**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE ASSEMBLY

## FIFTY-FIFTH PARLIAMENT

## FIRST SESSION

**Tuesday, 13 June 2006**

**(Extract from book 8)**

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The Honourable Justice MARILYN WARREN, AC

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**Standing Orders Committee** — The Speaker, Ms Campbell, Mr Cooper, Mr Helper, Mr Kotsiras, Mr Loney and Mrs Powell.

## Joint committees

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**Economic Development Committee** — (*Assembly*): Mr Delahunty, Mr Jenkins, Ms Morand and Mr Robinson. (*Council*): The Honourables B. N. Atkinson and R. H. Bowden, and Mr Pullen.

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**Law Reform Committee** — (*Assembly*): Ms Beard, Ms Beattie, Mr Hudson, Mr Lupton and Mr Maughan. (*Council*): The Honourable Richard Dalla-Riva, Ms Hadden and the Honourables J. G. Hilton and David Koch.

**Library Committee** — (*Assembly*): The Speaker, Mr Carli, Mrs Powell, Mr Seitz and Mr Thompson. (*Council*): The President, Ms Argondizzo and the Honourables Richard Dalla-Riva, Kaye Darveniza and C. A. Strong.

**Outer Suburban/Interface Services and Development Committee** — (*Assembly*): Ms Buchanan, Mr Dixon, Mr Honeywood, Mr Nardella and Mr Smith. (*Council*): Ms Argondizzo, Hon. C. D. Hirsh and Mr Somyurek.

**Public Accounts and Estimates Committee** — (*Assembly*): Ms Campbell, Mr Clark, Ms Green and Mr Merlino. (*Council*): The Honourables W. R. Baxter, Bill Forwood and G. K. Rich-Phillips, Ms Romanes and Mr Somyurek.

**Road Safety Committee** — (*Assembly*): Dr Harkness, Mr Langdon, Mr Mulder and Mr Trezise. (*Council*): The Honourables B. W. Bishop, J. H. Eren and E. G. Stoney.

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**Scrutiny of Acts and Regulations Committee** — (*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson. (*Council*): Ms Argondizzo and the Honourable Andrew Brideson.

## Heads of parliamentary departments

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

*Parliamentary Services* — Secretary: Dr S. O'Kane

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**FIFTY-FIFTH PARLIAMENT — FIRST SESSION**

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The Hon. S. P. BRACKS

**Deputy Leader of the Parliamentary Labor Party and Deputy Premier:**
The Hon. J. W. THWAITES

**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:**
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**Leader of The Nationals:**
Mr P. J. RYAN

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

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| Ingram, Mr Craig | Gippsland East | Ind | Thwaites, Mr Johnstone William | Albert Park | ALP |
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| Jenkins, Mr Brendan James | Morwell | ALP | Walsh, Mr Peter Lindsay | Swan Hill | Nats |
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| Kotsiras, Mr Nicholas | Bulleen | LP | Wilson, Mr Dale Lester | Narre Warren South | ALP |
| Langdon, Mr Craig Anthony Cuffe | Ivanhoe | ALP | Wynne, Mr Richard William | Richmond | ALP |

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**TUESDAY, 13 JUNE 2006**

# Tuesday, 13 June 2006

**The SPEAKER (Hon. Judy Maddigan) took the chair at 2.02 p.m. and read the prayer.**

## QUESTIONS WITHOUT NOTICE

### Transurban: concession notes

**Mr BAILLIEU** (Leader of the Opposition) — My question is to the Premier. I refer to the Premier's statement to the Public Accounts and Estimates Committee in which he claims the government initiated the dodgy deal with Transurban — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Yuroke!

**Mr BAILLIEU** — I refer to the Premier's statement to the PAEC in which he claims the government initiated the dodgy deal with Transurban and to Transurban's own — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Pascoe Vale!

**Mr BAILLIEU** — And to Transurban's own — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask members to be quiet to allow the Leader of the Opposition to ask his question. That includes the member for Narracan.

**Mr BAILLIEU** — And I refer to Transurban's own press release, which states:

> Transurban took the funding proposal to the government, and the Premier, Steve Bracks, and ministers ran with it.

I ask: who is telling the truth?

**Mr BRACKS** (Premier) — I thank the Leader of the Opposition for his question, and I reject the imputation in it and the description of what is a very good arrangement for this state to bring forward infrastructure which otherwise would not be funded from these concession notes until 2034.

I refer the Leader of the Opposition to a very good analysis of this in the *Age* today by Tim Colebatch which talks about not only the existing arrangements but also the uplift for the government in sharing of super profits and revenue streams in the future as well. This is a proposal which our government has been keen on from the very start. As I have mentioned in this house, we saw the benefits in the Tullamarine Calder interchange, and those benefits were benefits we brought forward — —

**Mr Baillieu** — On a point of order, Speaker, this was a question about whether the Premier told the truth to the Public Accounts and Estimates Committee. It is one or the other. Tell the truth or not!

**The SPEAKER** — Order! I remind the Leader of the Opposition that a point of order is not the opportunity to repeat the question. If he has a point of order, the Leader of the Opposition must put it forward in the normal form. The point of order is overruled.

**Mr BRACKS** — Just as the Tullamarine Calder interchange was successful, so the government was keen and pursued this for what was a successful arrangement to bring forward this infrastructure.

**Dr Napthine** interjected.

**Questions interrupted.**

## SUSPENSION OF MEMBER

**The SPEAKER** — Order! I suspend the member for South-West Coast from the house for 30 minutes for unparliamentary language.

**Honourable member for South-West Coast withdrew from chamber.**

**Questions resumed.**

### Major events: government initiatives

**Mr CARLI** (Brunswick) — My question is to the Premier. I refer the Premier to the success of the recent football friendly between Greece and Australia, and the government's commitment to the purpose-built rectangular stadium. I ask the Premier to advise the house what the government is doing to ensure Victoria remains the major events capital of Australia.

**Mr BRACKS** (Premier) — I thank the member for Brunswick for his question. We certainly are the major events capital of Australia if not one of the major events capitals anywhere in the world. We know in 2006 that we have more major international events in Melbourne, and Victoria more broadly, than any other jurisdiction anywhere in the world. Not only that, but next year there will be the World Swimming Championships, which is one of the top three or four major international events.

Just as we held the last match in Australia for the Socceroos before they went to the World Cup final at the Melbourne Cricket Ground in a friendly with Greece, which attracted 95 103 people and which had a significant benefit for our economy and also made sure we got the benefit of what is going to be a great World Cup effort by the Socceroos more broadly, so too every year over the next four years leading up to 2010 we will have a similar event to the event which happened in the friendly between Greece and Australia. That has been secured by our government in partnership with Football Federation Australia in order to make sure we remain the major events capital of this country.

As well, as this house knows we are also building a dedicated soccer and rugby stadium at the Olympic Park precinct. We are contributing $143 million towards that. We will include a grassroots participation package over the next four years as part of the package we are committing to.

We believe there are great opportunities in maximising what we do internationally for major events in this state. The World Cup provides us with a focus to achieve that in the future. So too do the matches we have secured over the next four years. I know the member for Brunswick and most members of this house would also want to put on record our congratulations to the Socceroos on a magnificent match in the early hours of this morning. I had the pleasure of waiting until the last 8 minutes to see the last three goals — and justice done in a match that was dominated by the Socceroos — finally put on the scoreboard. What a great springboard it was for the rest of the World Cup final.

## Rural and regional Victoria: infrastructure

**Mr RYAN** (Leader of The Nationals) — My question is directed to the Minister for Manufacturing and Export. I refer to the budget payments, which indicate that between 2000 and 2005 the government allocated $447 million for projects under the Regional Infrastructure Development Fund but spent only $150 million of it, and I ask: to what extent would the plunge in manufacturing jobs in Victoria have been arrested if the government had actually spent the promised funds on improving infrastructure in rural and regional Victoria?

**Mr HAERMEYER** (Minister for Manufacturing and Export) — I have to say it is refreshing to finally hear a question about manufacturing from the Leader of The Nationals. Since it came to office, this government has facilitated $9.3 billion worth of investment in manufacturing and some 17 400 new jobs as a result of the money that it has put in through its infrastructure support program and as a result of the investment climate that it has created.

Manufacturing in this country certainly is under some challenge. Countries like China and India and a whole host of other countries are now suddenly in the marketplace, competing with rock-bottom wages. We need to be differentiating ourselves, not by a race to the bottom with wages, like the federal government, but by providing a facilitation for our industries to target the higher, value-added end of the market. That is what this government has been focusing on in terms of creating an investment climate, in terms of its investment support program and in terms of the money that we have given in this budget towards design, which is one of those things that we use to differentiate products. That is how we sell at the higher end of the market.

Unfortunately from neither The Nationals nor the Liberal Party have I heard one single comment, one single idea or one single notion that adds anything to the debate about how we can do it any better. If the secretary of the federal Treasury is to be believed, he says we ought to put it all in the resources basket.

**Mr Ryan** — On a point of order, Speaker, the minister is debating the issue. Besides, I am offering him a point. Just spend the money, Minister, that is all we want you to do!

**The SPEAKER** — Order! There is no point of order. The minister, to continue.

**Mr HAERMEYER** — About three or four weeks ago the secretary of the federal Treasury went out there and basically said, 'Forget about industry policy, New South Wales and Victoria. Forget about all of that. Everybody move over to the west and let's just become the world's quarry'.

I can see in that sense that The Nationals have not changed. That is the view they have always set out for Australia, and it has not changed one iota. We resent that notion, and we reject that notion. As far as we are concerned, Victoria, despite the heightened terms of trade that have come out of the resources boom and the prices that has added to our manufactured products, is holding its own in manufacturing. Our manufacturers are doing us proud. We believe in the ingenuity, the imagination and the enterprise of Victorian people. Unfortunately those opposite do not.

## Crime: victims charter

**Mr LUPTON** (Prahran) — My question is to the Attorney-General. I ask him to detail to the house how

the government's proposed victims rights charter will promote the rights of the victims of crime?

**Mr HULLS** (Attorney-General) — I thank the honourable member for his question. Today I have announced that the Bracks government will be introducing legislation to enact a victims charter for Victoria, so for the first time in this state — and of course it took a Labor government to do this — a charter will record and promote the rights of victims of crime, making it absolutely clear that victims have the right to be treated, throughout the entire legal process, with dignity, with courtesy and with respect.

Amongst other things the charter will require that victims are informed, where appropriate, about the progress of investigations, about charges that have been laid and the progress of the prosecution of those charges. If victims are going to be witnesses in a criminal trial, the charter will require that they be informed about the court processes and any practical arrangements that are taken to protect them from intimidation by or other unnecessary contact with the accused and those people associated with the accused, and it will also ensure that the privacy of victims is respected as well.

The charter will also spell out that victims, whether or not they actually choose to report a crime, have the right to be directed to appropriate services that provide support and assistance to help them recover from the crime that has been perpetrated upon them. By bringing together these rights and the rights that currently exist for victims across various statutes, such as the right to compensation and the right to make a victim impact statement, the victim's charter will certainly ensure that victims know their entitlements and are empowered to access those entitlements.

This legislation has come about because we asked victims of crime what they wanted and how they wanted their rights better recognised. It was the view of victims of crime that the best way to do this was in a single piece of legislation — a charter — and that is why we will be introducing legislation in relation to that charter. It comes on top of a whole range of other reforms that have been introduced by this government. As many would recall, we reinstated compensation for pain and suffering, which was so callously abolished under the former regime. We overhauled victims services; we established the Victims Support Agency and a statewide help line; we streamlined access to the Victims of Crime Assistance Tribunal, we created a victims register to allow victims to track the progress of offenders through the prison system; and of course we established the Sentencing Advisory Council to allow the community to have input into sentencing reforms. As well as introducing a victims charter, the government will back up the operation of that charter with some $3.3 million and dedicated staff to ensure it is adequately implemented.

On this side of the house we will certainly continue to find ways to treat victims of crime with the respect and compassion they deserve. I hope that all members in this place will recognise their collective responsibility to do the same in relation to victims.

## Transurban: Monash–West Gate corridor

**Mr MULDER** (Polwarth) — My question is to the Premier. I refer the Premier to his government's dodgy deal with Transurban and the fact that Transurban's traffic forecast for Sydney's M7 project was overestimated by 30 per cent, and I ask: who provided the independent advice to the government on Transurban's traffic flow estimates on the Monash–West Gate deal, and will the Premier table the advice?

**Mr BRACKS** (Premier) — I thank the member for Polwarth for his question. I reject the imputation in the first part of the member's question. It is inaccurate and it is incorrect. This is a good arrangement to secure what is going to be a great traffic flow on the Monash–West Gate for generations and generations of Victorians for years and years to come.

We are very happy and pleased with the advice we received on unclogging the traffic on the Monash and West Gate freeways, and of course that advice is always backed up by VicRoads, as it was on this occasion as well. It was very good and sound advice, as we always get from VicRoads and as we always get from the Department of Treasury and Finance.

## Sex offenders: supervision

**Ms MORAND** (Mount Waverley) — My question is to the Minister for Police and Emergency Services. I refer the minister to the government's commitment to making Victoria a safer place and ask him to update the house on the success of the government's recent initiatives in dealing with serial sex offenders.

**Mr HOLDING** (Minister for Police and Emergency Services) — I thank the member for Mount Waverley for her question. As all members are aware, this government has introduced the toughest regime in Victoria's history for dealing with sex offenders, particularly child-sex offenders. As members would be aware, it was this government that introduced the sex offenders registration legislation which requires all sex offenders to keep police aware of their whereabouts and

also to provide certain personal information about where they might be and what they might be up to.

It was also this government that introduced the serious sex offenders monitoring legislation which recognises the special vulnerability of young people and the special challenge the government and the Victorian community have in dealing with the perpetrators of sex offences against vulnerable young Victorians. In the most recent budget the government allocated $8.3 million not only to improve the supervision and monitoring arrangements for serious sex offenders but also to make sure we are doing everything we can to provide sex offender treatment programs to effectively and appropriately treat sex offenders.

Members would be aware that the serious sex offenders monitoring legislation which passed through this Parliament last year provided the government with a regime for monitoring serious sex offenders following their release from prison and that this has proved effective in relation to a small number of very serious, recidivist sex offenders who have been judged by the sentencing court to be highly likely to reoffend. Members would also be aware that because of the nature of their crimes some sex offenders provide a real challenge in terms of how the government deals with them.

Most recently members would be aware of the controversy and media interest surrounding the release from prison of Robin Fletcher. Members would be aware that Robin Fletcher's offending is of the most heinous kind — particularly offences committed against two young females during the 1990s. During his time in prison he has shown absolutely no remorse. He has refused to undergo any sex offender treatment at all. He has also indicated a willingness to reoffend and has been unwilling to recognise that his offending behaviour was in any way criminal. A person who presents with these sorts of characteristics poses a real challenge as to how the government should deal with them.

That is why a few weeks ago we sought an application for an extended supervision order, which the Supreme Court granted. That is why the Adult Parole Board, on application from the government, has put in place the most stringent set of conditions ever applied to an extended supervision order. This person will have to live within the perimeter of the Ararat prison. He will be refused access to the Internet, and he can leave the prison only if accompanied by Corrections Victoria staff. All his visits will be escorted visits and will be strictly monitored by Corrections Victoria and prison staff.

These are extraordinarily stringent conditions, and in many respects they challenge us all, but all Victorians and this government certainly recognise that protecting vulnerable Victorians from the threat of predatory sexual offending is one of our paramount responsibilities and one of our highest duties. That is why we sought these orders, and that is why we support and are grateful for the Adult Parole Board's putting this set of conditions in place. That is why we will continue to do everything we can to make sure that Robin Fletcher and other offenders who present similar characteristics are handled in the most appropriate way possible. That is the responsibility we owe to all Victorians.

Any system of continued detention poses real challenges, and that is why this government has through the Attorney-General sought additional advice as to what sort of regime, if any, may be appropriate for Victoria in the future. We await that advice and will consider it carefully when it comes. I am very grateful to both the Supreme Court and the Adult Parole Board for the way in which they have handled this very difficult and sensitive issue. I think we have in place in this offender's case a regime which suits the risk he poses to Victorians. I want to reassure all Victorians that we will do everything we can to protect Victorians from predatory sexual offenders.

## Greater Geelong: inquiry

**Mr BAILLIEU** (Leader of the Opposition) — My question is to the Premier. Given investigator Merv Whelan's statement that the terms of reference prevented him from investigating reported breaches of the conflict of interest provisions of the Local Government Act, why will the Premier not extend the terms of reference into the cash for votes scandal in Geelong? Is the Premier just protecting Labor mates?

**Mr BRACKS** (Premier) — I thank the Leader of the Opposition for his question. In accord with the requirements of the Local Government Act for the local government minister, she initiated an investigation into disclosure matters and matters related to donations which were received and whether those matters were disclosed. It is a matter which we have dealt with in legislation in this house by making sure prospectively that we have new disclosure arrangements for local government councillors when they are conducting election activity. So that matter has been changed under the legislation of this state.

That investigation was set up in accordance with the Local Government Act. It was in relation to and appropriate to the allegations that were made. That

independent investigation has made a finding which has now been received by the council and the community, and action has been taken in accordance with that. I think that is appropriate and sensible in relation to the requirements of the Local Government Act and that investigation.

## Road safety: government initiatives

**Dr HARKNESS** (Frankston) — My question is to the Minister for Transport. I refer the minister to the government's commitment to making Victoria a safer place through improving safety on Victorian roads and ask him to detail for the house the most recent examples of the government's delivering on that commitment.

**Mr BATCHELOR** (Minister for Transport) — I thank the member for Frankston. Anyone who represents people in the suburbs of Melbourne understands the importance of road safety and the advantages of making our roads as safe as possible in all those suburbs around metropolitan Melbourne and indeed in provincial Victoria.

The government's road safety strategy, Arrive Alive, has been in place since 2002. Since it was introduced we have been working towards the target set in that of reducing the road toll by 20 per cent by 2007. The Arrive Alive road safety strategy has been successful in making our Victorian roads safer for all Victorians.

Since its introduction we have seen the three lowest road tolls in Victoria's history. So far we are well on track to replicating that in this calendar year. We certainly hope that Victorians do not become complacent during the last part of the year. If they do not, the road toll will similarly again this year be impressively low.

Over 360 Victorians are alive today because of the gains that we have made through this road safety strategy. That is an impressive total. You have to think about it: 360 Victorians are alive today because of the actions that we have taken. We have taken action on drink-driving, on speed, on drug-driving and on fatigue, and because of our taking such action hundreds of Victorians are still alive today.

We have put money into making our roads safer. Half a billion dollars has been allocated through our black spot program, and some 1200 high-accident locations have been treated as a result of this program. In our recent transport strategy, Meeting Our Transport Challenges, the Bracks government has allocated a further $600 million towards road safety initiatives here in Victoria.

As you can see, we are endeavouring to do what we can to make our roads safe for all Victorians. By undertaking these initiatives we have restored Victoria to its place as a world-renowned leader in road safety. It is a title that we proudly held in the past. The ball was dropped some years ago, but it has been returned to us because of the Arrive Alive road safety strategy. On a national basis Victoria is the only state that is meeting the federal government's target of significantly reducing the road toll in Australia.

We have had to do most of this hard work — and it has been hard work — without the bipartisan support of the opposition. Bipartisan support for road safety initiatives had been a hallmark of government action — with opposition support — in the past, but sadly, that is not in place at the moment. That is why we have our initiative with Wipe Off 5, in stark contrast to the opposition, which wants to add on 10. We want to reduce speed, we want address the issue of fatigue and we want to address the issue of drink-driving and drug-driving, because we want to save lives. The implications of other policies would be to allow people to go at 120 kilometres an hour on the Geelong Road.

**Mr Cooper** — On a point of order, Speaker, the minister is clearly now debating the matter. I ask you to bring him back to order.

**The SPEAKER** — Order! I ask the minister to come back to answering the question, and I ask him to conclude his answer.

**Mr BATCHELOR** — As I said, our Arrive Alive strategy, the Wipe Off 5 campaign, has been successful and has reduced the road toll. Together with the Victorian community, even if we do not get bipartisan support, we will continue to do that.

## Greater Geelong: councillors

**Mr BAILLIEU** (Leader of the Opposition) — My question is to the Premier. I refer the Premier to revelations in the Whelan report that large amounts of cash were handled by the electorate officers of the member for Geelong Province in another place, John Eren, and the member for Bellarine as part of the cash-for-votes scandal. When did the Premier first become aware of the involvement of officers of Labor MPs in the collection of money to fund this assault on the Geelong council and what did he do about it?

**Mr BRACKS** (Premier) — I thank the opposition leader for his question, and I reject the imputation in the

question. The report found that there were some disclosure matters which were not adhered to. Those matters have been referred to the council, and obviously matters such as those would be adhered to in the future.

Importantly the disclosure regime has improved under the Local Government Act changes, just as the disclosure matters have improved under the Electoral Act in this state — for example, there are old funds in the state, like the Cormack Foundation, which have accumulated millions and millions and millions of dollars. No-one knows the source of them; they will never disclose them. Of course they were built up when the opposition leader was the president of the Liberal Party in this state.

These matters can be prospectively dealt with, just as the government has dealt with these matters. New laws prevent old disclosure arrangements happening. These new laws under the Local Government Act will prevent that. I think it is a very important reform and change to ensure that disclosure is a first order issue when it comes to raising funds.

## Children: protection

**Ms MARSHALL** (Forest Hill) — My question is to the Minister for Children. I refer the minister to the government's commitment to making Victoria a safe place to live, and I ask the minister to detail for the house what the government is doing to make Victoria a safer place for children at risk.

**Ms GARBUTT** (Minister for Children) — I thank the member for Forest Hill for her question. This government has successfully embarked on a major reform process of the child protection and out-of-home care system — the first in a generation. Throughout our reforms the government has been putting an emphasis on early intervention and prevention programs to try and keep children safe by supporting them and their families early so that they do not proceed into the child protection system. Our reforms are showing results. I have spoken to the house before about our family support innovations projects, which are getting to families earlier and giving them greater support for a longer time in order to prevent the need to move into more intrusive child protection intervention.

An evaluation report released by La Trobe University shows there is evidence of significant diversion of families, reductions in renotifications and preventing progression into the child protection system. In this year's budget extra money has been announced to finalise the spread of those innovation projects right across the state so that they will reach every corner of the state.

But that is not all the government is doing. We know that keeping them at home with their families and supporting them is the best possible thing for children, if it is safe for them to be there. A new program called Finding Solutions is about supporting adolescents to stay at home and working with them and their families so that they are safe to stay at home and do not get into the child protection system. The positive impact of that program is now coming through, with an 8.9 per cent reduction in the number of adolescents entering the out-of-home care system in 2004–05. That is a great result.

The government has been very concerned about the overrepresentation of indigenous children in our child protection system. We have established a range of new initiatives there, including things like indigenous family decision making, involving the elders in supporting families to keep kids at home. There are indigenous family support innovation projects similar to the mainstream ones, in-home support for Aboriginal families and a range of other programs as well. I am very pleased to tell the house that these programs are also having an impact. Data shows that the rate of notifications and investigations concerning Aboriginal children has levelled off since 2002, and that is a great and positive development considering the large increase in the number of Aboriginal children in the population.

The good news does not stop there. We have introduced many new programs, again with an emphasis on early intervention and prevention. We have appointed a child safety commissioner; we have added 160 child protection workers and 30 child development workers; and we have increased funding overall by 88 per cent since we came to office. We have gone through rebuilding the system. The system of child protection and out-of-home care was decimated by the previous government and now the opposition parties have no policies in place for this vital area. We are fixing the system, our reforms are working and we are better protecting our children. Child protection substantiations last year levelled off in Victoria, while across other parts of Australia they increased by 123 per cent.

**The SPEAKER** — Order! The time for questions without notice has expired.

**Mr Baillieu** — On a point of order, Speaker, on Thursday last the Premier, in response to two questions, volunteered to provide further information to the house with regard to in one case the probity audit on the

Transurban deal and in the other case the prospectus for the Snowy Hydro float. I am unaware of any information being provided to our office, and I invite you to ask the Premier when that information will be provided.

**The SPEAKER** — Order! I am advised by the Premier that the information will be provided.

*Honourable members interjecting.*

## BUSINESS OF THE HOUSE

### Notices of motion: removal

**The SPEAKER** — Order! I wish to advise the house that under standing order 144 notices of motion 155, 281 to 285 and 346 to 348 will be removed from the notice paper on the next sitting day. A member who requires a notice standing in his or her name to be continued must advise the Clerk in writing before 6.00 p.m. today.

## MELBOURNE UNIVERSITY (VICTORIAN COLLEGE OF THE ARTS) BILL

*Introduction and first reading*

**Ms KOSKY (Minister for Education and Training) introduced a bill to provide for the integration of the Victorian College of the Arts with the University of Melbourne, to repeal the Victorian College of the Arts Act 1981, to amend the Melbourne University Act 1958 and for other purposes.**

**Read first time.**

## VICTIMS' CHARTER BILL

*Introduction and first reading*

**Mr HULLS (Attorney-General) introduced a bill to recognise principles governing the response to victims of crime by the criminal justice system and for other purposes.**

**Read first time.**

## WORLD SWIMMING CHAMPIONSHIPS (AMENDMENT) BILL

*Introduction and first reading*

**Mr THWAITES (Minister for Environment) introduced a bill to amend the World Swimming Championships Act 2004 to provide for the management and regulation of venues and areas to be used for the World Swimming Championships, to facilitate the carrying out of works for events and the conduct of events including crowd management, to provide for other related matters associated with the World Swimming Championships and for other purposes.**

**Read first time.**

## PETITIONS

**Following petitions presented to house:**

### Preschools: accessibility

To the Legislative Assembly of Victoria.

The petition of the undersigned residents of Victoria draws to the attention of the house that preschool education in Victoria needs urgent reform to ensure every Victorian child can access high-quality preschool education.

The petitioners therefore request that the Legislative Assembly of Victoria recognise that preschool is the critical first step of education and move responsibility for preschools to the Department of Education and Training.

**By Mr RYAN (Gippsland South) (51 signatures)**

### Water: fluoridation

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

The humble petition of the undersigned citizens of the state of Victoria sheweth that the Victorian government has moved to mass medicate the entire populations of Wodonga and Wangaratta by way of adulterating our drinking water with fluoride. The full facts of related health issues and suspected health issues have been withheld from the population.

In view of rebutting evidence and the omission of vital information in the information booklet your petitioners pray that the Victorian government acknowledges our opposition to mass fluoridation and refrains from adding fluoride to our water supply pending a referendum of the citizens of Wodonga and Wangaratta to vote on whether or not fluoride is added; the government to be bound by the results of such referendum.

Mass medication is in direct contravention of the 1949 Nuremberg Court ruling relative to compulsory medication.

'The voluntary consent of the human subject is absolutely essential' (Nuremburg Code).

**By Mr JASPER (Murray Valley) (360 signatures)**

**Tabled.**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest* No. 6

**Ms D'AMBROSIO (Mill Park) presented Alert Digest No. 6 of 2006 on:**

**Aboriginal Heritage Bill**
**Accident Compensation and Other Legislation (Amendment) Bill**
**Appropriation (2006/2007) Bill**
**Appropriation (Parliament 2006/2007) Bill**
**Drugs, Poisons and Controlled Substances (Amendment) Bill**
**Electoral and Parliamentary Committees Legislation (Amendment) Bill**
**Evidence (Document Unavailability) Bill**
**Gambling Regulation (Further Miscellaneous Amendments) Bill**
**Health Legislation (Infertility Treatment and Medical Treatment) Bill**
**Land (Further Miscellaneous) Bill**
**Long Service Leave (Preservation of Entitlements) Bill**
**National Parks and Crown Land (Reserves) Acts (Amendment) Bill**
**State Taxation (Reductions and Concessions) Bill**
**Transport Legislation (Further Amendment) Bill**
**Victoria Racing Club Bill**

**together with appendices.**

**Tabled.**

**Ordered to be printed.**

## DOCUMENTS

**Tabled by Clerk:**

*Interpretation of Legislation Act 1984* — Notice under s 32(3)(a)(iii) in relation to Statutory Rule No 131/2005

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

Bass Coast Planning Scheme — No C47

Benalla Planning Scheme — No C14

Golden Plains Planning Scheme — No C28

Greater Dandenong Planning Scheme — No C59

Hume Planning Scheme — No C64

Moyne Planning Scheme — No C18

South Gippsland Planning Scheme — No C37

Whittlesea Planning Scheme — No C79

*Project Development and Construction Management Act 1994* — Amendment order under s 8A.

The following proclamation fixing an operative date was tabled by the Clerk in accordance with an order of the house dated 26 February 2003:

*Environment Effects (Amendment) Act 2005* — Whole Act on 30 June 2006 (*Gazette G23*, 8 June 2006).

## ROYAL ASSENT

**Message read advising royal assent to:**

**Energy Legislation (Miscellaneous Amendments) Bill**
**Infringements (Consequential and Other Amendments) Bill**
**Planning and Environment (Growth Areas Authority) Bill**
**Primary Industries Acts (Miscellaneous Amendments) Bill**
**Victorian Urban Development Authority (Amendment) Bill.**

## APPROPRIATION MESSAGES

**Messages read recommending appropriations for:**

**Children, Youth and Families (Consequential and Other Amendments) Bill**
**Courts Legislation (Neighbourhood Justice Centre) Bill.**

## BUSINESS OF THE HOUSE

### Program

**Mr BATCHELOR** (Minister for Transport) — I move:

That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 6.30 p.m. on Thursday, 15 June 2006:

Accident Compensation and Other Legislation (Amendment) Bill

Building and Construction Industry Security of Payment (Amendment) Bill

Charter of Human Rights and Responsibilities Bill

Electoral and Parliamentary Committees Legislation (Amendment) Bill

Gambling Regulation (Further Miscellaneous Amendments) Bill

Health Legislation (Infertility Treatment and Medical Treatment) Bill

Land (Further Miscellaneous) Bill

Long Service Leave (Preservation of Entitlements) Bill

Transport Legislation (Further Amendment) Bill

Victoria Racing Club Bill.

This government business program acknowledges that over the last two weeks we have been debating the budget and in doing so we have provided maximum opportunity for members on both sides to join in and contribute to the debate. The priority over the last two sitting weeks was to enable as many members as possible to speak on the appropriation bills. We have provided the opportunity to speak to about 70 members on both sides, so most, if not all, members of the opposition and the Independents were able to speak. It is fair to say that anyone who wanted to speak on the budget has been given that opportunity.

Of course, that means in the following week or weeks we will need to catch up on the legislative program and deal with other pieces of important legislation that are in the pipeline and working their way through this chamber. This week we will be sitting a little later on Wednesday and Thursday nights to accommodate — —

**Mr Plowman** interjected.

**The SPEAKER** — Order! If the member for Benambra wishes to speak I am more than happy to call him later, but at the moment I ask him to be quiet and allow the Leader of the House to continue.

**Mr BATCHELOR** — We are proposing to go on the adjournment motion at 11.00 p.m. on Wednesday night and at 6:30 p.m. on Thursday night. We acknowledge that is a bit later than normal but it is done in order to accommodate our country members so they can drive home, if they choose to, on that particular night.

This program is achievable. There are some extended hours but they are quite modest, and the program still accommodates the needs of our country members to get home nice and tight. Your cup of cocoa will still be available when you get home!

**Mr COOPER** (Mornington) — We have gone from a drought to a flood. In previous weeks on the government business program I have been talking about the probability we will get jammed up with legislation, and it has happened earlier than I expected; it has happened this week. We have 10 pieces of legislation, most of which have great significance and will need to be debated in full.

There are some we would like to see go into the consideration-in-detail stage, but there is no doubt that with this legislative program we will not see that happen either. Again it will be the second week in a row when there has been a denial of the opposition's ability to look at legislation in some detail.

This government is running this Parliament in a way which is denying members the opportunity to consider legislation properly, and it is doing so blatantly and without any feeling for what should be going on in a Parliament that was promised by this government to be a Parliament that would be very different from all previous parliaments. The government said this Parliament would consider legislation properly, would give members the opportunity to make proper representations on behalf of their constituents and give all members the ability to look at legislation in detail, but the contrary is the situation.

There are 14 sitting days left after this week and 10 bills left on the notice paper. With the 3 we have been given notice of today, that is 13 bills in 14 days. One can probably expect that we are not going to be overworked in the remaining time, so one has to ask the question: what is so important about the agenda for this week that we have to railroad 10 bills through without sufficient debate?

I notice that the Leader of the House very carefully avoided the situation that we are going to be faced with on Thursday, when the government has the intention — the proper intention I might add, but nevertheless the intention — of taking up some of the time of this house on a condolence motion for the recently deceased Secretary of the Department of Treasury and Finance, Ian Little. That is going to take three-quarters of an hour to an hour of the house's time. Therefore, the extra 3½ hours that the Leader of the House said were going to be available to the house this week to debate 10 significant pieces of legislation is going to be 2½ hours and not 3½ hours.

On top of all of that we have the Leader of the House very grandly saying to members from country Victoria that they will be allowed to drive home at 6.30 or 7 o'clock. That was a grand gesture on his part. It is a

pity the gesture does not extend to all members of this house being able to represent their constituents properly in debates before the house this week.

