such an order.

Clauses 117 and 120 also limit this right because they enable the CHO to require a person to:

undergo an assessment by a specified psychiatrist or specified neurologist;

receive specified prophylaxis, including a specified vaccination, within a specified period; and

undergo specified pharmacological treatment for the infectious disease.

Reasonableness of the limitation

Nature of the right

The nature of this right is considered above in the context of the overview of the rights engaged by the bill.

Importance and purpose of the limitation

The purpose of requiring a person to undergo a test or examination is to ascertain whether a person has an infectious disease that may constitute a serious risk to public health. Ascertaining whether a person is infected with a particular infectious disease will assist the CHO to make an informed decision about whether a public health order should be made with respect to the person.

The purpose of requiring a person to undergo an assessment by a psychiatrist or neurologist is to ascertain whether a person is suffering co-morbidities that affect the person's ability or willingness to take steps to reduce the risk their infectious disease poses to others. Access to this information will enable the CHO to make an informed decision about the most appropriate way to control the risk that person poses to others.

The purpose of requiring a person to undergo specified pharmacological treatment or receive specified prophylaxis for the infectious disease is to reduce the risk that the person would otherwise pose to public health. It is anticipated that the power to require a person to undergo pharmacological treatment will be predominantly exercised to require people with tuberculosis (TB) to take antituberculosis medication. Individuals with TB who do not adhere to prescribed treatment pose a particularly serious risk to public health, because they are more likely to develop multiple drug resistant TB (MDR-TB) or extensively drug-resistant TB (XDR-TB).

Nature and extent of the limitation

The circumstances in which the CHO can make an examination and testing order or a public health order are clearly specified in the bill. Moreover, when making either order, the CHO will be required to have regard to the principles set out in clauses 111 and 112 as well as part 2 of the bill.

A person who fails to comply with an examination and testing order will be guilty of an offence against the bill and may be fined up to 60 penalty units. Such a person could also be detained for 72 hours at a specified place for the purpose of undergoing the specified examination or test. However, the person could not be physically forced to undergo a test or examination. Similarly, while a person who fails to comply with a public health order will be guilty of an offence and may be fined up to 120 penalty units, that person could not be physically forced to undergo an assessment, or receive prophylaxis or pharmacological treatment.

The relationship between the limitation and its purpose

There is a direct and rational relationship between these limitations on the right not to be subjected to medical treatment without one's full, free and informed consent and the purposes these limitations seek to achieve.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

The Health Act does not enable a person to be required to accept pharmacological treatment for the purpose of reducing the person's risk to public health. The current scheme is therefore less restrictive of a person's right not to be subjected to medical treatment without one's full, free and informed consent. The disadvantage of not having the power to compel a person to receive medical treatment is that in some circumstances it may be necessary to indefinitely detain a person who could be completely cured of the infectious disease.

Other relevant factors

A number of other jurisdictions in Australia authorise a person to be required to accept treatment for an infectious disease (see section 23 of the Public Health Act 1991 (NSW); section 130 of the Public Health Act 2005 (Qld) and section 42 of the Public Health Act 1997 (Tas)).

Conclusion

These clauses limit a person's right not to be subject to medical treatment without his or her full, free and informed consent. Nevertheless, these limitations are reasonable and demonstrably justified in a free and democratic society because of the importance of protecting the community from the spread of infectious diseases; a person cannot be physically forced to receive medical treatment (broadly defined); and the maximum penalty that may be imposed on a person who fails to comply with an examination and testing order or a public health order is a fine rather than a term of imprisonment.

Section 12 — freedom of movement

The making of a public health order may also limit the right to freedom of movement because an individual subject to a public health order may be required to refrain from visiting a specified place or a specified class of place or reside at a specified place of residence at all times or during specified times.

Reasonableness of the limitation

Nature of the right

The nature of this right is considered above in the general overview of the rights engaged by the bill.

Importance and purpose of the limitation

The purpose of limiting the freedom of movement of a person subject to a public health order is to contain the spread of an infectious disease in the community.

Nature and extent of the limitation

While a public health order could potentially significantly restrict a person's freedom of movement, the bill provides that the least restrictive measure that would be effective in minimising the risk to public health should be preferred. A public health order should therefore only limit a person's freedom of movement to the degree necessary to protect public health.

The relationship between the limitation and its purpose

There is a direct and rational relationship between the limitation and the purpose it seeks to achieve.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

As the CHO may only require a person to submit to restrictions on his or her freedom of movement if less restrictive options would not be as effective in minimising the risk that the person poses to public health, there is no less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

Any other relevant factor

The right of a person subject to a public health order to seek review of that order at any time by the CHO or VCAT will assist to safeguard the rights of a person whose freedom of movement is restricted by a public health order.

Conclusion

While clause 117 limits a person's right to freedom of movement, this is reasonable and demonstrably justified in a democratic society because of the importance of containing the spread of infectious diseases and the fact that the bill does not authorise a person's freedom of movement to be restricted if there are less restrictive ways of minimising the person's risk to public health.

Section 13 — privacy and reputation

Clause 117(5) of the bill engages section 13 of the charter because it enables the CHO to require a person who is subject to a public health order to take a range of measures that would interfere with a person's privacy or home. In particular, the CHO may:

> require such a person to inform the CHO or the CHO's nominee if the person changes his or her name or address
>
> reside at a specified place of residence at all times or during specified times
>
> require a person to accept supervision from a person nominated by the CHO. This may include receiving visits from that person at home and providing that person with information relating to any action, occurrence or plan that is relevant to the health risk that the person poses.

Second, registered medical practitioners are required to provide information to the CHO in some limited circumstances regardless of whether their patient consents to the disclosure of this information. Clause 115 requires a registered medical practitioner to provide the results of an examination or test conducted by him or her in accordance with an examination and testing order as soon as reasonably practicable. Clause 119 requires a registered medical practitioner to provide information on request to the CHO for the purposes of deciding whether to make, revoke, vary or extend a public health order. This lawful interference with a person's privacy is reasonable in all the circumstances because it will assist the CHO to make informed decisions.

Clauses 113 and 117 of the bill engage the right not to have one's family unlawfully or arbitrarily interfered with under section 13 of the charter because they enable a person to be detained. However, the circumstances in which a person may be detained are clearly defined and therefore a lawful interference with this right. Moreover, these limitations are reasonable in all the circumstances for the same reasons (which are outlined below) that limitations on the rights protected by section 17 of the charter are demonstrably justified in a free and democratic society.

The power to require a person to undergo a medical examination, test, assessment etc. in clauses 113 and 117 of the bill would interfere with a person's bodily integrity and therefore engage the right to privacy. However, as this interference is authorised by law and is reasonable for the same reasons that the limitation on the right protected by section 10(1)(c) of the charter is reasonable, these powers are considered to be consistent with the rights protected by section 13 of the charter.

Section 15 — freedom of expression

Clause 115 of the bill engages the right to freedom of expression because it requires a registered medical practitioner who conducts an examination or test pursuant to an examination and testing order to provide the results to the CHO and the person subject to the order. The CHO requires this information to assess whether the person poses a risk to public health. This lawful restriction of a medical practitioner's right to freedom of expression is therefore reasonably necessary for the protection of public health. The clause does not limit the rights protected by section 15 of the charter.

Clause 119 of the bill also engages the right to freedom of expression because it requires a registered medical practitioner to provide information requested by the CHO. This information will be used by the CHO for the purpose of deciding whether to make, revoke, vary or extend a public health order. As this information is reasonably necessary for the protection of public health, this clause is also consistent with the rights protected by section 15 of the charter.

Sections 14 and 19 — freedom of thought, conscience, religion and belief and cultural rights

The making of a public health order could restrict an individual's ability to worship in community with others, or to participate in cultural practices and thereby limit the rights protected by sections 14(2) of the charter and 19 of the charter. However, these limitations are reasonable and demonstrably justified in a free and democratic society for the same reasons that the limitation of the right to freedom of movement under a public health order is demonstrably justified.

Section 17 — protection of families

The detention of a person under an examination and testing order or a public health order may interfere with family relationships, particularly if the person is subject to isolation and detention under a public health order for a significant period. Clauses 113 and 117 therefore limit the rights protected by section 17 of the charter.

Reasonableness of the limitation

Nature of the right

The nature of this right is considered above.

The importance of the purpose of the limitation

The purpose of detaining a person or detaining a person in isolation is to protect others from the risk that person poses to public health and thereby contain the spread of infectious diseases in Victoria. The detention of a family member protects others, including other members of the family, from the infectious disease.

The nature and extent of the limitation

A person may not be detained for more than 72 hours under an examination and testing order at the place he or she is to be medically examined or tested. Under clause 114(5) of the bill, the CHO could only detain a person under a further examination and testing order if the CHO believed that since the earlier examination and testing order ceased to have effect, there has been a change in the person's health which presents a new serious risk to public health.

A person could be detained under a public health order for a maximum period of six months, although this period could be repeatedly extended.

Clause 125 of the bill, which requires the CHO to facilitate any reasonable request for communication made by a person subject to detention under an examination and testing order or a public health order, will assist a person detained under this division to maintain his or her relationships with family members during the period he or she is detained.

Relationship between the limitation and its purpose

There is a direct and rational connection between the limitation and its purpose.

Is there a less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve?

There is no less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

Conclusion

The limitations on the rights protected by section 17 of the charter are reasonably necessary and demonstrably justified because of the importance of containing the spread of infectious diseases and the fact that the bill requires the CHO to facilitate any reasonable request for communication made by a person detained under this division.

Section 21 — right to liberty and security of person

Clauses 113, 117 and 123 of the bill engage the rights protected by section 21 of the charter because they specify the circumstances in which a person may be detained or arrested.

Clause 113 enables the CHO to detain a person who fails to undergo a required examination or test. The maximum period a person could be detained at the place he or she is to be tested is 72 hours. Clause 117 of the bill enables a person to be detained under a public health order for a maximum period of six months, although this period could be repeatedly extended.

Clause 123 of the bill sets out how an examination and testing order or a public health order may be enforced. The clause permits police officers to use reasonable force to detain the person subject to an examination and testing order or a public health order and take the person to the place where he or she is required to be under the order. Under clause 123 an authorised officer can apply to the Magistrates Court for a warrant to arrest a person subject to an examination and testing order or a public health order if the authorised officer considers it necessary to enforce the order. A warrant may be issued subject to conditions imposed by the magistrate.

These clauses are consistent with the rights protected by section 21(3) of the charter because they specifically define the circumstances and the procedures by which a person may be arrested or detained.

Clause 113(2) provides that an examination and testing order must be in writing and specify: the purpose of the order; the infectious disease the CHO believes the person has or has been exposed to; and explain why the CHO believes that the person is infected with the infectious disease or has been exposed to the infectious disease in circumstances where a person is likely to contract the infectious disease. Clause 117(3) of the bill is cast in similar terms. Moreover, clause 123 provides that a person who is arrested or detained under clause 123 must be informed why they have been informed or arrested. These clauses are therefore consistent with the rights protected by section 21(4) of the charter.

The bill includes a number of procedural safeguards that will assist in protecting individuals from their continued detention becoming arbitrary. Clauses 114(4) and 118(3) of the bill require the CHO to revoke an examination and testing order and a public health order if the CHO ceases to believe that all of the preconditions for the making of the order apply.

In addition, for people who are detained under a public health order, clause 121 enables a person subject to the order to apply to the CHO for the order to be reviewed at any time it is in force. Clause 122 enables a person subject to a public health order to apply to the Victorian Civil and Administrative Tribunal for a review of the order at any time the order is in force. It is also worth noting that section 148 of the Victorian Civil and Administrative Tribunal Act 1998 enables a party to any proceeding to appeal, on a question of

law, from an order of VCAT in the proceeding to the Supreme Court.

The division is consistent with the rights protected by section 21(7) of the charter because it does not limit the Supreme Court's jurisdiction to review the lawfulness of a person's detention under order 57 of the Supreme Court (General Civil Procedure) Rules 2005.

Clauses 113, 117 and 123 are therefore compatible with the right to liberty and security under section 21 of the charter.

Division 3 — notifiable conditions and micro-organisms

The purpose of division 3 of part 8 is to establish a scheme that requires medical practitioners and people in charge of pathology services to provide information to the secretary about notifiable conditions. The collection of this information will enable the department to continue performing a number of important functions that promote and protect public health, including understanding the prevalence of notifiable diseases within Victoria; identifying and addressing outbreaks of notifiable diseases; and ensuring that people who contract certain infectious diseases are provided with information on ways they can manage their disease and minimise the likelihood of transmitting the disease to others.

Section 13 — privacy and reputation

Clauses 127 and 128 engage the right to privacy because they require registered medical practitioners and people in charge of pathology services to notify the secretary of the 'notification details' in accordance with the regulations or, where applicable, the order in council. The notification details will include 'health information' within the meaning of the Health Records Act.

While these clauses interfere with a person's right to privacy, they do so in a manner that is neither unlawful nor arbitrary. This is because the clauses specify the circumstances in which registered medical practitioners and people in charge of laboratories will have to disclose identifying information about their patients to the secretary. It is also because the department needs this information to perform the functions referred to above, which are directly relevant to promoting and protecting public health in Victoria. As the collection of this information is reasonable in all the circumstances, these clauses do not permit arbitrary interferences with a person's right to privacy.

Section 15 — freedom of expression

Clauses 127, 128 and 130 engage the right to freedom of expression because they impose obligations on registered medical practitioners, people in charge of pathology services, and the proprietors of food premises or food-vending machines to notify the secretary of certain information in the circumstances specified by these clauses.

For the reasons discussed above, these minor restrictions on the right to freedom of expression are reasonably necessary for the protection of public health, and therefore fall within the scope of section 15(3) of the charter. As a result, these clauses are consistent with the rights protected by section 15 of the charter.

Division 4 — HIV and other prescribed diseases

This division has two key purposes — to ensure that people who are tested for HIV or a prescribed disease receive pre and post-test counselling, and to enable courts and tribunals to take measures to protect people from the economic and social consequences of the disclosure during court or tribunal proceedings of any matter relating to HIV or any other prescribed disease.

Section 15 — freedom of expression

Clause 131 engages the right to freedom of expression because it compels expression by imposing an obligation on registered medical practitioners not to carry out a test or authorise the carrying out of a test for HIV or a prescribed disease unless the registered medical practitioner is satisfied that prescribed information has been given to a person. It is anticipated that regulations will be made that require that people who are to be tested are provided with information about the medical and social consequences of being tested.

Clause 132 of the bill also engages the right to freedom of expression because it imposes an obligation on registered medical practitioners or persons of a prescribed class to ensure a person has been given prescribed information before telling that person the results of their test. It is anticipated that the regulations will be made that require the person to be given information about the medical and social consequences of being infected with HIV or a disease prescribed for the purposes of this division, and steps that the patient can take to minimise the risk of transmitting the disease to others.

These clauses are minor restrictions of the right to freedom of expression. They are also reasonably necessary for the protection of public health and are therefore consistent with the rights protected by section 15 of the charter.

Section 24 — fair hearing

Clause 133 of the bill engages the right to a public hearing and the right to public pronouncement of judgements and decisions because it enables a court or tribunal to order that:

> the whole or any part of the proceedings be heard in closed session;
>
> only specified persons be present during the whole or part of the proceedings; or
>
> the publication of a report of the whole or any part of the proceedings, or of any information derived from the proceedings, is prohibited.

A court or tribunal may make such an order if evidence is proposed to be given of any matter relating to HIV or any other prescribed disease and the court or tribunal considers that, because of the social or economic consequences to a person if the information is disclosed, an order should be made.

To the extent that clause 133 limits the right to a public hearing and to the public pronouncement of all courts and tribunals, the limitations fall within the scope of the exceptions to these rights set out in section 24(2) and (3) of the charter. Clause 133 is therefore consistent with section 24 of the charter.

Division 5 — orders for tests

The purpose of this division is to promote the occupational health and safety of certain 'caregivers' (such as medical practitioners and nurses) and 'custodians' (such as police officers) who are exposed to blood or other body fluids during the course of their work and may therefore have contracted a specified infectious disease. In this context, 'specified infectious disease' means HIV, any form of hepatitis which may be transmitted by blood or body fluids, and any infectious disease that has been prescribed to be a specified infectious disease (see clause 3).

While the risk of acquiring HIV or hepatitis following occupational exposure to contaminated blood is low, such an incident may cause significant distress to the relevant person and his or her family. Knowing whether the person who was the source of the exposure (the source) has a specified infectious disease can minimise the anxiety of the exposed person as well as inform decisions about the person's medical treatment (see post-exposure prophylaxis to prevent HIV infection joint WHO/ILO guidelines on post-exposure prophylaxis to prevent HIV infection, World Health Organisation, 2007). For these reasons, the source of an occupational exposure is routinely asked to provide their informed consent to be tested for HIV and various types of hepatitis. Consent to be tested is usually provided in these circumstances.

The purpose of this division is to provide a framework for obtaining information about whether the source has a specified infectious disease in those rare circumstances where that person is unable or refuses to consent to be tested for a specified infectious disease.

Section 10 — right not to be subjected to medical treatment without consent

Clauses 134 and 137 limit the right protected by section 10(1)(c) of the charter because they enable the CHO and a senior medical officer (SMO) to require a person to be tested for a particular infectious disease without that person's consent.

Clauses 135 and 137 also limit the right protected by section 10(1)(c) of the charter because they enable the CHO or an SMO respectively to authorise the testing of a sample from a person that has been taken for any purpose without that person's consent.

Reasonableness of the limitation

Nature of the right

The nature of this right is considered above in the general overview of the nature of the rights protected by the charter.

Importance of the purpose of the limitation

Knowledge of whether the source is infected with a specified infectious disease is valuable for three reasons. First, it helps the exposed person and their medical practitioner to accurately assess the risk of the exposed person contracting a specified infectious disease. If the test results show that the source is not infected with a specified infectious disease this will significantly alleviate the exposed person's anxiety.

Second, knowledge of the source's HIV status will help the exposed person to make an informed decision about whether he or she should commence or continue taking post-exposure prophylaxis to minimise the risk of contracting HIV (HIV-PEP). A study conducted by the US Centres for Disease Control (CDC) found that the administration of zidovudine to health care workers occupationally exposed to HIV was associated with an 80 per cent reduction in the risk for occupationally acquired HIV infection (see HIV post-exposure prophylaxis guidance from the UK Chief Medical Officers Expert Advisory Group on AIDS, Department of Health, 2004 at 5). Unfortunately, HIV-PEP causes a number of unpleasant side-effects and must usually be taken for 28 days. If the source of the exposure is not infected, it would usually be unnecessary for the exposed person to continue the course of HIV-PEP.

Third, if the source is infected with HIV, information about the virus present in the person (such as information about antiretroviral drug resistance) will be relevant to the decision of which HIV-PEP drugs are most likely to prevent the exposed person from contracting HIV.

Nature and extent of the limitation

Clause 134 enables the CHO to make an order that requires a person to be tested for a particular disease and to provide a sample of blood or urine for that purpose. This power may only be exercised if the making of the order is necessary in the interest of rapid diagnosis and clinical management and, where appropriate, treatment for any of those involved in the incident. If a magistrate is satisfied that the circumstances are exceptional, a Magistrate may make an order that authorises a member of the police force to use reasonable force to enforce the order.

Clause 137 enables an SMO to make a similar order with respect to an incident relating to the health service where the SMO works. However, an order made under clause 137 of the bill cannot be enforced by a member of the police force.

The powers conferred on the CHO and SMOs to test a sample of a person that has been taken for another purpose is less of a restriction on the rights protected by section 10(1)(c) of the charter but are nevertheless inconsistent with the right not to be subjected to medical treatment without having provided one's full, free and informed consent.

