PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Wednesday, 26 October 2005

(extract from Book 7)

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By authority of the Victorian Government Printer

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JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

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Minister for Education Services and Minister for Employment and Youth Affairs	The Hon. J. M. Allan, MP
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Minister for Sport and Recreation and Minister for Commonwealth Games	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Racing, Minister for Tourism and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Health	The Hon. B. J. Pike, MP
Minister for Energy Industries and Minister for Resources	The Hon. T. C. Theophanous, MLC
Minister for Consumer Affairs and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	Mr R. W. Wynne, MP

Legislative Assembly committees

Privileges Committee — Mr Cooper, Mr Herbert, Mr Honeywood, Ms Lindell, Mr Lupton, Mr Maughan, Mr Nardella, Mr Perton and Mr Stensholt.

Standing Orders Committee — The Speaker, Ms Campbell, Mr Dixon, Mr Helper, Mr Loney, Mr Plowman and Mrs Powell.

Joint committees

Drugs and Crime Prevention Committee — (*Assembly)*: Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells. (*Council*): The Honourable S. M. Nguyen and Mr Scheffer.

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.

Education and Training Committee — (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton. (*Council*): The Honourables H. E. Buckingham and P. R. Hall.

Environment and Natural Resources Committee — (*Assembly*): Ms Duncan, Ms Lindell and Mr Seitz. (*Council*): The Honourables Andrea Coote, D. K. Drum, J. G. Hilton and W. A. Lovell.

Family and Community Development Committee — (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell Mrs Shardey and Mr Wilson. (*Council*): The Honourable D. McL. Davis and Mr Smith.

House Committee — (*Assembly*): The Speaker (*ex officio*), Mr Cooper, Mr Leighton, Mr Lockwood, Mr Maughan and Mr Smith. (*Council*): The President (*ex officio*), the Honourables B. N. Atkinson and Andrew Brideson, Ms Hadden and the Honourables J. M. McQuilten and S. M. Nguyen.

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*): Mr Baillieu, Ms Buchanan, Mr Dixon, Mr Nardella and Mr Smith. (*Council*): Ms Argondizzo 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.

Rural and Regional Services and Development Committee — (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh. (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell.

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

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JUDY MADDIGAN

Deputy Speaker: Mr P. J. LONEY

Acting Speakers: Ms Barker, Ms Campbell, Mr Cooper, Mr Delahunty, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Ms Lindell, Mr Nardella, Mr Plowman, Mr Savage, Mr Seitz, Mr Smith and Mr Thompson

Leader of the Parliamentary Labor Party and Premier:
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 R. K. B. DOYLE

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. P. N. HONEYWOOD

Leader of The Nationals:
Mr P. J. RYAN

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

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Languiller, Mr Telmo Ramon	Derrimut	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Leighton, Mr Michael Andrew	Preston	ALP
Asher, Ms Louise	Brighton	LP	Lim, Mr Hong	Clayton	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Barker, Ms Ann Patricia	Oakleigh	ALP	Lobato, Ms Tamara Louise	Gembrook	ALP
Batchelor, Mr Peter	Thomastown	ALP	Lockwood, Mr Peter John	Bayswater	ALP
Beard, Ms Dympna Anne	Kilsyth	ALP	Loney, Mr Peter James	Lara	ALP
Beattie, Ms Elizabeth Jean	Yuroke	ALP	Lupton, Mr Anthony Gerard	Prahran	ALP
Bracks, Mr Stephen Phillip	Williamstown	ALP	McIntosh, Mr Andrew John	Kew	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	McTaggart, Ms Heather	Evelyn	ALP
Buchanan, Ms Rosalyn	Hastings	ALP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Cameron, Mr Robert Graham	Bendigo West	ALP	Marshall, Ms Kirstie	Forest Hill	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maughan, Mr Noel John	Rodney	Nats
Carli, Mr Carlo	Brunswick	ALP	Maxfield, Mr Ian John	Narracan	ALP
Clark, Mr Robert William	Box Hill	LP	Merlino, Mr James	Monbulk	ALP
Cooper, Mr Robert Fitzgerald	Mornington	LP	Mildenhall, Mr Bruce Allan	Footscray	ALP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Delahunty, Mr Hugh Francis	Lowan	Nats	Munt, Ms Janice Ruth	Mordialloc	ALP
Delahunty, Ms Mary Elizabeth	Northcote	ALP	Napthine, Dr Denis Vincent	South-West Coast	LP
Dixon, Mr Martin Francis	Nepean	LP	Nardella, Mr Donato Antonio	Melton	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Doyle, Mr Robert Keith Bennett	Malvern	LP	Overington, Ms Karen Marie	Ballarat West	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Pandazopoulos, Mr John	Dandenong	ALP
Eckstein, Ms Anne Lore	Ferntree Gully	ALP	Perera, Mr Jude	Cranbourne	ALP
Garbutt, Ms Sherryl Maree	Bundoora	ALP	Perton, Mr Victor John	Doncaster	LP
Gillett, Ms Mary Jane	Tarneit	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Plowman, Mr Antony Fulton	Benambra	LP
Haermeyer, Mr André	Kororoit	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Hardman, Mr Benedict Paul	Seymour	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Harkness, Dr Alistair Ross	Frankston	ALP	Ryan, Mr Peter Julian	Gippsland South	Nats
Helper, Mr Jochen	Ripon	ALP	Savage, Mr Russell Irwin	Mildura	Ind
Herbert, Mr Steven Ralph	Eltham	ALP	Seitz, Mr George	Keilor	ALP
Holding, Mr Timothy James	Lyndhurst	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Honeywood, Mr Phillip Neville	Warrandyte	LP	Smith, Mr Kenneth Maurice	Bass	LP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Sykes, Dr William Everett	Benalla	Nats
Hulls, Mr Rob Justin	Niddrie	ALP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Ingram, Mr Craig	Gippsland East	Ind	Thwaites, Mr Johnstone William	Albert Park	ALP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Trezise, Mr Ian Douglas	Geelong	ALP
Jenkins, Mr Brendan James	Morwell	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice	Altona	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
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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WEDNESDAY, 26 OCTOBER 2005

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Wednesday, 26 October 2005

The SPEAKER (Hon. Judy Maddigan) took the chair at 9.32 a.m. and read the prayer.

RULING BY THE CHAIR

Petitions: attachments

The SPEAKER — Order! Yesterday the member for South Barwon raised a point of order concerning a petition presented on 20 October in the name of the member for Scoresby. The point of order drew attention to standing order 46, which states:

> A petition must not have letters, affidavits or other documents attached to it.

The member for South Barwon's concern was that a number of pages of the petition had substantial text at the top of each sheet which canvassed support for the petition and which concluded by asking petitioners to cut out the petition below and send it to a specified address.

There are no recorded rulings which cover the point of order. In this particular case no other document has actually physically been attached to the petition. Having said that, the wording endorsed at the top of the petition is clearly not part of the petition, and it was not proper that it formed part of the tabled petition. In the absence of an earlier ruling setting guidelines, I do not propose to rule the relevant sheets of this petition inadmissible. However, I find it inappropriate that wording of this nature is added either at the top of a petition sheet or by being photocopied on the rear of the sheet.

I advise that petitions submitted in the future for tabling which display wording of a similar nature will be ruled inadmissible and will not be tabled. Similarly, if a petition is submitted which, whilst not actually having a letter, affidavit or other document attached to it, has such a document incorporated on the front of the petition sheet or photocopied onto the back of the sheet, that petition will likewise be ruled out of order.

In giving this ruling I wish to make it clear that I am not prohibiting a note on a petition sheet which merely states a name and/or address to which the petition should be returned.

HOUSE COMMITTEE

Membership

The SPEAKER — Order! I have to announce that I have received the following communication addressed to the Speaker:

> Please accept my resignation as a member of the House Committee as of this date.

It is dated 19 October and is from Russell Savage, the member for Mildura.

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 230 to 237 and 379 to 388 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 by 6.00 p.m. today.

SUPERANNUATION LEGISLATION (GOVERNANCE REFORM) BILL

Introduction and first reading

Mr BRUMBY (Treasurer) introduced a bill to amend the Emergency Services Superannuation Act 1986, the Government Superannuation Act 1999, the Parliamentary Salaries and Superannuation Act 1968, the State Employees Retirement Benefits Act 1979, the State Superannuation Act 1988, the Superannuation (Portability) Act 1989 and the Transport Superannuation Act 1988 to reform the governance of public sector superannuation schemes and for other purposes.

Read first time.

HEALTH PROFESSIONS REGISTRATION BILL

Introduction and first reading

For Ms PIKE (Minister for Health), Ms Garbutt introduced a bill to protect the public by providing for the registration of health practitioners and for a common system of investigations into the professional conduct, professional performance and ability to practise of registered health practitioners,

to repeal various acts relating to the registration of health practitioners and for other purposes.

Read first time.

COMMISSIONER FOR LAW ENFORCEMENT DATA SECURITY BILL

Introduction and first reading

For Mr HOLDING (Minister for Police and Emergency Services) Ms Allan introduced a bill to establish the office of the Commissioner for Law Enforcement Data Security, to amend the Public Administration Act 2004 and for other purposes.

Read first time.

ROAD SAFETY AND OTHER ACTS (VEHICLE IMPOUNDMENT AND OTHER AMENDMENTS) BILL

Introduction and first reading

For Mr HOLDING (Minister for Police and Emergency Services) Ms Allan introduced a bill to amend the Road Safety Act 1986 to enable the seizure, impoundment, immobilisation and forfeiture of motor vehicles in certain circumstances and to create a new offence relating to the improper use of a motor vehicle, to make miscellaneous amendments to the Children and Young Persons Act 1989, the Children, Youth and Families Act 2005, the Magistrates' Court Act 1989, the Crimes Act 1958, the Commonwealth Games Arrangements Act 2001, the Bail Act 1977, the Drugs, Poisons and Controlled Substances Act 1981, the Sentencing Act 1991 and the Working with Children Act 2005 and for other purposes.

Read first time.

PETITIONS

Following petitions presented to house:

Racial and religious tolerance: legislation

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws the attention of the house to the decision of the Victorian Civil and Administrative Tribunal in the complaint against Catch the Fire Ministries by the Islamic Council of Victoria, dated 17 December 2004. The decision has highlighted serious flaws in the Racial and Religious Tolerance Act 2001 which restrict the basic rights of freedom of religious discussion.

The petitioners therefore request that the Legislative Assembly of Victoria remove the references to religious vilification in the Racial and Religious Tolerance Act 2001 to allow unencumbered discussion and freedom of speech regarding religion and theology.

By Dr SYKES (Benalla) (159 signatures)

Schools: religious instruction

To the Legislative Assembly of Victoria:

The petition of citizens of Victoria concerned to ensure the continuation of religious instruction in Victorian government schools draws out to the house that under the Bracks Labor government review of education and training legislation the future of religious instruction in Victorian schools is in question and risks becoming subject to the discretion of local school councils.

The petitioners therefore request that the Legislative Assembly of Victoria take steps to ensure that there is no change to legislation and the Victorian government schools reference guide that would diminish the status of religious instruction in Victorian government schools and, in addition, urge the government to provide additional funding for chaplaincy services in Victorian government schools.

The petition of citizens of Victoria [is] concerned to ensure the continuation of religious instruction in Victorian government schools, and to provide additional funding for school chaplains.

By Ms BEARD (Kilsyth) (28 signatures)

Schools: public education

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to attention of the house that under the Bracks Labor government review of education and training legislation, the future of public education enjoyed by the overwhelming majority of Victorians since 1872 is gravely threatened because it fails to define public education and require commitment to the public system from its employees. It will place parental choice before educational choices of children. It also fails to give primacy to public education and will place the desire to promote and defend the free secular and universal public system of education in Victoria and prevent its integration into the private system in this state.

The petitioners therefore request that the Legislative Assembly ensure that any new education and training legislation dealing with our public (state) education system:

1. be separate and distinct from any dealing with private schools

2. define public education as free, secular and universal; public in purpose; outcome; ownership, accountability; and accessible to all children whatever their colour, class, creed, ethnicity and geographical location

3. gives primacy to public education in any and all areas and furthermore provides

4. separate legislation for registration of private schools together with proper, transparent, publicly accessible accountability for expenditure of all taxpayers money.

By Ms PIKE (Melbourne) (40 signatures)

Princes Highway–Tivendale Road, Officer: traffic lights

To the Legislative Assembly of Victoria:

The petition of Officer residents and road users condemns the Bracks government for failing to install traffic lights at the intersection of Princes Highway, Station Street and Tivendale Road in Officer.

The petitioners urge the Bracks government to stop trying to pass responsibility for the traffic lights onto the future land developer.

We request that the Legislative Assembly of Victoria resolves to force the Bracks government to install the traffic lights immediately.

By Mr MULDER (Polwarth) (171 signatures)

Police: Tatura station

To the Legislative Assembly of Victoria:

The petition of the residents of Tatura and the surrounding district, draws to the attention of the house the lack of police resources at the Tatura police station. The station has been undermanned for several months and is at crisis point for the community. The police station has had to close on weekends, providing no support to the town during this period.

The petitioners therefore request that the Legislative Assembly of Victoria direct the relative minister to investigate and correct the lack of resources in this busy police station.

By Mrs POWELL (Shepparton) (659 signatures)

Tabled.

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

Ordered that petitions presented yesterday and today by honourable member for Benalla be considered next day on motion of Dr SYKES (Benalla).

DOCUMENTS

Tabled by Clerk:

Crown Land (Reserves) Act 1978 — Section 17DA Order granting under s 17D a lease over Lorne Foreshore Reserve

Rural Finance Corporation — Report for the year 2004–05

Treasury Corporation — Report for the year 2004–05

Victorian Commission for Gambling Regulation — Report for the year 2004–05

Young Farmers' Finance Council — Report for the year 2004–05.

JOINT SITTING OF PARLIAMENT

Victorian Health Promotion Foundation

The SPEAKER — Order! I have received the following letter from the Legislative Council:

The Legislative Council acquaint the Legislative Assembly that they have agreed to meet the Assembly for the purpose of sitting and voting together to elect three members of Parliament to the Victorian Health Promotion Foundation and, as proposed by the Assembly, concur that the place and time of such meeting be the Legislative Assembly chamber on Wednesday, 26 October, at 6.15 p.m.

I remind members that that is today at 6.15 p.m.

MEMBERS STATEMENTS

Sunshine George Cross Soccer Club

Mr SEITZ (Keilor) — I rise to congratulate the Sunshine George Cross Soccer Club Ltd in achieving its goal of staying in the premier league, as earlier in the football season they seemed to be in a position to be relegated. Last Saturday night I had the pleasure of attending the presentation night of a jubilant club that has managed to stay with the young squad it had to build on in the premier league this season. Its aim is to develop the club to achieve a higher position in the league in the future — hopefully winning the league championship, according to the statement of the president. The club has a four-year business plan to relocate to a better facility and to promote itself to the youth of the Sunshine district. This is a tremendous achievement by the club.

I express my sympathy to the St Albans Saints Football Club, which has been relegated. During this season it was a toss-up between that club and the Sunshine club. The president of George Cross expressed his commiserations to St Albans for being relegated while George Cross stayed in the premier league. This makes two premier league clubs in our region — the first was the Green Gully Soccer Club, which won the 2005 premier league championship, and now, as I have said, George Cross is staying in the league. This is a great achievement for football in my electorate and my

district in the western suburbs, where football is a very popular sport with the community.

Work Safe Week

Dr NAPTHINE (South-West Coast) — I accuse the Bracks Labor government of gross hypocrisy for failing to abide by its own industry participation policy. This policy, as outlined in the Victorian Industry Participation Policy Act, says the government will implement a policy to encourage participation by local industry in state government procurements. Imagine my surprise and the surprise of all Victorian workers to find that wristbands provided to WorkSafe Victoria to promote Work Safe Week are clearly marked 'Made in China'. It is blatant hypocrisy for the Bracks Labor government to buy WorkSafe wristbands from China while pretending to support Victorian businesses.

I also trust that WorkSafe officers have been to China to inspect the factory that produced the wristbands to ensure that WorkSafe occupational health and safety standards are the same as those that apply to Victorian businesses. Buying Work Safe Week wristbands from China shows the Bracks Labor government does not really care about local jobs, local business or meeting its own occupational health and safety standards. The Bracks Labor government and WorkSafe are quick to condemn Victorian businesses on work safety issues, but when they spend taxpayers money they go to China and take advantage of lower WorkSafe safety standards. Here is the wristband — made in China. Jobs are being exported out of this state.

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

Mill Park Primary School: 25th anniversary

Ms D'AMBROSIO (Mill Park) — I am pleased to inform the house of my visit last Saturday to the Mill Park Primary School in Blamey Avenue, which this year celebrates its 25th anniversary. This official event marked that great achievement. I would like to pay particular tribute to Bev Charles, a real champion and campaigner for the local school. Bev is president of the school council and has worked feverishly for many years to promote the interests of the school. Congratulations also to principal Yvonne McPhee and the school choir, which performed a wonderful array of songs in celebration of the anniversary.

Mill Park Primary School was the first primary school built in Mill Park. Back then Mill Park was a new and growing suburb with many young families moving in, many of them moving from the older, neighbouring suburbs of Thomastown and Lalor. It is a real community environment. Many memories were shared by the school community, including those involving its many achievements, and I was happy to provide a certificate to the school to commemorate this anniversary. The school community has worked very hard over the years to raise funds to construct an extension to the multipurpose room and also a new music room. It is an encouraging and nurturing school and one that I am very proud to be associated with.

Relay for Life: Shepparton

Mrs POWELL (Shepparton) — Last weekend my husband, Ian, and I participated in the Shepparton Relay for Life fundraiser. We joined about 2000 registered walkers in 110 teams from across the Goulburn Valley. In four years this annual event has raised over $1 million, becoming the most successful Relay for Life fundraiser in Victoria. This year's event raised $335 000. Congratulations to Relay for Life chairperson Gwen Parsons and her great committee, ceremonies coordinators Liz Gaylard and Annie Donaldson and the Shepparton Central Rotary Club, with special thanks to John Foster and the master of ceremonies, Dr John Hetherington. The highest team fundraiser was Telford's Building Systems, which raised $22 648. The highest individual fundraiser was Fay Alexander of Tatura, who raised $10 367. The best tent site was won by the Goulburn Valley Jaguar Car Club, and the best-dressed team was City of Greater Shepparton Family Day Care.

There was a carnival atmosphere, with decorated tents, teams dressing up, singers, bands and food and drinks, but no-one lost sight of the reason for the event — to raise funds for cancer research, to remember those who, sadly, lost their fight with cancer, to celebrate those surviving with cancer and to support carers, family and friends. We heard inspirational messages from cancer survivors Richie Trevaskis, Tom Nalder and Marg Brewer. There was a moving candle-lighting ceremony in memory of those who did not survive cancer. I am proud to be part of such a generous, caring, compassionate community that is committed to having a cancer-free world.

Waverley Arts Society: 35th exhibition

Ms MORAND (Mount Waverley) — It was a pleasure to attend this year's Waverley Arts Society annual exhibition on Friday, 21 October, at the Mount Waverley Community Centre. This was the 35th annual exhibition of this great arts society. It has over 200 members and a great committee of volunteers led by Eleanor Griffiths. The society meets on a regular

basis to run workshops and hold exhibitions of works in the city of Monash and offers working groups in portraiture, life drawing, pottery and craft as well as an open group. The groups meet at the lovely Mount Street neighbourhood house in Glen Waverley.

The exhibition judges were Lee Machelak and Jenny McNabb, and the art works were of a great standard. I am sure the judges had a difficult time in deciding on the winners. I would like to congratulate the 2005 prize winners in the various categories, who were: best in show, Nancy Thurlby; acquisitive work, Libby Francis; best oil painting, Judith Perrey; best watercolour, Alan Wright-Smith; best pastel, Monnie Mayor; best other medium, Mireille Beaufremez; best drawing, Alison Simpson; a work that tells a story, June Strickland; best 3D work, Helen Kelly; best textile, Claire Routledge; people's choice, Peg Ditchburn; Huntingtower School best year 11 work, Sandra Seles; children's class, May Wang.

The exhibition was opened by Mayor Stephen Demopoulos and generously supported by many local businesses. I congratulate the committee and the members of the Waverley Arts Society on a successful exhibition and on their continued support of local artists.

MacKillop Family Services: 150th anniversary appeal

Mr PERTON (Doncaster) — On Monday I attended the launch of the MacKillop Family Services 150th anniversary appeal. Since the second half of the 19th century MacKillop Family Services has had a long and proud history embedded in the services offered to the poor and disadvantaged by the Christian Brothers, the Sisters of Mercy and the Sisters of St Joseph. This work continues today in MacKillop Family Services, fittingly described by the Archbishop of Melbourne as a shared ministry of the Sisters of Mercy, Christian Brothers and the Sisters of St Joseph.

MacKillop Family Services today has 370 full-time and part-time staff and a network of some 400 volunteers providing 100 separate services across a range of locations: 90 children in residential care on any one night; 150 children in foster care each night; 250 at-risk students assisted each year; 240 heritage and information inquiries each year; 400 families with disabled children assisted each year; and 700 families assisted each year in the western suburbs.

This organisation makes a tremendous difference to children, parents and families in general. For this 150th anniversary it has commenced a rebuilding program, starting with St Anthony's Family Centre in Footscray. I urge all members of the house as well as the government to lend their support to this organisation which is doing such valuable work for the people of Melbourne.

World Teachers Day

Mr JENKINS (Morwell) — This month gives us a great opportunity to recognise the tremendous contribution made by Victorian teachers. Coming up on 28 October is World Teachers Day. I have great schools in my electorate, both government and non-government, staffed by dedicated people including hundreds of teachers who have dedicated their careers to guiding generations through the learning process. They often tell me how rewarding it is, and I have no doubt about that; but it is also hard work.

I am proud to be in a government that recognises the value of teachers through its commitment to continue to deliver more teachers into our schools — 5300 so far and still counting — a far cry from the disinvestment in education under the previous government and the lack of tenure provided to so many good, hardworking educators. I am constantly reminded of the extraordinary influence teachers have when people ask me to pass on their best wishes to my father, uncle or grandfather — Ted, Kevin and Eddie — who had such a positive effect on them. I should hope we will all take the opportunity to remind our constituents of World Teachers Day on 28 October. I know I will.

Ivanhoe Grammar School: Round Square conference

Mr THOMPSON (Sandringham) — I wish to pay tribute to Rod Frazer, the principal of Ivanhoe Grammar School, and the staff and students at the school as a consequence of their recent hosting of the Round Square conference.

Round Square schools share an educational philosophy that pursues the growth of the whole person founded upon six pillars — internationalism, democracy, environment, adventure, leadership and service. There are now 57 Round Square schools extending across the globe. At Ivanhoe Grammar these pillars were embraced by the school, and the school participates in an array of activities and projects in an attempt to fulfil them. In particular schools undertake an international service project in Cambodia involving the development of relationships with children and a school, plus house building.

In September 2005 Ivanhoe Grammar School hosted the 38th annual International Round Square Conference, which saw more than 500 student and adult delegates from all member schools as well as from numerous observer schools congregate to discuss this year's theme — 'We are the generation which is embracing the advances made in technology. We have the ability to bridge the gaps in our global village through unity, tolerance and understanding'. Students, teachers, heads, governors and board members were inspired by three outstanding keynote speakers and later gathered in various discussion groups to develop a common statement relating to the central theme. Discussions took place on terrorism, multiculturalism, globalisation, tolerance and identity. Delegates also participated in many other activities and excursions, service projects, presentations and social opportunities, all of which added to a challenging and unforgettable week which furthered the aims of Round Square and all that it stands for.

Bellarine Secondary College: redevelopment

Ms NEVILLE (Bellarine) — On 7 October I was pleased to be with the Minister for Education and Training to open the new facilities at the Ocean Grove campus of the Bellarine Secondary College. This $5 million redevelopment has resulted in brand-new state-of-the-art buildings. The new facility incorporates unique environmental features that will be used as part of the students curriculum and will set the standard for future school redevelopments. In the minister's speech on the day she indicated that in arriving at the opening she thought she was in the wrong place. That is not surprising, because when the minister last visited the school it was a set of very old and rusty portables. The school was designated by the former government for closure. We committed to maintain the school and provide permanent buildings, and that is what we have delivered.

I want to thank members of the school community who have driven this project for their initiatives, particularly around the environmental aspects. In particular I want acknowledge Rob Hurley, a former principal of the school, and Colin Sing, its current principal.

Surfside Primary School: achievements

On our visit we also took the opportunity to meet and congratulate two extraordinary students from Surfside Primary School — Emily McHenry and Perri Jones. Emily is in grade 3 and won the Victorian 3-to-4 section of the WaterWise competition; and Perri, who is in grade 6, was selected to play basketball in the Pacific School Games. I congratulate both girls. They are another example of the great work that goes on in our public schools.

Police: Robinvale station

Mr SAVAGE (Mildura) — The Robinvale community is vibrant and proud and is probably the most culturally diverse community outside Melbourne. The population of this community is rapidly expanding, and as a consequence service delivery has not kept up in areas such as health, housing and police. A new police station is going to be constructed shortly. Last weekend there were two very serious disturbances in the Robinvale township, in which some community members armed with weapons ran amok. This is a regular occurrence in Robinvale and highlights the need for a 24-hour police station.

Earlier this year I conducted a survey, which found there was overwhelming support for the concept of a 24-hour police station. Last weekend a policeman was injured after being attacked with a cricket bat during one of these disturbances. I again call on the government to pressure Victoria Police to upgrade the status of the new police station, which will be built shortly. These events cause extreme fear amongst the bulk of the law-abiding Robinvale community. In May I apprised the minister of the problem, and I am still waiting for his answer.

Country Fire Authority: Lilydale brigade

Ms McTAGGART (Evelyn) — I rise to pay tribute to the Lilydale Urban Fire Brigade. On Saturday, 22 October, I had the pleasure of attending the centenary dinner for this outstanding local brigade in my electorate. The evening commenced with brigade members greeting guests wearing uniforms of yesteryear. There were fire trucks with flashing lights, and guests were piped into the venue by a Scottish piper.

I have a great relationship with the brigade's captain, Frank Whelan, and the brigade members, and I commend them on their firefighting skills and professional attitude. Brigade members have taken their tanker all over Victoria and interstate to assist other strike teams in fighting fierce bushfires, and they provide a great service to our local communities. Many brigade members attended the celebration, and it was pleasing to see many former members, women's auxiliary members and partners of members in attendance, as their valuable service has contributed to the success of the Lilydale Urban Fire Brigade over the last 100 years.

The brigade's first station was built in Clarke Street, and at the end of World War One Dame Nellie Melba rode into town and rang the bell to advise the local community that the armistice had been declared. His Royal Highness Prince Philip assisted the brigade in 1967 at local fires.

Frank Whelan joined the brigade in 1961 and was elected to captain the brigade in 1977. I commend Frank on his leadership and commitment to the brigade and the Lilydale community. I give special thanks to Anne, his wife, and their family for the support they have given to Frank during his outstanding career to date. Well done, Lilydale Urban Fire Brigade, on your 100 years!

Multicultural affairs: youth

Mr KOTSIRAS (Bulleen) — I stand to condemn this government for not caring and not doing enough for our youth from culturally diverse backgrounds. The Victorian Multicultural Commission, which is meant to act as a bridge between the government and the community, has been transformed into a mouthpiece of this socialist and inept government. I am advised that staff numbers at the VMC have increased from 4 in 1999 to 11 in 2005. That is a 175 per cent increase in the number of staff in just six years. This is on top of the number of staff in the Victorian Office of Multicultural Affairs. Over 10 per cent of the VMC budget goes to salaries. What has the office achieved in the past six years? If it were to be assessed on outcomes, it would fail.

In the VMC's annual report, 40 per cent of the photos are of the Premier, the Minister assisting the Premier on Multicultural Affairs, who is at the table, or Labor MPs. This is a disgrace. Turning the VMC annual report into an ALP photo album is an insult to the needs of our youth from culturally diverse backgrounds. Simply coopting youth members on to the commission is not enough — hollow words and rhetoric do nothing to help our youth. How much input did the VMC have into the two children's bills before the Parliament? All Victorians must be treated equally but every Victorian is different and has different needs. The VMC must work closer with the Centre for Multicultural Youth Issues and the Youth Affairs Council of Victoria to deliver positive outcomes.

Aung San Suu Kyi

Mr LIM (Clayton) — The day before yesterday marked the 10th anniversary of Burmese pro-democracy leader and Nobel Prize winner Aung San Suu Kyi being put under house arrest. Thousands of her supporters around the world took part in events to campaign for her release after a decade of atrocious detention by the military. It is crucial that this Burmese leader is honoured around the world and particularly in the west, both in solidarity with her political campaign and because her words and her example have shown us how richly the Burmese people deserve our respect as well as the freedom for which she and they together strive.

In 1988 Aung San Suu Kyi joined the National League for Democracy in a move to end human rights violations in Burma and secure freedom for its citizens. Under her leadership the National League for Democracy won the 1990 election by a margin of 82 per cent, but has never been allowed to take power. Tonight in this Parliament the Victorian parliamentary friends of Burma will meet with some elected but exiled members of the Burmese Parliament and the Burmese community, together with many other human rights groups, to honour Aung San Suu Kyi and express our strongest solidarity with this great lady. I am proud to be the co-convenor of this parliamentary group, with the member for Doncaster. I urge all members to lend their support at this meeting at 8.00 p.m. in K Room.

Awakenings Festival

Mr DELAHUNTY (Lowan) — I take this opportunity to congratulate Denise Lembruggen and her team at Wimmera Uniting Care for their very successful running of the 10th annual Awakenings Festival. The festival is committed to improving access to the arts for people of all abilities. It is an exciting celebration highlighting their motto 'In arts there is only ability'. Awakenings was 10 days of innovative events including performing and visual arts, photographic exhibitions, music, recreation, social activities and the inaugural Awakenings presentation ball at the Horsham town hall, which was titled 'Dancing stars'.

This ball was a special opportunity for 35 couples of all abilities from across Australia to come down the red carpet in front of 400 people and be introduced to an official party, of which I was privileged to be a part. It was a very moving experience to see these couples, some with walking frames, some with intellectual, mental or physical disabilities and others in wheelchairs, all bursting with pride as they came down the carpet. It is something I will remember for the rest of my life. The couples were trained by Jan Morris and Simon McKinnon via an instructional video and performed a barn dance and the Pride of Erin. Their love of music was evident, with dancing continuing well past midnight with the rock band Claymore.

Congratulations to the committee, volunteers, sponsors, community champions and supporters, the media and all involved in what was a great festival. It will no doubt change for the better the lives, health and wellbeing of these people of all abilities.

Children's Week

Ms MARSHALL (Forest Hill) — It was with great pleasure that on Sunday, 23 October, I attended the launch by the Minister for Children of Children's Week at the Melbourne Zoo, along with my two children, Charlotte and Phoebe, and my nephews, Beau, Hugh and Rory, and my parents, Grannie Annie and Pa. Children's Week is an annual event held throughout Australia during the fourth week of October to celebrate the right of children to simply enjoy childhood.

It is a wonderful time for children to demonstrate to the community their talents, skills and abilities. Thousands of children and their families will be involved in the multiple events organised throughout the state this week, and I can inform the house that anyone who has children of any age would have enjoyed the day's activities at the zoo as much as we as a family did. Some of the activities that we participated in included face painting and dancing with Dorothy the Dinosaur — it was fantastic to see all the kids on stage for that one. There were jugglers, there were other forms of dancing and there were prizes given out to the kids who got involved in any of the activities, including hula hoops and skipping ropes. The kids' faces, many of them painted, were just divine. There was also the enormous number of animals that you could walk around and look at throughout the zoo. Other events this week included Dad's breakfast in Port Phillip, a public information session in Mildura presented by Michael Grose, a children's circus in Daylesford and many others. I would like to congratulate and thank the Minister for Children for such a memorable day and for encouraging families to get out and to enjoy our state.

Spencer Street station: completion

Ms ASHER (Brighton) — I wish to again draw this house's attention to the botched project at Spencer Street station. Every single major project under this government is either late or over budget, or both. This project is a complete botch. The private contractor Leighton has gone on public record to condemn the government, in particular for its hands-off approach to major projects and for not facilitating access to this site. The original contract date for the opening of Spencer Street was 27 April this year. This station should have been open for six months already.

In answer to a question to the minister in this place the other day, the minister indicated he either did not know or was unwilling to state a date when this project would actually be completed. I further note that this major project may not be completed before the Commonwealth Games and will continue to be an embarrassment for the government. It is even more ludicrous, therefore, that in response to a freedom of information request asking for documents relating to the opening date and reasons for changes to that particular opening date, the opposition has been told that no documents exist at all. Why? Because, we are told, the station was never really shut, therefore we cannot have an opening, even though both the minister and the Premier have used the word 'opening' in their press releases. This project is a botch and an embarrassment to the government.

Mahogany Rise Primary School: redevelopment

Mr PERERA (Cranbourne) — Recently the Minister for Education Services and I had the pleasure of touring the completion of stage 1 of works at Mahogany Rise Primary School in Frankston North. The school's stage 1 works have been completed at a total cost of almost $1 million. I take my hat off to the crew at Mahogany Rise Primary School, as they also contributed $14 140 towards this project — a fantastic effort, indeed. The recent works have upgraded the existing facilities to provide five modern general-purpose classrooms and the construction of new boys and girls student toilets and a reading recovery area.

Only the Bracks government is proudly investing in schools like Mahogany Rise Primary School, making Victoria a better place to live, work and raise a family. This is bricks-and-mortar investment which is rebuilding our education system. The Bracks government is investing in education to give children the start they need through smaller class sizes and the fixing of school buildings.

I wish to thank the principal of Mahogany Rise Primary School, Mark Renouf, and the president of the school council, Brendon Plane, who were very committed and worked tirelessly to see the building works completed as soon as possible. I would also like to thank school captains, Joel and Laura, and school council representatives Carole Lyddy and Liz Monro, who met with the minister and me and arranged for the tour of the completed stage 1 works of Mahogany Rise Primary School.

Industrial relations: federal changes

Mr HARDMAN (Seymour) — I rise to express my disgust at the Liberals and The Nationals attack on Victorian families through their extreme industrial relations changes, which will see Victorian workers and families left with less protection of their workplace rights and concerned for their job security. The mean and nasty Liberal Party and The Nationals are showing their true Tory colours by implementing their extreme ideology to ensure that our country's workers become low paid and fearful of their bosses. What makes this attack worse is that, knowing people are scared of the changes, the Liberal Party is abusing the people of Australia by running a brainwashing campaign, spending millions and millions of dollars of taxpayers money that should be going into housing and education for our disadvantaged.

The Liberals have now compounded their sins by allowing their agents to use deceitful tactics to get people to appear in their advertisements. Last week I was absolutely outraged when I read about the two factory workers in Dandenong who were deceived and who were poorly paid to appear in WorkChoices advertisements, and in the *Age* today there is a story about Phelia Grimwade, who was told that the advertisement she was appearing in was for health and safety, not for WorkChoices.