Although I should not have to do so, I draw attention to the fact that the bill that is going to occupy a lot of time this week is the Charter of Human Rights and Responsibilities Bill. I do not know how many members on the government side intend to speak on that legislation, but virtually — —

**Mr Ingram** — Not many, I would have thought!

**Mr COOPER** — They do not believe in that. It is all another example of smoke and mirrors on the part of the government. But the reality is that on this side of the house virtually every member will want to speak on that bill and want it to go into the consideration-in-detail stage, but clearly we are going to be denied that. Democracy will become a victim of this government. Democracy does not become something that is proudly proclaimed; it becomes a victim.

This Parliament has been neutered continuously by this government and continues to be neutered. The opposition is appalled at this government business program and dismayed at the way in which this house is being treated. It will oppose the program, because this government is not doing what it promised it would do when it came to power in 1999 and again at the last election. The program is totally opposite to what this government promised about the way in which this Parliament would operate. We will vigorously oppose the program, and we will be conveying our dismay to the people of this state.

**Mr MAUGHAN** (Rodney) — One could well ask whatever happened to family-friendly hours and to proper processes in this Parliament, such as the consideration-in-detail stage. The government has welshed on its commitment to both of those. When in opposition, government members railed against the previous government, but now they are in government and have a chance to do something about it, they are silent.

**Mr Nardella** interjected.

**Mr MAUGHAN** — Like the member for Melton, they bellow out at other members so they cannot express their points of view. It is yet another example of trying to silence this Parliament and of the government ramming through its agenda. Family-friendly hours are out the window.

I appreciate the very generous offer of the Leader of the House to allow us to leave this place on Thursday night, but by the time we finish up it will be some time after 7 o'clock, and as I have said before, many members will have a 4-hour drive ahead of them. After a long week in this Parliament it is not fair to have to set about driving 4 hours to the extremities of the state. I think the government really needs to have a good look at itself and at what it is doing to country members, who had to get down here early today and have to get home on Thursday night to fulfil their commitments on Friday.

The Leader of the House says we had an opportunity to speak on the appropriation bills last week. We did, and I thank the minister for giving members on this side the opportunity to do that. Why are we in this position? We did have time last week, but the problem stems from much earlier than that. A few weeks earlier two very important bills — the Disability Bill and Education and Training Reform Bill — were listed for the one week, and we were jammed up on those. Going back earlier than that, there were several weeks during which we had four or five pieces of insignificant legislation, but we devoted a whole week to those.

This week we have 10 bills before the house, including the Charter of Human Rights and Responsibilities Bill on which the member for Mornington has indicated many members will want to speak. The Gambling Regulation (Further Miscellaneous Amendments) Bill and the Accident Compensation and Other Legislation (Amendment) Bill are all very important pieces of legislation, and they are included with seven other pieces of legislation and a condolence motion. I would suggest that there will be no opportunity to go into the consideration-in-detail stage on any of those bills. If that is the government giving members the opportunity to express their views in this Parliament, I would strongly disagree.

What is happening to the Channel Deepening (Facilitation) Bill? It has been sitting on the notice paper since, I think, 7 December 2004 — for 18 months! When the minister introduced it he said it was a priority for this government and very important legislation. There was an important government document before that which said it was a priority project — that is, the economic statement *Victoria — Leading the Way*. The minister said that the bill reflected the government's commitment to the channel deepening project as a priority state project.

**Mr Cooper** — Leading the way backwards.

**Mr MAUGHAN** — We certainly are leading the way backwards, and we wonder why the government is

not prepared to bring this important piece of legislation on. It is languishing. We have a pretty fair idea why — that is, because there is dissention in the government ranks. We are pretty clear that those who do want to support this — —

*Honourable members interjecting.*

**Mr MAUGHAN** — Okay! Bring it on and do it, because you said it was a priority in — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Rodney, through the Chair!

**Mr MAUGHAN** — Government members and the minister said it was a very important project and a priority for this government. It is priority, and we want to get it through. We want to give exporters the additional opportunities that will be provided when the channel deepening project goes ahead and those larger vessels are able to come in and reduce the costs of transporting our exports from this state. I would have thought that if it was a priority project the government would be very keen to bring it on.

Ten bills is too many for one week. It shows poor management in the use of time to get this legislative program through during the sitting period. We will be sitting late on Wednesday night with an 11 o'clock adjournment, and it will be midnight by the time most of us get home. On Thursday we have a 6.30 p.m. adjournment, but it will be 7 o'clock before most of us are able to leave the Parliament and 11 o'clock or later before we get home. These are not family-friendly hours, and this program is not a sensible use of our time. The Nationals will be opposing the government's business program for this week.

**Mr LANGDON** (Ivanhoe) — It is my pleasure to add a brief contribution to this debate and to concur with the Leader of the House. This government has been managing the business program exceptionally well. Just for the record, I would like to advise the house that last week, to get all the opposition and The Nationals spokespersons up, and the two Independents, we spoke for 14 hours and 29 minutes on the appropriation bill — and 44 government members also spoke. A total of 70 members spoke on the budget, which is almost a record high; the record was 72. I challenge the opposition to come forward with figures of what happened under the Kennett government which match anything like that.

The government has been doing exceptionally well.

**Mr Cooper** interjected.

**The SPEAKER** — Order! The member for Mornington has had his turn.

**Mr LANGDON** — As I have in the past, I will continue to work with my fellow whips to get as many people to speak and as many bills up as we can. I am sure the same thing will occur.

**Mr INGRAM** (Gippsland East) — I rise to speak on the motion before the house and to say that I oppose the government business program. Just taking a cursory look, there are a number of extremely important pieces of legislation on the business program. If you work it out, there is just over 11 hours of lead speakers time on those pieces of legislation, and that is an enormous amount of time to take out of the debates. Clearly many of these bills do not need to be passed this week. There is no reason why some of them could not be held over to further sitting weeks later in the year. For example, the Charter of Human Rights and Responsibilities Bill will make a major change to the law of the state. It could potentially present some great threats to the way our law and the Parliament are run in this state.

There are a number of bills which are important. I am sure many members would like to have the opportunity to speak on them. It is important that all members of this place who wish to get up and speak on those bills have the right to do so. But due to the fact that the government intends to pass these bills using the guillotine at 6.30 p.m. on Thursday, the debate on some of them will have to be severely cut short. It is not acceptable to have this number of bills on the list, particularly considering that a large number of them are extremely important, lengthy and detailed, and deserve full consideration in this house by as many speakers as wish to get up and comment.

With those words, I support the comments made by the member for Mornington and oppose the government's business program.

**Ms ASHER** (Brighton) — I oppose the government business program for two reasons. Firstly, 10 bills in one week, notwithstanding the fact that sitting hours have been extended, is way too many to allow for proper debate, particularly when you look at the nature of some of them — for example the Charter of Human Rights and Responsibilities Bill. If you take out the lead speakers, there will be very few opportunities for opposition members in particular to put the case against or to raise issues in relation to the bills that the government is putting before the Parliament.

Secondly, in its desire to handle 10 bills in one week the government has moved for what is quite a late sitting on Wednesday, with an adjournment starting at 11.00 p.m., which will mean the Parliament will not get up until 11.30 p.m., and an adjournment at 7.00 p.m. on Thursday. I recall the now Minister for Education and Training railing against late nights. She used to argue very forcefully that the then government should have family-friendly sitting hours. I think family-friendly hours are not going to be possible for MPs. However, what we need to see are reasonable sitting hours; that is what we are after.

I note that this program is not what the government was going to propose. Something has changed its mind. The initial advice to the opposition was that five or six bills would be chosen from a list of 10. We have always indicated that five or six bills is a reasonable amount of business to put before the house. All of a sudden we were advised later on Friday that 10 bills would be debated. I note just by way of casual observation that one particular bill, the Health Legislation (Infertility Treatment and Medical Treatment) Bill, is being handled by the member for Caulfield. She is not getting a briefing on that bill until right now, its having started at 3.00 p.m. Another was scheduled, but the government changed the procedure. It is next to impossible to have a proper consideration of bills by shadow cabinet when shadow ministers are not provided with briefings.

I would also like to make reference to the fact that I think a yearly sitting program — and I commend the government for releasing it — is a significant advance in the administration of the house. I have previously mentioned that I think that has been a good move by the government, and I am prepared to congratulate the Leader of the House on it. But I would have thought where you have a sitting program where the dates for the whole year are clear and where we are sitting in every month, the government would have had the capacity to manage its business program in a more orderly way.

This gives the impression that we are about to break for one of those winter recesses we used to have, before which there would be a mad rush of legislation. But it is not the end of the session. I am aware that the opposition has given a commentary on the program, but the fact that there is a yearly program should have enabled the government to manage its business better than this. I again make the point that our initial advice was that there were five or six bills to be debated, which would have been reasonable. To have 10 bills for debate in one week, and to have these elongated sitting times, is not reasonable or necessary. It proves once again that the government cannot manage its program.

The solution of course is that if it is so important to be passed this week, the government should have scheduled an extra sitting day — or alternatively it could manage the flow of business better next time Parliament sits. There is no necessity for this government business program before the house, and we oppose it.

**House divided on motion:**

*Ayes, 59*

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

*Noes, 26*

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

**Motion agreed to.**

# MEMBERS STATEMENTS

## Paddy O'Donoghue Centre

**Mr HOLDING** (Minister for Police and Emergency Services) — I was very pleased to conduct the opening of the Paddy O'Donoghue Centre in Noble Park on Saturday, 13 May, where I was joined by the member for Mulgrave. We were both pleased to be there to celebrate the opening of this very important centre, which provides child care, preschool and maternal and child health and occasional care services and facilities for Noble Park senior citizens, the University of the Third Age and combined pensioner groups as well as resources for many other community organisations. The centre was a joint initiative of the City of Greater Dandenong and the Bracks Labor government and funding included a $250 000 contribution from the government's Children First policy and $1 million through the Community Support Fund.

The centre honours the name and contribution of Paddy O'Donoghue, who was a legend in Noble Park for decades and a member of the Public Hall Trust for 47 years. It was wonderful to be joined by Paddy's widow, Olive O'Donoghue, local historian Dawn Dickson, many of the other trustees of the Public Hall Trust, including Cr Alan Gordon, Adrian Barrad, Cr Peter Brown, the mayor of the City of Greater Dandenong, and, as I mentioned, my parliamentary colleague the member for Mulgrave. It is a great hall that honours a great person who has contributed a huge amount to Noble Park. The centre honours and perpetuates the name of a person who has done a huge amount to support and preserve a very important piece of Noble Park's history into the future.

## Questions on notice: answers

**Ms ASHER** (Brighton) — I wish to draw to the house's attention the contempt in which ministers hold this Parliament. A question on notice was lodged by me on 30 November 2004 regarding payments by WorkCover to Shannon's Way. A freedom of information (FOI) request was subsequently lodged by me on 12 April 2005 with documents received on 17 October 2005.

The question on notice was answered on 18 October 2005 but not received until 15 November that year. The actual answer, which came from the Honourable John Lenders in the other place in his capacity as Minister for WorkCover and the TAC, said:

> This information has been previously provided to the member under FOI.

The answer was almost one year late, and the minister deliberately withheld the answer until the information had been provided under FOI. More significantly, the Ombudsman has found that this government handles FOI poorly, and in the case of this example the government's refusing to answer questions in the Parliament and its hiding behind FOI have been found by the Ombudsman to be suspect.

This is outrageous arrogance and an unacceptable refusal to answer questions asked in Parliament, which I would have thought, after all, is more significant than FOI matters. The only way the public has found out that over $12 million has been paid to Shannon's Way is through a combination of questions on notice and FOI requests. The present Minister for Major Projects and the former Minister for WorkCover are refusing to answer questions on notice in the Parliament, claiming that the questions have been answered under FOI. It is a disgrace and a contempt of the Parliament.

## Diamond Creek East Primary School: heroes day

**Ms GREEN** (Yan Yean) — Today I want to pay tribute to yet another fantastic community fundraising event in the Yan Yean electorate. Diamond Creek East Primary School, through its junior school council, held a heroes day on 8 June 2006 and raised a grand total of $860 for cancer research. This was a fantastic achievement for a school of 405 students. Four teachers and three junior school council representatives also stepped up to the mark and had their heads shaved to make the day one to remember. Students wore costumes representing their heroes, including the Country Fire Authority, Beaconsfield miners, nurses, police, football players and doctors.

The teachers who had their heads shaved were Matthew Crowe, Shane Nelson, Rob Szydlowski and Graeme Clark. Well done staff and students at Diamond Creek East Primary School.

## Dr Melody Serena

**Ms GREEN** — Today I want to pay tribute to Dr Melody Serena, who has been awarded a medal of the Order of Australia. Dr Serena, a Whittlesea resident, was a founder of the Australian Platypus Conservancy based at Toorourrong Reservoir and undertook the first study of platypuses in an urban environment. Dr Serena's work has inspired children and many local schools, including a United Nations-awarded project at Apollo Parkways Primary School. Well done, Dr Serena.

## Water: Wimmera–Mallee pipeline

**Mr DELAHUNTY** (Lowan) — The development of western Victoria's icon project, the Wimmera–Mallee pipeline, which I and many others strongly support, is moving at a snail's pace and many concerns are being raised about the implementation of the project by Grampians Wimmera Mallee Water (GWMWater). Such concerns include design issues — for instance, a farmer not being informed that a 5-kilometre pipe across his property would include 14 valves and go across his airstrip. Other issues include the allocation of recreation water, piping priorities, pumping costs and the giving up of entitlements from the Waranga channel. The large increase in authority staff, together with the unfortunate loss of experienced people with local knowledge, is worrying many people.

With federal and state contributions being capped, there are also concerns with increases to the project costs and future water rates. Where the northern Mallee pipeline resulted in reduced rates, a GWMWater report shows that rates could increase by up to 100 per cent in 10 years. This would take away many of the opportunities for future development in western Victoria.

Wimmera irrigators have criticised the lack of support from the authority and government regarding pricing, bulk water entitlements and headwork and distribution costs. There are other concerns relating to the planned improvements to Nhill's water quality as well as fluoridation of the Horsham supply. GWMWater must work with its communities. It disappoints me greatly that the people of western Victoria feel let down by an authority which has a big bearing on their everyday lives. The social, economic and environmental benefits associated with the pipeline are critical for the development of western Victoria, but GWMWater must get on with the job and work more closely with the people of western Victoria.

## National Reconciliation Week: Footscray electorate

**Mr MILDENHALL** (Footscray) — During the recent National Reconciliation Week I was able to attend a number of events organised by the western suburbs Indigenous Gathering Place. Housed at the Maribyrnong library at Highpoint, the gathering place has an impressive range of community services, including health, community safety, transport and youth development services, available and delivered from this dynamic centre.

Another highlight of National Reconciliation Week was an indigenous art exhibition that was held over three weeks at the Incinerator Arts Complex in Moonee Ponds. The exhibition featured artworks from artists and students across the western region and entries from inmates of the Dame Phyllis Frost and Port Phillip prisons. Conceived by one of the subcommittees at the Gathering Place and delivered each year as a result of the close work between them and staff at the Incinerator complex, the art show is doing a great job in raising the profile of Victorian indigenous artists and offering a greater understanding of our cultural diversity.

The highlight of the art show is the Premier's award, judged by a panel led by the Koori Heritage Trust's former chief executive officer, Jim Berg. The winner was outstanding young artist, Trevor Torrens, for his evocative piece entitled *Reconciliation*, which was more than appropriate given the nature of the week.

Congratulations to the sponsors Martin Gedke of Delfin Lend Lease, the City of Moonee Valley, the western suburbs Indigenous Gathering Place and Reconciliation Victoria. Congratulations also to the workers, the inspirational chair of the gathering place, Colleen Marion and her indefatigable partners, Trevor Sinclair, Ken Matthews and Libby McKinnon, the Incinerator Arts Complex and the Living Museum of the West.

## Preschools: funding

**Mr ANDREWS** (Mulgrave) — I rise to welcome the Bracks government's substantial support for kindergartens in my community. Local kindergartens will share in just under $34 400 in important funding to support safety improvements, the purchase of new equipment and upgrades to important facilities. Kindergartens in my local community, their committees of management and other parents and staff do a great job supporting the three and four-year-old kindergarten programs and supporting the development, socialisation and path into formal education of the young children who attend them. These important funds will support 11 kindergartens or preschools in my local community in that important work.

This boost is part of a $5.9 million statewide program that builds on the government's hard work in supporting Victoria's children. With the establishment of the Office for Children, a raft of early intervention services, children's hubs and record boosts for child protection services, this government is investing in our children and their future. Specifically, this kindergarten funding adds to an extra $4.1 million over four years to increase the kindergarten fee subsidy for low-income parents, an extra $19.3 million over four years for long

day care centres to provide kindergarten programs and a $16 million boost for capital grants to establish up to 60 children's centres across Victoria.

These measures are great news for Victorian children, especially those in my local community of Mulgrave. We will all as a community benefit from this investment and achievement.

## Jeannine White

**Mr MULDER** (Polwarth) — Last month a constituent of mine, Jeannine White, who lives in the small town of Cobden and is described by many as the lifeblood of South West Healthcare's adult day activity centre in Camperdown, was presented with the prestigious 2006 Rural Health Award. The award was a tribute to Jeannine's tireless work and client-centred focus on over 1000 members of the David Newman Centre in Camperdown. Jeannine is one of only five people to have their life's work recognised with this award which is organised by the Victorian Healthcare Association in conjunction with the Department of Human Services. Jeannine has long been regarded as the driving force behind the establishment of this centre. For the past 20 years she has continuously worked on implementing innovative and stimulating programs for her clients.

Members in this place who represent a rural constituency know very well that people such as Jeannine White are like gold to our smaller communities. The opportunities and choices for the disadvantaged are much more limited in the country, and it is therefore a more arduous task to provide a stimulating environment and even harder to maintain this environment over many years.

Jeannine White has risen to the challenge in so many ways. She is described by all who work with her and by others in the community as the ultimate role model for a volunteer. Her volunteer work includes attending evening meetings to liaise with the south-west sports assembly, TAFE students, the media and aged care groups. At the weekends she types up large-font footy tipping draws so that her visually impaired clients do not miss the fun of the competition. She keeps abreast of funding for infrastructure and programs and is well informed about the availability of guest speakers to educate, motivate and stimulate her clients. She simply goes beyond the call of duty.

## Reservoir East Primary School: facilities

**Mr LEIGHTON** (Preston) — Last Friday the Minister for Education Services launched new facilities at Reservoir East Primary School in my electorate. The $1.3 million building project includes the construction of a new multipurpose room, a new canteen, new staff areas, refurbishment of the library, an updated IT area and renovated classrooms. The upgrade of Reservoir East Primary School was made possible through $752 000 in funding from the state government. The school community contributed around $15 000 through fundraising, which shows the great partnership that exists between the school, its community and the state government.

My congratulations to the principal, Karen Anthonsen, school council president, Judy Gardiner, and all the students, parents and teachers who managed so well during the works. In the tour before the launch I was particularly impressed with the IT facilities and the commonsense rules displayed on the wall. I understand that threepences and old milk bottle tops were found behind the boards during the works, and I believe the member for Footscray may know something about these items.

Reservoir East is an area of high need. There are many students from non-English-speaking backgrounds and a high proportion of students receive the education maintenance allowance. There are good things happening in the area such as the community building program and more recently neighbourhood renewal. This demonstrates the support of the Bracks Labor government for its heartlands.

## Central Gippsland Health Service: paediatric services

**Mr INGRAM** (Gippsland East) — I rise today to speak about the recent resignations of two paediatric doctors, Peter Goss and Jo McCubbin, from the Central Gippsland Health Service (CGHS). These paediatricians give excellent service right across Gippsland, particularly in my electorate of Gippsland East.

A letter was presented to me recently by Dale Bond on behalf of the Save the Sale Hospital group which makes an impassioned plea for me to make representation to Parliament on behalf of the community about the loss of these two paediatricians. The letter says:

> If these very highly skilled and experienced paediatricians are not retained at CGHS it will almost certainly result in unnecessary deaths of children. These paediatricians service the communities from Traralgon to the New South Wales border.
>
> These resignations are the result of sustained issues within the administration of CGHS and not a result of any desire by the paediatricians to leave the area. These doctors have had to

> endure the most terrible conditions imposed upon them by the administration of CGHS and it has resulted in these unwanted and unnecessary resignations.
>
> I implore you on behalf of the local community to rectify this most unfortunate situation that has resulted in these resignations.

The doctors seek an urgent meeting with the minister to make sure that these issues are resolved. It is important that these paediatricians are retained in Gippsland to make sure that young children are looked after in that area and we do not lose those valuable doctors.

## Prime Minister: performance

**Ms LOBATO** (Gembrook) — The Victorian State government was a reluctant party to the sale of the Snowy scheme, and I am pleased that this sale will now not go through and that the wishes of the public have been heeded. But I say this to the Prime Minister: do not insult me by pretending that you were won over by public sentiment. Public sentiment has never resonated with you before — not with the recent industrial relations legislation, not with going to war in Iraq and certainly not with your determination to sell off Telstra, despite overwhelming public support for its retention.

The truth about the aborted sale of the Snowy River scheme is that it did not go ahead because of the administrative failures of your government. The only reason the public has won in this instance is by default, to save you from the embarrassment of the exposure of these failures. While the Snowy waterways may have been saved from private ownership, the public lifeblood of Telstra — which, although not as sexy or photogenic as the Snowy, is every bit as important to the rural dwellers of this nation — is still on your privatisation agenda.

**The SPEAKER** — Order! The member should make her comments in the third person.

**Ms LOBATO** — The proposed sales of both Snowy Hydro and Telstra have nothing to do with the federal government's concern for the people and everything to do with the size of the money bucket that the Prime Minister will then be able to use to buy your next round of votes.

**The SPEAKER** — Order! The member should use the third person.

**Ms LOBATO** — He will use the money to buy his next round of votes. The eradication of Australia's heritage for the sake of a quick buck is the unfortunate legacy the Prime Minister has left for future generations, which will have to pick up the pieces. Let us hope nuclear waste is not added to that.

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

## Schools: maintenance

**Mr DIXON** (Nepean) — Last week's allocation of $50 million in maintenance funds was overdue and underdone. While averaged out over Victoria's 1600 government schools an amount of $31 000 per school might be welcome, it is barely going to cover the maintenance needs of many schools. As the $50 million grant is the first special, outside-normal-budget payment to schools for maintenance since the government came to power seven years ago, it averages only an extra $4400 per school per year — barely enough to renovate a classroom. The government has let maintenance in Victoria's schools get into a deplorable state. Allocating $50 million every seven years as catch-up money is bad management. Maintenance funding should be ongoing, as it makes practical sense and taxpayers get more for their money as well.

According to the Auditor-General, when it was elected in 1992 the Kennett government inherited a maintenance backlog of $670 million from Labor. It reduced it by $540 million to $130 million during its term of government. The current backlog has currently increased to $250 million, even after last week's $50 million announcement. That is nearly double the amount that the Bracks government inherited. School maintenance has gone backwards under the Bracks government's mismanagement. Many schools and the Australian Education Union have already claimed that the $250 million is an underestimate due to the recent dodgy maintenance audit. The $50 million allocated in this budget is too little, too late.

## Don Golightly

**Ms NEVILLE** (Bellarine) — Today I would like to pay tribute to one of Bellarine's distinguished community members, who sadly died last week. Mr Don Golightly had a significant impact on Point Lonsdale and Queenscliff. He made contributions across a whole range of community activities, including serving for more than 20 years on the Queenscliffe Borough Council as a councillor and as mayor. He joined the Queenscliff urban fire brigade in his teens and served continuously from 1949. As a result he was made a life member and was awarded the Queen's medal in 1976 for his services to the fire brigade. He was also a founding member of Geelong Otway

Tourism and the Barwon regional waste management group. He served as the chair of the harbour development committee and was an executive member of the local business association. He also served 10 years as a board member of the Geelong and District Water Board.

He started his working life as a plumber and later established Victoria's first 5-star caravan park, Beacon Resort, at Point Lonsdale. He always generously supported his local community, giving time and resources to many community groups and charities. He will be sorely missed by the whole community, and his lifetime contribution to the Queenscliff area will be forever acknowledged.

My sympathies to his wife, Judy; his children, Bruce and Lorraine, and their partners, Bob and Tracey; and his grandchildren, Rachael, Matthew, and Will.

## Rushworth P–12 College: On Track data

**Mr MAUGHAN** (Rodney) — Once again the government has got it wrong by publishing misleading and inaccurate information through its On Track program. Last year I wrote to the minister informing her that the publication of misleading and inaccurate data had caused distress and damage to the reputation of two schools in my electorate. Clearly the minister took no notice of my concerns, because she has done it again and, through publishing On Track data, has unfairly and unreasonably maligned the Rushworth P–12 College.

The On Track survey failed to inform readers about how many students actually responded to the survey — in this case it was 14 out of 22, or 60 per cent. The reality is that of the 22 students who undertook their Victorian certificate of education studies at Rushworth P–12 in 2005, not one is unemployed. That is, 100 per cent of them are undertaking further studies or apprenticeships or are working. Actually 9 of them are attending university, 5 are attending TAFE, 1 is doing a vocational education and training certificate II course, 2 are apprentices, 3 are trainees, 1 is working full time and 1 is working part time. Both the school and the community are very proud of their 2005 VCE students. The college does an outstanding job of supporting and encouraging individual students, and I pay tribute to Jane Ezard, the principal, Kerrie Raglus, the student pathways manager, the staff at the college and, most of all, the 22 students of 2005.

## Schools: Macedon electorate

**Ms DUNCAN** (Macedon) — Last week I was very pleased to announce an extra $476 000 in immediate maintenance funding for the 25 government schools in the Macedon electorate. The funds are part of the $50 million announced in the state budget for maintenance works in schools and come on top of $34 million allocated annually for school maintenance needs. This funding is in response to the 2006 maintenance audit and is timely in addressing maintenance needs. This latest addition brings total maintenance funding to $400 million since 1999. Not only are we seeing record funding in capital works in our schools, but we are also seeing record levels of maintenance funding as well. We know our state schools are great schools, and this funding ensures that they will stay this way. These funds will be available to schools before the end of the month so they can get on with their most urgent repairs.

For Mount Macedon Primary School this will include replacing carpet throughout much of the school. Some of the other schools to receive additional maintenance money include Darraweit Guim Primary School, which will receive $37 567, Sunbury West Primary School, which will receive $35 232, and Goonawarra Primary School, which will get $33 691. I commend the minister for this funding, and on behalf of the schools in those communities I can assure her it is greatly appreciated.

## Building industry: warranty insurance

**Mr COOPER** (Mornington) — Builders involved in the domestic building sector of the industry in Victoria are of the unanimous view that the Bracks government has absolutely no idea when it comes to builders warranty insurance. The Bracks government sided with the insurance industry on this matter, and no doubt the coffers of the Labor Party have been well rewarded as a result. Builders have been well and truly left holding the empty bag.

For the last five years we have had the spectacle of incompetent government ministers in Victoria proclaiming that their imposed builders warranty insurance product is the best for both builders and consumers. The reality is that this insurance product is a disaster and has recently been described on one national television program as 'one of the five worst consumer rip-offs in Australia'. That view is shared by many other media outlets. Only the Bracks government and insurance companies think that this stinker of a product is acceptable.

This government-sanctioned product is insurance of the last resort, and that means that insurance companies will rarely, if ever, have to pay out on a claim. It is nothing more than a licence to make money for

insurance companies. The Bracks government has enriched insurance companies at the expense of home builders and consumers. All government MPs should be ashamed of what they have done, and between now and 25 November they should be doing everything they can to correct this awful situation.

## Ciaran Ryan

**Ms LINDELL** (Carrum) — Last week Ciaran Ryan, who is a year 10 student at St Bede's College in Mentone, joined my office for a week's work experience. Ciaran was a delight to have, and St Bede's College should certainly be very proud of having him as a student. He obviously has a very fine intellect and is a very thoughtful young man.

When I asked him whether he wanted the opportunity to write to me about something that he was passionate about, he chose the nuclear debate to write about. I would like to read what he had to say. His words are:

> Recently the Howard government has proposed that the state of Victoria may become the site of Australia's first nuclear power facility. This would become the primary resource for power throughout the state.
>
> The state of Victoria does not need a nuclear facility to supply power, as the use of brown coal has been extremely successful in supplying the state's power for many years now. In addition to building a nuclear facility, a nuclear waste site will also need to be constructed. The risk involving dumping nuclear waste is far too significant to ignore.

The clear message that Ciaran makes is that Victoria does not want, need or support a nuclear power station.

## Planning: Macedon Ranges

**Dr NAPTHINE** (South-West Coast) — Last Friday I visited the Romsey area at the request of the hardworking and well-respected local Liberal candidate for Macedon, Robyne Head. As part of my visit we met with a large group of very concerned land-holders and community leaders, who expressed frustration and anger at the Bracks Labor government in relation to inflexible planning rules which fail to meet the changing needs of this outer urban area.

They advised that the current restrictive planning rules had the following problems: they were hurting older, long-time residents and farmers who are now wishing to retire but who are unable to sell their land because they are unable to get building permits; failing to allow the development of more appropriate, more viable and more intensive specialised agricultural production such as olives, vineyards, alpacas, goats, garlic et cetera; failing to allow new rural lifestyle developments; causing an increase in neglect and degradation of agricultural land as farms in the area become increasingly uneconomic yet unsaleable; causing an explosion of weeds and a lack of control of erosion; and creating a poverty trap for genuine farmers and landowners unable to sell and move into more viable farming enterprises or retire.

The people we met with urged the government of the Shire of Macedon Ranges to urgently reconsider and change planning rules to increase flexibility but retain rural lifestyle. For example, an older couple with two titles, one for 87 acres and one for 92 acres, want to retire but cannot sell them because they cannot get building permits for these very large separate-title pieces of land. This is totally inappropriate in that area.

## World Oceans Day: coastal action kit

**Ms BUCHANAN** (Hastings) — Last Thursday was World Oceans Day, a day when we celebrated our oceans and were able to reflect on how incredible they are and, equally, how under threat they are. To mark the significance of this day I had the great pleasure of launching on behalf of the Bracks government the Victorian Coast Action 'Edu-action teacher resource kit' at Tooradin Primary School.

Tooradin is an historic township on the coastline of Western Port bay, an area renowned for its marine and coastal biodiversity. Its fishing heritage, mangroves and bird life reflect its international Ramsar listing. The Tooradin school community is to be commended for the great work it does to preserve and raise awareness of this.

In 2004 the neighbouring coastal village of Cannons Creek became the first plastic-bag-free town in the southern metropolitan region, and these launches are indicative of the firm resolve these coastal communities have to care for, protect and enhance their natural environment, working collaboratively with government to achieve sustainable outcomes.

The coast action kit is an important piece of curriculum material that explores the natural and cultural values of Victoria's coasts and seas. It was developed with the input of over 50 organisations, including schools. We need to teach our children about the value of precious marine national parks. There are over 12 000 marine species in Victoria's southern waters, and 90 per cent of these are found nowhere else in the world. Joined by representatives of Parks Victoria, Western Port and Peninsula Protection Council, South East Water, the Western Port and Mornington Peninsula Biosphere Foundation, the regional catchment management authority and the Crib Point and Stony Point foreshore

committee, Tooradin students were treated to a fantastic presentation by the Coastcare staff.

I would like to thank all of the Tooradin school community for its great input. I know that they will enjoy this, knowing that they are keen with their knowledge, love and care of their local marine environment.

## Frankston: avenue of honour

**Dr HARKNESS** (Frankston) — Veterans are terrific members of our society who have done this country proud and deserve our strongest respect. That is why I was so pleased last week to announce a grant of $7000 to the Frankston RSL sub-branch to improve the World War I Avenue of Honour on Nepean Highway in Frankston.

This grant will allow the Frankston RSL to clean, restore and replace nameplates on the memorials at the ends of the Frankston Avenue of Honour. This project will also see explanatory plaques erected, along with memorial lighting. Memorials and honour rolls are the physical expression of the community's gratitude owed to those who sacrificed their lives, often in distant parts of the world. The Frankston memorial is no exception and needs to be properly restored.

In restoring these memorials we do more than preserve the memories of the men and women they honour; we pay homage to the communities that built those memorials, the communities of our parents and grandparents. Last week I rang the president of the Frankston RSL sub-branch, Mr Len Streets, who was absolutely delighted by this funding.

## Veterans affairs: government initiatives

**Dr HARKNESS** — The Bracks government strongly supports veterans. In 2005 alone the state government implemented initiatives such as the Veterans Act 2005, which locks in sources of funding for commemorative and education activities that are unique in Australia; the Victorian Veterans Council, and the Victorian Spirit of Anzac Prize (Schools Competition and Overseas Tour) to allow Victorian students the chance each year to visit historical sites during Anzac Week.

The Bracks government has extended free travel on the public transport network to veterans and war widows to the days either side of Anzac Day and on the day itself, and there are many other initiatives. Frankston has a large veteran population, and these heroes need and deserve our respect. I, for one, will continue to stand up for Frankston's veterans.