Relationship between the limitation and its purpose

There is a direct and rational relationship between the limitations and their purpose.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

A less restrictive means available to achieve the purpose of the limitation in clause 134 would be to make it an offence for a person to fail to comply with an order made under the clause, but not enable the order to be enforced by use of reasonable force. However, this measure is considered inadequate because there may occasionally be people who refuse to comply with the order.

There are no less restrictive means reasonably available to achieve the purpose of the limitations in clauses 134 and 137 of the bill.

Other relevant factors

People who are the source of an occupational exposure are usually willing to consent to being tested for HIV and other blood-borne diseases. As a result, it is anticipated that this power will be rarely exercised.

Conclusion

The limitations of this right are considered reasonable in all the circumstances because of the importance of promoting and protecting the occupational health and safety of those who are at increased risk of contracting a specified infectious disease during the course of their work.

Section 13 — privacy and reputation

In broad terms, clauses 134–137 interfere with a person's right to information privacy because they enable information about the health status of the source to be collected, used and disclosed without that person's consent. Clause 134 also interferes with a person's bodily privacy because it enables the chief health officer to make an order that requires a person to submit to a blood or urine test and permits a magistrate to authorise a member of the police force to use reasonable force to enable a registered medical practitioner to take a sample.

Clauses 135 and 137 of the bill engage the right to privacy because they enable the CHO or an SMO to make an order that authorises the testing of a sample provided by a person for any purpose for a specified infectious disease without the person's consent. These powers are only available if the CHO could have made an order with respect to the same person under clause 134 of the bill and obviate the need for the person to provide a further sample.

Clause 136 engages the right to privacy because it enables the CHO to examine any relevant health information held by the Department of Human Services that relates to the person as well as require a health service provider to give the CHO any relevant health information held by the health service provider relating to that person. The clause creates a means by which the CHO may be able to obtain information about the source that is less intrusive than requiring the person to provide a sample. The clause includes several safeguards that are designed to reduce the risk of this information being used for unrelated secondary purposes. First, the CHO may only use relevant health information obtained under subclause (1) for the purposes of this division. Second, subclause (3) limits the circumstances in which information collected under subclause (1) may be disclosed. Importantly, information collected under subclause (1) is not admissible in any action or proceedings before a court, tribunal, board, agency or other person.

Clause 140 of the bill minimises the extent of these interferences with a person's right to privacy in two ways. First, the clause prohibits any of the persons to whom the disease could have been transmitted and who have received notice of the test results from disclosing, communicating or recording anything in those results that would identify that other person. The penalty for this offence is 60 penalty units. Second, the clause prohibits the CHO or a senior medical officer including information that would identify the person tested when informing a relevant person of the results of a test performed under this division.

While these clauses interfere with a person's right to information privacy, they would not authorise an interference that is unlawful or arbitrary. This is because any interference would be reasonable in the particular circumstances and the clauses adequately specify the circumstances in which these interferences may occur.

Clause 134 also engages a person's right to bodily privacy because it enables a magistrate to authorise a member of the police force to use reasonable force to enforce the order made by the chief health officer. Clause 134 provides that a magistrate may only make an order that authorises the use of force if the magistrate is satisfied by evidence that the circumstances are so exceptional that the making of the order is justified. The clause is consistent with section 13 of the charter because the use of force is authorised by law and is reasonable in the circumstances for the same reasons that the limitation on a person's right not to be subjected to medical treatment without one's consent is a reasonable limitation of that right.

Section 15 — freedom of expression

Clause 136(1)(b) of the bill engages the right to freedom of expression because it enables the CHO to require a health service provider to give the CHO any relevant health information held by the service provider with respect to a person in the circumstances specified by the bill. The CHO may only exercise this power if the CHO believes that the circumstances exist for the making of an order under clause 134 of the bill. The purpose of requiring a health service provider to disclose this information to the CHO is to ensure that people are not unnecessarily required to undergo tests pursuant to orders made under clause 134 of the bill.

Clause 139 of the bill also engages the right to freedom of expression because it requires a pathologist or registered medical practitioner who conducts a test under an order or authorisation to give the results to either the CHO or SMO. The clause also requires the CHO or SMO to give notice of the results to the person tested and the 'appropriate person'. These requirements are necessary in order to achieve the objectives of the division.

As these restrictions are reasonably necessary for the protection of public health, clauses 137 and 139 are consistent with the rights protected by section 15 of the charter.

Clause 140(1) restricts the right to freedom of expression because it prohibits a person who receives a notice of the results of the test on another person from disclosing anything in those results that would identify that other person. Clause 140(2) also restricts the right to freedom of expression because it imposes an obligation on the CHO and an SMO not to include information that would identify the person tested when advising a person of the test results for the source. These restrictions on the right to freedom of expression are reasonably necessary to protect the privacy of the source, and therefore come within the exception to the right to freedom of expression contained in section 15(3)(b) of the charter. The clause is therefore consistent with the rights protected by section 15 of the charter.

Section 21 — right to liberty and security of person

Clause 134 engages section 21 of the charter because it enables a magistrate to authorise a member of the police force to take the person named in the order to a specified place. A magistrate may also authorise a member of the police force to use reasonable force to restrain that person so as to enable a

registered medical practitioner to take a sample if the person fails to cooperatively submit to the test.

The clause specifically defines the circumstances in which an order may be made and provides that an order does not have effect until it is served on the person who is subject to it. The clause does not limit the Supreme Court's jurisdiction under order 57 of the Supreme Court (General Civil Procedure) Rules 2005. The clause is therefore consistent with the rights protected by section 21 of the charter.

Division 7 — immunisation

The purpose of this division is to require parents of children who attend primary schools to give an immunisation status certificate (ISC) in respect of each vaccine-preventable disease to the person in charge of the relevant primary school. Clause 238(1)(z) of the bill will enable the Governor in Council to make regulations that prevent a child who has not been vaccinated against a particular vaccine-preventable disease from attending school during an outbreak of that infectious disease.

Section 13 — privacy and reputation

Clause 145 engages the right to privacy because it requires the parents of a primary school child to give an ISC in respect of each vaccine-preventable disease to the person in charge of the primary school their child attends. The information may be used by the person in charge of a primary school when making decisions about whether a child should be temporarily excluded from school during the outbreak of an infectious disease in order to minimise the risk of the child becoming infected. This lawful interference with a child's privacy is necessary to protect children who have not been immunised against vaccine-preventable diseases, and is therefore consistent with section 13 of the charter.

Section 15 — freedom of expression

Clause 145 restricts a parent's right to freedom of expression because it requires parents to provide information about their child's immunisation status to their child's school. For the reasons outlined above, this limitation is reasonably necessary for the protection of public health and therefore falls within the scope of section 15(3) of the charter.

Division 8 — blood and tissue donations

This division extends a scheme of statutory defences to actions brought on or on behalf of a person who claims to have been infected with HIV, hepatitis C or a prescribed disease because he or she was given blood, blood products or tissue donated by another person. The purpose of the division is to help maintain the viability of the Australian Red Cross Society and to encourage those who regularly donate or are considering donating blood in good faith to continue doing so.

Section 13 — privacy and reputation

The division engages an individual's right to privacy because the society or a health society must ensure that potential donors complete a statement in the approved form in order to have the benefit of a statutory defence against legal action (see clauses 151 and 152 and schedule 1 to the bill). The approved form will ask potential donors to answer various questions directed at assessing the risk of the person's blood being contaminated with an infectious disease.

The statement is the first step in a two-step screening process of blood donors (the second step is the testing of a sample of the donor's blood). It is not sufficient to rely on testing alone because:

> infection with some contaminants involves a window period. In the window period, the virus may be present in the blood, but not detectable by available tests;
>
> of the possibility of new variants of known viruses developing which may not currently be detectable;
>
> of the possibility of human error in carrying out the tests which cannot be entirely eliminated; and
>
> tests are not always 100 per cent effective, especially when first developed in response to an emerging disease (see *Review of the Human Tissue Act 1983 Report — Blood Donation and the Supply of Blood and Blood Products*, April 2002, NSW Health at 30).

Requiring people who wish to donate blood or tissue to provide the information that is needed to assess the risk of their blood or tissue being contaminated is reasonable in all the circumstances and therefore does not arbitrarily interfere with a person's right to privacy. Moreover, the approved form will specify the information that is to be collected about potential donors, and therefore provides a lawful basis for the handling of this information about the donor. The clauses in this division are therefore considered to be consistent with section 13 of the charter.

Section 15 — freedom of expression

Clause 155 of the bill engages the right to freedom of expression because it prohibits relevant persons from making a statement that is false in a material particular.

The purpose of this restriction on a person's freedom of expression is to minimise the risk of a person contracting an infectious disease as a result of receiving contaminated blood, blood products or tissue. This lawful restriction on a person's right to freedom of expression is therefore reasonably necessary for the protection of public health and falls within the scope of section 15(3) of the charter.

Division 9 — autopsies

The purpose of this division is to enable the CHO to order an autopsy to be performed for the purpose of ascertaining whether there is a serious risk to public health.

Sections 8, 14 and 19 — equality before the law, freedom of religion and belief and cultural rights

The conduct of an autopsy may interfere with a person's right to exercise his or her religious beliefs (see the Human Rights and Equal Opportunity Commission's report entitled *Article 18 — Freedom of Religion and Belief*, 1998 at pp 45–46). Clause 156 could therefore be considered to limit the rights protected by sections 8, 14 and 19 of the charter. The clause may also discriminate against a person on the basis of religious belief, one of the attributes in respect of which discrimination is unlawful under section 6 of the Equal Opportunity Act and therefore limits the right protected by section 8 of the charter.

Reasonableness of the limitation

Nature of the right

The nature of these rights is discussed above in the context of the general overview of the rights protected by the charter.

Importance and purpose of the limitation

It may very occasionally be necessary to conduct an autopsy on a body for the purpose of verifying whether the person's death was caused by an infectious disease that may pose a serious risk to public health. This information would assist the CHO to decide whether it is necessary to take other measures to minimise or prevent the spread of an infectious disease. It may also be necessary to require an autopsy to be conducted on the body of a person who is suspected to have died from an emerging infectious disease to enable medical practitioners to learn more about the nature of the disease.

The nature and extent of the limitation

The conduct of an autopsy may cause significant distress to the family members of the deceased person because it is contrary to their religious beliefs. However, the bill only permits an autopsy to be conducted in very limited circumstances which are specified by the bill.

The relationship between the limitation and its purpose

There is a direct and rational connection between the need for an autopsy in certain cases and the purpose of minimising or preventing the spread of an infectious disease. If the deceased's family strongly objects to the conduct of an autopsy on the body the senior next of kin may apply for an order from the Supreme Court that the autopsy not be performed in the circumstances. In the context of autopsies performed under the Coroners Act 1985, the Supreme Court has attached considerable weight to the religious and cultural beliefs of the deceased person's family (see *Green v. Johnstone* [1995] 2 VR 176 at 179).

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

There is no less restrictive means available to achieve the purpose the limitation seeks to achieve because in some circumstances the conduct of an autopsy will be the only way to ascertain whether the person died from a particular infectious disease that may pose a serious risk to public health.

Conclusion

Given that the bill would only enable the CHO to require an autopsy to be conducted in very limited circumstances, and that the deceased's senior next of kin may challenge the CHO's decision to require an autopsy to be conducted, the manner in which clause 156 limits the rights protected by sections 8, 14 and 19 of the charter can be demonstrably justified in a free and democratic society.

Division 10 — brothels and escort agencies

The purpose of division 10 is to require brothels and escort agencies to take a range of measures designed to minimise the risk to sex workers and their clients of contracting infectious diseases.

Section 15 — freedom of expression

Clause 162 engages the right to freedom of expression because it requires brothel proprietors to provide medically accurate information about the transmission of sexually transmitted infections in a range of languages to clients and sex workers. Where a sex worker has difficulty in communicating in English, the clause requires proprietors of brothels and escort agencies to provide information in a language with which the sex worker is familiar.

Clause 159 also engages the right to freedom of expression because it prohibits proprietors from expressly or impliedly discouraging the use of condoms in the brothel or in any encounter arranged through the escort agency. The purpose of this clause is to minimise the spread of sexually transmitted diseases in the community.

The bill makes it an offence for an escort agency proprietor or a brothel proprietor not to comply with these obligations. The maximum penalty that may be imposed for one of these offences is a modest fine ranging between 10 and 60 penalty units.

As each of the minor restrictions on the right to freedom of expression referred to above is designed to contain the spread of sexually transmitted diseases in the community, they are considered to be reasonably necessary for the protection of public health within the meaning of section 15(3) of the charter. As a result, each of these clauses is consistent with section 15 of the charter.

Part 9 — authorised officers

Part 9 sets out the powers and obligations of authorised officers with respect to investigating and managing risks to public health, as well as monitoring compliance with the bill and regulations made under it.

Section 11 — freedom from forced work

Consideration was given to whether clause 176 engages the right to freedom from forced work because it enables authorised officers to require a person to operate equipment to access information from that equipment. Requiring a person to operate equipment would form part of that person's normal civil obligations and would not be considered to amount to 'forced or compulsory labour'. The clause therefore does not engage section 11 of the charter.

Section 13 — privacy and reputation

Clauses 166–170 and 175–176 engage the rights protected by section 13(a) of the charter.

Obligation to provide information

Clause 166 engages the right to privacy because it requires authorised officers to produce their identity cards for inspection when exercising their statutory powers. The card will display the name, photograph and signature of the authorised officer (see clauses 29–30). This requirement does not arbitrarily interfere with the privacy of authorised officers because the requirement is designed to ensure authorised officers are accountable for the way they exercise their powers and functions, and is therefore reasonable in the circumstances.

Clause 167 engages the right to privacy because it enables an authorised officer to request a person to provide information (including information about an identifiable person) that the authorised officer believes is necessary to investigate, manage or control a risk to public health. The clause requires authorised officers to inform the person at the time of making the request that he or she may refuse to provide the information requested.

Entry of premises

Clauses 168–170 engage the right not to have one's privacy or home unlawfully or arbitrarily interfered with because they permit authorised officers to enter premises, including residential premises, in specified circumstances.

Clause 168 permits an authorised officer to enter residential premises with the consent of the occupier for the purpose of investigating whether there is a risk to public health or to manage or control a risk to public health.

Clause 169 allows authorised officers to enter premises without the occupier's consent in three circumstances. First, an authorised officer can enter any premises that he or she believes is being used for one of the purposes specified by the clause (such as the provision of prescribed accommodation) provided that it is a reasonable hour during the daytime or the premises is open to the public. Second, an authorised officer may enter premises at any time if it is necessary to investigate, eliminate or reduce an immediate risk to public health. Third, an authorised officer may enter any premises at any time if a warrant has been issued. Clause 170 specifies the circumstances in which a warrant could be issued.

Division 3 of part 9 requires authorised officers to comply with various procedures (such as announcing who they are) when entering premises that are designed to ameliorate the intrusiveness of these powers. Where an authorised officer enters a residential premises without a warrant, the authorised officer must comply with clause 187 of the bill.

Clause 175 sets out the powers authorised officers may exercise where they have entered premises under the powers conferred by the bill. They include the power to inspect, examine, seize, photograph or do any other thing that is reasonably necessary for the purpose of exercising a function or power under the act or the regulations. An authorised officer who enters any premises under clause 169 can also direct a person at the premises to do certain things, including answering questions or producing documents (clause 176). As these powers might be exercised with respect to residential premises they engage section 13 of the charter.

Clause 185 provides an important safeguard against the misuse of the powers conferred upon authorised officers because it allows anyone to complain about the exercise of these powers to the secretary (if the authorised officer was appointed by the secretary) or the relevant council (if the authorised officer was appointed by the council). The secretary or the council is required to investigate any such complaint, and to provide a written report to the complainant on the results of the investigation.

Clauses 166–170 and 175–176 enable authorised officers to investigate risks to public health, take measures to alleviate those risks and monitor whether businesses conducted at certain premises are being conducted in accordance with requirements imposed by the bill and the regulations made under it. The conferral of these powers on authorised officers is reasonable in the circumstances and does not arbitrarily interfere with an individual's rights protected by section 13(1) of the charter. Moreover, the clauses adequately specify the circumstances in which interferences with these rights may be permissible. The above clauses are therefore consistent with section 13 of the charter.

Section 15 — freedom of expression

Clause 176 engages the right to freedom of expression because it enables authorised officers who have entered premises for the purpose of monitoring compliance with the bill or investigating a possible contravention of the bill to require a person to answer questions and to produce documents located at the premises that are in the person's possession or control. Before directing a person to produce such a document or to answer questions, an authorised officer must warn the person that failure to comply with the direction without reasonable excuse is an offence, and inform the person that he or she may refuse to answer any question if answering would tend to incriminate him or her. The maximum penalty that may be imposed on an individual who fails to comply with the direction is 60 penalty units.

Clause 184 could also be considered to engage the right to freedom of expression because it prohibits a person who is not an authorised officer from holding himself or herself out to be an authorised officer. The maximum penalty that may be imposed for this offence is 60 penalty units.

It is reasonably necessary for the protection of public health that authorised officers have the power to require people at regulated premises to assist them when they are monitoring compliance with the bill or possible contraventions of the bill. It is also reasonably necessary for the protection of public health that people who are not authorised officers are deterred from misrepresenting their status. As these restrictions on the right to freedom of expression come within the scope of section 15(3) of the charter, these clauses are consistent with the rights protected by section 15(1) of the charter.

Section 20 — property rights

The charter provides that a person must not be deprived of his or her property other than in accordance with law. Clauses 175, 178, 179, 181 and 182 variously authorise the seizure, forfeiture and disposal of things in circumstances where owners cannot be found, where there is a risk to public health or the things are required as evidence or to prevent the commission of an offence. Deprivation of property in these circumstances would be in accordance with a lawful exercise of statutory power and for a specified purpose and is compatible with section 20 of the charter.

Part 10 — protection and enforcement provisions

The purpose of division 1 is to enable the chief health officer with the assistance of authorised officers to swiftly and effectively respond to a wide range of risks to public health. Division 2 enables improvement and prohibition notices to be issued and thereby provides a means of remedying risks to public health. Division 3 creates a legal framework that will enable Victoria to rapidly and effectively respond to a public health emergency such as an influenza pandemic.

Section 13 — privacy and reputation

Clause 188 engages the right to privacy because it enables the CHO to require a person to provide information which the CHO believes is necessary to investigate whether there is a risk to public health or to manage or control a risk to public health. The clause safeguards the rights of an individual by requiring the CHO to warn the person that a refusal or failure to comply with the direction without reasonable excuse is an offence and advise the person that they can refuse to provide the information if it would tend to incriminate him or her.

Clause 190 engages the right not to have one's privacy or home unlawfully or arbitrarily interfered with because it enables an authorised officer, in very limited circumstances specified by the bill, to require a person to:

provide their name and address;

provide information needed to investigate, eliminate or reduce the risk to public health; and

enter and inspect any premises (including parts of residential premises) without a warrant if the authorised officer reasonably believes there may be an immediate risk to public health and that entry is necessary to enable the authorised officer to investigate, eliminate or reduce the risk.

These clauses do not allow a person's privacy to be unlawfully interfered with because they specify the circumstances in which the powers may be exercised. Moreover, to the extent that these clauses permit an interference with a person's rights under section 13 of the charter, the interference is reasonable in the circumstances because they enable the CHO and authorised officers to investigate risks to public health. These clauses are therefore compatible with section 13 of the charter.