The firms that did this obviously were trying to avoid paying proper rates to actors, whose jobs and livelihoods rely on this work. These actions just illustrate the point that we in the Labor Party are trying to make about the need for appropriate protection for workers and that some employers will, if given the chance, abuse the rights of workers in order to save a dollar. The federal Liberal Party should withdraw this legislation now.

Cricket Willow, Shepherds Flat

Mr HOWARD (Ballarat East) — Recently I had the pleasure of attending Cricket Willow in Shepherds Flat, near Hepburn Springs. Cricket Willow is a truly remarkable property which shows what hard work and imagination can achieve. It is the brainchild of Ian and Trish Tinetti and their family. The property had been used in earlier days to grow willow trees which were harvested to make Crocket cricket bats. In recent years the Tinetti family has revived this history by redeveloping the willow plantings and building a magnificent cricket oval on the property. This is surely a case of a field of dreams — 'Build it and they will come'. Cricket teams come from across the state and further afield to play on this picturesque picket-fence-lined cricket ground, which is surrounded by sensational views of Mount Franklin and the surrounding hills.

Recently master bat maker Julian Millichamp was attracted to move from Western Australia to recommence bat making at Cricket Willow, and earlier this month a new cricket gallery was opened. In this converted dairy visitors can learn about the history of cricket bat making and see Julian demonstrate his craft. Visitors to Cricket Willow will also be able to not only enjoy a meal or Devonshire tea in the beautiful surroundings of Cricket Willow but also learn about the stages of production of a truly crafted cricket bat, from bud to bat. I congratulate the Tinetti family, including younger member, Adrian, for their imagination.

Glen Orden Primary School: Hungry Caterpillars program

Ms GILLETT (Tarneit) — It will be my pleasure to launch an exciting new communication and literacy group in Werribee this Friday called Hungry Caterpillars. The program is aimed at parents with children aged between six months and five years and is the result of the work of some wonderful people. Glen Orden Primary School has agreed to play host to the program. It is a fantastic primary school with dedicated teachers and staff and some very special kids. Glen Orden Primary School has partnered with ISIS Primary Care and the Heathdale neighbourhood renewal community to provide an opportunity for parents and their young children to build relationships through storytelling, singing and loads of fun activities.

I want to say thank you to these talented and committed people who have created this opportunity for parents and their little ones. It is a brilliant initiative for the whole Heathdale community. I wish it the greatest success, focusing as it does on the needs of parents and their young children.

World Teachers Day

Ms GREEN (Yan Yean) — Today I want to place on record my gratitude to teachers serving students in my electorate. In 1994 the United Nations Educational, Scientific and Cultural Organisation launched World Teachers Day in an effort to increase an awareness of and respect for the teaching profession. World Teachers Day is a good opportunity to raise community awareness of the valuable role played by schoolteachers while at the same time acknowledging the fantastic contribution they make to our society.

This Friday, 28 October, which is World Teachers Day, I will in partnership with local apple growers, Glen Ard–L. Apted and Sons of Arthurs Creek, be giving the gift of a fresh locally grown apple to each teacher serving my electorate at the following schools: Andersons Creek, Apollo Parkways, Arthurs Creek, Christmas Hills, Diamond Creek East and Diamond Creek primary schools; Diamond Valley College; Doreen and Epping primary schools; Epping Secondary College; Hurstbridge Primary School; Ironbark Christian School; Ivanhoe Grammar, Kangaroo Ground, Meadow Glen, Mernda and Panton Hill primary schools; Plenty Valley Christian School; the Sacred Heart School; St Thomas and St Andrews primary schools; Warrandyte High School; Warrandyte, Wattle Glen and Whittlesea primary schools; Whittlesea Secondary College; and Yarrambat Primary School.

We have seen the fantastic work of teachers over many years, but no more so than in their recent efforts in supporting so many students in my electorate to successfully complete the recent Premier's reading challenge. Well done, teachers, on World Teachers Day!

GRIEVANCES

The DEPUTY SPEAKER — Order! The question is:

That grievances be noted.

Racing and Gambling Acts (Amendment) Bill: royal assent

Mr McINTOSH (Kew) — I grieve today for our constitutional institutions in Victoria and — although hopefully it will never eventuate — the demise of responsible government in the state of Victoria. From the time when I first studied constitutional law some 25 years ago at university and through my continuing studies both personally and as shadow Attorney-General I have had an abiding interest in this subject. I am quite often struck by the number of cases that involve complex issues of constitutional law that arise from quite simple issues because of unexpected consequences. We have just seen in this place over the last two weeks something of a constitutional crisis that is unfolding in relation to the Racing and Gambling Acts (Amendment) Bill. The bill was debated in this place over two days. It was considered in detail and it ultimately passed this place without dissent. It went to the upper house and passed that chamber.

Mr Pandazopoulos — You never even asked a question. That is how concerned you were.

Mr McINTOSH — I note the Minister for Gaming is in the chamber, so he might be able to provide a full explanation at the appropriate time. The Leader of the Opposition asked three questions in relation to this precise point, and there have been less than satisfactory explanations. The most important thing about the bill is that it passed both chambers without dissent and was then presented by the Clerk of the Parliaments to the Governor and the Governor refused to provide royal assent. In my contribution to debate this morning in no way do I cast any adverse comment about the Governor. Indeed, like all people in this place, I think of the Governor of Victoria as a fine man who has an unblemished record and is a man of the highest integrity. He communicated to this house that he refused assent on the advice of the government of the day.

What makes peculiar an otherwise innocuous bill that was debated long and hard for some two days is the fact that it had a major impact in relation to royal assent. My own research, and the research of others, indicates that in the 150 years of constitutional history in Victoria it is without precedent. No other bill that has passed both chambers and been presented for royal assent has ever had that assent refused — not one single bill. The first thing to note is that it is an unprecedented step that assent has been refused on the advice of the government. When you extend that research a bit further than Victoria, you find that in New South Wales there was an occasion some years ago when there was a political conundrum and the Governor purported to refuse assent but after a political battle fought out in the Parliament assent was ultimately provided.

Nowhere else in the states or the commonwealth has the royal prerogative been exercised to refuse assent to a bill of a parliament. Indeed, if you go to the United Kingdom you have to go back almost 300 years, to 1707, to find a precedent, which was the refusal by Queen Anne to assent to a bill that purported to locate a militia in Scotland — but that was 300 years ago. It is without precedent in Victoria and without precedent in the rest of Australia and that event some 300 years ago in England is the only basis for the exercise of the power. It is a significant step. It may be an innocuous bill in the sense that no-one dissented from it and it was non-controversial, but according to what the house has been told assent was refused on the basis of advice from the government.

As the minister has indicated and I again reiterate, it has been the subject of some discussion in this place. I note

the Leader of the Opposition asked the Premier on three occasions about the circumstances of that advice, and the details provided by the Premier were less than satisfactory. Likewise, the member for Gippsland East raised a point of order about the issue with the Speaker. I am not aware of whether the Speaker has reported back to the house in relation to these matters.

The most concerning part about what appears a simple act in refusing royal assent is that essentially what is being asserted by the government is the paramountcy of the executive in Victoria when the government is made up by the three arms: the legislature, the judiciary and the executive. Essentially what the government is saying is that at the end of the day it will be the executive government that will be paramount when considering the constitutional matrix. On top of that, what it is standing in stark contrast to is our notion of responsible government — that is, that the executive government and the leaders of the executive government, the Premier and his ministers, many of whom sit in this place, are responsible to the Parliament. That is our understanding. Our notion of responsible government is that they are responsible to the Parliament. Each and every one of us is elected by our constituency on whatever basis, but at the end of the day we are elected to hold the government to account. That is the best form of democratic government, which we have had in Victoria and which has been accepted for over 150 years.

The other interesting thing is that we are coming up to 23 November. On 23 November we celebrate the 150th anniversary of Victoria's constitution. That was the basis upon which our democratic settlement transformed itself into a bicameral parliament with a responsible government responsible to the Parliament as we know it today. Our constitutional matrix has been added to, changed and amended over time. To our constitution we have added the Constitution (Amendment) Act and a variety of electoral laws. On top of that we have other acts such as the Australia Act, which is part of the constitutional matrix, and it is all superimposed by the federation of constitutions made up by the Australian constitution. On top of that, our constitutional matrix is made up of the history, traditions and precedents that have come into being not just over 150 years but over 1000 years of parliamentary constitutional history in England and elsewhere, which we have imported to Victoria.

I have quite often said that in many respects we have taken what we have inherited from the United Kingdom and transformed it into a much more workable and practicable democracy so that it would be hard to find a better democracy anywhere else in the world in the way it plays out. That depends upon the government, the legislature and the judiciary adhering to all of that complex constitutional matrix in order to make it work, in keeping with the democratic sentiment. We have the argument about whether we should be a republic or whether we should have a representative form of government. That is a legitimate argument to have, but at the end of the day our compact is set out in the constitution, and until we change the constitution we should be adhering to all the matters that make up the matrix of constitutional law.

As I said, the Racing and Gambling Acts (Amendment) Bill was introduced in this place in May this year. It laid over for some five sitting weeks — some four months — before it was debated. Contrary to the way many bills are treated in this place, it went through a substantial debate. I note that some 22 members of the Legislative Assembly contributed to the debate either during the second-reading stage or the consideration-in-detail stage — a quarter of the members of this place actually expressed a view about the bill. Concerns were expressed on all sides about a number of matters, but at the end of the day the bill passed without dissent. It then went to the upper house and passed the upper house about a month later on 14 October.

I understand that the Clerk of the Parliaments trod a well-worn track to the Governor, giving notice that these bills had passed with the concurrence of both houses and presenting the bills to the Governor for royal assent. No doubt it was the assumption of most people in this place, and indeed the people of Victoria generally, that that would be assented to.

Of course there is an argument on both sides of the equation. I have canvassed a number of people over the last week or so and spoken to a number of eminent people. I do not propose to go into detail about who they may or may not be, but one thing that comes out is that the position may be unclear. Certainly the vast majority of people I have spoken to will say that the Governor, in assenting to a bill, is acting in a legislative way; he is part of the legislature. Our own constitution reflects that the Governor is part of the legislative process and of the legislature, made up of both houses and the Governor — that is, our Parliament. He is exercising a legislative power, and that legislative power cannot be interrupted by the government of the day, by advice or otherwise, because it is not the Parliament. Exercising that assent is different from whatever other official activity the Governor may be taking on, which he must act on based on the advice of the government of the day. In relation to this matter many assert that in exercising the power to assent the

Governor is not bound to adopt the advice of the government of the day.

It is also very clear that there is a process if the Governor is troubled by a bill. As we know, one of the reserve powers of governors or governors-general is to question and to counsel, but that is about the extent of the power. There are certainly precedents that I am aware of, both in Victoria and in the commonwealth, in very recent history by well-known governors and governors-general of actually questioning the government of the day about the wisdom of or the operation of a particular bill. But at the end of the day the Governor has always assented to the bill in the normal legislative process.

On top of that our own constitution advises that the Governor may return a bill seeking amendments in the house if there is some error or otherwise. As I have said, that has operated on a number of occasions, but the question is whether or not the Governor is acting with independent discretion. Whether I am right or anybody else is right, my own personal view is that the Governor must act on the advice of the Premier of the day. Many — and most, I hasten to add — disagree with me in that regard. But the problem comes about and the most important thing is that if the Governor does exercise such a power to refuse assent on the advice of the government, the government owes the Parliament, and therefore the people of Victoria, a full and proper explanation as to why that power was exercised and why it provided the advice.

The constitutionality will be debated up hill and down dale and will never be resolved until it is taken to a court. Until or unless that occurs, we still have this conundrum. But what is clear is that the government owes the state of Victoria and the Parliament a full explanation of how this power is exercised and whether it is in writing. Clearly under the Australia Act if it was in writing it would be invalid advice; therefore it must have been oral advice, and on something as draconian as this one would expect oral advice coming from the Premier, and only the Premier, to the Governor. These matters should be properly canvassed.

Whatever the motives may be, with such an unprecedented step this explanation should be fully, frankly and willingly given. It is a matter of profound concern that that explanation is not being provided. Of course there will be criticism, and of course there may be concerns and differences of opinion, but at the end of the day that is what the government owes the people of Victoria and the Parliament.

If it does not provide that it is, firstly, setting a precedent that can be exercised at whim in the future, and secondly and most importantly, undermining our notion of responsible government. As members of Parliament we should be standing here saying that the government owes us an explanation as to why our collective legislative will was overridden. If the government does not provide that, it is bringing this Parliament into disrepute; but above all, it is perhaps impugning the integrity of the Governor. All of these matters indicate that it should provide that explanation.

Industrial relations: federal changes

Ms D'AMBROSIO (Mill Park) — Today I wish to grieve for the residents of my electorate of Mill Park and all Victorians for the outrageous attacks proposed by the federal Howard government on their living standards. I was raised by parents who shared their work experiences with their two young children around the dinner table every night. I heard stories of their trials and tribulations at work. Some of those stories were unpleasant, some were more hopeful, but they all centred around very key and basic institutions that have existed for a century in this country.

My mother was an outworker for many years in the clothing industry. For many years they were the bottom of the heap, if you like, in terms of protections in the workplace — and in the case of outworkers that was their own home. But I know through the lessons I have learnt from her that at the end of the day her experiences, when channelled through collective action and through union support, could have been vindicated. Her rights could have been vindicated through independent arbitration, independent conciliation and independent award systems which awarded entitlements legislated through law and through the industrial relations system.

I can see that these lessons need to be repeated — and they need to be learnt by the Howard government. I learnt that you cannot do without the institutions that helped make Australia a place which, generally speaking, ranked among the world's leading countries in improvements to wages, employment conditions and living standards. This country has a very strong and proud record of having a unique system of workplace conciliation and arbitration, which has existed for almost a century.

While along the way there have been many well-known battles with the equal pay campaigns, the comparable pay campaigns, and occupational health and safety issues, to mention a very few, these institutions have been constants which have kept our country and

workers up there among the world leaders for living standards and wages. Most importantly, these institutions have united us as a society and have been a measure of our strength as a community, not a measure of hindrance to our community and our social cohesion. That is a very important point. For many decades Australia was seen as and espoused throughout the world as being almost like a workers paradise. There will be arguments about that, and over the decades there have certainly been arguments about whether that was notional, but the reality is that living standards for workers in this country were among the highest. All this has now been threatened by John Howard's mission: to dismantle these very institutions and break down social cohesion and community strength.

Residents of my electorate will be particularly punished by these proposed attacks. They have certainly captured the attention of and instilled fear in the people in and around my electorate. For a number of weeks now local newspapers have reported on these attacks. I must say that the federal member for Scullin has been particularly active in campaigning on the issue and taking the views of the electorate to Canberra. It has certainly served to galvanise a very united voice of opposition to the proposals that will be put before the federal Parliament in the coming weeks.

Let us look at John Howard's agenda, which will impose these harsh penalties on the community. In terms of dismantling these very institutions which have created a fair Australia he has proposed the abolition of all unfair dismissal protection for working people in workplaces with fewer than 100 employees. What rings true in terms of the savagery of this type of proposal is that 99 per cent of private sector employers can sack their workers unfairly and without reason if they so choose, because 99 per cent of private sector employers have workplaces with fewer than 100 employees. That comprises a work force of 4 million people who will no longer have fair and independent access to the unfair dismissal institutions. We contrast that to the legislative standards that existed up until 1996. We also remember that that was the year the Howard government was elected and set its agenda — it was unsuccessful for some years because of its lack of control of the Senate — in an attempt to undermine working people and fairness in this country.

The legislative standards that existed prior to these proposals stated that dismissals were required to be procedurally fair and that unions and workers had to be consulted on decisions taken by employers to retrench 15 or more employees. Let us be clear on what this consultation was about: it meant and led to, in many instances, a collaboration between employers, unions and the work force in coming up with better ideas and better work practices, an improvement in productivity, and a minimisation of the need for retrenchments, where those retrenchments could be proven to be necessary to the ongoing viability of a business. That is what it was about. It was there to promote harmony, cooperation and consultation to improve productivity in workplaces.

The proposition is that, in workplaces with more than 100 employees, employers can unfairly dismiss, within the first six months, any employee who has commenced a new job. There will be a removal of entitlement to redundancy pay in businesses of fewer than 15 employees, and workplace agreements will wipe out award redundancy provisions — let there be no mistake about that. When John Hewson was on the verge, as it was thought at the time, of winning the 1993 election, I worked for an industrial union and I remember a major employer anticipating — —

Mr Mulder — That's no surprise.

Ms D'AMBROSIO — It is not a surprise. It is something I wear with great pride and without any blinking of the eyelids — that is for sure.

Mr Mulder — When are you going to get your train line extended?

Ms D'AMBROSIO — What this one very large employer — —

The DEPUTY SPEAKER — Order! The member for Polwarth will behave in an appropriate manner.

Ms D'AMBROSIO — If the member for Polwarth thinks that saving working people's lives is not a useful exercise in life, I think he is in the wrong business and he should get out of this house and make that statement. I would like to see how many friends he wins over by making such statements. This large employer, in anticipation of John Hewson's massive and sweeping attacks and proposed changes to industrial relations, had on that weekend placed on every employee's desk individual contracts to be signed. What a surprise when John Hewson did not win that election. Those individual contracts placed on every employee's desk — a workplace of well over 300 people — were quickly removed by the following Monday morning after the election. This is what we were being faced with in 1993.

Let us make no mistake about it. This is the brave new world that John Howard wants to create: individual contracts, secrecy and undermining of workers cooperation. However, the federal government has

failed to produce its proposed benefits and these changes will lead to a dog-eat-dog environment where there is no cooperation between employees and those very good employers who want to do the right thing and who will be forced to compete in terms of lower minimum wages. This will produce a situation where productivity and the viability of businesses will suffer and it will not lead to an improvement in the general economy of this country. You cannot do that when you have confrontation on a daily basis; you cannot do it when there is secrecy and mistrust amongst employees, supervisory staff and employers. That does not make any sense. It does not make sense for a viable economy, social cohesion and community strength.

I will now look at what the federal government claims it will attempt to protect through five minimum standards. These standards will lead to real reductions in take-home pay. There will be no overtime pay. There will be a longer span of hours; in effect the span of hours will disappear. People will work for different periods over a 24-hour day, seven days a week, and they will still get the one basic hourly rate. There will be no extra payment for weekends and long shifts will prevail. This is totally against the family and is not making people feel comfortable and relaxed. It is a blatant attack. The fact remains that this federal government has supported not one minimum wage case or pay increase since it was elected. If it has its way — it did not whilst there was an independent industrial relations commission — from here on this would involve a real reduction of take-home pay of $50 for people on the minimum wage; that is an average of $50 per week. That will be the situation if the Howard government has its way. This is what the federal government wants to introduce now that it has control of the Senate.

This is no less than what exists in the United States of America. The minimum wage in the United States is US$5.15 per hour. There have been no increases for eight years — just think about that in terms of social indicators of community strength; think about that in terms of the poverty line and in terms of the so-called fair pay group that John Howard wants to establish in place of the industrial relations commission. That fair pay group will consist of stacked people who are on the public record as being opposed to increases in the minimum wage. It supports the real reduction of minimum wages.

An honourable member interjected.

Ms D'AMBROSIO — They are the facts. Here we have a federal government that wants to stack this fair pay group against working people and against families. The next time anyone on the opposition benches gets up and espouses the virtues of their party and their federal counterparts in terms of what they represent for family interests I will be reminding every single one of them about the hoax that they are now perpetrating against the Australian community. These proposals are also anti-skilling. These proposals will de-skill our Australian work force, and that is in line with the abrogation by this federal government and the state opposition of responsibility for addressing skills shortages since 1996.

They will remove the acknowledgment and recognition of skill-based career structures in awards. They will de-skill our children and their children. Contrast that with the actions of this state government, which is doing whatever it can to address skills shortages. As announced last week, we have in place pre-apprenticeship programs which will help equip our young people and get them ready for more skilled jobs in Victoria. We need a robust opposition here in this house to promote the interests of those young people. We need them to take these messages, these examples and lessons of what it will take to skill up our work force for the future.

We do not want Australia to become a low-skilled backwater due to free trade agreements balanced in favour of larger global economies such as America and China. We need a government which puts the interests of Australian people at the forefront of its policies. A skills shortage exists in this country. We do not want Australia to be a cheap labour backwater compared with the United States and China through unbalanced free trade agreements where benefits fall heavily in favour of those stronger global economies.

Draconian employers have John Howard to promote their interests. Let us be clear about this: there is nothing independent about it. Those draconian employers have John Howard to promote their interests, yet John Howard wants to hinder the rights of employees to have unions promote their interests. Let us get some fairness and equity into this. On average union members earn $125 more per week than workers who are not members of a union. Membership of a union, through unity and strength, results in higher wages. Let us have none of this nonsense from John Howard that he has been a friend of workers. If he were a friend of workers he would not have opposed minimum wage increases since 1996.

Rural and regional Victoria: government policies

Mr RYAN (Leader of The Nationals) — I grieve today for the people of country Victoria on two bases. The first is that these people are finding increasingly that they are being subjected to the values and beliefs of a city-centric Labor Party driven by Melbourne Labor, which really has no idea or understanding as to how country people function; and secondly the issue of the blatant breaches of trust in which this government indulges on a daily basis, and we are absolutely replete with examples. The combined effect of these two issues means that what Labor is doing in country Victoria is changing the way of life, changing the manner in which people live their lives in country Victoria, and it is change for the worse.

On top of all of that, this process is ongoing. Labor is now in its seventh year of governance of the state of Victoria, and the toll being taken upon country people is heavy and ongoing. As I said, the examples are many and varied. Some are obvious and some much more subtle. Amongst them are issues such as the mountain cattlemen debacle. The government came to be in 1999 on the basis of an established policy that it would kick the mountain cattlemen out of the high country. Then it went through the farce of an inquiry which was run by its backbenchers as opposed to any of the other and obvious options to enable a proper answer to be given. It then gave effect to destroying a way of life that we have had in this country for something of the order of 160 years. That is but one example.

What a disgraceful performance the current furore over the toxic waste dump at Mildura is. The communities at Tiega, Violet Town and Pittong were all subjected to the sharp end of the stick when this government said two or three years ago that it was going to abandon its apparent attempts to achieve an inclusive result involving people from the community. Instead it went for an option which would have seen the development of this toxic waste dump on private land. The government then proceeded to turn up at the door on days that we will remember as being infamous to tell these people — the owners of private property in the state of Victoria, thank you — that investigations regarding their properties would be conducted and, if any one of those properties was thought to be the appropriate site, the government was simply going to take it away from them.

The government left those communities dangling for literally years while it worked its way through to the inevitable result, which was that it could never do it. Now, into the bargain, it has opted to put this thing up at Hattah-Nowingi, which will have an enormous impact on the people of that area, one of the great food bowls of the state of Victoria. Throw into the mix that it will entail carting Melbourne's rubbish — about 80 per cent of it is just that — over a distance of about 500 kilometres across the state of Victoria. That is another disgrace.

In 2001, $96 million was allocated to the standardisation of rail lines, but not a single length of track has been laid. There is the question of the return of the train to Mildura and similarly to Leongatha. In the case of Mildura the position currently taken by the government is impossible to fulfil. You cannot standardise the rail line and do what the government is talking about doing by way of returning passenger trains and also enable freight to be taken from Mildura in the manner in which the government presently plans it to occur; it is simply impossible. Yet the government refuses to explain how this is supposed to be able to be done.

The management of water is certainly a critical aspect to the future of country Victorians. There will be a debate regarding legislation pertaining to this matter over the course of the next 24 hours, so it is inappropriate for me to go anywhere near the bill, and I have no intention of doing so. But when you talk to the people and more particularly listen to what they have to say, and when you are amongst those who are going to be directly impacted upon by what the government intends to do with its general management of water, you find they are terrified of what is going to occur. Only last Friday, together with many other members of my party, I was in Numurkah, where we hosted a public meeting, and people came along in numbers to put their concerns about the way in which the Labor Party is handling and generally mismanaging the issue of water.

Remember, these people have for decades upon decades been developing their own businesses in their communities along the river and in other parts of Victoria. They see themselves as being shut out of the process. They see this government's constant drive to deal with issues related particularly to environmental matters as working to the exclusion of the interests of people who depend upon the availability of this water resource for their livelihoods.

Sure, environmental issues are important, but the vital thing these people want to know is what this government will do to properly balance the needs of the environment on the one hand as opposed to — it should not be 'as opposed to' but rather 'in conjunction with' — the social and economic needs of these many

communities on the other, including the farmers who are part of them as well as the manufacturing sectors based around them, which in turn spawn many of our small businesses up through that region and through many of the areas where irrigation is an imperative in the way communities function.

There is the much-maligned fast rail project, which shows how you can expand $80 million into about $1 billion in the blink of an eye. It is a Labor special, and it is a farce. The people along the line are finding out that they are not going to have the services they already have. Instead of having their services improved — having more regular services and having the trains function properly, which is basically what the people want — those people are now going to be placed in circumstances such as those experienced by people in Castlemaine and in Kyneton, where if you are not running along the platform at about 120 kilometres per hour when the train comes through you are never going to catch the darn thing — that is, if it ever gets going. It is just a debacle!

The extension of natural gas around country Victoria is another great program, or so the government says. To be fair, in some instances the government has made announcements; but it is years away from delivery. While attending a public meeting in Avoca recently I heard that people there were promised natural gas before the last election, but now the government is telling them they cannot have it. These are things people simply will not put up with.

The issue of the portable classrooms, which I raised yesterday in question time with the minister responsible, is another example. The government promised that 600 portable classrooms would be built and delivered during its current term. What do we have in fact? No-one knows, but there certainly will not be 600 of them. We will get portable classrooms on the never-never, maybe by the year 2008 but certainly not in accordance with the promise that was made by the government — and many of these portable classrooms were going into schools in country Victoria.

Then there is the way in which the government has turned its back on country communities over the fuel issue, and then there is the fact that the government continues to collect the windfall gain that is the GST revenue yet will not return a single cent of it to the people who are suffering most, they being people through country Victoria. That is another example of the disgraceful attitude taken by the government.

We have the situation of country people not being able to get free access to V/Line services during the Commonwealth Games. How can it logically be argued that the train system, which is part of a transport system that is sustained by about $1 billion in subsidies in Melbourne, will be available free for city people going to games events, yet those people who happen to live in country centres will have to pay to get on the train and come to those same events? It is iniquitous and it is discriminatory, yet the government again and again has refused The Nationals request that the same rule be applied to all, regardless of whether they live in the metropolitan area or in the country. After all, the fact is that every taxpayer in the state is contributing to the games, regardless of geographic location.

The issue of forcing our elderly people to pay half the registration fee on their cars when before they did not have to pay is an absolutely dreadful thing to do. The government says it is intended to save money that can be reallocated to other programs, but the fact is that any community is properly measured by the way it looks after its elderly and its disadvantaged. That these people are now having to put up half this money is again a disgrace.

The cuts to the various school programs were again highlighted in question time yesterday. How can it conceivably be that a program which is dedicated to 45 students at the Bairnsdale Secondary College and which up until now has attracted funding of about $260 000 to assist them with their language and learning difficulties can be cut to $39 000? It is said by the minister that some fancy new model is being employed. The model is a dog. The government should abandon it and return to these needy students their entitlements and their just requirements — that is, appropriate funding to enable those programs to be reintroduced to look after those kids. Fancy doing a thing like that to these children! I think it is an appalling thing to do.

There are many issues in relation to planning matters. There is the wind farms saga, particularly in South Gippsland, where people are still dangling, awaiting the outcome of the panel inquiry which was conducted over the course of this year. We strongly suspect that the minister has the report, and he should release it. If he has it, he should produce it and tell us what the government is actually going to do.

Of course the Minister for Energy Industries in another place, the Honourable Theo Theophanous, is driving this debate. That born-again, right-wing capitalist is out there saying that it is a great thing that these developments should happen, that they are going to create jobs, and yada, yada, yada. This same minister, who was bagging the whole notion of the energy

industry as it was being conducted under the former government, now seems to have a born-again appearance with regard to many of these issues. Unfortunately that minister, amongst all the other ministers, has absolutely no regard for some of the great landscapes in the Australian nation and for the awful damage which this whole issue is doing to the people who live in the areas which are subjected to this sort of examination.

Similarly there is the Bald Hills proposal, which thankfully for the moment has been held up by federal government intervention. These are the sorts of things this government just simply has no knowledge of, does not care about and continues to pursue on the basis of causing enormous grief to these country communities. It is similar to the government's approach to the farm zones issue, which was another debacle, particularly in south Gippsland.

Then there is the question of the provision of mental health services throughout country Victoria. I was listening to an interview only a couple of days ago with Lloyd Williams, the state secretary of the Health and Community Services Union. In the course of the interview in relation to mental health facilities throughout Gippsland he said:

> We have one acute inpatient unit servicing the whole of the Gippsland area. This is constantly under pressure with not enough beds to admit people to and people inevitably either have to be exported out of their own home town and regional area or they have to wait, and that puts further pressure on our community clinicians in terms of sustaining people who are in crisis in their homes.

You would think that occupying the role he does as state secretary of his union he would have some knowledge in these matters, and I defer to him, because I believe the provision of these mental health services is shambolic in Victoria, and this is just another commentary in relation to it.

There is the question of road funding and the way in which the government has dudded country people. It made the big song and dance about $300 million worth of speeding fines going into the funding of roads, but forgot to mention to people that it was going to drop $300 million out of the bottom end of the funding that would otherwise come out of Treasury so that the net result was going to be no change at all to the funds available for roads. Of course that is reflected in the standard of our roads across country Victoria — a constant problem.

Then there are the cuts to the Regional Infrastructure Development Fund. It was set up as a very good program at the start of this government, with $180 million over three years, and we supported it throughout. When the government renewed it, what did it do? It was changed to $180 million over five years, which effectively meant a cut of $120 million over that period of time, and then it added to that by enabling the nine outer metropolitan councils — the interface councils, as they are termed — to share in the money available for the gas extensions. That in turn was an amount of $70 million, and, of course, the whole thing has ground to a halt because the fund has run out of money — surprise, surprise!

There is the issue of the management of resources all the way down to land protection officers and our desperate attempts in country Victoria to keep them. There is the cost shifting that goes on in local government, whether it be the libraries or managing new legislation for which local government now has responsibility, such as the Road Management Act, for example. The list is endless, and it is growing.

Country people are proud and resilient. They cop floods, droughts and fires; they wear all that and they bounce back. But one of the things about them is that they hand over their trust grudgingly and they do it on a basis that they expect it to be honoured. As we know, the fact is that this government is not honouring the trust which has been placed in it. It is breaking the promises it made to country Victorians, and it is doing all that against a background of trying to impose upon those of us who do not live in Melbourne beliefs and values which simply are not those of the country parts of this state. Everybody is waking up to it, even, if I might say, the member for Mildura, whose words over these last few days I am sure have struck a chord around country Victoria. 'It might be too late', she cried, waving her wooden leg, but the fact of the matter is that the commentary he has made is generally right. Labor is not fit to govern in this state.

Industrial relations: federal changes

Mr LOCKWOOD (Bayswater) — I grieve today about the attack on ordinary people and families by the Howard government's proposed industrial relations laws. In my view they are an attack on families and are based on extreme ideology. Federal government members are dishonest and are basing their dishonest ad campaign on false information. They are intending to emasculate the Australian Industrial Relations Commission. Obviously it is an attack on unions and, by implication, the Australian Labor Party. It is a form of dirty politics designed to attack the funding base of the Prime Minister's political opponents more than increasing fairness in Australian workplaces. It is nothing to do with fairness at all, despite the name.

WorkChoices? We should be asking, 'What choices?'. These changes will condemn us to a worse economic future and lead to uneven outcomes. Some will benefit and some will not. Those with strong bargaining positions in the workplace will do well, but those with a weaker bargaining position will not. We will see these things happen over time.

There will be no dramatic fall of night, just a gradual darkening of the landscape for those least able to bargain for themselves, those with the least power — the young, women and the unskilled. Where is the economic benefit in sacking people and reducing pay and conditions and attacking families? I see no choice at all in this; there are no work choices at all, but simply a path to disadvantage.

The changes will erode family time together. Kim Beazley, the federal Leader of the Opposition, made a good comment the other day about John Howard constantly promising a barbecue stopper. Here it is: without weekends there will be no family barbecues! This is John Howard's barbecue stopper. Without any time on the weekend we will not have time for families and for recreation. The federal government will force people to bargain away their free time — their family time and recreation time — just to keep their jobs.

It is called flexibility, but it is one-sided flexibility — the advantage is all one way. It is trading away lunch breaks, annual holidays and even public holidays for a dubious temporary gain. Any gain in pay is lost over time. The benefit of this so-called flexibility is only retained if the employee's pay keeps pace against comparative wages and conditions. Over time this will be eroded and the benefit of trading away those hard-won benefits would be lost, so it is a futile bargain. Ultimately it is a mirage.

Obviously individuals have limited power to bargain. The employer has all the cards stacked in his favour in most cases. Obviously there will be some employers who will look after their employees. That has been said many times, and I think I have experienced that over time. There are employers who do so. I certainly do not mean to portray all employers as taking advantage of these new laws to the detriment of working people. Some will do the right thing because they see the value in a motivated and happy work force that is looked after and in which people do not fear for their jobs every day. People who fear for their jobs every day do not work well; they do not produce. They are constantly worried about where their pay is coming from and whether they are going to lose their jobs, and they do not produce good results. It is a pity that not all employers see things this way.

Employers will have the upper hand. Liberal Party members have stood in this place and spoken about people they call 'union thugs'. I think there are thugs in employer ranks too. I have seen the behaviour of some of these employers over time. As my own children were leaving school and getting part-time jobs they ran into some employers who were most unkind to them and did some pretty dubious things, such as paying them at the wrong rates, undercutting their pay, only employing them as casuals and not scheduling them when they did not want them around. They cost my children money all round the place. They were certainly not fair employers, and my children were glad to leave them behind. Thankfully these days they are better employed.

Who can represent an employee? There will be bargaining agents, but who will they be? There will not be collective bargaining. We will not have unions bargaining for a range of people — that becomes illegal — so how will a union bargain one at a time? That is not cost effective. If it is not a union representative, who is going to establish a business as a bargaining agent? How are they going to make money out of it if they can only go in one at a time and bargain on behalf of an individual employee? It is just not the way to start a business. It is not a good basis for a business. Employees would not be able to pay anyway because the cost would be far too high.

As I said, the new system aims to eradicate, to remove, collective bargaining and therefore the role of the unions. It makes it harder for unions to enter workplaces and makes it difficult for them to bargain at that individual level. Employees will be left on their own and at a disadvantage in that scenario, particularly with coercive employers who clearly have the ability to sack them, to remove them from the job, without having to give a reason. If they displease their employer in these cases, they are out of a job, they are gone.