## Australia Post: Geelong service

**Mr TREZISE** (Geelong) — On Friday night, 9 June, I was very pleased to attend a community rally outside the Geelong North Australia Post mail sorting centre in support of postal workers whose jobs are under threat. For the information of the house, Australia Post is planning to sort most of the mail posted in Geelong at its Dandenong mail centre. This will mean up to 15 jobs in Geelong will be lost. The mail service for the community of Geelong will also suffer.

Currently the mail that is posted in most areas of Geelong is delivered the next day. Under the Australia Post proposal this one-day service could take two days or more, especially in outlying areas like the Bellarine Peninsula.

Given that Australia Post is returning annual profits that are getting close to half a billion dollars, it is a disgrace that it is seeking to cut Geelong jobs and diminish our postal service. Under the new draconian industrial laws of the Prime Minister, John Howard, these jobs can disappear very quickly and very easily. I can assure this house that Australian postal workers under threat and their workmates will not just roll over and watch their livelihoods slip away, nor will the community of Geelong accept a second-rate mail service.

Australia Post must abandon this penny-pinching plan and instead seek to continually improve Geelong's mail service and not diminish it for a few lousy dollars.

**The ACTING SPEAKER (Mr Plowman)** — Order! The honourable member for Clayton has 19 seconds.

## Volunteers: awards

**Mr LIM** (Clayton) — It is most pleasing to note that the Department for Victorian Communities is sponsoring the Volunteering award as part of the Regional Achievement and Community Awards program. Prime Television and the *Weekly Times* are the event's major media partners of this program.

I am very proud that the Bracks government is sponsoring this wonderful initiative. It is great to see the recognition for all the valuable work that volunteers do.

**The ACTING SPEAKER (Mr Plowman)** — Order! The time for members statements has expired.

## VICTORIA RACING CLUB BILL

*Second reading*

**Order of the day read for resumption of debate.**

*Declared private*

**The ACTING SPEAKER (Mr Plowman)** — Order! I have examined the Victoria Racing Bill, and in my opinion it is a private members bill.

**Ms GARBUTT** (Minister for Community Services) — I move:

> That this bill be treated as a public bill and that fees be dispensed with.

**Motion agreed to.**

**Debate resumed from 30 May; motion of Mr PANDAZOPOULOS (Minister for Racing).**

**Mr SMITH** (Bass) — It gives me great pleasure to speak on the Victoria Racing Club Bill 2006. In doing so I congratulate the chairman of the Victoria Racing Club (VRC), Rod Fitzroy, and the chief executive officer, Dale Monteith, for getting the government to move very quickly on this bill and making it happen. It is not often that people get anything out of the government, but making this a public bill was a great contribution. The government normally has its hand in the pockets of Racing Victoria, the VRC, the Melbourne Racing Club and the Moonee Valley Racing Club, but now it is actually doing something. I congratulate the executive. It is excellent that this is happening.

This legislation repeals the Victoria Racing Club Act 1871, the Victoria Racing Club Act 1881, the Victoria Racing Club 1930, the Victoria Racing Club Act 1956 and the Victoria Racing Club (Amendment) Act 1993. It transfers the four operating licences — the racing course licence, the racing club licence, the venue operators licence and the on-premises licence — from the VRC to its successor body, VRC Ltd. In doing so the chairman is now relieved of the liability that he, his board and the members of the Victoria Racing Club have been carrying for many years. They are the ones who have carried the liability for anything that may have gone astray. I am sure they had very good insurance and they were well managed, but it would have put them in a difficult position if they had not been.

The VRC is probably one of Australia's most significant race clubs, and it is certainly Victoria's premier racing club. We in the Liberal Party are very pleased to see that all the existing rights, property assets, debts, liabilities and obligations that the chairman of the VRC has been carrying are now to be transferred, because of this legislation, to Victoria Racing Club Ltd. As I said before, I am sure it would be of some relief to the committee and the chairman that they do not have to carry that liability any further.

The club is known throughout Australia for running classic events at Flemington. It is a credit to the racing industry not only here in Australia but probably around the world. The current lease, which has been transferred from one organisation to another, has about 34 years of its current 99-year term to go. If it is seen to be acceptable to all bodies, the lease can be extended for another 99 years at the end of its current term. I think that is also a good thing and shows some confidence in the racing club's ability to accept that additional responsibility. I am sure it will give the club some security at its location in Flemington. The organisation has built its new headquarters at the racecourse at 448 Epsom Road. The fact that it is now called VRC Ltd just adds a little bit more to that. Being an incorporated body will give the club a higher standing within the community, and I would imagine that it will make life a bit easier when it comes to going to the bank. I am sure the club, its board and its members are probably well placed to guarantee the loans and so forth that they need, but this will certainly give them some flexibility as far as that is concerned.

There are a couple of things in the legislation that concern me a little. The 1871 act notes that it is not seen to be appropriate to grant a private company the power to make by-laws in relation to Crown land. I would have thought that once you had a lease, whether it was over Crown land or not, you should be able to bring in some laws and by-laws within the area covered by that lease. Under this piece of legislation, it is not able to be done, and one has to ask why it is not being allowed.

The legislation provides that the minister has to make a number of decisions that the racing club is not able to make. The minister can make regulations in relation to the care, protection, good order and management of the racecourse, and that is fine. That is about ensuring it is all in good condition, but there is nothing about putting any money towards it. The legislation talks about the safety of persons and animals on the racecourse, but I would have thought the race club itself could have looked after it in a better way. The minister will have some say in the imposition of tolls and charges such as admission fees, which means that each time the racing club wants to increase its fees it will have to go cap in hand to the minister to get approval. If the club was going to run some concerts out there, the minister

would have some input into how much it was going to pay for the right to let people onto land that the club in fact has a lease over.

A clause in the Victoria Racing Bill provides that a minister has a wind-up power. If no races are held for a continuous period of 12 months, the minister will be able to wind up the lease, the club and the course. I find it a bit difficult to understand why the minister is able to step in like that. I do not think that type of clause is necessary in legislation like this dealing with an organisation like VRC Ltd, given the good standing it has in the community and everywhere else. I find it very difficult to understand why the government would implement something like that.

To conclude, this is not a very large bill or one on which we can talk very long or about which we can give the government a hard time. As I said, it is good that the Victoria Racing Club has been able to get the government to move as quickly as it has on this bill, because allowing it to become incorporated is going to make it Australia's most significant racing club. Bringing in this legislation to allow it to transfer all its assets over to the new VRC Ltd is a good thing. We totally support it and hope the bill goes through quickly.

**Mr DELAHUNTY** (Lowan) — I rise on behalf of The Nationals to speak on the Victoria Racing Club Bill. Firstly, I thank my colleague in the other place the Honourable Damian Drum for the work he has done in preparing The Nationals for the discussion we had this morning on this bill. He consulted widely with the Victoria Racing Club and the Bendigo Jockey Club, and I have also consulted with Wimmera Racing and the clubs in western Victoria, including Hamilton — and I will speak about that later — but none of those people are opposed to the government's proposals. The Nationals, as recommended this morning by the Honourable Damian Drum — and like my colleague in this house the member for Bass, who spoke before me — will be supporting the bill.

The purposes of this bill are to provide for the powers, functions and responsibilities of VRC Ltd in respect of the management of Flemington racecourse. It transfers the Crown lease vested in the chairman of the committee of the Victoria Racing Club and all other property, rights and liabilities held by the Victoria Racing Club or the chairman of the committee of the club to VRC Ltd. It also repeals five acts — the Victoria Racing Club Act 1871; the Victoria Racing Club Act 1881; the Victoria Racing Club Act 1930; the Victoria Racing Club Act 1956; and the Victoria Racing Club (Amendment) Act 1993.

The Victoria Racing Club, as we know, is the entity that controls the Flemington racecourse and that racecourse only. The Nationals will be supporting this bill, because personal liability for insurance indemnity issues has been left as the responsibility of the VRC committee members and this new entity will give them the protection they need. We also believe it is a very non-contentious, procedural bill.

The previous speaker mentioned that events at Flemington racecourse are the highlights of the racing calendar, with the Melbourne Cup being held there each November. It is important that we get our showcase facilities up to appropriate standards not only in relation to their functions but also the management of the infrastructure. It is interesting that the bill says that VRC Ltd must ensure that all buildings on the Flemington racecourse are maintained. Clauses 13 to 19 provide for the maintenance, inspection and notice of repair of Flemington racecourse, and clause 20 provides that the Minister for Racing may make regulations for the purposes of the bill.

All those things are fine. The bill really goes to making this entity more viable and sustainable, which is important as we compete in a global racing economy. I have been fortunate enough to be a member of the Economic Development Committee, which looked at the thoroughbred and standardbred breeding industries.

**Mr Robinson** — We left no stone unturned.

**Mr DELAHUNTY** — Leaving no stone unturned, as the member for Mitcham, who chaired that committee, interjected, we travelled widely, looking at ways of improving the thoroughbred breeding industry, because Victorian racing has the best of race fields, it has the best stake money and some people say it has the best trainers, but unfortunately we are running third or fourth in the breeding industry.

To return to the race meetings themselves, we need to ensure for all the meetings that are held, whether they are at Flemington or at other courses, and particularly for the Melbourne Cup meeting, that they are sustainable and economically sound and are able to be upgraded to meet the standards required around the world. This bill will allow the greater flexibility needed to achieve that, not only for activities on the course that are related to racing but also for activities associated with training and other events.

Country race clubs are telling me that the same thing should happen with them. They are saying that they need to generate capital to rehabilitate and maybe redevelop their infrastructure such as grandstands,

toilets and so on and to meet the new standards required under occupational health and safety laws. We saw what happened in harness racing when, supposedly because the standards were not being met, a lot of courses were closed. That has had an enormous impact on country communities in Victoria. It was widely accepted that it was not done in the right way because those clubs were not given the opportunity to meet the new standards. It is important for country racecourses, as it is for the Flemington racecourse, to be able to meet the new standards.

I will highlight some of the good things done by the Wimmera Racing Club, which is in my area. Wimmera Racing Club incorporates the racecourses at Ararat, Donald, Horsham, Murtoa, Nhill, Sheep Hills at Warracknabeal, St Arnaud, Stawell and Great Western, and those courses are in the local government areas of Ararat, Buloke, Horsham, Yarriambiack, Hindmarsh and Northern Grampians. I have received a report that highlights the contributions country racing makes to these communities. In the Horsham Rural City Council area $8.3 million or 2 per cent of the economic activity was generated through the Horsham racing industry. In Hindmarsh $1.4 million, or 1.4 per cent of the economic activity, was generated through racing. But the big one is $11.6 million, or 4 per cent of the economic activity, being generated in the Northern Grampians shire.

You can see the enormous influence and benefit of country racing. We are talking in this bill about a racing club in Melbourne but it also happens in country Victoria. Many local auxiliary businesses benefit directly from the racing industry. Racing contributes significantly, not only economically but also to the social wellbeing of many councils in my area. We are not talking about Flemington but admissions, including packaged attendance, were worth $115 000 at the 38 race meetings run by the Wimmera Racing Club last year, which were attended by nearly 30 000 people. You can see that race clubs in country Victoria also play a significant part.

While we support this legislation, we want the government to look at what is happening in rural and regional Victoria. As was highlighted in the Economic Development Committee's report, many of our horses are bred, trained and taught to race in country Victoria. We want to ensure that the benefits being provided to Flemington also apply to country Victoria.

There are many race clubs in my electorate, being the largest in the state. The Western Otways cluster has appointed a new club manager.

**The ACTING SPEAKER (Mr Plowman)** — Order! Before the member goes too far into that, I believe the bill is a little restrictive in scope. I am quite happy for the member to make a fleeting mention of every one of those racecourses and clubs, but he should then come back to the bill.

**Mr DELAHUNTY** — I got out of the box a bit too quickly. I will have to have a restart, Acting Speaker!

I will come back to the legislation, as you have asked, Acting Speaker. We support what is intended in this legislation. It is interesting to note in clause 2 that the bill will come into operation on the day it is proclaimed or no later than 1 January 2007. Many race meetings will be held, not only at Flemington but right across Victoria, before then.

Clauses 4 to 7 set out the functions, powers and responsibilities of VRC Ltd in respect of the use of Flemington racecourse as the site of the land and as a public racecourse. Many of us have been to the Melbourne Cup and seen the many activities going on. There are a lot of staff employed there, as well as trainers, jockeys — —

**Mrs Shardey** — What about Caulfield?

**Mr DELAHUNTY** — We are talking about Flemington racecourse, not Caulfield, which is not in my electorate either.

There are many things happening in this bill in allowing for the transfer to VRC Ltd. As I said, we want to see those opportunities created for country Victorians. It is important that whether they be race meetings at Apsley, Casterton, Coleraine, Edenhope, Dunkeld or Penshurst in my electorate — covered under the Western Otways west cluster — we ensure they have similar opportunities to grow and develop their industries. With those few words, The Nationals will be supporting this legislation.

**Mr ROBINSON** (Mitcham) — Prior to offering some comments on the Victoria Racing Club Bill I need to declare that I am a member of the Victoria Racing Club (VRC). I also need and want to declare my great affection for Flemington as a racetrack.

In fact, the first race meeting I ever went to was at Flemington as a schoolboy. In preparation for that I stayed up the night before and studied my *Herald* form guide. I opted for a horse called Bermuda in race 1. I thought Bermuda was a standout selection but Bermuda was well named. Members would understand that there is a very long straight at Flemington. Halfway down the straight Bermuda was very well placed and I thought it

would be an easy afternoon of putting bets on and collecting money. However, at the distance the horse mysteriously disappeared into a black triangular space of the same name. It just disappeared into a triangle halfway down the straight and was last seen trailing the field. There is a story in those very first few minutes at Flemington which has characterised my interest in racehorses ever since.

The legislation before the house seeks to amend the 1871 legislation. I want to quote from the Victoria Racing Club Bill of 1871. *Hansard* records that:

> The Hon. R. S. Anderson moved the second reading of this bill, the object of which was to transfer from certain trustees named in a deed from the Crown executed in 1859 to the Victoria Racing Club, the control and management of the ground set apart for racing purposes.

That is quite important because the 1859 Crown deed predated the formation of the Victoria Racing Club. That club came into existence in 1864 following very destructive bickering between its two predecessor clubs — the Victoria Turf Club and the Victoria Jockey Club. It is important to understand that that was the genesis of the Victoria Racing Club. I will return to that in a few moments.

At the time of its creation the Victoria Racing Club inherited very sizeable debts from those two predecessor clubs. The club assumed the management of Flemington in 1871 and through to today it has been the main thoroughbred racing club in Victoria. Indeed, for most of the time since 1871 it has acted as what is known as the principal club. This is a recognition of its leading status and role as a regulator of racing beyond its own affairs in the state of Victoria, a role it continued to play until the formation of Racing Victoria Ltd a few years ago.

It has managed to do all of that despite some very unwieldy legislation. Looking through the 1871 act earlier today I was struck by some of the archaic provisions in it. Indeed, there is a provision early on in the act which requires the names of the chairmen of the race club to be inscribed on a memorial at the Supreme Court — something that may have been done in 1871 but which I think fell away very shortly after.

It is not surprising therefore that late last year the club sought to conduct a review of its legislation. The club issued a report early this year, and as a club member I received a copy of it. I might just run through the report for the benefit of members. It states:

> The committee established a subcommittee comprising Peter Barnett, Bill Mackinnon, Katherine Bourke and Dale Monteith to consider the issue of incorporation. The subcommittee was involved in extensive discussions with legal advisers and government.

At the conclusion of that process the subcommittee made recommendations to the committee, and thereafter to the government, which are the basis of the legislation before us.

Intriguingly, and as the member for Bass alluded, the structure which has underpinned the VRC for such a long time is archaic. The club has been an unincorporated association without a constitution. It is quite remarkable that it has survived all this time without a constitution. This is the structure under which the committee and members of the club can ultimately be held responsible for its debts and other liabilities. Given the extent to which the VRC has commercial undertakings, that is quite a burden. However, it has been able to function on that basis without any major dramas.

Nonetheless the time has come for the underpinning legislation to be updated. A number of improvements will be achieved under the legislation before the house. For example, should VRC Ltd ever be wound up, the legislation allows for the surplus assets of the company to be distributed to one or more institutions, associations or bodies established for the encouragement of animal racing. In contrast to the potentially unlimited liability of members of any unincorporated association, the maximum amount a member or former member of the club can be called upon to provide to satisfy the debts or other liabilities of VRC Ltd will be $10.

Another important aspect of the legislation stemming from the incorporation of the club is that directors will not receive any remuneration or fees. This carries on from the longstanding tradition of the VRC and other race clubs where club committee members are not paid. I think that is a remarkable state of affairs, and I commend them all for it. Overwhelmingly the experience of committeemen and women is they spend a very large amount of their time being involved with club activities. That they do so in this day and age without seeking any remuneration is a real tribute to them.

The member for Bass expressed some surprise about the safeguard provision in the legislation which allows for ministerial intervention in the event that after a period of 12 months there had been continued inactivity on a racecourse, in this case Flemington. I do not think that is anything to be concerned about. It is a necessary safeguard because bickering and dysfunction are regrettably characteristics of the racing industry from time to time. Indeed the genesis of the Victoria Racing

Club was the bickering and disagreement between its predecessor clubs.

In recent years we have seen extensive bickering and disagreement between race clubs in Queensland. Anyone who is familiar with Australian racing will understand the extent of the dysfunction in that state. Even though the principal metropolitan clubs are located side by side, they have had extensive difficulties. It is in the interests of the racing industry generally that governments retain the ultimate power to intervene should the relationship within clubs break down to the extent that clubs are grievously affected.

The changes will enable the club to promote the Melbourne Cup even more professionally than it does. It has an outstanding record in this regard. At the club's formation in 1864 the Melbourne Cup was a newly created 2-mile handicap race. In 1864 the crowd attending the Melbourne Cup amounted to only 6000. That was not long after the committee had chosen Mr Robert Cooper Bagot as its first secretary and indeed its first employee. He was the individual more than any other who enabled the club and the Melbourne Cup to grow spectacularly. By the time of his death in 1881 the crowd had grown to 100 000. Given the population of Melbourne at the time was only 300 000, that is a remarkable achievement.

Robert Cooper Bagot was a great innovator and was the person principally responsible for the extension of the railway to Flemington and for organising a public holiday, which not so many years prior to that had been anchored around the birthday of the Prince of Wales; so we have gone from the birthday of the Prince of Wales to a 2-mile horserace. He instituted ladies tickets, figuring that where ladies went men would follow, and he was as right then as he would be today in that respect. He was a pioneer in instituting first-class crowd facilities, grandstands and lawns.

The club and the city have benefited from the Victoria Racing Club's inspired leadership in choosing him at that time. Interestingly, Robert Cooper Bagot also served on the committee of the Melbourne Cricket Club and, as a surveyor, was involved in the design of that ground. It is worth commenting that both Flemington and the MCG have for many years offered large crowds the opportunity to watch sport in unprecedented comfort. This is great legislation and commonsense legislation, and I will be supporting it strongly.

**Mr HERBERT** (Eltham) — It gives me great pleasure to speak on the Victoria Racing Club Bill 2006 and join with other speakers in congratulating the Victoria Racing Club (VRC) chairman, Rod Fitzroy, the chief executive officer, Dale Monteith, and the other committee members on the terrific job they have done in developing Flemington racecourse and racing at Flemington over many years.

This legislation repeals the Victoria Racing Club Act, which is outdated and impractical. The bill is supported by the VRC and other major racing groups. While I will not go into the details of the bill, as other speakers before me have done that, I point out that the bill is basically modernising a very old piece of legislation and will mean the VRC will not have to go through the laborious and costly administrative exercise of individually novating each agreement and contract that it is party to. It will provide a modern structure and put in modern provisions for the running of the racecourse.

The bill ensures that the VRC may use the racecourse land for any purpose consistent with a public racecourse, including entering into subleases and licensing arrangements. These provisions in particular will make it much easier for the VRC to expand and improve the activities that occur at Flemington and they are entirely consistent with a multimillion-dollar business that the VRC operates. It is also consistent with this government's great commitment to racing in Victoria and to supporting the racing industry. It is a commitment that recognises the $2 billion each year that is added to the Victorian economy from the racing industry. It is also a recognition of the great love that Victorians have for racing and the desire they have to promote and improve the industry.

It should be noted in this latest budget that an extra $18.6 million was allocated to the racing development fund which will go to improving capital works at racecourses, including Flemington, and to providing important grant programs to ensure the racing industry flourishes. Flemington is one of the world's great racecourses. It has international recognition. Its major races are highly respected throughout the international community and are enjoyed by millions of people worldwide. Literally hundreds of thousands of people visit the track each year, particularly during the spring carnival. The Melbourne Cup is one of our nation's great iconic features.

Flemington racecourse has played a major part in our history, our culture and our social life for generations. It is also, as I said, a significant contributor to Victoria's economic wellbeing and a great attraction for the thousands of tourists who come to Melbourne each year, and the employment it generates in the racing industry is significant.

The VRC has done a fantastic job in supporting the legislation, in growing the racing business and in developing a racing industry. This bill will help to continue this enviable reputation of racing excellence into the future by helping the VRC operate in a more efficient and commercial manner, and I am sure it is supported by all members of the house.

**Dr NAPTHINE** (South-West Coast) — I am pleased to support the legislation because it will provide a better structure and a better future for the Victoria Racing Club. It is important in talking about the legislation that we put in context how important the Victoria Racing Club is to the state of Victoria. There is no doubt the racing industry plays an enormously significant part in the Victorian economy. It is estimated that over 35 000 people are employed directly and indirectly by the racing industry, and that is without the impact the racing industry has on tourism and on the gaming industry in terms of betting on racing, so it really does provide a huge economic impetus for Victoria as well as providing a great social outlet. Racing is a huge entertainment industry. My congratulations go to the racing industry over the last 10 to 15 years because it has really transformed racing in terms of its entertainment value and the way it is marketed.

The racing industry is also very important in regional and rural Victoria. The VRC, which is the premier racing club, has its headquarters at Flemington, which is the most magnificent racetrack in Australia, if not one of the best in the world. Just the same as the Melbourne Cricket Ground is the premier sporting arena for football and cricket, I think Flemington is equally the no. 1 racetrack in the world. It is a great tribute to our forefathers who set aside land so close to the centre of town for these major sporting facilities. Any wonder that as a result Melbourne and Victoria have become synonymous as the sporting capital with the most active sporting groups in the world.

I give some recognition to the fact the VRC has been blessed with some outstanding leaders and people who have had real vision for the racing industry and who have been able to drive through that vision with respect to the management of the Victoria Racing Club. In more recent times I refer to people such as Peter Armytage, who was an outstanding leader of the VRC, David Bourke, Andrew Ramsden and the current chairman, Rod Fitzroy. They are all people who over the last 20 years have done an enormous amount for not just the VRC but the racing industry in Victoria.

I can go back even further to people I remember as icons of the racing industry in Victoria. I remember Sir Chester Manifold, who was very famous for his leadership of the racing industry and probably even more famous for the fact that he was probably the one who, with Sir Henry Bolte, introduced the totalizator and the Totalizator Agency Board into Victoria. I think that has had a huge impact in terms of providing the economic wherewithal to develop the racing industry in Victoria. Of course he was very famous — and I will come to this further in my contribution — as the owner of Crisp, probably the greatest steeplechaser I have ever seen. He was an absolutely magnificent big, black animal. From the stands at Flemington I had the pleasure of watching Crisp go round a number of times.

Crisp was one of those animals that could jump very well, but he was a bit like some batsmen — very nervous up to the first 10. At the first one or two jumps he could often make a mistake due to his enthusiasm, but you could guarantee that if he jumped the first two in a steeplechase at Flemington you could line up to collect. Once he had jumped the first two safely, it was lay-down misere. Crisp left Australian shores many years ago, before it was popular for our horses to go overseas, to race in the Grand Annual in England. Carrying the top weight he was beaten by a short margin by Red Rum, who was carrying a very light weight at the time. That was the first time Red Rum won it, and he won it a further two times — but I will move on.

L. K. S. MacKinnon is a resplendent name, as is Bagot. Without making too fine a point of it, I think the current executive officer of the VRC, Dale Monteith, is providing the same calibre of leadership and advice to the committee as they did. He has acquired great skill and expertise through his experience working at Caulfield with the former Victorian Amateur Turf Club, before it became the Melbourne Racing Club. He is now providing the same leadership and expertise to the VRC.

The VRC is famous for the Spring Racing Carnival, including the Victoria Derby, the Melbourne Cup, Oaks Day and the family day on the final Saturday. Who could ever forget the thrill when Damien Oliver rode Media Puzzle to victory not long after his brother's tragic death; the flying finish of Kiwi; the brilliance of Might and Power; and of course Bart Cummings, with such brilliant winners as Light Fingers, Saintly and Kingston Rule.

The Spring Racing Carnival is certainly the highlight of what happens at Flemington, and the VRC is to be applauded for it. I think Dr Stephen Silk does a great job in marketing the spring carnival, and to a lesser extent there is good marketing for the autumn carnival,

with the Newmarket Handicap and the Australia Cup. However, I wish to highlight the need for the VRC to address the need to do a bit more marketing and promotion of its winter carnival and jumps racing. South-West Coast is the home of jumping racing in western Victoria — in particular, the Warrnambool carnival, with its three-day carnival in May. As an aside, may I say what an absolute tragedy it is that this Bracks Labor government has seen fit to have Parliament sit on the three days in May when the racing carnival is on in Warrnambool. I will resolve that — —

**The ACTING SPEAKER (Mr Plowman)** — Order! I ask the member to come back to the bill.

**Dr NAPTHINE** — Seriously, we should never have Parliament sitting during the three race days in May. The success of the Warrnambool carnival provides an opportunity for the VRC to rebuild jumps racing during the winter carnival. The Grand National Hurdle and the Grand National Steeplechase are fantastic events in terms of the visual spectacle, the standard of horsemanship and the calibre of the horses and the enormous work that goes into training and presenting them. I think there is a real opportunity to better promote the winter carnival.

I would like to commend the VRC, which has provided such leadership in marketing racing to a whole new generation of people who would not normally see themselves as traditional punters or racegoers, on being able to create such a positive, carnival atmosphere about the VRC spring carnival and to a lesser extent its autumn carnival. I commend it for attracting to racing the new calibre of people we are now seeing at races right around Victoria. Traditionally we used to see them at Hanging Rock and Dunkeld, but now we are seeing them at the Avoca races and at Warrnambool summer carnival, where we are combining showjumping with racing. We are also seeing these people at the Penshurst Cup, the Coleraine Cup and the Casterton Cup. Members of the racing industry across Victoria are adopting the successful leadership model of the VRC that has made racing a significant thing.

I would like to congratulate the current and previous leaders of the Victorian Racing Club on an outstanding job. This legislation provides a framework for the VRC to operate into the future. I think that the Flemington facilities are first class and need to continue to be used by the premier racing club — and, indeed, continue to be used for appropriate training.

In the minute I have left I will raise again a hoary old chestnut that I know causes some controversy — that is, the possibility for the VRC to merge with the Moonee Valley Racing Club so that we could have better unison between the two clubs and make better use of the facilities. I think it is a tragedy that the Cox Plate, which is our premier weight-for-age race for our best horses, is not held at the best track where all horses are given the best opportunity. The long straight at Flemington would be the ideal place for the Cox Plate. Also there is the difference between getting a maximum of 40 000 to 50 000 people at Moonee Valley and getting 120 000 at Flemington. In just the way that Sandown and Caulfield work together, there is an opportunity for Moonee Valley and Flemington to work together. I think the VRC and the Moonee Valley Racing Club should look to the future to see whether there are opportunities to merge and to get better management of the two courses and the race days they have.

**Mr TREZISE** (Geelong) — I am also very pleased to be speaking, although briefly, in support of the Victoria Racing Club Bill.

The bill once again highlights the Bracks government's commitment to the racing industry in Victoria. As all members are aware, the racing industry is very significant in Victoria. As the member for South-West Coast pointed out in his contribution, the industry employs thousands of people in Victoria who work in stables or as farriers, vets, race day attendants and bookies — and the list goes on. Therefore it is absolutely essential that this government continues to take steps forward in improving and protecting the racing industry in Victoria. The bill we are debating today does exactly that.

The bill will repeal the Victoria Racing Club Act 1871. We had a tremendous history lesson from the member for Mitcham, so I will not go through that again. But one can see that after 135 years it is essential that we introduce this bill, which takes important steps to assist the VRC to operate effectively and legally as an incorporated body. Currently many of the responsibilities of the VRC are invested in the chairman of the club and not the incorporated body. This bill rectifies that through transferring many of those responsibilities from the chairman to Victoria Racing Club Ltd. By doing this the club will be able to operate far more effectively and not have to deal with all the red tape and bureaucracy when seeking to make innovations in its contracts and agreements.

Importantly the bill transfers to Victoria Racing Club Ltd the 99-year lease of the Flemington racecourse. Today we have heard many members speak about the importance of the Flemington racecourse, which obviously is the jewel in the crown of not only

Victorian racing but Australian racing. I guess a few Sydneysiders may argue against that, but I think it is very much the premier course.

I congratulate the VRC and its groundsmen on the way they turn out Flemington for every spring carnival. Obviously there is no better way of showcasing Melbourne and Victoria than through the Flemington racecourse during that spring carnival. This is a good bill that progresses racing in Victoria, and I wish it a speedy passage through this house.

**Mr PANDAZOPOULOS** (Minister for Racing) — I want to thank all those members who spoke for their contributions and for taking a bipartisan approach to a very important bill. Members have reflected on the great and historic reputation of the Victoria Racing Club. In effect we are repealing an old act and modernising the arrangements of the VRC. It is very important that as it continues to grow and be the beacon of the Australian racing industry, which is exactly what the VRC is, that it has modern tools available to do the best on behalf of the racing industry and the Victorian community.

The many years of VRC heritage mean that not only Victorians but Australians take great pride in the product we call racing. We are probably the only place in the world that has a public holiday around a racing event. That is so important. Other Australians endorse this great heritage — —

**Mr Robinson** — Envious!

**Mr PANDAZOPOULOS** — They are envious, of course. We have a great reputation as an events state.

There is no doubt the collective work that has been done by the VRC over many years has made it easier for us to be the major events destination that we are known for. Before we had any of the other events, we had the Melbourne Cup. It is known far and wide globally. I need to commend the efforts of the VRC and the partnership we have had over this term of government and our first term of government. I have been pleased on regular occasions to hear VRC officials say they have never had a stronger and better relationship with any government than they have with this one. That is a reflection of the fact that we work together as a team.

The actual Melbourne Cup is on tour with Emirates airline as sponsor. It has huge potential to take the brand of Victorian-style racing to the world. The VRC and Emirates need to be commended for making it available. Not only does the cup go on tour around the country with its historic racing connections to larger racing fraternities, it sells that brand. In more recent years we have gone offshore to New Zealand, Europe and Asia. Only just a few weeks ago the Melbourne Cup was at the Baden-Baden racetrack in Germany. Functions were also held in London and Manchester. That is all a result of a cooperative effort. The state government, through Tourism Victoria and Invest Victoria, with the support of the Department of Premier and Cabinet, has been part of this strategy.

As one of the world's best and richest horseraces, the Melbourne Cup sells Victorian style. There were Australian milliners in Baden-Baden showcasing the fashion tradition we have in Victoria. They picked up contracts to millinery sellers in Germany through the VRC function. The VRC is prepared to use its cup, which is really part of our shared heritage, to promote Australia as a destination. It has been working well with Austrade as well.

In Manchester there was a huge function. We have recently signed a new development cooperation agreement with Northwest Regional Development Agency in the United Kingdom, an agreement between the state of Victoria and the region of which Manchester is the capital. New development opportunities are available. The Melbourne Convention and Visitors Bureau, which brings world conferences to Melbourne, invited some of its guests to one of these functions. I have seen a great email saying how great it was to have the Melbourne Cup and the world reputation of the VRC at people's doorsteps because it makes it easier to sell conferences to Melbourne. That is exactly what the Melbourne Cup and VRC legacy is all about.

I want to thank Dale Monteith and his team for its professional effort, and chairman Rod Fitzroy and the members of the board for their vision. There is no doubt that this new act will strengthen the VRC in an organisational sense and reduce risk to the organisation and potentially to members. In recent years the VRC has been trying to make itself risk averse. That is why it has been making big, significant investments on course, with other income streams to make sure it reduces risk.

In 1964 there was an article in the press saying the VRC was about to fold. How things have changed 40-odd years later. It is about managing and reducing risk. That is what the bund wall is all about; it is about reducing the risk of flooding. It was good to see that the Leader of the Opposition was very supportive of the bund wall in his previous guise. That has been the strategy of the VRC and it has been very successful in recent years. I commend the bill to the house and I

thank members for their bipartisan support for a great organisation.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT (AMENDMENT) BILL

*Second reading*

**Debate resumed from 9 February; motion of Mr HULLS (Minister for Planning).**

**Government amendments circulated by Mr HULLS (Minister for Planning) pursuant to standing orders.**

**Mr THOMPSON** (Sandringham) — The building industry is a very important industry for the people of Victoria, and the health of the Victorian economy is in large part underpinned by the construction industry. It is interesting to note that a number of years ago the Cole royal commission's findings showed the importance of reforms on a range of frontiers that were necessary in Victoria's building and construction industry.