Section 12 — freedom of movement

Clause 190(1)(b) engages the right to freedom of movement because it enables an authorised officer to direct a person or group of persons not to enter or to leave any particular premises.

Clause 200(1) of the bill also engages the right to freedom of movement because it enables an authorised officer, in narrowly defined circumstances, to restrict the movement of any person or group of persons within the emergency area and to prevent any person or group of persons from entering the emergency area.

Reasonableness of the limitation

Nature of the right being limited

The nature of this right is considered in the overview of the rights protected by the charter that are engaged by the bill.

Importance of the purpose of the limitation

It may be necessary to exercise the power conferred by clause 190(1)(b) of the bill in two circumstances. First, it may be necessary for an authorised officer to direct people not to enter particular premises to prevent them from hindering efforts to eliminate or reduce the risk the premises poses to public health. Second, it may be necessary to exercise the power to restrict people's exposure to a substance that may pose a risk to public health.

The purpose of the limitation in clause 200 is to control the movement of persons during a state of emergency which may help to contain the emergency. It may be necessary to exercise this power, for example, if there were an outbreak in a geographically confined area of a highly infectious disease that caused unusually severe illness in order to slow the spread of that disease.

Nature and extent of the limitation

The making of a direction under clause 190(1)(b) is likely to only temporarily interfere with a person's freedom of movement. Clause 190(5) provides that a person may be directed to remain at a particular premises for a period no longer than 4 hours. Such a direction may be extended as many times as is reasonably necessary for the purposes of investigating, eliminating or reducing the risk to public health, but not so as to exceed a continuous period of 12 hours (see clause 190(6)). The maximum penalty that could be imposed on a natural person who failed to comply with a direction given under clause 190(1)(b) is 120 penalty units (see clause 193).

Clause 200 of the bill limits the right more significantly because it permits a person's or group of person's freedom of movement to be constrained for a maximum period of six months. The maximum penalty that could be imposed on a person who failed to comply with a direction given under clause 200 of the bill is 120 penalty units (see clause 203).

Relationship between the limitation and its purpose

There is a direct and rational relationship between the limitation and the purpose it seeks to achieve.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

There may not be a less restrictive means reasonably available in a particular circumstance to achieve the purpose the limitation seeks to achieve.

Conclusion

The limitations contained in clauses 190 and 200 of the bill are compatible with the charter even though they limit the right to freedom of movement because the limitations are reasonable and proportionate in the circumstances.

Sections 14 and 19 — freedom of thought, conscience, religion and belief and cultural rights

The exercise of the emergency powers conferred by clause 200 of the bill could restrict an individual's ability to worship in community with others, and thereby limit the rights protected by sections 14(2) and 19 of the charter. However, these limitations are reasonable and demonstrably justified in a free and democratic society for the same reasons that the limitation of the right to freedom of movement during a state of emergency is demonstrably justified.

Section 15 — freedom of expression

Clause 188 of the bill engages the right to freedom of expression because it requires a person to provide information that the chief health officer believes is necessary to investigate

whether there is a risk to public health. Clause 190 also engages the right to freedom of expression because it permits authorised officers exercising public health risk powers to require people to provide information.

These lawful restrictions on the right to freedom of expression are reasonably necessary for the protection of public health, and therefore come within the scope of section 15(3) of the charter.

Section 16 — freedom of assembly and freedom of association

Clause 200(1) limits the right to freedom of assembly because a person or group of people could be prevented from entering or leaving an emergency area as well as moving within the emergency area. These restrictions on the right to freedom of assembly are demonstrably justified in a free and democratic society for the same reasons that these limitations on the right to freedom of movement are demonstrably justified.

Section 20 — property rights

Clause 190 engages the right to property because authorised officers are permitted to close premises for the period of time reasonably necessary to investigate, eliminate or reduce the risk to public health. The clause also permits authorised officers to require the destruction or disposal of things if this is necessary to eliminate or reduce the risk to public health.

Clause 190 specifies the circumstances in which interferences with a person's property will be permissible. The provision is not arbitrary because the power may only be exercised by authorised officers acting in circumstances where the chief health officer believes that is necessary to investigate, eliminate or reduce a risk to public health. Deprivation of property in these circumstances would be in accordance with a lawful exercise of statutory power and is compatible with section 20 of the charter.

Section 21 — right to liberty and security of person

Clause 190 engages the right to liberty because it enables a person to be directed to remain at particular premises for up to 4 hours (although this direction could be repeatedly extended for up to 12 hours if this were reasonably necessary for the purpose of investigating, eliminating or reducing the risk to public health). Clause 200 also engages the right to liberty because it allows a person or group of persons to be detained in the emergency area for a period no longer than is reasonably necessary to eliminate or reduce a serious risk to public health. Both clauses are consistent with the rights protected by section 21(3) of the charter because they specifically define the circumstances in which a person may be detained.

Clause 200 minimises the risk of a person's detention becoming arbitrary by requiring an authorised officer to review whether the continued detention of the person is necessary to eliminate or reduce a serious risk to public health at least once every 24 hours. An authorised officer who decides to detain a person or continue that person's detention must notify the CHO of that fact. The notification must include the name of the person detained and briefly explain why the person has, or continues to be, subject to detention. The CHO must then inform the Minister for Health of any notice he or she has received.

Neither clause limits the Supreme Court's jurisdiction to review the lawfulness of a person's detention under order 57 of the Supreme Court (General Civil Procedure) Rules 2005.

Both clauses require a person who is detained to be informed of the reason for their detention (see clauses 190(2) and (3) and 200(3)) unless it is not practicable to do so in the particular circumstances. These clauses are therefore consistent with section 21(4) of the charter.

Section 25 — rights in criminal proceedings

Clause 197(7) engages the right to be presumed innocent until proved guilty according to law. This offence arises after proceedings in the Magistrates Court in relation to improvement or prohibition notices to address a nuisance, where there has been a failure to comply or where the nuisance is likely to recur. If the Magistrates Court has made an order, clause 197(7) makes it an offence for a person to fail to comply with the order unless in seeking to comply with the order they have exercised due diligence. This places a legal burden on the defendant with respect to the exception to the offence.

Reasonableness of the limitation

Nature of the right

The nature of this right is discussed above in the general overview of the nature of the rights engaged by the bill.

Importance of the purpose of the limitation

The purpose of the limitation is to protect public health by providing a mechanism for ensuring compliance with an order made by the Magistrates Court. The offence only arises where less coercive measures have failed to achieve the desired outcome of abating a nuisance.

Nature and extent of the limitation

As knowledge of the measures the defendant has taken to comply with the order will be peculiarly within the defendant's knowledge, it would be relatively easy for the defendant to prove, on the balance of probabilities, that he or she has exercised due diligence in seeking to comply with the order. It should also be noted that the clause places the legal burden with respect to the elements of the offence on the prosecution, and that the maximum penalty for this offence is a fine rather than a term of imprisonment.

Relationship between the limitation and its purpose

The imposition of a legal burden with respect to the defence of exercising due diligence in seeking to comply with the order is intended to secure compliance with the order made by the Magistrates Court. There is a direct relationship between the limitation and its purpose.

Any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve

It is necessary to structure the offence in this way because evidence of the steps the defendant has taken to comply with the order will be in the possession of the defendant rather than the prosecution (see *R v. Wholesale Travel Group* [1991] 3 SCR 154). There is therefore no less restrictive means reasonably available of achieving the purpose the limitation seeks to achieve.

Conclusion

The limitation is compatible with the charter because, even though it limits the right to the presumption of innocence, the limitation is reasonable and proportionate.

Part 11 — general provisions

Part 11 of the bill deals with a range of matters that affect how the bill is to be interpreted and implemented. It includes several mechanisms that will assist to safeguard the rights of individuals who are affected by the exercise of certain powers conferred by the bill.

Section 13 — privacy and reputation

Clause 229 engages the right not to have one's privacy or home unlawfully or arbitrarily interfered with because it permits specified people to enter onto any land, including residential premises, to take actions necessary to ensure compliance with a direction, requirement, or notice. This interference with a person's rights protected by section 13 of the charter is reasonable because the power is only available in circumstances where less intrusive interventions have not resulted in the person complying with the direction, requirement or notice. It should also be noted that the general restriction on entry to residential premises set out in clause 187 applies to the exercise of these powers. The circumstances in which the powers may be exercised are defined in detail by the clause. For these reasons clause 229 of the bill does not authorise unlawful or arbitrary interferences with a person's right to privacy or home, and is therefore consistent with section 13 of the charter.

Section 15 — freedom of expression

Clauses 210 and 261 (which will insert a provision in the Food Act that is almost identical to clause 210) engages the right to freedom of expression by prohibiting a person from:

> giving false or misleading information to the secretary, a council, the chief health officer or an authorised officer;
>
> making a false or misleading entry in a document required to be kept; or
>
> under the act or regulations.

For example, a person must not intentionally or negligently produce a document under the bill that is false or misleading in a material particular, without indicating the respect in which it is false or misleading and if practicable providing the correct information.

Clauses 211 and 261 (which will insert a provision in the Food Act that is identical to clause 211) provide that a person must not, without lawful authority, destroy or damage any record required to be kept in accordance with the bill or regulations made under the bill.

The purpose of these clauses is to maximise the effectiveness of the regulatory regime provided by the bill and thereby contribute to the protection of public health. The clauses lawfully restrict the right to freedom of expression to a degree reasonably necessary to protect public health, and are therefore consistent with section 15 of the charter.

Section 20 — property rights

Clauses 228 and 229 could be considered to engage the right not to be deprived of property other than in accordance with law. The clauses enable action to be taken to ensure compliance with a direction, requirement or notice issued in relation to a public health risk power (clause 190) or emergency power (clause 200), and for reasonable costs incurred to be recovered. For example, this might include entry onto land to decontaminate an area and recovering the expenses, such as removing lead-contaminated soil that is posing a risk to public health.

The clauses enable risks to public health (to which the relevant direction, requirement or notice related) to be remedied, following failure of a person to do so. The clauses specify the circumstances in which non-compliance with directions, requirements or notices may be addressed. The clauses confine cost recovery to 'reasonable costs' as defined. The debt remains a charge on the relevant land until recovered through a court of competent jurisdiction.

It is noted that the directions or requirements to which the clauses apply are made under part 10, following an authorisation of the chief health officer. Such an authorisation can only be made where the chief health officer believes that the authorisation was necessary to address a public health risk (see clauses 189 and 199). If a direction or requirement made in relation to a state of emergency (either under an emergency power or public health risk power) was authorised on insufficient grounds, a person who suffers loss may seek compensation (clause 204).

As the engagement with property rights is neither unlawful nor arbitrary, the clauses do not limit section 20 of the charter.

Section 24 — fair hearing

Division 1 of part 10 promotes the right to fair hearing in relation to the creation of specified review and appeal rights arising under part 6, part 7 and part 10 of the bill.

Section 25 — rights in criminal proceedings

Clauses 210 and 261 engage the right to be presumed innocent until proved guilty according to law because they place a legal burden on the accused with respect to the only available defence. The clauses, which are cast in identical terms, prohibit a person from giving information, making a statement, or producing a document that is false or misleading in a material particular. It is a defence for the accused to prove that at the time the offence was committed he or she believed on reasonable grounds that the information was either true or not misleading.

Reasonableness of the limitation

Nature of the right

The nature of this right is discussed above in the general overview of the nature of the rights engaged by the bill.

Importance of the purpose of the limitation

The purpose of the limitation is to protect public health by deterring people who might otherwise be tempted to provide false or misleading information, statements or documents under either the bill or regulations made under it or the Food Act. The provision of false or misleading information to the

CHO or an authorised officer could make it more difficult for the CHO and authorised officers to promptly determine the cause of risks to public health and delay the taking of steps that would eliminate or ameliorate the risk to public health.

Nature and extent of the limitation

The onus only applies where the accused seeks to rely upon the defence — it does not apply to any of the elements of the offence. Further, the onus relates to matters that are peculiarly within the knowledge of the accused.

Relationship between the limitation and its purpose

There is a direct relationship between the limitation and its purpose.

Any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve

It is necessary to structure the offence in this way because knowledge of the circumstances that led to the accused believing on reasonable grounds that the false information was true or that the misleading information was not misleading are matters that are solely within the knowledge of the accused. Merely placing an evidential burden on the accused with respect to the defence would not adequately address this problem because the prosecution would still have to disprove the matter beyond reasonable doubt.

Conclusion

The limitation is compatible with the charter because, even though it limits the right to the presumption of innocence, the limitation is reasonable and proportionate in the particular circumstances.

Section 25 — rights in criminal proceedings — right not to be compelled to confess guilt

Clause 212 provides for a qualified privilege against self-incrimination. The privilege against self-incrimination is relevant to the right in section 25(1)(k) which protects a person from being compelled to testify against himself or herself, or to confess guilt, in criminal proceedings. However, the qualification of the privilege in the bill only applies to requirements made under the act or the regulations to produce a document, or a requirement of a person to give their name or address (which is similar to the Occupational Health and Safety Act 2004). Under international law, obtaining evidence compulsorily from a person where the evidence has an existence independent of the will of the person (such as documents) would not limit the right in section 25(1)(k).

It is noted that the bill requires the chief health officer or authorised officer, when exercising a relevant power (to require documents, information or a person's name or address), to inform the person of the privilege against self-incrimination (see clauses 176 and 188).

Part 12 — miscellaneous

Part 12 of the bill sets out savings and transitional provisions and provides for amendments (including consequential amendments) to other acts.

Section 13 — privacy and reputation

Clause 247 amends section 49B of the Births, Deaths and Marriages Registration Act 1996 by requiring the registrar of births, deaths and marriages (the registrar) to supply CCOPMM with any medical certificate in the registrar's possession relating to a maternal death; and any information that appears on the certificate of death that is requested by CCOPMM which it needs to perform its functions.

Clause 250 substitutes a new section 22A of the Coroners Act 1985. The current section 22A of the Coroners Act enables, but does not require, the coroner to notify CCOPMM of the death of a child. New section 22A will require the coroner to notify CCOPMM of the particular of the death of a child. It gives effect to recommendation 29 of the Victorian Parliament Law Reform Committee's final report on the Coroners Act. New section 22A will also require the coroner to provide CCOPMM with the particulars of any maternal death reported to the coroner.

While the charter only protects the rights of people while they are alive, the certificates referred to above may contain identifying information about family members of the deceased. Requiring the registrar and the coroner to provide certificates or information that appears on certificates to CCOPMM therefore engages section 13 of the charter.

These new notification requirements are necessary to enable CCOPMM to perform its function of conducting study, research and analysis into the incidence and causes in Victoria of maternal deaths, stillbirths and the deaths of children (clause 46(1)(a)). Both part 4 of the bill and part IXB of the Health Act prohibit the disclosure of confidential information except in defined circumstances. These clauses only permit information to be collected for legitimate purposes, and are therefore not arbitrary for the purposes of section 13 of the charter. Moreover, the clauses adequately specify the circumstances in which information about identified people is collected, and consequently do not permit unlawful interferences with the right to privacy. As a result, these clauses do not limit section 13 of the charter.

Section 20 — property rights

Clause 261 inserts a new provision (section 59C) into the Food Act relating to compliance with directions and cost recovery. Like clauses 228 and 229 of the bill, the purpose of the clause is to create a mechanism that allows actions to be taken to comply with a direction or order and to recover costs of doing so. Unlike clause 230, new section 59C will apply to any direction made under the Food Act. However, this is appropriate given that a narrower range of directions may be given under the Food Act than under the bill.

Clause 261 adequately defines the circumstances in which this power may be exercised. It is therefore consistent with section 20 of the charter.

Section 24 — fair hearing

Clause 267 of the bill amends schedule 1 to the Victorian Civil and Administrative Tribunal Act by inserting a new part 16B to apply to reviews relating to public health orders under division 2 of part 8 of the bill. The new part 16B engages the right to a fair hearing in that:

> the publishing or broadcasting of reports of proceedings that identifies, or could reasonably lead to the

identification of, parties is prohibited unless the tribunal considers it is in the public interest to order otherwise; and

a person subject to a public health order may have restricted access to relevant evidence, submissions or documents if the tribunal is of the opinion that it is necessary to do so to prevent serious harm to the health or wellbeing of that person or any other person.

As the prohibition on publishing or broadcasting is authorised by law, it does not limit any rights protected by section 24 of the charter. It is noted that the tribunal may order that the prohibition on publishing or broadcasting a report does not apply if it considers that it would be in the public interest to make such an order, and the clause is similar to other provisions in schedule 1 to the Victorian Civil and Administrative Tribunal Act (see part 9 (Guardianship and Administration Act 1986), part 12 (Instruments Act 1958) and part 14 (Medical Treatment Act 1988)).

The potential restriction on access to information by the person subject to a public health order is limited to circumstances to protect a vulnerable person's health or wellbeing from serious harm. The right of the person's representative to access information is not limited. The restriction does not, therefore, limit the person's right to a fair hearing.

Conclusion

I consider that the bill is compatible with the charter because to the extent that some provisions may limit rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

HON. DANIEL ANDREWS, MP
MINISTER FOR HEALTH

Second reading

Mr ANDREWS (Minister for Health) — I move:

That this bill be now read a second time.

The introduction of this bill is part of the Victorian government's commitment to promoting and protecting the health and wellbeing of all Victorians. By repealing the Health Act 1958 and introducing this new bill, we are updating and modernising Victoria's public health framework.

Progress in health is most often measured in terms of access to hospital and medical services. These are important signposts for government and contribute enormously to public confidence about how their health system is travelling.

But there is another dimension to the operation of Victoria's health system which relates to the ways in which the health of the population as a whole is protected and nurtured — the investments which governments make in what is broadly called 'public health' through the systematic protection of communities from infectious disease and other mass hazards to health, through the regulation of water and food supplies, through the promotion of safe and healthy behaviours and environments and through preparations made to enable health services to respond effectively to disasters and other mass casualty events.

The Brumby government is strongly focused on prevention.

The 2008 statement of government intentions noted that the government has invested heavily in Victoria's health system and pursued the case for comprehensive national health reform around three key areas:

shifting the focus to prevention;

placing people and their needs at the centre of the health care system; and

restoring effective funding of the public hospital system.

The new Public Health and Wellbeing Bill is a key initiative in the government's overall strategy of promoting prevention wherever possible.

It is designed to provide a modern legislative population health framework that is focused on prevention and is sufficiently flexible to enable swift and effective responses to emerging new threats to public health, as well as well-known risks to public health.

The bill recognises that the state has a significant role to play in protecting 'public health and wellbeing', which is defined to include the absence of disease, illness, disability or premature death, and the collective state of public health and wellbeing.

The bill signifies that the state has a role to play in reducing health inequalities, as well as aiming to improve health status overall. This throws out a major challenge to government. Research indicates that people's health outcomes are highly influenced by the whole environment that they experience, as well as by genetic factors and their general capacity for resilience. People suffering from social disadvantage generally have poorer health outcomes than the rest of the community.

We as a government have an important role in addressing these important areas of social policy. But we also need the tools to demonstrate the need for action to tackle these social conditions that directly influence health outcomes. The bill provides the government with key tools to enable data collection, to

support evidence-based policy and effective agenda setting.

Public health delivery impacts directly on public confidence in the health system when the risks of failure are palpable — for example when there is an outbreak of Legionnaires' disease or when water supplies are contaminated by E. coli, or when the response to disasters is slow or ill-planned.

The bill provides for responses to risks to health and enables the Department of Human Services to investigate and manage these risks, through a graduated scheme that enables a proportionate response to matters ranging from small incidents to emergencies, such as an influenza pandemic. The emergency powers in the bill will complement Victoria's detailed emergency planning system.