I have noticed some press comments about this. Michelle Grattan said the federal government is behaving as though the taxpayers coffers actually belong to the Liberals and The Nationals. It is not about information, it is about propaganda. The federal government is spending more money on this campaign than it donated to the victims of the recent earthquake in Pakistan. Where are the ethics in this? Persuading people that the industrial relations changes are fair versus providing humanitarian aid to a country devastated by an earthquake — it is clear to see what Prime Minister John Howard's priorities are.

The latest advertisement includes a letter from the Prime Minister talking about work choices. I ask: what

choices? The ads are dishonest. They talk about removing restrictions in our current workplace relations system when they are really talking about removing the protections of our society. The current protections are only standing in the way of John Howard and his unrealistic ideology. They talk about the current system being too complex. Our whole society is very complex and it is not surprising that we have complex social systems to deal with a complex society. One simple system for all is not the answer to any perceived economic need we might have. In fact, it implies that we can have one simple system for every kind of job when there is a huge number of different kinds of jobs in this country, which reflects the varied nature of workplaces, the varied nature of employment, the varied nature of the work each different person does. It cannot be replaced by a one-size-fits-all system, it is just not that simple. I do not think the Australian people are that simple-minded either.

This is a backwards step. The ad says we cannot afford to go backwards but that is exactly what the federal government is proposing to do — to go back to an anarchic system, to the law of the jungle. We have a reasonably well-regulated system with some reasonable outcomes. It is certainly not perfect — some people still miss out — but under this proposed system more and more people will miss out and surely the aim of a decent industrial relations system is removing that statistic where people miss out on the benefits. The best form of social welfare in this country has always been a job, because we have had jobs that pay to a reasonable level and do not leave people poor. It is important for us all to have a job but this new system is not about getting more people into jobs.

The ad is very carefully worded in talking about unlawful dismissal and removing the unfair dismissal laws. Unfair dismissal laws are there for a reason — to provide due process to people and ensure they are treated fairly in the workplace. Talking about finding more ways to reward people is quite misleading. It is providing fewer options so there will be fewer ways to reward people. The ad talks about ensuring that minimum conditions are protected. Once they are reduced they will be protected, and we will have fewer conditions than ever before. Once we have a bare few we can protect those but the awards will go over time so the conditions will disappear and not be protected at all. The federal government talks about simplifying systems. Most businesses already deal with one system. Just because there are many systems does not mean all employers are part of all of those systems. Most employers are part of only one system.

The changes to unfair dismissal laws target businesses with less than 100 employees. This is most businesses. The larger a business, the more likely it is to have processes in place. Most good businesses have a human resources system and have a process for dealing with performance and employment issues. What do we gain? What do we gain from the ability to sack people without reason, to simply remove someone from the workplace? Are there tens of thousands of people out there waiting to be sacked? Are there tens of thousands of inefficient, unproductive employees just waiting to be replaced by eager beavers who will work more for less pay? I do not think so. Unfair dismissal laws are about due process. They are about treating employees with respect. If there are problems with those laws, perhaps those problems should be ironed out rather than the laws being removed all together.

There is a need for due process in the workplace. There is a need to treat people with respect and with fairness. This lack of work choices is nothing to do with that. The Howard government knows nothing about due process. It wants to hobble collective bargaining because it does not like collective bargaining. Currently 40 per cent of Australian employees have their pay set by collective agreements and only 2.4 per cent by individual agreements. This is a statistic the federal government hates and wants to reverse. It would rather see 40 per cent or more of people on individual agreements. John Howard's intentions on desirable wage levels are revealed by the federal government's submissions to the Australian Industrial Relations Commission since 1996. Had they been adopted, real minimum wages would have dropped 1.5 per cent instead of going up by 12 per cent under the industrial relations commission. Howard says he is the friend of the workers, but he is a friend who has his hand in their pockets. He is a friend who short-changes workers, a friend who takes away family time, a friend who takes away barbeque time and a friend who does not look after workers at all.

Bayswater: revitalisation

There are a couple of other things I want to grieve about, although the industrial relations changes are parlous for our future. I grieve for the people in the suburb of Bayswater, as the local council has dropped funding for the Bayswater revitalisation for the next two years — just when the structure plan has been completed. It now has a plan for the next 20 years but no funding to get it going.

Ms Asher — Gordon is coming to get you.

Mr LOCKWOOD — Go, Gordon! It is abandoning the people of the suburb of Bayswater. It has abandoned the reference group and allowed the community to set up a community committee with minimal support. The ward councillor contributed a paltry $300 from his ward contingency, after months of avoiding any contact at all. He needs to lift his game. People in Bayswater need more support from the local council. Perhaps the councillor needs to follow the example of Darren Wallace — a great community person, a practical conservationist and a businessperson, one who contributes a great deal to Bayswater. I call on Knox City Council to better support the committee for Bayswater and the community of Bayswater.

A better future is on the way. It was signposted with the development of an Aldi supermarket in High Street, Bayswater, and the redevelopment of the Bayswater Plaza, which has long been the dead heart of Bayswater, with a new Maxi Foods supermarket and specialty shops. It is a development I greatly look forward to. It is desperately needed to put more life into the heart of Bayswater. The plaza is being emptied at the moment to ready it for its redevelopment, and work will start next year. That redevelopment will be a great change for Bayswater.

Telstra: sale

I also grieve for the people of my electorate with the federal government having passed its sale of Telstra legislation. It is taking the next step towards condemning this country to a second-rate economic future, especially in the bush. Telstra will be foreign owned before very long. It is a crucially important resource. It is part of all economic activity, part of the cost and productivity structure of everything we do today. Who owns it and makes the investment decisions is absolutely crucial. We are subject to the tyranny of distance in this country, but modern communications have overcome this. The communications system has been vital to that. Telstra has been a vital part of that and will continue to play a vital role. It is part of everything we do every day of our working and leisure lives.

Returning to the so-called work choices or failure of choice package, the campaigns will continue for quite a while yet as the federal government tries to force this through with its unparalleled power in the federal Parliament given its control of the Senate. It will be taking away the power of the industrial relation commission — it will have no role in setting wages as it will be replaced by a fair pay commission. It will have nothing to do with fairness and everything to do with the economic success of a company. It will focus only on competitiveness and not really on fair pay. 'Fair for whom?', you have to ask. It is not fair for the employee; it is fair for anybody but the employee. The awards will be cut back and frozen in time. While there is talk about the awards not being abolished, they will be frozen so they will decay and die over time.

Awards need to be updated and to go forward periodically, so to freeze them will mean they will become useless over time. People who start new jobs and people who change jobs will not be protected by an award. Wherever there is a workplace agreement, that will supersede whatever is in the award once people are persuaded to sign up to a new workplace agreement. There are now only five guaranteed minimum conditions. These work choices condemn this country to a lack of family time, a lack of real choice.

Shannon's Way: contracts

Ms ASHER (Brighton) — I grieve for the fact that taxpayers money has been handed over to Labor mates. We all recall the Six Million Dollar Man; let me introduce you to the Eleven Million Dollar Man — Bill Shannon from Shannon's Way. There has now been $11 million of taxpayers funds directed by this government to Bill Shannon. Members on our side may ask: who is Bill Shannon? Bill Shannon runs a small advertising agency called Shannon's Way. He is Labor's ad man for state and federal election campaigns, and he has held key positions in Progressive Business, Labor's major fundraising arm, and he happens to have received just under $11 million from a range of government departments over the two terms of office for which Labor has been in.

Let us look at some of the examples of generous funding going to Bill Shannon. The first cab off the rank, to set the scene for the funnelling of taxpayers funds to this ad agency, was none other than the Premier's office. The Premier's office gave the agency $21 000 in March and April 2000 for 'communication strategy and planning', 'communications and strategic advice' and something called 'strategic advice'. That set the scene — the Premier was signalling to everyone to start the $11 million rolling Shannon's way.

Another key project that Shannon's Way worked on — a fraudulent project — was the so-called working out of the slogan 'The Place To Be'. This is a real disgrace that was run out of the Department of Premier and Cabinet in May 2000. The Premier announced that there was going to be a public competition. Members would remember that he announced the competition on 4 January 2000 and it was to close on 21 January 2000.

The competition was for a new slogan for the state of Victoria. Three members of the public were designated winners of that so-called competition, and they got lunch with the Premier, a signed photo of the Premier and a numberplate. However, the real problem with this is that Shannon's Way got $88 000 for 'development of slogan'. Basically what happened was that these three members of the public, believing they had entered into a competition, came up with the slogan 'The Place To Be'. The slogan was given to Bill Shannon, and whilst the members of the public got lunch with the Premier and a little photo of him, Bill Shannon got $88 000.

It is a slow start, but we move on. These are the campaigns that Bill Shannon has been involved in or has been paid to do: Better Business Taxes — the concept of having a better business tax is a bit of a joke, but the government brought in some minimal cuts to tax and Bill Shannon handled the radio campaigns and the like; problem gambling — brochures, radio campaigns and the like; and even fuel pricing — the government paid $95 000 in the year 2000 followed by another $30 000 in the year 2000 for a fuel price campaign. He has been involved in the government's drug initiatives — 'communications strategy for the launch', $22 000; 'develop products for launch', $16 000; ads for The Big Day Out and ads about ecstasy, $5000; and the list goes on. He was also involved in very substantial alcohol awareness campaigns — some $300 000 in 2003 and another $24 000 and $150 000 for the government's alcohol awareness campaigns. Again he was even involved in and got paid for the tourism awards in 2001. He was involved in and was paid for an ad for the synchrotron, one of the Treasurer's pet projects. One key feature of all this contracting by the Bracks Labor government is that there was a contract for Bill Shannon for over $500 000 personally signed by the then Minister for Health, now the Minister for Environment.

However, WorkCover has provided very lucrative contracts, and I want to make a couple of comments in relation to the lucrative WorkCover contracts supplied to Bill Shannon. In 2000 he was paid just under $36 000 for 'Strategy development — restoration of common-law rights', and for the rebranding of WorkCover he was paid another $126 000. In 2001 — this one was a nice little earner for Bill — he was paid $1.2 million for the sprains and strains campaign. But the big earner from WorkCover was the 2001–04 contract — it has been renewed; it is an open-ended contract — with a value to Bill Shannon of $4.38 million.

Of course this government did not want these details divulged, so the opposition had to take the government to the Victorian Civil and Administrative Tribunal (VCAT). Extraordinarily the government argued that it was not in the public interest for details of this $4 million-plus contract to Labor's ad man to be released. Indeed Shannon's Way argued that these amounts of money 'cannot be disclosed to outsiders'. I marvel at the reference to Victorian taxpayers as outsiders. There is a cosy little relationship here between Shannon's Way and the Bracks Labor government, so cosy that it is now worth $11 million.

I note also that among the documents that VCAT eventually forced the release of was a credentials document, and in that credentials document someone from Shannon's Way wrote:

> Please feel free to contact any of these people for a first-hand opinion on our work.

This was in the pitch for the multimillion dollar WorkCover contract. The people listed as people that could be contacted about Shannon's Way's work were: Marsha Thomson, the then Minister for Small Business; and the then WorkCover minister, now the Minister for Agriculture. How do you like that — pitching for a WorkCover job and listing the then minister as someone to contact regarding the quality of your ad agency's work! The Premier was listed as someone who could be contacted. Obviously it did a nice little job for the Premier, not only on the 1999 election campaign but also on the so-called communication strategy for his office. Tim Pallas, the Premier's chief of staff, and the minister for Pascoe Vale, then the Minister for Community Services, were listed as referees. What we also see is that on the panel that awarded the WorkCover contract sat one Mr Anton Staindl, who then became Bill Shannon's business partner in a company called Social Shift Pty Ltd.

I want to quickly refer to a couple of shocking examples of waste. In September 2003 Shannon's Way was paid $14 850 for a Kew Residential Services stakeholder communications strategy. In documents released under freedom of information there is a little handwritten note saying:

> Advised by corp. communications that only one quote required for contracts less than $15 000 …

There are quite a number of these contracts, of course, that just sneak in under the $15 000 mark. The Kew Residential Services work, as a little strategy document, reveals this little gem. This guy is paid just under $15 000 to produce a few pages of a document and advise the department and the minister in relation to the Kew residential relocation. This document says:

> There is another group of secondary or 'eavesdropper' stakeholders who also need to be considered in the communications strategy.

Among these, believe it or not, are:

> disability advocates,
>
> community visitors,
>
> Boroondara council,
>
> local state government members of Parliament,
>
> the public advocate,
>
> activist groups such as the Royal Park Save the Park coalition.

I am sure the member for Kew, and indeed the public advocate, will be pleased that they have been classified as eavesdropper stakeholders. It cost $15 000 of taxpayers money for that little gem.

In 2000 Shannon's Way was given $16 000 for a 20-minute presentation to two ministers, ministers Bachelor and Cameron, and to the board of the Royal Agricultural Society (RAS). The $16 000 job in this case was to tell the board how excited the government was about the project. Shannon's Way had an exemption from tender for this particular piece of work on the basis that it was the only firm in Victoria which could do this work because of its 'extensive knowledge of the department and the RAS'. What a joke! I reckon that for 16 grand for 20 minutes any member of the public could demonstrate excitement. But Bill Shannon from Shannon's Way got paid for it.

Let us move on now to the amount of money given to Shannon's Way for the marine parks campaign — and again, that was substantial. I also want to make reference to the amount of money that Bill Shannon has received for the water campaign, now up to $3.89 million. This is money going straight into Bill Shannon's pocket. It is a scandalous advertising contract! The first contract was issued for $788 000, and it was exempt from tender. I have here the certificate of exemption from tender signed by Lindsay Neilson on 15 August 2003. The scandal of this is that Lindsay Neilson argued:

> In this case it is impracticable to publicly invite tenders due to the urgent need to undertake advertising to coincide with the start of stage 2 water restrictions.

The problem with this piece of so-called urgency is that in December 2002 the three Melbourne Water retailers requested submissions from a number of ad agencies for a campaign that was originally going to be $350 000. Indeed one of the panel members wrote a note on the documents released, actually referring to Shannon's Way, as she thought, as the government's ad agency. Then an exemption was argued in August, eight months later, on the basis that it was urgent. That is clearly nonsense.

I note also in the documents released to the opposition that in answer to the question 'Is this a consultancy?' the original typed reply 'yes' has been crossed out and replaced with a handwritten 'no'. That of course means that the so-called consultancy or contract does not have to be disclosed in annual reports.

I also refer to the fact that in August 2004 and September 2005 magically and mysteriously on the government's web site we initially saw reference to a $1 million contract for Shannon's Way, on top of the other contracts — and that was without having to go to tender — on the basis that Shannon's Way had done the other campaign. And again mysteriously last month we saw that that had now become a $3 million contract for Shannon's Way. This has become a self-perpetuating contract. It is a contract for which initially there was an exemption on the basis that it was urgent — which is nonsense, because it was an eight-month project — and then of course there was further work awarded without tender, on the basis that Shannon's Way had already done the work.

What we have seen so far is a scandal. I have been tracking this from 2000 up until September 2005, and I will continue to track it. We now have a total of $10.972 million-plus awarded to Labor's ad man. The government needs to clearly explain why $11 million has been awarded, in many instances without tender and in other instances without the documents being handed over to the opposition, forcing it to go to VCAT to get the details of the contracts. This is a joke from a so-called open and transparent government.

This is a blatant lining of a Labor mate's pocket. He is Labor's ad man, and every major ad agency in town makes comments about how small his ad agency is. However, they know that the Premier is very comfortable with Bill Shannon — so comfortable that he has made him into an $11 million man. I would imagine that every citizen in Victoria who has paid stamp duty recently, every citizen who has paid pernicious land tax recently, every citizen of Victoria who is going to pay additional land tax on trusts and even every citizen of Victoria who has ever paid a speeding fine would feel white-hot anger over the concept of this Labor bloke, this Labor mate, this bloke who runs a small ad agency and who just happened to run Labor's 1999 election campaign and other campaigns, has received a taxpayer subsidy — and it is nothing more than a taxpayer subsidy — of

$11 million. This is not just a little consultancy of $15 000 here and $15 000 there. This is about bulk taxpayers money — $11 million — going to Bill Shannon of Shannon's Way.

I have to say that the government has got even more brazen after the 2002 election. This is an example of processes that are out of control; this is an example of lining the pockets of a Labor mate; this is an example of something despicable that has happened in the state of Victoria; and this is an example of something that the Premier should cease immediately. It is a disgrace, and the government should stop these contracts going to Bill Shannon.

Financial services: advertising

Mr ROBINSON (Mitcham) — I start my grievance by saying that it is not very often that the member for Brighton gets me excited, but listening in my room to the start of her contribution I thought I heard her say that she would spend a few minutes talking about the $11 million mare, so I raced into the chamber because I thought we would get a couple of minutes on the outstanding attributes of Makybe Diva, who on the weekend did become the $11 million mare, but unfortunately I have been disappointed. I am sure we will find time at a later stage to talk about that wonderful mare.

I grieve today about the lack of ethics in the financial services sector, and in particular the spate of misleading advertisements for products offering high returns to investors through unsecured deposits. This is not a new problem. The spivs in the finance industry always take shortcuts. This happens perpetually. The moral of the story is that regulators need to be constantly alert and to crack down when they see this happening.

I raised this issue in 2003 in reference to one company in particular, a company called Fincorp Finance Ltd. At that time I questioned whether investors who were being lured by the offer of some 11.25 per cent per annum returns actually understood the form of that investment opportunity, which was through unsecured notes. At that stage the returns were almost double the rate paid on deposits with banks.

I raised my concern directly with the company, and I received a pleasant letter back which said amongst other things:

> We believe that the prospectus fully satisfies these requirements, including details with respect to the risks which the company perceives investors may face as well as the company's income sources and its financial position and prospects.

That letter was signed by the managing director. I also took the matter up with the Australian Securities and Investments Commission. The record will show that I am not necessarily ASIC's greatest fan. I believe in a number of respects that agency is not discharging its responsibility adequately for the benefit of the Australian community and in particular investors. Nevertheless I was pleased to learn that ASIC has been investigating the matter, and in late 2004 the agency undertook a surveillance of high-yield debenture offerings. I quote from a press release earlier this year where ASIC declared that it examined:

> … the prospectuses and selected advertising for debentures issued by 11 companies that were offering high yields, such as interest rates that were 4 per cent per annum above bank term-deposit rates.

The release goes on to say:

> As a result of its surveillance, ASIC prevented four offers that failed to disclose information relevant to the fundraising from proceeding until the defects had been addressed. One of the four prospectuses required a final stop order, which permanently stopped the offer from proceeding.

For the benefit of the house the actions that were taken by ASIC at that time were against the following companies: Victorian Finance and Leasing Ltd, Hargraves Secured Investments Ltd and Australian Capital Reserve Ltd — all three of which had interim stop orders put on them and supplementary prospectuses were required to be lodged. The fourth company on that list was my old friend Fincorp Investments Ltd, which had a final stop order placed on it.

ASIC's pursuit of Fincorp has continued. I was pleased to read in the *Age* a month ago an article entitled 'Refund from Fincorp', which states:

> Fincorp Investments will write to 1150 of its investors over the next three weeks offering their money back, plus interest …

It would be nice to think it had done that of its own volition and had recognised the deficiencies in what it has been offering, but sadly that is not the case. It happened only after ASIC took action and the case went to the New South Wales Supreme Court. The article continues:

> Fincorp said the offer would be made to those who invested in the company's high-yield debentures between 17 February and 9 September 2004, based on that year's prospectus.

It was expected that up to $21 million of the $75 million raised could be refunded. The deputy chairman of ASIC, Jeremy Cooper, was quoted in the article as saying:

> This is a case where investors could not get a proper understanding of the security they were getting and the risks they were taking because Fincorp's prospectus wasn't up to scratch.

The article goes on to say:

> The watchdog put a stop order on the prospectus in September last year. The prospectus said Fincorp's funds were to be invested in a range of residential and commercial mortgages, whereas most of the money was invested in higher risk property development activities carried out by parties related to Fincorp.

Mr Cooper is again quoted in the article as saying:

> If you are in the business of lending for property developments, then your prospectus has got to say so.

I am sure we all agree with that. ASIC also put out a release more recently regarding Fincorp indicating that it had stopped Fincorp Investments Ltd from issuing potentially misleading advertisements promoting the sale of debentures to retail investors. The release goes on to say:

> ASIC has accepted an enforceable undertaking from Fincorp in relation to advertisements that appeared in major metropolitan newspapers and played on radio stations across the country. The advertisements invited consumers to invest with Fincorp and used tag lines such as: 'Invest with certainty'; 'Prudent investors require certainty'; 'They also want a strong measure of security so they can sleep soundly at night'; 'The rate you choose is secured for the term of your Fincorp investment'; and 'first ranking investors can enjoy peace of mind through a first ranking charge'.

These are lines that would be used by all the spivs in the industry, not just Fincorp. The key point that is raised in ASIC's press release is:

> A debenture is simply not a bank deposit, and any suggestion in that direction is seriously misleading. There is nothing magic in a debenture and nothing that ensures that a debenture is a secure investment. It depends on a number of factors such as how the investors' money is used and the quality of the assets over which security is given.

The release goes on to say:

> Under the enforceable undertaking, Fincorp is required to publish corrective advertising in major metropolitan newspapers clarifying statements about the certainty and security of its debentures. The enforceable undertaking also requires that Fincorp will not in future publish any advertisements with substantially the same effect as the ones involved here.

That is welcome news. I do congratulate ASIC for taking that action.

As I said, I am not necessarily the agency's greatest fan. Earlier last week I spoke about the need for action to be taken regarding inadequacies of the agency's disqualified persons register. We had the case where the now disgraced director, Stephen O'Neill, of the Money for Living scam, even though he had been jailed for dishonest dealings and banned subsequently as a director of companies, did not have his name listed on the disqualified persons register maintained by ASIC — an extraordinary lapse. Similarly, ASIC has certain weaknesses in the way it administers the change-of-director procedures. It is possible still in this country for the genuine directors of companies to find they have been removed from the corporate watchdog's records as company directors without their having any knowledge of that action having occurred. Nevertheless, I give praise where it is due, and ASIC's actions regarding Fincorp are definitely a step in the right direction. The pity of it is that Fincorp is not the only company that is pushing the envelope with regard to misleading advertisements.

In June this year an advertisement appeared for a company called Elderslie Investments, which I think has offices in Sydney and Perth. It talks about interest returns of 7.5 per cent per annum for debenture stock, 8.25 per cent per annum for unsecured notes and a whopping 9 per cent per annum for something called a property syndicate. I put it to the house that if the Australian Securities and Investments Commission has concerns about the veracity of advice being put out to people in the form of investment offers which are described broadly as unsecured notes, then things which are offered to investors at a higher rate still must be even dodgier. For a company like Elderslie to put out an offer of 9 per cent per annum for a property syndicate — three-quarters of a per cent above the rate offered for unsecured notes, which have been very much at the centre of what ASIC has pursued Fincorp about — is cause for real concern. I suspect that there are many other companies out in the marketplace doing the same sort of thing.

In June, following the publication of the advertisement, I wrote to the federal Parliamentary Secretary to the Treasurer, the Honourable Chris Pearce, the federal member for Aston. I drew attention to the ad that was appearing and to the new vehicle, the property syndicate, which was offering an even higher interest rate, and suggested that action needed to be taken to crack down on these sorts of things. I received a reply from the federal parliamentary secretary, but sadly it was a very softly-softly, hands-off sort of letter. He said that, as per his earlier letter, it was really a matter for the Australian Securities and Investments Commission. Curiously he then said:

> As responsible minister, I have only limited powers of direction over ASIC and am unable to intervene in individual matters within its statutory responsibilities.

That is a fascinating thing: I did not think he was the minister; I thought he was the parliamentary secretary. But even if he has promoted himself to minister, he seems very reluctant to offer any public statements in support of a tougher line on these sorts of companies. This disappoints me, because it seems to me, as I am sure it does to many other members of this place, that when it suits the federal Treasurer, when it suits the Prime Minister and when it suits other senior federal ministers, they use the power of public statements to issue very strong condemnations.

They do this typically when the heat is on them over things like petrol prices; then they come out and get stuck into the petrol companies. They do this when there are concerns about the way banks are operating, particularly the fees they charge on credit cards; then they come out and bag the banks. They do it every single day with unions. It does not seem to matter what the issues are, they bag the unions; and in the case of the federal Treasurer, he will occasionally do it with gaming companies. But rarely if ever do the spivs and the tossers in the finance sector get a serve from the federal government, and I do not know why that is.

The dodgy investments which are being offered with alarming regularity through advertisements in the print media and on radio and television do not involve people who are parting with Monopoly money. They involve people who are being lured into investing their hard-earned savings, many of whom are decent Victorians who have worked long and hard. They certainly deserve protection from this unscrupulous behaviour, and they are deserving of nothing less than the continued strict monitoring of the finance sector by both the Australian Securities and Investments Commission and the federal government.

Police: numbers

Mr WELLS (Scoresby) — I grieve for the Victorian community in its ongoing battle to ensure that Victoria has enough police to deliver a high standard of community safety. The Bracks government has failed in its election promise to make Victorians feel safe. I must say that the Minister for Police and Emergency Services let the cat out of the bag yesterday by stating that the Bracks government will deliver 1400 police over two terms of government. That is not what it promised.

When you look at the detail of the election promise you see that, firstly, in the first term of government it promised 800 police — and it delivered more than 800, and the Liberal Party acknowledges that. But my second point is clear. It is that in this term of government — the four-year period from November 2002 to November 2006 — the Bracks government promised 600 police. And we are saying that the Bracks government needs to deliver a net increase of 600 police — in this term of government!

Ms Kosky interjected.

Mr WELLS — The Minister for Education and Training interjects by questioning us about the numbers. Isn't it funny that when you make an election promise you do not need to abide by it. As long as you get elected and get your backbench in place, the election promise does not mean a thing. Let me tell you that we on this side of the house will be keeping the Bracks government to its commitment. We will be making sure that it is brought to the public's attention at every single turn. It promised 600 police, and we expect that to be delivered in this term of government.

As another example the minister also made the comment yesterday that there has been a 35 per cent increase in police numbers on the Mornington Peninsula. But what the Bracks government failed to do is work out how many operational police are there at any one time. When you go to a police station — such as in Werribee, where I have been — and look at the actual rosters, you find out that what the government is claiming and what is actually happening out there in the suburbs or country towns is quite different. The minister refers to the numbers of police who are actually on the roster. But when you look at the roster you see a person's name and that next to it may be the words 'secondment', 'sick leave', 'annual leave', 'long-term sick leave', 'training course' or 'maternity leave'. In any of those examples no replacements are available to be able to fill the positions of the people who are away. So there is a huge difference between the two — who is on the roster in theory and who is actually there in reality.

A couple of the rosters I have looked at have included people who are still being trained at the police academy. They are there because once they leave the academy they will then go onto a roster at a particular police station. But this government counts them in the numbers on the roster at a particular police station. It is an expert at fudging the figures.

Ms Buchanan interjected.

Mr WELLS — Hang on a minute. The member for Hastings interjects. Let us look at the situation in

Hastings. The issue has been on the front page of the *Hastings Leader* with a headline that screams out 'Our cop shop blues'. The article goes on to refer to the 'Force under fire' and outlines:

> Normal staffing: 32 officers spread across a two-shift, seven-day roster
>
> Current staffing: Down to three police at times.

Let me just read that again to make sure I have got it right:

> Current staffing: Down to three police at times.

Honourable members interjecting.

Mr WELLS — How busy is this police station? The article states it has:

> … more than 100 counter and phone inquiries daily.
>
> Area covered: Hastings district, including Baxter, Moorooduc, Somerville, Tyabb to Bittern and Balnarring.
>
> Officers on leave: Six on long-term sick leave. Others on annual and sick leave and back-to-work programs, secondments and courses.

It is exactly the position that I outlined to the house about the problems across the state. What this government is doing in fudging the figures across Victoria is actually the same as it is doing at Hastings.

The Frankston police divisional superintendent, Peter Belling, said that he considered Hastings already had a full profile. Technically he is correct, because the roster states that there should be 32 police, but the reality is quite different, because as this article clearly states, when you take into account sick leave, annual leave, secondment, training courses and back-to-work programs, sometimes you are down to three police officers. It is not often you see a police officer coming out on the front page of the paper, but on Monday, 17 October, Senior Constable Adam Carrigg is reported as saying he was fed up and a number of police officers at the Hastings police station were on the verge of resigning over staff shortages. That is how bad the morale in the Hastings police station has become.

My colleague for South Eastern Province in the upper house, Ron Bowden, has called on the state government to provide urgent funding to overcome the critical shortage of police officers at Hastings.

Ms Buchanan interjected.

Mr WELLS — Maybe the member for Hastings is very happy about her comments which were reported in the *Hastings Leader* on Monday, 27 October:

> … Labor MP Rosy Buchanan … said there was no police crisis at the Hastings station. 'Hastings police is staffed to its full complement', she said.

The member for Hastings has also been roped into the rhetoric of the Bracks government about Hastings police station: 'Hastings police is staffed to its full complement'. Look at the names on the roster; let us not give a damn about how the police are patrolling out on the streets on the beat or out in the divisional vans; we do not care how it is operating. The Minister for Police and Emergency Services is saying that this is the way it is going to be: we are going to go by the names on the roster, and if anyone is on maternity leave, then his government does not care. This is having an extraordinary effect on the police officers who are still working at Hastings.

If there are only 3 on duty at any one time — there should be 12 — the work that is left to those who are there is excessive, and that is the reason why we are having more and more police officers being away on stress leave. It is an unacceptable situation, and we will be watching Hastings very carefully. In fact, I have a funny feeling that there is going to be another big story coming up next week, because there will be another angle on the staffing numbers at Hastings. I suspect that news of it might be on the front page of the paper soon, but we will wait and see. We will wait and see what happens on the front page.

Mr Trezise interjected.

Mr WELLS — I note that the backbench has become so arrogant it does not care about the people of Hastings or other electorates. It is more focused on making sure that the barrow of the police minister is pushed in a particular way.

Ms Buchanan — On a point of order, Speaker, the member who is speaking at the moment has intimated that I have no care for the people of Hastings. I find that personally offensive, and I ask for the comment to be withdrawn.

The ACTING SPEAKER (Mr Smith) — Order! There is no point of order.

An honourable member interjected — You have it on the record.

Mr WELLS — I hope so, and maybe it can make another front page the week after next.

The other situation concerns the 24-hour police stations. Isn't it great, isn't it fantastic when the Bracks government comes out and promises 24-hour police

stations! Let us have a look at these 24-hour police stations that were promised back in 1999: Bellarine Peninsula was to be 24-hour police station; Belgrave, Rowville, Endeavour Hills, Kilmore, Gisborne were all promised to be 24-hour police stations. Every single one was promised to be a 24-hour police station, but what is happening now? In 2005, 13 months after the election, these stations are struggling to operate as 16-hour police stations. The reason is that there are not enough police around to be able to fill the staffing levels. The Bellarine Peninsula police station is an interesting one.

In 2001 the Liberal Party put to the then police minister, now the Minister for Manufacturing and Export, the question of whether Bellarine would be a 24-hour station. In *Hansard* of 20 March 2001, when he was referring to the honourable member for Bellarine, the minister is reported as saying:

> The honourable member for Bellarine referred to the government's commitment to a 24-hour police station on the Bellarine Peninsula. In so doing he also raised the future of the Drysdale-Portarlington and Queenscliff police stations … The government's commitment to the 24-hour station at Bellarine is unequivocal.

That is what he said, 'unequivocal'. It may be time for the local Geelong members, if they wish, or for the member for Bellarine to get in their cars and go down to the Bellarine police station and find out how many police are actually there at the moment. The former police minister made it very clear that he was going to go down there and turn the sod with Ms Carbines, a member for Geelong Province in another place, and acknowledge the great role that these local MPs had played in trying to achieve it. We ask, however: is the Bellarine police station open 24 hours a day? Where is the 24-hour police station at Bellarine? It has become another broken promise.

The former police minister went on to say:

> In regard to Bellarine police station, yes we will provide a 24-hour police station in Bellarine and yes all of these police stations will be appropriately staffed.

Mr Trezise — They are.

Mr WELLS — This is another broken promise. The member for Geelong interjects saying, 'They are'. We have an election promise for a 24-hour police station and we have the member for Geelong saying it is staffed for 24-hour operation. He needs to get down there with the member for Bellarine and look at that. Over and over again we have police staffing shortages at Bellarine.

We might touch on Geelong for a moment, because I know the member for Geelong is very keen about police numbers there. We attended a public meeting, and I pay credit to the member for Geelong because he fronted that meeting with Ms Carbines, and I have great respect for that. I know it is not easy to attend some of these meetings. The reality is, however, that the claim is that the Geelong area is short 76 police, and it seems that every week there is something on the radio or in the *Geelong Advertiser* about police shortages.

We had a ridiculous situation about 12 months ago. There was a walkout at Werribee, so they sent Geelong police to Werribee to fill the shortage there. Now they are sending police from Werribee back to Geelong to fill the shortage there. It just seems bizarre. No-one seems to understand what is going on when it comes to management; it depends on where the publicity is at a particular time.

In Geelong the situation is that one van covers an entire city because of shortages. One van covering the entire city of Geelong does not make any sense. There are also problems with prosecutions. Gee whiz! Police may go to court to prosecute a criminal and find that there are not enough police to prosecute that case, so the court is awarding costs against the police force. In one particular case on 28 September an amount of $400 in costs were awarded after a contested hearing was adjourned due to a staff shortage in the Geelong prosecutions office. That means that a criminal who perhaps should be behind bars is out on bail walking the streets. It does not make sense.

I only have a short time left to speak, but I note that victims of crime liaison officer numbers are being reduced from a handful to one. Funding has been reduced for the police in schools program, one of the really good, proactive programs within the Victorian police force, where police were getting out and talking to primary school kids and building up a great rapport — and we should remember that some students have come from countries where there is a lack of trust in the police force. This was an outstanding program. I grieve for the people of Victoria because the Bracks government has failed to supply enough police.

Industrial relations: federal changes

Ms GILLETT (Tarneit) — I grieve for Victorian and Australian workers and their families in the face of the new industrial relations (IR) laws foreshadowed by the federal government. As anybody who has been in the labour movement more than 5 minutes would know, nothing good ever comes from the combination of a coalition government and industrial relations

reform — I use the word 'reform' very loosely. The trade union movement came into being because of the absolute need to balance the power relationship between working people and their employers. I proudly declare to the house that I worked for over a decade as a union official and in that period observed real and positive developments in industrial relations within both the trade union movement and employer groups. In particular the degree of maturity that developed between the industrial partners during the late 1980s and right through the 1990s was pronounced.