A Liberal Party press release delineated a number of the problems in the industry, including the findings of the royal commission that:

> All major Victorian building and construction projects which were studied by the commission were beset on a regular basis by industrial action, almost all of it unlawful.
>
> The Bracks government has refrained from awarding contracts to otherwise successful tenderers because of fear of reaction by unions.
>
> Unions have the power to influence the conduct of a Victorian government tender process.
>
> It is estimated that between 10 per cent and 22 per cent in additional costs is incurred on Victorian building sites as a result of industrial action.
>
> It cost an extra $10 million and an extra seven months to build a Woolworths warehouse in Melbourne as opposed to an identical warehouse in Sydney. Industrial practices were at the heart of the cost and time overrun.
>
> An industrial relations consultant to the Bracks government arranged for payments to be made to a contractor for services that were not provided.
>
> The Victorian government made wage payments to a company to make up for losses made by prolonged stoppages.

These are matters of gravitas and of great concern to the people of Victoria and are factors which have added to the cost of construction for the Victorian building industry.

Daniel Grollo was reported in a *Herald Sun* article on 14 November 2002, which I will quote:

> Australia's biggest privately owned construction company, Grocon, has blamed union tactics for making Victorian construction costs 30 per cent higher than in New South Wales.
>
> The company's managing director, Daniel Grollo, said his company would no longer tolerate rorting in the industry.
>
> Backdrop to Grocon's new-found determination to resist industrial standover tactics is the massive $430 million MCG project, which must be finished in time for the 2006 Commonwealth Games.
>
> …
>
> Mr Grollo asks government to take his warning seriously, noting it has already taken legal action against union officials.

It is notable here that militant union chief Martin Kingham said of Mr Grollo's stand:

> He's got a few lessons to learn.

I have a message for Mr Kingham. He has a few lessons to learn in relation to the increased costs of construction in Victoria, which will only have the effect of driving investment out of this state. When major companies have the option of determining what the location will be for headquarters of their organisations or enterprises, if they are given a choice between Victoria and New South Wales it is more than likely that they will choose New South Wales to avoid the construction cost overruns as evidenced by the remarks made by the leading builders in this nation and the industrial disputation reported in the Cole royal commission.

In terms of industrial disputation, it is only a few years ago that Victoria accounted for 41.4 per cent of total working days lost — in September 2002. This compared to New South Wales, which accounted for 8.6 per cent, and Queensland, 17.1 per cent. Victoria lost 5800 working days in that particular month, which was four times more than New South Wales, at 1200, and one and a half times more than Queensland, at 2400. Again the indirect effect of industrial disputation is to ultimately cost jobs in Victoria.

On the opposition side of the house there are a number of people who have had significant experience in the construction industry and in subcontracting. The member for Bass was a master plumber for over 25 years and worked as an executive officer for the

Federated Master Plumbers of Australia. He has a keen insight into the subject matter being dealt with by the legislation before the house today.

According to a summary overview of the bill, the changes are to improve the operation of the Building and Construction Industry Security of Payment Act of 2002 following reviews by the Building Commission and an industry working group chaired by the member for Mitcham. I understand there may have been a later review, which the opposition had requested, but it has not had the chance of perusing those recommendations. The minister indicated in his second-reading speech that the amendments before the house today substantially adopt the recommendations of the industry working group. It is also to be noted that a number of government amendments have just come into the house today, which the opposition is yet to appropriately consider.

I would like to give an outline of the key amendments and in doing so draw upon a brief prepared by Allens Arthur Robinson. It is noted in relation to the key amendments that the bill makes several important changes:

> … both to the statutory entitlement to progress payments under the Victorian act and to the adjudication process, as well as a number of associated changes to the operation of the Victorian act.
>
> In relation to the statutory entitlement to progress payments, the bill:
>
> > expands the range of payments to which the Victorian act applies to include final payments, single and one-off payments, milestone payments and certain 'claimable variations';
> >
> > excludes claims for damages, delay costs, latent conditions and certain disputed variation claims (i.e. any variation that is not a 'claimable variation') from the scope of progress payments and hence the adjudication process; and
> >
> > introduces time limits on the making of payment claims and limits the making of repeat and multiple payment claims.
>
> The bill introduces significant changes to the adjudication process by:
>
> > allowing claimants to apply for adjudication where a respondent fails to serve a payment schedule in response to a payment claim;
> >
> > introducing a review process for aggrieved parties to seek a review of an adjudicated determination in limited circumstances and on limited grounds;
> >
> > creating an expedited process for enforcing payment of a statutory debt, such as an unpaid payment claim, through the courts via an 'adjudication certificate'; and
> >
> > requiring the selection of an adjudicator by an authorised nominating authority chosen by the parties, rather than permitting the parties to select an adjudicator directly.
>
> In addition, several associated amendments are proposed with the object of enhancing the effectiveness of the operation of the Victorian act. They are:
>
> > respondents will no longer be entitled, following an adjudication determination, to provide security for payment rather than money; rather, respondents will be required to pay the claimant the adjudicated amount or, if a respondent applies for a review of an adjudication determination, the respondent will be required to pay the undisputed portion of the adjudicated amount to the claimant and the disputed portion to a designated trust account;
> >
> > claimants will be protected against any liability for losses resulting from the suspension of construction work or the supply of related goods and services in accordance with the Victorian act, but will be required promptly to return to work when paid;
> >
> > claimants will be entitled to a statutory lien over unfixed plant and material to the value of unpaid amounts the subject of a payment claim (although this right will not take precedence over any pre-existing lien over the goods) …

It is noteworthy that in the bill before the house there is a section 85 clause. I need to remind the chamber that in 1998–99 a number of members who are now government ministers stated that a future Labor government would repeal over 200 acts that had limited appeal to the jurisdiction of the Supreme Court. Not only has the Labor government manifestly failed to fulfil those statements, which were publicised in important forums, but rather it has introduced many new pieces of legislation which limit jurisdiction to the Supreme Court. The bill before the house is just one example of such legislation where there is a section 85 clause. The jurisdiction of the Supreme Court can be limited for a number of reasons.

One is that the government of the day or the Parliament in its wisdom might decide that it is more appropriate for certain matters to be considered by a tribunal rather than being initiated in court. In Victoria we have a range of tribunals — for example, the Victorian Civil and Administrative Tribunal, which has a number of different jurisdictions, the Small Claims Tribunal, tribunals dealing with rental matters and disputes over property, and a range of lower level tribunals.

There are other cases where it is appropriate to limit the jurisdiction of the Supreme Court. One is where a medical practitioner takes a blood sample from someone who is involved in an accident so the blood alcohol level can be analysed. That medical practitioner is protected from liability in the courts: there is a

limitation of action on the offence of assault, and there is a wider public purpose involved. However, the notion of 'wider public purpose' was not given credence by the Labor Party when it was in opposition. It promoted the idea that the then government enacted over 200 acts which limited the jurisdiction of the Supreme Court without just cause. The bill before the house is one where the Labor Party has again limited the jurisdiction of the Supreme Court, but I am certain this will not be given the same fanfare that Labor gave to earlier legislation.

To summarise the wider issues, the commencement of the bill is staggered; the final draft of the bill was not exposed to the review group, and there are amendments before the house at the moment; subcontractor payments are still not protected in the event of a contractor failure; and dealing with the refusal to make final payment is still problematic. Nevertheless, this bill puts into legislation some of what is standard operating practice for many architects under Master Builders Association and Royal Australian Institute of Architects contracts. While the bill was originally tabled in February, a number of industry people as well as the then shadow minister wrote to the minister calling for a delay in order to deal with a range of issues that had been raised. Some of these responses appear likely to be included both in the proposed amendments and in additional amendments that we believe may be moved during the consideration-in-detail stage, although we have not had the opportunity of perusing those at this stage. The opposition has requested a copy of the report of the panel chaired by the member for Mitcham, and we remain open to receiving that.

There have been consultations on this legislation with a range of leading organisations, including the Planning Institute of Australia, the Royal Australian Institute of Architects, the Urban Development Institute of Australia, the MBA, the Australian Institute of Building Surveyors, the Real Estate Institute of Victoria, the Association of Consulting Surveyors Victoria, the AIBV, the Law Institute of Victoria, the MAVB, the Housing Industry Association, the Victorian Local Governance Association, the Australian Society of Building Consultants, the Property Council of Australia and the Civil Contractors Federation.

The opposition understands from its consultations that a number of groups are still unhappy with the legislation before the house. Owing to the nature of the construction industry, which involves head contractors, principal contractors and subcontractors, there are a range of issues to be dealt with in terms of the progress payments that need to be made. The object of the legislation, it would appear, is to try to streamline the method of making payments to minimise the costs and delays caused by litigation. To that end a number of the provisions in the bill could be construed as having merit, to the extent that they streamline the process and facilitate payments to contractors and subcontractors who have undertaken work under the relevant construction contracts.

Melbourne has experienced a great building boom in recent times, and that has been in part due to low interest rates and the streamlining of building codes and regulations. They amounted to 2100 in this state a couple of years ago, but now we are down to about 25 different planning schemes or thereabouts. This is also in the context of providing a variety of housing to accommodate the projected population growth of some 1 million in the city of Melbourne by 2030. The opposition regards the Melbourne 2030 strategy of the Labor Party as flawed. A key feature of the planning policy of the Liberal Party is its withdrawal of the flawed Melbourne 2030 strategy, which the Bracks government introduced in 2002 without adequate consultation or analysis of its impact. A new strategy will be established by a future Liberal government following an independent and bipartisan review. We will actively engage with a range of relevant stakeholders to improve outcomes.

Melbourne 2030 has been used to justify projects such as Mitcham Towers that do not reflect the expectations of Victorian communities. The Labor Party's planning ineptitude is an example of what the Liberal Party does not want to see happen again. The Liberal Party will also have a full-time planning minister in the future. This reflects our commitment and the importance we place on sustainable growth and development in this state. Victoria needs an effective planning system which is consistent, easy to understand and easy to access and which provides the outcomes Victorians want in their local communities. My own electorate of Sandringham is one where high regard is given to the existing residential amenity and character of the area. Its residents, through petitions lodged in this place, have expressed their strong opposition to the imposition of high-rise development which is out of character with the area — for example, in the case of Sandringham Village, with its Edwardian character. A petition signed by over 1000 residents of the area strongly rejected the density of development proposed for an activity centre in Sandringham.

Likewise in relation to the Hampton shopping centre precinct, where there is an overlap with the electorate of the member for Brighton. Members of the communities there are strongly opposed to the potential impact of Melbourne 2030 in the development of activity centres.

The key concerns of the opposition in relation to the legislation have been outlined. The legislation needs to be considered in the context of the poor performance of Victoria on industrial relations issues. The 30 per cent additional on-cost for major development projects in this state compared to New South Wales and the other factors I have referred to will lead to a level of disincentive for future development in this state.

I am aware of a company that operated in Victoria for over 100 years. It started in the 1850s or 1860s in Melbourne and developed into a national company. It had manufacturing and service plants in every capital city and a number of provincial centres throughout the country. Today that company no longer operates. The market has been taken over by another of the few companies that have expertise in the lift industry.

If the Melbourne office of that company was the successful recipient of a contract to install, say, 42 lifts in a building, it meant that a factory in Clayton would need extra apprentices, extra administrative staff to process invoices, extra staff in the canteen to look after additional lunch orders and additional lift mechanics to look after the project once it had been developed. That was a product of an Australian company being successful in a competitive marketplace. But if its production costs and production capacity could not keep up with those of its competitors in the industry, or if in the case of Victoria a decision was made to put investment funds into construction in another state or overseas, then there would be fewer jobs for those involved in the construction of a new building in this state and in the range of components that went with it.

Therefore in the context of development and building construction the serious concerns evidenced by the leading players about additional costs in Victoria and the key concern about the level of industrial disputation in Victoria being higher than in its counterparts do not augur well for ongoing opportunities in Victoria. This state is essentially the jewel in the nation's crown when it comes to a diversity of opportunities — and the construction industry is one of the key components of that diversity. The opposition will not be opposing the bill before the house.

**Mrs POWELL** (Shepparton) — I am pleased to speak on the Building and Construction Industry Security of Payment (Amendment) Bill on behalf of The Nationals. We will not be opposing this legislation. The main purpose of the bill is to amend the principal act, which is the Building and Construction Industry Security of Payment Act 2002, to improve the capacity of any person who carries out building or construction work to promptly recover progress payments. I hope the government understands the word 'promptly' and is a bit more prompt than it was when it introduced this bill into the Parliament on 7 February 2006 — we are debating it four months later.

The Building and Construction Industry Security of Payment Act 2002 has been in operation for just over three years. The former Minister for Planning, now the Minister for the Arts, made a commitment to review this act 12 to 18 months after its commencement. We have reviewed it, and we are dealing with the outcomes of that review. The review found that there needed to be some changes after the act was implemented to address the problems in the building and construction industry — for example, the sorts of things that the original bill dealt with such as the non-payment of debt or the slow payment of debt.

My husband and I have an auto electrical business, and I had been in that business for about 17½ years before I came to this place, so I understand first hand the implications and the impact on cash flow when somebody who owes you money does not pay or is slow to pay, particularly if you are providing a service. If you have a bad credit reference, you are then not able to buy goods because your credit is not up to scratch. It has a huge impact on a business when somebody is slow to pay you, whether it be a contractor or a subcontractor. In country Victoria it is even worse, because everybody knows everybody else's business, so if somebody has a bad credit rating word gets around very quickly.

It is also hard in the building and construction industry because it has a huge impact on being able to get public liability insurance, and the cost of building insurance is so high now. The fact that a builder or subcontractor is already in debt can push them over the edge into bankruptcy if somebody owes them some money and does not pay it or is slow to pay or causes delays by querying the amount of money that is owed.

The bill also addresses those who supply goods and services under construction contracts. Under the act the definition of goods is fairly substantial. It includes materials and components that form part of any building structure or work arising from construction work or any plant and materials, whether they are supplied by sale, by hire or otherwise in connection with the carrying out of construction works. Services include labour, architectural design, surveying, building, engineering, interior or exterior decoration, landscape advice or technical services in relation to construction work. The bill deals with more than just builders and carpenters; it deals with all sorts of people.

In relation to the principal act an industry task force made recommendations to the government based on the New South Wales model. The act was reviewed because of issues arising out of its operation. The review was carried out by the Building Commission. The options discussion paper was released in June 2004, and I understand an industry working group, chaired by the member for Mitcham, was established to deal with those changes, and we are responding to those changes two years later.

We have been told that the bill substantially adopts the recommendations of the industry working group, and we hope that is the case. The task force modelled the amendments on the New South Wales and Queensland legislation. The task force also found that it is important to have national guidelines because a number of the larger building and construction businesses are involved in interstate contracts. It is important that they have the same sorts of legislation and access and avenues to be able to recoup their debts. It is also important that small businesses in border towns have access to the adjudication process. A lot of the border businesses, whether they be in the construction industry or whether they be tilers or carpenters, deal very easily between New South Wales and Victoria, so it is important that we look at those border anomalies.

I sought comment from some of my local builders and received an email from Mr Jason Cox of Hansen Yuncken, a large building firm in Shepparton which engages a large number of subcontractors to complete construction work right across Victoria. His comment to me on 22 March was:

> We view the changes as a positive step in achieving the appropriate balance for the payment of construction works.

So that firm was quite pleased about those changes. The changes make it easier and faster to reclaim owed money. A person can apply to recover any unpaid portion of an amount owed through an application for adjudication. This is instead of the provisions in the current act which mean that a claimant has to go to court to recover any amounts owed. Progress payments, final payments, single payments and milestone payments are now included in this legislation and can go before an adjudicator. Interest is now payable on unpaid amounts of progress payments. There are a number of good initiatives in the bill.

The second-reading speech says that claims for damages, delay costs and latent conditions are excluded amounts and cannot be claimed under the bill. Disputed variations will be excluded where the contractor provides a mechanism for determining whether there is an entitlement to be paid for a variation and the quantum and due date for such payment.

I was a guest speaker at a Civil Contractors Federation dinner in Shepparton, and this was one of the issues that the CCF raised with me. I am not sure whether this is the issue which has been dealt with by the amendments just brought into this house by the minister. As I glanced through them very briefly I noticed there were some issues to do with variations. I am of the belief that they might be what the CCF has asked for. I will read a copy of the letter dealing with the bill that was sent to the minister by Mr Bob Seiffert, who is the executive director of the Civil Contractors Federation. He said:

> On 20 April 2006 a number of employer associations met at the CCF offices to discuss their concerns regarding aspects of the aforementioned bill.
>
> The principal area of concern to the associations was in relation to the applicability of the amending legislation to 'variations'. The associations are particularly concerned that the recommendation of the task force has not been translated into the bill.
>
> Accordingly, the associations are of the view that the recommendations of the task force should be implemented in respect to variations. That is, the act should be amended to include a definition of 'approved variations' as meaning any variation to the works agreed to by the contracting parties which has the effect of changing the character, quality or scope of works and the contract price that has been:
>
> > approved in writing by the respondent or principal; or
> >
> > directed by the respondent or principal in circumstances where the contract does not require the respondent or principal to obtain the contractor's consent or agreement to the cost and scope of the works involved in the variation; or
> >
> > verbally agreed by the claimant and respondent or principal, on the basis of a written estimate as to the cost and nature of works involved in the variation, provided by the claimant to the respondent or principal.

The letter goes on to say that the CCF believes the legislation will lack the necessary credibility to achieve a high level of acceptance within the construction industry. Accordingly it respectfully asks that the minister consider the matter of variations and further consult with the employer associations to secure an acceptable position on the matter of variations. I understand the CCF put a submission to the minister seeking an amendment to the legislation so that the provisions of this legislation will apply to variations. As I said earlier, I understand the minister has circulated some amendments, and I am hoping they are in response to the amendments sought by the industry.

The bill sets out the process for recovering money that is owed, and the adjudication process is set out in

clause 20 of the bill, including the reasons for adjudication and when adjudication may be applied for. It also outlines the time line for when a claimant must notify a respondent, what adjudication applications must include and the time line for applications. A fairly substantial set of regulations applies to the adjudication process.

The bill introduces a process for the review of an adjudication determination for an aggrieved party. This will be available in limited circumstances, which are also set out in the bill — that is, when the adjudication amount is at least $100 000 and when the adjudicator has taken into account the amounts which are excluded by the bill. This will stop stalling or delaying tactics, because, as I said earlier, there are a number of ways that a person can delay payment. If the adjudicated amount is not paid by the appropriate time, the person who is owed the money can request a certificate stating the amount that is in question and lodge the certificate in an appropriate court. The existing legislation allows respondents to put disputed money in a trust fund as security for payments. This bill ensures that when the adjudicator has made a ruling on the undisputed amount, the money must be paid, but it also states that disputed amounts can be put in a trust account.

There is to be a three-month time limit in relation to claims for progress payments, whether the work was carried out or the goods provided. As I said, hopefully this will stop the delaying tactics whereby people query amounts. I know in our business that if people did not want to pay or did not have the money to pay, they would ask us to provide more invoices because they said they had lost the others. They would query the amount of work that was done, and they would query the quality of the work. All this was done to delay the payments. When the information was given, the person to whom the money was owed was requested to give further information. It was about delaying tactics so that the person that owed the money did not have to pay it. It is a really big issue, particularly in country Victoria, where cash flow is vitally important to businesses, especially in building and construction. Small businesses in particular have a lot of money invested in public liability and other insurance. The money owed is absolutely needed. When people owe them money it must be paid so they can pay their bills and continue the cycle.

One of the other issues the bill deals with is the suspension of works. Where a payment has not been made when it is due, the person involved must return to work promptly as soon as the money is paid. That will stop a person saying that the money was not paid so they have taken another job. In that situation the person who is supposed to do the job may have to pay some sort of penalty rate because the work has not been done on time.

As a member for Sandringham said, the bill also contains a section 85 provision. It makes a number of changes in relation to accessing court proceedings in an effort to streamline the process of recouping debt. The Nationals hope the changes to this bill will make a difference to debt recovery for those in the building and construction industry. We wish the bill a speedy passage.

**Mr ROBINSON** (Mitcham) — I am very pleased to have the opportunity to speak on the Building and Construction Industry Security of Payment (Amendment) Bill 2006. I want to pick up on some of the comments made by the member for Sandringham, the opposition's lead speaker on the bill, who referred to corrupt practices in the building industry. As the person who led the original task force that made recommendations on the security of payment legislation and the person who led the review of that legislation, I am very strongly of the view that far and away the most corrupt practice that can exist in the building construction industry is the withholding of payments rightfully owed to parties which have carried out work. Often payments are withheld on the basis that the parties seeking them are commercially weaker and do not have the clout to use legal means to quickly rectify that situation.

That is a corrupt practice which has been a problem in the building and construction industry for years — although, as the member for Shepparton mentioned, it is not confined to that industry. By any measure it is far and away the most corrupt practice in the industry, which I believe governments universally are obliged to tackle. That is why jurisdictions in Australia and abroad have sought to implement statutory schemes to deal with the problem.

My familiarity with his practice arose in the Mitcham electorate. In the course of doorknocking prior to the 1999 election I met two building practitioners in the space of a week, both of whom suggested that this was an area that required parliamentary action. Their comments were well justified. One of those individuals ran his own electrical contracting business, and not surprisingly he used his home as security for the business. He later went out of business, losing his home and all that went with it because someone who owed him money refused to pay, knowing that he would not be in a position to force their hand on the matter. Of course the bank, in a way that many members will be familiar with, did not exercise a great deal of sympathy

for that individual and simply foreclosed on the home. He lost all that he had worked for over many years. That is a story that can be told over and over again.

As I said, I had the privilege of leading the original task force, the work of which resulted in legislation coming to this house in 2002. I was asked to chair the review two years later, the fruits of which are now before us. I would like to commend all the representatives in the building and construction industry who were involved in both of those forums. I particularly commend the work of David Eynon from the Air Conditioning and Mechanical Contractors Association of Victoria, who has been a driving force behind this legislation for many years.

Both of the groups I was involved with delivered unanimous reports. The original legislation never sought to guarantee that payments which were owed would be made — no legislative scheme can ever do that — but it aimed to instil within the industry a greater respect for making payments that should be made. The legislation was intended to be as much of a persuader of good practice as a mechanism for actually delivering on that.

In commenting on housing regulation in its report last year, the Victorian Competition and Efficiency Commission said this about the security-of-payment scheme:

> Since the act commenced … in January 2003, there have been 45 applications for adjudication and 29 determinations have been made. Ninety-eight per cent of all determinations have been made in favour of the claimant.

That is not a great number, but I take some comfort in the fact that in 29 cases we have seen individuals probably spared the fate of the Mitcham constituent who ended up losing his house. If that is what the scheme is promoting in Victoria, then it is a very good thing. As I said, the intention of the legislation has never been to guarantee payments. It is not possible to do that, but it is possible to try to deal with the culture of non-payment that has been evident for some time.

The review proceeded according to the timetable. The principal legislation was introduced in 2002 when the review was foreshadowed. The review has been productive and the recommendations have been largely adopted in this legislation. I shall comment briefly on the main improvements which are sought to be achieved by this legislation. Firstly, they broaden the types of payments that can be claimed. A number of clauses deal with an expansion of terms or payments which can be incorporated into the dispute resolution scheme, including final payments, single payments and milestone payments — and that is a very good thing.

Secondly, in relation to improved enforcement, the legislation seeks to enhance the capacity of claimants to achieve the payment, especially in cases where the respondents refuse to react to the serving of a notice. That is an area in which the New South Wales scheme, which has been a model for us in Victoria, has had greater effect. Indeed, in New South Wales, out of some 1700 adjudications since 1999, about half the respondents chose not to act. The scheme which has emerged there and which we are trying to emulate here will allow respondents to request certificates which can be used as an application for judgment debts, so it is a way of trying to expedite payment where the respondent chooses not to contest the matter.

Thirdly, the amendments will provide a new right to exercise a statutory lien, and proposed section 12A inserted by clause 14 of the bill achieves that. As a task force we dealt with that in our first report, so I am pleased to see that provision coming in.

Through the amendments which deal with variations we have a hybrid position on variations, where the legislation will now cover all claims for disputed variations in contracts up to $150 000, or up to 10 per cent of the contract sum in contracts valued at between $150 000 and $5 million. For contracts valued above $5 million which have their own dispute mechanisms — and that would be almost all of them — the act will not apply. That is a hybrid position that has emerged through further consultation. All these measures will help; they improve a very worthy scheme, but I stress again that it is not a guarantee. It will require extensive promotion within the building and construction industry to make sure the benefit is derived by practitioners.

I will make two closing comments. The first is that through the course of the review I came to the view that we require in this country a unified national scheme. All state governments would do well to try to set that as an objective by about 2010. That would allow probably one further review in Victoria when we could take account of legislative improvements in New South Wales and Western Australia in particular, which have emerged as the pacesetters on this front, along with Victoria. Ultimately some of the larger construction companies which operate across state boundaries would like to see that.

The second point relates to retention. I do not think we quite understand the way in which retentions are used, and they are still misused on occasion. That would be a

suitable area for further research in the guise of another review. Having said that, I strongly support the legislation.

**Mr HONEYWOOD** (Warrandyte) — The history of this bill is rooted in the groundwork conducted by the New South Wales Parliament. As per usual the Bracks government, having no innovation or ability to come up with its own legislative framework, thought it would be a good idea to copy much of the New South Wales act of the same name, including amendments made to that act in 2002, that has been in operation in that state jurisdiction for seven years. The Bracks government reproduced this legislation three years after the New South Wales government had done so and shortly after realised that there were some significant problems with the administration of the act. It was not smooth going, you could say.

Again in typical Bracks style a review was conducted by the Building Commission in June 2004 to discuss the changes that were needed to iron out the kinks in the previous legislation. But, of course, one 64-page review conducted by the so-called experts in this field was not enough for this indecisive government, so a second investigation was conducted that took the form of a working group chaired by the member for Mitcham who, just a moment ago, went through what he achieved or is said to have achieved.

Exactly what this state needs is another Bracks government working group to hold the hands of ministers as they constantly equivocate because they might have to make some intellectual and tough decisions in the governing of the state! I was actually quite surprised to discover that a third review was not conducted to measure the effectiveness of the first and second reviews, but the member for Mitcham said tonight — and I quote — 'I would like to see another review'. So we have got this rolling government by working party still going on seven years later.

**Mr Robinson** interjected.

**Mr HONEYWOOD** — I take up the interjection by the member for Mitcham, who said, 'What about national standards?'. Heaven help the national building industry across Australia if we were to use the Victorian industry as a benchmark. The very reason industry is deserting the state is because sometimes it costs up to double to build exactly the same factory in Victoria as it does in New South Wales. If you talk to any chief executive officer of any major company in this state which has across-border activities, they will tell you if they are going to build a new factory or renovate and add to an existing manufacturing outlet, they will move interstate, because the cost of construction, the work practices and the old, entrenched industrial relations system are so bad that you do not do it in Victoria, you go elsewhere.

It has to be said that the Bracks government must have been relieved that the New South Wales government made some amendments to its 1999 principal act. Otherwise the member for Mitcham would have had no material to work with and may have had to use his own intellectual firepower to come up with something new and workable. What a disaster that would have been for the building industry! Fortunately for the government and inevitably for the building industry, those opposite were able to copy the amendments made by the New South Wales government in 2002 and insert some of the original stipulations of the New South Wales principal act of 1999 that the Bracks government failed to copy properly into the Victorian equivalent act in the first place.

Basically the legislation was copied from another state's jurisdiction, but it was not copied well. As a result, several drawn-out reviews were conducted, and two years later the decision was made to copy the New South Wales act word for word, including the bits that were missed in the first place, and in addition to add the subsequent amendments made by the New South Wales government. We really have some legislative geniuses in the Bracks government. They cannot even copy legislation properly, let alone develop something innovative and effective that reflects Victorian building industry culture rather than a jurisdiction elsewhere.

Do not get me entirely wrong, however, because there are at least one or two amendments and stipulations of this government's own making, but in the context of the whole legislation they represent a small percentage of the total work, and still it has taken the government some years to amend a system that was clearly failing the building industry.

I speak with some authority on this subject matter because when we were last in opposition, from 1988 to the 1992 and when I was a fledgling member, like the member at the table opposite, I discovered that we had that wonderful multiparty creature of the Victorian building industry, the Victorian Building Industry Agreement, which provided any number of rorts and any number of per hour special rates of pay depending on how close the building site was to the central business district of Melbourne — and you, Acting Speaker, would relate to this.

In other words, it did not matter what the type of construction was: if it were commercial, the closer it

was to the central business district the more the employer had to pay the worker, not based on productivity and not based on merit but based on geographic location. Fortunately for Mildura, the Victorian Building Industry Agreement was a long time reaching out its tentacles to the far corners of the state, and members will be pleased to know that the building industry there was not paying exorbitant amounts on an hourly basis over and above what the award wages were.

As the member for Sandringham eloquently outlined to the house, the original purpose of the Victorian act was to facilitate timely payments between contracting parties and establish a statutory system for rapidly resolving payment disputes. However, the legislative geniuses on the other side of the house made no specific reference in the act to a claimant's rights against an insolvent respondent, which, according to the Victorian Building Commission, is central to the issue of poor payment practices in the building and construction industry. It is well-known across the industry in Australia that technical insolvencies are often used as a device to avoid appropriate payments to subcontractors. It is often the poor subcontractor who misses out in terms of timely payment or getting any payment at all.

It seems that significant problems are commonplace in the original act. These oversights include no mention of final payments under matters suitable for adjudication proceedings — the act allows only interim progress payments to fall under matters suitable for adjudication. The Victorian act makes no specific reference to time limits in relation to when a claimant can submit a payment claim. This means a payment claim can be submitted years after jobs have been completed or various goods and services have been supplied.

Under the Victorian act only the claimant and the respondent can participate in adjudication proceedings, even though in many cases a third party is directly involved in, or at the very least relevant to, the payment dispute. No reference is made in the Victorian act to the failure of a respondent to release retention moneys that are held in cash. This in itself, as noted by the Building Commission, could equally be a matter for adjudication. No rights are provided in the Victorian act for a claimant to exercise a lien charge over property as security if work or goods and services are not paid for when payment is due.

The issue of adjudicators appears to have been slapped together without any real consideration of the consequences of the act's provisions. For instance, no minimum eligibility criteria is established in the act for authorised nominating authorities, otherwise known as ANAs, or adjudicators, nor is it specified or even indicated in the act that it is a duty of ANAs or adjudicators to act impartially. The Victorian act fails to establish any explicit rules or procedures that ANAs must abide by, nor is there any provision for a body or group to be charged with the responsibility of ensuring compliance with appropriate rules.

Under the Victorian act ANAs and adjudicators are allowed to set their fees in agreement with the parties, which we know can easily lead to price hikes. Many industry participants have been pushed completely out of a fair hearing process because they cannot afford ridiculously high fees for an adjudicator to hear their cases. I am aware of one recent Supreme Court case which went to a full-day adjudication and cost the parties — private individuals — some $50 000 just for one adjudicator to spend a day supposedly reaching a resolution between the parties, which never happened. These issues were not adequately covered.

Could there be more faults? Given that over 43 clauses are being added to the principal act, the answer is clearly yes. And just moments ago the part-time minister for this area circulated amendments to the bill.

We can only hope for the sake of the building and construction industry that this time, after years of incompetency, the government has got it right. However, let us face it, its track record on this legislation is not anything to write home about — —

**Mr Robinson** interjected.

**Mr HONEYWOOD** — In fact, it is outright embarrassing for the member for Mitcham.

The construction and building industry is vital to Victoria's economy. It deserves the government's full attention when it is devising laws that seek to regulate and appropriately protect it.

*Honourable members interjecting.*

**Mr HONEYWOOD** — I will not take up the interjection. Over two years ago the significant problems associated with the principal act were clearly identified in a Victorian Building Commission report, but here we are in 2006 just getting on with the job of addressing major flaws in the act. We find ourselves in a very typical situation. However, notwithstanding all of the above, the opposition will not be opposing the bill. At least it is a small step in the right direction. We look forward to the member for Mitcham heading another working party to keep him occupied outside his electorate duties.

**Ms BEATTIE** (Yuroke) — I rise to support the Building and Construction Industry Security of Payment (Amendment) Bill 2006 and the amendments proposed by the minister. The objective of this bill is obviously to provide clarity and increase consistency with both New South Wales and Queensland legislation.

Often on large building projects, and indeed small building projects, there will be a principal builder and then a number of contractors and subcontractors, right down the chain, and subcontractors then subcontract again, so in the past it has been very tricky to get any consistency in dealing with recalcitrant subcontractors who do not pay. We have heard the member for Shepparton talk about the flow-on effects sending people broke, and in fact they can lose their houses, which is certainly not something we want.

A couple of speakers have talked about corruption. We had the Cole royal commission into the building and construction industry, and if any person in this house has proof of corruption, they should report it to the appropriate authorities and not be waving the word 'corruption' around in this house. There are processes to deal with corruption, and those who are alleging corruption should follow those processes.

The Security of Payment Act was implemented in 2002 to address poor payment practices under building and construction contracts. The building industry is vital to this state. The previous speaker, the member for Warrandyte — who is just sneaking out of the chamber — talked about projects not being delivered. I remind members that earlier this year we had the Commonwealth Games. A huge construction project for the games was the Melbourne Cricket Ground redevelopment, which was delivered on time. All those projects surrounding the Commonwealth Games were delivered on time. There was no holding the Commonwealth Games up; the projects were delivered on time.