In 2007 a review process was commissioned to provide critical commentary of the responses by the Department of Human Services to people living with HIV who place others at risk, in the context of past failings in these processes. These reviews and the report of an international expert provided a body of work that gives overall support for the current approach undertaken by the Department of Human Services in the management of people living with HIV who put others at risk, namely a public health approach. These reviews have been taken into account in drafting this legislation.

Unlike these immediate risks and their control, the performance of public health programs in reducing the 'slow burning' risks which undermine the community's health in the longer term — the risky behaviours such as smoking, the diseases preventable by immunisation in childhood, or detectable at early stages by good screening services — contribute less to immediate public confidence in the system but have far-reaching consequences for life expectancy, the burden of disease and the sustainability of the health system itself.

At the same time, public health must be involved in working beyond even the 'slow burning' risks. The determinants of health precede risk, and risk may in fact be an outcome of failure in the areas where the determinants are at work — education, employment and healthy workplaces, good housing and livable communities, good social networks and social inclusion.

The bill contains a number of specific new initiatives which will enable a strategic and planned strategy to tackle these broader public health problems in a proactive way and reduce health inequalities:

it requires preparation of a state public health and wellbeing plan every four years, with the first plan to be produced by 1 September 2011 at the latest. This initiative is part of the Brumby government's wider commitment to accountability and public engagement — other examples include the recent statement of government intentions;

it enables the secretary to conduct a public inquiry in respect of any serious public heath matter. The minister may also direct the secretary to conduct such an inquiry; and

it enables the minister to direct that a health impact assessment be carried out of the public health and wellbeing impact of a matter specified in the direction.

Improving the health of Victorians is also an important part of national economic reform. Victoria launched the *Third Wave of National Reform*, which sets out the path to securing Australian prosperity for future generations. The *Third Wave* notes that 'the most effective way to boost productivity and participation is to develop our human capital'. Improving health is identified as a key component to building a healthy, skilled and motivated society, and a high-income economy that is among the world's best.

The bill deals with a broad range of matters and has been developed following thorough consultation. In 2004, the government released a discussion paper regarding the review of the Health Act and in 2005 it released a draft policy paper.

The government greatly appreciates the submissions that it received in relation to both of these papers from a wide variety of sources, including local government, professional associations, academics, peak health bodies, health workers, industry representatives and members of the public.

I turn now to the parts of the bill.

Parts 1 and 2

Part 1 of the bill contains the purpose of the bill, the definitions and the commencement provisions. The stated purpose of the bill is to enact a new legislative scheme which promotes and protects public health and wellbeing in Victoria.

The commencement provision allows the bill to be implemented over a period of time, with the possibility of some sections being proclaimed before the default commencement date of 1 January 2010. The default commencement date will allow adequate time for the

remaking of eight existing sets of regulations and provides for the development of new regulations, should these be required. Allowance must also be made for the development of protocols and guidelines with agencies involved in enforcement of the new legislation, including Victoria Police and municipal councils.

Part 2 of the bill contains the objectives and principles of the bill. For the first time in Victorian health legislation we are enshrining in the objectives the state's role in protecting public health and wellbeing. These principles provide an important guide to the officers who exercise a broad range of powers under the bill. The principles support informed and transparent decision making that involves a proportionate response to risks to public health. The principles also note the importance of collaboration and prevention. The precautionary principle is included and provides that if a public health risk poses a serious threat, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk.

Part 3

Part 3 sets out the functions of the secretary, the chief health officer and local councils in administering the act. The chief health officer is being recognised for the first time as a statutory position that exercises a range of powers, particularly with regard to the control of infectious diseases. The chief health officer is also required to develop and implement strategies to promote and protect public health and wellbeing.

Part 3 outlines the public health functions of municipal councils. These will not change the major role of local councils in enforcing public heath standards within their community.

The bill clarifies that councils have the role of coordinating and providing immunisation services to children living and being educated in their municipal districts. I applaud the outstanding efforts of councils throughout Victoria in performing this statutory duty to protect residents from vaccine-preventable diseases. Victoria's state government is a strong supporter of councils' immunisation work.

As a result of the hard work of Victorian councils and general practitioners, by the final quarter of 2006 Victoria achieved greater than 90 per cent coverage for full vaccination in children aged one, two and six. This is the first time a state or territory in Australia has achieved this level of coverage.

Part 3 provides that councils must prepare public health and wellbeing plans. These provisions are similar to those in the Health Act, but have been revised to allow public health planning to be better integrated into other council planning.

Part 4

Part 4 provides for consultative councils, which promote public health and improvements in clinical practice by inquiring into specific areas of medical specialisation with a view to monitoring services and improving prevailing systems and standards. One such council is the Consultative Council on Obstetric and Paediatric Mortality and Morbidity, the functions of which are set out in part 4. These functions remain as they are in the Health Act, having been reviewed and updated in 2004.

Part 4 includes tight confidentiality provisions, which enable the consultative councils to gather all relevant information and make well-informed recommendations on improved practice.

Part 5

Part 5 provides for a state public health and wellbeing plan, which will establish the framework for promotion and protection of public health in Victoria. The state public health and wellbeing plan will be a public document that establishes Victoria's objectives and policy priorities over a four-year period to meet the public health and wellbeing needs of the people of the state of Victoria. The state plan will complement public health and wellbeing planning, which is undertaken by all municipal councils and will specify the collaborative measures to be taken by the state in achieving these objectives and priorities.

Part 5 also provides for the conduct of public inquiries to investigate any serious public health matter. These provisions are similar to those in other jurisdictions with modern public health legislation.

The health impact assessment provision will enable the minister to be informed of the impact that a specified matter may have on public health and wellbeing.

Part 6

Part 6 sets out provisions relating to nuisances. Municipal councils must investigate and address nuisances within their municipal districts.

The part also continues the requirement for hairdressers, beauty parlours and tattooists, businesses that perform skin penetrations and prescribed

accommodation to be registered with their local council. Businesses conducting colonic irrigation will also now be required to register.

The government recognises the infection control risks that may be posed by such businesses and requires registration as a means of enabling those risks to be managed.

It is not the intention of the bill to establish a regulatory framework governing these businesses that relates to matters other than public health. This is a continuation of the current regulatory requirements in the Heath Act and regulations.

Part 7

Part 7 provides for the registration of cooling tower systems and the development and auditing of risk management plans. These legislative provisions were originally introduced into the Building Act in 2001 and have lead to a significant decrease of Legionella in cooling tower systems in Victoria. Given the public health focus of these provisions, it is more appropriate for the provisions to be in this bill.

Part 7 also regulates the use of pesticides in specified areas, where the pesticide use is not for the purposes of horticulture or agriculture, and specifies the licensing requirements for pest controllers. These provisions are complemented by the regulation of pesticides under the Agricultural and Veterinary Chemicals (Control of Use) Act 1992.

Part 8

Part 8 relates to the management and control of infectious diseases and micro-organisms.

A critical aspect of appropriate public health interventions is a good disease surveillance system. The part provides for notifications of certain infectious diseases and micro-organisms by doctors and pathology services. It also allows for the prompt addition by the Governor in Council of an infectious disease to the list of notifiable diseases, to allow for a rapid response to any new threat to public health.

The principles under which this part is to be administered are set out in the bill. This is important as this part provides powers that may interfere with an individual's behaviour and movements. The bill states that in those circumstances the measure that is the least restrictive of the rights of the person should be chosen.

Clause 113 of the bill empowers the chief health officer to make orders requiring a person to be examined or tested by a registered medical practitioner for an infectious disease. The chief health officer may make such an order if there is reason to believe that a person may have an infectious disease, and may pose a risk to public health, and the chief health officer is unable to assess the level of that risk posed by that person's infectious status due to a lack of information. An examination and testing order is designed to make that information available.

The purpose of public health testing and examination orders made under clause 113 is to confirm the infectious status of a person who may have an infectious disease, so that the behaviour and conduct of that person with the potential to pose a risk to others can be managed, either cooperatively or if necessary with further orders. The threshold for the making of the order is that there is reason to believe the person has an infectious disease in circumstances where the disease will pose a serious risk to public health.

In this, these orders can be distinguished from the compulsory testing orders that may be made by the chief health officer under clause 134 of the bill, which will be discussed later.

In addition to examination and testing orders, the bill empowers the chief health officer to make public health orders in relation to a person who has an infectious disease and who needs to take particular action to prevent posing a serious risk to public health. It should be noted that the vast majority of persons who are diagnosed with an infectious disease behave appropriately to avoid posing a risk to others. There are a small minority who, for a number of reasons, may not be capable of taking that action, and a smaller number who may not be willing to do so.

The chief health officer is empowered to make a range of orders to deal with the various circumstances of these persons. These provisions have been revised as a result of a number of recent reviews of the administration of public health order powers both nationally and in Victoria. The bill contains a right of internal review, and a right of appeal to the Victorian Civil and Administrative Tribunal against a public health order as a result of the recommendations of those reviews. The maximum period of a public health order is six months, although there is provision to extend an order. The bill provides that it must be varied or revoked if the circumstances that justified it being made should change. The person subject to the order may apply at any time to the chief health officer for a review of the order and the chief health officer must within seven days of receiving such an application revoke, vary or confirm the order.

The person subject to the order may also at any time apply to the Victorian Civil and Administrative Tribunal for a review of the order.

Although it remains an offence not to comply with an order, the offence of knowingly or recklessly infecting another person with an infectious disease previously found in section 120 of the Health Act has not been included in the bill. Since that offence was enacted in 1988, there has been no successful prosecution of the offence. The offence of knowingly infecting another, apart from being very difficult to prove, has been superseded by the inclusion in section 19A of the Crimes Act of an offence to intentionally infect another person with HIV. The Crimes Act also contains a hierarchy of offences that can be used to prosecute conduct that recklessly puts others at risk of their life or of serious harm, and this includes the reckless transmission of an infectious disease.

Other factors are that the Crimes Act makes provision for charges of attempting to commit the offence, and that a criminal penalty is more appropriate than the existing civil penalty. The prosecution of these offences under the criminal law, rather than health legislation, is also in keeping with the recommendations of the reviews of the administration of public health orders mentioned earlier. It is appropriate that conduct by a person with an infectious disease that amounts to criminal behaviour be referred to the police and be dealt with by the criminal justice system.

Part 8 re-enacts provisions for the making of compulsory testing orders when an incident involving a caregiver (such as a doctor or nurse) or custodian (such as a police officer) could have resulted in a person involved in the incident contracting a blood-borne infectious disease, such as HIV or hepatitis C. The most common example of such an incident is a needle-stick injury involving a health worker at a hospital. After such an incident, it is necessary for both people involved to be tested so the risk of infection having been transmitted can be established.

Most people involved in these incidents consent to being tested and no orders are necessary. The bill continues the current system by which in those cases where it does prove necessary a senior medical officer at a health service can order a test to be conducted on a person involved.

These provisions were amended as recently as 2005, remain substantially the same, and are working well. However, the definition of ‘caregiver or custodian’ has been expanded and made more explicit in the bill. It includes a wider range of health workers, and any police officer while acting in the course of their duties as a police officer.

There is now explicit provision made in the bill for the chief health officer to obtain existing health information about a person involved in one of these incidents, either from departmental records or from records held by a health service, and to disclose that information to the person who may be at risk. This will eliminate the necessity for testing of a person previously diagnosed as having one of these infectious diseases.

In cases where no health records are available, the chief health officer may make an order for testing.

Compulsory testing orders are not intended to control the conduct of persons who have an infectious disease. Rather they are aimed at obtaining information in order to give a person who may have been exposed to infection a better understanding of their risk of contracting the disease, and what may be required for clinical management or treatment of the risk.

Compulsory testing orders are subject to a much lower threshold and are only made if there is a possibility that if a person had an infectious disease, then that disease may have been transmitted to a caregiver or custodian, depending on the nature of the incident. These orders are primarily made in the interests of the caregiver and custodian, and not the person being tested, who may not in fact have any disease, or who may have a disease but not pose any risk to the public at large. These compulsory testing orders are of more restricted scope than other examination and testing orders. They are serving a narrower purpose in recognition of the risks that those such as health professionals and police officers may be exposed to when performing their everyday work.

The vast majority of incidents involving caregivers and custodians do not result in the transmission of a blood-borne virus, and preventative therapy can be taken to further reduce the risks of acquisition of hepatitis B and HIV. For example the risk of transmission from needle-stick injury to a caregiver or custodian from someone who is hepatitis B positive and infectious is estimated to be around 33 per cent, for a hepatitis C positive person the risk is around 3 per cent and from an HIV positive person the risk is around 0.3 per cent. Caregivers and custodians should be routinely protected against hepatitis B as a vaccine is available and, if they are not, a course of vaccination can be commenced after the injury. With hepatitis C there is presently no vaccine or post-exposure prophylaxis available, and with HIV the risk assessment will take into account the risk of

transmission according to the nature of the injury. A post-exposure prophylaxis is available for HIV and would be used if the risk was considered high.

If the chief health officer is satisfied that it is necessary and orders a person to undergo a blood test, and that person refuses to comply with the order, there is provision in the bill for the chief health officer to make application to the Magistrates Court to allow Victoria Police to use reasonable force to enforce the order. This may involve using reasonable force both to take a person to a place to be tested, and to undergo the test.

What can be considered reasonable will depend on the circumstances of each case. The use of unreasonable force would expose those using it to civil liability. It is envisaged that force will be used very rarely, and its use would be appropriate and only to the extent necessary in those rare cases.

In order to increase the transparency of the chief health officer's decisions relating to both compulsory testing orders and public health orders, de-identified information regarding these orders must be included in the Department of Human Services annual report.

Part 8 also provides for immunisation status certificates, which must be provided by a parent to their child's primary school. These certificates are a means of encouraging parents to know whether their child is fully immunised. A certificate recording whether or not a child is immunised assists the school in responding to outbreaks of vaccine-preventable diseases. This provision is not intended to prevent parents from objecting to their children being immunised.

The part re-enacts the provisions regarding blood and tissue donations. These provisions provide a statutory defence for blood donors against claims that a recipient has contracted an infectious disease from a donation, if specified facts and matters can be proven.

The part also makes provision for autopsies to be conducted where the coroner does not have jurisdiction and the chief health officer believes that an infectious disease caused or contributed to the person's death.

The part also regulates brothels and escort agencies in order to reduce the likelihood of the transmission of sexually transmissible infections. These provisions will not affect the regulation of brothels and escort agencies that currently occurs under the Prostitution Control Act, but will enhance safe sex practice.

Part 9

Part 9 provides for powers to be exercised by authorised officers. The powers of entry to be exercised are consistent with current government policy, but make allowance for response to risks to public health, as well as the investigation of offences.

For the purposes of investigating risks to public health, authorised officers may enter public places, and any other premises, including residential premises, with the consent of the occupier.

For the purposes of monitoring compliance with the act and regulations, or to investigate a possible contravention of the act or regulations, authorised officers can enter any regulated premises at any reasonable hour during the daytime, or when the premises is open to the public. The categories of regulated premises are specified in the bill. If a business premises is part of a residential address, the officers may only enter that part of the premises that is registered for the business.

Entry to any premises, including residential premises, is with consent or with a warrant.

However, in relation to any contravention of the act or regulations, an authorised officer may, without a warrant, enter any premises at any time if they believe on reasonable grounds that there may be an immediate risk to public health that must be dealt with.

The rules regarding announcement of entry, identification cards, and the powers of search and seizure under warrant reflect current government policy and are consistent with like provisions in recent statutes dealing with such matters.

Part 10

Part 10 provides for powers for the chief health officer to respond to risks to public health. These are the powers used to deal with the investigation and management of the most common risks to public health, such as outbreaks of salmonella and gastroenteritis. However, they have been made flexible enough to deal with other less common risks as they arise.

Part 10 also provides for the declaration of a public health emergency by the Minister for Health. An emergency will only be declared after consultation with the relevant authorities under the Emergency Management Act. Should that consultation determine that action is more appropriately taken under the

Emergency Management Act, the minister would not declare an emergency under these provisions.

Whilst it is hoped that such an emergency will not often arise, it is essential that Victoria has the appropriate planning and legal framework to address these risks.

The powers would allow the chief health officer to order persons or groups of persons to remain at a place, or not to enter particular areas. An order to detain people will be subject to a requirement that it be reviewed every 24 hours. Decisions to detain people for more that 24 hours will be supervised by the chief health officer, and reportable to the minister. The vast majority of people are cooperative with authorities in such circumstances, through both self interest and civil duty. Those who are not could be made subject to more specific public health orders if necessary to protect public health.

The bill provides mechanisms for the chief health officer to obtain the assistance of council officers and the police in the course of an emergency. It is envisaged that council officers will be authorised to perform specified roles, and that the police would carry out normal policing duties, in accordance with agreed protocols.

Part 11

Part 11 has general regulation-making provisions, general powers of authorised officers, provisions regarding review and appeals and matters regarding offences and legal proceedings. The part also enables the secretary or a municipal council to issue an improvement or prohibition notice in relation to a contravention or likely contravention of the act.

Part 12

Part 12 contains saving and transitional provisions and amendments to other acts, including the repeal of the Health Act 1958.

I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of clause 240 of the bill to alter or vary section 85 of the Constitution Act 1985.

Clause 240 states that it is the intention of this section to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent the bringing before the Supreme Court of an action of a kind referred to in sections 124 and 142.

The actions referred to in sections 124 and 142 are actions against a registered medical practitioner.

Section 124 provides that no action will lie against a registered medical practitioner who in good faith and with reasonable care conducts a test, examination and assessment, or provides counselling, pharmacological treatment or prophylaxis, in relation to an examination and testing order or a public health order made under division 2 of part 8 of the act. Division 2 deals with the management and control of infectious diseases, and empowers the chief health officer to order a person to undergo any of a range of measures to reduce the risk they may pose to public health. Often these measures, such as an examination or counselling about the nature of the disease, will be undertaken by a registered medical practitioner.

Similarly, section 142 provides that no action lies against a registered medical practitioner who in good faith and with reasonable care takes a blood or urine sample, conducts a test or provides test results or counselling in relation to a test on a person who has been involved in an incident with a caregiver or custodian. In relation to these incidents, the chief health officer may order that a test be conducted on a person who has refused to be tested, and a registered medical practitioner will be asked to perform the test and provide results.

The aim of sections 124 and 142 is to protect registered medical practitioners who implement measures ordered by the chief health officer as part of the response to a threat to the health and wellbeing of the community. It is appropriate that registered medical practitioners be protected from legal liability for their actions in these circumstances. If registered medical practitioners were not provided with this protection, the regulatory framework for the protection of the public from infectious disease would not be effective.

I commend the bill to the house.

Debate adjourned on motion of Mrs SHARDEY (Caulfield).

Mr ANDREWS (Minister for Health) — I move:

That the debate be adjourned for two weeks.

Mrs SHARDEY (Caulfield) — On the question of time, this is a very large piece of legislation. It is a complete rewrite of the Health Act. I appreciate it is a contemporary piece of legislation which will address some very important issues, particularly in relation to pandemics, HIV and other infectious diseases. It amends some 31 other acts of Parliament. I would ask the minister to give some assurance that it will not come before the house for one month, which would mean there would be one sitting week — —

Mr Andrews interjected.

Mrs SHARDEY — If the minister can give me that assurance it will mean we will not debate it in the next sitting week, but we could debate it in the following sitting week, so it would be in the week starting 10 June. I am happy to agree to a two-week adjournment period if the minister will give me an assurance that it will not come before the house in the next sitting week but on 10 June.