I grieve also the loss of the Australian Industrial Relations Commission. It is almost unthinkable that an iconic institution designed to protect working people and their families could be abolished by a federal government. I need to declare as well that for a couple of years I worked for one of the commissioners in the industrial relations commission. I watched the work of that commission internally and also observed it from the outside when as a union official I appeared before it. All of the industrial partners had great respect for the institution that is the Australian Industrial Relations Commission. Win, lose or draw in the commission, whether you were a union official or employer advocate, you knew that you would have a fair hearing. You knew that your case would be impartially heard, that your cause would be independently tested and that you would have a written and transparent decision. The commission is one of Australia's finest institutions, and I would lament its loss greatly.

From its very beginnings the Australian Industrial Relations Commission has provided protection and security to Australian working people and their families. That commission would be replaced by an unknown, untested and untried entity, and I have very little faith in its ability to fulfil the broad range of functions that the Australian Industrial Relations Commission has undertaken in its long and proud history. The impact of the loss of the commission on Australian workers and their families is going to be immense.

The Australian Industrial Relations Commission was at the heart of real industrial relations reform for the last 20 years. I know that members on this side of the house will remember the enormous improvement that came to working people and their families with the development of skills-based classification structures, again in the late 1980s and right through the 1990s. Those skills-based classification structures allowed working people to advance up a pay scale and a skills scale. They were an enormous development and widely regarded as some of the best industrial relations reforms, not just in Australia but worldwide.

I would like to congratulate the Australian Council of Trade Unions, so ably led by Greg Combet and Sharan Burrow, and the trade union movement on opposing the federal government's ideological IR obsession. Labour is not a market. Labour is people: people with families; people with children to educate, house, clothe and feed: and people with elderly parents to care for. In my opinion these IR laws will be another Tampa, another 'children overboard', another 'weapons of mass destruction' in Iraq — in other words, another Howard hoax. The Howard government is not interested in making Australian and Victorian workplaces better for working people. It is interested in changing the balance of power heavily towards employers and away from employees.

I find the advertising that the Howard government is doing quite telling. The government is spending a great deal of taxpayers money in quite a panicked attempt to give us no substance but to give the community some comfort, saying that everything is going to be fine and that these sweeping changes really will not have much of an impact. That begs the question: why spend bucketsful of taxpayers money trying to convince us that Mr Howard is not going to change anything terribly much?

There is no substance in the advertising. In fact in my opinion the advertising is a perfect example of the rip-off the industrial relations laws will perpetrate on Australian and Victorian working people and their families. People who have been involved in the advertising campaign as participants have already come out and told the community that they had been misled even insofar as they were appearing in commercials to promote this legislation. It is a perfect example of the hypocrisy of the Howard government, which says that it is truly interested in looking after and caring for working Australians and their families but abuses them even in the process of advertising its dreadful industrial relations legislation.

This is classic Howard. He has form on these matters. He puts out reforms as hideous as some of them have been alleged to be in various media; then over time when people express rightly their concerns about the magnitude of the damage that the changes in the industrial relations laws will produce, he will make a few minor amendments. These will be meaningless; they will have absolutely no impact on the atrocities that are the industrial relations laws. He will make the amendments, he will pretend to care for workers and their families, he will hope this fraud is believed by the Australian people and he will look like he has actually made some concessions. The fact of the matter will be that he has not.

Mr Trezise — He's a liar.

Ms GILLETT — I agree with the member for Geelong, but it is unparliamentary to use that term now.

I say that the jig is up for our Prime Minister. We, the Australian community, have seen his form before. We know what he is up to. His form is well known and well recognised by Victorians and Australians, and I submit that the polls have recently shown this.

I now have the same feeling I had in 1996, talking to my local newsagent in Werribee, a very fine man and a proud supporter of the Liberal Party. He was saying to me, 'Gee, Mary, it really is a shame. There are 15 seats that need to be won, and it is just too big a job for any opposition to do in one election'. I said to Lindsay that I had this funny feeling that Victorians were — to use a Queensland analogy — sitting quietly on their verandas, tapping their cricket bats, waiting for their chance. Lindsay laughed heartily and patted me on the shoulder and said, 'You are a good local member; off you go'. On election day we saw what nobody thought we would see — what even some members on this side of the house did not think we would see — and that was a change of government.

I think the Australian people are now quietly sitting on their verandas, tapping their cricket bats. Although the Prime Minister is a great fan of cricket, these will not be cricket bats where people are looking to play a game with him. They will be rather to hold him to account, in the way that Australians have of quietly saying to their leaders, when they have stepped over the mark, 'We have had enough, and it is time for you to go'. The Prime Minister should be aware that 'a fair go' is not just a great Australian saying; it is a critical, shared Australian value. The new industrial relations laws will stomp all over that value, and I do not think Australians will put up with it.

I urge Australians, and Victorians in particular, not to tolerate this attempt to make Australian workers and their families not only economically vulnerable but more socially vulnerable. What I think the federal government does not understand is that working people work to support their families, whatever shape and form those families may take. Victorian workers support their families: they pay for the education of their children, they pay to house them, they pay to clothe them, they pay their utilities bills, they register their cars — and increasingly find it difficult to put petrol in those cars, given the fuel prices we are paying nowadays. The federal government does not seem to understand the social connection that exists for working people — that their providing for their families is dependent upon their pay.

If a worker's pay is cut or if the security of their working life is damaged in some way, that prohibits their children from positively participating in education, and that lack of positive participation directly affects the capacity of those young people to function as we would want them to. In Parliament this week we are debating two very important bills that are about giving children and their families the best possible start in life. These industrial relations reforms are doing exactly the opposite of what the Victoria government is trying to do. By making working people and their families vulnerable the federal government is damaging the social and economic prospects of generations of children to come. These reforms are to be resisted at all costs.

I spent time — over a decade — as an industrial relations officer for the National Union of Workers. I was never more proud of the work that we did than when we were looking after our membership, recruiting new members and being alive to improving the working lives and conditions of the workers whom we had the privilege to represent. As a union we never took our eyes off the ball. We were never interested in a brawl without good reason.

The trade union movement moved on a long time ago from what I think the Howard government still thinks it is. Today the trade union movement in Victoria and Australia is a mature organisation that has as its first and only obligation improving the working conditions and wages of its membership. The trade union movement, ably led by Greg Combet and Sharan Burrow, is a mature movement, perfectly capable of being smart and tough, unlike the federal government, which seems hell bent on going one way and one way only — that is, belting around Victorian and Australian working people and consequently their families to get through reforms with which they are ideologically obsessed.

I conclude by indicating that it is the responsibility of all those who really want to make improvements for Victorian working people and their families to strenuously resist these industrial relations laws in any way they can.

Question agreed to.

RACING AND GAMBLING ACTS (AMENDMENT) BILL: ROYAL ASSENT

The SPEAKER — Order! Before moving on to statements on committee reports I want to clarify for the house something that was raised in the grievance debate this morning by the member for Kew. I apologise to the member for Kew, who is not here; I tried to find him this morning, but I could not. It relates to a matter raised for referral to me by the member for Gippsland East last Tuesday about the Racing and Gambling Acts (Amendment) Bill. I responded to the member for Gippsland East last week, but after having listened to the member for Kew this morning I understand that he was expecting a response to the house, which I had not intended to give but I am quite happy to do so. I guess the reason for that is that there is nothing more I can add to what I said in the house on Tuesday, 18 October, which I will read again.

> On 11 October 2005 the Clerk of the Parliaments presented the Racing and Gambling Acts (Amendment) Bill for royal assent. The Governor, acting on advice from the government, declined to assent to that bill. The Clerk of the Parliaments has been informed that assent of this bill will be delayed for a six-weeks period.

The member for Gippsland East asked for an explanation of that, and I explained to him that I was unable to give it and that he would need to address those requests to the government.

STATEMENTS ON REPORTS

Road Safety Committee: crashes involving roadside objects

Mr TREZISE (Geelong) — I take this opportunity to speak about the government's response to the Road Safety Committee's report on crashes involving roadside objects. For the information of the house, the committee was issued with terms of reference in June 2003, when it was asked to investigate and report on the incidence, causes and appropriate means of addressing crashes involving roadside objects, and the liability and accountability issues relating to poles, trees and other fixed objects.

The committee conducted a very extensive and exhaustive inquiry and tabled its report in this Parliament in March. The report contained approximately 50 recommendations. As chair of the committee I am pleased with the overall positive response we have received from the government to the report. Of the recommendations 47 were either supported, supported in part or supported in principle. Only two recommendations were not supported by the government. As I have learnt over my six years on the committee, although there is support or support in principle for our recommendations, it is the actions that follow by principal organisations such as VicRoads that will determine the real effectiveness of the report and its recommendations over the coming months and years.

I will spend the next couple of minutes touching on a number of what I see as the major recommendations and the government's response. The first is our recommendation 2, which is:

> That VicRoads investigate means of gathering data about roadside object crashes involving property damage in which a vehicle is towed away.

This recommendation was supported on the basis that VicRoads would examine the means and associated costs and benefits of such an initiative if it were introduced. If this recommendation were acted upon, it would be a very important step forward in providing road safety experts with a better and more precise understanding of where crashes are occurring and, more importantly, why crashes occur involving roadside objects.

During the committee's inquiry the issue of clear zones in Victoria and in fact Australia was of concern. Currently the maximum clear zone on new open roads that carry heavy traffic is 9 metres, as can be found on newly constructed roads like the Melbourne–Geelong road. In many countries the clear zone is greater. VicRoads has agreed to review the clear-zone guidelines, taking into account information provided by the committee and information gathered from overseas jurisdictions.

Recommendations 11 and 17 in essence ask VicRoads to prepare strategies and action plans for roadside object safety. The importance of these recommendations is that in the eyes of the committee such a plan would focus specifically on issues as they relate to roadside objects, like trees, and therefore hopefully there would be a very concerted effort to reduce crashes involving roadside objects. Again, this recommendation was supported by the government.

One other important issue that was raised by numerous country-based councils was the removal of trees that are recognised as being dangerous to motorists. Time and again the committee heard from councils about how they had identified dangerous trees but were finding it very difficult to have them removed. As such, the committee made a number of recommendations based on the premise that road safety should take

precedence over the conservation of roadside vegetation. That is not to say that trees are just to be ripped out. The committee appreciates the importance of roadside reserves for the protection of native vegetation. It is pleasing to note that the government recognises the issue and supports the development by the Department of Sustainability and Environment and VicRoads of a code of practice to guide decision making on hazardous vegetation on roadside reserves. That is a very important step forward.

In conclusion, I again thank committee members for their work on this report, and I commend the government on its very positive response to it. I now look forward to action being taken on these important and supported recommendations, which if acted upon effectively will make our roads far safer for Victorians to travel on, especially those in country Victoria.

Public Accounts and Estimates Committee: budget estimates 2003–04 and 2004–05

Ms ASHER (Brighton) — I refer to the Public Accounts and Estimates Committee report on the 2003–04 budget estimates and its report on the 2004–05 budget estimates, both of which have been tabled in this session. Again I wish to draw the attention of the house to some of the commentary the committee has made on the government's maladministration of major projects. In particular I refer to the comments made by the committee at page 247 of the 2003–04 budget estimates report on Lascelles Wharf. The committee said it:

> … aims to facilitate a reduction in freight costs, increase the mode share of rail freight to and from the Port of Geelong, and stimulate the development of warehousing and other like infrastructure on 30 ha of vacant land within the confines of the Port of Geelong.

The committee extensively quotes bragging by the minister about how important this project is to

> … the government's efforts to work with both stevedoring and freight interests to grow Victoria's rail share, and derive from a broader vision of a seamless logistics chain —

and so on.

> The committee noted that successful implementation of these initiatives will be pivotal in achieving the government's objective of 30 per cent rail share into Victorian ports by the year 2010.

It is interesting to reflect on that report now. Last month in this house a question was asked of the Minister for Transport about when this project would commence. The information he gave was that the government was on the verge of making an announcement.

I further refer to the very useful table labelled exhibit 6.8 in that publication. I note in relation to a number of projects how much things have changed since this report was presented. In relation to the showgrounds, we see in this table that the budget was not provided by the government. That project has blown. The government makes the comment in the chart that the project was on track 'at this stage'. We saw in the last budget that the project has blown out from $101 million to $108 million. We await with interest the tabling of budget information paper no. 1 to see if that is still the case.

In relation to the Melbourne Convention and Exhibition Centre the government listed the feasibility study as a project — I guess it was scrambling around for projects. We note that that is two years late. In relation to Spencer Street, in this report the government claimed it would open in mid-2005, which has been proven to be incorrect. Likewise, costs and dates were not provided in relation to the toxic waste dump. I would assume that these are still uncosted.

In the subsequent Public Accounts and Estimates Committee report, in relation to the Commonwealth Games I wish to draw to the house's attention exhibit 15.13, headed 'Capital projects for the Commonwealth Games budget allocations'. It has a list of capital projects with which members will be familiar: the athletes village, the Melbourne Sports and Aquatic Centre, the Yarra precinct pedestrian link — both of which achieved some publicity this morning — the Melbourne Cricket Ground and another item called 'Other capital works'. The Public Accounts and Estimates Committee, which is dominated by the Labor Party, is onto this.

It is aware that listed for 'Other capital works' is an item which is not available. That means that when you add up the total estimated investment, or indeed the 2003–04 expected expenditure, there cannot be a total, because there is a column called 'Other capital works'. It will be interesting to see the Public Accounts and Estimates Committee's response to the fact that the government has indicated that it will not adhere to the normal reporting time lines for these major projects associated with the Commonwealth Games. The committee went on to state at page 713:

> The Committee noted that the planned completion dates for several projects was scheduled for the third quarter of 2005–06 … which is very close to the commencement of the Games on 15 March 2006. The department will need to closely monitor progress on these capital projects to ensure they are completed on time and within budget, without compromising the quality of the facilities.

We have already seen significant cost blow-outs and delays in many of these projects. The government has an item called 'Other capital works' which is unspecified. The government has already indicated it will delay reporting, but the Labor-dominated committee has already noted how close to the actual date these projects are.

Outer Suburban/Interface Services and Development Committee: sustainable urban design for new communities

Ms BUCHANAN (Hastings) — I am pleased to relate to the house one particularly important aspect of the inquiry into sustainable urban design for new communities in outer suburban areas report that was tabled in this house late last year by the Outer Suburban/Interface Services and Development Committee, of which I am a member, and that is the issue of public safety. The committee approached this issue acknowledging that the concept of crime and particularly crime prevention through environmental design (CPTED) is a relatively new concept. The report states:

> Emerging in the 1970s, crime prevention strategies have come to play an increasingly important role in public safety, particularly in terms of reducing fear of crime among particular segments of the community …
>
> …
>
> … the committee found that community policing programs and Neighbourhood Watch are encouraging examples of crime prevention strategies that move beyond the traditional law and order approach.

The committee produced 39 recommendations around the issue of sustainable urban design. In relation to public safety, three recommendations were submitted and approved, and I would like to highlight them to the house. The first was recommendation 29, which states:

> The committee recommends the Minister for Planning give serious consideration to incorporating the safer design guidelines into the Victoria planning provisions to provide consistency and guidance to the development and building industry.

These recommendations were framed particularly around the issue of fear of crime and gated communities. The report states:

> … safety is a two-pronged concept: there is the actual crime rate and then there are the residents' perceptions of safety, usually referred to as fear of crime. Although actual crime rates have been decreasing in recent history, fear of crime is increasing.

The committee looked at the theory and the practice behind crime prevention and issues such as the notion of defensible space; situational crime prevention and the strategies of increasing the efforts, increasing the risks and reducing the rewards; and crime prevention through environmental design, natural surveillance, territoriality, building communities and strengthening targets. Further studies have concluded that a lack of neighbourhood cohesion, neighbourhood incivility and perception of relatively high neighbourhood crime levels contribute significantly to the probability of being afraid of crime and the risk of becoming a victim of crime.

The committee also considered how the Victorian government's safer design guidelines, developed by Crime Prevention Victoria, clearly set out physical design principles to enhance certain aspects such as safe movement, good connections and access around neighbourhoods, mixed-use areas and activities that promote public use, parks and landscaping, clear signage and symbolism and appropriate and integrated lighting. The second recommendation in this section, recommendation 30, states:

> The committee recommends that local municipalities develop a community safety strategy that incorporates crime prevention strategies such as CPTED in addition to social prevention strategies and programs.

This recommendation will answer the real issue of the effectiveness of situational crime prevention strategies. As a stand-alone strategy there is no evidence to suggest that it alone can reduce crime. Quite often we have seen that where this approach has been used in isolation there is nothing more than a displacement or movement of criminal activity in a geographical, temporal, targeted or tactical sense. Crime is not reduced but is just moved along to another community, and quite often this works only in favour of the rich and to the disadvantage of the poor. The committee determined that crime prevention through environmental design can be an effective strategy only if it is implemented in conjunction with a range of social and economic strategies and thus is one component in a range of approaches to improving public safety. Neighbourhood renewal takes this approach, as do the community building initiative programs which support communities with populations of less than 5000.

The last recommendation I would quickly like to bring to the attention of the house is recommendation 31, which states:

> The committee recommends the Victorian government, through Crime Prevention Victoria, trial a crime mapping program using Space Syntax technology at an appropriate locality in Melbourne's outer suburbs.

In formulating this recommendation several committee members had occasion to visit Gosnells in Western Australia, which has based its urban design strategy on a holistic approach involving extensive research and analysis of crime mapping, the relationship between crime, space and urban form, and an examination of local hotspots using the latest Space Syntax technology. The committee had the opportunity to talk to representatives from Neighbourhood Watch. I am pleased to commend local police officers across the state who have done much to form new Neighbourhood Watch areas across developing communities; I highlight Hastings, Somerville and Pearcedale. I also commend local municipalities like the Mornington Peninsula Shire Council which have adopted many of the issues around good urban design to incorporate the important issue of public safety.

I would like to commend the chair of the committee, the member for Melton, along with the support team which worked on what was a very comprehensive report, which I consider all MPs should read.

Road Safety Committee: crashes involving roadside objects

Mr DELAHUNTY (Lowan) — I rise to speak on the Road Safety Committee inquiry into crashes involving roadside objects and particularly the government response to that report. This inquiry and report was very welcome in country Victoria because our roads are a fundamental component of our state and national infrastructure. Each section of the economy is dependent on our roads. It is crucial that Victoria has a reliable and quality road network to provide for the safe passage of people, goods and services.

On behalf of The Nationals I put forward a submission highlighting the concerns that roadside vegetation was getting closer to country roads and causing a traffic hazard. I appreciate the member for Geelong saying that was a good submission. I think it was a good submission as well, but I am a bit biased. As I said, this was a very welcome report. There were about 50 recommendations. Following on from the previous speaker, the member for Geelong, who was the chair of this inquiry, I would like to quote from his foreword to the report:

> … the balance between environmental concerns with regard to preservation of roadside vegetation on one hand and road safety on the other was one that the committee gave much attention to.
>
> … where it comes down to a choice between preservation of vegetation on a road reservation, or reducing risk to human life, the latter must always prevail.

I am aware that our environment is fragile, and I agree that getting the balance right is important, but we must work to the principle that the preservation of roadside vegetation comes second to roadside safety.

As I said, this is a very welcome report, but I am a little disappointed in the response by the government. As the member for Geelong says, there are three options: the government can support the recommendations; it can support them in principle; or it does not support them. I just want to highlight some of the recommendations of the report. Recommendation 6 is:

> That VicRoads increase the minimum clear zone distance for high-speed high-volume roads …

Recommendation 7 is:

> That VicRoads review clear zone requirements to take into account the different vehicle speed-slowing characteristics …

These recommendations are supported by the government only in principle. The government response goes on to say:

> VicRoads will review the clear zone guidelines, taking into account information provided by the committee. The new guidelines will address the cost —

and I emphasise 'the cost' —

> and practicality of achieving clear zones on existing roads as well as the cost of providing clear zones or alternative safety treatments on new works.

While we cannot put a value on our lives, I think it is important that the government looks at those recommendations again, and I think they should be supported. Recommendation 14 states:

> That VicRoads change speed zone guidelines and practices to include roadside safety as a determining factor.

We would have to agree; but recommendation 15 is:

> That VicRoads and municipalities modify roads and/or roadsides to ensure travel speeds are appropriate …

This recommendation is supported by the government. The concern we have in country Victoria is that if this recommendation is supported, we could have a lowering of speed zones. Time is important for us in country Victoria.

Mr Trezise — And lives!

Mr DELAHUNTY — Lives are important, too, as the member for Geelong says, but we have to get the balance right, and I think 100 kilometre-an-hour speed zones are appropriate. We need to make sure the

infrastructure around it is appropriate because, as the government response says:

> The roadside environment is an important factor that is reflected in the current speed limit setting guidelines.

It would be interesting to know what the government is going to do in relation to speed zones.

Recommendation 31 is:

> That the decisions by road authorities and the Department of Sustainability and Environment be based on the principle that the safety of road users always takes precedence over the conservation of the native vegetation within road reserves.

Recommendation 32 is about the need to:

> … develop a code of practice for roadside safety zones based on the principle that the safety of road users should always take precedence.

We agree. Recommendation 34 is about removing:

> … the vegetation replacement requirements for trees removed because they are a roadside safety hazard.

That should have been strongly supported, but it has only been supported in principle by the government. Recommendation 33 is:

> That VicRoads and municipalities be exempt from a planning permit for the clearing of roadside trees and hazardous native vegetation within defined distances from the edge of the road and heights above the road.

Recommendation 35 is that the planning framework should be changed. The government response is:

> These recommendations are supported in principle in regard to VicRoads, but not —

and I highlight again 'not' —

> supported in regard to municipalities

Again, this is a very wishy-washy response by the government. There needs to be more action in relation to road safety in country Victoria.

Road Safety Committee: crashes involving roadside objects

Mr LANGDON (Ivanhoe) — It is with great pleasure that I add my contribution to the Road Safety Committee report of the inquiry into crashes involving roadside objects. Firstly, I would like to sing the praises of the committee and its chair, the member Geelong. Since I have been on the committee since 1996 it has had two other chairs, Andrew Brideson and John Richardson. All the chairs of the Road Safety Committee have done an excellent job, and I am more than pleased to be part of the committee.

As I said, the government has handed down its response on the inquiry into crashes involving roadside objects. One of the key issues for me is actually dealt with in the first five recommendations from the committee — that is, basically investigating greater statistics. Recommendation 1 is:

> That VicRoads gather information from a sample of crashes to improve knowledge about the proportion of crashes with roadside objects at different distances from the edge of the road, for various categories of road.

Recommendation 2 is:

> That VicRoads investigate means of gathering data about roadside object crashes involving property damage, in which a vehicle is towed away.

Recommendation 3 is:

> That VicRoads gather and publish information on travel exposure on the entire Victorian road network, by road category and area, and for different road user groups, to better assess crash risk and target safety treatments.

Recommendation 4 is:

> That VicRoads and Victoria Police publish quantitative information on the contributory factors to collisions involving roadside objects.

Recommendation 5 is:

> That VicRoads and Victoria Police expand routine crash data collection to include more detail about the type of barrier struck, type of pole, frangibility of object and whether planted or native trees.

I know that all these recommendations are supported in part, supported in principle or supported outright by the government. One of the problems I have had with the Road Safety Committee all along — and this has been the case for all the committees since 1996 — is in regard to the amount of data that we are set to examine in order to give our detailed recommendations. A lot of it is not there. We ask for data, we ask for information and we ask for just plain statistics relating to our roads. We can get anecdotal information, but we cannot get detailed information. So anything that VicRoads or any of the government authorities can do to keep better statistics for the Road Safety Committee and for the government, no matter which government it is at any particular time, will be much appreciated. It would make our recommendations and investigations far more beneficial.

No doubt in years to come a future Road Safety Committee may well follow through and check to see if

these recommendations have been adopted by VicRoads. I think that is an important aspect — I know the committee is doing it on pedestrian safety recommendations at the moment — that we as a committee and as a Parliament go back and make certain that VicRoads and the other authorities that said they would support recommendations have actually done so.

The roadside crashes inquiry was very much an eye-opener as to what the problems are in country Victoria and other parts of the state. The member for Lowan also commented on the report and certainly agreed that people's lives are far more valuable than roadside vegetation. Unfortunately many of the native trees and other vegetation have been there for years; often they are the only native vegetation along some roadside areas, and that obviously has to be investigated. Certainly greater planting and other works that can be done to facilitate regrowth, perhaps not so close to the roads, can always be recommended as well.

I am very pleased to add my contribution to the Road Safety Committee, of which I have been a proud member since 1996. This is one of many reports the committee has presented. In its endeavours to reduce the road toll this government is looking at every aspect, and certainly roadside objects are one of the biggest killers on the roads. I commend the report, and I hope VicRoads, which supports many of the recommendations in principle, in part or in full, actually follows through.

Public Accounts and Estimates Committee: budget outcomes 2003–04

Mr WELLS (Scoresby) — I wish to make some comments on the Public Accounts and Estimates Committee's *Report on the 2003–04 Budget Outcomes*, which was tabled in the house in April this year. I turn to chapter 12 at page 247, which deals with the Department of Justice. The committee notes that there are some positive features of the Victoria Police annual report, including:

> … a description of how the output group activity relates to goals set out in Victoria Police's five strategic plan *The Way Ahead Strategic Plan 2003–2008*;
>
> explanations of variance between actual results and targets for key output performance measures; and
>
> explanations of output cost variations from budget estimates.

They are all good and positive things, and the Liberal Party acknowledges that. The concern, which has also been noted by the committee, is the fact that:

> details were not provided of planned and actual achievements in 2003–04 against the strategic goal in Victoria Police's *The Way Ahead Strategic Plan 2003–2008* for a 5 per cent reduction in the Victorian crime rate by 2008.

The second point is that:

> no explanation was provided of how the two outputs within the Reducing the Crime Rate output group, Investigating Crimes and Police Court and Custody Services, and their related performance measures contributed to Victoria Police's strategic goal of a 5 per cent reduction in the crime rate by 2008.

The bit that I guess is most concerning to me is:

> assertions of a significant drop in the rate of offending in some crime categories occurred in 2003–04 was not quantified or matched to a target for reductions; and —

of course —

> without performance indicators for reductions in the rate of offending in crime categories, it is difficult to assess Victoria Police's claim that the underachievements of performance targets in the Investigating Crimes output ranging between 8 and 30 per cent for the number of investigations for crimes against persons, car thefts and household burglaries arose solely from fewer offences being recorded.

I draw the attention of the house to that, because when we look at the incidence of crimes against persons and compare that to the Public Accounts and Estimates Committee's report in regard to Victoria Police we find that the number of crimes against persons in 1998–99 stood at 28 249. But when you look at the figures for 2003–04, which this report relates to, you find that that figure is up to 29 649, so there has actually been an increase in the number of recorded crimes against persons. When we look at the last results for 2004–05, we note there has been a significant increase from 29 649 in 2003–04 to 32 932 in 2004–05. That is over 3000 more crimes against persons in just one year.

I support very strongly the Public Accounts and Estimates Committee's comments that, firstly, the police force needs to be able to better explain its targets and the way it is going to try to achieve a 5 per cent reduction in crime, and secondly, that it will need to quantify or at least match to a target the reductions they are aiming for, because these figures do not match what we are seeing when we look at the number of crimes against persons. You would have thought that if there was a reduction in crime there would also be a reduction in the number of recorded crimes against persons. You cannot have one being reduced and the other increasing — that simply does not matter.

For the record, when the Bracks Labor government first came into power the number of crimes against persons in 1998–99 was 28 249; that has increased to 32 932 in

2004–05. These are very concerning figures. I guess what we are asking for is that the government ensures that the Victoria Police crime statistics are open and transparent so that we can have a better understanding of why the figures are at such an alarming rate. In fact the rate of crimes against persons is now at a record level, and that would be of concern to everyone in the general community.

RETAIL LEASES (AMENDMENT) BILL

Second reading

Debate resumed from 6 October; motion of Mr CAMERON (Minister for Agriculture).

Ms ASHER (Brighton) — The Liberal Party does not oppose the Retail Leases (Amendment) Bill, which I might say as an aside should more properly be called the Retail Leases (Rectification of Errors) Bill. I note the changeover of minister provided an ample opportunity for the government to put this bill before the house without the embarrassment it might otherwise have caused.

The background to this, as many members may know, is that when the government was elected to office it conducted a significant review of retail tenancy. There have been many significant reviews of retail tenancy law because it is a very difficult and complex area and it is difficult to get the balance right between landlords and tenants. Landlords are not always large; it is not always the case of large versus small — there are small landlords as well. It is a complex issue. The government's wide-ranging review ended up with the Retail Leases Act 2003. At the moment retail leases come under three separate acts: the Retail Leases Act 2003, the government's version of what it thought it should end up with, the Retail Tenancies Reform Act 1998, and the Retail Tenancies Act 1986. Within the already complex area of retail leases there are three regimes operating at the moment.

In terms of the background of the bill and the end result of the review process, the small business commissioner was probably the most significant step forward in this area. It certainly put this government's stamp on how it wished to see retail tenancies handled. I note that in the second-reading speech the government refers to a mediation success rate of 74 per cent. I note also from the 2004–05 annual report tabled in this place yesterday that the small business commissioner, Mr Mark Brennan, is obviously very pleased with his work in mediation. The report refers to the fact that there were 831 disputes in that financial year and the commissioner achieved a 79 per cent success rate. His success rate is slightly higher than the rate quoted in the second-reading speech. He also went on to say:

> Disputes valued at more than $80 million have now been handled, resulting in savings to Victorian small businesses of millions of dollars in litigation fees and thousands of hours previously wasted in disputes.

I wish the small business commissioner well in his work in this area and in the expanded area in which he will work when this bill passes through Parliament. However, the issue for government is that, notwithstanding steps forward — most pieces of legislation are a few steps forward and some are a few steps back — and the long review process, drafting errors have emerged. There have also been two significant court cases which have resulted in the need for clarification of the legislation. This is a constant feature of government, either Labor or Liberal, where court cases impose on legislators outcomes which for legitimate reasons they did not want or foresee.

The government's spin on this bill is interesting. Government spin is always interesting.

Ms Allan interjected.

Ms ASHER — I will never waste an opportunity to comment on government spin, particularly when it is on the bill. The second-reading speech says:

> However, retail tenancy is a complex and fluid area of law, being based on a combination of legal principles and several statutory regimes. From time to time industry stakeholders have brought to the attention of the government some operational improvements and clarifications that could be made to address emerging issues and improve the practical application of the act. In this context it is appropriate, now that over two years have passed, to implement improvements to the practical operation of the act.

This is fluff and spin, because the fact is that part of the rationale for this bill is that a number of errors have emerged. As I said earlier, the fact that there is now a new small business minister, who is also the Minister for Manufacturing and Export, has allowed the opportunity for what I think would have proved some considerable embarrassment to the previous minister.

Let us take the errors that have been rectified. I acknowledge the complexity of legislation in this area and have previously referred to the fact that there are three acts operating concurrently covering retail leases in the state. However, the rectification of errors occurs in clause 17; in clause 19, where we even have a typographical error being rectified; in clause 21; in clause 23, where, in the wonderful language of the bureaucracy, which I love, instead of rectifying an error

we are 'clarifying policy intent'; in clause 34, where there is what is described as a drafting oversight but which, in plain English, is a mistake; in clause 42(2), which has another oversight; in clause 43, where there was a failure to replicate the 2003 act to the 1998 act; and in clause 50, which again has an oversight and a rectification of errors.

As you go through the clauses you will see why I think this bill could perhaps be appropriately entitled Retail Leases (Rectification of Errors) Bill. The second reason for this amending bill before the house is that the government is accurate in saying that it has become apparent in the operation of this act since 2003 that a number of changes are needed. This is not major policy change, except perhaps in the area resulting in the two court cases, but many of the changes the government has before the house have simply arisen from seeing how a very substantial change has operated.

I will run through a couple of the changes. I will not go through every single one, because I do not think the bill warrants that degree of analysis. Firstly there are some changes to the unconscionable conduct provisions. The government proposes to have wider application, so that now they apply to a proposed lease as well as to an actual lease. The government has taken the opportunity to introduce more flexibility to the bill. I think flexibility can only be encouraged. The government has introduced clauses that allow for more flexibility in valuations, particularly where a valuation is required within 45 days, so that where both the landlord and tenant agree there can be a variation of that.

The government has also brought in further flexibility based on the practical application of the act in relation to copies of the lease, which are now required within 28 days. Again the period can be extended where both landlord and tenant agree. I think the two changes I have just mentioned show almost a trend in Australian politics, where legislative changes are embracing more flexibility. Given the context of many of the grievance issues raised by the state government in relation to federal industrial relations reform today, it is interesting that the state government is moving to more flexibility in this circumstance but does not support it in others.

Other changes relate to ministers determinations, which may be made by a different minister should that be deemed appropriate. The bill also provides for prompt return of security deposits and introduces some changes in relation to disclosure statements for lease renewals. According to the bill before the house, if a lease and an agreement are substantially the same, one disclosure statement will do.

The bill makes some alterations to the definition of 'retail premises', which basically will mean that, if there is a dominant retail use, then it will be retail, but if it is not dominant it will not be classified as retail. The bill also introduces some changes to the role of the small business commissioner, such as his capacity to use information. This is an important change in terms of the role of the small business commissioner in that he can use information to fulfil any of his functions, not just a function under this act.

A raft of other changes are included in this bill, and I will leave it to the spokesperson in the upper house to outline all of them. Suffice it to say that there are some changes relating to subtenancy and disclosure statements and an expanded role for the small business commissioner in relation to prospective tenants and to repairs which are the source of some commentary by groups with an interest.

I now want to touch on two court cases that have also prompted the amendments before the house. The first case is *Apriaden Pty Ltd v. Seacrest* [2005] Victorian Court of Appeal. This is a case where, as I understand it, in the main there was a trivial breach of a lease by the tenant that could have resulted in a wholesale repudiation of the lease. The government's response to this case — and it appears on the face of it to be a reasonable one — is that a landlord must give a tenant 14 days notice of a breach in order to enable the tenant to first rectify the breach. This has been done via the Property Law Act.

The second court case resulting in a change set out in the bill, which has probably been the source of more comment than the first one, is *Ovidio Carrideo Nominees Pty Ltd v. Dog Depot Pty Ltd* [2004] Supreme Court of Victoria, which relates to disclosure statements. I very clearly remember the policy intent and the drafting of the 1998 act, where obligatory disclosure statements were introduced. The rationale for the circumstance where a landlord could not change rent until the disclosure statement had been received by the tenant was to have the ultimate penalty placed on the landlord. It was a good rationale which was supported by the landlord lobby groups and the tenant lobby groups at the time and which I guess would probably still be supported if this case had not happened.

The law requires that rent cannot be charged until that statement is furnished and signed. But what we see in this case is a very unusual instance of, if you like, tenant exploitation of the landlord. It relates to a business in Surrey Hills called Dog Depot. This was a case where, as I understand it, the rent was paid, there

were no complaints, the tenant was happy, the landlord was happy, the business was just fine, there were no problems with the lease, and there was no disadvantage suffered by the tenant. What basically happened is that the tenant took the landlord to court on the basis of the non-forwarding of a disclosure statement. That is a nonsense, and it is the government's intention to stop this.