This bill provides cost-effective, non-legalistic — which is one of its features — and fast recovery of the non-payment of money owed under building and construction contracts to subcontractors. The act provides third-party adjudication of contractual claims for unpaid money. The most substantial amendments to the act will extend the coverage of the legislation from progress payments to final payments, single or one-off payments and milestone payments. We know that in building contracts those milestone payments are very important. It will bring a wider range of payment disputes within the adjudication system under the act. The bill also amends the act to make it easier to obtain a court order for an unpaid debt, again streamlining the whole process, which is most important when contractors are involved. Amending the act, as the bill does, will enable claimants to apply for adjudication where a respondent has failed to respond to a payment claim and to pay the claimed amount within time. In the present situation failure to respond to claims means that the claim cannot proceed to adjudication.

This bill is a good bill; it does what it sets out to do. I would like to commend my colleague the member for Mitcham for chairing the review and I support his call for ongoing reviews. As has been said, this bill cannot guarantee payment and it does not set out to guarantee payment. It sets out to allow the construction chain to continue when one contractor owes a subcontractor money, or when a subcontractor is claiming payments from a contractor, and to ensure that money is paid forthwith and in a timely fashion so that irresponsible contractors are not rewarded. This is a good feature of the bill. It is not legalistic, so things can be expedited to the benefit of all parties.

With respect to the house amendments, they were called for by a number of representatives from different sectors, and the government has taken that feedback on board and listened to it. I commend the bill to the house and wish it a speedy passage.

**Mr CARLI** (Brunswick) — I am very pleased to rise in support of the bill. The bill protects small business contractors in the building industry and is very important. It stops the rip-offs that occurred for many years and ensures that small contractors, who are such an important part of the building industry, are protected. That includes tilers, plumbers, electricians and other contractors involved in the building industry.

It is a terrific bill. It is a pleasure to be here with the member for Mitcham, who led the task force that was committed to protecting the payments and commissions of contractors, and also the Minister for the Arts, the former Minister for Planning, who initiated this important reform. I am pleased to be in the house with the people who brought it forward. They were aware of the need to protect subcontractors and contractors from large businesses, which in many cases ripped people off. It is terrific that we can put forward a very progressive piece of policy, and I am pleased the opposition parties are not opposing the bill.

A few house amendments have been introduced which are really the result of delegations from the building industry. They identified the variation provisions as currently applying in the bill and wanted to reduce the

number of claims that would have to go to an adjudicator. The government is very pleased to take that on board and is pleased to finetune this important element that means you can take claimants to adjudication and have a quick recovery of charges, costs and payments. As I said, it is a terrific bill. I am very pleased to support it and wish it a speedy passage.

**Ms DELAHUNTY** (Minister for the Arts) — I am delighted to sum up on this bill. The member for Brunswick was quite right: this bill has had a long and illustrious genesis. It is wonderful to see the member for Mitcham is in the house, given his vision with this bill. Formerly when I was Minister for Planning I had wonderful times with the member for Mitcham as we worked on the original bill.

This bill goes to the heart of fairness, because the building and construction industry is a critical industry for the health of the Victorian economy. With the building approval figures still going gangbusters month after month after month, it is important that we protect those subcontractors and that fairness and justice apply.

I thank members on both sides of the house who spoke on the bill. I thank the member for Warrandyte, the member for Mitcham, who led the debate for the government, and the members for Yuroke and Brunswick. With those few words I wish the bill a speedy passage.

**Motion agreed to.**

**Read second time.**

*Consideration in detail*

**Clauses 1 to 10 agreed to.**

**Clause 11**

**Mr HULLS** (Minister for Planning) — I move:

1. Clause 11, page 10, lines 7 to 33, and page 11, lines 1 to 7, omit all words and expressions on these lines and insert —

'(a) the work has been carried out or the goods and services have been supplied under the construction contract; and

(b) the person for whom the work has been carried out or the goods and services supplied or a person acting for that person under the construction contract requested or directed the carrying out of the work or the supply of the goods and services; and

(c) the parties to the construction contract do not agree as to one or more of the following —

(i) that the doing of the work or the supply of goods and services constitutes a variation to the contract;

(ii) that the person who has undertaken to carry out the work or to supply the goods and services under the construction contract is entitled to a progress payment that includes an amount in respect of the work or the goods and services;

(iii) the value of the amount payable in respect of the work or the goods and services;

(iv) the method of valuing the amount payable in respect of the work or the goods and services;

(v) the time for payment of the amount payable in respect of the work or the goods and services; and

(d) subject to sub-section (4), the consideration under the construction contract at the time the contract is entered into —

(i) is $5 000 000 or less; or

(ii) exceeds $5 000 000 but the contract does not provide a method of resolving disputes under the contract (including disputes referred to in paragraph (c)).

(4) If at any time the total amount of claims under a construction contract for the second class of variations exceeds 10% of the consideration under the construction contract at the time the contract is entered into, sub-section (3)(d) applies in relation to that construction contract as if any reference to "$5 000 000" were a reference to "$150 000".

Example

A building contractor enters into a construction contract. The consideration (**contract sum**) under the contract at the time the contract is entered into is $3 million. The contract contains a dispute resolution clause. The contractor undertakes work at the direction of the other party. The contractor claims (the **new claim**) that the work is a variation to the contract. The other party does not agree that the work constitutes a variation to the contract (**disputed variation**). The contractor has already made a number of claims for disputed variations under the contract. The new claim brings the total amount of claims for disputed variations under the contract to $350 000. This amount exceeds 10% of the contract sum. As the contract sum exceeds $150 000 and the contract contains a dispute resolution clause, the disputed variation in the new claim and all subsequent disputed variations under the contract will not be claimable variations under this Act.'.

**Amendment agreed to; amended clause agreed to; clauses 12 to 16 agreed to.**

**Clause 17**

**Mr HULLS** (Minister for Planning) — I move:

2. Clause 17, line 9, omit all words and expressions on this line and insert —

'amount; and

(d) must be in the relevant prescribed form (if any); and

(e) must contain the prescribed information (if any).".'.

**Amendment agreed to; amended clause agreed to; clauses 18 to 43 agreed to.**

**Bill agreed to with amendments.**

*Third reading*

**The ACTING SPEAKER (Mr Ingram)** — Order! I advise the house that as the required statement of intention has been made under section 85(5)(c) of the Constitution Act 1975, the third reading of the bill is required to be passed by an absolute majority. As there is not an absolute majority of members of the house present, I ask the Clerk to ring the bells.

**Bells rung.**

**Members having assembled in chamber:**

**Motion agreed to by absolute majority.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES BILL

*Second reading*

**Debate resumed from 4 May; motion of Mr HULLS (Attorney-General).**

**Government amendments circulated by Mr HULLS (Attorney-General) pursuant to standing orders.**

**Mr McINTOSH** (Kew) — The Charter of Human Rights and Responsibilities Bill has been in this place for some three weeks, and in that short time it is very interesting to note that, while we have heard from a number of advocates in relation to a charter or bill of rights in Victoria, a large number of people have also expressed to me, either personally or in writing, their profound concern about the introduction of a bill or charter of rights in Victoria. I will start by giving a broad overview from the opposition's point of view of what we see as being the salient features of this bill.

The bill purports to specify those rights that the Parliament is seeking to protect. It is a matter of profound concern that already in the introduction to the there seems to be a notion of inconsistency arising in some of its passages. While we are seeking to protect some rights specifically nominated in the bill, there is a broad overview that says, 'That does not diminish your rights in relation to any other rights that you may have'.

Most importantly, given the fact that this charter will operate, in effect, as fundamental law, the outline of the specific rights we in the Parliament want to protect is a matter of concern. The bill purports to introduce what is very much a Labor abridged version of the International Covenant on Civil and Political Rights. It is not just a direct import; an abridged version is being adopted by the government in this bill.

From the outset the opposition supports the idea of the International Covenant on Civil and Political Rights, but it is very much just a paradigm by which countries in different jurisdictions around the world measure themselves. Apart from one decision of the High Court about legitimate expectations, it does not form part of the domestic law, either at the federal or state levels. It is a paradigm by which we measure ourselves and is not to be written literally into the law. Yes, many countries have taken abridged versions of the covenant and read it into their domestic law, but this is the first attempt by a state to do so. Two years ago the Australian Capital Territory attempted to do this, but Victoria is the first state to import these specific and abridged rights into domestic law.

It also provides an opportunity for review after some four to eight years with the possibility, as announced by the Attorney-General, that those rights may be developed. They may change, and we may even import other rights — for example, the International Covenant on Economic, Social and Cultural Rights — if the government of the day sees fit. It is very much a work in progress rather than a specific allocation of rights. These are specific rights at the moment, but they may change over time, so that is another tension or conflict between different rights.

The bill confers additional functions on Equal Opportunity Commission Victoria, which will be renamed the Equal Opportunity and Human Rights Commission. It also provides that every single piece of legislation past, present and future must be interpreted

in a way that is consistent with human rights. For a start we are getting a notion that these rights are somehow paramount and a little more important than other pieces of legislation; it is in the element of fundamental law. As I said, all statutes must now be interpreted — whether past, present or future — in light of human rights.

The legislation will also require government or public authorities to act in a manner that is consistent with human rights. It provides a mechanism to challenge through the courts those government or public authorities as to whether or not they are acting in a way that is consistent with human rights. However, there is a profound qualification in relation to that right, because it does not exist by itself. It requires someone who may think that a public authority has offended their human rights to mount it as an addition to a cause of action. They have to have a cause of action against a government authority where they can allege a breach of human rights. It is not given independently. It has to exist in relation to another in a legitimate cause of action, and then it can be just tacked on. In any event it does not provide any remedy in relation to damages. All that can come from it is a declaration of inconsistency, which then requires the minister to provide a response within six months.

Another matter of profound concern is that in any question that involves an interpretation of the charter of rights, an interpretation of the conduct of a public authority or indeed the interpretation of a statute, the new Equal Opportunity and Human Rights Commission, as well as the Attorney-General, is given a right to intervene in that proceeding as a party to that proceeding. What could be a simple dispute between a public authority and citizen is now going to involve a public authority, the Attorney-General and the Equal Opportunity and Human Rights Commission as a party, completely blowing out the costs of such a matter and making it prohibitive in many respects for a normal litigant to sustain a particular case in the Supreme Court dealing with a question of human rights.

An extra jurisdiction is given to the Scrutiny of Acts and Regulations Committee to review all government legislation in relation to human rights. In my time as a member of the committee that has been done on other occasions, and this is just an extension of the SARC's jurisdiction.

The big winners out of this are the Equal Opportunity and Human Rights Commission; the Attorney-General, who gets an additional right to go into the Supreme Court; and SARC, which gets its extra jurisdiction. The real people who have lost out on this bill, given the way it is framed — notwithstanding the promise for a dialogue between the Parliament, the government and the judiciary — are ordinary citizens, who do not get a single, improved right. They cannot go out there and independently say their rights, as specifically prescribed by the Parliament, have somehow been contravened by a public authority, or that this particular act is not in accordance with human rights and should be struck down or otherwise. It has to be supported by some other form or cause of action. It is not an independent right. Given the fact that is going to be an expensive exercise, it perhaps is not going to lead to a great raft of litigation by ordinary Joe Citizens.

As I was made aware today, many judges see themselves as big winners in this circumstance. Out of professional courtesy I will not name the judge, because I knew him well at the bar, but a particular judge in anticipation of this charter of rights is already advocating that people should be preparing their submissions to courts where they are appearing before him with a view to raising issues of human rights. Indeed with a case as simple as the Ansett insolvency case, which I thought was simple although it involved convoluted and complex technical aspects of insolvency and corporate law, now according to this particular judge involves issues of human rights. The sweep of human rights according to this judge will be all encompassing.

As I said, many people have been critical of a charter or bill of rights, and some from very surprising quarters. The former Labor Premier of New South Wales in a personal submission to a parliamentary committee looking into the issue of whether to introduce a charter or bill of rights in New South Wales stated in January 2001:

> A bill of rights would pose a fundamental shift in (our political) tradition, with Parliament abdicating its important policy-making functions to the judiciary. I do not accept that we should make such a fundamental change just because other countries have bills of rights. The culture of litigation and the abdication of responsibility that it engenders is something that Australia should try and avoid at all costs. A bill of rights is an admission of the failure of parliaments, governments and the people to behave in a reasonable, responsible and respectful manner. I do not believe we have failed.

That was the former Labor Premier of New South Wales, Bob Carr.

We are told by the government that the consultation committee that trooped around this state got overwhelming support for the idea of a bill or charter of rights. Some 2600 people made submissions either collectively or individually to that consultation

committee, but regrettably it has received little or no airplay. It is not something of burning significance to ordinary Victorians for one particular reason: the simple fact is that our rights have been defended by this place historically over the last 150 years. Certainly my party has been a significant player in the development of those rights since its inception just over 50 years ago.

As far back as Federation, when we were debating all sorts of important inclusions in the Australian constitution, a bill of rights was being debated. The founding fathers — and they were all men at the time — of this country decided against the idea of a bill of rights. Notwithstanding that many of the parliamentary names and the type of federation were imported directly from the United States of America, it was not thought important enough or worthwhile to introduce a bill of rights. It was a very acrimonious, close debate, but a bill of rights is something that did not occur.

There are four principal reasons for profound concern to the Liberal Party with this charter of rights. No doubt there will be different views in relation to all these matters, but certainly second best is not best. There will be a fundamental shift of the legislative power of this place. As a current member I look back on the traditions of this Parliament and other parliaments around this country which have fought for and defended people's rights, sometimes abrogating those rights in certain matters of necessity. For example, in relation to terrorism or those sorts of matters, we are all profoundly concerned — and I have spoken about my concern. The threat of international terrorism affects those rights. They cannot be set out in black and white; sometimes they have to change and develop over time.

If we pass this charter of human rights, we will shift the power to the judiciary — unelected officials — to involve itself in all sorts of political issues. It could be issues relating to terrorism, issues relating to police powers or issues as simple as whether a court delay is unacceptably long in the circumstances. The unintended consequences — and this is the second reason — could lead to decisions that are perverse in the minds of ordinary Victorians.

At the moment we are involved in a heated debate about law and order. The Attorney-General has made two announcements in the last 48 hours that he says go to the issue of law and order. I note that we have a matter of public importance on this issue — specifically in relation to sentencing — brought on by The Nationals for tomorrow. Under this charter decisions that are made in Canada are relevant to the interpretation of our statutes — indeed, those statutes have to be rendered in view of international situations.

There is a famous case in Canada — Askov's case. The result of that case was that delays in excess of six to eight months between committal and trial were found to be unacceptable. As a result, people charged with conspiracy to commit extortion were given a permanent stay of proceedings because of a delay in excess of six to eight months — in that case it was some 23 months. As a direct consequence of that ruling, in the space of little over two years in Ontario alone some 43 000 charges were either dismissed, stayed or held over, never to reappear in the courts. The chronic delays in the Canadian courts were of such significance that they allowed a permanent stay of serious extortion charges. The charges dropped as a result were not just driving charges but also manslaughter charges, several serious assault charges, several serious sexual assault charges, and charges of assault of police with a weapon — and 11 000 drink-driving charges were also dismissed as a direct consequence of this ruling.

Have a look at this state. If you go to the County Court, go through a committal process, walk out of the committal process still pleading not guilty and go to your criminal mention, you will not get a trial date within 12 months. You will not get a trial date within 12 months if you are pleading not guilty to a serious charge in the state of Victoria. Do not just take it from me; a recent statement by the secretary of the Criminal Bar Association of Victoria verifies that position.

I have taken the opportunity to talk to a number of lawyers, who all agree that there is a 12-month delay. The problem is that it seems to be getting worse. Even the government's own papers demonstrate that delays in our courts are getting profoundly longer. Last financial year 88 per cent of all criminal trials were finished within 12 months. In the next 12 months that will be reduced to 80 per cent. I will bet my bottom dollar that the vast majority of that 80 per cent will involve pleas of guilty rather than pleas of not guilty. There is almost exactly the same wording in the Canadian charter as is proposed for the Victorian charter, and Victoria has exactly the same circumstance of chronic delays that led directly to some 43 000 charges being dismissed in Canada. That is a consequence I would not want to occur here.

There is an old proposition, that to define a right is to limit that right. The matter of profound concern to me that flows from that is what happens to our property rights. Whatever else the international covenant has in it, we have gone down this channel historically before in relation to property rights. Back at the time of

Federation, a provision was inserted into the constitution that said that if the commonwealth deprives a person of their property, it must be on just terms — that is, compensation must be appropriate and not just the market value — and it must take into account issues that relate to solatium.

There are many statutes here in Victoria which provide for a mechanism of compensation, whether it be property taken away by VicRoads or otherwise, but there is a matter of profound concern. We debated a bill here that deprived people effectively of their property rights in the St Kilda triangle. The government said, 'No, we didn't'. It is still there, notwithstanding its being completely surrounded and notwithstanding that there was a case before the Victorian Civil and Administrative Tribunal where the vindication of that particular leasehold was sought by the government.

We have seen the government deprive a Gippsland fisherman of his fishing licence. It may have been for all of the right reasons, but that man had a court case in the Supreme Court challenging administratively the actions of the minister, and we passed an act of Parliament knowing perfectly well that that person would lose their cause of action in relation to their property rights. In relation to the mountain cattlemen, it may again have been for perfectly valid political reasons or policy reasons — and that is a matter of some dispute. You may have thought it was, but you deprived them of their historic property rights that extend back 150 years.

**The ACTING SPEAKER (Mr Ingram)** — Order! Through the Chair!

**Mr McINTOSH** — One hundred and fifty years with little or no compensation. What do we have in this bill? The explanatory memorandum makes it perfectly clear that the intention of the Parliament in taking away those rights is to do so not necessarily with any form of compensation. The paradigm, I would suggest, for property rights is set by our founding fathers in our constitution. It should be on just terms, and you would have thought that should have been imported into the charter — but no.

The issue here is that those sorts of tensions between the rights themselves are now going to be devolved to our courts. In the USA, for example, the right to freedom of expression is something that is paramount to the American tradition. Indeed the courts have said it is the most important right. Likewise, everybody in this place would say that freedom of expression is a right that people would see as paramount, but we wind back that right to freedom of expression in all sorts of different ways — whether it is right or whether it is wrong.

We had the religious tolerance legislation, a matter that was of profound concern to the Liberal Party as well as to The Nationals. Indeed that particular winding back is still a matter that will have to be debated in the courts. If we do have those tensions, particularly between a right to freedom of expression on one hand and the right to freedom of trial on the other hand, it will not be this place that will be able to resolve those disputes. It will devolve to the courts. And if government members think it is going to be as easy to change that bill of rights, or charter of rights, as simply clicking their fingers just because they have a majority in both houses of Parliament, let us wait until we see the make-up in the upper house after the next election and when this comes in. We are really limiting ourselves in the way we are going about that.

But the most profound thing that concerns me is that we are introducing something that is effectively fundamental law in this state. Every single act of Parliament — past, present and future — is going to have to be interpreted in light of human rights. Those sorts of matters can be involved. A prisoner has a common-law right at the moment to have a trial set aside on the basis of delay. Now you have this other provision that says you can do so if you have an unreasonable delay. Based on its taking a Canadian court some 7 to 8 months, you have been waiting 12 months — bang, charges dismissed. That will be the effect of this. We will be devolving those political questions to the judiciary, with dire consequences.

The fundamental question that needs to be resolved here — it may be popular or it may not be popular — is that the Victorian people are being denied a fundamental right to vote yea or no on a fundamental shift in our law. It is a fundamental shift in all sorts of ways, and there are all sorts of unintended consequences like shifting power to the judiciary. How will tensions between the rights of freedom of expression and right to a fair trial be resolved?

Certainly they have been resolved one way in the United States of America which would be unacceptable here. There are also issues regarding double jeopardy — for example, we know England got rid of it. It is on the agenda in New South Wales and it could easily be on the agenda here. There is nothing sacrosanct about the issue of whether the current law needs reform or changing. Accordingly, in regard to this fundamental need for Victorians to have a say in a charter of rights, I have a reasoned amendment. Therefore I move:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until the views of all Victorians on the proposed charter are determined by referendum.

In conclusion, this is a fundamental shift in the law. There will be unintended consequences of this fundamental shift in the law. It will devolve political power increasingly to unelected judges and officials. Members should not think for 1 minute that just because they are unelected that they are not subject to criticism. We are going through a dispute at that moment in relation to sentencing. The issue is that we will be devolving those powers. To a large extent rights can be fashion items; they can change and adapt over time. Those rights need to change and adapt over time when you are faced with increasingly difficult problems like terrorism. Accordingly the reasoned amendment supports the idea that all Victorian should have a say in a fundamental shift in the law in this state.

**Mr RYAN** (Leader of The Nationals) — The Nationals are opposed to this legislation. We see it as being unnecessary, divisive, likely to be the repository of lost causes, disruptive to the rule of law as we know it in the state of Victoria, calculated to cause confusion in the minds of Victorians, and substantially constituted by a body of meaningless rhetoric. Finally, we see it as conferring nothing in its terms apart from the prospect there may well be confusion and ramifications relating to the way the state continues to function in the future. The substance of the bill will confer nothing in the way that the government wants people to believe it will provide.

The changes the government wants to make and that will apply under this legislation should surely be the subject of referendum. The government said it consulted for a year with the committee which was established to examine this issue, that 2600 people made submissions and that the overwhelming number of people were in favour of doing what this bill is now said to constitute. I say this to the government: if it wants to make the changes it purports to make under the provisions of this bill, let the people of Victoria have a proper look at this by taking it to a referendum.

The bill is unnecessary for a number of reasons. Firstly, we simply do not need this legislation. Our statute law and our common law have served us well for many decades in this state. The argument that is put in part by the government is that systems applying in the USA, the UK, Canada, New Zealand, South Africa and other places are reflected in the terms of this bill. I simply say to the government that we Victorians have proudly conducted our own affairs during the time Victoria has existed as a state, and we should continue to do so. The basic structures of law and the systems of politics in those other countries are not ours. We are our own people and we should have our own way of doing things.

It is also said that a version of the bill of rights exists in Australia in the Australian Capital Territory. With due respect to the ACT, basically who cares? The ACT is small beer in terms of its jurisdictional impact across this nation. The version of the bill which has been introduced in this place does not reflect what is contained in the ACT legislation. I say that in any event it is not for the ACT to be directing the way in which this important form of legislation, so termed, should be introduced into this nation. Equally, if you are going to have a bill of rights with all the implications that it carries, in theory at least, it should be done from the perspective of the nation as a whole and not only on the part of one of the states that goes to comprise the Australian nation.

I say it is divisive, and for a variety of reasons. I refer, for example, to the preamble to this legislation, which is recited in pages 1 and 2 of the bill. It refers to some basic tenets which I think are laudable. It says, for example, that human rights belong to all people, and it goes on to espouse further commentary in that regard. It says that human rights are essential, and I agree with that too. On the next page it says that human rights have a special importance for the Aboriginal people of Victoria.

I am proud of my association with the Aboriginal people of Victoria. I have a strong affiliation with the Ramahyuk cooperative at Sale. I spoke at a forum that was convened by that organisation in the course of the past two weeks. It was for young disadvantaged indigenous students who are having difficulty in accommodating various problems in their lives, and I was proud to be able to participate in that forum and to make the initial address to those young people. I do not believe that this preamble properly reflects the way in which Victorians live their lives. I believe that the Aboriginal people in our state, just like the rest of us, are already entitled to what is specified in the preamble to this bill, and that is, the essence of human rights and the fact that they belong to all people. We do not need the additional proposition which is advanced in the preamble to the bill.

Apart from that there is a definition contained within the provisions of the legislation which deals with the term Aboriginal, and I do not believe that does justice to our Aboriginal communities either. The definition contained in this bill differs from that in other Victorian legislation — for example, that which appears in the

Aboriginal Heritage Bill and in the Magistrates' Court (Koori Court) Act. It certainly differs substantially from that contained in various elements of commonwealth legislation, such as the Aboriginal and Torres Strait Islander Act, the Native Title Act, and the Aboriginal Councils and Associations Act. It differs from the definitions in New South Wales, Tasmanian, Western Australian and Queensland legislation.

I fail to see why this government has taken it on its own head to create yet another definition which differs in part from its own existing statutory definitions in Victoria, let alone from those of the commonwealth and other parts of Australia. It is likely that this is another element that is going to be divisive. This is something that has the potential to divide people, not to bind them. The notion of binding people is a fundamental that should be a basic plank of the legislation that goes through this place.

I say that it is likely to be the repository of lost causes because there are many of them out there. I can see the prison population viewing with a fair deal of glee the propositions advanced in clause 10 of this legislation about protection from torture and cruel, inhuman or degrading treatment. Of course all of those concepts are not permitted in the state of Victoria. They are not permitted now in the state of Victoria, and I venture to suggest that under governments of any persuasion they will never, ever be permitted in the state of Victoria. Yet I am certain that we will have people out there in the corrections system who are going to look upon that clause as a basis for being able to make all sorts of assertions about the way in which they are treated. We will see this with a variety of minority groups throughout the state with the passage of time.

Clause 9 deals with the issue of the right to life. I am certain that this clause is going to be the subject of further discussion with the passage of time. Originally, under clause 8 of the draft that was issued by the government, there was reference to the right to life. It resided in subclause (1) of that draft, which reads:

> Every person has the right to life and has the right not to be arbitrarily deprived of life.

Subclause (2) reads:

> For the purposes of this Charter, subsection (1) applies to a person from the time of his or her birth.

But the government found that it got into deep water about what is to be constituted by the definition of life. It found that it hit all sorts of hurdles amongst people in the community, so it took out that subclause. It took out any suggestion in this legislation about the notion of this impacting upon the right to life.

The government even put a savings provision into this legislation, which appears in clause 48:

> Nothing in this Charter affects any law applicable to abortion or child destruction, whether before or after the commencement of Part 2.

I tell this house on this night — Tuesday, 13 June 2006 — that if this government wins the next election, it is going to decriminalise abortion. There is absolutely no doubt about it. The government ducked the debate in the context of this charter because it saw that there was enormous disquiet out there in the community. So it was that the legislation was changed from the draft version to the version which we have now before the house. I say again: this legislation is going to be divisive.

I turn to the issues of freedom of speech that are supposedly addressed by this legislation. How are those provisions going to play out in the context of the racial and religious tolerance legislation and the various problems we have around that and all the tensions that arise with regard to it? You can see that there is going to be a ready basis for additional conflict, in time, after the passage of this legislation.

I have said that this bill will be destructive, and that will be so in a number of ways. Our courts function very well now; they look after the common law and its interpretation for us and they apply the statutes of this state in a manner for which I believe our court system deserves enormous commendation. The courts do not need this imposition visited upon them by the content of this legislation. I suppose the only area of concern at the moment — or perhaps the principal area — is with regard to sentencing, and we will have some discussions about that; indeed, we will do so as early as tomorrow in this place. However, the courts generally are respected by the people in this state, and they function well.

The ridiculous notions contained within this legislation are highlighted, for example, by clause 28, which talks about 'statements of compatibility'. In essence what that provision contemplates is that anybody introducing a bill into the house is going to have to cause a statement of compatibility to be prepared in relation to it. Subclause 3 of clause 28 sets out the processes which are to apply regarding the content of the statement of compatibility. The silly thing is that in clause 29 the bill goes on to say that the:

> … failure to comply with section 28 —

with the provision of these statements of compatibility —

> … does not affect the validity, operation or enforcement of —

the proposed legislation. You have to wonder why you would bother to have a provision, in relation to proposed legislation, which does not matter. I say again that this legislation is likely to cause disruption in the way in which our laws are able to be applied and interpreted in Victoria.

In clause 31 there is provision for override declarations as described in that clause. Time is against going through these chapter and verse, but I invite members to have a look at clause 31, particularly subclauses (3) and (5), which set out the way in which rights can in effect be overridden if statements are made asserting that exceptional circumstances apply, allowing bills to be passed having regard to those exceptional circumstances.

What those exceptional circumstances might be remains a mystery. This bill does not tell us, because there is no definition in it. Furthermore, clause 31(9) of this bill says that even if there is non-compliance with the earlier provisions of clause 31, it does not matter anyway. Subclause (9) says that a failure to comply with subclauses (3) or (5) does not affect the validity of a relevant bill. This is another example of the needless disruption which is going to occur.

Clause 33 talks about referrals to the Supreme Court for interpretation. Clause 34 refers to the Attorney-General having the right to intervene — here he goes again, wanting to stick his bib into the way in which the courts function! Clause 36 refers to declarations of inconsistent interpretation. That too bears examination for the purposes of this discussion, because again there is the circumstance that even if there are declarations of inconsistent interpretation, under subclause (5):

> A declaration of inconsistent interpretation does not —
>
> (a) affect in any way the validity, operation or enforcement of the statutory provision in respect of which the declaration was made; or
>
> (b) create in any person any legal right or give rise to any civil cause of action.

This legislation is going to be extraordinarily disruptive. The only thing that will flow out of it is that under clause 37 the minister is supposed to respond within six months after one of the declarations is made. Confusion will reign as a result of the application of this legislation.

Further in that regard, no rights are being conferred under the terms of this bill. Clause 39(3) says:

> A person is not entitled to be awarded any damages because of a breach of this Charter.

I make that additional point having regard to the fact that there is no section 85 provision in this bill. If people's rights are being affected in any way that results in their incapacity to take proceedings, then the minister has to make a statement under section 85 to ensure that the house is aware of the impact of the legislation. In this case nobody has the right to actually take an action for damages. That is in the bill. One would have thought that would imply that there should be a section 85 statement in the bill so the minister could explain in the second-reading speech why that provision is there and the justification for it. But no, it is not there. Why is that so? It is because there are no rights conferred under the terms of this legislation.

It is a hollow, vacuous, rhetorical piece of fatuous nonsense. In support of that you need look no further than the report of the Scrutiny of Acts and Regulations Committee. In reference to clause 39, to which I have just referred, the report says that it:

> Provides that if, otherwise because of the charter, a person may seek any relief or a remedy in respect of an act or decision of a public authority on the ground that the act or decision was unlawful, the person may seek … that relief or remedy on a ground of unlawfulness arising because of the charter.

It says in the notes:

> (1) The clause does not create a new or independent right of relief or a remedy if there is nothing more than a breach of a charter right, nor does it confer an entitlement to an award of damages for a breach of a charter right.
>
> (2) The charter does not displace a person's right to seek any remedy in respect of an act or decision of a public authority, including a right to seek judicial review, a declaration of unlawfulness and associated relief including an injunction, a stay of proceedings or exclusion of evidence.

This is the keynote of this report. It says:

> A person is not entitled to be awarded any damages because of a breach of this Charter.

What does the note to that provision say?

> The charter does not create any independent cause of action or any independent forms of relief.

What we have here is an statement of meaningless rhetoric on the part of the government. It cannot help

itself. This is social engineering, as this government would have it, at its very best — or its very worst.

The fact is that in this state we have a tremendous committee which does the work that this bill is nominally intended to do. That committee is the historic Scrutiny of Acts and Regulations Committee, established by the much maligned former Premier Jeff Kennett in 1999. I had the pleasure and the honour to chair it in the second term of the previous government, and I acknowledge the presence in the chamber of the current chairman of the Scrutiny of Acts and Regulations Committee. There are two others who have had that role in the committee's existence. It does a magnificent job on behalf of the Parliament — I say 'the Parliament', because it is an all-party parliamentary committee comprising people who leave their political hats at the door and go in and have a look at the legislation based the notion of that which constitutes the reason for the committee's existence.

What is that basic notion? It is that the committee is to report on any legislation that affects the rights or entitlements or the capacity of people to do what they ought normally be able to do in our communities here in Victoria. The committee reports faithfully on those matters and publishes the *Alert Digest*, one of which I have just read from for the purposes of this address.

It is for those various reasons that I say the legislation is not necessary. We have mechanisms in place to address these matters now. The passage of this legislation will only cause all the outcomes to which I referred. In particular it will be very divisive and is absolutely unnecessary for Victorians.

**Sitting suspended 6.30 p.m. until 8.01 p.m.**

**Ms D'AMBROSIO** (Mill Park) — I am delighted to speak in support of the Charter of Human Rights and Responsibilities Bill 2006. It is a first for an Australian state and confirms the fact that under this Labor government Victoria proudly leads the way in balancing the need to protect the public in these times of international disorder with good social policy which strengthens human rights, and that is no easy feat. This bill is evidence of a progressive government working with its community to strengthen human rights, dignity and respect for diversity. We celebrate this in Victoria rather than fear it. I also support the house amendments, which clarify the meaning of 'person' and also clarify matters involving a 'public authority'.

The Charter of Human Rights and Responsibilities Bill will provide government with key checkpoints in the development of any new laws and the review of existing ones, requiring the consideration of basic human rights principles when framing or reviewing those laws. The specific human rights articulated in the bill will not override laws which on balance the government and Parliament may consider to be necessary or desirable for the community's benefit or indeed protection. Rather, this bill ensures that due weight will be given to those rights in the consideration of the policy objectives behind our laws.