Mr ANDREWS (Minister for Health) — On the question of time, I acknowledge that this is a substantial bill which comes to the house after a long process of consultation going back some four years. The great disadvantage that I am placed under at the moment is that there is a request for more time, and I have learnt about it here in the chamber in the middle of — —

An honourable member interjected.

The DEPUTY SPEAKER — Order! We are debating the question of time, and I will hear the minister on it.

Mr ANDREWS — Further to the proposition put forward by the member for Caulfield, I can give her a commitment to do all that I can to ensure the bill does not come before the house in the next sitting week, but I am not in a position to commit to the debate coming on on 10 June as she suggests — —

Mrs Shardey interjected.

Mr ANDREWS — Sorry. Let's not confuse this with dates. I am not in a position to agree to the detailed request made by the member for Caulfield. What I can do is to give her a commitment to do all that I can to ensure it is debated in the week she prefers as opposed to in the next sitting week. On that basis I support the motion for a two-week adjournment, acknowledging that I will do all I can to ensure it is debated outside that time frame.

Mrs SHARDEY (Caulfield) — I think — —

The DEPUTY SPEAKER — Order! The member for Caulfield cannot speak again. There can be six speakers or 30 minutes of debate with members speaking for 5 minutes each, although I am told the member could speak by leave.

Mrs SHARDEY (Caulfield) (*By leave*) — I appreciate the offer made by the minister. I assume he has the power to exercise it. This is his legislation.

Mr Andrews — The Leader of the House — —

Mrs SHARDEY — I understand that, but I think even he appreciates that on such a substantive piece of legislation we will be looking to consult very broadly. I appreciate that some work has been done but we have not seen a draft piece of legislation as we often have on rewrites of legislation. For instance, we saw draft legislation on the Disability Bill and the children's bill. We have not seen draft legislation, and this is why I think my request is further supported.

Mr ANDREWS (Minister for Health) (*By leave*) — Let me make it abundantly clear that on the time line we are talking about — and as I understand it we will not sit for another three weeks — —

An honourable member interjected.

Mr ANDREWS — In any event officers of the Department of Human Services and other relevant people will brief the member for Caulfield on the full provisions of the bill as often as she needs to be briefed. I would have hoped to debate the bill sooner, but again we will do all we can to ensure the honourable member is well briefed and across the details. We will get to a position where everyone is able to debate the bill.

Motion agreed to and debate adjourned until Thursday, 22 May.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Road safety: wandering stock

Mr MULDER (Polwarth) — The matter I wish to raise is for the Minister for Roads and Ports and concerns the problem of wandering stock on rural roads being compounded by confusing arrangements and what would appear to be a duplication of resources. I ask that the minister to direct his department to alter the arrangements that are currently in place to deal with this problem and in consultation with VicRoads and the rural shires to put in place a uniform system across country Victoria. This should entail a return of control of stray stock to the municipality and should allow the reporting of stray animals directly to the shire ranger, with that report to be followed by prompt action to remove the animals from the roadway and have them impounded. If the current arrangements, which require two agencies to manage the problem, were

implemented by some rural councils in response to cost considerations, an appropriate funding mechanism should be examined as part of the review.

There is confusion amongst many rural communities with the current system, which differentiates between roads under VicRoads management and roads which are managed by the shires. In the Colac Otway shire, for example, a person reporting wandering stock initially phones the shire and the category of road has to be identified. If the stock is on a VicRoads road, the shire then notifies VicRoads, which in turn contacts its contractor, who is despatched to remove the stock. This would be much more simply handled if the shire were the sole responsible agency. I understand that in the past the response time provided by local rangers has been more prompt than under the current arrangement — and it is imperative that animals be removed from the roads as quickly as possible.

As one example of the extent of the problem, a constituent of mine who travels regularly on the Colac-Lavers Hill Road, a VicRoads road, encountered 12 instances of cattle on the road over the period 8 to 23 April. This is indeed a very dangerous section of road, and the federal government has committed $7.5 million to an upgrade of the road. I was somewhat disappointed not to see matching funding in this year's state budget. I tried to travel on a school bus on this road to have a look at the extent of the problem and discuss it with bus drivers, but I was refused permission. I was actually thrown off the school bus. I was not allowed to travel on it to look at the condition of the road. As I pointed out at the time, I had not been thrown off a school bus for 47 years. It took some time for it to come around. A number of these instances have occurred at night, and as such have presented a significant danger to motorists. Particularly in the winter months in foggy conditions prompt action is required to remove offending animals, and local rangers are better placed to respond quickly, being familiar with the local area.

A review of the current arrangements needs to be undertaken immediately with a view to providing rural councils with the resources required to carry out these services in a safe and timely manner. Tomorrow I will again attempt to travel on the road, but this time I will do it with a heavy vehicle operator, Skeet Morrow, who is going to pick me up and take me along that road, which has been the site of many serious accidents and several fatalities over a number of years. It is important that we deal with this issue of wandering stock quickly, so that we do not have another serious accident.

West Preston Cricket Club: funding

Mr SCOTT (Preston) — In tonight's adjournment debate I would like to bring a matter to the attention of the Minister for Sport, Recreation and Youth Affairs relating to the West Preston Cricket Club. The action I seek is that the minister support an application by the club for an emergency grant of $1500 from the Department of Planning and Community Development to replace stolen equipment.

The West Preston Cricket Club, which is also known as the West Preston Sharks, is a long-established cricket club based, despite its name, in East Reservoir, an area of high social disadvantage in great need in my electorate. The club recently launched an under-13s competition and last year bought new sports equipment to meet the needs of these younger players. This initiative was very popular, attracting many young players from the East Reservoir area. Sadly the new equipment, which included bats, pads, balls, helmets and other essentials, was stolen in early February, along with a barbecue and club promotional drink bottles. A well-wisher, who should be thanked in this Parliament, has donated a new barbecue — that is something we should all applaud — but the club has been unable to replace the stolen kit due to a lack of funds.

The club has requested an emergency grant of $1500 from the Department of Planning and Community Development to replace this stolen equipment. The application has my full support. I call on the minister to take action to support this application, which is very worthwhile and will help a community that is sorely in need of help.

Horsham Special School: funding

Mr DELAHUNTY (Lowan) — I wish to raise a matter for the attention of the Minister for Education. The action I seek from the minister is to fund urgent works to address the occupational health and safety concerns of the students, staff and parents linked to the Horsham Special School. These people and the wider community I represent are very disappointed, in fact angry, that this city-centric government has not in this year's budget funded a purpose-built school for these special students and the staff who work with them.

To highlight these concerns I have with me an assessment of these facilities. It says:

> The current facilities at the Horsham Special School are not fit for purpose.
>
> …

> There have been considerable concerns expressed by staff, parents, carers and the wider school community regarding our present school facilities in light of steadily increasing student numbers.

Twelve points are raised, including continued accommodation of students in relocatable buildings; occupational health and safety concerns, specifically in bathroom areas; lack of appropriate therapy facilities for profoundly disabled students; inadequate space and facilities to cater for the needs of students with behavioural issues, including autistic students; and safety and security issues with regard to the play area.

In May 2007 I attended the school. I commend the students and families for their patience and for the outstanding work they are doing in such poor conditions. When I went there I saw water dripping down the walls where electrical power points, equipment and wiring were located. This disturbed me greatly. Just after that visit the Horsham City Council also visited the facility. A newspaper article of that time in the *Wimmera-Mail Times* is headed 'School "a disgrace"'. It says:

> Outraged municipal leaders have described conditions at a Horsham school for children with disabilities as 'Third World'.
>
> …
>
> They used words such as 'appalling', 'horrendous' and 'disgraceful'…

The article continues, saying that Cr Pam Clark said of conditions at the school, particularly on the junior campus:

> When it rains, water pours into work areas. There are no staffrooms and conditions in general are just awful …
>
> …
>
> Cr Alan Pignataro said, 'You call it substandard. I think disgraceful would be more appropriate … Truthfully, the best solution would be to bulldoze it and start again.
>
> …
>
> Cr Michael Ryan said he struggled to believe what he saw and considered conditions an insult to students, parents and teachers.

That sums up the feeling of the community that I represent. For those reasons I have been lobbying the government hard to try to get funding in the budget, but unfortunately the school has not been listed in the budget. I again call on the minister to take urgent action to find some funds to address the occupational health and safety concerns of the students, staff and parents linked to this very special school in Horsham.

Housing: Cranbourne electorate

Mr PERERA (Cranbourne) — I wish to raise a matter with the Minister for Housing; the action I seek is to have the minister allocate funding for housing in my electorate of Cranbourne, which includes the upgrade of older public housing and the acquisition of new social housing.

My office regularly deals with a number of constituents from Cranbourne who are public housing tenants, but who are suffering in older housing, particularly in villas, which are in need of renovation. The fact is that the previous Kennett government really ran down public housing not only in my electorate but across the state. It stood idly by while the Howard government slashed funding to public housing, and it did not put anything extra in to try to turn it around. This legacy of neglect has had dire consequences for public housing in Victoria. It means the government held onto houses that were getting quite old. In fact, as I understand it, over 40 per cent of the Office of Housing's asset base is over 30 years old.

Since we came to government in 1999, the Labor government has been turning that around by making big allocations not only to renovation but also to building new homes. As I understand it, the Bracks and Brumby governments have increased the spending on physical improvements by around 75 per cent in the seven years to June 2007. We have also tipped in dramatic extra funding above our obligations under the commonwealth state/territory housing agreement, including the record $510 million in the last state budget. I am hoping the minister can work to make an allocation to my electorate of Cranbourne from these funds.

Ambulance services: dispatch system

Mrs SHARDEY (Caulfield) — The issue I raise is for the Minister for Health. It relates to concerns expressed to me by paramedics forced to use the ProQA triaging system that runs the CAD (computer-aided dispatch) program for our ambulance services. This program consists of what is described as a very long-winded series of questions that have to be asked by dispatchers and answered by callers, probably people who are often frantic to get an ambulance to their assistance or to the assistance of a relative.

ProQA and CAD now prioritise all jobs for paramedics, which means that the vast majority of calls, it is claimed, are coded as code 1, including MICA (mobile intensive care ambulance) backups. In the past dispatchers were able to appropriately downgrade many

of these cases in line with accepted dispatch guidelines. However, dispatchers have been told that this is to cease and the CAD codes are to be strictly adhered to without dispatcher interference. As a result paramedics are concerned that MICA units are now being sent to unnecessary jobs while real emergencies are being left unattended because the MICA teams are at what appear to be minor incidents. This concern has already been expressed publicly.

Another concern raised in relation to the ProQA system is the inclusion of what is regarded as excessive information in the details section of the case card which is sent to paramedics on their pagers to help them go to the person in need. This means that vital information relating to the safety or otherwise of a location is often omitted, because there is simply insufficient room on the pager, thus putting paramedics at risk in some cases. These are very serious issues in relation to the dispatch system for our ambulance services which can affect the timeliness of care offered to patients.

I ask the minister to investigate these concerns and address them immediately, particularly if it is one of the reasons why there has been a failure yet again to reach the code 1 response time target, as is the case this year, which is shown in the budget. The house will recall that the budget last year changed the code 1 response time target from 13 minutes to 15 minutes. Yet again, unfortunately, this target has not been met. I think it is an indication to the community that our ambulance services are finding it very difficult to reach even those people who are in dire need of their service. I believe the minister should address this issue immediately.

Albert Park electorate: Victoria Rocks program

Mr FOLEY (Albert Park) — I rise to seek to bring a matter to the attention of the Minister for Sport, Recreation and Youth Affairs. The specific action I seek from the minister is to support an application by the City of Port Phillip to the Victoria Rocks music equipment grants program to assist the young people of the Albert Park district to deliver creative outlets in music through the purchase of music equipment. Assistance from the minister would be widely appreciated in my electorate as this innovative program hits the right note locally. In fact the program is seen to be in tune with the mood and tempo of the young members of my community, who look to music as an artistic, recreational and creative outlet.

I am aware that claims for support by the highly successful Victoria Rocks program are widespread across the state — and why would they not be? This program meets the needs from local government and communities, and in my electorate from churches, youth agencies and those engaged in working with young people. I particularly note the work locally of groups such as the Kombiz Youth Network, the combined churches in South Melbourne and Port Melbourne, the St Kilda Youth Service, the Inner South Community Health Service, local schools and others in bringing the young people of my community together for this project.

Should the state be able to lend a hand, the program will see aspiring musicians of the area perform in venues such as the St Kilda Town Hall, Sol Green Reserve and the St Kilda Youth Services hub, and also in partnership with venues such as Luna Park, Gasworks Arts Park and Theatreworks, all of which will become part of the local place-to-rock network. The key to the success of these programs is bringing together the interests and passions of young musicians, the necessary equipment and expertise and venues to allow them their creative expression. Support from the state government is therefore the critical ingredient in bringing these elements together through this program.

I can personally recount how successful these programs are through an event late last year by the Kombiz combined churches network at the Sol Green Reserve, South Melbourne. Here the school bands from local, state and private schools exceeded the amount of time the organisers could arrange to put them on stage. They displayed their prowess to the audience of mostly young people.

The program also launched the combined CD of these bands which, even though it lacked something in the area of technical proficiency, certainly made up for it in raw passion. Perhaps my favourite band was the St Kilda Primary School grade 5 band of young rockers. They certainly belted out a few classics that their ageing rocker parents could surely appreciate. It is a pity that the member for Caulfield has departed, because the school is in her electorate.

The investment returns from this program multiply themselves many times in the community. Youth engagement, the development of a sense of community achievement and pride amongst young people and the provision of a creative outlet in a safe environment are all direct products of the program. It is a program I urge the minister to support not only for the young rockers of St Kilda Primary School but for that broader network of youth bands operating across the artistic and music capital of Victoria — the district of Albert Park.

Rail: Malvern electorate level crossings

Mr O'BRIEN (Malvern) — I wish to raise a matter for the attention of the Minister for Roads and Ports. The action I seek is for the minister to develop and fund a program for implementing grade separation on five railway crossings that are causing traffic congestion in my electorate but affect many other residents besides. The level crossings are on the Glen Waverley line at Kooyong, Glen Iris, Gardiner and Tooronga rail stations and at Toorak Road near the Monash Freeway. These rail crossings all cross major arterial roads, being respectively Glenferrie Road, High Street, Burke Road, Tooronga Road and Toorak Road. These roads are essential to traffic flow in Melbourne. They are used not just by my constituents but by many others as well.

Fixing these level crossings will benefit traffic flow, reduce congestion and lead to better environmental outcomes as movement times for public transport are improved and the emissions from cars sitting at level crossings are reduced. Fixing these level crossings will also provide an opportunity to upgrade the track on the Glen Waverley line, which is in such a poor state of repair that trains move at snail's pace near these level crossings, adding to the delays and frustrations of both road and rail users. The High Street, Burke Road and Toorak Road level crossings also impede access to and from the Monash Freeway. There is little point in this government upgrading the M1 if its entrance and exit points are a morass. It is in the morning and evening peaks that the greatest level of traffic is on the roads and that is when the greatest delays occur. I encourage the minister to drive down to these level crossings during the morning or evening peaks and see for himself the traffic snarls, the congestion, the waste of time, the waste of resources and the frustration that these level crossings impose.

In making this request, I state very clearly that funding for any grade separation must not come from the high-rise, high-density, over-development fantasy that some would propose as a trade-off. A government that can overspend on the Ml upgrade by $400 million with nothing to show for it must be able to fund these overdue capital works that will provide environmental benefits, promote better economic efficiency and improve the quality of life of many people.

The DEPUTY SPEAKER — Order! I am aware that the Minister for Public Transport has responsibility for grade separation or road crossings where they cross railway lines. It would be helpful if the member were to redirect the matter to the attention of the Minister for Public Transport.

Mr O'BRIEN — Thank you, Deputy Speaker. I ask that my contribution be directed to the attention of the Minister for Public Transport.

Forest Hill electorate: sporting facilities

Ms MARSHALL (Forest Hill) — The matter I wish to raise is for the attention of the Minister for Sport, Recreation and Youth Affairs. The action I seek is for the minister to come out to my electorate of Forest Hill and meet with various sports club representatives who would like to have a discussion with him regarding the improvement of both on-field and off-field facilities. There are many fantastic sporting clubs in the electorate of Forest Hill, and as I have a history with, passion for and intimate knowledge of all the different aspects of various sports, I visit them on a very regular basis.

Recently, through my attendance at some of those meetings and subsequent discussions, I have seen the variety of pressures the clubs are facing as they deal with environmental, financial and demographical issues. The Nunawading City Football Club, of which I am proud to be the no. 1 ticket-holder, is located at Mahoneys Reserve in Forest Hill. Given the commitment and effort that the club president, Ivan Glavan, and everyone else involved in the club have made to ensure their players are in the best position possible to win each and every game, it is vital that the grounds and clubrooms reflect that high standard and commitment.

Injuries can be devastating to any team, so we know that every effort needs to be made to ensure that risks are minimised when playing any type of sport, regardless of how old you are. The Whitehorse United Soccer Club, which is based at Terrara Park in Vermont South, is another club in my electorate that is seeking assistance. Recently I spoke with the club president, David Argyle, who has concerns about managing more than 400 registered players in 26 teams, given the fact that currently some of their playing fields are closed, again due to a variety of circumstances. The closure of the pitches has put enormous pressure on the remaining fields, as they are now used for training and competition, and the heavy workload has resulted in some of the grounds being devoid of grass altogether.

As is the case with many sporting grounds in Forest Hill, the clubrooms at some grounds are struggling to cope with increased patronage as a sport's popularity has soared and it may not even be possible to cater for both genders if they are playing sport on a field at the same time. There may be access difficulties or parking difficulties or they may simply not be able to be utilised in a way that is profitable for the club.

I would like the minister to meet specifically with Murray McCormack, the president of the Bennettswood Tennis Club, and Vic Wood, the president of the Blackburn South Tennis Club, who are looking to merge their clubs. They want to co-locate on the current site of the Blackburn South Tennis Club at Eley Park as well as improve their facilities, and they are looking for any way to lower the maintenance costs of their courts. Sport and recreation is a major priority of mine. In these days of increased obesity, especially among our youth, it is so important that we have sporting facilities that are in the best condition possible.

W. J. Smith Linen Service: future

Mr JASPER (Murray Valley) — I raise a matter for the attention of the Minister for Health, and in his absence with the Minister for Housing, who is at the table. I request urgent action from the minister to support the continued operations of the W. J. Smith Linen Service, which is part of the operations of the Wangaratta hospital, which is run by Northeast Health Wangaratta. The history of this is that the W. J. Smith Linen Service has been operating for decades at the Wangaratta hospital, and it has made an important contribution to the successful operations of the hospital by being profitable and providing funding support to the hospital. In recent years it has faced increasing competition and has come under pressure from operations based in Shepparton and Albury-Wodonga.

I met with representatives of the staff about 12 months ago, when they brought to my attention concerns for the continued satisfactory and profitable operations of the service. I wrote to the former Minister for Health, bringing to her attention the need for action to support the linen service, which needed major funding support for the ageing equipment. The minister agreed that consultants should be appointed to look at the future of the service and decide what could be done.

Since that time I have met with the staff of the linen service on a number of occasions, and I have spoken with the chief executive officer of Northeast Health Wangaratta and with members of the board. Some few months ago the current Minister for Health visited Wangaratta, where he discussed the issues. Subsequently there has been a hold-up because of the consultation report which has been provided to the hospital and now is with the regional office of the Department of Human Services. A number of options have been looked at.