However, I will raise, I hope for the minister's response, the time frame the government has chosen, which seems to us to be odd. The government has indicated that these changes will come into effect on 1 May 2006. I understand that it is anathema to bring in retrospective legislation, and I am not arguing for that. But the government could have opted, for example, to bring in these changes on the date of royal assent or at some other date. We are rather curious as to why that date has been chosen. It would appear to the Liberal Party that there may be opportunities for further rorting of this particular provision. I understand there are some cases in the pipeline, and surely a cut-off date of 1 May 2006 could give other people who really do not have any problems with their leases and who have not suffered any disadvantage an opportunity to rort. I would request from the new minister when he is summing up on the bill — or the parliamentary secretary may be able to provide it — an explanation of why this rather curious date has been chosen.

The bill also repeals the Small Business Victoria (Repeal) Act 1996. I note that this appears to be a bit of a government trend at the moment. This is comparable with Treasury legislation, which unfortunately members other than lead speakers in this house did not get to debate a couple of weeks ago, where a raft of redundant legislation has been repealed. I think it is a good thing to get off the statute book laws that are not needed, and that is what the government has done in this instance.

I will outline a very brief history of this. Small Business Victoria used to be a statutory authority with its own board, and the Small Business Victoria (Repeal) Act moved the statutory authority into the government department. That was a move that was fairly widely supported at that time, although oddly enough not by members of the Labor Party. The key issue here is the services provided to the small business community. I do not much care about it being a statutory authority, and I do not think a statutory authority was necessarily needed to deliver those services, the key issue being services.

Sitting suspended 1.01 p.m. until 2.02 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Taxation: government fees, fines and charges

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer to the government's refusal to release details of increased fees, fines and charges, and I further refer to the Premier's comment in the *Herald Sun* of 8 May 2003, when he said that the full list of fees, fines and charges would be available to Victorians in 'some days'. I ask: given that 901 days have passed since his promise, when will the Premier release a full list of increased fees, fines and charges?

Honourable members interjecting.

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. Could I remind the house that the now opposition leader was the Parliamentary Secretary for Health in a previous government. Could I also remind the house that on 19 May 1998 his then minister, the Minister for Health, said in answer to a question:

> The time and resources required to provide a comprehensive list of all fees and charges raised by all agencies could not be justified.

Honourable members interjecting

Mr Plowman — On a point of order, Speaker, the Premier's response is clearly irrelevant to the question that was asked of him, and I ask you to bring him back to being relevant to the question.

The SPEAKER — Order! I remind the Premier that he is required to relate his comments to Victorian government business.

Mr BRACKS — I will. I can indicate, of course, as the house would know, that two budgets ago this government brought in a system of indexation, in keeping with other states and territories. That indexation applies to pretty well all the fees and fines. I can indicate to the house that each year the Treasurer publishes, in the *Government Gazette* and in major newspapers, the value of the fee unit and the penalty unit. I have the published detail of that. The *Herald Sun* of 15 April 2005 states:

> I, John Brumby, Treasurer of the State of Victoria, under section 5 of the Monetary Units Act, indicate on 1 July 2005 the value of the fee unit is $10.49; the value of the penalty unit is $104.81 —

which includes the 2.5 per cent indexation. Not only is that published, but also when any fee or fine above the consumer price index is undertaken for a special or unique purpose, there is a regulatory impact statement, and that also appears in the gazette. I note that that is in contrast to the federal government's indexation of beer and cigarettes, which happens every year without any such publishing.

Questions interrupted.

ABSENCE OF MINISTER

The SPEAKER — Order! Prior to calling the next question, I wish to advise the house that the Minister for Agriculture is not available for question time today. Questions for him should be addressed to the Treasurer.

Questions resumed.

Commonwealth Games: volunteers

Mr LIM (Clayton) — My question is to the Premier. Can the Premier update the house on the recent announcement regarding the 2006 Melbourne Commonwealth Games?

Mr BRACKS (Premier) — I thank the honourable member for his question. Like many members, I am now waiting in anticipation for the opening of the Commonwealth Games, which is now just 140 days or 20 weeks away. It is not very long before we have the opening ceremony of the Commonwealth Games at the newly completed Melbourne Cricket Ground, which is looking a picture. The upgrading of the MCG was undertaken by our government and by the MCG Trust in conjunction with the Australian Football League, which has contributed to that. I should remind the house that this was to be the industrial relations playground of the then federal industrial relations minister, Mr Tony Abbot. We stood him up, and we are completing, on time, a project that is second to none around the world.

I was also very pleased today to mark a new milestone in the preparation for the Commonwealth Games in 140 days time, and that was the unveiling of the work force uniforms for the 15 000 volunteers, including those people who will act as general volunteers, those people who will be assisting with medical and other support, and those people who will be giving out the medals in the medal presentations. There will be different uniforms designating the different types of volunteers. I was also very pleased to note that 75 per cent of content of the uniforms that were released and showcased today was Australian content.

Honourable members interjecting.

The SPEAKER — Order! Without the assistance of the member for South-West Coast.

Mr BRACKS — The member for South-West Coast is talking about wristbands. I think the only wristband he would be wearing would be the Back Baillieu wristband. That is the only one he would be wearing.

The SPEAKER — Order! The Premier, to return to answering the question.

Mr BRACKS — I can indicate that the 75 per cent Australian content in the uniforms is greater than the content of the uniforms at the Sydney Olympics. It has also been a bonus for regional Victoria. Yakka used its Wodonga factory in the project, and other Victorian-based companies have also been involved, including West Footscray's CTE Pty Ltd., Wangaratta's Bruck Textiles, which did a great job on the work that was required, Coburg's AGS, and South Melbourne's Zinc Group. They were part of the manufacture of the 233 000 individual items. Everything from the uniforms to the water bottles, which were integrated as part of it, the hats, the polo shirts and the jackets has been manufactured predominantly in Australia, and most of that in Victoria.

I was very pleased to be there today with the federal Minister for the Arts and Sports, Senator Rod Kemp, and also the Victorian Commonwealth Games minister, Justin Madden. I was also pleased to be there with the head of the Commonwealth Games Organising Committee, Mr Ron Walker — —

Honourable members interjecting.

Mr BRACKS — I got around to it eventually! There is a cooperative effort in organising the Commonwealth Games, with the organising committee, the federal government and the state government all working together effectively to deliver what is going to be the most spectacular Commonwealth Games ever involving the greatest number of people ever and which will be the largest event that Victoria has ever held. I can say today that Ron Walker is doing a great job. Today he certainly did not look like yesterday's man. He looked well in control, well on top, and he is someone this government is prepared to work with.

Preschools: teachers

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Education Services. I

refer to recent comments from the Australian Education Union's Mary Bluett, who said:

> Preschool is languishing in the Department of Human Services and needs to go into the education department.

I also refer to recent reports of poor pay and conditions, which are driving kindergarten teachers out of that sector, and I ask: given the minister's responsibility for teacher recruitment, could she advise how many primary school teachers have been recruited from the kindergarten sector in this term of the government?

Ms ALLAN (Minister for Education Services) — It is a brave Leader of The Nationals who is prepared to talk about recruiting teachers, when he was part of a government that sacked 9000 teachers. We have made a terrific investment in education: we have employed an additional 5000 teachers and staff in our education system, and we are recruiting even more teachers right across the state — particularly as a result of some of the challenges faced across country Victoria. On top of that the Bracks government is also very focused on giving children the best start to life, which is why we have made significant improvements to and investments in the kindergarten sector and why we have increased expenditure by 78 per cent. We are seeing record levels of participation in this state because of the particular investments we have made in kindergartens and because we are also assisting low-income families to increase the participation rates of their children in kindergartens.

This is a significant investment in education and in preschools. Giving children the best start in life is a key priority for this government. It is just a shame that we have had to build on the record left to us — a record that was about closing schools, sacking teachers and calling country Victoria the toenails of the state. That is the Liberal Party's legacy in this area.

Buses: new routes

Ms BEARD (Kilsyth) — My question is to the Minister for Transport. I refer the minister to the government's commitment to making Melbourne suburbs great places to live and raise a family in, and I ask him to update the house on new suburban bus routes to be implemented by the government.

Mr BATCHELOR (Minister for Transport) — The government is continuing to drive improvements in public transport services, and in this year's state budget we committed an extra $44 million for suburban bus services — —

Honourable members interjecting.

The SPEAKER — Order! The member for Mulgrave and the member for Polwarth will cease interjecting across the chamber in that manner. The Minister for Transport, without assistance from members on either side of the house.

Mr BATCHELOR — At the same time we made it clear that the focus of this program would be on improving access to public transport services in the growth areas around the fringe of the city of Melbourne. We have done that because families in large numbers have moved into these communities on the city's fringe. They have done that for lifestyle reasons: families enjoy the open spaces; they feel more relaxed in these places and feel right at home. Those families on the fringe of Melbourne still need access to basic services such as transport, and buses are an ideal way to link these communities with important activity centres, as well as linking these bus services and therefore people's homes with the metropolitan rail network. You will see these buses everywhere.

Honourable members interjecting.

Mr BATCHELOR — It sounds a bit like your transport policy — all over the place — but these are real buses. The opposition can flip-flop with its policies, but we are delivering real services to significant communities out on the fringe of Melbourne.

For example, in the Yarra Ranges the proportion of households within 400 metres of a bus route will rise from 69 per cent to 75 per cent as a result of this initiative. Extra services will benefit communities in the Yarra Ranges in places such as Chirnside Park, Lilydale, Healesville, Croydon, Belgrave, Gembrook and Olinda. The additional services in the electorate of the member for Kilsyth include a new hourly Sunday service between Chirnside Park and Ringwood via Croydon on bus route 670, and a new hourly service — again on Sunday — to provide services between Croydon and Olinda via Kilsyth and Montrose on route 688. The Liberal Party may attack and decry these routes, but these are the sorts of things that people in the Yarra Ranges have been campaigning for.

In the shire of Wyndham new bus services will benefit people at Point Cook, Hoppers Crossing, Werribee, Wyndhamvale, Tarneit and Laverton. In the city of Hume, coverage will be extended to 90 per cent of the municipality, benefiting residents in Sunbury, Goonawarra, Rolling Meadows and Jackson's Hill as well as North and South Craigieburn, Broadmeadows and Roxburgh Park. The government's transport policies are really in stark contrast to those of the

Liberal Party. Its policy is to criticise everything and to stand for nothing — —

Honourable members interjecting.

Mr BATCHELOR — And you are!

The SPEAKER — Order! I ask the Minister for Transport to return to answering the question.

Mr BATCHELOR — These bus improvements have been identified through a very comprehensive and transparent consultation process which we have done with local governments, local bus operators and local communities. Through that consultative process a general consensus emerged as to what our priorities should be. The first consensus was to increase the coverage of bus services in areas that do not have access to buses. We are providing buses for them.

Mr Smith interjected.

The SPEAKER — Order! If the member for Bass wishes to ask a question about transport, I will call him next. In the meantime I ask him to be quiet and allow the minister to answer this question.

Mr BATCHELOR — The second consensus that emerged from the consultative process was that efforts should be put into overcoming operational issues such as overcrowding during peak times. That is what we are doing. The third consensus was to improve the frequency of services and to extend the hours of operation. That is what the member for Kilsyth has been campaigning for and has asked for in this house. These services will be a tremendous boost to local communities. They will contribute to making — —

Mr Plowman — On a point of order, Speaker, the minister has now been speaking for over 5 minutes. I ask you to ask him to conclude his answer.

The SPEAKER — Order! The minister has been speaking for some time. I ask him to conclude his answer now.

Mr BATCHELOR — I will conclude. There was a whole list of other bus services I was going to include in my answer. I will have to deal with that when I answer another question on another occasion. I will do that.

In conclusion, this government is well and truly at the wheel. We are driving forward bus improvements in Victoria. Liberal Party members are the ones who have missed the bus, because they have been too busy arguing about their leader.

Taxation: government fees, fines and charges

Mr CLARK (Box Hill) — My question without notice is to the Treasurer. Given that the Treasurer is refusing to release a list of all the fees, fines and charges that have been increased under the Bracks government, will the Treasurer at least confirm that the number of fees, fines and charges being increased each year now exceeds 2000?

Mr BRUMBY (Treasurer) — Let me make a couple of points in relation to the question asked by the member for Box Hill. The first point is that the overall level of fees, fines, taxes and charges levied in Victoria by the government is now below the national average. It has been that way under the Bracks government, but if you care to look — as I am sure the shadow Treasurer occasionally does — at the budget papers which are obviously produced every year, you will find that the period in which Victoria's taxes, charges, fees and fines consistently exceeded the national average was during the Kennett government. This was in every year, year after year of the Kennett government**.** In the two years 1995–96 and 1996–97, Victoria's fees, charges and taxes were so much higher than the national average that we were actually above New South Wales. That was under the Kennett government. We have improved — —

Mr Perton interjected.

The SPEAKER — Order!

Mr Perton interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! I suspend the member for Doncaster for continuing to speak while the Speaker is on her feet, which he does consistently. He has continued to do so while I have been on my feet for some time. The member for Doncaster is suspended from the chamber for half an hour.

Honourable member for Doncaster withdrew from chamber.

Questions resumed.

Mr BRUMBY (Treasurer) — I want to make a second point about fees — —

Dr Napthine — On a point of order, Speaker, the Treasurer is quoting from a graph. I ask that he makes the graph available to members of the house.

The SPEAKER — Order! Is the Treasurer quoting from a document?

Mr BRUMBY — I am happy to leave a photocopy of it here. It is from the budget papers.

The SPEAKER — Order! The Treasurer will leave a copy with the Clerk.

Mr BRUMBY — The second point I want to make is the amount of revenue which is raised by the indexation of fees and fines, to which the honourable member for Box Hill refers, was announced in the 2003–04 budget. The amount of additional revenue raised is around $30 million per annum. Out of a budget of $30 billion per annum that represents 0.1 per cent of total revenue. A third point is that when you look at the taxes, fees and fines which Victorians pay, on the 2004–05 figures, the most recent, Victoria's taxes, fees and fines per head in 2004–05 were just over $2000, at $2059. Commonwealth taxes, fees and fines per head for Victoria were $9271. Over the last five years the increase in commonwealth fees, fines, taxes and charges is almost equal to the total amount paid by Victorians for Victorian taxes and charges — —

Mr Plowman — On a point of order, Speaker, the Treasurer must relate his answer to state government business. This clearly relates to federal government expenditure and income, and I ask you to bring him back to answering that question.

The SPEAKER — Order! In relation to that point of order and to some that I think were raised last week, when responding at question time on matters relating to Victorian government business ministers are required to not discuss opposition policy, but as part of an answer they may refer to federal government policy. That has been the habit in this chamber for as long as I have been here, and possibly before. Certainly there is no Speaker's rulings or standing orders that I am aware of that say that the Treasurer in answering cannot address those matters. He is, however, as I have ruled on a number of occasions, not allowed to address his response to opposition policy or opposition business.

Mr BRUMBY — Fees and fines, which are set by regulation and annually increased as a result of the budget initiative in 2003–04, have already been advertised in the *Government Gazette*, as the Premier mentioned previously. They have been advertised by each department in the gazette. Nothing could be more transparent than that. In terms of all of the fees and fines which are set by the act to which automatic indexation was applied from 1 July 2004, these were all provided in schedule 1 of the act which I introduced that year. The fees and fines set by regulation, which applied from 1 July 2004, are provided in schedule 1 of the regulations. All of these are in the act — all of these are set out in the respective schedules to the act — and all the increases are provided in the gazette.

Finally, to reiterate the point the Premier made before, the guidelines in relation to this matter have not changed over the years. The last time this information was sought in a question on notice under the then Kennett government, its response was, as you heard the Premier say before:

> The time and resources required to provide a comprehensive list of all fees and charges raised by all agencies could not be justified.

Police: funding

Ms GILLETT (Tarneit) — My question is to the Minister for Police and Emergency Services — —

An honourable member interjected.

Ms GILLETT — How is your run for the leadership going?

Honourable members interjecting.

The SPEAKER — Order! The member for Tarneit will resume her seat. If the member for Tarneit has a question, she may ask it. If she intends to address other members across this chamber, I will sit her down.

Mr Smith — On a point of order, Speaker, the Treasurer was asked to table the documents that he was quoting from. He held up one graph, but he was quoting from documents that he now has in his hands. I would ask that those documents be the ones tabled with the Clerk at this time, as the Treasurer agreed to do.

The SPEAKER — Order! As I understand it, the document that was asked for was a graph, which the Treasurer has tabled, but I will check the *Hansard* record and report back to the member for Bass.

Ms GILLETT — My question is to the Minister for Police and Emergency Services. I refer the minister to the government's commitment to making Melbourne's suburbs a great place to live and raise a family, and I ask: can the minister detail to the house recent investment in policing in Melbourne suburbs?

Mr HOLDING (Minister for Police and Emergency Services) — I thank the member for Tarneit for her question. She is a great supporter of police in her local community and has been working very hard to make sure that the city of Wyndham continues to be a safe place to live and raise a family in.

There is so much good news in policing at the moment. We have the biggest budget — $1.5 billion — in the history of Victoria Police. Those resources are being used to make sure that not only people throughout Victoria are able to live in safe communities but particularly people who live in Melbourne's suburbs can enjoy the benefits of additional police numbers, new police stations and increased resources. We have over 350 new police working in police stations across metropolitan Melbourne, and 51 new police recruits will be graduating this Friday. I look forward to joining them in celebrating their graduations. Seven of those 51 recruits will be based in Broadmeadows, which will be of great interest to the Treasurer. Six additional police will be based in Endeavour Hills, which will be of interest to the member for Narre Warren North. There will be four — —

Mr Doyle — Put some in Williamstown. Keep your job!

Mr HOLDING — The Leader of the Opposition interjects, and I can inform him that there will be four additional police in Williamstown, four additional police at Narre Warren police station, three additional police from those graduating squad members will be based in Sunshine, and three additional police based in Werribee, which will be of interest to the member for Tarneit. That is great news for those communities, which will see 51 more police working on Victoria's streets, helping to make our community a safer place.

At the same time this government has embarked on the largest police station construction program in the state's history. We have put $280 million into building, rebuilding or refurbishing 346 police stations across Victoria. Many of those are in metropolitan Melbourne, helping to support established and growing communities and responding to community safety challenges. We see, for example, the 12 new police stations that have already been opened in metropolitan Melbourne over the life of this government. There is a new police station — as the member for Scoresby would be aware — in Rowville. There is a new police station in Endeavour Hills, a new police station in Preston and a new police station in Northcote.

Another 12 new police stations are under construction in metropolitan Melbourne. One I am very pleased about is being built in Springvale. I was very pleased to join with the member for Clayton last week to unveil the plans for that police station, which will be completed by October next year. The member for Warrandyte will be pleased to know there is a new police station under construction in Warrandyte. He will be very pleased to see the new police station that will be constructed and come on stream in Warrandyte.

There will of course be a new police station in Brunswick, which the member for Brunswick will be very pleased about. There will be new police stations right across the metropolitan area. There will be a new police station in Cranbourne and a new police station in Footscray.

This is great news for Victorians, and we are seeing it deliver great results across the metropolitan area with significant decreases in crime. There has been a 29 per cent decrease in crime in the city of Nillumbik, which will be of interest to the member for Yan Yean; a 26 per cent decrease in the crime rate in the city of Monash; a 25 per cent decrease in crime in the city of Boroondara; and a 25 per cent reduction in crime in the city of Greater Dandenong.

Members across the metropolitan area can be confident that we have more police working out of Victoria's police stations. We have new police stations which provide a cutting edge workplace environment for police officers to work from. We are seeing the benefits in terms of reductions in the crime rate right across the metropolitan area. All Victorians, wherever they live, but particularly those who live in the metropolitan area, can be assured that the record $1.5 billion police budget which Victoria Police is putting to good use will help make sure that Victoria continues to be a safe place to live and a safe place to raise a family.

Rail: Mildura line

Mr SAVAGE (Mildura) — My question is to the Premier. I refer the Premier to the 2001 promise and commitment to return the Mildura rail passenger service and the recent refusal by the Minister for Transport on *Stateline* to reaffirm this promise. Considering $20 million has been allocated and not one sleeper, not one spike, has been inserted, I ask: will the Premier now admit that this commitment will not be fulfilled by November 2006, and is this another broken promise?

Mr BRACKS (Premier) — I thank the member for Mildura for his question. I can indicate that the government is committed to the return of passenger services to Mildura. As the member would be aware,

there have been ownership issues with that line. We could not get access for the inspection of that line. The allocation of the $20 million was to undertake some of the preliminary work. With the new ownership arrangements we have had an opportunity to better inspect the line. We will be making further announcements on that matter at a later date.

Schools: Community Facilities Fund

Ms McTAGGART (Evelyn) — My question is to the Minister for Education Services. I refer the minister to the government's commitment to making Victoria a great place to live and raise a family, and I ask the minister how the Community Facilities Fund is helping Victorian schools and communities across Melbourne's suburbs.

Ms ALLAN (Minister for Education Services) — I thank the member for Evelyn very much for her question, because it is a great pleasure to be able to outline to the house the significant work that is being done as part of the Bracks government's $30 million Community Facilities Fund. This is an innovative fund that builds partnerships between schools, local government and the broader community. It is about creating shared facilities that benefit both students and the wider community's members. To date the Bracks government has allocated over $22 million out of this fund to support infrastructure across 60 schools. This $22 million has realised more than nearly $60 million worth of shared community facilities right across the state of Victoria.

Many schools and communities across Melbourne's suburbs have had some terrific projects supported. Just last week I had the great pleasure of visiting the delightful community of Millgrove to announce that Millwara Primary School was to receive $200 000 from the Community Facilities Fund for the construction of a much-needed community centre. This community centre is going to become the heart of the Millgrove community, providing an auditorium, sporting facilities, community conference and meeting rooms, and educational facilities. This is the sort of facility that we are seeing built in communities right across Victoria in suburbs such as Mooroolbark, Narre Warren, Gladstone Park, Monbulk and Warrandyte. These are all communities that have received funding under this program to build new school and community infrastructure. The Community Facilities Fund is just one part of our $1.2 billion boost to school facilities right across the state of Victoria.

We certainly understand on this side of the house that schools are the heart of their local communities, and we want to support them. That is in stark contrast to the opposition. We know that on any given issue it will have five different views from five different spokespeople, but when it comes to us, we have one view on education — it is our no.1 priority, and it is one that we will continue to support. We have one shadow minister who on any given day will have five different views on education, but we will continue to support education — —

Mr Plowman — On a point of order, Speaker, I ask you to bring the minister back to answering the question and to relate it to government business.

The SPEAKER — Order! I uphold the point of order and ask the minister to return to answering the question.

Ms ALLAN — The Community Facilities Fund is a terrific fund and one that we are very proud of. We have seen $22 million being invested in schools right across the state of Victoria, and it is certainly another way in which we are recognising that schools are the hearts of their local communities. It is another family-friendly initiative to ensure that Victoria continues to be the best place in which to live, work and raise a family.

Manufacturing: automotive centre of excellence project

Ms ASHER (Brighton) — My question is to the Minister for Manufacturing and Export. I refer to the minister's media release dated 12 September, which states:

> An urgent action plan is needed to drive the future of Australia's automotive manufacturing industry …

I ask: why is the automotive centre of excellence project two years behind schedule?

Mr HAERMEYER (Minister for Manufacturing and Export) — I might, firstly, point out that the automotive sector in this state is a critical sector. I might also point out that Victoria accounts for nearly 60 per cent of Australia's automotive manufacturing. The Victorian government — —

Honourable members interjecting.

Mr HAERMEYER — We used to have an industry ministers council as part of the Council of Australian Governments arrangements. The federal government cancelled that, so this government took the initiative. The automotive industry, which has been doing quite well, is facing a crossroads because of the challenges

that emanate from countries like China that are producing cars at very low cost. What we need is a new strategy and a new way forward for our automotive industry. Unfortunately at a federal level we are just not getting it, which is why we convened a meeting of industry ministers and manufacturing ministers from around Australia in Queensland earlier this year. That meeting resolved that Victoria would coordinate the organisation of a manufacturing summit here in Melbourne, and I am pleased to advise the house that that will take place on 12 and 13 December.

It is a summit that will be attended by industry and unions alike and by all the states, and we have invited the commonwealth to play a key role. We believe the commonwealth has to play a role, but unfortunately we do not think that the commonwealth is demonstrating the vision as far as a plan for our automotive industry or manufacturing industry generally is concerned.

I refer to an article in a recent issue of the *Australian Financial Review*, which is headed 'Industry department struggles to remain relevant'. It talks about the commonwealth industry department, and it says:

> You have never seen a sadder or less ambitious annual report than the latest federal Department of Industry, Technology and Resources.
>
> You could be forgiven for asking 'department of what?' because the latest report is a confirmation of the increasing irrelevance of DITR under the coalition since it came to power …
>
> What was once a policy powerhouse has now become a shadow.

This is an absolute condemnation — —

Mr Plowman — On a point of order, Speaker, on the basis of relevance, I believe the minister's answer is not relevant to the question that was asked, which was: why is the automotive centre two years behind? Clearly that question has not been answered at all. I think he is being irrelevant in his answer.

The SPEAKER — Order! I do not uphold the point of order. The minister was relating the reasons — —

Ms Asher interjected.

The SPEAKER — Order! The member for Brighton! The minister was answering the question. The minister, to continue.

Mr HAERMEYER — Our automotive industry is a great industry, and I believe it has a very great future. Unfortunately the federal government tells us that by 2014 we can expect to lose nearly 10 per cent of the employees currently employed within the automotive industry. That is not something we are prepared to accept. We need an industry plan, and we need the federal government engaging with the states, engaging with employers and engaging with the industry to show a way forward, just as the Button plan did back in the 1980s. That is not happening.

Unfortunately the Howard federal government seems to think that the answer to the future of our automotive industry and the future of our manufacturing sector is to have an industrial relations meltdown. That is its answer. For an industry that is dependent — —

The SPEAKER — Order! I fear the minister is straying somewhat from the question, and I ask him to return to it. The minister has been speaking for some time now, and I ask him to conclude his answer.

Mr HAERMEYER — What our automotive industry needs is a strategic plan for its future. I do not see any assistance coming from the federal government on that front. I actually had a look at what the opposition has had to say about this. There was one press release and not a single policy.

Honourable members interjecting.

The SPEAKER — Order! That's enough!

Housing: first home owner scheme

Ms GREEN (Yan Yean) — My question is to the Treasurer, and I ask: Can the Treasurer outline to the house any recent information demonstrating the government's commitment to helping first home buyers enter the market?

Mr BRUMBY (Treasurer) — I thank the honourable member for her question and take this opportunity to advise her and other members of the house of the success of the first home owner grant. This grant — the $5000 grant paid on top of the $7000 which the state now pays — means that first home buyers in Victoria are now eligible to receive a grant of $12 000. When you look at the value of that, particularly with some of the house-and-land packages in some of the outer suburban areas of Melbourne, you find that this is an extraordinary incentive for first home buyers to get into the market and to buy their first home.

As I indicated to the house earlier this year, if you look at a $210 000 house-and-home package and you look at its land component, you find that the total cost of stamp duty and legal fees can be as little as $3200, which means that the first home buyer is receiving close to

$9000 cash in the pocket. If you look at another package recently advertised in the weekend papers, a $286 000 package at Point Cook, you find that stamp duty and legal fees on the land would be $6100 — that is, on land at $144 000 — which means that of the $12 000 for the first home buyer $6000 of the grant is remaining.

I am pleased to advise the house of the latest figures from September 2005 when there were 3116 new first home buyers taking up the first home buyers bonus. This brings the total number since the launch of the bonus last year to 44 000. I know all members of the house will be very proud of this fact: once again for the 12 months to September Victoria, with 39 180 first home buyers, has exceeded New South Wales, which had 38 851 first home buyers. That means we have had more first home buyers than any other state in Australia. That is not bad. New South Wales has 1.7 million more people than Victoria but we are getting more first home buyers.

I asked my department to give me a list of the top 10 Melbourne postcodes for first home buyer grant recipients. Since May of last year they were: postcode 3030, Werribee–Point Cook–Derrimut, 861; postcode 3064, Craigieburn–Mickleham–Roxburgh Park — an excellent area — 821; postcode 3977, Cranbourne–Skye, 815; postcode 3029, Hoppers Crossing–Tarneit, 777; postcode 3805, Fountain Gate–Narre Warren, 668; postcode 3199, Frankston–Karingal, 500; postcode 3037, Calder Park–Delahey–Hillside–Sydenham, 553. It is an extraordinary growth rate right across the state, and particularly in those outer suburban areas.

I am delighted to advise the house that on the latest Real Estate Institute of Australia figures, of the three eastern seaboard states — Queensland, New South Wales and Victoria — the state which is the most affordable is Victoria. As a result of Bracks government initiatives on first home buyers and affordability we can say that Victoria leads the nation in terms of first home buyers — we have more first home buyers than any other state in Australia — and we are the most affordable in terms of new housing entrants. I am proud of those achievements and I believe every member of this house can be proud of what we are doing in terms of growing the population and first home buyers in our state.

Mr Clark — On a point of order, Speaker, in answering a question I asked in relation to increases in fees, fines and charges, the Treasurer cited a chart which he said compared Victorian taxes, fees and fines with those of other states. The Treasurer made that chart available to the house following a request from the member for South-West Coast. On examining the chart made available to the house it appears to relate only to taxes and not to fees and fines. That is borne out by the 2004–05 financial report from which this chart appears to have been taken.

I therefore ask you, Speaker, to investigate whether the Treasurer has misled the house either in what he said to the house or in terms of the chart he has made available to the house.

The SPEAKER — Order! I will look at the matter raised by the member for Box Hill.

RETAIL LEASES (AMENDMENT) BILL

Second reading

Debate resumed.

Ms ASHER (Brighton) — I wish to conclude my remarks in relation to the Retail Leases (Amendment) Bill. I had an opportunity to outline a range of comments on this bill prior to the luncheon break and I was addressing my concluding remarks to the repeal of the Small Business Victoria (Repeal) Act 1996.

As I said prior to lunch, the history of this is that Small Business Victoria (SBV) was a statutory authority and the previous government decided to merge it with the relevant government department. The key issue for us, and no doubt for this government, is to what extent the department serves small business rather than having a separate statutory authority. The interesting element of the government now wishing to repeal this piece of redundant legislation is the position it took on this matter in 1996 — that is, it moved a reasoned amendment which indicated some displeasure with the government at the time of its making this particular change.

More interestingly the Honourable Theo Theophanous in the other place, who I think was the opposition spokesperson at that time, asked whether Small Business Victoria would retain a separate reporting regime in the annual reporting regime of that department — it was then called the Department of State Development — to be presented to this Parliament. I gave that undertaking and for many years Small Business Victoria had a separate report within the annual report to outline to that sector the services that were provided by government. I make the observation that this has long gone, notwithstanding the fact that the Labor Party asked for it when it was in opposition. I think that is disappointing.

Nevertheless, the repeal act is now redundant and the original policy intent, which was to remove a bureaucracy within a bureaucracy, was in fact the correct one. The repeal of the separate SBV section within the department was based on a Deloitte report and particularly sound reasons. Nevertheless, I agree that there is no point in having redundant legislation on the statute books and support that particular element.

I conclude by referring to two comments made by peak associations on the bill. I seek from the Minister for Small Business at the table, who is the minister in charge of this bill, some comment on this in the summing-up of the debate. The first comment comes from the Shopping Centre Council of Australia and relates to the 1 May 2006 date, which I raised earlier in my contribution. This is the date on which the government is moving to stop a rort where one small business used a legislative provision in a manner in which it was not meant to be used, even though the court found in that business's favour. I quote from the Shopping Centre Council of Australia's email to me dated 13 October 2005. It states:

> We are very concerned that the government has permitted this six-month window of opportunity for unscrupulous tenants/lawyers to exploit and we understand that there are already cases lodged with the small business commissioner on this matter. The government should have made this change retrospective or, at the very least, made sure the cut-off date was the date of operation of the bill.

I reiterate that the opposition is not arguing in favour of a retrospective date but perhaps a date at the cut-off date of the bill or on royal assent may have made more sense. I seek from the minister a comment for the Shopping Centre Council of Australia on that particular issue.

I also refer to the Retail Confectionery and Mixed Business Association and the comments it provided to the opposition on 14 October 2005. CAMBA makes the point that it was not involved in any consultation on this bill, which is unusual. This is the smallest end of small business — retail and mixed businesses, very small operators — and they have been in the habit of being consulted by governments of both political persuasions. They make the observation that they were not consulted. This could be an oversight but that should be placed on record.

The more substantive point raised by this association relates to new clause 52. I mentioned earlier the government's changes in relation to what constitutes good repair and how the government wishes to change that definition. CAMBA makes the point that:

> Section 52 no longer requires repairs to be carried out to a standard of 'good repair' but rather to one 'consistent with the condition of the premises when the retail premises lease was entered into'.

That is a deliberate policy change by government. I understand the rationale for it on the basis that businesses can be in bad repair when leases are entered into. However, CAMBA makes the observation that this may not be particularly beneficial to its members at all. It makes the comment that in other words this provides for 'no standard at all'. I place those comments on the table for the minister to respond to if he would in his summing-up.

In conclusion, the Liberal Party does not oppose the bill. We have outlined some of our concerns in relation to the correction of errors. I fully understand that the present Minister for Small Business is not responsible for those errors. There has been a change of minister. We have made comments in relation to the very odd date of 1 May 2006, which is flagging an opportunity for other people to take cases to court, as has already happened in the Dog Depot case. I would particularly ask the minister to respond to the concerns raised by the Shopping Centre Council of Australia and the Retail Confectionery and Mixed Business Association.

Debate adjourned on motion of Mr STENSHOLT (Burwood).

Debate adjourned until later this day.

DEFAMATION BILL

Council's amendments

Message from Council relating to following amendments considered:

1. Clause 24, line 8, omit "exclusion or" and insert "exclusion of".

2. Clause 32, page 36, line 28, after "operator" insert "or provider".

Mr HULLS (Attorney-General) — I move:

That the amendments be agreed to.

In so moving I note that they are minor house amendments to the Defamation Bill. A number of words have been omitted. In one of the amendments the word 'or' is replaced by the word 'of' and in another the words 'or provider' are placed into the bill. They are only minor amendments.

Mr McINTOSH (Kew) — Very briefly, the opposition has been fully briefed by the government,

and I am very grateful for that. Certainly, Jo Rainford gave me a detailed memorandum on the amendments. The opposition accepts that. Rather than frustrate the legislative program of this place, the opposition accepts the amendments.

Mr RYAN (Leader of The Nationals) — The Nationals accept the amendments.

Motion agreed to.

RETAIL LEASES (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Agriculture).