Whilst many of these rights currently exist in legislation others, such as freedom of expression, do not. From across the various instruments in statute books, the common law and the International Covenant on Civil and Political Rights, for example, these rights have been drawn together in the charter to provide clarity and a more accessible and community-friendly focal point for public debate and discourse with respect to government policies and our laws.

The charter underwent extensive community consultation. The independent consultation committee received over 2500 submissions, including one from the committee I chair, the Scrutiny of Acts and Regulations Committee. An overwhelming 94 per cent of those who participated either through submissions or through the community forums supported the notion of better protecting human rights through legislation. The consultation committee considered a broad range of propositions or models for a human rights charter.

The committee supported maintaining the sovereignty of the Parliament, and the United States of America model, the most often referred to model of a bill of rights, was considered highly inappropriate for several reasons, including the fact that in America courts have significant powers to strike down statute law. This of course leads to a very litigious society, a notion which is clearly alien to this bill. If we look to the Australian Capital Territory, being the first territory jurisdiction in Australia to introduce a human rights law similar to our bill here, we see that the number of court actions arising have not been significant.

Clearly the nature of our bill is educative, and it preserves the sovereignty of our elected Parliament, contrary to many misconceptions that have been bandied around this house today. The Supreme Court will not be able to invalidate a Victorian law when a statutory provision is deemed by it to be inconsistent with the charter, although the Supreme Court will be able to make a declaration of inconsistent interpretation if it finds that a statutory provision cannot be interpreted consistently with a human right. Such a declaration of inconsistent interpretation will be referred to the responsible minister by the

Attorney-General, and a written response will need to be provided to both houses of the Parliament within six months. Public authorities are required to act in accordance with human rights, and a right to legal remedy is available for a breach of the charter, but, of course, no damages can be awarded.

Each bill that is presented to the house must be accompanied by a compatibility statement prepared by the minister introducing the bill. To arrive at this point a significant gestation process will need to run concurrently with the normal processes of preparing a bill at departmental and cabinet levels. The existence of compatibility statements will ensure that a culture of human rights is enhanced so that it becomes the norm. It is then, quite rightly, a matter for government and the rest of Parliament to determine whether a bill containing provisions inconsistent with human rights is appropriate or indeed necessary.

The Scrutiny of Acts and Regulations Committee met with members of the Human Rights Consultation Committee on several occasions and also made a written submission to the consultation committee with particular regard to SARC's reporting role vis-a-vis human rights issues if a charter were to be recommended. That is a very logical step in the bill — that SARC should have the carriage of reporting to the Parliament on new terms of reference concerning human rights. I am very pleased that the charter gives SARC that reporting responsibility.

The bill also changes the name of Equal Opportunity Commission Victoria to reflect the charter. It will be called the Equal Opportunity and Human Rights Commission and will have the power to intervene in court proceedings or matters relating to the application or interpretation of a statutory provision. The new Equal Opportunity and Human Rights Commission will report annually to the Attorney-General, provide education on the charter, for example, and provide other advice to the Attorney-General on the charter's operation and function.

The bill will be reviewed after four years and then after eight years, and there will be opportunities for refining and amending it and including other forms of human rights. This bill will lead the way for other states of Australia. Let us be clear that when we support this bill we will be supporting the International Covenant on Civil and Political Rights. We will also be supporting a model which is similar in operation to the New Zealand Bill of Rights Act and the United Kingdom Human Rights Act in that the courts in both of those countries cannot invalidate primary legislation. The main function of the human rights legislation is to alert the government and the Parliament to human rights inconsistencies.

This charter will serve our community well, and, in my opinion, other states are likely to follow. I congratulate the Attorney-General for his vision in promoting a human rights culture in this state. I wish the bill well and a very long life.

**Mr WELLS** (Scoresby) — I rise to join the debate on the Charter of Human Rights and Responsibilities Bill and support the shadow Attorney-General, the member for Kew, in opposing this bill. The members of the Bracks government are arguing that this is the be-all and end-all of rights in Victoria, but I notice that there is a lot about rights but not so much about responsibilities in the bill. I still do not understand which rights not currently in place need to be put into a bill of rights.

We have laws galore to protect the rights of everyone who lives in this state, but for some reason Labor feels the necessity to have a charter of human rights and responsibilities. Do we assume that what is not covered in the bill of rights is not a right or that it is covered under common law or by some other means? What rights are we going to protect and what rights are we not going to protect? The problem is identifying what proper rights are not in this bill.

I want to turn to the clause that concerns me the most. Part 2 is entitled 'Human rights', and clause 12, headed 'Freedom of movement', says:

> Every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

I do not agree; I do not think that is right. I do not think that should be a given right for Victorians. Today in question time the Minister for Police and Emergency Services quite rightly pointed to the issue of Robin Fletcher. Robin Fletcher has served his sentence, and the minister has difficulty determining where you put a person like him. I agree with the minister that he cannot possibly be put back into the community. There is no argument there. But if Robin Fletcher wants to challenge the extended supervision order for which the minister and the Attorney-General have applied to the courts, will he be able to go to court to challenge it under the freedom of movement provisions in this bill? That is the question.

**Mr Holding** — No, no.

**Ms Neville** — Read the bill.

**Mr WELLS** — We have read the bill, and when the minister is summing up we will want an assurance that Robin Fletcher and that sort of person will not be able to use clause 12, which is about freedom of movement, to determine or challenge the extended supervision order. I know that is not the intent of the bill, but is it one of those unintended consequences that may affect people's ability to challenge this sort of extended order?

**Mr Holding** interjected.

**Mr WELLS** — Recently such a situation arose at Beaufort. A number of paedophiles were going to move into Corrections Victoria housing. They were to be supervised somehow in that particular area of Victoria. If those people had said, 'Hang on. We have already served our term of imprisonment. We are now free people, and according to the charter of rights and responsibilities we have the right now to choose where we live because we have served our sentence', what is the response?

The minister has interjected a couple of times, and I would like to go to another clause which concerns me as well. Clause 26, under part 2 of the bill, headed 'Right not to be tried or punished more than once' states:

> A person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

**Mr Holding** — It's double jeopardy.

**Mr WELLS** — The minister says, 'Double jeopardy'. Let me put forward another case: a paedophile has served his sentence, so he will claim that he has been punished once. If we are to monitor or restrict where he lives, he can then argue, 'Hang on a minute, I am now being punished a second time for the same offence'.

This is a case that has already happened overseas and it is a concern. In July 2003 a British man convicted three times of rape won an appeal under the United Kingdom's Human Rights Act preventing police from continuing to monitor his movements after his release from jail. The rapist successfully claimed that his human rights had been violated under the Human Rights Act because he could not be punished twice for the same crime. He argued successfully in the UK that he had served his sentence for the crime of rape.

When he was released from jail what the government wanted to do was to monitor him and put him under surveillance, but he successfully challenged it under the Human Rights Act, arguing that he was being punished a second time because of the surveillance and restriction on his movement. So there is a precedent already under the UK example. I put that particular case to the minister. There has been a similar case with Robin Fletcher. He will argue very clearly that he has already served his time for the criminal acts that he has committed — by the minister keeping him within a perimeter of Ararat prison, is he being punished a second time?

There is no question that the actions taken by the minister have the full support of the Liberal Party. Every single person on this side of the house will be supporting what the minister has done. How safe can we be that Robin Fletcher will not use clause 12 of the bill to put a legal challenge to the minister and to the Attorney-General, claiming that what they are doing is unlawful and an infringement of his human rights? It is a very important point.

**Mr Holding** — It won't be successful.

**Mr WELLS** — The minister said it will not be successful, but from our reading of the bill, we are not convinced. We really need some assurance, because I will bet that we will be back in this house making amendments to this legislation because the government has taken the issue of prisoners out of this bill. It is my understanding that it was in the draft part of the bill, but when the real bill came before the house, for some reason the issue of prisoners had been removed, and we do not understand why.

There are too many people in the community who have a real fear about Mr Baldy. He has served his sentence and he has been let out of jail, but where in our community does he live? If Mr Baldy goes to the Charter of Human Rights and Responsibilities, he has the freedom to choose. He is a free man; he will have the freedom to choose where he lives. We on this side of the house will support the minister's actions with regard to people like Mr Baldy and where he should live, but I fear there will be clever lawyers out there, people with civil liberties at the core of their existence, who will want to challenge this particular point.

The other point I am amused by is that the Labor Party is very clear that there is a right to peaceful assembly and freedom of association. Proposed section 16(2) of the legislation says:

> Every person has the right to freedom of association with others, including the right to form and join trade unions.

We understand that is the case, but where is the right not to join a trade union? The government has forgotten to put in the very important part about the right not to

join a union. On building sites in this state, it is not there. We would like to know, when the minister sums up the debate, why that crucial part of freedom of association is not there and why a normal person wanting to work on a building site does not have the right not to join a trade union.

**Mr MILDENHALL** (Footscray) — It is a pleasure to join this debate on the Charter of Human Rights and Responsibilities Bill. I can see it is going to be a fascinating debate. It will be one that has a typical opposition response for the government to try to fathom, as we try to navigate through the 'No comment' from the member for Kew as to whether the opposition will support the legislation, and then the comment from the member for Scoresby that the opposition is opposing the legislation.

The member for Kew said this is a fundamental law that will affect every Victorian in the way they go about their business and the way they engage with government, and therefore it should go to a referendum. Then the Leader of The Nationals said the bill has no impact, is total rhetoric, has no tangible impact and has no effect. So we have at least four fundamental propositions to deal with: 'We oppose it'; 'No, we don't, we want to amend it'; 'We believe it changes fundamentally the operation of law in this state'; and 'We believe it has no impact'.

The answer to the member for Scoresby, which we can deal with straight away, is that this legislation does not create any more entitlements for Robin Fletcher. There is a clear provision that says that if the government is acting lawfully in applying an extended supervision order, an action cannot be taken under this legislation. In fact there is a general blanket on that. This is preventive legislation that provides an educative framework of a statement of beliefs. It is not there to provide a lawyers picnic or for litigants to use to take the government to task. The closest model to this, the Australian Capital Territory legislation, has not, despite people's predictions, resulted in a flurry of actions being taken.

However, it is entirely appropriate that we look at legislation like this in the current climate. In recent months and years this Parliament has seen fit to enact some very robust legislation which has taken the powers of the state to a new interventionist level. Our terrorism legislation in particular has provided powers to the state that are certainly unprecedented, and this is also the case across the nation. There is a need as the state further encroaches on people's liberties and creates powers for itself to draw a line and say that these are the rights and responsibilities of the ordinary citizen.

When people are looking for examples of why that is the case I quote some federal examples. We need to articulate the rights of citizens in this country when we have a federal government that can deport mentally disabled people against their will and without any recourse to appeal — and I refer to citizens of this country like Vivian Alvarez Solon. We also have the 2004 case of *Al-kateb v. Godwin*, where the High Court found in a split decision that a stateless person could be held indefinitely in this country against their will and without any recourse. That is an extraordinary situation. The case was brought to my attention by a former Liberal Prime Minister, the Honourable Malcolm Fraser, who asked what sort of country this is where a person has no rights at all and can be incarcerated indefinitely at the pleasure of the state?

This is necessary, desirable and progressive legislation of the type that has characterised the administration of the Attorney-General. All fair-minded members of this house should support it, as I certainly do. It has none of the fears claimed and deserves none of the criticism expressed by the member for Kew, and the house should reject his argument about the need for a referendum. This bill does not change the constitution, so there is no need for a referendum. The reasoned amendment moved by the member for Kew ought to be resisted and the legislation wholeheartedly supported.

**Mr KOTSIRAS** (Bulleen) — It is a pleasure to stand and speak on the Charter of Human Rights and Responsibilities Bill. I believe that the member for Footscray is lost. Not only does he need a navigator to get around this bill, but he also needs the courage to stand up to the minister and his government. I make it clear to the member for Footscray that I will be opposing this legislation, because it does not deliver. Writing something on a piece of paper does not mean anything. It is meaningless. It does not deliver what the government claims it will deliver.

Human rights are those basic and fundamental rights to which every individual is entitled. Our parliaments, courts and institutions are the cornerstones of democracy in Australia, and we currently have laws that cover all the rights in this legislation. The Charter of Human Rights and Responsibilities Bill claims to establish a framework for the protection and promotion of human rights. However, it fails to deliver. What a pity! This government has tried to politicise it instead of working together with the opposition parties and the Independents. Instead of sitting down and coming up with legislation which makes a difference and works,

the government has decided to do this on its own and try to score cheap political points. This bill does nothing for Victorians. It is a disgrace. We are talking about a Labor government that interferes in daily life every day of the week and yet puts forward this so-called charter of human rights, claiming it is the way to go for the future. It talks about rights and privileges but it says very little about responsibilities. That is what this government is all about.

This so-called charter of human rights is, as I said, just window-dressing. It is an insult to Victorians and is not about rights and liberties. It is simply a gimmick that the Attorney-General and his colleagues have come up with to score cheap political points. If they had taken the time and worked with the opposition parties and the Independents, perhaps something would have been worked out, but if this is wrong, if it is flawed, if there are problems with this legislation, a charter of rights could frustrate government business. A charter of rights could become old and outdated. We should be looking beyond two years, five years or 10 years. It should be relevant in 20 years time or in 30 years time. A charter of rights could politicise our courts and ensure that individuals make frivolous claims, clogging up the courts for months, even years.

I have to say that I believe in the protection of our rights and liberties, but that lies in our institutions, in democracy, in the Parliament and in the rule of law. Pieces of paper mean nothing at all and do nothing to protect the weak, the oppressed and the disadvantaged. What this government has done is look at the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and has chosen some aspects from those rights. It is interesting that article 6 of the International Covenant on Economic, Social and Cultural Rights says that states should recognise the right to work and take appropriate steps to safeguard that right, but there is nothing in this legislation to ensure that people are able to go to work without unions interfering in their ability to turn up for work.

Article 10.3 of the covenant states:

> Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation.

There is nothing about that in this legislation. This government refuses to appoint an independent commissioner for children because it is afraid it will be scrutinised. It talks about it, but when it comes down to legislation, it is not workable. These are just some of the rights that are not included in this bill. Article 13.2 in paragraph (a) states:

> Primary education shall be compulsory and available free to all;

We currently have school fees, but some parents are unable to pay them. Regardless of what the government says, some parents are forced to pay.

Paragraph (d) states:

> Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education.

Here in Victoria if you are over 20 years of age and you want to go back to school, you have to pay for it — it is not free. Paragraph (e) states in part:

> … the material conditions of teaching staff shall be continuously improved.

I know that there are many schools in Victoria which do not have the necessary resources or equipment, especially in science. It is very difficult for teachers to teach students when they do not have the resources or equipment. Again, this government has chosen what it wants from these rights and included in its legislation only the rights the Labor Party feels it can work with.

Clause 12 of the bill relates to the freedom of movement. It states:

> Every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

As we heard from a previous speaker, there is no reference here to the rights of prisoners. They clog up the court system — would the government seek to change this? There is a concern so I want the Attorney-General to clear this up.

Clause 13 of the bill relates to privacy and reputation. It states:

> A person has the right —
>
> …
>
> (b) not to have his or her reputation unlawfully attacked.

So it is okay to be lawfully attacked but it is not appropriate to be unlawfully attacked. It does not make sense.

Clause 16 is headed ‘Peaceful assembly and freedom of association’. Clause 16(2) states:

> Every person has the right to freedom of association with others, including the right to form and join trade unions.

Again, what about not wanting to join a union and not having to join a union? It is not in there. It is not mentioned because the government is simply doing what the unions have asked of it.

Clause 17(2) states:

> Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

What about the responsibilities of the parents? There is no mention of the parents. Article 18 of the International Covenant on Civil and Political Rights mentions parents. Article 18.4 states in part:

> … undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children …

There is no mention of that in this legislation. Clause 20 of the bill relates to property rights. It states:

> A person must not be deprived of his or her property other than in accordance with law.

So the government can take away your property. There are no just terms here. It can decide by legislation to take property away without reason. The bill talks about the law — if everything is in law, why do we need this? Why do we need motherhood statements simply to go out and score cheap political points at the expense of Victorians? It is a shame the government has politicised this. It is a shame that it has not sat down and worked through this legislation with the opposition.

I urge members opposite to support the reasoned amendment moved by the member for Kew. It states:

> … this house refuses to read this bill a second time until the views of all Victorians on the proposed charter are determined by referendum.

If members opposite believe so strongly in this legislation, why not take it to the people? Why not ask the people whether they support the changes the government has proposed in this legislation? Government members know it would fail. They know Victorians do not want this. They know Victorians do not need this. These are nothing more than motherhood statements which have been put up by the government to score cheap political points. The bill does nothing for Victorians. It serves the purposes of the Labor Party and the union movement and nothing more.

**Ms NEVILLE** (Bellarine) — I am pleased to join the debate this evening on the Charter of Human Rights and Responsibilities Bill. Again we are seeing a series of very mixed messages. It is obviously easy to be in opposition because you can pick your message depending on your constituency. Today we have a list of all those rights which are not included in this bill and then we have a list of all the rights which will be out of control under this bill. On the one hand we have the member for Kew talking about there being no remedies available to anyone. On the other hand all of a sudden we will have sex offenders running wild in our community.

Opposition members are targeting their own constituencies; they are not actually taking a position on what is a fundamental issue for Victorians. This charter sets up a framework of rights. We have heard members saying tonight that this is all entrenched in legislation, but that is just not right. In fact if members understood the Australian constitution, they would know that we have some very narrowly defined rights. Similarly in common law the courts have narrowly defined particular rights, but we do not have all the rights that as Victorians or Australians we assume we have actually entrenched in law. We have some rights — in things like antidiscrimination legislation, which protects certain rights — but some of our fundamental rights like freedom of expression would not be protected in any piece of legislation. It is just not true to say that these rights are all protected now.

The bill focuses on civil and political rights. It does not actually seek to create new rights, but rather to protect those rights and freedoms that we as a society currently share, or at least believe we have. One of the important components of the bill is the acknowledgment that rights are not absolute, and that we must always see those rights in a context of balancing against other rights, as well as balancing against what is in the public interest. This Parliament has made some tough decisions in the past where it has had to intervene on particular individual rights but in the broader interests of the community. We do that because we know we live in a community and we are not just individuals. We have a responsibility to each other and to our broader communities.

The member for Scoresby talked about the fact that this bill will mean that paedophiles, particularly those who are perhaps likely to reoffend, once they have served their sentence will not be able to be controlled. That is clearly incorrect. The bill clearly states that this Parliament will continue to be able to monitor and restrict freedoms where it is justifiable in a free and democratic society. Clearly we believe some things are justifiable in terms of intervening in individual rights — for example, in the case of sex offenders who

potentially would reoffend, obviously this Parliament has the capacity to act to continue to monitor and restrict their movements. Similarly it is not going to affect the ability to monitor intervention orders in family violence cases. In the public interest and for public safety it is important that in those cases individual rights would be overstepped in order to protect other people's rights as well as the broader interests of the community.

Clause 7 is very clear. Unlike the United Kingdom legislation to which the member for Scoresby referred and which enables freedom of movement regardless of other circumstances, this particular bill has an overriding provision which provides a balance between individual rights and community interests. In this case there is no such thing — and we have previously talked about this in Parliament — as absolute rights. However, obviously all of us have an interest in minimising the way in which we intervene in, contradict or overturn individual rights. Parliament would be accountable to the community by saying, 'When we do intervene in or overstep individual rights it would create a level of accountability that we as representatives should be embracing'. In fact we would be saying, 'We are in this case having to override individual rights because of', and then actually explain the reasons to the community.

Finally, I want to talk about the opposition's amendment which talks about the need to have a referendum before this bill is enacted. Obviously it is clear that this bill is not about entrenching rights into the Victorian constitution. It is an act of Parliament. I do not recall any other act of Parliament going to a referendum. I understood we have a system of representative democracy and, unlike the commonwealth constitution, that constitutional changes do not require referendums in Victoria.

I am not sure on what basis we would determine referendums for acts of Parliament. We are saying this act is really important, so it should therefore go to a referendum, but this bill is not as important. I think Parliament has passed some significant legislation, certainly in the time I have been here, so I am not sure how we would determine which one would go to a referendum. Our system of government puts responsibility on us as the elected representatives to try and reflect the values and the views of the Victorian people. I think this charter does that, and I commend the bill to the house.

**Mr HONEYWOOD** (Warrandyte) — I should notify the house that I will be one of two members on this side of the chamber who will be abstaining from a vote on this legislation. I will inform the house as to how I have reached this position.

In all conscience I had to support the religious and racial tolerance bill introduced by the government because I genuinely believe legislation can and should have an educative role in society and the wider community. If this piece of legislation before us had been drafted in the way I had hoped, I would have been crossing the floor and supporting the government in the wording of that legislation, but as it is, I am one of two members on this side who will be abstaining from the vote because we are not happy with the way the government has gone about the drafting of this legislation.

It is indicative of the debate tonight that government members shout and carry on from the government benches saying that we are all over the shop. It is wonderful to think that we politicians on this side can belong to a party that can take a principled stand and allow us the latitude as individuals to take a stand after considered and detailed debate, because those on the other side cannot do that. On the other side you are thrown out if you oppose the collective. We should never forget that.

What we are doing here tonight is arguing human rights. Surely the most fundamental human right is the right of an individual, after considering their options, to take a principled stand. Is that not what human rights are about? The mob opposite does not even bother to have a briefing on the bill but uniformly decides, 'We are going that way'. Government members recycle the briefing notes given to them by ministerial advisers, read them out and believe they have done the right thing. On this side members are allowed the latitude to think carefully — —

**Ms Allan** — Only when you are leaving: only when you are on the way out!

**Mr HONEYWOOD** — Let the record show that there are many occasions on which I have taken a principled stand. Having said that, the purpose of the charter is to establish a framework for the protection and promotion of human rights in Victoria. According to the government much of the legislation is derived from the International Covenant on Civil and Political Rights 1966. It is too often the case with members of the government that they have only cherry picked what is palatable to them.

Two points came out in the legislative briefing that I attended, along with seven or eight other opposition members of Parliament. It was a well-attended briefing,

and we asked some very important questions. The first is that I was genuinely concerned to hear that in this state in order for an individual citizen to bring an action against the government, an action under the proposed charter we are considering this evening, they would already have to have a separate action going on against the government. What sort of human right is that?

Then we come to what this supposed Labor Party with egalitarian values stands for, because to take an action to the Supreme Court in this state will cost an individual citizen a minimum of $100 000. What the government is doing is setting up a straw man. It is setting up a charter that will only allow the very wealthy to take an action against the government of the day. Where is the fairness in that? Where is the much-vaunted egalitarianism in that? One, you have to have an action already going against the government of the day, and two, you have to be a millionaire in order to follow through on your principle. You cannot be a working-class voter; you cannot be a citizen who is doing it hard who has a genuine cause against the government under this charter, because you will not be able to afford it. No legal aid will be given to you. Can you imagine the current Attorney-General coming forth with legal aid saying, 'Here you are. Go and take an action against us.'? Absolutely not!

They have cherry picked what is politically palatable to them so they can do the window-dressing and hold up the fact that they have ticked another box for certain interest groups, but it is the devil in the detail that every citizen needs to be aware of when they read what they are actually getting rather than what they have been promised. The government was very anxious that no new right be bestowed for judicial action as a result of this charter. What does this give a citizen that they do not have now? That is a key question.

Firstly, the government would say that the legislation will be more transparent because of the need to accord with the charter.

Secondly, at the briefing we were told of the obligation on the courts to interpret legislation consistent with the charter. Given that the Attorney-General today nominates who will go on the bench, it begs the question: if certain judicial officers are appointed who are of a like mind to the Attorney-General of the day, what genuine degree of fairness will there be anyway?

Thirdly, if you have had an action in court on a piece of legislation, you could go off to the Supreme Court for a judgment on whether your rights under the charter had been breached. As I say, you have to take forward $100 000 minimum if you are to have any chance of proceeding with that action.

Fourthly, if you have had an action for unlawful arrest or imprisonment, the court could look at whether your right under the charter had been breached. However, there is a definition problem here. Clause 11(3)(c) refers to:

> work or service that forms part of normal civil obligations.

But there is no definition of what a 'civil obligation' is. Under the charter 'obligations' do not cover the private sector, and so it only looks after the public sector issues. As has already been mentioned — as one would expect of the Liberal Party, given its philosophical views on freedom of association — again this government has cherry picked. It has provided for the right to join a trade union but has made no mention of one's right as an individual not to have to join a trade union. Where is the fairness and equity in that?

This government says, 'You should not have a referendum. Why have a referendum?'. At the end of the day is this not the same party that in opposition said there should be a referendum for the people on the reform of the upper house, when it did not control the numbers? They were in the streets calling for a referendum, and now they say, 'No, a referendum is not warranted in this case'. Let us face it, it will cherry pick whatever it can to find what is politically palatable at the time.

With the exception of the 1967 referendum and the Australian Capital Territory Human Rights Act 2004, Australian state and federal governments have been very reluctant to enact statutes that deal with what is ostensibly the abstract construct of human rights. Instead, the norm at both federal and state level has been to deal with particular issues, such as discrimination, and enact legislation according to particular community standards or expectations.

I thoroughly supported the government's racial and religious tolerance legislation and recent amendments — I went against my party on that — but I have to say it is flawed legislation, given the way it has divided a number of religions and a number of communities, and that is a shame.

The opposition has raised numerous concerns with the bill — for example, the shadow Attorney-General, the member for Kew, claims that under the bill property rights are dubious. He claims that although the bill provides that 'a person must not be deprived of his or her property other than in accordance with the law', it still fails to hold the Bracks government accountable for

dodgy property acquisitions. That is unlike the Australian constitution, which states that any acquisitions of property must be on 'just terms'.

As examples the shadow Attorney-General referred to the mountain cattlemen losing their licences for grazing without compensation, and to Michael Maher, a developer from Portland, who is facing losing half his land because of the Bracks government and because of Aboriginal heritage issues that he had no prior idea about. These are legitimate arguments.

It is important to note that there are many opponents of this type of legislation across the spectrum. I quote none other than former New South Wales Premier Bob Carr, the great hero of Labor Party members here in Victoria when they were in opposition and he was in government. Bob Carr spoke on this issue in 2001, clearly objecting to the idea of bills of rights. In the *Canberra Times* of 20 August 2001 he is reported as having said:

> I object because a bill of rights transfers decisions on major policy issues from the legislature to the judiciary. It is not possible to draft a bill of rights that gives clear-cut answers to every case. The right to freedom of speech will conflict with the right to equality (for example, racial vilification) and the right to equality will conflict with the right to freely exercise one's religion (for example, the right to exclude females from the priesthood).

That is an interesting one for the Labor Party to consider:

> Most conflicts will be more subtle and difficult to determine. A bill of rights can only be interpreted by the courts by balancing rights and interests … These are issues that should be decided by an elected Parliament, not by judges, who are not directly accountable to the people.

There are many other examples of comments made on the Victorian bill of rights proposal, and I could go on. But at the end of the day we are limited to only 10 minutes because this government has constrained debate. Whereas when I was in government backbenchers had 20 minutes each to debate, opposition members are now constrained to 10 minutes. I will not be able to quote any more to the house tonight, but I will say that it is important that when you come forward with this type of legislation, first and foremost, you should do your homework, and secondly, you should abide by your own party's philosophy of equality. Equality of access is not being given here. It is only accessible by the wealthy; you have to be very wealthy to go to the Supreme Court to take an action. Importantly, there is no right for separate action. That is why I am abstaining.

**Mr WYNNE** (Richmond) — I rise to support the Charter of Human Rights and Responsibilities Bill. I listened carefully to the contribution made by the member for Warrandyte, and indeed prior to that, the contribution of the shadow Attorney-General who indicated that this legislation was essentially draconian and would affect all aspects of daily life as we understand it. Indeed I would submit that to suggest this legislation could be portrayed in this way is a clear recognition that the shadow Attorney-General has not read the legislation and does not understand the very genesis of how it was formed.

This year we celebrate the 150th anniversary of the opening of the Victorian Parliament. Over 150 years Victoria has changed from being a colonial outpost, largely governed by a landowning squattocracy, to the vibrant 21st century democracy that we enjoy today. However, many of the rights and responsibilities that Victorians take as granted do not enjoy the formal legal protections that other countries provide. I believe that we are one of the only Western World countries with no formal human rights charter, and unfortunately our national government has shown virtually no interest in changing this.

In our view the Bracks government is ensuring that Victorians are not disadvantaged by the inaction of the national government on this issue. That is why, in April 2005, the Attorney-General initiated a process to ask Victorians about the best way their rights could be protected.

The Human Rights Consultation Committee was headed by George Williams and had representatives from various sections of the community: Rhonda Galbally, a name very well known to both sides of the chamber; Andrew Gaze and Haddon Storey. They undertook a — —

**Mr Perton** — Haddon Storey moved my admission to the profession.

**Mr Hulls** (to Mr Perton) — You should support the bill then.

**Mr WYNNE** — As the member for Doncaster indicated, Haddon Storey, a former minister in the other place, is respected widely on both sides of this house. That committee undertook extensive consultations throughout the state. Some 2500 submissions were made, and 55 community forums were conducted, so for the member for Warrandyte to suggest that this has not been subject to an extensive community consultation process with an opportunity for the

community to interact with the committee at all stages of the process is simply false.

One message came through loud and clear from the committee's report. Some 94 per cent of those who contributed supported laws to protect Victoria's human rights. Simply put, the community wants commonsense legislation that will simplify the statute books and bring together our most important human rights in one place. That is what the community wants, and that is what this legislation provides for.

We only have limited time to speak on this bill, and I want to briefly touch upon the role of the Parliament, because I think that is very important for the broader community to understand. A principal feature of the bill is that it accords with a parliamentary-based model of human rights protection. We understand that Parliament remains the final and sovereign institution in our democracy, and this bill does nothing — I repeat, nothing — to undermine that. The bill will become an act of Parliament which can be changed by Parliament at any time in the future. Indeed Parliament retains the ability to override provisions of the charter by legislation in exceptional circumstances if it sees fit.

So far as the day-to-day operation of Parliament is concerned, a major effect of the bill is that new legislation will be accompanied by a statement of compatibility when it is introduced into the Parliament. The minister or member who introduces a bill will be required to identify any impacts on human rights and prepare a compatibility statement. My colleague the member for Mill Park, who chairs the Scrutiny of Acts and Regulations Committee, will also have a critical role to consider any bill and report to Parliament as to whether it accords with the charter of human rights. The work undertaken by the Scrutiny of Acts and Regulations Committee on behalf of this Parliament is excellent.

Finally, as regulations are tabled a certificate will also be prepared by the minister as to whether the regulations limit human rights as set out in the charter. In the few moments I have left to make a contribution to the debate, I would have to say that we will look back at the introduction of this bill, as the Attorney-General has indicated, as one of the great legacies of this government. This is a very important piece of legislation which clearly articulates the government's vision for a society which is open and one in which we enjoy equal rights as articulated through this human rights bill. There has been very strong community input into the formation of this bill. There is the capacity for the Parliament to clearly articulate its vision, or certainly the Bracks government's vision for a charter of human rights and responsibilities. I commend the bill to the house.

**Mr PERTON** (Doncaster) — Firstly, it is a great pity that the debate on this bill is taking place so late in the evening with a gallery of four people.

**Ms Duncan** interjected.

**Mr PERTON** — The member for Macedon giggles at that, but this piece of legislation changes the fundamental law of Victoria. The fact that it is being debated in this way and that members of the Labor Party on the backbench are giggling and chortling in a serious debate is inappropriate.

On human rights both sides of this house normally see eye to eye. When we look at issues like Tibet, Burma and the like — issues of international human rights — there is much common ground between the Labor Party, the Liberal Party, The Nationals and the Independents. It is a pity on this piece of legislation that more work has not been done to find more common ground between the parties. I, for one, will not vote against the legislation because I respect the work of Haddon Storey during the community consultation. I respect the fact that it is close enough to the international protocol on civil and political rights for me not to vote against it. But the entire structure of the bill, the inability of an individual to enforce his or her rights appropriately — —

**Mr Hulls** — It doesn't go far enough!

**Mr PERTON** — Indeed, as the Attorney-General says, it does not go far enough. To some extent it is the Labor Party saying, 'Give us human rights, but don't give them to us while we have a majority'. For me it is easy now as I am heading towards retirement from Parliament to reflect on the nature of Westminster parliaments. Ten years ago I would have debated this bill very strongly, and I would have spoken against it. I had a great deal of confidence in the nature of Westminster parliaments at the state level in Australia to say that parliamentarians have sufficient time, resources and the like to debate issues of human rights, to ensure there is a consciousness of human rights, that the Scrutiny of Acts and Regulations Committee would be able to provide the safeguards because its warnings would be heeded.

However, now we live in a time of terror. After 9/11 it seems that both Labor premiers and federal Liberal governments can come together in committees, be briefed by security agencies and come out and say, 'We need to change the law to provide new forms of imprisonment and interrogation'. At the state level we

have had legislation in respect of organised crime that introduced coercive interrogation orders. I do not believe these forms of legislation are compatible with a bill of rights that truly protects the rights of the individual. To my mind this piece of legislation only provides the individual with very limited rights of recourse if his or her rights are breached by the government and/or its agencies.