This week I have had further discussions with the minister on the basis that we need his support for appropriate action to be taken, particularly for funding to be provided to upgrade the equipment. A large amount of funding would be required to upgrade the linen service's equipment so that it can provide the most efficient and effective service.

What I require is that the minister undertake discussions with the regional office of the Department of Human Services and the hospital again. The minister may be able to look at what we can do to make sure that the service continues, because it employs approximately 40 people within the rural city of Wangaratta. It is critical that the service continue to provide a service not only to the Wangaratta hospital but to hospitality operators in north-eastern Victoria.

Planning: Plenty Road corridor

Mr BROOKS (Bundoora) — I wish to raise a matter for the attention of the Minister for Planning in the other place. The specific action I seek is that the minister establish a forum for three local planning authorities along the Plenty Road corridor through Bundoora. The corridor that I refer to runs essentially from La Trobe University in the south along Plenty Road through to the north to RMIT, which is actually located in the electorate of my colleague the member for Mill Park. The three councils that have planning authority over that corridor are Banyule City Council, Darebin City Council and Whittlesea City Council. All these councils do a very good job in terms of strategic planning for their municipalities, but because this corridor is fragmented in terms of its strategic planning I think there is an opportunity to provide for better planning outcomes through that section of Bundoora.

We have seen this government inject a massive $180 million into a new national bioscience centre at La Trobe University. While I am not sure exactly where that centre will ultimately be located on the university site, one can be assured that people will be working to leverage further investment and economic opportunities from that in the local area, so there will certainly be, at least in that instance, further need for planning around La Trobe University. To the north of this corridor is the very successful University Hill development where we have seen large corporations like Siemens VDO locate their offices and facilities, and there are a whole range of other important precincts from retail at Bundoora shops to education — I have mentioned two higher educational facilities, and there is also Parade College at Bundoora — to a range of health providers along this major transport corridor with a major tramline running down the middle of a six-lane road.

In conclusion, to better plan development outcomes along this corridor, to drive jobs growth for economic

development and protect residential areas I seek the minister's action to bring these three councils together on this important strategic issue.

Responses

Mr WYNNE (Minister for Housing) — The member for Cranbourne raised a matter with me regarding housing in his electorate and in particular the suburb of Cranbourne. My chief of staff was out there with him last week and got a fuller appreciation of the issues and pressures confronting families in the member's area. As the member is aware, this year's budget is a very good result for housing more generally in Victoria. It builds on the government's announcement last year of $510 million for assistance in public and social housing. As the house is well aware, that is a record investment, the biggest ever investment by any state government to public and social housing outcomes.

The budget figures reflect the huge impact of this record commitment, and I want to indicate to the house that in 2006–07, 839 social housing units were required. In the current financial year we have increased that to 1150, and in 2008–09 we are projecting to exceed a further 1000 acquisitions. Last year's massive commitment has been boosted even further this year with $37.9 million to be delivered in housing demand areas such as Ringwood, Werribee, Frankston, Dandenong and Footscray and a very significant commitment to Aboriginal housing.

I should indicate to the member for Lowan that, as he is well aware, I will have the pleasure of visiting him tomorrow in Horsham, where we will be making an announcement of a significant commitment to his community. He intends to be at that announcement, as does my colleague Jaala Pulford, a member for Western Victoria Region in the upper house. She has also been a tremendous advocate for urban regeneration in the Horsham area. I look forward to meeting up with the member for Lowan at about midday tomorrow.

The DEPUTY SPEAKER — Order! I bring the minister back to Cranbourne.

Mr WYNNE — The member for Cranbourne's continuing interest in homelessness is very well known, and the house should be well aware of the groundbreaking announcement the government made in relation to supported housing, which we are going to be doing in partnership with Grocon. Daniel Grollo has come forward with an extraordinary philanthropic gesture from his organisation, one of the biggest contributions that I think has ever been made in the area of homelessness. Grocon will be building at cost a $50 million supported housing facility in Elizabeth Street, Melbourne. That will mean a budgetary impact to his organisation of somewhere between $7 million and $10 million forgone. That is a magnificent philanthropic gesture. In discussion he has indicated that his organisation is interested in not only the physical footprint it leaves on Melbourne, but the social footprint as well. It is a truly wonderful gesture, and we look forward to that building being constructed over the next couple of years.

I can advise the member for Cranbourne that there is excellent news for him. The extra funding in the budget allows us to undertake significant work in his area. We will be commencing the upgrade of 15 houses in Cranbourne in 2008–09, spending in the order of $20 000 per house in terms of upgrade and renovation, with a total spend in the order of $300 000. I am also pleased to commit a further $3 million in the 2008–09 year for acquisitions in that suburb. These funds will be used to start construction of two new units in Cranbourne, one new four-bedroom home and nine spot-purchase units of social housing. We intend to use the $500 million right across regional and rural Victoria and across the Melbourne metropolitan area as well, and I very much look forward to being with the member for Lowan tomorrow in Horsham, where we will make a significant announcement.

The member for Polwarth raised a matter for the Minister for Roads and Ports in relation to wandering stock on roads, and I will refer that matter to the minister.

The member for Preston raised a matter for the Minister for Sport, Recreation and Youth Affairs in relation to a funding grant for the West Preston Cricket Club, and I will ensure that matter is brought to his attention.

The member for Lowan raised a matter for the Minister for Education, seeking capital support for the Horsham Special School, and I will ensure that the minister is made aware of that.

The member for Caulfield raised a matter for the Minister for Health in relation to issues pertaining to the computer-aided dispatch units for the ambulance service, and I will ensure that the minister is made aware of that matter.

The member for Albert Park raised a matter for the Minister for Sport, Recreation and Youth Affairs in relation to the funding of a City of Port Phillip initiative in relation to music grants for a number of

organisations in his electorate. I will ensure that that matter is brought to the minister's attention.

The member for Malvern raised a matter for the Minister for Public Transport in relation to grade separation at five level crossings on the Glen Waverley line in his electorate. I will ensure that the minister is aware of those issues.

The member for Forest Hill raised a matter for the Minister for Sport, Recreation and Youth Affairs, asking whether the minister would be able to visit her electorate to facilitate meetings occurring with a number of key sporting clubs in her area, and I will ensure that that is brought to his attention.

The member for Murray Valley raised a matter for the Minister for Health in relation to the W. J. Smith Linen Service in Wangaratta, seeking support for an equipment upgrade program in that area, and I will ensure that the minister is made aware of that.

Finally, the member for Bundoora raised a matter for the Minister for Planning in the other place in relation to supporting a forum for the three municipal authorities in his area — Banyule, Darebin and Whittlesea — seeking a more coherent planning approach up that growth corridor, and I will ensure that the minister is made aware of that initiative.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 5.24 p.m.

Thursday, 8 May 2008

JOINT SITTING OF PARLIAMENT

Senate vacancy

Honourable members of both houses met in Assembly chamber at 12.45 p.m.

The SPEAKER — Order! The joint sitting of the Legislative Council and the Legislative Assembly is being held to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Robert Francis Ray. Under joint standing order 19.2 the Chair of the joint sitting alternates between the President and the Speaker. The Chair for this joint sitting will be the Speaker. The general procedure is set out in joint standing orders 22 and 23.

I invite proposals from members for the appointment of a person to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Robert Francis Ray.

Mr BRUMBY (Premier) — I propose:

> That Ms Jacinta Mary Ann Collins hold the place in the Senate rendered vacant by the resignation of Senator Ray.

Ms Collins is willing to hold the vacant place, if chosen. In order to satisfy the joint sitting as to the requirements of section 15 of the commonwealth constitution, I also declare that Ms Collins is the selection of the Australian Labor Party, the party previously represented in the Senate by Senator Ray.

Mr BAILLIEU (Leader of the Opposition) — In the tradition of the house I second the proposal, and I look forward to meeting Ms Collins.

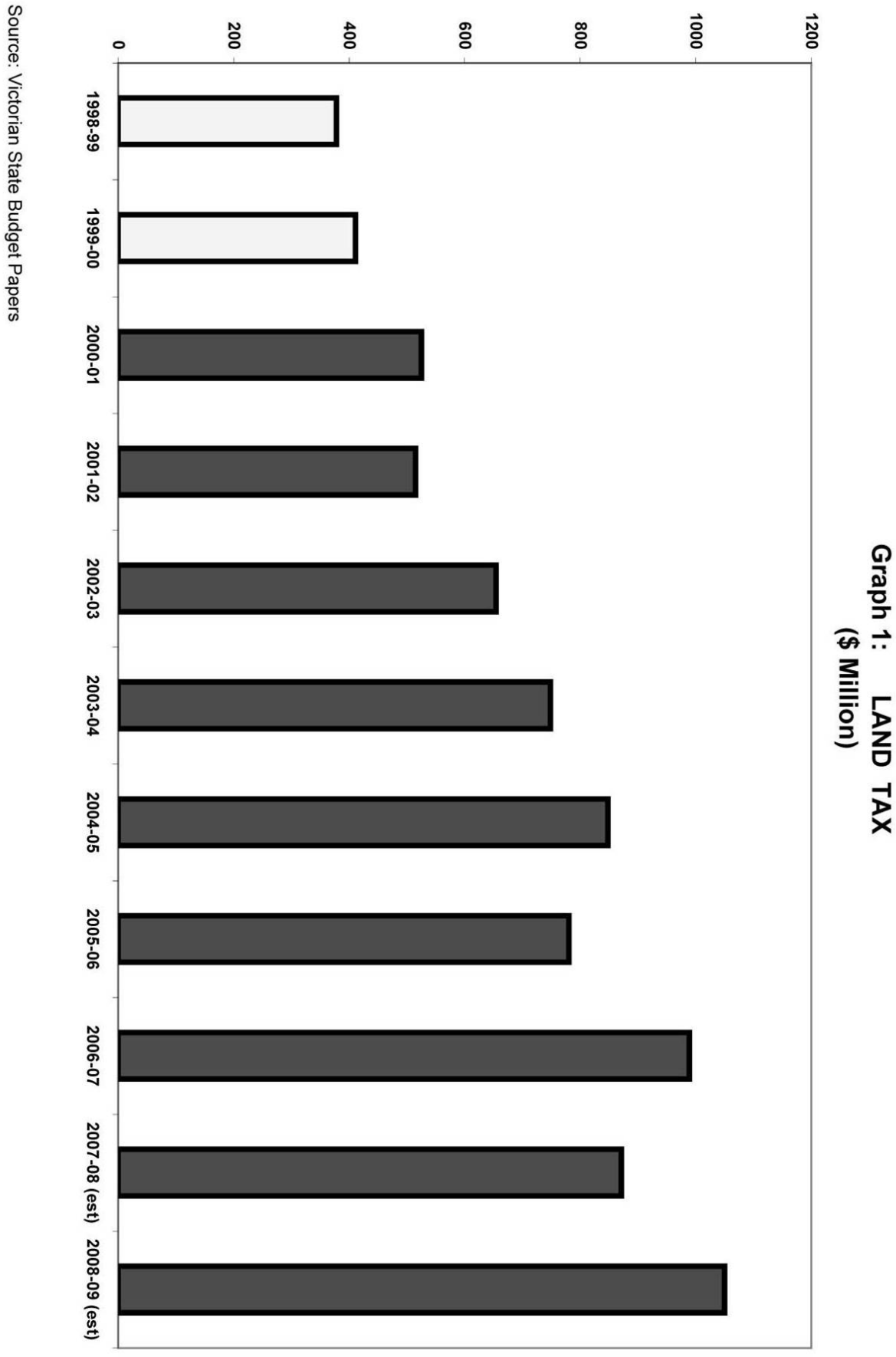
The SPEAKER — Order! Are there any further proposals?

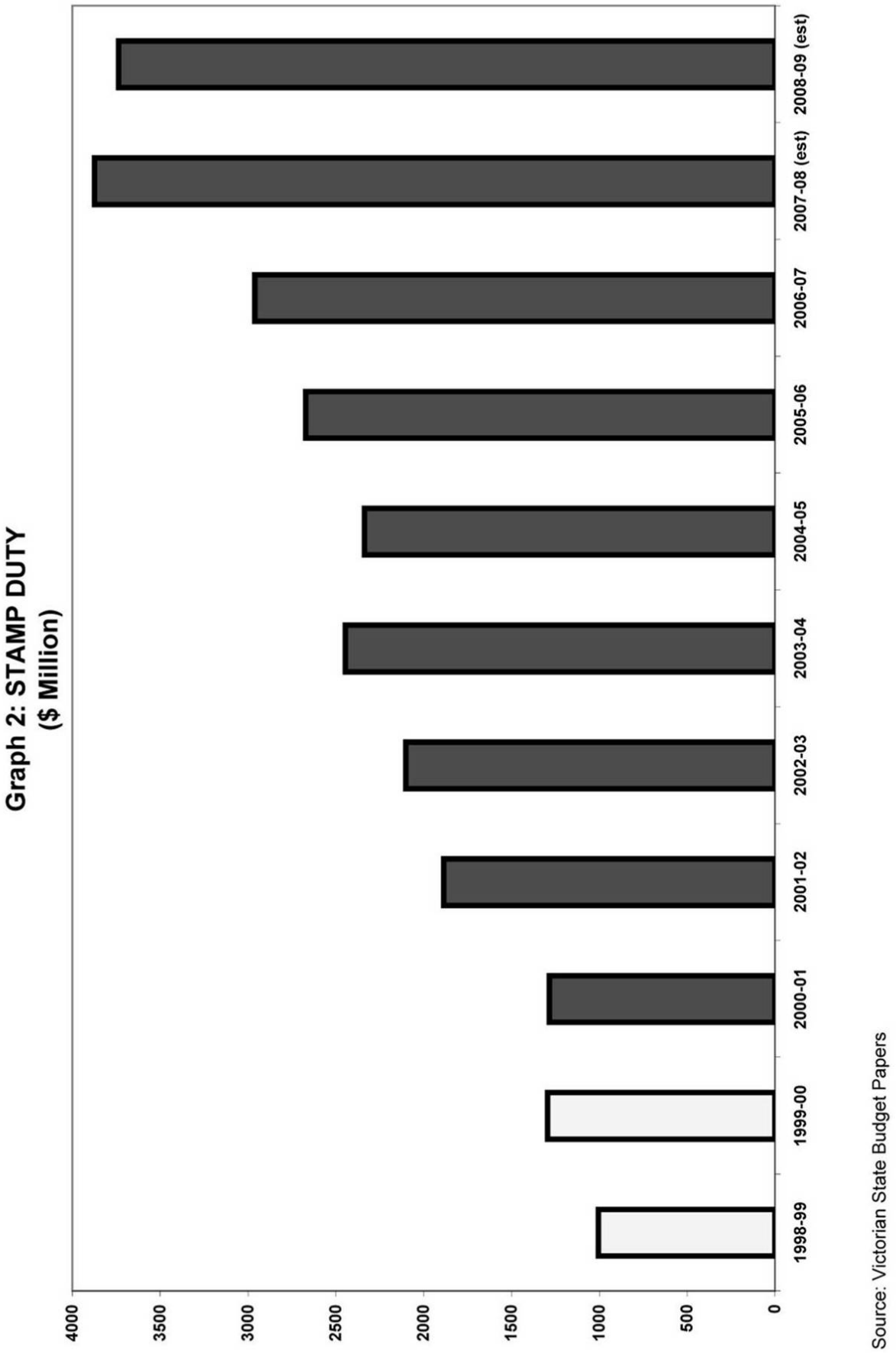
As only one person has been proposed, I therefore declare that Ms Jacinta Mary Ann Collins has been chosen to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Robert Francis Ray. I will advise the Governor accordingly.

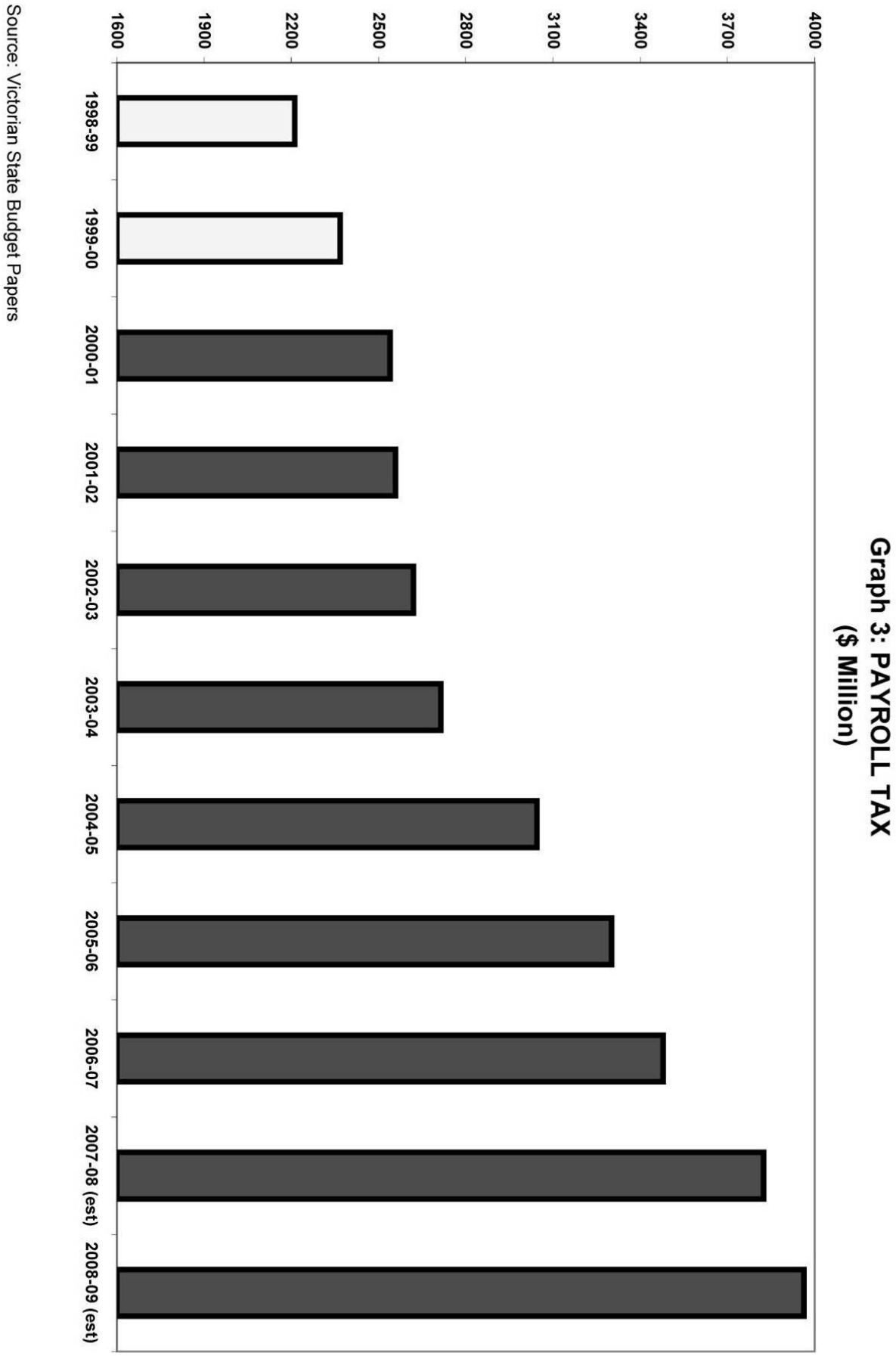
Mr Ingram — On a point of order, Speaker, due to my objection to the process of filling casual vacancies, I would like my dissent recorded.