Mr STENSHOLT (Burwood) — I rise to support the Retail Leases (Amendment) Bill. It is a bill that very much talks about the relationship between a landlord and a tenant, which of course is critical to doing business properly. It is very important in the retail sector, where there are so many small and medium-sized businesses, as they very much rely on the relationship between the owner and the tenant. The goodwill of the retail business and the investment in the business, the building and the premises are very much the basis of this relationship. This government is totally behind small and medium businesses.

When we came into office we were very keen to overhaul the retail tenancy laws. Indeed I provided some support on this to the then minister in an effort to strike a good balance which was in interests of the landlords and the small retail tenants. I am sure other members who, like me, have quite a few retail shopping centres in their electorates would be very much aware of the requirements of small businesses and the daily struggle they have in order to make ends meet and to move ahead and to prosper.

The member for Brighton has already mentioned that the Retail Leases Act 2003 commenced in May 2003 after extensive debate. It set the benchmark right around Australia for retail tenancy regimes in terms of the clarity and transparency of the legislation, as well as some innovative measures. One of those measures, particularly, was the creation of the Office of the Small Business Commissioner.

Mr Brennan, the commissioner, as has already been mentioned by the member for Brighton, has done a sterling job, an exceptional job. I have had him out talking to some of the small businesses in my electorate, and they have been very impressed and very positive about the support the small business commissioner has given them as small businesses and his ability not only to provide information and support but also to mediate disputes in a very effective and low-cost manner.

That is very important to small businesses. They do not have a lot of time or a lot of capacity to be tied down by lengthy disputes, particularly over the commercial relationship between landlords and tenants. I really praise the small business commissioner because he has been very clear in the advice that he has given both to landlords and to retail tenants.

The role of the small business commissioner involves dealing with the ongoing relationship between the minister and the department with retail tenants and owners — stakeholders, if you would like to call them that — and many ideas for improvements and clarifications keep coming up. This bill continues the process of clarifying and amending the legislation and maintaining the fair balance between the interests of the retail tenants and the landlords while enhancing the certainty in the regulatory environment. Yes, it is regulated, but it is regulated because some sensible balances are required, and it does require adjustment from time to time.

Many of the ideas in the bill are the outcome of sensible suggestions for improvement which have been received from the stakeholders over the past couple of years. That is our responsibility in government: to have an efficient regulatory system that actually helps small business and to ensure a fair and balanced approach to commercial relationships. That is what we are doing.

The member for Brighton, for example, has already mentioned the increased flexibility this bill provides. That is what we are doing: providing flexibility to the parties to enable them to agree, for instance, on time frames other than those imposed by the act — for example, in terms of recent review provisions. There are also issues regarding disclosure procedures in the bill. They are streamlined so it will not be necessary to produce a further disclosure statement where there has been no change in the circumstances between the time of the parties entering into an agreement for the lease and the lease itself.

I also note that the member for Brighton made some comments regarding the bill. She said this is fixing up all the mistakes of someone in the past. I happen to agree with her in that regard, because the particular provision in the bill I am referring to is actually fixing up a mistake from 1998. I think my recollection is that the member for Brighton was the Minister for Small

Business in 1998! I think that is so: if I am wrong it can be corrected, but that is my recollection. So if any serious mistakes that have been made were made by a previous minister who was actually the Minister for Small Business in the Kennett government — the member for Brighton — it would be a case of the pot calling the kettle black. This is amazing. The member is actually incriminating herself.

We listened to feedback and made some changes there. The member for Brighton said it was not done in 2003. In actual fact the court case occurred in 2004, so it occurred in the past two years. Again she has it wrong in her analysis. This is a recent development. It is noted in the interpretation of the 1998 disclosure provisions from the Victorian Supreme Court case of *Ovidio Carrideo Nominees Pty Ltd v. The Dog Depot Pty Ltd*, known in common parlance as the Dog Depot case. There is quite some detail in this regard.

Section 8 of the 1998 act provides that if the landlord does not provide a disclosure statement the tenant can withhold the payment of rent until one is provided and is not liable to pay rent until one is provided and can terminate the lease. The 1998 act is still operational for leases entered into between 1 July 1998 and the commencement of the principal act. The Dog Depot case confirmed that the 1998 act enables a tenant who has not been provided with a disclosure statement to conduct business on the premises for several years while recouping all the rent paid because a disclosure statement was not provided. In contrast the Retail Leases Act 2003 limits the likelihood of such an outcome. We are making further provisions in this bill in the range of amendments that are being made.

We are applying a very sensible approach. Quite frankly I was a little bit amazed by the statements made by the member for Brighton in this regard. I think she has caught herself out in this case. I noted, however, that in her statement to the house she said she did support the changes in the Retail Leases (Amendment) Bill, and I welcome that support from the Liberal Party and the member for Brighton, who of course is a previous Minister for Small Business.

This is actually very sensible legislation that also improves other aspects of retail tenancy. For example, the tenants that have performed all their obligations under a lease will now be entitled to the return of any security deposit paid as soon as practicable after the lease ends. Once again this is the result of listening to what the stakeholders have been saying. Comments have been made to the government, whether they be about security deposits, about key money and goodwill payments, about disclosure or about rent reviews and whether they should be based on current market rent, and a whole range of aspects are being clarified by the bill.

It clarifies, for example, the definition of 'retail premises' by providing that any area of a premises intended for use as a domestic residence is not to be taken into account for the purpose of determining whether the act applies. Once again that is a sensible change, and it refines the way the legislation — whether it be the Retail Leases Act or the Retail Tenancies Reform Act et cetera — applies in various circumstances.

I also note that in part 6 clause 52 of the bill repeals the Small Business Victoria (Repeal) Act 1996. It is no longer operative. All the provisions in that act have now been exhausted, and it is appropriate that it now be repealed. It is very sensible that on an ongoing basis we actually repeal and take right off the statute book acts that no longer apply in our jurisdiction here in Victoria.

This is a good bill which actually enhances fairness and certainty in relation to retail leasing arrangements for landlords and tenants, and I commend it to the house.

Mr THOMPSON (Sandringham) — Small business and retail leases are an interesting area for the government to be speaking on. In 1992, when the former coalition government came to office, unemployment in this state was running at 11 per cent. A question often asked at that time was, 'How do you start a small business in Victoria?' and the answer was, 'Buy a big business'.

One of the reasons why I joined the Liberal Party was the decision of the then Labor Party Treasurer, Rob Jolly, to introduce an ad valorem tax on the purchase price of a business. In addition to a person acquiring a business and paying their electricity bond, their insurance expenses, the cost of the stock, the cost of the goodwill of the business and their accounting and legal expenses, it was proposed that they also be required to pay an amount similar in quantum to the amount a purchaser of real estate might pay on acquiring that real estate. That led to an enormous surge of interest by small business people in the political climate of the day and their activism to get rid of the Labor government.

Even in the last few days we have debated in the house a number of pieces of legislation which will impact upon small business. One relates to the congestion levy. The small business proprietor who needs his vehicle to pick up goods from various suppliers and who needs his city car park — he cannot ride his bicycle to

work — will be paying an additional $700 or $800 a year as a result of the congestion levy.

I understand that the bill relates to retail leases, but the people who enter into retail lease agreements are small business people who have their businesses in St Kilda Road, the central business district, Fitzroy and Southbank. When they come to work, having entered into their leases and paid their legal costs and overheads, they are battling — and they will be hit for six by a Labor government that suggests they can ride a bike to work. Many small business people are opening up businesses such as sandwich bars at 6 o'clock in the morning, and then there are the people who are getting their stock ready for a day's trading.

The bill makes a number of reforms to the Retail Leases Act, including clarifying the outgoings charged to tenants based on estimates rather than actuals; clarifying that a landlord need only provide one disclosure statement to a tenant, which would be at the time an agreement for the lease is entered into; ensuring that all security deposits paid by a tenant are referred to the tenant as soon as practicable; clarifying that the Retail Leases Act does not cover any part of a building used as a residence or a building used predominantly for non-retail purposes — for example, a warehouse or manufacturing plant that might contain a small factory shop outlet; allowing the small business commissioner to use the information he collates in the lease register for purposes consistent with his role, such as sending out information on rights and responsibilities under the Retail Leases Act and providing educational materials; and limiting claims that may be made under the 1998 act by a tenant who has not been provided with a disclosure statement, establishing the deadline for such claims as 1 May 2006.

The opposition is concerned about this matter. The issue relates to the 1998 act and to claims against a landlord where a landlord disclosure statement has not been made to a tenant. The member for Burwood noted the Dog Depot court case, which related to a retail business in Surrey Hills. The tenant claimed and won in court a refund of all the rent he had paid on the premises, because the agent for the landlord had not provided a disclosure statement as required under the provisions of the 1998 act. The tenant had not suffered any detriment in his tenancy and had traded satisfactorily. The claim was made for a technical breach of the law.

The opposition notes that the government proposes to close the loophole but has decided that it will be closed from 1 May 2006. That may provide a loophole for further unjustified claims to be made against landlords. It is the opposition's view that the loophole should be closed immediately. It is not known how many landlords may be at risk under the ambit of this provision, but it would be expected that small landlords will suffer most if tenants are alerted to the possibility of exploiting this provision in the 1998 act before May 2006. While the opposition does not oppose the legislation, because it tidies up a number of provisions in the current act, it is concerned about the provision, because it does not close the loophole. The merit of this course of action will be determined between now and the middle of next year, when it is established whether any cases are brought under this provision.

To conclude my remarks on retail tenancy legislation in Victoria, I attended the presentation of awards made under the new enterprise incentive program. It is a program that has been running for some 20 years under the auspices of the commonwealth government, and it has put over 90 000 people into small businesses throughout Australia. There are 1.2 million small businesses in this nation, and they are essentially the engine room of the economy and the engine room of growth. Small businesses can be footloose and flexible, and adaptable to change. They provide autonomy for people so they are the masters of their own destiny in the workplace. Many people in small business choose to work 50 or 60 hours a week, and they have the advantage of being the masters of their own destiny in providing a service.

It has also been my experience that small businesses are adaptive to change. With the advent of information technology a local electrical company, Cybec Pty Ltd, has captured a sliver of the global market through the innovative work of a computer science expert at the Caulfield campus of Monash University. He developed a program that could weed out viruses and then sold it to a few colleagues, which led to an enterprise that grew from 1 or 2 employees to 80 employees in the space of two years. There is also the work of Ronstan, a local company that exports product to over 46 countries around the world. It was started by two sailing enthusiasts who made very good boat fittings, and they have established a niche in a world market. They are employing 160 people and are running a sheltered workshop. There are many stories like theirs.

I urge all people who are contemplating commencing a small business to go through an effective assessment program before they do so. I understand that 75 per cent of people who start a small business will not be operating that business within the two-year period thereafter. It is important that they factor in a careful assessment of the income required, balanced against outgoings.

It is those outgoings that the government has little comprehension of and the struggle many of these people have to survive and to meet their overheads. Whether it be the consumer price index adjustments to government fees and charges, which bear no correlation to the work being undertaken but still rake in tax money, or the congestion levy, which is a slug of approximately $800 a car on small business people who need to get to their businesses early in the morning to open up or set up for the day, it is an impost on and a hindrance to the successful competitiveness of local businesses. It is important that local production does not go offshore to China.

Sometimes there can be good trade arrangements with international economies whereby we supply raw materials and in turn buy imported products, but where those goods can be manufactured locally, including wristbands for industry-based campaigns, it is important that we use small business people. The key argument is about their competitiveness and ability to survive in the local marketplace.

Mr NARDELLA (Melton) — I rise to support the Retail Leases (Amendment) Bill, because the Australian Labor Party and the Bracks Labor government are the party and government of small business. We care about small business and we listen to small business. This legislation is part of the process of not just listening to small business but implementing changes to benefit the sector — and in this particular case, the landlords who look after retail leases.

The Bracks Labor government is made up of some fantastic members of Parliament who have run and been part of small businesses. The member for Koroit and Minister for Small Business with his family ran a small hotel over many years and did a fantastic job. The honourable member for Ripon ran a motor mechanic workshop and petrol station. I remember going up to his small business in his electorate, having a cup of coffee with him and talking about his coming election campaign. The Minister for Education and Training also ran a small business for a long time before entering Parliament — and I could go on. Essentially the Labor Party is the party of small business, because we listen and because we have the motivation to help make good businesses and enable them to employ people. We have gone out and consulted, which is what we have done with this bill.

Through the consultative process we have struck a fair balance over retail leases. Small businesses operate efficiently, but there is some flexibility with retail leases. With the streamlining and improving of these leases one of the requirements we have put in place is that within 45 days a landlord must provide a retail valuation to a tenant. This legislation improves the flexibility of the arrangement, by agreement, whereby the 45-day period in which that is to be provided to the tenant by the landlord can be extended. That is how we have listened to small business.

One of the other aspects is that a copy of a retail premises lease must be provided to the tenant within 28 days. Again we have listened to the concerns of small business and have improved the flexibility, so that can be extended. Another aspect of the bill means that the minister can make determinations, and that has come through the consultative process.

I will briefly go through some of the other aspects of the bill. It strengthens the disclosure procedures, it improves the procedures for the return of security deposits, and it clarifies the definition of 'retail premises'. It also deals with the operations of the small business commissioner, who will keep up to date the register of retail leases and continue to be effective in working through these arrangements as part of the mediation process. You have to remember that it was this government that introduced the Office of the Small Business Commissioner, and there is a 74 per cent success rate with the mediations that are currently being dealt with by the commissioner. That is a great news story for small business and for the economy here in Victoria.

We are getting on with the job, and small business is driving job growth and economic activity within this state. We will not be taking away awards or making attacks on working people; instead we will actually be working cooperatively with small businesses to make sure they are looked after. This government is the only government in Australia that has done that and is continuing to do it. I support the bill before the house.

Mr LEIGHTON (Preston) — I am pleased to support this bill, because small business is the engine room of the economy. This bill, which amends the Retail Leases Act, shows that we are prepared to move with the times and keep the legislation up to date to meet the needs of the industry, and in doing so to strike a fair balance between landlords and retail tenants. The retail industry is very important to my electorate. As well as a number of very good shopping centres, we have a couple of major retail areas — the Northland shopping centre in East Preston and the Preston Market in Preston Central. I believe this government is able to demonstrate, both through legislation and through the practical financial assistance it provides, that it is doing everything it can to assist the retail industry in my electorate.

The commercial relationship between a landlord and a tenant has a critical impact on the way business is done, particularly in the retail sector. This is principally because the goodwill of a retail business and the investment in the fit-out are tied up in the location of a particular premises.

We came to government in 1999 with a plan to overhaul the retail tenancy laws. That we did with the principal act, which commenced in 2003. That act was successfully implemented and has worked well, with general support from landlords, tenants and the industry. As the law currently stands, if under section 146 of the Property Law Act a tenant is in breach of a lease, the landlord must provide a 14-day notice period before taking possession of the premises. However, this bill provides the opportunity for that to not be enforced. Where there has been a breach of a lease by a tenant, including a breach amounting to repudiation, the amendments require the landlord to give the tenant a notice of breach and at least 14 days to rectify the breach prior to the landlord entering the premises.

As well as introducing this legislation the government has been assisting and supporting the retail industry in my electorate in a number of practical ways. Earlier this year the government was able to support the Preston Market in a number of practical ways by providing funding for $155 000 — $65 000 for an upgrade of Cramer Street, $60 000 for the detailed planning of key redevelopment sites in Preston, and $30 000 for way finding and signage. That was on top of a $5000 contribution earlier in the year to the Preston Market for the trial of a free home-delivery service.

The government is supporting the retail industry both through legislation and in practical financial ways through the planning portfolio. That will be important later in the year as we move to redevelop the Preston Market as part of the Preston central vision. It will be a very exciting time, with substantial retail redevelopments, including additional residential developments. What we are looking at in electorates like mine are very healthy and vibrant retail industries that are supported by this government, both through planning and through legislation.

Mr JASPER (Murray Valley) — I accept the indulgence of the house in being able to make a presentation on behalf of The Nationals on the Retail Leases (Amendment) Bill. At the outset I want to say that, as we normally would, The Nationals have undertaken an extensive investigation of the legislation. I want to put on the record my personal appreciation of the support I received when meeting with representatives of the minister's office, when I was able to get an explanation of and full details on the importance of the legislation before the house and the changes which are incorporated in it.

I also undertook an investigation with a representative from the Law Institute of Victoria, Mr Michael Redfern, who provided some excellent, detailed information. This is one area where there has been cooperation between the parties to try to improve the legislation in an area which is difficult and complex.

Going back to the late 1980s and through to the early 1990s, I recall the difficulties that were brought to our attention involving people in the large shopping complexes. Particular lessees were experiencing difficulties with some of the owners and landlords of these large complexes, which are of course now accepted right throughout Australia and the world. But you need to achieve balance, and it is a matter of how you go about getting a balance between the requirements of landlords to get returns on their investment and having appropriate arrangements as far as lessees are concerned so they can also be profitable. In the past we have seen the situation where many of the people who have taken on these leases have not been fully experienced in business, and in small business in particular, and have therefore experienced difficulties when dealing with landlords. The previous government and the current government have sought to get a better balance between the owners and the lessees of these complexes. So there has been a need for corrective action.

The 2003 bill which came before the Parliament sought to implement a number of amendments, following the 1986 and 1998 acts, to get a better balance and set up appropriate arrangements between the owners, operators and lessees of the large shopping centres and complexes.

As I said, The Nationals have undertaken an investigation of the legislation. The information that was provided to me about the operation of the small business commissioner was interesting. The commissioner has been a success story in relation to the assistance that has been provided to the operators of small businesses and in relation to reducing costs for those people and working to achieve a balance between their interests and those of the larger operators. Small business operators are able to take their concerns to an organisation — in this case, the Office of the Small Business Commissioner — to seek that appropriate balance.

I am informed that over the past couple of years since the establishment of the Office of the Small Business Commissioner it has investigated over 1400 complaints involving the owners and operators of shopping complexes and small business operators and has been able to resolve about 1200 of those complaints. It says that approximately 75 per cent of those complaints have been resolved because of the mediation that takes place. Prior to that any complaint had to be taken to the Victorian Civil and Administrative Tribunal to get a decision and that was taking time and imposing costs for both sides — the operators of complexes and the people operating within those complexes as small business operators. We have been able to get extensive resolution to these disputes, and it has saved money.

I understand that where there is a complaint about the retail operator within a complex a fee of $90 is paid for the first hour and if the mediation goes beyond that there is no charge to the small business operator. It is worthwhile putting on the record those issues because of the importance of the small business commissioner, and I hope the minister takes my comments on board. I support the fact that the small business commissioner has been successful in the operation that he has been undertaking and has been able to mediate where there have been complaints.

In relation to the legislation before the house I indicate that I appreciated the information provided to me by representatives from the Office of Small Business, particularly Mr David Latina, and also Mr Garth Head, an adviser to the minister. A number of meetings took place between all the stakeholders, which included retail traders, the Shopping Centre Council of Australia, the Property Council of Australia, valuers and the Law Institute of Victoria. These meetings have taken place over the past couple of years to look at changes to the act and ways to make its operation more effective. Decisions were made at those meetings and the bill before us is the result of a number of those meetings. I applaud the government on introducing this legislation because it is a step forward in seeking to obtain a balance between the owners and operators of various shopping complexes and shopping strips and the people operating within those areas.

The three pieces of legislation which have been particularly looked at in relation to this legislation are amendments to the Retail Leases Act 2003 and the Retail Tenancies Reform Act 1998 and also reference back to the Property Law Act 1958. A number of amendments have been included in the legislation. I noted that when the member for Brighton talked about amendments to the Retail Tenancies Reform Act 1998 she referred particularly to the Dog Depot case — a most important case which was taken to the Supreme Court and won by the tenant rather than the lessor. The other issues that the member for Brighton raised was that if there were going to be claims made under this section of the act they must be made before 1 May 2006.

I undertook some discussions with representatives of the Office of Small Business and they have confirmed with me that the reason for holding that over and not proclaiming this provision immediately on passing through the Parliament and receiving royal assent was the fact that many of the leases are over five years and because of that there were concerns about the overflow of these leases beyond the five-year period, as well as the fact that there has been a challenge to the Supreme Court in relation to the Dog Depot case, as I understand it, and also in relation to other pending cases which may come before the Supreme Court.

I note also that amendments to the Property Law Act 1958 include a 14-day rule, so that an operator of a complex will not be able to go to a tenant and say, 'You must close down or leave because you have not met the details of your contract', whether it be a small or more major issue. The provision of 14 days will give the tenant time to be able to respond to a complaint which may be put to him by the owner of the complex or the shopping strip or wherever they are operating from.

The only area that is not included in that is in relation to non-payment of rent. The current position will remain where non-payment of rent is an issue, so that immediate action can be taken as far as the tenant is concerned. I note and support the 14-day rule and The Nationals support that particular amendment. The information provided to me indicates that some of the amendments in this bill will restore the original intention of the 1958 act. It is also indicated that the Property Law Act has broad application and underpins all leasing arrangements apart from residential — we are talking about retail leases. Again, the original act on this goes back to original English law over 100 years. I am interested that there have not been moves to update the Property Law Act 1958 to cover some of the issues which have been raised as issues of concern.

The other issue I mentioned when I had the briefing by the department is why we have not seen a consolidation of the act because we have the Retail Tenancies Act 1986, the Residential Tenancies Reform Act 1998, the Retail Leases Act 2003 and the bill that is before the house right now, as well as the Property Law Act 1958.

I think the government should be looking at trying to consolidate the legislation back to one act in the longer

term. I also understand the difficulties of doing that in the short term because of existing contracts and those that are, for instance, for a five-year period. There are issues, but I think the important thing to put on the record is that by cooperation, discussion — I have always said in Parliament that we need to get discussion on these issues — and consultation, you can get an appropriate result. However, in many cases there is difficulty with consultation.

In terms of the Water (Resource Management) Bill, which is going to be debated tomorrow, the government has not had enough consultation with the people involved in the water industry. I will be speaking about that tomorrow because of the concerns I have, but this is a case where the government has sought to undertake appropriate consultation with all the stakeholders. It has said, 'Let us decide something that is going to be satisfactory'. I spoke to Michael Redfern — a very experienced person in the area of retail leases — at the Law Institute Victoria, and during discussions with me about the amendments before the house he made it quite clear that they were achieved by consultation.

I think it is worthwhile putting on the record that when legislation is rushed through this house — I know this because of my experience in the Parliament — mistakes are made and we have to bring the legislation back to the house. Both sides of politics have introduced legislation to this Parliament which has been debated and passed but then has had to come back to the house and be changed by a range of amendments. This is a disturbing factor with the Children, Youth and Families Bill, which was debated yesterday. It is a massive piece of legislation. The government said it had consulted with appropriate organisations, but to bring the bill into the house and say, 'We are going to debate it in two weeks time' makes it extremely difficult.

The Water (Resource Management) Bill, which will come before the house tomorrow, is another example where the government believes it has had consultation — but it has not had consultation with the right people. It has not consulted with the irrigators and major users, particularly in the northern part of the state and in my electorate of Murray Valley, to make sure they understand the legislation so we are able to debate it properly.

Another issue which is worth commenting on is that in recent years we have seen a lack of appropriate debate on legislation. We do not see much of consideration in detail these days. I am a great supporter of the two houses of Parliament. You can debate a bill in this house, and then it goes to the other house, the Legislative Council, where there is time to be able to assess the bill and have appropriate amendments added where required. Again, I would like to indicate my great concern about the lack of appropriate consultation on some of the bills that are coming before the Parliament.

In this case all the interested parties have come together and discussed the issues. Retail leases are a very complex area. From the 1980s to the 1990s there was enormous concern about retail leases and legislation sought to correct the particular problems. I have mentioned the amendments to the Property Law Act 1958 and the Retail Tenancies Reform Act 1998 has also been mentioned. In this bill the Small Business Victoria (Repeal) Act 1996 is repealed. I understand the government's decision to repeal that act. The act has become redundant, but I express some concern to the Minister for Small Business. This matter has been an issue in the past. It was an issue when the portfolio of small business was established.

I strongly support having a Minister for Small Business, but I am concerned at the importance the government gives to small business. The Office of Small Business is now just an office, and I am concerned that there may be a downgrading of the importance of small business within the government's super-department. We still have a minister responsible for small business — although I am not sure how much experience he has in small business. I think we need to have people with a strong background in small business. As I have said in Parliament on other occasions, 'Do not try and tell people how to run a business if you have never been in business yourself'. I think we have many people in Parliament who do not have business experience and do not understand the problems experienced by people in business.

Whether in the farming community, small business or even larger business, you need that background of experience, as I see it, to be able to comment on legislation and how it will affect business people. As I have said in the past, the wealth generators within the state of Victoria are those operating in private enterprise. Without private enterprise we would not have economic development taking place in this state. The Treasurer talks about developments taking place in Victoria. The drivers of development in Victoria are business and industry working in a private enterprise capacity. We need to be cognisant of that.

In the last few minutes remaining for my speech I want to refer to the changes to the Retail Leases Act 2003 included in this bill, which also proposes amendments to three other areas of legislation and repeals the Small

Business Victoria (Repeal) Act. There was an issue in relation to valuations and the period of 45 days. It was believed there may not be enough time to get appropriate valuations when looking at tenancy charges for particular areas. There needs to be some flexibility for landlord and tenant to agree on a mutually suitable period to arrive at a valuation for assessment of rent on a property. Clauses 5, 9 and 11 make other important amendments, including amendments to definitions. I believe those issues need to be dealt with to clarify the operation of the Retail Tenancies Act.

The other matter that needs to be put on the record is that the Retail Leases Act only applies when the valuation is less than $1 million. It needs to be recognised that large property complexes valued at over $1 million are not covered by this legislation.

As far as The Nationals are concerned, we will not be opposing the legislation. I indicate clearly that we are supporting the amendments that have been put forward because we believe they are quite logical. I see the member for Burwood is smiling. I have made it quite clear that from the investigations we have undertaken it seems that this bill will make the Retail Leases Act operate more effectively and we will get a better balance between the operators of shopping centres and shopping strips and their tenants. That balance will protect the tenants and the landlords.

We will listen with a great deal of interest to the summary by the minister, and I hope he continues to strongly support small business as an important part of the economy of the state of Victoria. There are many areas of concern for small businesses generally, with the charges being imposed on them by governments and through regulation. Again I indicate clearly that action needs to be taken to minimise the impact on business and industry operating within this state. We recognise the continued importance of small businesses and their operations within the state of Victoria.

Ms BEARD (Kilsyth) — It is a great pleasure to join the debate to speak in support of the Retail Leases (Amendment) Bill. The Bracks government came to office in 1999 with a plan to overhaul Victoria's retail tenancy laws to strike a fairer balance between the interests of landlords and those of small retail tenants. It is now just over two years since the appointment of the Victorian small business commissioner and the introduction of the Retail Leases Act, which has generated major benefits for thousands of small retail tenants. The Office of the Small Business Commissioner has been instrumental in ensuring the smooth operation of that act. The office has handled retail tenancy and business disputes valued at $80 million. It ensures that all Victorian businesses have the capacity to compete in a fair marketplace. Ninety per cent of disputes dealt with relate to retail tenancy matters.

This bill enshrines the regulatory system that affects small businesses and helps them operate efficiently. It improves Victoria's retail tenancy laws by clarifying and streamlining their application to the benefit of landlords and tenants. I would like to acknowledge the retailers in the electorate of Kilsyth, particularly those at Kilsyth, Churinga, Collins Place, Mooroolbark, East Ringwood, Eastfield and Bayswater North shopping centres, the traders in Main Street and Hewish Road at Croydon — all the retailers in the electorate of Kilsyth. I commend the bill to the house.

Mr HARDMAN (Seymour) — I rise to make a brief contribution to debate on the Retail Leases (Amendment) Bill 2005. It is always great to see the Bracks government recognised by The Nationals for consulting widely and listening to small business. This bill recognises the critical impact that the relationship small businesses, retail leaseholders, and landlords have. That is very important because, as has been mentioned before, those people are there to make a living and make a profit, and they need a fair balance to be able to do that. This bill goes some way towards helping to achieve that.

In the Seymour electorate, like every electorate, but especially those in rural areas, the economy is powered by small business. That is where the jobs are in our areas. Tourism and other businesses often operate under small retail leases, and they rely on good legislation to make sure they can trade and make a profit, and our towns and communities benefit from that, so this piece of legislation is welcomed by my electorate.

The Retail Leases Act 2003 supports the many small businesses right across the state and is a result of feedback from stakeholders. It seeks to create that balance. It really is pleasing to hear about the creation of the role of small business commissioner having had a great effect on the mediation of disputes in a timely and low-cost manner and how this will benefit small business. I commend the bill to the house.

Mr DONNELLAN (Narre Warren North) — It is an honour to speak on the Retail Leases (Amendment) Bill, which continues this government's commitment to assisting small business. First we introduced the small business commissioner, and with that position we introduced a mediation service which has saved small business enormous sums of money. This also helps in evening up the balance for small businesses in their

dealings with tenants. Many on the other side may talk about small business, but this government has actually put in legislation. We have also assisted the smash repair industry in its relations with large insurance companies. We have put submissions to the Australian Competition and Consumer Commission. This government is truly committed to small business, and this bill continues that commitment. I commend it to the house.

Mr HAERMEYER (Minister for Small Business) — I would like to thank the members for Brighton, Swan Hill, Burwood, Preston, Melton, Murray Valley, Kilsyth, Seymour and Narre Warren for their contributions to this debate. The member for Murray Valley rightly pointed out that the majority of businesses in this state — in fact 96 per cent — are small businesses. Collectively they are the largest employer of people within the state and are also very much the drivers of innovation and entrepreneurial spirit.

I think what has been always a problem for small business, something that has been gaining a lot of momentum in recent years, has been the issue of market power — the division of big versus small — where quite often the market power that a larger enterprise may have can either inadvertently or perhaps even in a more predatory way be used to disadvantage small business. Whilst most of the powers that are available to protect small business reside under the federal regime — under the Australian Competition and Consumer Commission — we at a state level certainly have a responsibility in terms of certain pieces of legislation.

Amongst those — and this is very critical legislation — is the retail tenancies legislation, which provides protection for retail tenants. I can certainly say that when I was the shadow Minister for Small Business it was a major issue that there were sometimes very predatory practices carried out by landlords in a way that unfairly disadvantaged small business. As a result there were some changes made in 1998 which went part of the way. We as the then opposition put forward a draft private members bill which was unfortunately not considered in the house. However, we were able to embody the principles of that private members bill in the Retail Leases Act 2003.

We have also appointed a small business commissioner, which has been a very successful initiative. The small business commissioner has been able to mediate successfully some 78 per cent of the disputes that have come before him over the period since he was appointed. I think it is fair to say that most of those would relate to retail tenancies. That does highlight the extent to which retail tenancies are a major issue out there. Arising from that there have been concerns about the residual effect of the 1998 act and also some issues that have come out of the current act.

The member for Brighton asked me to address the issue of why there was a date of 1 May 2006 in relation to one particular clause of this bill. As a number of members have said, it relates to the Dog Depot case. The 1998 act enabled a tenant to claim back their rent if they had not been given a disclosure statement, irrespective of whether the tenant had bothered to ask a landlord for a disclosure statement or whether the tenant was adversely affected financially by the non-provision of a disclosure statement. But that was the legislation.

Before the new act comes into effect obviously the 1998 act will still be operative in relation to leases that were entered into at that particular point in time. What the government does not wish to do is adversely or retrospectively affect the rights of tenants and landlords — it affects both parties — who entered leases in 1998. They knowingly entered agreements under that act, and there is at least one case which has been mentioned — as I said, the Dog Depot case — which is still to come up before the Court of Appeal. So we do not think it is appropriate that the Parliament retrospectively takes away rights that people had when they knowingly entered into those leases under the provisions of that act. Nor do we want to affect any cases that may be before or coming up before the courts in relation to leases entered into during that particular window of time. That is the reason for the government taking the stand that it has.

Another provision in this act effectively ensures that leases may not be terminated without the tenant being given appropriate notice of the landlord's view that there has been a breach of the lease. Again, this relates to a case which has recently been before the court and which I understand is likely to be coming up before the High Court. I believe that the determination that has been made previously certainly is not — whatever the court's determination of what it says — the intention of the act. What we are trying to do is clarify the intention of the act so that a landlord is required to actually notify a tenant if there has been a breach of the lease and give the tenant the opportunity to rectify that rather than summarily terminating the lease. I think this is a fair and balanced piece of legislation, and I thank government members, opposition members and The Nationals for their contributions to the debate.

Motion agreed to.

Read second time.

Third reading

Mr HAERMEYER (Minister for Small Business) — By leave, I move:

That this bill be now read a third time.

In doing so I thank all members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

MAJOR EVENTS (CROWD MANAGEMENT) AND COMMONWEALTH GAMES ARRANGEMENTS ACTS (CROWD SAFETY AMENDMENT) BILL

Second reading

Debate resumed from 6 October; motion of Mr PANDAZOPOULOS (Minister for Gaming).

Mr DIXON (Nepean) — The opposition is supporting this bill, and in my contribution I will go through a few of its main provisions to make some general points and then finish with a couple of minor issues we have with the bill. It would be good if the government addressed those issues during the course of debate today. The bill extends the operation of the Major Events Act as it currently stands to include the Bob Jane Stadium, which is in South Melbourne. Recently it has become rather infamous due to a number of soccer matches that have been held there. On most occasions those soccer matches have resulted in near riots, which have put both spectators and competitors in greater danger.

A large number of hooligans and idiots have gone along to these soccer matches, not to enjoy the sport but to make some sort of political point — or whatever other point they have wished to make. As I said, these people are not interested in soccer; they are interested in making their point, and in doing so they have put themselves, other spectators and the players in a lot of danger. I think it is very important that the provisions of this bill are extended to the Bob Jane Stadium so that the sort of behaviour we have seen there will not happen.

You would not see that behaviour at any other of the major sporting venues around Melbourne where far larger crowds are involved. As a general rule they are very well behaved, and we never see the rioting, pitch invasion, attacks on groups, throwing of missiles and lighting and throwing of flares at those sorts of events that we see there. That is so not only because of the culture of those sports but also because of the tighter restrictions at the other stadiums around Melbourne. There has been a lot of cooperation over and discussion about the controls that will now apply at Bob Jane Stadium.

The bill also enables the minister to declare other venues in the *Government Gazette*. That sort of flexibility is very welcome, because occasionally events will come up, like the major rugby event, that are not held in the major stadiums. The minister needs the flexibility to declare an event a major event under this legislation, therefore enabling the application of the tight controls that we have seen at other venues to be shifted to a venue that has not been covered by the act before. Again, we very much welcome that.