I attended the briefing — —

**Mr Hulls** — Good start, Victor!

**Mr PERTON** — I take up the interjection of the Attorney-General. If it is a start, then it is commendable. However, I am not sure that future events can be controlled in an environment where both sides of the house cannot agree on the drafting of rights and where it is unlikely that the Liberal Party or the Labor Party will control the upper house but likely that a minority party will control it.

I come back to my point: why have I changed my mind on the general desirability of a bill of rights? As I said at the commencement of my speech, all parliamentarians believe in the same fundamental human rights. We believe that imprisonment without trial and detention without charge ought not happen in a civilised society and that they should not happen under a Westminster parliamentary system. But we have seen legislation brought in by this government — supported by both sides of the house — that has introduced those notions into Victorian law. I am not sure the Attorney-General is comfortable with these things himself; nevertheless the nature of political debate in this country has seen all state governments and the federal government act in accord in introducing that form of legislation.

What has concerned me in the last months of my time as a parliamentarian was reinforced by Brian Costar's first lecture as the professor of Victorian parliamentary politics at Swinburne University. In it he looked at the difference between American and Australian democracies. He talked about the nature of the American contract as being firstly concerned with the liberty of the individual and secondly concerned with democracy. He contrasted that with Australia, where democracy comes first and individual liberty comes second. We are in grave danger as a country, at both the federal and the state level, of falling into the great mistake of allowing majoritarianism to run rampant. So often the rights of the individual are swept aside, as are difficult cases.

There is goodwill from members on both sides of Parliament. The member for Richmond, who spoke before me, and my friend the member for Warrandyte could sit on a panel and probably agree on the nature of the rights to be protected and the remedies that ought to apply in individual cases, but sadly our parliamentary debates these days involve legislation being brought to this place by the government, the opposition opposing it — there is no common ground — and that legislation being passed as introduced. It is only the judges who are in charge of and have responsibility for looking after the tough cases involving individuals who suffer injustice as a result of a piece of legislation passed by this Parliament.

The defect in this legislation is the convoluted nature of the right of the individual to bring his or her case before the courts and to have it determined. According to the briefing, and according to my reading of the legislation, if you have another cause of action that is outside the charter, you are then allowed to plead the charter. Also according to the briefing, even if you lose on the first leg you can then proceed under the charter, but you are limited in your rights under the charter to declarations, and you are prevented from seeking damages.

What about the person who just wants to plead the charter? The International Covenant on Civil and Political Rights applies in Australia to the extent that we are a signatory to the optional protocol, so an Australian who has exhausted his or her legal remedies in Australia can go to the United Nations Human Rights Committee. What an expensive process: how many hundreds of thousands of dollars must you spend to exhaust your legal remedies in Australia? The same applies to this piece of legislation.

I ask that the Attorney-General, while the bill is between houses, think about removing the requirement that there be a ground other than the charter ground before a person is allowed to bring their case before the courts. If I were a lawyer advising someone whose rights are being breached under the charter, I would think up just about any spurious ground to bring the case before the courts. There also needs to be a remedy beyond declaration. If there is a clear breach of their charter rights by the government or one of its agencies, the best remedy for most individuals is damages — that is, not the insane judgments such as those you see from American juries but the sorts of sensible damages that would be awarded by Australian judges applying the appropriate principles of damages in Australia. From my perspective that would make this a much better bill.

I would love the two parties — Liberal and Labor — to sit down and hammer out the differences, which have

been well highlighted by the member for Bulleen and others, on the actual rights. Secondly, I would like it to be a real charter of rights. A charter of rights is about protecting the individual. To my mind there is too much protecting the Parliament in this legislation. I hope this is only a first step. I hope that both sides of the Parliament can eventually look at the cases decided and reach greater common ground.

In the circumstances of today's deliberations and debate, I will be abstaining from voting on this legislation.

**Ms BARKER** (Oakleigh) — I am pleased to rise in support of the Charter of Human Rights and Responsibilities Bill 2006. This charter will ensure that the basic rights of all Victorians are taken into account in the making of decisions or the introduction of new laws. I believe it will encourage a human rights culture in Victoria and, importantly, will provide an educative role both in the community and across government.

The charter also provides that the delivery of government services to all Victorians will be strengthened and improved by incorporating human rights considerations into the development of legislation policy and programs. As has been made clear, every policy, law and decision must be looked at in terms of our democratic rights and freedoms by every government department, local council, statutory body and public official.

One of the things that I have been very impressed with in the preparation of this bill is the very clear, strong process involved in arriving at what we are doing today.

In May 2004 the Bracks government announced in its justice statement its intention to conduct community consultation about whether human rights could be better protected in Victoria and, in particular, about a charter of human rights and responsibilities for Victoria. In April 2005 the Attorney-General announced the establishment of the independent committee. That committee was chosen to undertake consultation and provide a report back to government. It was asked to make recommendations on a suitable framework for civil and political human rights in Victoria.

The government's preferred model was outlined in the statement of intent in May 2000, so there has been a very clear process. I believe the consultation committee worked very hard. They were, as the member for Richmond outlined, Professor George Williams, who is a very well-known law academic, Rhonda Galbally, Andrew Gaze and Haddon Storey, who many members on both sides of the chamber respect in terms of his previous work and particularly his ongoing work in terms of consulting the community. Their consultation was very comprehensive. They received submissions from over 2500 individuals and organisations. They also held 55 community consultation meetings and 75 consultations with government and other bodies. I am sure both sides of the house would congratulate them and thank them for the hard but very intense work they undertook in a relatively short period of time.

That consultation revealed overwhelming community support for changing Victorian law to better protect human rights. The central recommendation of that committee was that the Victorian Parliament enact human rights legislation. We have adopted the majority of the recommendations made by the committee.

Following the previous work undertaken by the Attorney-General and the committee, the Attorney-General announced on 20 December 2005 that we would proceed with the central recommendation and enact a charter of human rights and responsibilities in 2006. I believe the consultation and the process up until today has been very good.

The charter has an agreed set of democratic rights and freedoms, and part 2 of the bill, which deals with human rights, sets these out very clearly. There are far too many issues to speak about in detail. I do not see how we can shy away from the human rights that are laid out in part 2 of the bill. Clause 10 states:

> A person must not be —
>
> (a) subjected to torture; or
>
> (b) treated or punished in a cruel, inhuman or degrading way;

Clause 11(2) states that:

> A person must not be made to perform forced or compulsory labour.

Clause 15 states:

> (1) Every person has the right to hold an opinion without interference.
>
> …
>
> (3) Special duties and responsibilities are attached to the right of freedom of expression …

As I have said, there are far too many rights to go through in detail, but clause 18(1), headed 'Taking part in public life', states:

> Every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

These rights are clearly set out and are important in the context of the bill.

The member for Doncaster and others have asked whether this bill is a final step. It is my understanding that this bill is an important first step towards the better protection of human rights in Victoria, and there will be a review in four years time. At that point, there is strong support for the inclusion of the rights as laid out in the bill, but during the four years it is good and appropriate to consider whether economic, social and cultural rights and specific rights, such as women's and children's rights, should be included. It is important to constantly review legislation. The four-year period will be an opportunity to look at the values and aspirations being expressed by our community.

I am pleased to note the enhanced functions of Equal Opportunity Commission Victoria, which will now be called the Victorian Equal Opportunity and Human Rights Commission, which has a range of new functions regarding the human rights protected by this charter but will have an obligation to report annually on the operation of the charter and importantly, will conduct human rights education programs. That is very important.

I thank the staff from the research section of the parliamentary library for their brief on current issues regarding the Charter of Human Rights and Responsibilities Bill 2006. Those staff members work hard and the work they produce is interesting and informative.

In conclusion, I believe this bill is a commonsense move that simplifies our laws and brings important human rights together in one place. As I said, this is an important first step towards the better protection of human rights in Victoria. I would like to commend the Attorney-General of the Bracks government, who continues to bring forward consultation, process and then legislation which certainly makes Victoria a great place to be. I commend the bill to the house.

**Mr SAVAGE** (Mildura) — Thomas Jefferson once said that democracy is nothing more than mob rule where 51 per cent of the people may take away the rights of the other 49 per cent. I am of the opinion that this bill is not necessary. The first few clauses of the bill refer to the freedom to move where I wish, freedom from forced work, protection from torture and cruel, inhuman and degrading treatment, and the right to life. I notice that abortion is not mentioned in the bill, so life does not start until after you are born, which I find a strange concept in a bill of rights!

I am concerned as to why we need to define the rights in our society in such a way. In reality this bill limits rights because it defines them. We do not have slavery in Victoria except in the prostitution industry. There was the case last week where a woman was sentenced to 10 years jail for what could be described as slavery. In some ways that is condoned by the Prostitution Control Act — the state licenses people to commit barbaric acts against women under the guise of this act.

I strongly query whether this bill is necessary. I am of the opinion that Victoria has a great tradition of rights at the common-law level. Why do we need to define these rights? Where is slavery in Victoria? Where is the privilege of being able to move where I like? It is still there, so why do I need this bill? This is of very serious concern to me, as I have not had anybody write to me and say, 'We need a bill of rights in Victoria'.

I am aware that there was an exposure draft to which some 3000 people made contributions, but there are 5 million people in Victoria. If this is such an important piece of legislation, the government should put it to the people of Victoria. We have only got 16 weeks until there is an election. The government should stick it on the ballot paper and give people the right to have a say. This is a democracy.

I know what the government is going to say: 'We know what is good for you'. It is time we stopped saying, 'We know what is good for you', in this place. We do not know what is good for the people. The people should be given the choice. What is wrong with that? I challenge the members on the other side to give people a choice on this. What is so wrong with that? Tell me why I am wrong in asking for something as simple as that? It is about democracy and giving the people a vote in the same way that we let the people vote for a government. We let the people choose the government. We need to have that right applied to this legislation.

This is a huge and fundamental change to the rights and freedoms of every Victorian. If members of the government are saying, 'We know that referendums are not going to succeed', that is too bad; that is what democracy is about — sometimes you win and sometimes you lose. But the government should not presume that it knows what is right for me, because it does not. Until it is put to the test on 25 November, we do not know who will govern Victoria. We do not know whether the people will want something like this.

It is an abuse of the democratic principles of the state to allow this sort of legislation to go ahead in this way.

There is an interesting component in this legislation about cultural rights, which brings to mind a whole grab bag of things. Does that mean if I am from Asia that my cultural right is to eat dogs with fried rice? No, it is not; that is not a cultural entitlement in this country. But if you put that in an act of Parliament someone could challenge it. They could say, 'I want to eat dog'.

Recently there was a case where a foreign doctor practising in Mildura, who was nothing more than a predator, was deregistered because he was inappropriately examining female patients. He was a fellow called Dr Kumar. Some of the charges involved touching patients and failing to get the consent of patients for intimate procedures. He said that it was a cultural mix-up that caused him to do that. Why? What was the cultural misunderstanding that forced him to touch up female patients? That is rubbish, and that is the sort of crap we are going to get from this bill. People are going to use it — —

**An honourable member** interjected.

**Mr SAVAGE** — Am I wrong?

**Dr Napthine** — You are right.

**Mr SAVAGE** — That is what Dr Kumar said, that it was a cultural misunderstanding, so if he comes from another country and he — —

**Ms Duncan** interjected.

**Mr SAVAGE** — That is what he said.

**An honourable member** interjected.

**Mr SAVAGE** — You are providing some sort of licence for that to be argued, and that is wrong.

There are some religions in this country that say that women do not have the same rights as men. That is wrong. We are all equal in this country, but this bill is going to mean that cultural rights are going to be defined by equal opportunity. I do not know where it says that women do not have the same rights as men, do not have the same property rights and are subjugated. The government is creating a monster. We do not have a monster now, except for the equal opportunity commission. There needs to be a left-alone approach on these sorts of issues.

To me this bill does not prove that we need to make sure that people's rights are defined. We understand what our rights are. We live in a society that is very well structured and has very well-defined rights. Those countries with great bills of rights are places like the Sudan, Rwanda, the former USSR and China. China has killed 1 million people in Tibet since the invasion in 1952, and it has a bill of rights; except if you are in Tibet, then you are fair game. So do not trot out this, 'We must have a bill of rights to protect us in Australia', because we do not need one.

I know that members on the other side are going to squirm when I say this, but at the Northland Secondary College there are areas where only Koori students are allowed to go. There is the Koori garden, the Koori computer area and a meeting room. That is wrong because we either have equal rights for everybody or we do not. An Asian student was suspended two weeks ago because he would not stop using a Koori computer. This is a nightmare! Is that going to be fixed by this bill? Perhaps it is happening because we have not got this bill? Is that why this bill has been introduced — because of that issue at Northland?

This is absolute nonsense! We do not need a bill of rights to protect us. It will not protect us from stupid politicians. It will not protect me from crime. It will not protect me from poverty. Why do we need this bill? Because some people, because of their deluded vision, think it is going to benefit Victoria. It is not.

I am disappointed that this has come through this place. I suppose we live in a democracy, but I would once again come back to the last point — that is, that we need to have a referendum on this issue. This is something too important for this house to rush through this week when there are 10 bills listed on the government business program. This bill is something that I think every Victorian would like have a say on; I am convinced that they do want that.

I conclude by quoting C. S. Lewis, who said:

> Of all tyrannies, a tyranny exercised for the good of its victims may be the most oppressive. It may be better to live under robber barons than under omnipotent moral busybodies. The robber baron's cruelty may sometimes sleep, his cupidity may at some point be satiated; but those who torment us for our own good will torment us without end, for they do so with the approval of their own conscience.

**Mr DOYLE** (Malvern) — It is a pleasure to join this debate. As an opening statement I want to say that I do not think there is any question in this debate about the value and importance of the rights described in the Charter of Human Rights and Responsibilities Bill before us. The difficulty, though, comes even as we debate this bill. We are debating it at night. We are going to be gagged at 10.00 p.m. today and the bill will then be brought back just for a vote at 4.00 p.m. on

Thursday. The very bill which seeks to enshrine what one would think is the highest of these rights, freedom of speech — particularly for parliamentarians, the elected representatives of the state — is being treated in such a manner.

In this debate about rights, I want to say one thing as a personal statement. In many ways I agree with the member for Doncaster. I believe the individual has primacy in our state and in our system. I believe any citizen has the right to do whatever they wish until they impinge upon or detract from the rights of other people. When that happens we then have a question of balance that we need to address. When you have a question of balance, what you need is an umpire. The question before us is whether such a bill of rights or charter of human rights and responsibilities, howsoever called, is the umpire we need when that balance goes out of whack. Is such a charter of human rights and responsibilities a part of the umpiring solution, or is it in fact something that is going to contribute to the original problem? Many speakers tonight that I have listened to have grappled with that issue.

It is an important debate, because balancing the rights of individual citizens against other demands, whether those of the state or the government — and I will come particularly to the bureaucracy in a moment — and increasingly against the demands of executive government is our highest responsibility as members of Parliament. I would agree with the member for Doncaster; every single time I would choose the individual over the system, the person over the democracy. That is the question for us when we enact this legislation — and despite all the speeches that we make, this bill will pass, and it will pass both houses.

I was very interested to hear the member for Oakleigh and the Attorney-General talk, by way of interjection, about this being a first step. A first step to what? What do members opposite have in store for us? What are they waiting for? Let me tell members on that side something: it does not get any better than this! They are not going to get a bigger majority. If they have not made up their minds now about what they are going to do, could they let us know where they think this might just finish up?

There is an awful word, 'majoritarianism', which is a creeping tendency whereby democracy becomes the catchphrase for doing anything, even trampling on the rights of the individual. There is nothing more central to our society than the rights which are listed in this bill. We all agree on that. But where I differ from my friends the member for Doncaster and the member for Warrandyte is that I believe a bill of rights does not protect rights. That is the fallacy of the legislation before us.

I have two hesitations about this piece of legislation. The first is about this particular bill. First of all it is state based, and that is just ridiculous. It can automatically be overridden by any federal law, so we are just kidding ourselves if we think that in some way it makes a difference because we enact a state charter of human rights.

Secondly, we say, 'Yes, it is a bill of rights and these are inalienable', but the Parliament can — —

*Honourable members interjecting.*

**Mr DOYLE** — Yes, that is exactly right. No, we do not because the Parliament can override them. On the one hand, they are sacrosanct and sacred: it is the right to life itself! But the Parliament can override them.

Thirdly, the courts can step in only if there is a separate cause or a similar cause which can be pleaded before the courts. Are you fair dinkum or not? Although I do not agree with the member for Doncaster's point of view, because I think it would become a lawyers picnic, his point is correct.

**Mr Perton** — That's not a bad thing!

**Mr DOYLE** — While I wish the member well in his future career, I cannot accede to that particular view of the world.

Fourthly, a point that was made well by the member for Mildura is that this is about equality for all. In this bill we are all equal — but some are more equal than others. If this is all about equality, why are Aboriginals singled out for special treatment and even called 'special'? For goodness sake, do them the favour of considering them Australians, as indeed we all are. Make us all equal.

Finally this bill is a bureaucratic nightmare. Can members understand the paperwork that will be involved every single time a piece of legislation, delegated legislation, regulation or policy decision is put forward by any government? The sum total of it will be what? The answer is 'nothing', because it is not enforceable anywhere, except that there may be the cold comfort of a statement of incompatibility. In other words, what would be created is the world's biggest paper tiger — lots of paper but not much tiger, by the way, because there are no teeth to the bill.

I turn to what the member for Doncaster said, because often in this house we do not listen to each other and

actually debate; instead, we give set piece speeches. He talked about where we might go and I presume that is what the Attorney-General means and the government means. But even if this were workable, would it be the best umpire? I would say not because inevitably they will not get it right. If the framers of our constitution had had a bill of rights, the White Australia policy would be in it right now as an in alienable right of our society. It is no good saying we can add or take away things — the things you leave out are the things you diminish, and inevitably you will do that.

With a bill of rights you must transfer decision making to the judiciary, and I think that is wrong. We are the elected representatives, not the judges — —

**Ms Duncan** interjected.

**Mr DOYLE** — Just try to stay with me — I know it is difficult. I will wait for you at the next corner!

Finally, the government is asking us to accept that in an adversarial jurisdiction these things can be worked out positively and amicably, but I do not believe that they can. I think even if the government were as a second step to frame a proper bill of rights, it would enshrine political correctness, costly litigation and that culture of compensation which has infected particularly the United States.

I read with interest that the federal Attorney-General criticised the bill on those grounds, and the state Attorney-General said, 'That is not the case. Not much has happened in the United Kingdom'. But as Michael Howard pointed out during the election in 2005, under the Human Rights Act of the United Kingdom these are the things that have happened:

> … the schoolboy arsonist allowed back into the classroom because enforcing discipline apparently denied his right to education; the convicted rapist £4000 compensation because his second appeal was delayed; the burglar given taxpayers money to sue the man whose house he broke into; travellers who thumb their nose at the law allowed to stay on green belt sites they have occupied in defiance of planning laws; and a convicted serial killer allowed hard-core porn in prison because of his right to information and freedom of expression.

So much for the act not allowing the things to happen, because they did! That is what we were told about racial and religious vilification.

I wish each member had more than 10 minutes to debate this bill. I looked at one of the speeches of Bob Carr in which he quoted the eminent American jurist Learned Hand. Hand was talking about the importance of the community, not the law, deciding these things. He said:

> This much I think I do know — that a society so riven that the spirit of moderation is gone, no court can save; that a society where that spirit flourishes no court need save; that in a society which evades its responsibility by thrusting upon the courts the nurture of that spirit, that spirit in the end will perish.

I believe those values reside in the community. They reside in a fair go; they reside in all the values we came here to protect and uphold. They do not reside in a bill of rights or a charter of responsibilities.

One thing gives me concern, and that is the point raised by the member for Doncaster: who in our society stands up for the individual? Who takes up the fight for the rights of the individual against the modern state? Maybe it is the courts; I am not sure. But if we get to that point, and if we abrogate that responsibility as individual members of Parliament or as the Parliament as a whole, then we lessen parliamentary democracy; we lessen the reason why we are sent here.

Finally, I will quote Bob Carr in that same speech from 2001. He was not talking about our charter, he was talking about all charters and about all these legislative proposals. He said:

> A bill of rights is an admission of the failure of parliaments, governments and the people to behave in a reasonable, responsible and respectful manner.

I still believe that in our community we can behave responsibly, civilly and respectfully, and as long as we uphold that, then there is no need for any such charter or bill of rights in this state.

**Mr LUPTON** (Prahran) — With the Charter of Human Rights and Responsibilities Bill this Parliament has an opportunity to make a statement about what we believe are the important rights and responsibilities affecting Victorians. This is important legislation; it is landmark legislation. The legislation that sets out the rights and responsibilities of Victorians should be accepted by the Victorian community, and overwhelmingly I believe it will be. The rights and responsibilities this legislation identifies are civil and political rights that are accepted by the overwhelming majority of the Australian people, and I believe they are the civil and political rights that are accepted by all members of this house.

The issue that has been raised in debate is whether or not there should be a piece of legislation that sets out what those rights and responsibilities are. On the one hand the Liberal Party says, 'This legislation goes too far' and on the other hand it says, 'It does not go far enough'. I suspect the reality is that the legislation finds the right balance, because it sets out the rights and

responsibilities of Victorians but sets them out in a way that maintains parliamentary sovereignty and allows the courts in appropriate circumstances to make declarations about whether legislation meets the standards of human rights but does not allow the courts to invalidate those laws. It still requires the Parliament to address that question to determine whether or not it wishes to amend those laws or to make a statement about why in a particular circumstances those parliamentary laws should in some way or another not meet a particular human rights standard. It upholds parliamentary sovereignty, and it does so by striking the right balance.

The rights that are set out include, in a longer list, recognition and equality before the law; freedom of thought, conscience, religion and belief; freedom of expression; the right to peaceful assembly and free association and the right to liberty and security of person. They are the sorts of rights we often talk about when we speak at public occasions such as citizenship ceremonies. They are the rights that people around Victoria would accept and expect to have in our civilised society, a society based on the rule of law.

It is appropriate in these circumstances that we as a Parliament on behalf of the people that we represent set out what we believe those rights and responsibilities are in 2006 and that we do it in a way that allows those rights and responsibilities to be flexible, to develop and to not be entrenched or frozen in time. There are examples of this type of charter of rights enacted in jurisdictions that are similar and comparable to ours, in the United Kingdom and New Zealand, and those charters have overwhelmingly proven to be sensible and effective.

I do not believe there is anything wrong in setting out what we believe to be the important civil and political rights in our society. Doing it in the way that we have with this legislation, by allowing future parliaments to make amendments by not entrenching these statements of principle in the constitution, will mean that the Parliament remains the sovereign body and the courts have the appropriate advisory role. We will be able to show anyone who is willing to look which important civil and political rights we believe should exist in Victoria. It is an important statement and one which I believe strikes the right balance.

The opposition has got it wrong in opposing this legislation. It will not do the things the opposition claims it will do. It will not derogate from rights, and it will not give rights that are not already in existence. It sets those rights out, it does not define them; it allows for that to be a matter for future deliberation and decision. But it does make an important and clear statement to the people of Victoria about what civil and political rights we believe are important and should be upheld. I commend this bill to the house.

**Mr CLARK** (Box Hill) — This bill is both hypocritical and dangerous. It is hypocritical because it purports to protect the citizen against the executive government, but it fails to do so. It is dangerous because it will set citizen against citizen and will transfer legislative power from the Parliament to the judiciary. It will throw a new wild card into the interpretation of every statute on our books. It will force legislation to be interpreted against this collection of untried and untested verbiage and will therefore diminish the strength of our common-law background, which has evolved over many centuries and strikes the sorts of balances and nuances that this legislation fails to do.

It is also going to transfer de facto legislative power from the Parliament to the judiciary by granting an enormous scope for judicial discretion in interpretation, and therefore it will transfer what should be political and community issues debated in the public arena and decided by Parliament into the hands of the judiciary. Yet at the same time that it does that it fails to achieve the one thing that advocates of human rights most passionately plead for and which if you look around the world is most necessary — that is, the protection of citizens against the tyranny of government.

The honourable member for Doncaster has rightly pointed to the doubts caused by clause 39 of the bill with the apparent suggestion that one can invoke the charter in legal proceedings against the government only if one already has an existing cause of action. One can contrast that with clause 38 which apparently confers an unfettered obligation on public authorities to act in accordance with the charter and, therefore, by implication gives an unfettered legal right.

However, all of that is made a total nonsense when one looks at clause 4(1)(k). That says a public authority does not include:

> an entity declared by the regulations not to be a public authority for the purposes of this Charter.

So we have this grand charter, all of these wonderful rights, conferred allegedly on the citizen, and then when division 4 comes into operation, allegedly public authorities are obliged not to act in a way incompatible with those rights, yet through Governor in Council — not through this house and certainly not through a referendum; through no accountability whatsoever — any public authority can be excluded from the

definition of 'public authority' by regulation, and therefore none of these so-called rights applies to it.

The government has reserved the trump card, the joker in the pack, to use any time it likes. Any time somebody asserts a so-called human right in a way that it does not like, the government plays that trump card. It pulls the relevant public authority out from the definition and says, 'Forget these rights. Our will prevails'. That is not democracy, and it is not Parliament. It is the executive government, which shows the sham nature of the legislation.

There is a whole collection of anomalies where the bill fails to accurately reflect the International Covenant on Civil and Political Rights, which it purports to follow. In some of those discrepancies you can see the political correctness coming through the charter — its drafters do not want to follow the wording of the covenant — while others are simply curious.

For example, in article 23 the reference to the family being the natural group unit of society has been dropped, as has the right to found a family; and clause 8(4) of the bill includes a power of positive discrimination, which does not appear in the covenant. Clause 12 of the bill omits reference to the ability of the state to impose reasonable restrictions on freedom of movement, which is contained in article 12(3) of the covenant. Article 18(3) contains various rights to limit freedom of religion which are not included in the charter.

Article 18(4) requires the parties to the covenant to have respect for the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions — and that is missing in the bill. Article 24(2) — a strange omission from the bill — states that every child shall be registered immediately after birth and shall have a name. Clause 18(2) of the bill qualifies the right to freedom of vote by only extending it to eligible citizens — something not present in the covenant.

So there has been a whole series of departures from the covenant on which this bill is supposed to be based. If one were to have an act that basically said that the international covenant is enacted as law in and for Victoria, one could have a decent debate about the merits of legislating for rights in that way. I would say that even that measure would fly in the face of the Westminster tradition of rights, which is based on a strong Parliament held accountable in elections through a vigorous democracy, based on a strong press and an independent judiciary and, perhaps most importantly of all, based on an innate sense of decency and fairness in the community.

What this bill purports to do is to try to graft a French revolutionary view of human rights onto common law and Westminster traditions — and that is simply asking for trouble. We should have no hesitation in allowing our existing law to be benchmarked against the international covenant — by all means test whether or not our law conforms with the covenant; test it in public debate, test it in scrutiny and I think it would stand up very well indeed — but do not try to impose this set of verbiage, widely drafted and untested, on our existing legal regime. In so doing it will be invoked in a wide range of litigation, turning citizen against citizen, where the outcome will be uncertain because it is leaving issues open to the judiciary and creating a turmoil of uncertainty.

What the bill fails to recognise is that rights need to be balanced as a well tuned mechanism and with a series of fine judgments. For example, how do you balance the right to a fair trial against freedom of expression? How do you balance the right to no discrimination against freedom of association?

It is almost certain that the Racial and Religious Tolerance Act is in many respects incompatible with clause 14 of the bill, yet these are both pieces of so-called rights legislation that have been introduced by the current government.

The government claims that clause 7 provides a remedy to that by setting out the proposition that human rights may be subject to reasonable limitations. I have heard it argued that in fact each of the substantive so-called rights set out in the bill has to be read subject to clause 7. As a matter of interpretation that just does not stand up on the face of it. The drafting in clause 7 simply sets out some principles to the effect that a human right may be subject to certain limitations. It does not impose those limitations on each of the following rights. So each of those following rights stands as a freestanding assertion that can conflict with the others, can conflict with other rights not enshrined in the legislation and will give enormous scope to courts and lawyers to argue interminably and to throw our existing and established body of law into turmoil by setting these new and ill-considered sets of words against the existing body of law.

That can be seen in the ability of parties to plead the charter in interpretation of civil litigation between citizen and citizen, the mechanisms that force the referral to the Supreme Court and the mechanisms that require unspecified parties to notify the

Attorney-General and the commission when there are potential issues involving the charter. All of this is going to be an enormous administrative burden, as well as making the outcome of litigation prodigiously uncertain.

This is frankly a make-work scheme for new Labor apparatchiks. It is like the pigs from *Animal Farm* with a bucket of whitewash, slapping it up against the wall, extinguishing even more established rights and trying to rewrite the law in accordance with their own image. If they had the courage of their convictions, they would take this issue to the people in a referendum. But of course they figure that they know what is best, and they are going to impose it on the people whether the people like it or not.

**Mr LOCKWOOD** (Bayswater) — I stand to support the Charter of Human Rights and Responsibilities Bill. I do so proudly, having heard all the doom and gloom merchants from the Liberal Party talking down this bill and talking about the calamitous things that are going to happen once we make this bill into an act. It is all rubbish. It is a great bill.

*Honourable members interjecting.*

**Mr LOCKWOOD** — It got the road, did it not?

The bill formalises a number of rights we all take for granted. Despite the bleating of the opposition, this charter will enhance the rights of ordinary Victorians and ensure that everyone gets a fair go. These are rights that are basic to our lives and in keeping with the International Covenant on Civil and Political Rights. How can you argue with some of these rights? They include freedom of movement, freedom from forced work, freedom of privacy and reputation, freedom of thought, conscience, religion and belief, and freedom of expression. Strangely enough, they are not protected. We need a charter of human rights to enshrine these things in law to ensure that they are protected. At the same time we do not want to make the lawyers rich by forcing matters through the courts. This is still a responsibility of the Parliament. The Parliament makes and breaks these rights.

The best contributions from the Liberal Party have been from the self-exiled frontbenchers who are adding weight to the backbench. They still have some thoughtful contributions, which is quite out of keeping with what we normally expect to hear here. Of course, a true bill of rights would be a federal matter. In this state, we can only look at rights from a state point of view; we can only be limited in that scope. But the federal government seems quite determined to trample on human rights rather than protect them. There is certainly no protection of rights as far as the federal government is concerned. It can do whatever it likes — we get no say in it.

There are certainly many other charters in the world and many other bills of rights, and we learn from all of those. However, it is only worth learning from the ones in democratic countries. It is just rubbish to refer to the ones in tyrannical countries where tyrants easily come up with a pseudo-charter that they can happily ignore — that is why they do it. We learn from the US, New Zealand, Canada and the UK — countries that are worth learning from. It is pointless for the opposition to refer to these tyrants the world over: history eventually makes them redundant.

As we said, the bill protects and promotes human rights in Victoria and ensures that all statutory provisions are interpreted in keeping with human rights. It imposes an obligation on all public authorities to respect human rights and renames the Equal Opportunity Commission Victoria as the Victorian Equal Opportunity and Human Rights Commission. We do not have the human rights problems of other countries, thank goodness, but we still need to be vigilant in protecting the rights of ordinary people and make sure that government does not intrude too much on their daily lives.

It has been alleged by the opposition that this legislation is ruled by the courts, but it is not ruled by the courts; it is an ordinary act of Parliament. Rights are not absolute; rights are limited and have always been limited. Before every bill comes before the house now there will need to be a statement of compatibility. The Scrutiny of Acts and Regulations Committee will have a role to look at the statement to assess the rights against bills coming up, and I am happy to be a member of that committee. We have been assessing all bills against a range of rights for the last three and a half years already. Now we will look at them with a more comprehensive — —

**Dr Napthine** interjected.

**Mr LOCKWOOD** — We write a number of letters.

*Honourable members interjecting.*

**The ACTING SPEAKER (Mr Seitz)** — Order! The honourable member for Bayswater, without assistance.

**Mr LOCKWOOD** — Parliament will have the power to override the charter with respect to provisions that are not compatible with the charter. There are no

new remedies for breaches. The courts are required to interpret the legislation consistent with the charter.

The question of referendums has been raised. Do we need a referendum on every bill? At the end of the day the government is elected to government and to put bills through the Parliament. This bill can be amended if it needs to be amended, but it sets out some basic human rights to ensure that people are protected in their daily lives. It will not lead to outcomes of extensive litigation or the overturning of laws. Parliament has the final say and there is no change, as was mentioned earlier, to the right to life. There has been much reference to the executive government, which is still an elected government, not a dictatorship. The Liberals here are desperately trying to find new ways of reading clauses to find faults which do not exist. There is much more to democracy than a charter. We can make our democracy better with this charter. I commend the bill to the house.

**Mr JASPER** (Murray Valley) — I rise to support the comments of the Leader of The Nationals in relation to the Charter of Human Rights and Responsibilities Bill and to support his opposition to the proposed legislation.

In reading through the bill and the second-reading speech I noted that the purpose of the bill is primarily to protect and to promote human rights by defining human rights; by ensuring all statutes accord with human rights; by requiring public authorities to act in a manner compatible with human rights; by requiring statements of compatibility of human rights to accompany all bills, which will then be referred to the Scrutiny of Acts and Regulations Committee; by renaming Equal Opportunity Commission Victoria as the Victorian Equal Opportunity and Human Rights Commission and giving it additional functions; and by enabling Parliament in exceptional circumstances to override the charter in a statute.