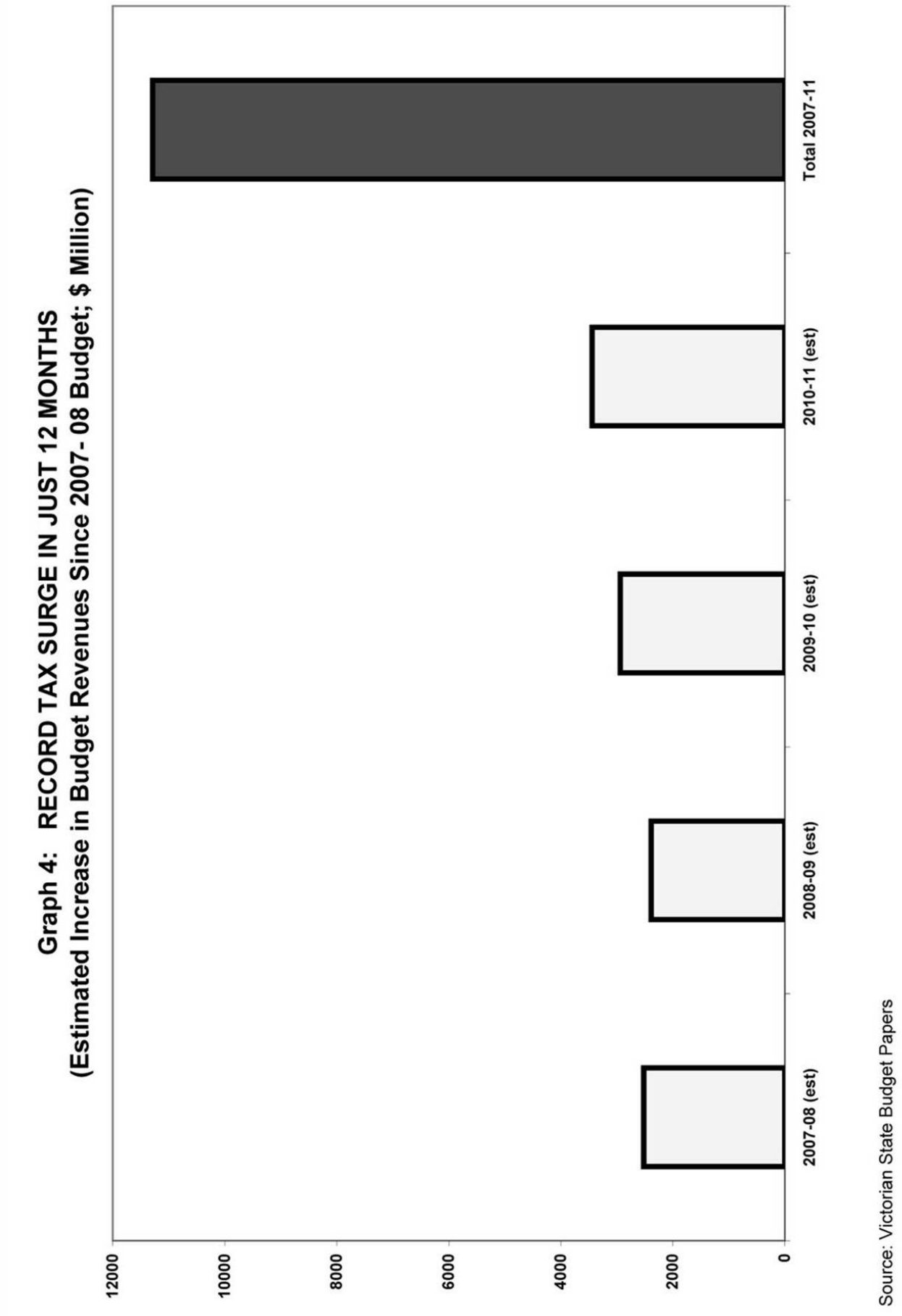
The SPEAKER — Order! There is no point of order. I now declare the joint sitting closed.

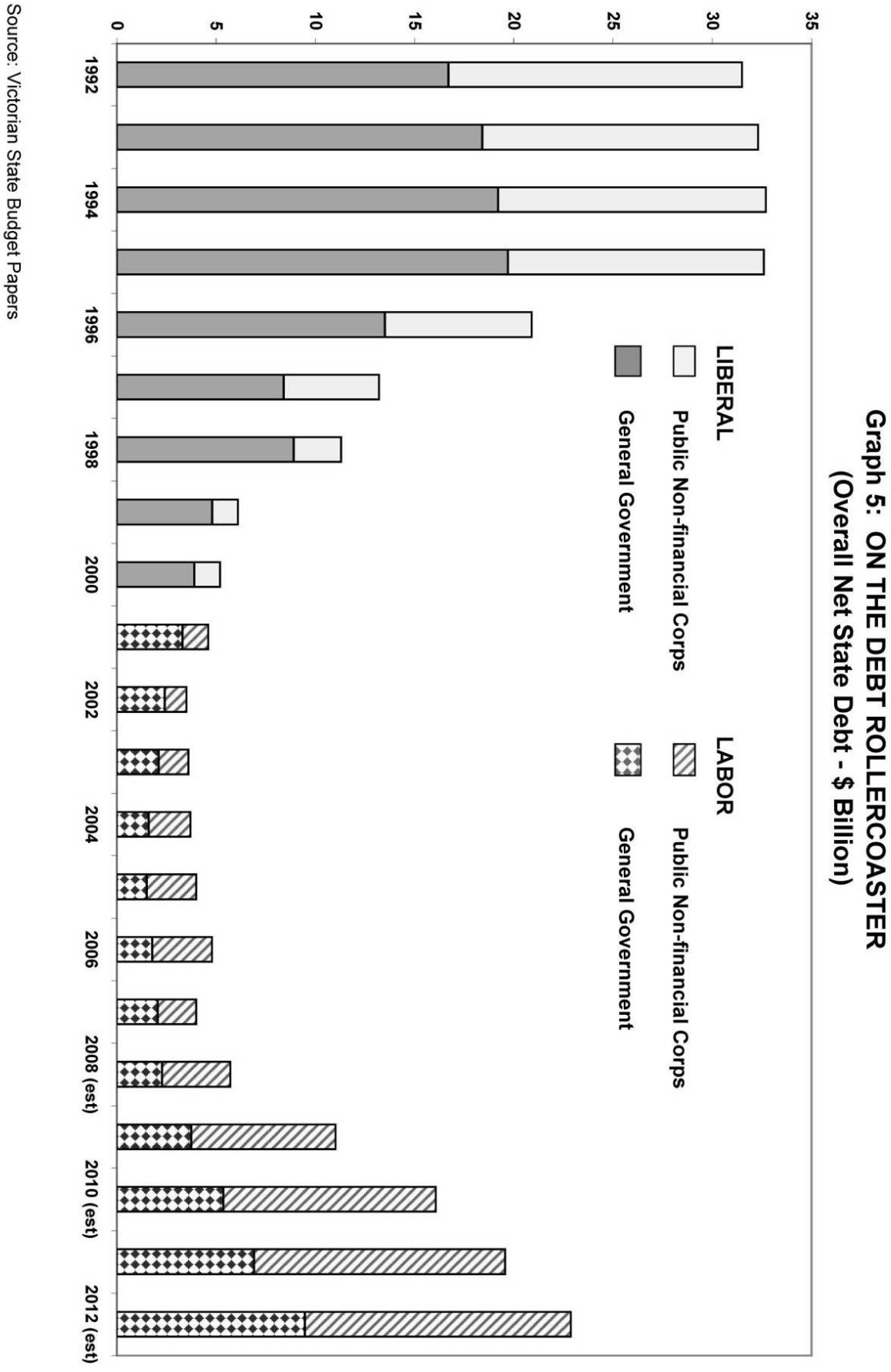
Proceedings terminated 12.50 p.m.

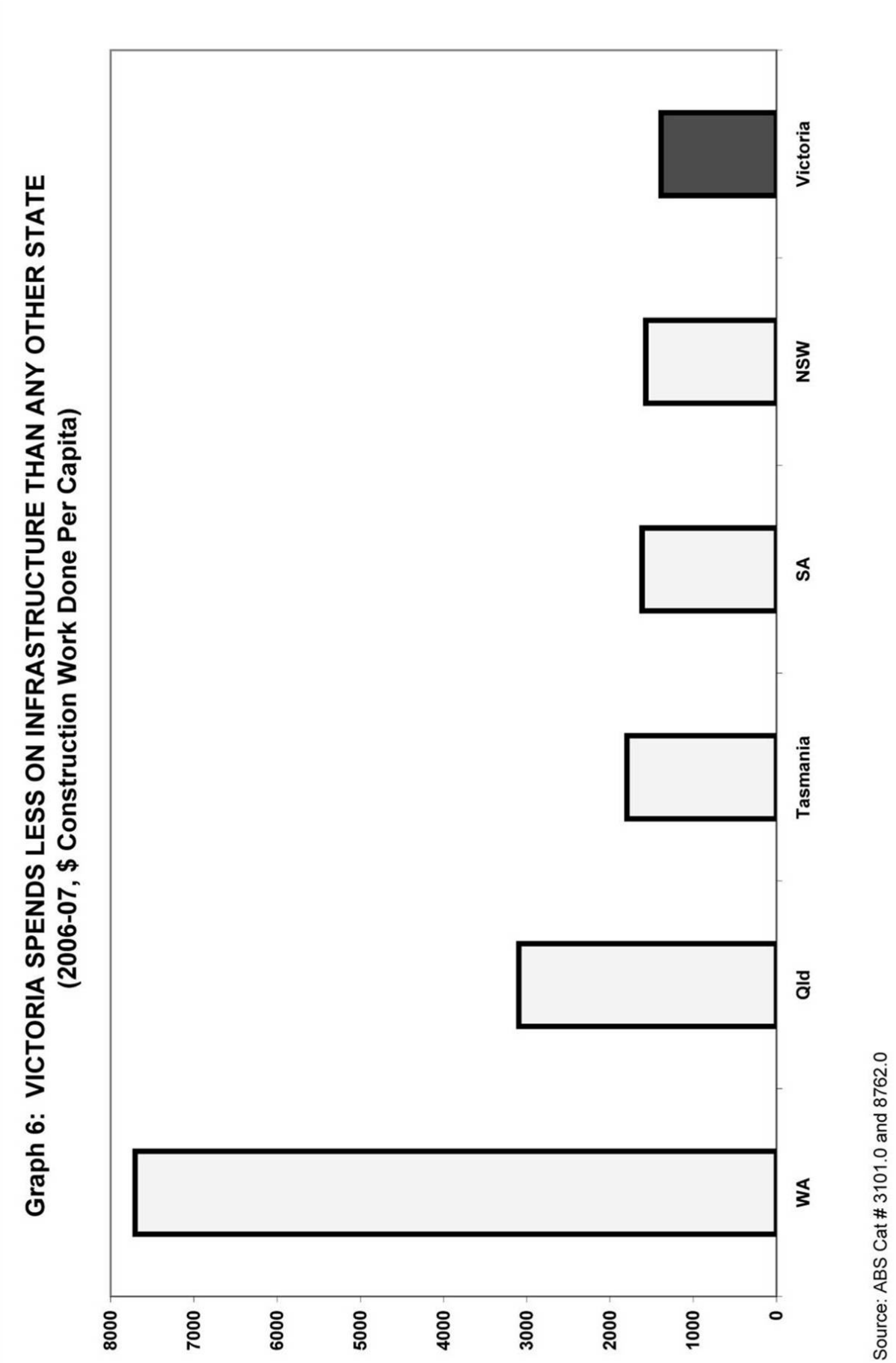

Graph 1: LAND TAX
($ Million)
0
200
400
600
800
1000
1200
1998-99
1999-00
2000-01
2001-02
2002-03
2003-04
2004-05
2005-06
2006-07
2007-08 (est)
2008-09 (est)
Source: Victorian State Budget Papers


Graph 2: STAMP DUTY
($ Million)
4000
3500
3000
2500
2000
1500
1000
500
0
1998-99
1999-00
2000-01
2001-02
2002-03
2003-04
2004-05
2005-06
2006-07
2007-08 (est)
2008-09 (est)
Source: Victorian State Budget Papers

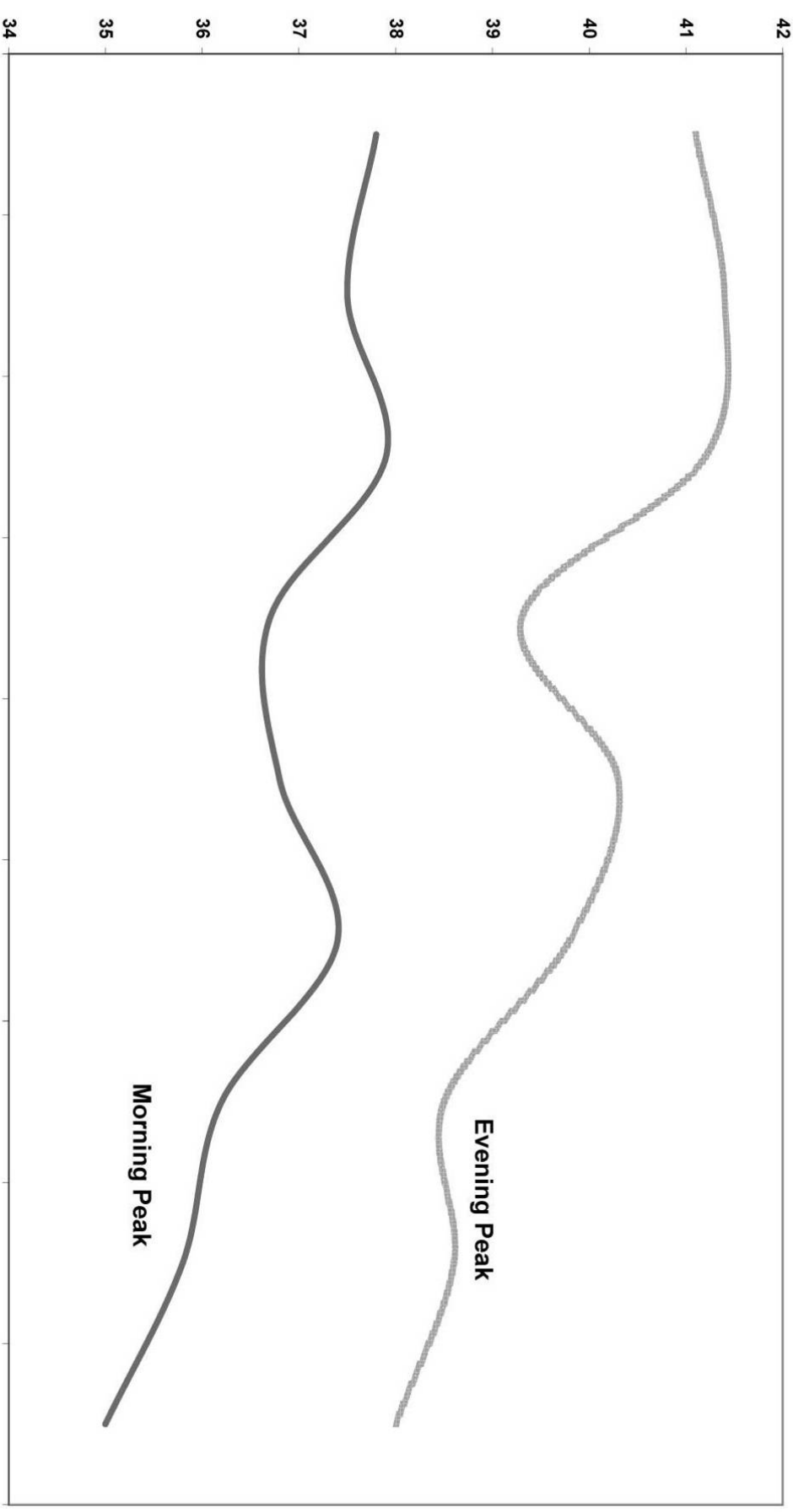

Graph 3: PAYROLL TAX
($ Million)
1600
1900
2200
2500
2800
3100
3400
3700
4000
1998-99
1999-00
2000-01
2001-02
2002-03
2003-04
2004-05
2005-06
2006-07
2007-08 (est)
2008-09 (est)
Source: Victorian State Budget Papers


Graph 4: RECORD TAX SURGE IN JUST 12 MONTHS
(Estimated Increase in Budget Revenues Since 2007- 08 Budget; $ Million)
12000
10000
8000
6000
4000
2000
0
2007-08 (est)
2008-09 (est)
2009-10 (est)
2010-11 (est)
Total 2007-11
Source: Victorian State Budget Papers

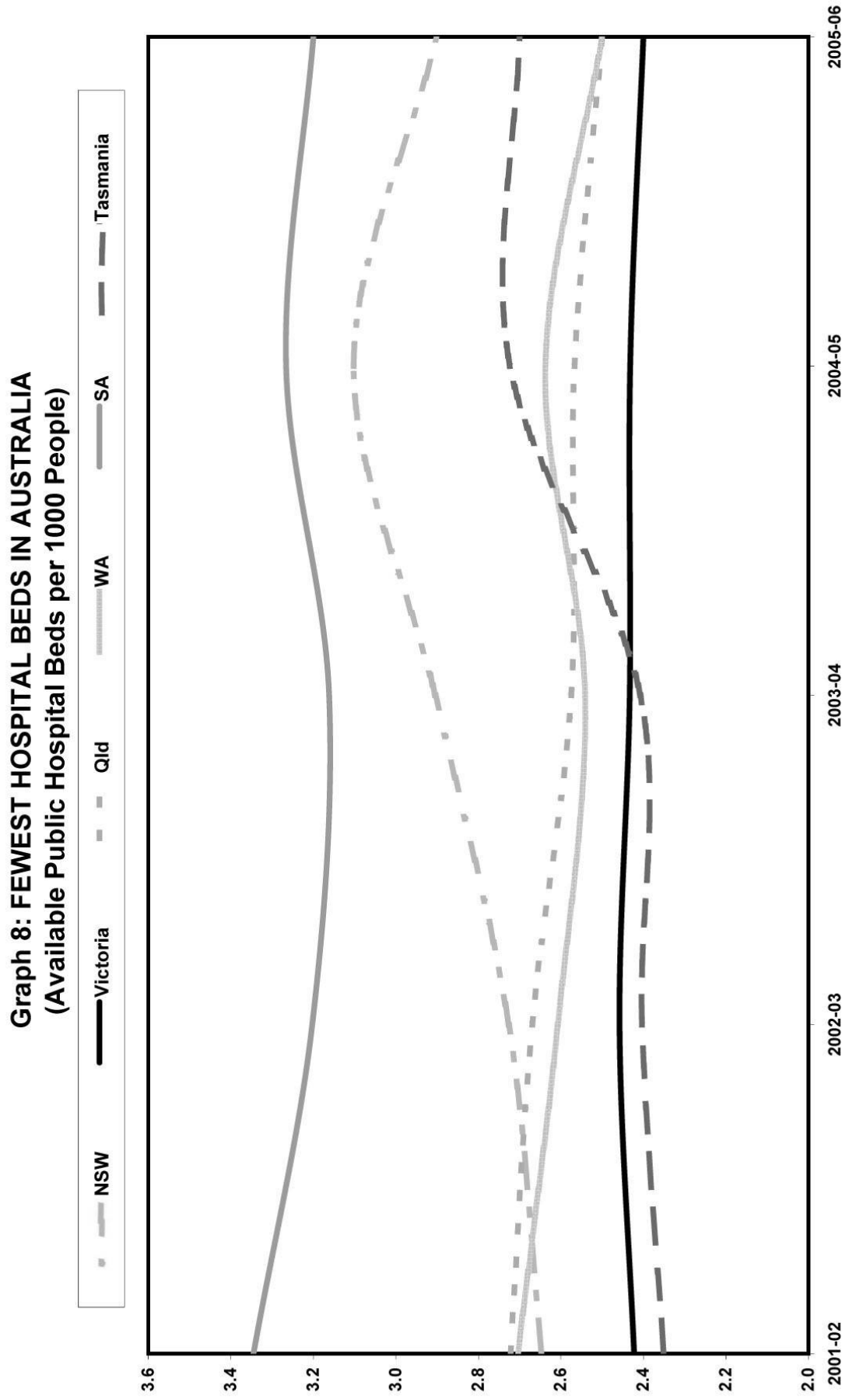

Graph 5: ON THE DEBT ROLLERCOASTER
(Overall Net State Debt - $ Billion)
LIBERAL
Public Non-financial Corps
General Government
LABOR
Public Non-financial Corps
General Government
0
5
10
15
20
25
30
35
1992
1994
1996
1998
2000
2002
2004
2006
2008 (est)
2010 (est)
2012 (est)
Source: Victorian State Budget Papers