The current Commonwealth Games Arrangements Act contains offences such as blocking exits, climbing on fences, damaging venues and throwing projectiles. Those offences are going to be added to the Major Events (Crowd Management) Act. Again, that is very welcome. When you look at blocking exits, climbing on fences, damaging venues and throwing projectiles you realise that they have nothing to do with supporting a team and nothing to do with getting excited about the sport or a nail-biting finish. They are all about rioting and have nothing to do with sport, so it is very welcome that these sorts of behaviours will not be allowed. There will also be follow-up bans of up to five years for serious offences and even for one-off offences, so a first-time offender can be banned for up to five years. Again, that is very welcome.

Three sorts of bans will apply, and they have been pointed out in the second-reading speech. Firstly, in future an offender may be banned from entering a venue where the offence was committed. So an offender who likes to attend a certain venue — even a favourite venue — to do these sorts of thing will be banned from that venue for up to five years. An offender may also be banned from attending specified major events at the venue where the offence was committed. Such an offender may follow a particular code of sport — for example, rugby — at a certain

venue, where they like to turn on the heat and do the wrong thing, whereas they are not interested in watching cricket or football at the same venue, so the provision allows for that. Then again, if some of the these people are going to be idiots at one sport, they are likely to also be idiots at other sports.

The other banning order is where an offender may be banned from attending a category of major events at any managed venue where those events take place. Again, it is not just the one venue. An offender may follow a certain sport around to various venues and no matter where they are that person can be banned. I think that just about covers any sort of offender. No matter which category they belong to, they will be covered under this legislation.

That is a very welcome addition to the laws of this state. It sends a very powerful message. It is very important that that message is well known and advertised through the media and sporting clubs and organisations so that people know in advance that the sort of behaviour we have seen at some of our events will not be tolerated and this is the sort of prosecution people will face if they act up. I hope this provision does not just disappear into the ether with this legislation but is brought up through the media in the lead-up to big events, through sporting clubs and organisations and through signage at venues where events are taking place. When people go into a venue, they should know what the consequences will be if they act up.

The other main provision in the bill grants authorised officers under the Commonwealth Games Arrangements Act the power to search through patrons' bags rather than simply undertaking a visual inspection. That to me was a major problem with the initial Commonwealth Games Arrangements Act. A bag could be opened by an authorised officer but any sort of bag can hide a multitude of sins under the top layer. There might be a piece of paper at the top and all sorts of goodies underneath, so to speak. There could be flares, sharp objects or alcohol. Theoretically somebody could have come into a Commonwealth Games event and opened their bag for inspection by an authorised officer and all that officer could have seen was what was on top and not what was underneath. That was a ridiculous provision because if people are going to make trouble they think these things through. They would look for loopholes in the legislation and this closes one of those loopholes.

It is interesting that this can only happen with permission. An authorised officer can only look through a bag with the permission of the person whose bag is being inspected — the authorised officer has to gain consent. In most cases where somebody is carrying something into an event to cause trouble they are not going to give the authorised officer consent to go through their bag. If they do not consent, the only power the authorised officer has is to force the person to leave that venue at that time. I do not think authorised officers should have to wait for consent from the person involved to go through a bag; I think they should have that power as an automatic right.

It is very important that we make our major sporting events enjoyable and safe. Most of Melbourne and Victoria's major events are sporting events. That is what we have built our reputation on. Over the years our major sporting events have been of great importance to Victoria and to tourism in the state. They bring in a lot of interstate and international visitors and they bring visitors from country Victoria into Melbourne when those major events are being held in Melbourne. It is wonderful to see the huge crowds that get along to the motorcycle grand prix down at Phillip Island. They come from all over the country and from Melbourne and it is a great thing for tourism on Phillip Island.

As we build up our tourism image it is not of just one major event but an accumulation of major events. There is a positive growing perception throughout Australia and indeed the world that Melbourne is the sporting capital of Australia and the major sporting event capital of the world. It is hard to think of another major city in the world that would have the level of major sporting events Melbourne has. It is very important to our tourism image and to the economy of our state. It is very important that we maintain our major events and the side events associated with them as enjoyable and safe things to go along to as spectators. This is necessary as much for the competitors as for the spectators.

The motorcycle and formula one grands prix are probably the two biggest major events in Melbourne which receive national and international coverage. Even though these events themselves create a loss, the flow-on economic impact on the Melbourne and Victorian economies is unbounded. The Minister for Tourism was in here recently talking about the massive flow-on effects and the millions of dollars that flow into Victoria's economy. That begs the question: if it is so good for the Victorian economy, and I am sure it is, why does he want federal support to run these events? Both grands prix would be gladly accepted by any other state if this state government does not want to support

them without federal help. We do not need that, the events do not need that. They are state events. They bring great returns to our state, not to any other state. As I have said before, any other state would give its right arm for these events. I do not see any need at all for this state to go to the federal government asking for financial support for major events such as the formula one grand prix and the motorcycle grand prix.

Part of making those major events attractive to local, interstate and international visitors is understanding that they have to be safe. The people who attend these events often pay a lot of money to do so. General admission is not cheap, but people pay a lot of money to be in premium seats or boxes, to have gold passes or to attend events over multiple days. They pay a lot of money for these events, and in return for the amount of money they pay they rightly expect protection from unruly behaviour by idiots who want to go along and disrupt these events for whatever reason, often far removed from supporting any of the competitors or sides or race drivers or models or whatever it might be. People who pay a premium admission cost have every right to expect that they are going to be protected. That is why this sort of legislation is welcome — it is protecting these people who pay high prices, and it is protecting Victoria and Melbourne's image of running major sporting events which are safe and very attractive to attend.

The competitors in our grands prix and major sporting events put a lot of effort into attaining the high status they enjoy. They train and train and give up a lot to reach that high standard and they expect to compete in an equal way knowing that they will be protected and can go about their competition without fear of pitch invasions or people throwing things onto the pitch, whatever it may be. They deserve that.

One of the main provisions deals with the problems we have had at Bob Jane Stadium with regard to soccer crowds. We have seen some shameful actions there. Looking at some of the injuries and deaths on sporting fields around the world, we do not want a repetition of that here in Melbourne. When you see the rioting and the flares being thrown and large groups of people intent on disrupting the sport or making a point — whatever the point is that they wish to make — it is a wonder that we have not had a number of spectators killed or very badly injured. This legislation is coming at the right time, just before anything could get out of hand.

The provisions for on-the-spot fines are very welcome too. If you are going to have this sort of legislation, it is very important that enforcement is carried out. It is no good advertising fines and saying that this is what happens if you play up if it is not going to be enforced. We need to have police and security guards in numbers on the scene to enforce the on-the-spot fines. If you muck up, you are going to get that fine straightaway. I think that is a very important provision, because everybody around sees what is happening, and it is a good measure to prevent further unruly behaviour.

The legislation talks about the banning of throwing of objects such as bottles. Again it is wonderful that this is going to be banned. It does not take much imagination for us to see the damage those sorts of projectiles could do to spectators and competitors. The obvious exception of course is if a great goal is kicked into the crowd by a Carlton player and the football is returned to the field of play. Of course you are not going to end up with a fine for doing that, and that is a sensible arrangement; otherwise the cost of replacing those footballs or cricket balls is going to be quite high.

One of the great things you see at the cricket usually is the beach ball bouncing around the grandstands. It is pretty harmless fun that people have at the cricket, and a beach ball cannot do much harm. There is no provision saying whether that is allowed or not. It was interesting that we recently had the World XI cricket match, the Johnnie Walker series, at the Telstra Dome. I was down that end of town and a group of young boys came up to me and wanted to know where they could buy a beach ball. I said, 'Why would you want a beach ball in October?'. They said, 'We are off to the cricket'. They were quite prepared to delay their entry by about an hour and walk back to Big W at the QV centre to buy a beach ball so they could go to the cricket. I think that is a bit of harmless fun, and I hope our enforcement officers do not get too carried away by enforcing the provisions in relation to beach balls.

There are two issues regarding this legislation that I wish to finish on. The first is that it is going to be an offence to possess a prohibited item in a declared venue. However, the authorised officers do not have the power to seize the prohibited item — only the power to request its surrender. If you are going to go to the trouble of giving authorised officers the power that they are being given, I think it is only right that they have the power to seize the object. The fact that they will have to find a police officer to do that means that anything could happen in the meantime, depending on where the police officers are. The authorised officer might be lucky and have a police officer within voice range, but that might not necessarily be the case. It gives the

person who has the offending item plenty of time to get away and perhaps try another entrance into the venue.

I just do not see the need, and I cannot see the objection to allowing those authorised officers actually to seize the prohibited item. It would probably be too late for another amendment to fix that. What it means, though, is that if our authorised officers are going to be effective in the job we will just have to have a very large police presence nearby so that authorised officers can call on police officers to actually remove or seize that prohibited item. To me that is probably a waste of police resources: they would be better used in other activities at these events.

The second issue I wish to raise is the fact that we were told in May 2005 that the crowd control regimes to do with the Commonwealth Games were all settled and that the legislation covered every single aspect that could possibly be thought of and would not need to be amended again; yet here we are, 5 minutes down the track, and we have this amendment. Because the Commonwealth Games will not be held until March next year we have the luxury of amending away until then and getting everything right. It is unfortunate that we have to do this, especially when we were told there would be no need for any further amendments. But that seems to be the way it goes under this government.

In conclusion I would like to say once again that the opposition supports this bill. The Commonwealth Games are very, very important to Melbourne. Our major sporting events are very important to Melbourne and Victoria in terms of tourism and our economy.

Mr Ingram — What about the rest of Victoria?

Mr DIXON — And Victoria — I said Victoria. There are no major events in Mallacoota that I am aware of, actually. But it is very important that the competitors in these events are safe and that anyone who attends these events feels safe and secure so that the good name that we do have is kept and that our Commonwealth Games are the best games ever.

Mr DELAHUNTY (Lowan) — The Nationals are very strong supporters of events, whether they be sporting, cultural or community events. As we know, Victoria is the event capital of Australia; Melbourne is the event capital of the Australian capital cities. But it is important to note that there are many rural and regional events that would be classified as major events for their communities, whether they be the Stawell Gift, football and netball finals — and I know the member for Gippsland East was in one of those — —

Mr Crutchfield — A netball final?

Mr DELAHUNTY — He was in the football final, but the netball finals were also on at the same time. These have an economic impact on Victoria of about $153 million. There are also other major events in rural and regional Victoria, such as the Awakenings Festival — a performing arts festival — which has been held in Horsham in the last 10 days, which is for people with all abilities. We have the Casterton Kelpie Festival, and importantly the large Sheepvention which is a major event in Hamilton.

Ms Gillett — Mention the bill just once, Hugh.

Mr DELAHUNTY — But they are all major events. Also, it is a major event any time Essendon is playing in the football, and it is a pity we did not get to the finals this year.

I am glad on behalf of The Nationals to rise and indicate our support for the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill. My colleague the Honourable Damian Drum in the other place is The Nationals spokesperson on this bill. He has consulted with the Melbourne Cricket Ground management, Parks Victoria, the manager of Albert Park, which includes Bob Jane Stadium, and various other people. We know the purpose of the bill is to amend the Major Events (Crowd Management) Act 2003, which is not a very old act, to extend the application of the act to the Bob Jane Stadium and to international, national and state football matches; to enable additional venues to be declared under the act by the minister — and this bill outlines a process for how that will happen; and to provide additional search and enforcement powers to authorised officers. The bill also amends the Commonwealth Games Arrangements Act 2001 to increase the bag-search powers.

The Nationals support any provision that provides for safe, uninterrupted enjoyable major events. We have a national and international standing in relation to being recognised as the sporting events capital of the world in some ways. It is disappointing that in 2001 the government did not give more support to our police during the economic forum held at Crown Casino. I do not believe any of the S11 protesters were charged, yet some police were charged during that unfortunate event.

Mr Wells — That was an absolute disgrace.

Mr DELAHUNTY — As the member for Scoresby says, that is a disgrace. But this bill gives a bit more

power to our law enforcement people. That is good; we need to have that there to make sure we do have safe events. Players, officials and spectators need that protection. In 2002 a Sydney Swans player, Greg Stafford, expressed fears that an Australian Football League player would be taken to hospital as a result of a field attack if something more was not done to protect players — and this was after he was attacked on the ground.

The bill has taken a long time to come into this place and unfortunately events have happened which may not have happened if the government had acted sooner. I shall quote from an article in the *Age* of 24 April which says:

> Unruly sports fans could be banned for life from Victorian sporting arenas under state government plans for stricter laws to crack down on hooliganism.
>
> The government is considering toughening crowd-control laws to cover soccer matches and the Spring Racing Carnival, and may also introduce bans for repeat offenders at a variety of events, including cricket and football.
>
> The changes are designed to prevent a repeat of last Sunday's pitch invasion at South Melbourne, where police say up to 400 fans ran onto the ground and threw flares, darts and bottles.

That was in April this year. The article talked about the fact that at that stage:

> Cricket Victoria and Victoria's soccer body, Football Federation Victoria, have confirmed they are in talks with the state government about crowd control.
>
> …
>
> The AFL had no formal arrangements to exclude hooligans but two people had been banned from its matches in the past four years —

that is a pretty good record in some ways —

> … one where a person threw a bottle onto the field and the other where a man spat at former Richmond coach Danny Frawley —

a good Ballarat man —

> … the ban had been agreed to in talks between the individual … and the AFL.

So back at that stage there were problems and the government said it was going to do something. An article that appeared in the press at about the same time highlighted how good Australia is. The *Herald Sun* article of Monday, 25 April, states:

> A few weeks ago, a group of New York lawyers, academics and retired appeal court judges arrived in Melbourne to prepare for a major legal case.

Part of their itinerary included a visit to the MCG for the Hawthorn–Essendon clash. I have no doubt Essendon would have won that. But their amazement was at the fact that they were able to sit in the stand. They asked where they would be sitting, whether in the Hawthorn crowd or the Essendon crowd — I hope they sat with the Essendon crowd — but they were told that the crowd intermingle with each other. Here in Australia all the supporters intermingle with each other.

If you have ever been to a football match you know the intermingling does happen, even at the cricket; it is great entertainment, and even if the cricket is not too good you can get some good entertainers on the other side of the fence. But importantly it shows that Australians have a passion for their sport and for any events in Victoria, but also in Australia. It also shows we seem to be able to control ourselves to the stage where we do not need some laws.

Unfortunately, as was highlighted by the *Age* article that I quoted earlier, there was soccer hooliganism at the South Melbourne game, where 400 people caused a problem. The government said then that it would bring in some crowd control laws. After no action from the government there was another incident in August this year. I shall quote from the *Herald Sun* of 23 August, which says:

> Victorian soccer's governing body has called for the fast-tracking of new legislation that could help prevent crowd violence.

It goes on to talk about a review of the act, saying that:

> … crowd-control laws at big sporting events [are] not expected to lead to wider laws to fight hooliganism until mid next year.

Thankfully some commonsense has come into this place and the government has brought this legislation forward, not only to protect those going to the Commonwealth Games, but for other major sporting events that are coming up in the near future. We are already into the Spring Racing Carnival, and we will have the major tennis events and a major international swimming event coming up in the early part of the new year. The article goes on to say:

> But Football Federation of Victoria chief executive Tony Pignata called yesterday for a review to be fast-tracked after another ugly brawl at the weekend game between the Preston Lions and Oakleigh Cannons.
>
> 'One of the things we are looking at is trying to find (hooligans) and ban them', he said.

> 'And banning them is going to be easier if the government introduces these measures so we have the full force of the law behind us'.

A further article states that 40 police were involved in the clash but that they had limited power to control these hooligans. We hope the legislation we are debating today, which I indicate again The Nationals support, will address some of the concerns raised in those articles.

We know the bill creates definitions for a group of prohibited items such as laser points, whistles and loudhailers, as well as another category called prohibited items, under the Major Events (Crowd Management) Act. Some of those include bicycles, skateboards, fireworks and animals other than a seeing-eye dog. Under this legislation it will now be an offence for someone to have these items inside a managed venue. If a person is caught with these items, police can issue them with a penalty infringement notice. There are fairly severe fines for contravening these provisions. It is hoped that this will be an efficient way of controlling these activities so that they do not happen. The infringement notices hopefully will stop offenders who deliberately get themselves thrown out of venues only to impress their mates and then pay for their re-entry. That behaviour will be an offence under this legislation. The Nationals support that provision.

Authorised officers will be given additional powers to allow them to search bags. Under previous legislation people were obliged only to open their bags. Now authorised officers will have the power to search bags, after being given permission by the owners. If that permission is not given the people involved will be asked to leave the venue and not come back for 24 hours. However, they will be allowed to ask to have their bags searched in a secure or private environment. The Nationals also support that provision.

Prohibited items such as pocket knives or nail files should be stored in cloakrooms or locked in storage. Our understanding is that this will be done at the discretion of managed venues. If a person enters this venue with a prohibited item, it will be stored at the front. They will then be given a ticket so that when they exit they can pick up the stored pocket knife or nail file that they brought in unintentionally. We believe more work needs to be done so that safe storages are provided at venues. They may be needed for equipment that someone is not allowed to take in, such as a video camera, and we must ensure that they are stored safely.

Offensive behaviour was previously prohibited under a general behaviour category. Various types of offensive behaviour have now been identified, and exhibiting those types of behaviour will be an offence — for example, damaging flora in gardens, throwing lighted flares and even obstructing the view of a seated person by standing on a seat. Repeat offenders will be hit with a five-year ban. There are serial pests who even travel around the world to attend marathon races, tennis matches or other major events. They can be banned for five years if they are repeat offenders. It will also be an offence to re-enter a venue after being kicked out. The strengthening of the bag-search powers will apply to Commonwealth Games venues.

I note in the legislation that it will be an offence to throw things such as flares, cans, bottles and so on onto the ground but that it will not be an offence to throw back the football after Matthew Lloyd has kicked another 10 goals against Footscray or Hawthorn or, importantly, Collingwood. I can tell an interesting story. In 1973 I was playing in a Victorian Football League final against Hawthorn and my slip-on boot came off. A Hawthorn player threw it over the fence, but thankfully, because I did not have a spare boot to play with, an Essendon supporter or another supporter with commonsense threw the boot back so I could continue to play. I hope under this law they would not be charged with an offence, because I was fearful that I would have to run around the oval and play with only one boot, as I did not take another pair of boots to the game. In those days we did not get paid a lot of money.

Mr Wells — Thirty-three dollars a game!

Mr DELAHUNTY — You got more than me! I hope it is not an offence to throw a Matthew Lloyd boot back onto the ground so he can continue kicking those goals. The Nationals support the bill because we believe it is commonsense legislation. It will give support to the players, spectators and officials who are involved with major events, particularly with the Commonwealth Games coming up next year. I have had the pleasure of going around to many of the 55 schools in my electorate — I have not got to them all yet — to present them with Commonwealth Games flags to highlight the event and to ask them about some of the key athletes who will be involved in those events.

I am encouraging them to get involved in school projects and in the Queen's baton relay that will be going through some towns in rural and regional Victoria. The games will be a major event for Australia, and for Victoria in particular. We want to make sure we have the legislative power in place to give our law enforcement officers the power they need to control serial pests as well as those who want to disrupt events

to get some notoriety among their friends or, importantly, to create havoc in the community. With those few words I indicate again that The Nationals will support the legislation.

Ms GILLETT (Tarneit) — It is my privilege to make a contribution on the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill. At the outset I place on the record my thanks to the members for Nepean and Lowan, who have indicated their respective parties' support for the bill before the house.

As we all know, the countdown clock in the vestibule that indicates the number of days that organisers have before the start of the Commonwealth Games is ticking. As of today there are 140 days to go to the opening ceremony. The bill will partly ensure that the Commonwealth Games events held in Melbourne in March next year will be the safest and most secure and will be enjoyable for all Victorians. The other part of the bill seeks to address some cultural and behavioural problems that have been experienced.

Some members have made reference to soccer. The house should be aware — anyone attending a Boxing Day test match will know this — that those who have had too much to drink often become difficult to deal with and have to be removed because they are spoiling the enjoyment of those around them. It is important to remember that this is not simply about soccer and some of the things that have happened around that game but also about creating a cultural change in sport. When we take our children or elderly parents to watch a major sporting event we want to know we can do so in a safe and secure environment.

The bill does a couple of things in amending the Major Events (Crowd Management) Act. It extends the application of the act to the Bob Jane Stadium and to elite level soccer matches. The stadium in South Melbourne will be designated a managed venue under the act. All international, national and state league soccer matches held at managed venues will be declared major events under the act. The bill also enables the minister to declare additional venues by ministerial order. Can I say at the outset that it is not envisaged that that will happen on a regular basis, but the scope is there for the minister to be able to do that.

We are also looking at expanding bag-search powers. Authorised officers will be able to search through bags with the consent of patrons and — importantly — ask patrons to empty out the contents of their bags or pockets. It is important to note that patrons who refuse that consent can actually be directed to leave a venue and not be allowed back in for 24 hours.

We have introduced new offences and enforcement powers with the bill. It will now be an offence to possess prohibited items or alcohol that have not been purchased at the venue. It is my personal opinion that oftentimes it is the alcohol that does more harm than anything else people can bring in with them.

The bill introduces a range of new offences prohibiting disruptive and dangerous conduct, along with serious penalties. Police will be able to issue infringement notices for some offences to assist with quick and effective enforcement. We are introducing bans as an optional penalty for more serious offences so that when someone is charged a magistrate has a variety of different options open to them, including either banning an individual from a particular event or banning them from a venue. They are good flexible sentencing options for magistrates to have in their tool kit.

With this legislation we are also expanding bag-search powers at ticketed Commonwealth Games venues. Authorised officers and police will be allowed to search through bags, with the consent of patrons, and to ask patrons to empty out their bags at ticketed venues. This amendment to the Commonwealth Games Arrangements Act was felt necessary to make sure that if larger bags are brought into venues — and it is not just a simple process of looking inside a bag — they should be emptied.

With those few remarks I again thank the members for Lowan and Nepean for indicating their parties' support for the bill, and I commend the bill to the house.

Mr WELLS (Scoresby) — I join the debate on the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill to support the member for Nepean in saying that the Liberal Party will be supporting this piece of legislation.

The government's program for the Commonwealth Games flags has been a great program which has been very well accepted by members on my side of the house. When we have gone to government, Catholic and independent schools we have been able to present the flag in a bipartisan way, and it has been a fantastic program. I would like to congratulate the government on that program; it has been fantastic.

The Liberal Party believes the main provisions of the bill are to extend the operation of the act to include the

Bob Jane Stadium; to enable the minister to declare venues in the *Government Gazette*; to extend the crowd control regime to replicate offences in the Commonwealth Games Arrangements Act, including offences of blocking exits, climbing on fences, damaging venues and throwing projectiles; and to grant authorised officers under the Commonwealth Games Arrangements Act the power to search through patrons' bags rather than undertaking a visual inspection.

We have consulted widely with the Melbourne Cricket Club, the MCG Trust, Docklands Stadium, the Melbourne Sports and Aquatic Centre and the Bob Jane Stadium. We support the bill, but we have one slight problem with it — that is, it will be an offence to possess a prohibited item in a declared venue, but the authorised officers will not have the power to seize the prohibited item; they will have the power only to request its surrender.

Part 3 of the bill contains clause 9 headed 'Inspection' which will insert new provisions in the act. Clause 9(2) states:

> After section 9(1)(a) of the Principal Act insert —
>
> > "(ab) request a person to produce and empty of its contents any bag, basket or … receptacle that the person intends to take into or has in a managed venue or managed access area …

Proposed section 9(1B) states:

> For the purposes of inspection and search under this section, an authorised officer may —
>
> > (a) search through any bag, basket or other receptacle; or
> >
> > (b) search through and move the contents of that bag, basket or other receptacle …

It says the officer can move the contents. In other words, they can put their hands into the bag and move items around, but they cannot remove them. I do not understand why the government is not going to the extra step of being able to remove the prohibited item.

Clause 12 headed 'Surrender of prohibited items' substitutes new section 12(1) which states:

> An authorised officer may request a person to surrender any item that —
>
> > (a) is a prohibited item which the person has in his or her possession in contravention of section 10, 10A or 10B …

It says 'may request', so if the person refuses, where do we go to from there? It does not make sense. I suspect that in this particular case the person would then have to call for a police officer to come to seize that particular item. I wonder whether when we get to the summing-up stage the minister would be good enough to explain that part of the bill which provides only for a request to provide a prohibited item.

An article on the front page of the *Sunday Herald Sun* of 4 September states:

> Police and venue operators will be given sweeping powers to search patrons at sporting and other major events in the lead-up to the Commonwealth Games.
>
> People entering the MCG, Telstra Dome and sites of major events could be subject to detailed body searches.

Then there is this part:

> Banned items such as flares, alcohol and bottles will be seized by security staff.

It says they will be seized by security staff. So what is in the press release and what is actually in the bill are two different things. The press release says that an item will be seized by security staff, but the actual bill provides that all an authorised officer may do is request a person to surrender any item. I am not sure what happened between the press release and the legislation.

Moving on, as has been clearly outlined in an article in the *Herald Sun* of 21 September, Black Hawk helicopters and fighter jets will patrol Melbourne skies at the event next March. The article then states:

> Security chiefs yesterday revealed details of the counter-terrorism system being assembled for the games, including chemical, biological and radiological response teams.
>
> The MCG and … venues will be locked down for a month before the opening ceremony —

and, of course, the public will be excluded from this. It is said that police will have all their leave cancelled, and we understand that that is how the extra police will be able to come on board. But we are mindful of the fact, as I mentioned in the grievance debate this morning, and hope that when the government looks at the allocation of police officers from police stations across the state it will look at the operational numbers at a particular police station, not what is on the roster — for example, if there are 30 on the roster, there are 20 operational police. If you were going to take 15 from that particular police station, you are not taking 15 from the 30 on the roster, you are taking 15 from the 20, because you cannot include people on maternity leave, secondment or training courses. We expect and hope

that the government will look at the operational levels, not at what is on the roster.

An article in the *Age* of 21 September states:

> Victorian police will be given unprecedented powers to stop and search suspects, seize goods and 'covertly' search people's homes under new counter-terrorism laws.
>
> …
>
> Under the changes —

something we strongly support —

> the Premier may in 'limited circumstances' give police authority to stop and search people and vehicles, demand identification and seize goods. Police will … be able to cordon off certain areas, such as major events considered likely targets.
>
> Police will have greater powers to search properties 'covertly'. At present, police must believe that a terrorist act has been committed to conduct a covert search. The changes will allow police to obtain a warrant for a covert search if they believe someone is planning an attack or is motivated to commit one.

I am sure that would have the vast majority of support in the community. We are looking forward to the Commonwealth Games and wish the bill a speedy passage.

Ms BARKER (Oakleigh) — I am very pleased to rise and speak on the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill. This bill amends the Major Events (Crowd Management) Act 2003 to extend the application of the act to the Bob Jane Stadium and to elite level soccer matches, to enable the Minister for Commonwealth Games to declare additional venues under the act by ministerial order, to introduce new offences and enforcement powers, to introduce bans as an optional penalty for more serious offences and to expand bag-search powers at ticketed Commonwealth Games venues.

The changes in the act and the increased sanctions and enforcement powers have been developed following consultation. A review of crowd safety measures was undertaken by the Department for Victorian Communities and that was done in consultation with programmers, venue managers, sporting associations and Victoria Police. The review also considered measures introduced in other states. It has been referred to before, but I do need to note it: the consultation process was instigated in response to reports from Victoria Police and venue managers of an escalation in disruptive and dangerous behaviour and specifically some very-well-publicised incidents or poor crowd behaviour at major events particularly at the state league soccer. There were also some incidents at international cricket matches as well so we cannot just pick on soccer.

It is an interesting debate in this instance, because I am very pleased to be the no. 1 ticket-holder for the Oakleigh Cannons Soccer Club which is in the premier league. There is an interesting shift in vocabulary at the moment because the soccer groups now call themselves football and the state body is known as Football Federation Victoria. Having grown up in a very Australian Football League-oriented family, I still refer to the other game as soccer so I will continue to do so during this speech, although some from Football Federation Victoria might take me to task on that.

Mr Pandazopoulos — You are very courageous.

Ms BARKER — I am very courageous for doing that, I know. However, I still give them a bit of curry about the term 'football'.

As I have said, there have been some very well-publicised incidents of poor crowd behaviour and the violent clash at Bob Jane Stadium was one that really came to the fore through the daily press. Unfortunately and regrettably there have also been incidents at the Oakleigh Cannons soccer ground at Edward Street in Huntingdale and a couple of those — one in particular — were not very nice at all.

This bill is an attempt to provide the powers to help venue managers and police to bring that crowd behaviour under control more effectively and quickly. I note that suburban and regional sporting grounds hosting local competitions are not intended to apply to this act or to be declared as a major or managed venue unless they are capable of hosting major events. Currently, under major events, we have seven venues declared: Melbourne Cricket Ground, Phillip Island grand prix circuit, Telstra Dome, Melbourne Sports and Aquatic Centre, State Netball and Hockey Centre, Melbourne Park and Olympic Park. This bill provides the Bob Jane Stadium as another identifiable venue to be declared as a managed venue, but in the future other sporting venues may need to be brought within the ambit of the act, particularly venues hosting regular major events such as national or state league soccer matches.

I understand in relation to that that the Football Federation Victoria has advised that it believes it can improve crowd management by relocating selected matches to Bob Jane Stadium once it becomes a

managed venue, and I do not really question that. I know that those of us who follow the soccer at a premier league level regularly would be happy to go to Bob Jane Stadium on occasions. We do anyway, when Oakleigh Cannons play away from home. However, I would say that most of the other premier league teams currently play on grounds which are obviously owned by local councils, leased to the clubs; in many instances their facilities are certainly not up to the standard of the Bob Jane Stadium — and I think South Melbourne Soccer Club has been very lucky to have this stadium. It is important to note that while shifting matches to Bob Jane Stadium may assist in crowd behaviour, there are a range of other things that should also be done in an educative role to ensure that crowd behaviour is brought under control. At Oakleigh Cannons, for example, there are thousands of the local Greek community who really welcome the opportunity to be able to walk to the ground in Edward Street, Huntingdale, and watch the Oakleigh Cannons win a game.

In taking games to the Bob Jane Stadium it will mean that supporters who have been following a team for many years will have to go out of their local communities to see a match. The Oakleigh Cannons Soccer Club has been in the premier league for only a couple of years, so the supporters have been following it through thick and thin. It is like any Australian Football League team — you go through your highs and your lows. To take away the capacity to go to your local ground and watch — —

Mr Crutchfield interjected.

Ms BARKER — The member for South Barwon says that he barracks for Geelong. I barrack for Essendon — I will not hold that against him. As I said, to take away the opportunity to go to your local ground for the home matches needs to be carefully considered, so I hope local councils look very carefully at the venues that are currently available to local soccer teams and make sure that those venues are up to scratch.

In conclusion, there are many other facets to this bill and I think they will work very well. They will provide opportunities for better behaviour. I note that it is proposed to undertake communications campaign to support the amendments in conjunction with venue managers, appropriate event promoters such as Football Federation Victoria and Victoria Police. While a lot of effort has been made to take ethnicity out of the game of football, it will — —

Mr Pandazopoulos interjected.

Ms BARKER — It is very difficult. There are many instances where that will not occur because it is a great passion for my community — the Greek community. The many older members of the community are not the ones causing the problems, but they do support their local team fiercely in their own language, I might add.

I note that the Minister assisting the Premier on Multicultural Affairs is at the table. I ask that he ensures that any information campaign in regard to these significant changes is conducted in languages other than English so that some of the members of our multicultural community who vigorously support soccer/football — or football/soccer! — have the opportunity to fully understand what those changes are. I commend the bill to the house.

Mr THOMPSON (Sandringham) — The opposition supports the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill. In doing so, we note the main provisions of the legislation. Firstly, it extends the operation of the principal act to include the Bob Jane Stadium. For those in posterity who may not know where the Bob Jane Stadium is, it is the area of parkland enclosed in part with the grandstand at the northern end of the Lakeside oval or park lake area. It is significant in the history of the South Melbourne Football Club. It was the ground where Bob Skilton, a triple Brownlow medallist, played on a regular basis. It was the ground Graham Teasdale used as a home ground when he won the Brownlow Medal. Fireman Fred Goldsmith and the great Victorian cricketer and interstate footballer Peter Bedford also played on the Lakeside oval in the positions of centre, forward flank and rover. He probably also spent a few games in the back pocket! At that time though Brian Woodman was one of South Melbourne's very fleet-footed back-pocket players.

The bill also enables the minister to declare venues in the *Government Gazette* and extends the crowd control regime to replicate offences in the Commonwealth Games Arrangements Act including offences such as blocking exits, climbing on fences, damaging venues and throwing projectiles. It grants to authorised officers under the Commonwealth Games Arrangements Act the power to search through patrons' bags rather than undertaking a visual inspection.

Just before I conclude on some general remarks in relation to the Bob Jane Stadium, I would also like to note for the record that the establishment of this stadium was opposed by the local member, now the Minister for Environment. He preferred to see it

converted to parkland rather than being something which has a productive community benefit as a major sporting facility. A number of years ago government members in this place opposed the location of the Australian Formula One Grand Prix in that precinct. The minister at the table, the Minister for Gaming, would be able to rattle off the statistics of its economic benefits to the state, its benefit to employment in this state and the benefit of the branding of Melbourne. They proposed some other circuit, but they certainly did not support the Albert Park circuit, which has become one of the best circuits in the world where a highly successful international event is held each year.

There are a couple of issues in relation to the detail of the bill. The definitions outline a range of items which are prohibited at the ground. One of them is an animal — other than, if the person is blind, deaf or otherwise suffering a disability, a guide dog. I trust that that definition does not also cover police horses and that there is some discretion as to how widely that provision is otherwise interpreted or that there is some separate right of entry.

I recall the famous image of a piglet on a football ground with a '4' printed on its saddle side. I anticipate that an item of this nature would have been picked up and would not otherwise denote our Tony 'Plugger' Lockett. The prohibited items can be identified and a request can be made for their surrender, but according to my initial understanding of the bill the authorised officers do not have the power to seize the prohibited item; they only have the power to request its surrender.

If someone is walking into the stadium with a piglet under each arm and if there are no police in the immediate vicinity and a request is made, it will be a bit of a catch-22 situation. It begs the question: what training is appropriate for authorised officers who might have the power — in a wider sense — of entry, search and seizure? In this specific case the issue is the seizure of a prohibited item. It is to be hoped that the extent of the security arrangements being put in place for the games will not in fact be required, but prevention is a very important element in ensuring the success of the event and the safety of athletes and spectators.

The opposition would also like to place on the record the fact that the games are being held in Melbourne due to the vision and proactive work of the former coalition government. It will be one of the great events in Victoria's sporting history. Those Victorians who end up having the benefit of having gone to both the 1956 Melbourne Olympics and the 2006 Melbourne Commonwealth Games and the Sydney Olympic Games in 2000 will have been privy to some of the remarkable moments in the history of Australian sport. It is hoped that this event will prepare Australian athletes for the Beijing games.