The Nationals see no reason for the legislation before the Parliament. We believe this bill will create enormous tensions between the charter of human rights enshrined in legislation on the one hand and the general operation of our courts and public authorities on the other. If there is to be a charter of human rights in Australia it should be introduced by the federal government and not by an individual state, as has been mentioned by opposition members and other speakers. Additionally it is difficult to see in this legislation any right which has not already been protected either by statute law or common law.

This legislation will only complicate a system that, as we see it, is already functioning pretty well. Generally The Nationals see no need to rush through the Parliament legislation such as this. The idea sounds good, but in fact we see no reason to bring it before the Parliament at all. We do not see it as a burning action for the government to take. I have had no strong representations from people in my electorate of Murray Valley saying that they need this bill of rights brought before the Parliament.

What it will do is to give additional court powers and court actions, and there is no doubt this will lead to further regulation and complications for the people of Victoria. We see human rights as being strongly defended by the present court system and within the Parliament itself. It seems to be a fundamental shift from what we see as the system within the state of Victoria — that is, the Parliament and the courts operating fairly effectively and doing what they should be doing, as I see it. The unintended consequences of passing this legislation — and it will pass, given the government's numbers — have also been brought to my attention.

I support the comments made by the member for Mildura. If this is such a burning issue that the government believes action needs to be taken on it, then surely it should be taken to a referendum of the people to let the people decide.

Here we have a government which undertakes an investigation, has people investigating these issues and prepares a report. As indicated in the report, the 2500 people who provided responses are generally supportive of a bill of rights, but when we look across the population of Victoria, 2500 is a very small proportion. If the government is so hell bent on having a bill of rights — and there have been many comments made this evening opposed to a bill of rights — then it should take it to the people and have the question decided, jointly with the election on 25 November. Then we will see if the people support a change to the constitution so as to allow a bill of rights.

I have listened to the comments made by other speakers, particularly those on the opposition side, who have said that if we are going to have a bill of rights, let us take it a step further. I would not take it a step further at all; I would take it out completely. The Nationals oppose the bill before the Parliament.

I was a member of the Federal-State Relations Committee in the Parliament from 1996 to 1999 when we did an extensive investigation of international treaties at that time. I was concerned generally that we

had treaties being investigated by the federal government with no reference to state governments. In fact those treaties, which often came out of the United Nations, were often accepted as law within Australia and forced upon the states. Here we have a proposed bill of rights, but I think it is really an extension of some of the treaties that we see being investigated by the federal Parliament, with no reference to state parliaments, and then it going ahead and acting on those treaties.

Another issue I want to mention briefly is that, as far as I am concerned, in Victoria and indeed Australia we are overregulated. We have more regulations than we want. You only need to be in business and industry to understand the effect upon us of all these regulations which are making it more difficult for us to operate as a state. I see this bill of rights as another step that will make it even more difficult for people to live at peace in Victoria. It is not going to add anything, as I see it, to the way we live at present. I think we have enough regulations in the court systems and the Parliament to protect our rights effectively.

Referring again to the treaties committee, I went to a conference in Canberra some weeks ago where they talked about treaties. It was interesting to listen to some of the comments being made about treaties that have been brought into Australia as proposed through the United Nations and accepted as treaties within Australia without much consultation with the states. Here we have a further step which I believe will not be in the interests of the people, and as far as The Nationals and I are concerned, we oppose this legislation. We do not need more regulation that would make it difficult for people to operate effectively and peaceably in the state of Victoria.

I noted the comments made by the member for Mildura and other speakers that throughout the world where there are bills of rights they have really not been effective in controlling governments in those countries. We have the greatest democracy in the world here. Let us protect what we have. Let us not go further with a bill of rights. The Nationals oppose this legislation.

**Ms DUNCAN** (Macedon) — I am pleased to speak on the Charter of Human Rights and Responsibilities Bill. It has been very interesting to listen to the debate this evening. I am not sure whether Liberal Party members have not actually read the charter or whether they are deliberately seeking to misinform the house, but on almost every occasion they continue to refer to appeals to the courts and handing over the rights of Parliament to the judiciary. Those are deliberate statements which are the opposite of what is going to happen under this charter.

Opposition members have persistently confused this with a US-style bill of rights, and there are some fundamental differences. I am sure the Liberal Party truly understands those differences. We heard from the member for Doncaster. He talked about it being a shame that the government and opposition could not sit together and talk this through. There is such a huge variation in the views and the arguments that have been put by opposition members.

**Business interrupted pursuant to standing orders.**

## ADJOURNMENT

**The ACTING SPEAKER (Mr Nardella)** — Order! The question is:

> That the house do now adjourn.

### Melbourne Markets: relocation

**Ms ASHER** (Brighton) — The issue I have is for the Minister for Major Projects in the other place. I know the Minister for Agriculture, who is at the table, will be particularly interested in this issue as well. The action I am asking the Minister for Major Projects to take is to listen to the traders at the wholesale fruit and vegetable market at Footscray and to take note of their opinions and their desires. The government has announced that it wishes to move the fruit and vegetable market to Epping. It has argued a case — not substantially, but it has argued it — that the land at Footscray is needed for port expansion. I think this is a case of the government making a decision and subsequently announcing a range of studies, which have not been released to the public, to justify that decision.

I note that I asked a question on notice of the Minister for Agriculture on 25 May 2004. The minister responded on 19 August 2004. He said:

> The business case will provide a realistic assessment of the likely financial outcomes for wholesalers as a group. Wholesalers will benefit from a vastly improved facility and it is expected that the wholesalers as well as the retailers, other market participants and the Victorian community will benefit from the relocation.

The traders do not accept this. They particularly want some documents from the government. They would like the feasibility study allegedly undertaken by Major Projects Victoria and the business case about which I asked questions and which was prepared for the

government. They would like the Department of Primary Industries report on the role and responsibilities of the Melbourne Market Authority. They would like documents relating to traffic plans for the Epping site, and in particular to access from the south-east of Melbourne prior to the completion of the ring-road, and any correspondence and briefings regarding the future use of the Footscray Road site and the relocation to Epping. If you have sunk your dollars into a business, these are reasonable requests.

My request is for the Minister for Major Projects to listen, and if the Minister for Agriculture wants to listen as well, that would be terrific. These people, who have established businesses, have appointed a firm to act in their interests. The traders have invested a significant amount of money at the Footscray site, and they have received no assurances from the government in relation to their investments. They have invested in plant, refrigeration and a whole range of things at that site. I refer again to the fact that I asked the Minister for Agriculture in 2004:

> Can the minister guarantee that no wholesaler currently operating at the market will be worse off from the relocation?

He avoided that question, because unfortunately he cannot provide a guarantee that wholesalers will not be worse off. I ask the minister to listen to these concerns.

## Road safety: Frankston electorate

**Dr HARKNESS** (Frankston) — Tonight I raise a matter for the attention of the Minister for Transport. The action I seek from the minister is for him to provide a timetable of when recently announced roadworks in Frankston will commence so I can inform local residents. Road safety is particularly important for motorists and pedestrians at three intersections in Frankston. I and the member for Geelong, as the chair of the Road Safety Committee, know that road safety is an extraordinarily important issue, and one that is being taken very seriously by the Bracks government.

Recently I had the pleasure of announcing $844 000 in road safety funding to improve traffic conditions and reduce the incidence of crashes at three particular locations. These works will involve $542 000 for the installation of traffic signals at the intersection of Cranbourne-Frankston Road and Beach Street; $252 000 for an upgrade to existing traffic signals to provide for a right-turn arrow at the intersection of Nepean Highway and Beach Street, Frankston, as well as lengthening the right-turn lane and the installation of street lighting; and $50 000 for the installation of additional signal lanterns on existing overhead signals at the intersection of Dandenong Valley Highway and Overton Road.

These intersections are of significant public importance and I know that many people in the Frankston community are keen to ascertain when these works will commence. Road safety is a key issue in the Frankston electorate, and as a member of the Road Safety Committee I am determined to stand up for Frankston and make sure that our black spots are fixed. These locations have between them experienced a total of 35 casualty crashes over the past five years including one fatality and 15 serious crashes. Identifying locations with a high incidence of crashes and investing in road safety solutions shows that this government is committed to delivering road safety outcomes for our community.

I am pleased that my efforts over the past few years to obtain funding, particularly for the lights at the intersection of Cranbourne Road and Beach Street, have been fruitful because this intersection is directly opposite the Frankston RSL and near several schools and shops. I know, having been a resident of Frankston all my life, that this is an intersection which has been a major bugbear for many people in the Frankston community for a long time. The lights that will be installed at this intersection will be a great boon in easing congestion at the intersection and in providing a better and safer intersection for motorists, pedestrians and other road users.

The last month has been terrific for Frankston residents, with lots of different transport initiatives being announced. The announcement of funding for improvements at these three intersections is noteworthy, and once again I commend the Minister for Transport for this funding. I ask him to provide me with the information about when these works will commence.

## Disability services: education funding

**Mr MAUGHAN** (Rodney) — I wish to raise a matter for the Minister for Education Services. It concerns funding for students with disabilities transferring from other states. The current situation is that a student with disabilities transferring into the Victorian education system from another state has to go through the full assessment process prior to any funding being approved, even though they might have been assessed in another state and had funding provided.

I instance the cases I recently had with two students with disabilities transferring into a school in my electorate. One student, who had recently been assessed

in Tasmania as eligible for funding for the whole of her school life, moved to a school in Echuca, but funding was not automatically provided, and she had to go through the whole assessment process. This is most uncaring and unsympathetic. The family moved for the best possible reasons. The father accepted a promotion in his work and moved to Echuca to accept that position, so the family was coping with a new job, moving into a new home and establishing children in a new school. It is particularly difficult for a child with severe disabilities to establish herself in a new school, and the family had to go through the hassle of a whole assessment process at this very important time before any funding was provided. It took eight weeks for the department to work through that process, with resultant additional stress on the family. I think that was unreasonable and uncaring.

I believe if a student is approved for funding in another state, when they transfer into this state, at least in the initial term or for the rest of that school year, we could come to some reciprocal arrangement with the other state so that we do not have to put the family through the hassle of the child having to go through a further assessment and the stresses and strains that creates. After all, the student's disability has not changed, and the decision by the family to move to this state should not in my view in any way disadvantage the child or the family or the school, as it has done in both of the cases I am referring to.

I therefore ask the minister to discuss with her interstate ministerial colleagues the possibility of reciprocal arrangements between the states so that students assessed as being eligible for disability funding in one state are automatically granted a similar level of funding in whichever other state they happen to enrol in, and if the state in which they are enrolled wants to check it out in another 12 months time or at the end of the school year, so be it. I ask the minister to use her best offices to talk to her interstate colleagues and to provide a much better arrangement than we have at the moment.

## Youth: Geelong electorate

**Mr TREZISE** (Geelong) — I raise a matter for the attention of the Minister for Employment and Youth Affairs. The action I seek from the minister concerns issues that relate to young people who live in my electorate of Geelong and the surrounding region. As members are well aware — and as you are well aware, Acting Speaker, from work in your electorate — the issues that face our youth in 2006 are very complex and in many instances very difficult to deal with. I can assure the house that the issues confronting young people in the electorate of Geelong are no exception. I think it is essential in addressing many of these issues that people like the minister meet first hand not only with young people but with the organisations that service them.

Therefore I ask the minister to visit the electorate and meet with the young people and local organisations to discuss the issues confronting them in the Geelong region. In seeking this action from the minister I know that she is a minister who is keen to get out into the regions and hear first hand people's stories, their concerns and their ideas.

The Geelong electorate has a number of youth-related organisations that would be very keen to meet with the minister and share their thoughts. Organisations like the Barwon Youth Accommodation Service, which provides a range of services to young people such as emergency or crisis accommodation, would be very eager to meet with the minister. The Barwon Adolescent Youth Support Agency is another great organisation in the electorate of Geelong that does important work in supporting youth in the region. BAYSA provides community placement programs, manages transitional housing and operates a youth drug and alcohol withdrawal unit, and it would also be pleased to attend a meeting with the minister. Clockwork is a valuable organisation that has raised with me issues that relate to youth health services. It is an important service for young people in my electorate. Another important and integral organisation that would appreciate a meeting with the minister is the Sexual Assault Youth Outreach Service.

As I said, and as members know, the minister is a very accessible minister who gets out to speak with people. I am sure she would gain great value from meeting with organisations and people in my electorate, and I am sure Geelong community organisations would share many issues with her.

## Mornington Peninsula: planning permit

**Mr COOPER** (Mornington) — I raise a matter for the attention of the Minister for Environment, and I ask the minister to take action to ensure that municipalities are not allowed to frustrate the policy of the government regarding the efficient use of energy and the minimisation of greenhouse gas emissions.

Recently I was contacted by Mr Troy Thornton, who is about to build a house at Mount Martha. Mr Thornton is keen to ensure that his new home is energy efficient and accordingly he wishes, among other things, to use light-coloured Colorbond roofing material. He wants to

do this because the technical information from the manufacturers, BlueScope Steel, shows that there are significant environmental and energy benefits from the use of light-coloured material. To his consternation, Mr Thornton was told by the Mornington Peninsula Shire Council that he will need to apply for a planning permit at a cost of $440 with up to a 12-week delay if he persists with his desire to use the light-coloured material. He was also given no assurance that his application would be approved.

The Mornington Peninsula Shire Council has a policy that stipulates that only colours of less than 40 per cent reflectivity — in other words, darker colours — may be used. This policy is one that puts the council's view on aesthetics ahead of the call by the government for everyone to play their part in making the most efficient use of energy and minimising greenhouse gas emissions. This policy remains in place despite the council recently stating that urban development in areas like Mount Martha has reduced the vegetation cover and the colour reflectivity controls may be reviewed because the council acknowledges that the use of light colours — the council's words — may improve the energy efficiency of dwellings.

Mr Thornton describes the council's policy as technically flawed, ill informed, ill considered and inconsistent — other than that he does not have much to say about it — with the Victorian state policy planning framework relating to energy efficiency. His objective for his new home is to achieve the most environmentally friendly result. He is prepared to incur additional costs to achieve that goal, and he is staggered that he is not receiving the full cooperation of the council. He sums it up by stating, 'I am doing my bit in line with what the government has been asking us all to do'. By inference it is clear that Mr Thornton is saying that the Mornington Peninsula Shire Council is not doing what the government has asked us all to do.

I would like the Minister for Environment to take strong and immediate action on this matter.

## Rail: North Melbourne station

**Mr MILDENHALL** (Footscray) — I raise a matter for the attention of the Minister for Transport. I request that he proceed as soon as possible with the mooted upgrade of the North Melbourne railway station and transport interchange, with two particular objectives in mind — firstly, to create a greater capacity for passengers on the platforms; and secondly, to ease the congestion and bottlenecks in the access lines to the station.

The issues have been raised with me by commuters in my electorate of Footscray, as North Melbourne is the main access point to the Southern Cross and loop system, and also by country commuters, because in recent times I have been using the upgraded regional rail line along the Calder Highway and sharing the wonderful experience of alighting from the country train and changing platforms at North Melbourne.

The outstanding success of the TravelSmart program in a suburban area like Footscray has seen a substantial increase in the number of passengers coming into North Melbourne and the city, attracted by the sheer convenience that from Footscray station to Parliament station it is some 12 minutes, which is a far superior time to other forms of commuting, and also recently, obviously, by the higher petrol prices. In addition the benefits of the upgrade of regional rail services have also seen an increased interest in patronage at the North Melbourne railway station.

There is a problem with the sheer capacity of the platforms for the numbers of users and the need to cater for the steady increase, and also that, as most of the country services go through North Melbourne, country commuters need to transfer from one platform to another and go up some reasonably steep ramps without shelter from rain. There are obviously more comfortable, better protected and more efficient ways of transferring these passengers. I raise this matter for the attention of the minister and ask him to proceed as soon as possible with this much-needed — —

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

## Dental services: waiting lists

**Mr THOMPSON** (Sandringham) — I wish to draw a matter to the attention of the house and the Minister for Health and seek advice from her about the concerns of a pensioner who resides within my electorate. He writes:

> I am experiencing problems with my wisdom teeth. Last year I contacted the dental hospital who referred me to their clinic at the Kingston Centre.
>
> After a waiting period of about six weeks (I wasn't counting yet at this stage), I was seen by a dentist there, who arranged X-rays and on subsequently viewing those X-rays determined that I required three wisdom teeth extracting under a general anaesthetic, a task which was beyond his local facilities. In November —

of the same year —

> I was placed on a waiting list for this procedure at the oral surgery unit of the Royal Dental Hospital of Melbourne in Carlton.
>
> I was told the waiting list was three months.
>
> On 29 March this year, my name (or more correctly, a mangled misspelling of my name) came up. After initially being told I did not exist, my file was eventually identified and an appointment date was set in May. I attended the oral surgery unit at the dental hospital as instructed, expecting that my X-rays and dentist's report had preceded me and that my wisdom teeth were to be removed.
>
> Instead, after briefly viewing my X-rays this dentist determined that I required my wisdom teeth extracting under a general anaesthetic and I was placed on a waiting list for this procedure at the dental hospital.
>
> I was told this waiting list is 12 months.
>
> I am not clear whether this is the real waiting list or whether this is another waiting list to be inspected to get onto the real waiting list.
>
> Given that three months on the waiting list to get onto the real waiting list turned out to be six months in practice, neither am I confident that this 12-month waiting list is not going to turn into two years.
>
> In 1996 I was placed in a waiting list at the dental hospital for the same procedure. When my name came up in late 1997, I was suffering an episode of depression and lost my place. I had far bigger problems at the time than teeth.

The advice, guidance and action I seek from the minister is an indication as to why there are waiting lists to get onto waiting lists. Surely one dentist's opinion that a procedure is required is as valid as that of another dentist. The cynical might claim that this is a way to break an 18-month waiting list up into a shorter, more politically acceptable waiting list without actually reducing the total waiting time.

I draw this matter to the attention of the minister and ask her to provide some constructive guidance for the benefit of my constituent.

*Honourable members interjecting.*

**Mr THOMPSON** — I note that a number of interjections are coming from the government benches, which I will resist taking up. I will be very pleased to have the responsible minister — with the able assistance of one of the members who advise her — look at this matter so the problem can be resolved for the benefit of my constituent.

## Crib Point: development

**Ms BUCHANAN** (Hastings) — My adjournment matter is for the attention of the Minister for Victorian Communities. The action I seek is for the minister to investigate all appropriate funding opportunities for the recently formed Crib Point Township Improvement Committee to progress its development vision for Crib Point. The origins of the Crib Point Township Improvement Committee can be traced back to the concept devised by the community around Mount Evelyn some years ago. Two fantastic local women, Sue Hawke and Mary Budd, approached me with this concept. We called a public meeting last December, which gave the many residents attending their first opportunity to vocalise their pride along with their vision for Crib Point.

Since then, and after subsequent meetings, a local committee has been formed, incorporation action has commenced and, most importantly, there has been very positive and broad engagement with both local and state government representatives. With the effective facilitation of Department for Victorian Communities staffer Elise Howard this great group of residents has been consulting widely and has determined a set of action priorities for the township. These actions focus on preserving the environmental significance of this beautiful coastal community, the economic opportunities that can be progressed for both existing and new local businesses and the social issues that can be advanced.

This township improvement action list is well thought out and very inclusive. Some of the improvement projects put forward by this group are a memorial garden; the erection of a community information board; the publication of a local community directory, both in hard copy and via a web site; the extension of walking paths and boardwalks around the tidal mangroves; and interpretation signs for streets named after Victoria Cross recipients, all of which will contribute to the economic health, the environmental wellbeing and the social capital of Crib Point.

Strong links have been forged with the Mornington Peninsula Shire Council and numerous state government departments. I commend the firm support provided by mayor and riding councillor, Brian Stahl, and the manager for economic development, Shane Murphy. Residents can now feel their interests and concerns are being listened to and will be actioned. I believe Crib Pointers feel they are now in greater control of many of the issues that impact on their community because of the enduring partnerships that are being consolidated by this group.

I want to commend the inaugural president, Peter Anderson, the secretary, Toni Munday, the treasurer, Rosemary Evans, the many other local residents who make up the committee and the many residents who

have found this group to be approachable, relevant and prepared to get done things that will have positive short and long-term benefits for all Crib Point residents.

Their passion, love and commitment to the health and wellbeing of the Crib Point community and their intent to put in the hard yards to see things happen are to be commended and celebrated. Therefore I ask that any projects put forward by this group be given due consideration for access to appropriate and available funding opportunities. Crib Point deserves the right finally to be heard and to have its residents' priorities listened to and acted upon.

## Alpine resorts: government support

**Mr JASPER** (Murray Valley) — I bring to the attention of the house, and particularly the Minister for Tourism, my concerns about the lack of practical support being provided by the government to the alpine resorts in Victoria. I seek action from the minister in providing better support to alpine resorts throughout Victoria. We have just had the opening of the ski season in Victoria, and as usual various ministers have gone to the alpine resorts and have accepted the hospitality provided by those resorts. They have indicated their so-called keen support for the resorts, but I have to tell the house that I am very much aware of the government's lack of support for the alpine resorts.

I seek from the minister information about what financial support is currently being provided and what further action he can take in a practical sense in meeting with the boards of the alpine resorts and, more importantly, speaking to the people who are resident in these resorts, whether they are operating as a group of clubs or individually in managing those facilities.

Whilst legislation went through the upper house of the Parliament last week seeking to provide better practical support for people with leases and subleases in the high country, it is only one step in the right direction of providing more practical support for those involved in the industry. Many people, including members of the government, believe that skiing is a sport that can be enjoyed by practically anybody who wants to go to the high country and that you do not need to be in a strong financial position to do so. But I would suggest to the house that the lack of practical support being provided by the government is not encouraging ordinary people in Victoria and beyond to tour the high country and experience what we have to offer in the alpine resorts. They need more practical support.

I seek from the government an assurance that it will deal practically with the people who are the wealth generators in the alpine resorts so that in future they are able to provide better services to encourage a full range of people to come to those areas and to ensure that families who wish to be involved can ski at a reasonable cost. The minister needs to address this immediately.

## Solway Primary School: toilets

**Mr STENSHOLT** (Burwood) — I wish to bring to the attention of the Minister for Education Services the state of the toilets at Solway Primary School, and I ask her simply to fix them. Frankly the toilets at Solway Primary School — I had better not use unparliamentary language — are not good. Solway Primary School, which is in Ashburton, is one of the many excellent schools in my electorate. I very much appreciate the work of the current principal, Julie Wilkinson, and her staff, as well as the work of the school council, parent committees and all the various volunteers. I know they have a lot of volunteer days working in the grounds of the school. I have been to the school many times and I have worked with the previous principals, Geoff Brewer and Stephen Rothwell, to have the school rebuilt.

I remember early on the uncertainty the school community faced. The previous member for Burwood promised a school upgrade without actually even bothering with departmental processes or any proper assessment. In response to parents' and my lobbying, the new Premier endorsed the upgrade of the school, which was subsequently delivered according to plan in two stages.

The pride of the school is the new hall, which has been well used, including by the very talented Solway school choir, which has gained an excellent reputation in the last few years. I should also add that the school has a very good music program. I have been to school assemblies and listened to the kids playing the violin and various other musical instruments. I have also been at assemblies where students have received achievement certificates for excellence in science and maths. I remember also that just a couple of years ago students at the school won national prizes for story writing two years in a row.

However, there is one major problem that needs fixing — namely, the toilets. The past school refurbishments were all in other areas, and now the toilets desperately need attention. I have checked them out and seen the timber rot, the cracks in the concrete and their overall poor state. Photographs have been

taken which I have sent to the minister's office. I ask her to give these toilets priority under her maintenance and school upgrade program. I ask this on behalf of the school.

I know she is aware of what happens in the local area. Only last week she was with me at Hartwell Primary School, where $114 000 in new maintenance was provided. Hartwell Primary School has had a few problems with borers, as happens with wooden buildings. This money will go a long way towards fixing up the problems with the school where it is really needed. I know the minister has a very good record in this regard. I ask her to be supportive and help out Solway Primary School.

## Responses

**Mr BATCHELOR** (Minister for Transport) — The member for Footscray — —

**Mr Kotsiras** interjected.

**Mr BATCHELOR** — Footscray. I know members of the Liberal Party do not know the difference between Frankston and Footscray. That is understandable; they need a *Melway* to find their way around. The member for Footscray raised with me the issue of North Melbourne railway station. I can tell the member that the station is poised for a $35 million extreme makeover. The upgrade of North Melbourne station is a significant part of our transport and livability statement, which seeks to address the issues of congestion on the rail network and at the same time make it easier for passengers to use the station as a key commuter interchange.

The reason this activity concentrates on North Melbourne is that it is an important interchange, as the member for Footscray indicated. For those people who want to change trains to enter the city, especially for V/Line services, or people on suburban services who want to reposition themselves on a more convenient loop service, the best place to do it is North Melbourne station. However, the station is not well designed for this purpose or for the level of use it now gets in this modern age. Around 2 million people use the station every year, and the figure is expected to double in the future.

The large number of people who need to move between platforms to transfer from one train to another can cause delays for individual trains, which reverberates throughout the rest of the network with delays that have a flow-on effect on other trains, particularly those that access the city loop. The North Melbourne upgrade will make it much easier for people to change platforms, with access at both ends of the station when this upgrade is completed. It will allow trains to pick up and drop off passengers more efficiently, and it will therefore enable the trains to stay on time, improving reliability.

I inform the member for Footscray that key features of the upgrade include a new station entrance off Railway Place at the city end of the platforms, a new concourse extending over the city end of the station connecting the new entrance to all six platforms via lifts, escalators and stairs, and new passenger information displays and canopies over the platform for weather protection. Platforms will be resurfaced to improve passenger safety, and additional closed-circuit TV cameras will be installed to improve passenger safety and security. For passengers on trains coming in from provincial and country Victoria or from the metropolitan area, this will be a great boost to convenience. It will be a great boost to the reliability not only of individual trains that people are changing between but also of the general train network, particularly into the city loop.

The next stage of this project will involve calling for tenders in the coming month from construction firms to build the new entrance, the concourse and other facilities. Construction is expected to commence later this year. Whilst the station at North Melbourne is a key transport interchange, the upgrade will benefit, as the member for Footscray pointed out, not only those in the inner metropolitan areas but those further afield coming in from country Victoria.

The member for Frankston raised with me the issue of funding for — —

**An honourable member** interjected.

**Mr BATCHELOR** — The member for Frankston is here, so you're a dill! The member for Frankston is in the chamber at the moment, unlike most members of the Liberal Party, who are presumably down in the bar or have gone to sleep or gone somewhere else. He is a keen member of this Parliament who is interested in road safety issues, and I commend him for raising this matter tonight in the adjournment debate, just as he raised a road safety matter in question time today. He is a member of this Parliament who is interested in road safety. He is prepared to raise issues on a number of occasions in this chamber, and I congratulate him.

In particular he raised three projects. The first one was the new traffic signals at the intersection of Cranbourne-Frankston Road and Beach Street. The second matter he raised was the need to upgrade the

intersection of Nepean Highway and Beach Street, where our proposal will lengthen the right-hand turn lane on the southern approach and provide, as he pointed out in his contribution, a right-turn arrow as well as the installation of street lighting. The third issue he raised with me was the need for the installation of additional signal displays on the existing overhead signals at the intersection of the Dandenong Valley Highway and Overton Road.

Here is a member who has raised with me the issue of road safety in his electorate; he has raised three examples of how the single issue of road safety can be improved in his electorate. These are very important projects involving the policy on road safety. They are all important because they will reduce the road toll in his area. They will help reduce road trauma and road crashes, and that is an important part of our Arrive Alive road safety strategy, which is really about reducing the devastation on our roads caused by road crashes.

The last three years in Victoria have produced road tolls that are the lowest in our history, and it is informative to consider where we are in Victoria in relation to other states. There is a national road safety strategy that has been adopted by the Australian Transport Council and has set a target of reducing Australia's road toll and our fatality rate by at least 40 per cent by 2010. The sorts of things the member for Frankston would like to see happening in his area are the sorts of initiatives we are undertaking at other locations in Victoria, but unfortunately they are not the sorts of things that are being undertaken in other states.

A progress report was recently made to all the state ministers at a meeting of the Australian Transport Council in Sydney. It is important to note that the initiatives the member for Frankston requested here tonight are the sorts of initiatives that are successful in reducing the road toll. He would know that because he is on the parliamentary Road Safety Committee, which does a good job.

The chairman of that committee is in the chamber tonight. It is a pity other members of the committee are not as interested in this sort of issue and a pity they are not in the chamber tonight. On a pro rata basis Australia's road fatality rate would need to have been reduced from 9.3 fatalities per 100 000 head of population to 7.1 fatalities per 100 000 head of population if we were to achieve that national target — the sort of thing the member for Frankston is talking about tonight.

It is instructive to look at what other states and territories are doing and the success of their road safety strategies to date. In the Australian Capital Territory the rate of fatalities per 100 000 head of population is 7.4; in New South Wales it is 8.2; in Queensland and Western Australia it is 8.5; in South Australia it is 9; in Tasmania it is 11.7; and in the Northern Territory it is 24.5. What do members think the rate is in Victoria? It is 6.3, which shows that what we are doing in Victoria is producing a result, and the sorts of initiatives the member for Frankston has asked to be undertaken are proving to be successful. We can see that Victoria leads the other states and territories by achieving this target.

One of the reasons the Bracks government has been prepared to achieve this target is that we have put our money into black spot treatments. In the past we have allocated over $500 million for the treatment of black spots, and a further $600 million has been announced in our transport and livability statement, *Meeting Our Transport Challenges.* This money is being invested in the road system and to reduce the road toll. It will reduce the number and severity of casualty crashes — the sort of thing the member Frankston asked about and the sort of project we would like to undertake.

I am pleased to advise members of the house and the member for Frankston and the people of his electorate that work on the three projects that the member for Frankston particularly asked for will start in the new year and should be completed by this time next year. This is good news for the people of Frankston. I congratulate the member for Frankston for his commitment to and advocacy of road safety. The people who live in his electorate should be glad they have a member who is concerned about their futures.

**Mr CAMERON** (Minister for Agriculture) — The honourable member for Brighton raised a matter in relation to the fruit and vegetable markets on Footscray Road. The markets were originally moved to that location in 1969 as a result of very different conditions to those which occur today, with the enormous expansion since that time. There are now some 2700 businesses that use the markets on Footscray Road. They are extremely cramped, and there needs to be a newer and larger site. The markets are to be relocated to Epping in 2010. That land on Footscray Road will be used as a part of the port development. The honourable member for Brighton asked what has happened since August 2004, and I can advise her of what has happened.

Fresh State — that is, the Victorian Chamber of Fresh Produce Wholesalers — wrote to the government on

1 October 2004 advising that it fully supports the bid to relocate the markets to Epping. On 21 February 2005, which is again after the date of August 2004 which the honourable member for Brighton asked about, the Victorian Chamber of Fresh Produce Wholesalers, together with a number of organisations and people — including itself, the Vegetable Growers Association of Victoria, E. T. and B. J. Robinson, the president of the Victorian Retail Fruiterers Association and the chair of the Flower Growers and Florists Advisory Committee wrote to express their full support for moving the markets to Epping. On 28 July, again in a letter from Fresh State, those five groups reaffirmed their position on moving north.

If you also have a look at the Swan Hill *Guardian* of 18 February, you will see that The Nationals are urging the government to make a decision to move the markets to Epping because they would be great there. As well as that, in a press release by The Nationals on 16 February 2005 they urge the government to get behind horticultural producers and express the view that it would be good news if these companies were to move north. If the member for Brighton wants to know what has happened since 2004 in relation to the position of the markets, that is what has occurred.

We are all aware that there will be commercial negotiations. We were told last year that notwithstanding this matter there would be some preliminary positioning prior to commercial negotiations, and we understand that. Those commercial negotiations will open and they will close, and some people who seek to move will enter into commercial discussions, but nobody will be forced to move. They can move somewhere else if they choose. This is a normal leasehold arrangement, as the government has consistently said.

If the honourable member for Brighton wants to know what the position of the Liberal Party has been throughout all of this, she ought to know, since she has been the shadow Minister for Major Projects throughout the whole of this government's term. The position of the Liberal Party is very clear: it is to agree with the government and to agree with The Nationals. Its position was set out by the then Leader of the Opposition at the annual general meeting of Fresh State in October 2004. He said that the Liberal Party would do its utmost to support a move to the north of Melbourne. The government welcomes and thanks the Liberal Party for its support of this move.

**The ACTING SPEAKER (Mr Nardella)** — Order! The Minister for Agriculture to respond to the honourable members for Rodney, Geelong, Mornington, Sandringham, Hastings, Murray Valley and Burwood.

**Mr CAMERON** (Minister for Agriculture) — The seven honourable members you mentioned, Acting Speaker, raised matters for various ministers, and I will refer those matters to them.

**The ACTING SPEAKER (Mr Nardella)** — Order! The house now stands adjourned.

**House adjourned 10.47 p.m.**