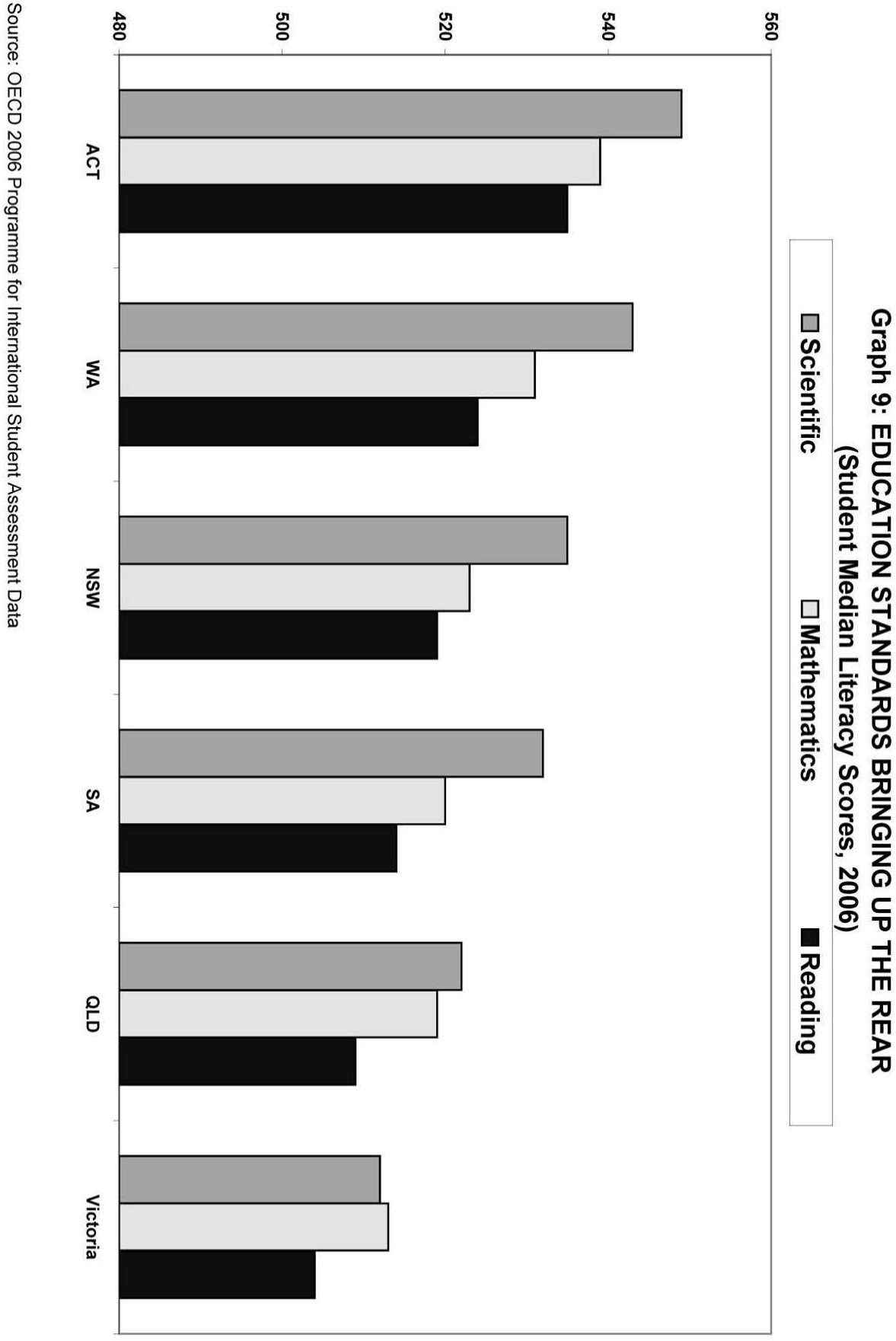

Graph 6: VICTORIA SPENDS LESS ON INFRASTRUCTURE THAN ANY OTHER STATE
(2006-07, $ Construction Work Done Per Capita)
8000
7000
6000
5000
4000
3000
2000
1000
0
WA
Qld
Tasmania
SA
NSW
Victoria
Source: ABS Cat # 3101.0 and 8762.0

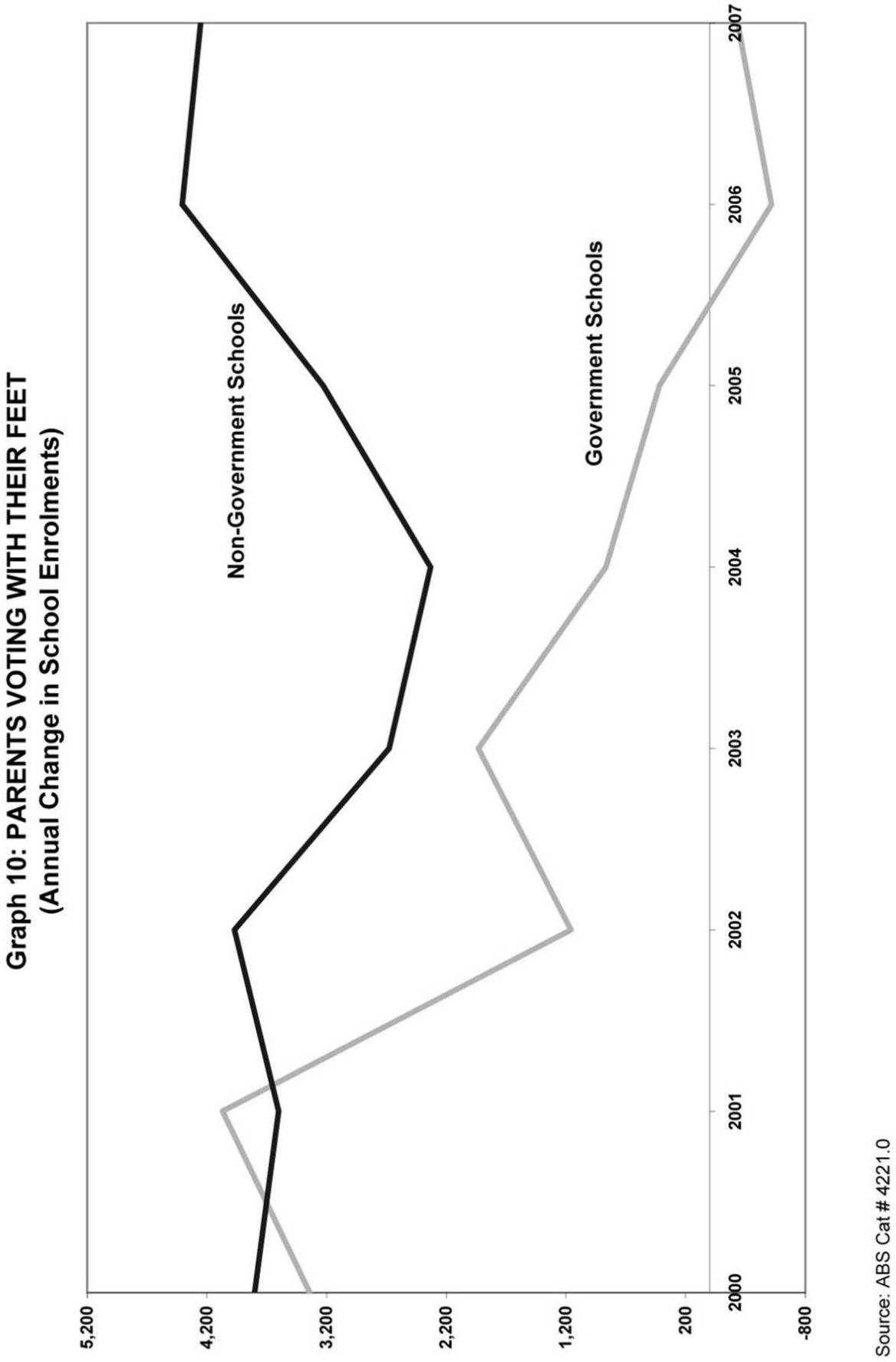
Graph 7: CONGESTION SLOWING TRAFFIC, INCREASING COMMUTING TIME
(Melbourne Road Traffic Average Peak Travel Speed, kph)

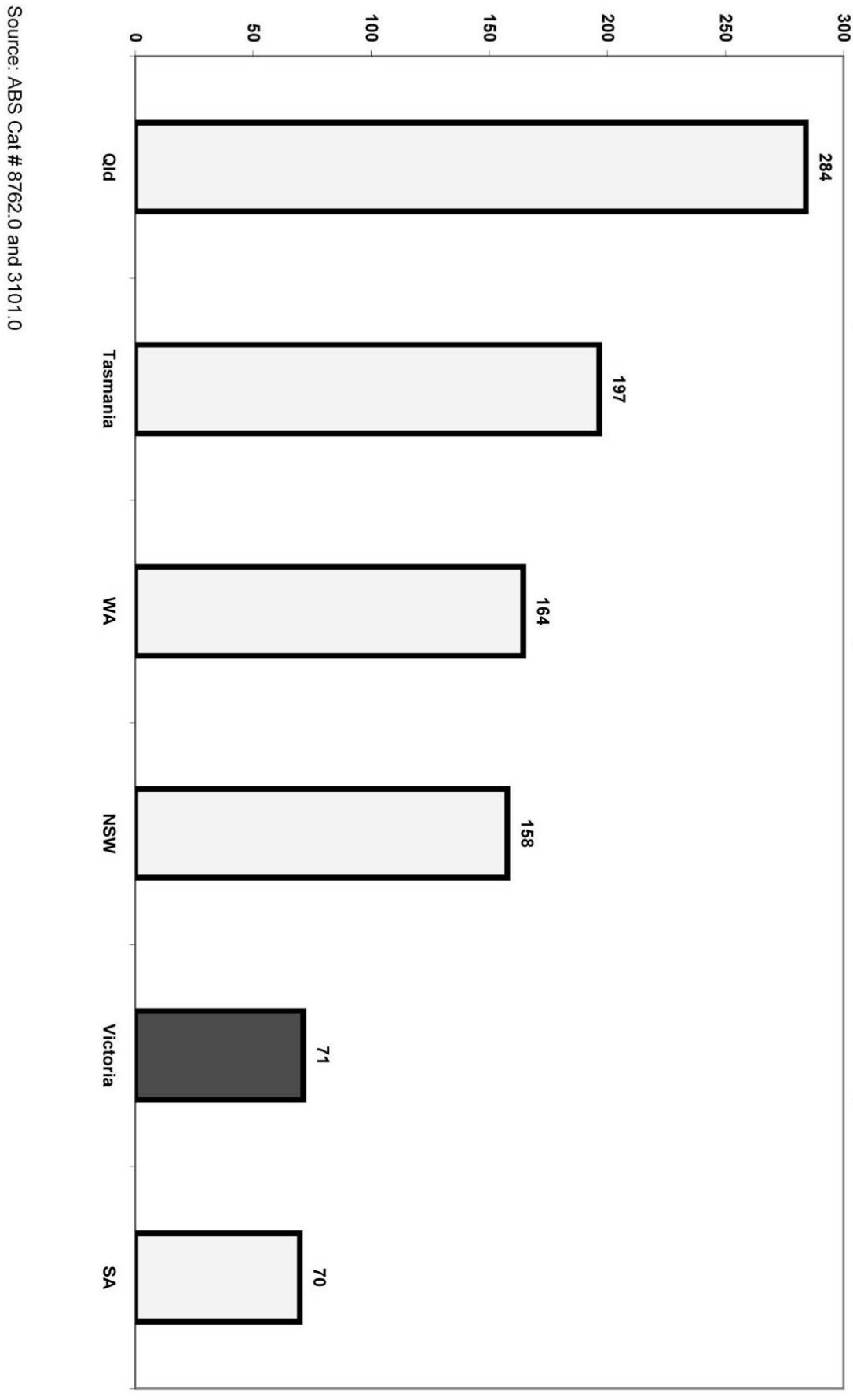


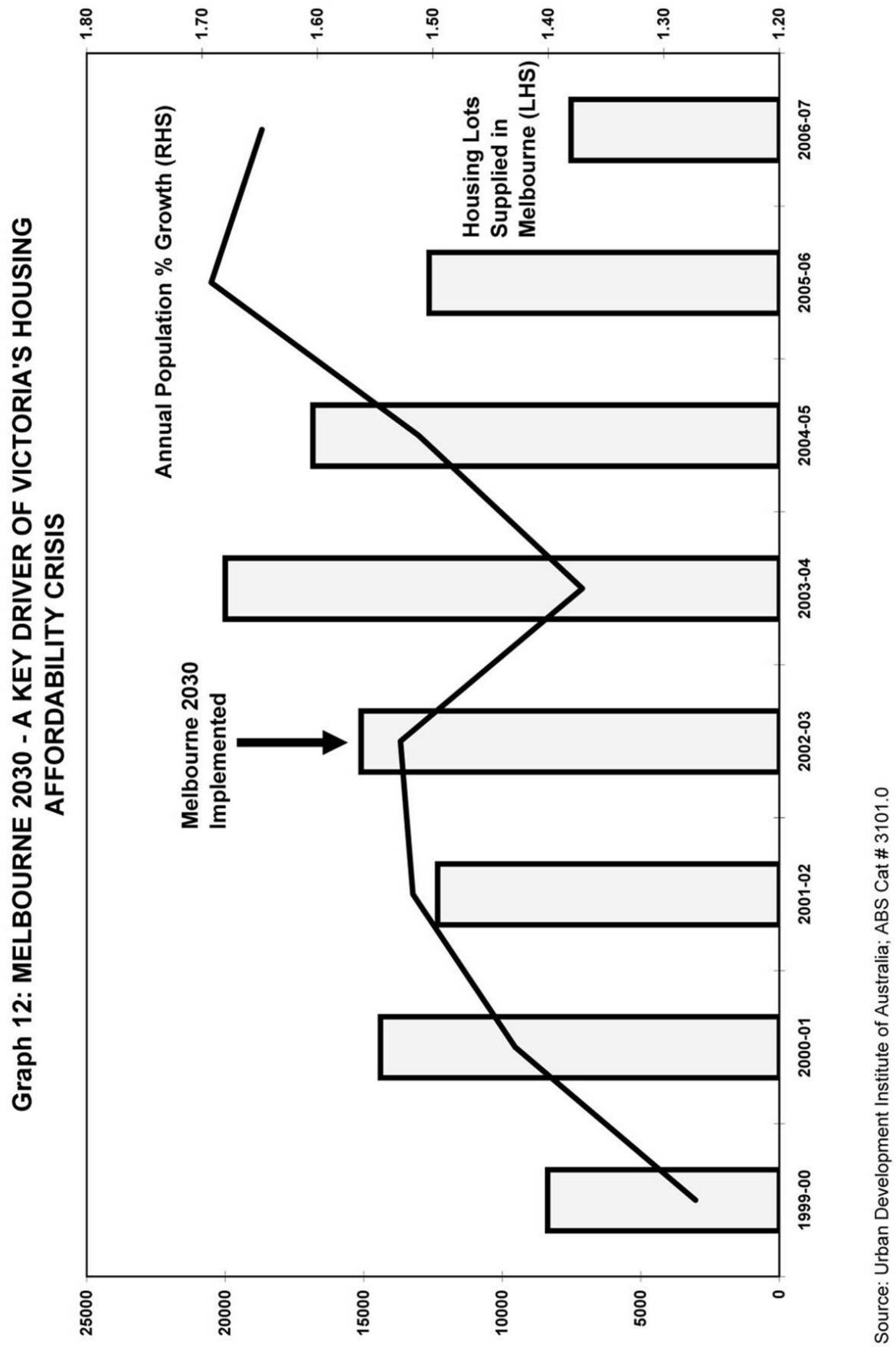
Source: Australian and NZ Road System and Road Authorities, National Performance Indicators


Graph 8: FEWEST HOSPITAL BEDS IN AUSTRALIA
(Available Public Hospital Beds per 1000 People)
NSW
Victoria
Qld
WA
SA
Tasmania
3.6
3.4
3.2
3.0
2.8
2.6
2.4
2.2
2.0
2001-02
2002-03
2003-04
2004-05
2005-06
Source: Australian Institute of Health and Welfare, Hospital Statistics 2005-06


Graph 9: EDUCATION STANDARDS BRINGING UP THE REAR
(Student Median Literacy Scores, 2006)
Scientific
Mathematics
Reading
560
540
520
500
480
ACT
WA
NSW
SA
QLD
Victoria
Source: OECD 2006 Programme for International Student Assessment Data


Graph 10: PARENTS VOTING WITH THEIR FEET
(Annual Change in School Enrolments)
Non-Government Schools
Government Schools
5,200
4,200
3,200
2,200
1,200
200
-800
2000
2001
2002
2003
2004
2005
2006
2007
Source: ABS Cat # 4221.0


Graph 11: VICTORIA UNDERINVESTS IN WATER
(State Investment Per Capita in Water Infrastructure, 2006-07)
300
250
200
150
100
50
0
284
197
164
158
71
70
Qld
Tasmania
WA
NSW
Victoria
SA
Source: ABS Cat # 8762.0 and 3101.0


Graph 12: MELBOURNE 2030 - A KEY DRIVER OF VICTORIA'S HOUSING AFFORDABILITY CRISIS
Annual Population % Growth (RHS)
Housing Lots Supplied in Melbourne (LHS)
Melbourne 2030 Implemented
1.80
1.70
1.60
1.50
1.40
1.30
1.20
25000
20000
15000
10000
5000
0
1999-00
2000-01
2001-02
2002-03
2003-04
2004-05
2005-06
2006-07
Source: Urban Development Institute of Australia; ABS Cat # 3101.0

Regional Infrastructure Development Fund Expenditure
2000/01 to 2007/08 ($ million)

	Expenditure *Target* for coming year as announced in Budget	*Expected* Expenditure for year announced in following Budget	*Actual* expenditure as reported in subsequent Budget
2000/01	58.2	26.4	6.9
2001/02	91.2	61.7	28
2002/03	132.1	48.4	36.1
2003/04	86.5	87.5	43
2004/05	78.7	76.7	36.4
2005/06	36.8	64.2	48.6
2006/07	97.2	116.0	77.5
Since 1999	**580.7**	**480.9**	**276.5**
Total			
2007/08	92.2	88.4	
2007/08	41.4		

Source: Budget Paper No 3 except actual expenditure 2006/07 which is taken from DIIRD 2006/07 Annual Report