Often when contributing to the debate on sporting bills I refer to the denial of a medal to Australian triple jumper Ian Campbell. As a result of the inappropriate conduct and corruption of Soviet officials back in Moscow in 1980 medals were not awarded to those who performed the best on the day but to those with whom there had been a prearranged agreement. This matter has been covered extensively in documentary form by some of Australia's leading sports commentators, and I hope there is still scope for the government to pick up the baton in relation to Ian Campbell, a great competitor and performer and one of Australia's great Commonwealth Games athletes, and give him his due recognition. He was a silver medallist, if I recall correctly, at the Edmonton games back in 1978, and he was denied a medal in Moscow.

I trust he can be suitably honoured amongst his home crowd. There was some discussion about his being made a Commonwealth Games ambassador for Melbourne. I am not sure whether that has happened, but that would bring some justice to a great Australian athlete and successful Commonwealth Games competitor. The opposition, as I indicated, supports the principal act and the crowd control regime in this bill.

Mr CRUTCHFIELD (South Barwon) — I rise to speak briefly on the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill 2005. I want to touch on a couple of recent personal experiences. This bill is about ensuring that Victoria's reputation as a major events state, qualitatively and quantitatively, is continued.

I had the pleasure — I think that is what it was — of going to the cricket in Sydney with my wife two weeks ago, and it was a pleasure until 5 o'clock that evening. I worked out later, unfortunately, that we were sitting in what was the old Hill area. It is important to point out that we do things a lot better than they were done in Sydney on that particular occasion. The people in front of me had smuggled in 5 litres of fruity lexia, along with two bottles of bourbon, and they refused to go outside to smoke their cigarettes, amongst a number of other — —

An honourable member — Are you serious?

Mr CRUTCHFIELD — I am very serious. These arrangements are particularly relevant to me, and when

I saw the bill coming up I decided I was certainly going to contribute to the debate, because I can speak from a great degree of personal experience about the damage, not necessarily physical, done to the enjoyment of the people around us on that particular occasion. It was nothing less than appalling. In fact they closed the bars at 5 o'clock. I spoke to a sergeant of police there just prior to that, and he said that he had problems with the powers he had. I am certain that in New South Wales they will be looking closely at this bill to see how they can copy or plagiarise it, because certainly the police at that event were very frustrated with the behaviour of some of the patrons. In consideration of other speakers I will leave it there. This is a wonderful bill to support.

Ms McTAGGART (Evelyn) — It is with pleasure that I rise to contribute to the debate on the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill. The Bracks government is very proud that Victoria is the leading events state in Australia. As everyone knows, we host major events such as the AFL Grand Final, the grand prix, our fantastic Spring Racing Carnival, which is well under way, as well as international and test cricket and the Moto grand prix at Phillip Island. We are renowned for being a very passionate state when it comes to sport.

These events deliver over $1.2 billion to the Victorian economy. One of the major events we are looking forward to is the Commonwealth Games next year. I am very fortunate to have a Commonwealth Games event in my electorate of Evelyn — that is, the clay target shooting at the Melbourne Gun Club. I must say that the whole community, along with local businesses and the local schools, are very excited about this, because it will bring many people to our region. I look forward to participating in a clay target shooting event in the next couple of weeks.

The powers and procedures under the Major Events (Crowd Management) Act 2003 have worked reasonably well, but given the unruly behaviour of spectators at soccer matches and some international cricket matches it has become clear that the act needs to be strengthened. This bill also amends the Commonwealth Games Arrangements Act 2001 in relation to bag-search powers and will allow authorised officers to conduct bag searches or ask patrons to empty out their bags. The bag-search powers are being expanded to provide a safe environment for spectators and participants. Everyone should be entitled to attend a major event without the threat of unruly behaviour or missiles causing injury or stress to patrons. As the member for South Barwon said, it can be quite an unpleasant experience dealing with people affected by an excessive intake of alcohol. It creates a nasty environment, particularly for children, and does not set a very good example. This bill will certainly provide powers to rectify that.

As far as the bag searches go, authorised officers will be able to perform searches and ask people to empty out the contents of their bags. If people are being difficult and refuse, they can be asked to leave the venue and not be permitted back for 24 hours. There may be some concerns from the public that they may not wish to empty bags in public, and they can do this in private if requested. Currently under the Major Events (Crowd Management) Act there are seven venues declared as managed venues: the magnificent Melbourne Cricket Ground, the Phillip Island grand prix circuit, Telstra Dome, Melbourne Sports and Aquatic Centre, State Netball and Hockey Centre, Melbourne Park and Olympic Park. This bill will provide for the Bob Jane Stadium to be added to that list of managed venues, and that will be brought into the scope of the act.

The amendments to this bill have been developed in consultation with Victoria Police, and the venue managers and relevant organisations have had some input. The bill will support and improve crowd safety at major events and I am pleased that the Liberals and The Nationals are in support of this bill. I wish it a speedy passage.

Mr KOTSIRAS (Bulleen) — I was not going to speak on this bill, but since the Minister for Gaming is at the table I thought I would say something about Bob Jane Stadium. It is a great stadium, and it is there because of the former government. It is interesting to note that this government's members, when in opposition, were against the construction of Bob Jane Stadium. In fact the local member fought for the stadium not to go ahead. It is interesting to see that they are now supportive of the stadium and the grand prix, when in opposition they were against the stadium. The member for Albert Park, who is now the Minister for Environment, was happy to turn up to Bob Jane Stadium, enjoy the good meals and watch the soccer games, but he was against the stadium and against the South Melbourne Soccer Club locating there. It is disappointing that those opposite said one thing in opposition, but now that they are in government they have changed their views.

I was at the match between South Melbourne and the Melbourne Knights. It was a rainy day and South Melbourne lost the grand final to the Melbourne

Knights, and I remember the violence that occurred as a result afterwards. This bill is appropriate, and I commend the government for introducing it. It is good legislation. There could be some improvements, as the member for Scoresby has outlined, but it is a good bill. It will assist families to attend sporting events without the fear that they will be abused or attacked. While I say, 'Well done' to the government, I find it a bit hypocritical that when in opposition, its members were against this stadium, yet they are now very supportive of it.

Ms MARSHALL (Forest Hill) — I am very pleased to rise and support the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill. Victoria is Australia's sporting capital with an international reputation for not only putting on incredible events but doing them to the highest standard. Once again it is possible to see that as our society changes so too must the legislation to ensure that the same high standards are achieved today as were achieved at any point in the past. This bill seeks to improve the operation and effectiveness of the Major Events (Crowd Management) Act by broadening its application and boosting its enforcement powers. These changes will come about due to a small minority group of individuals who during significant events held in Victoria have exhibited dangerous behaviour that puts the safety of many others at risk.

There are far too many events held in Victoria each year to name all of them, but it is possible to say that the events held here have at the centre of their aims the desire to provide not only fantastic entertainment but a safe environment for both spectators and participants alike. The provisions of the Major Events (Crowd Management) Act 2003 were reviewed in 2004–05 with an in-depth consultation process led by the government, involving Victoria Police, venue managers and other relevant organisations. It is true to say that the footage we were seeing on television at that time was increasingly highlighting poor crowd behaviour and less frequently that of great sporting achievements.

The results of this exhaustive process were that, as the nature of disruptive behaviour by some spectators had changed, the 2003 act was unable to provide the authorised officers or police with sufficient powers to control them. Spectators invest heavily to attend these events, and it is vital that there are sufficient levels of deterrence in place and a capacity to respond if necessary to ensure that their money is not wasted, their safety is not jeopardised and their expectation of enjoyment is fulfilled.

As the international climate has changed, so too has the general public's expectations of governments and authorities. Events held in Victoria have always been seen as wonderful opportunities to participate as spectators with members of your family. The provisions of the bill will help to preserve these opportunities.

Part 3 of the bill introduces a range of new offences and strengthens enforcement powers. The penalties range from 10 to 40 penalty points, depending on the seriousness of the offence, to the issuing of on-the-spot infringement notices. Police will be able to remove disruptive patrons from a venue and the courts will be able to ban some offenders from managed venues and major events for a period of up to five years.

There is an expectation in our community that you should not be putting yourself in great danger by attending a major event. The powers and procedures introduced in this bill reflect the government's acknowledgment of that expectation and its desire to improve crowd safety at major events in Victoria. This bill will allow all Victorians to attend such events, either as spectators or participants, with the confidence that this belief will be achieved. I commend the bill to the house.

Mr LONEY (Lara) — I wish to make a few brief comments on this bill, which I think can be categorised as one of those pieces of legislation that are unfortunately necessary. In many ways it has come about because of some of the things we have seen in recent times and changes to the way in which people view security around sporting events.

In particular, months back we saw disturbing images of a soccer match played at Bob Jane Stadium, which was highly publicised on television and received graphic reporting in the newspapers. It brought into focus the actions and behaviour of some people at major events. It is important when considering those actions that we hesitate before ascribing them to a particular sport, venue or club. Those actions should not be associated with a particular sport, which in this case is soccer. There is no reason to suggest that soccer as a sport is less wholesome than any other sport. The concern is about the actions of individuals who go to sporting events and determine that they do not want to behave in the same way as the rest of the community; such people do not want to behave to a standard that is acceptable for the rest of the community. That is why at the start of my contribution to the debate I said this legislation was unfortunately necessary.

The bill is about preserving the right of other people who attend sporting events to do so in relative comfort and safety and with the amenity that they should have when they attend major sporting events in this state or indeed elsewhere. This legislation seeks to benefit the general community. Hopefully it will allow sporting events in this state to proceed in such a way that everybody is able to enjoy them, whether they be soccer, cricket or Australian Rules football matches, Commonwealth Games events or other sorts of sporting events.

The bill fixes up a couple of things. I guess it may come as a surprise to many members of the community that while it is an offence to possess prohibited items, such as flares, laser pointers, weapons or alcohol while attending sporting events, it has not been an offence to use these items at sporting events, so there has been a bit of a loophole in the law, and this legislation picks it up. The bill also introduces a range of new offences around disruptive and dangerous behaviour at events and allows bags to be searched so that searches can be carried out properly.

To reiterate, I guess that in some ways people could say that this is legislation that goes with modern times. Many years ago such legislation was not deemed necessary for sporting events. I think it falls into the category of unfortunately necessary legislation, and I hope the bill's passage will contribute to greater enjoyment of sporting events by Victorians in the future.

Mr ROBINSON (Mitcham) — It is with some pleasure that I am able to speak briefly on the major events legislation. I want to comment on the aspect of the bill which strengthens the power for bag searches. Indeed the bill goes so far as to provide for private areas in which searches can be undertaken. I think this is a worthy objective of the legislation; however, I will express a slight word of caution that is based on my experience as a university student working at the Melbourne Sports and Entertainment Centre and the National Tennis Centre. I worked at any number of concerts as an attendant and in crowd control. Anyone who has spent some time in those sorts of roles, such as working at Jimmy Barnes concerts or boxing tournaments, would know that you can be confronted with all manner of patrons' behaviour — —

Mr Trezise — Barry Michael.

Mr ROBINSON — Yes. I think the member for Geelong might have had his bag searched by me. We might not take that any further. What occurs to me is that the capacity to have such searches carried out will to a large extent be a product of the way in which an event manager or promoter on any given occasion organises an event, the logistics that surround it and in particular the way the crowd is managed beforehand. In the entertainment world it is not unknown for promoters to seek to cut costs wherever they can, which can result in the entry procedure being compacted into a very small period of time. If that happens obviously it impacts upon the ability of staff to search bags and to do so in a separate area.

With this worthy bill we need to ensure that in future the government monitors quite closely the way promoters manage these events to ensure that the objects of the bill can be met. If the bill is providing for bag searches to be undertaken and to be undertaken in a private area, we need to make sure that promoters do not usurp that by compacting the entry time and shortening staff shifts in a way that simply makes it impossible.

Mr TREZISE (Geelong) — I am also very pleased to speak in support of this bill, and I will make a very brief contribution to the debate. Importantly this bill continues on the Bracks government's commitment to ensure that Victoria continues to grow as the major event capital of Australia. As all members in this house would agree, Australia is very much a sport-loving nation, and more than people in any other state Victorians prove that they love their sport by attending sporting events in absolute droves.

When it comes to big events Melburnians and Victorians will turn up rain, hail or shine — hence the magnificent success of events like the Melbourne Cup, the AFL Grand Final, the grand prix, the Australian Tennis Open, the Boxing Day Test — the list goes on and on. It is no fluke that these major events, these icons of the sporting world, are very much based in Melbourne. We all know the importance of these types of sporting events to the economy of this state — for instance, hundreds of thousands of visitors come to our state for the Spring Racing Carnival, and they visit not only Melbourne but also regional and country areas. They contribute millions to our economy, not only in the racing industry but also in the hospitality industry. They visit restaurants and other places — the list goes on.

It goes without saying that sporting events are important to our state. Mentioning these magnificent events highlights the importance of the legislation. It is good legislation, and I wish it a speedy passage through this house.

Ms D'AMBROSIO (Mill Park) — I too rise to speak briefly in support of the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill — it takes quite a bit of time to just say the name of the bill. I join other members of the house in support of the need for the greater control this bill sets out to achieve.

Sport is a social interaction anywhere we go and we need to have healthy and safe environments for people to socially interact in a way that delivers the desired outcome, which is basically the enjoyment of sport, whether it is by patronising a sport as a member of the audience or participating in it. The overwhelming majority of sporting events are enjoyed without disruption, without incidents of misbehaviour. However, the image of our sporting events here in Victoria has been somewhat tarnished in recent years by a number of unfortunate incidents involving bad behaviour. There have been attempts at self-regulation but they have not necessarily delivered the desired outcome.

I am aware that Football Federation Victoria has for a number of years now made attempts to kerb or control difficult behaviour among some sporting teams but that has not brought about the desired outcome — to the point where families have not been encouraged to attend sporting events for enjoyment. That is debilitating to the growth of any sport, whether it be soccer or football. I remember as a young girl in the 1970s an incident at a Victorian Football League game involving a drunk crowd member which led to a young boy being seriously injured. That eventually led to restrictions on patrons bringing alcohol into sporting stadiums. It brought about very good controls which remain today. Having said that, I am very pleased that the bill has the full support of the house. This will restore confidence in sporting events. I believe it will eventually lead to increased participation by families in sporting events.

Ms BUCHANAN (Hastings) — I am pleased to speak on this bill. It is a progression of the Major Events (Crowd Management) Act 2003, on which I also had the pleasure of speaking. Again, the intent is clear — that is, to ensure that mass crowds at public sporting venues are managed in such a way as to ensure the optimum safety of all participants and spectators, along with optimum enjoyment. The bill gives effect to the consideration of subsequent venues to be incorporated into the principal act, as the Bob Jane Stadium has been. This measure, along with the other three key aspects — increasing powers relating to bag searches, infringement notices for specified offences and the courts being able to ban offenders for up to five years — will send a clear message that unruly and dangerous behaviour will not be tolerated.

One quick comment I want to make about bag searches is that human beings have been exceptionally ingenious in the way they have concealed things or objects in bags. While times have changed, that ingenuity is still there. Thankfully this bill strengthens security measures to ensure that safety and enjoyment are the prime considerations. I have many family members who will be travelling to Sydney soon to watch the football match between Australia and Uruguay. It will be an emotional match as each team seeks inclusion in the world cup — —

An honourable member interjected.

Ms BUCHANAN — Especially if we lose. Therefore I will not let the house know I am barracking for Uruguay! The same scenario will apply to the Commonwealth Games. I fully commend this bill to the house.

Mr LOCKWOOD (Bayswater) — I too rise to support the bill before the house — I am glad I do not have to say the title. This is another example of the Bracks government making Victoria a great place to live, work, play and raise a family. This bill is all about crowd safety — bag searches and so on. This means that when we go to watch a sporting event, when we go to our recreation, we will do so in safety and accept the security standards of the day, which are increasing as time passes. The bill is aimed at large events with many people. The bill makes some new items illegal — flares, laser pointers and so on — and provides for bag searches.

The large event I have been to recently is the Moto grand prix. It is a great event. There are always very well-behaved people at the Moto grand prix. There is no need to search people there, although we might need to, because such fabulous people go to the Moto grand prix — motorcyclists. There is nothing better than a large motorcycle travelling at high speed on the race track: it gives you a sense of flying. These items are essential for the safety of people, and I commend the bill to the house.

Mr PANDAZOPOULOS (Minister for Gaming) — I would like to thank all those members who have participated in the debate on this very important bill. I guess it is a sign of the times that we now take much more preventative action around security matters at major events. We have a great

reputation to uphold. Our major events industry is a $1.2 billion industry and we are certainly on the world map as far as events are concerned. However, we need to protect that reputation. While one of the things people from overseas like about us is that we have this great camaraderie and a good feel at our events, it is important that we send the right message to those at venues as participants.

People going to extremes or being on the loose is not what we want. In addition, in this time of terrorism we have to have other measures like the bag-search powers. They are an effective part of controlling crowds properly and providing the best environment possible. We want to be able to maintain that great camaraderie but we want to send a strong message that doing the wrong thing at some events, like we have seen at the cricket and soccer in recent times, is not what we want in Victoria or Australia.

I want to address very briefly an issue a couple of members raised in relation to the surrender powers and how they will work. Opposition members have raised some issues around that. However, I remind the opposition that while there has been extensive consultation and we do not want to have an overly onerous or administratively cumbersome system, those venues which have authorised officers can direct persons to surrender their bags. If they have items of concern in those bags, they can direct people to leave or they can ask the police to remove that person. The surrender powers and direction removal powers are designed to work together. I remind the house that under the Control of Weapons Act police can remove weapons.

This is about trying to make it work as simply as possible but with the right protections for the consumer and the right protections from a security point of view. I thank the members and wish a speedy passage for this bill in the other place.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

CRIMES (HOMICIDE) BILL

Second reading

Debate resumed from 6 October; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — This bill comes on at a very interesting time. This morning I had the opportunity to attend the launch by Phil Cleary of a book which deals with the tragic murder of his sister. We also heard from Jane Ashton, who is the twin sister of Julie Ramage, who was unfortunately tragically killed by her husband. That case received a lot of notoriety about 12 months ago. That case highlighted a defence of provocation at a time when the Victorian Law Reform Commission was making recommendations in relation to defences to homicide. It was also a time when the Liberal Party came out and called as a matter of policy for the abolition of the provocation defence in the state of Victoria.

In January this year the government announced that it was going to accept that part of the law reform commission's report dealing with provocation and would seek to amend the legislation to abolish provocation as a defence. Regrettably it has taken almost nine months since that announcement for the government to act, following the commission's report and following the notoriety of the provocation defence that was highlighted by the Ramage case. It also followed the Liberal Party's announcement at the end of last year — before the law reform commission's report but certainly after the Ramage case — in which we called for the abolition of the provocation defence.

This bill, whatever else it is about — and there are a substantial number of matters in the bill which go well beyond the provocation defence — is certainly about the abolition of the defence of provocation as far as the press and the wider community are concerned. It is interesting to look at the defence of provocation as seen from the other side of the court process. Having been a barrister and being steeped in all the traditions of the bar, it is interesting for someone like me to see the impact of the provocation defence upon the victim's family. When you start from that point of view, there is no doubt that we are doing the right thing in abolishing provocation as a defence, notwithstanding the great deal of hostility and opposition that has been generated in legal circles. That is something I will deal with in a moment.

When you actually see it in practice from the point of view of a victim's family, particularly where a man has claimed and successfully pleaded provocation in

relation to a woman, the way it has been operating in Victoria is of real concern. In Phil Cleary's sister's case and in the case of Julie Ramage, what appalled the family members of the deceased victims was that the victims' characters could be completely disparaged and defamed through the court process without there being any opportunity of rebutting that.

A provocation defence is largely made out not by the accused giving evidence in court but by their undertaking a record of interview which is then read to the jury in its entirety and which can then set the basis upon which the defence of provocation is made. If the defendant sets out that factual matrix and claims it as a defence, then it must be left to the jury to ultimately determine without its hearing any of the other matters that may be antecedent to it. The defence of provocation leaves a victim unable to challenge some of the matters that have been put by the accused in the record of interview — to the best of his belief or otherwise — and certainly without any ability to rebut that evidence in the court. Accordingly, many families, particularly in a case of domestic violence where a woman has been killed by a man, have left the court not only completely unsatisfied by but very angry at the court process. In the case of Phil Cleary, whose sister was killed in 1987, there has been a period of almost 20 years of campaigning to get rid of the defence of provocation.

The opposition accepts what the Attorney-General said in the second-reading speech — and what has been put out in the Victorian Law Reform Commission's report — that provocation is a male defence. It is relied upon far more by men than by women, and that is clear and without equivocation in the figures I have seen. The response to that is often that more men than women are charged with murder. But a large number of women's groups and many women barristers have contacted me to say that the way it operates actually acts against women, and not only the victims but the victims' families. I think the launch today by Philip Cleary demonstrated the concerns in relation to provocation and brought into sharp focus precisely the way this defence has operated.

Of course it is a common-law defence. It grew up at a time when the more draconian aspects of a mandatory death penalty were trying to be ameliorated by the courts. It allowed the courts to take into account a killing that was done in the heat of the moment where someone was provoked and perhaps was unable to maintain control. That was the nub and the basis of the provocation defence that reduces murder to manslaughter.

In those circumstances — and this is something certainly to be flagged at a future time — perhaps there needs to be a far more general defence that does not just deal with or operate mostly in favour of men and does not discriminate against the victim, the victim's family and the victim's reputation. A defence of diminished responsibility is something that this Parliament may have to grapple with at some stage, and certainly we as a community should be grappling with the defence of diminished responsibility which applies in New South Wales and Queensland and which many advocates including the Victorian Bar Council and the Law Institute of Victoria have called for in this state. Again, it would have to be introduced in a way that would not have all of the horrors of the provocation defence the way it has panned out in the courts.

Members may say that that is a matter that the judges and barristers themselves should be administering. But in the nature of the way the defence has panned out, in many cases the barristers who plead provocation on behalf of their clients are doing no more than acting in the best interests of their clients, and in doing so they are undertaking their fiduciary obligation, which is to act in the best interests of their clients even if that means acting to the detriment of themselves. Accordingly I cannot see the courts or the legal profession being criticised for advocating on behalf of the provocation defence, but certainly it is a matter that we have to deal with, and I am very pleased that this bill principally abolishes the partial defence of provocation to murder.

The bill goes on and does far more. The provision relating to provocation takes up only a very small part of it, but that is the part that has captured the community's imagination and that of anyone from police right through to victims groups. It is certainly a matter that the bar council and the law institute have specifically addressed in their various correspondence to me and many, many others. It has certainly attracted a large part of the media attention, but a number of other matters are addressed in this legislation, based upon the original recommendation of the Victorian Law Reform Commission in November last year.

The bill will create a new offence of defensive homicide. It revises the offence of infanticide by expanding the current 12-month period to a 2-year period. It alters the defence of self-defence to murder; introduces new defences to murder of duress and sudden extraordinary emergency; and limits self-intoxication as a mitigating factor in relevant offences, which is all of the homicide offences, which are murder, manslaughter, as well as the new offence of defensive homicide.

On top of that the bill also provides that a judge alone may accept that mental impairment of an accused can be determined by the judge where all parties agree. Essentially there is still a safety valve that if the judge agrees and the defence and prosecution both agree that on the medical evidence submitted to them there is a mental impairment, then the judge is able to make the determination of guilt or innocence based upon mental impairment. If the judge does not accept that the evidence is satisfactory, even though they have accepted the process to be looked at by the judge, it must be left to the determination of a jury, which is the current situation.

This will enable the court process to perhaps be shortened — without the enormity, difficulties, cost and expense of putting it to a jury — where the defence and prosecution as well as the judge agree that the judgment of an accused person was impaired by way of a mental disorder. That is a matter that the judge can determine without the necessity of putting it to a jury. The other disposition of what happens to the accused is still part of the sentencing process and will be dealt with by the judge alone in any event. But there is the capacity to substantially reduce the amount of time taken by the courts to deal with somebody's mental impairment when they are accused of murder, manslaughter or defensive homicide.

I have dealt very much with the defence of provocation. As I said, it is based upon a large number of contributions certainly by the Liberal Party and the Victorian Law Reform Commission, and ultimately the government accepting that in January of this year.

Infanticide, which carries a maximum term of six years, is an alternative verdict to murder. It operates currently in a situation where a woman who is still lactating is suffering from something that may not amount to a formal mental impairment but is certainly an imbalance of the mind as a result of, as the bill is currently drafted, lactation. That provides some excuse for the culpability, and a jury is able to return an alternative verdict to murder of infanticide and the woman will be dealt with by that lesser offence. The Victorian Law Reform Commission quite properly said that perhaps the limitation posed by lactation is a bit anachronistic. It certainly recognises that a woman who is still suffering from an imbalance of the mind created by the birth of the child and who tragically kills that child — it is important to note that it is not 'a' child but 'that' child — would attract an alternative verdict of infanticide.

At the moment there is a limitation of 12 months. The Victorian Law Reform Commission, although it said it had evidence to show that that may exist up to five years of age in the case of that child that was killed, made a recommendation — again it was arbitrary — that it should be set at two years. The opposition does not disagree with that, but perhaps this is a case where diminished responsibility is a catch-all defence, where somebody who is not suffering from a recognised mental disorder within the meaning of the M'Naghten rules should be able to avail themselves of the ability to plead an imbalance of their mind that is based upon clinical evidence. Perhaps it could encompass, flexibly — it does not matter whether it is 1 year, 2 years or even up to 5 years — a woman who had an imbalance of the mind created by the birth of that child that she killed. In such a case perhaps the defence should be expanded to those general terms.

Again, it may be applied in other circumstances as well. Certainly from the point of view of a generalist lawyer, as I am, the more general and sensible you can make the laws the better the outcome, but that is for a debate at another time. I understand precisely the reasons that the law institute and bar council are advocating for a general defence of diminished responsibility similar to that in New South Wales and Queensland.

I will just deal with the homicide offences which are now probably the principal part of the bill and which have probably received little or no commentary from the press generally. Again, there are two sides of the coin. There is a great opportunity presented here in codifying the offences and defences relating to murder, the alternative verdict of defensive homicide and also a new defence of manslaughter. More particularly there is a recognition through this bill of the tragic and awful offences that are committed in a domestic situation. Those tragic and awful offences perhaps do not otherwise get the recognition in our courts historically. Certainly we are all becoming aware of the significant impact that it has in our community. It is a matter that the Victorian Law Reform Commission picked up and said that there needs to be a rethink of the way we treat domestic violence in relation to homicide offences.

I shall just deal with the more general aspects of the exceptions to homicide offences that are set out in new subdivision (1AA) to be inserted in division 1 of part 1 of the Crimes Act. Of course murder is the intentional or reckless killing of another person without lawful excuse — that is McIntosh's potted definition. Indeed it is treated in our system as the most serious and heinous of all crimes. Up until the 1970s it was still a capital offence. When the death penalty was abolished it still attracted mandatory life imprisonment — and there is still the possibility of getting mandatory life

imprisonment. It is a serious offence, and in certain circumstances it can lead to an indefinite sentence.

It is still treated in the courts as the most serious of crimes. All murders are dealt with by the Supreme Court. The late Frank Galbally was held in awe by the legal profession because, as was said at his funeral, he undertook some 300 murder trials. It is a record that is unlikely to be beaten. It emphasises that the undertaking of these matters is the preserve of the best and the brightest of the legal profession. Frank Vincent, now Justice Vincent, undertook something like 180 murder trials. Two or three barristers would repeatedly undertake those sort of trials. Murder is treated very seriously by the law, the courts and the community.

New subdivision (1AA) of the Crimes Act provides a number of exceptions to the homicide offences. This was something that the department representatives briefed us about. Opposition members are very grateful for the full briefing we got in relation to this bill. The important thing to note is that despite the recommendation of the Victorian Law Reform Commission this is not a code and does not operate to exclude the common law. Instead it adds to the common law, does not intend to be a code and should not be looked at as a code. It covers the entire field in relation to the exceptions to murder. Likewise individual defences such as self-defence operate conjointly with the common law.

It is a matter which the Victorian Bar Council put stridently to me, saying that unfortunately it will add to the complexity of charging a jury, and it would not be an uncommon murder trial for a person to be charged with murder as well as serious assault occasioning actual bodily harm or an attempted crime. In that case the self-defence defence might be taken, in which case the judge might be required to charge the jury in relation to the statutory defence of self-defence. The judge would likewise be required to charge a jury in relation to the common-law defence of self-defence to murder. On top of that there would be the obligation to charge the jury with the common-law defence of self-defence in relation to assault — all of which would add to the complexity of the charge to the jury. Perhaps a better course would have been to codify the defence. However, the government has chosen not to codify the defence, so there will be that complexity in relation to charging the jury. Likewise that complexity will no doubt mean that a new regime of appeal decisions will be made in relation to these defences.

I turn to the self-defence to murder provisions. A great deal of concern — and I emphasise that — has been expressed by a number of people about the self-defence provisions set out in the bill. I was talking to Noel MacNamara today at Phil Cleary's launch, and he is concerned that this defence may operate in a way well below community expectations. I have been contacted by a number of individual police officers expressing their concern about the lack of clarity and, more particularly, about the lowering of the high-jump bar to get over a self-defence defence in a court case. The most important thing is that I have formally been informed by the Police Association that it is most concerned on behalf of all its members in relation to this defence. I understand that the association has made substantial representations to the government in relation to this, saying that it is a matter of profound concern that in a number of circumstances it may provide a defence of self-defence to unintended defendants.

Likewise individual barristers and solicitors from both sides of the equation have made the same representations to me. Those barristers who traditionally appear for the Crown and those who traditionally appear on behalf of the defence are concerned about the laxity of the definition of self-defence as set out in the new defence of self-defence to murder. On top of that, the opposition is raising this matter directly with the government and would be happy to consult with it to seek an amendment to the defence that will work in an appropriate way.

The argument is simple, and I refer to paragraph 3.5 of the Victorian Law Reform Commission report. It is common knowledge, and certainly it was part of the briefing, that the current test for self-defence set out by the High Court of Australia in *Zecevic v. Director of Public Prosecutions (Vic)* [1997] is straightforward. I quote:

> The question to be asked in the end is quite simple. It is whether the accused believed upon reasonable grounds that it was necessary in self-defence to do what he (or she) did. If he (or she) had that belief and there were reasonable grounds for it, or if the jury is left in reasonable doubt about that matter, then he (or she) is entitled to an acquittal.

There are clearly two tiers of the self-defence test in relation to murder. That defence requires the establishment of both the belief and a reasonableness — that is, that in all circumstances that belief was based upon reasonable grounds. As to what is reasonable, a number of cases suggest that although the immediacy of the action is not an absolute requirement for the defence of self-defence, usually it is a crucial factor. For example, if the Minister for Manufacturing and Export comes at me with an axe and I wrestle him to the ground but he then uses his bruising

force to hold me down and I somehow pick up a biro and put it into his eye and kill him, then I would be entitled to a defence of self-defence in those circumstances. I would be able to establish quite categorically that I held the belief I was about to die or suffer serious bodily injury.

So if he attacks me with an axe and I shove a biro into his eye and kill him, my response is reasonable in all the circumstances and my belief can be shown to be reasonably held. Unfortunately while there is a provision that talks about the requirement of having a belief that death or serious injury will result from a course of action taken by the victim, there are no reasonableness grounds involved in that at all.

The most important consequence has been put very succinctly by someone who said that the real vice with this defence is the fact that no longer does it have to be an imminent danger; it has to be an inevitable danger. They were the words used by the Victorian Law Reform Commission in its report. The bill is seeking to change the matrix from one of imminent danger to one of inevitable danger.

Reasonableness is picked up in defensive homicide — so an accused may still be guilty of defensive homicide, which is for all intents and purposes like manslaughter and is still preserved here — and it becomes an operative factor in defensive homicide, but essentially what is being reintroduced is the idea of excessive self-defence, which of course has not formed part of the law of Victoria for some considerable time. But most importantly, and this is the nub of the issue, if it becomes an inevitable consequence we may be licensing, for example, the Mick Gattos to actively encourage someone like Mr Veniamen to come into a restaurant on the basis that they believe they would be quite immune in shooting a Mr Veniamen because they know that a contract is out on their life and they could argue about the inevitable consequence. In that case it would have been easily and reasonably held that there would have been death or serious injury. The laxity of the drafting of the self-defence exception set out in this bill causes a large number of people concern.

It is compounded by the fact that there is a new exception, the sudden and extraordinary circumstance defence, which takes over and perhaps puts into the law of Victoria a so-called necessity defence, which was never a defence to murder. The bill certainly makes it clear that in a sudden or extraordinary circumstance an inevitable consequence rather than an imminent consequence should be the basis for a self-defence response to a charge of murder.

In my very limited time I will just mention that the provision which relates to reasonableness, which would then provide an absolute defence to murder, is a matter of some concern in the sense that it is extending the family violence provisions. While I agree that family violence should be recognised and I certainly agree with the large proportion of the family violence provisions, regrettably time does not allow me to adumbrate exactly what my concerns are. But the real concerns are that this will allow hearsay evidence to be introduced into a murder trial, which is clearly a substantive matter which the government should review.

Given the fact that the government has already indicated that it proposes to review the Crimes Act, perhaps it would have been better to have a larger review which included the law of hearsay. On top of that, self-induced intoxication will never be used per se as a basis for determining reasonableness. The standard will be a sober person in relation to homicide offences. That is more than appropriate.

Mr RYAN (Leader of The Nationals) — In my time as a solicitor I empanelled a number of juries, or I assisted accused people to empanel a number of juries. I have to be very careful about my choice of words, because depending on who the judge was, there were different expressions of concern as to who was doing what to whom at the time of empanelment. I remember the many occasions when I assisted an accused person to empanel a jury. The setting was obviously in a courtroom at the start of the trial. A jury panel would be assembled, and I would then take up a position immediately adjacent to where the prisoner was being held in the dock, and the empanelling process would occur.

To this day I still do not know the science that was necessarily applied by me, or by others, for the purposes of empanelling juries in capital trials, or indeed juries at large. Because I practised in Sale there was an element of local knowledge which one was able to bring into play. Nevertheless I must say that the actual process of empanelling juries was done on a pretty haphazard basis. You gave the best advice you could to the accused, but in the end the basic point to make out of it is that going through that process to assist an accused person was a very compelling task to undertake.

The other opening comment I want to make in what will be a pretty brief contribution to the debate on this piece of legislation is that I endorse the comments of the member for Kew about the barristers who practise in this extraordinarily difficult area of the law by acting

for the accused in murder trials. In the years that I practised in the circuit court system at Sale, the Supreme Court was in the city for anything up to three months of the year. In the latter years it was just for one, maybe two, months of the year. The barristers who came to Sale to act for the accused were inevitably the best of the best. Over the years I had a theory that the best barristers at large were those who practised in the criminal law because they learnt the rules of evidence better than anybody else did, and they learnt them in the school of hard knocks. Particularly in murder trials, but also in criminal trials at large, having a mastery of the rules of evidence was absolutely critical to being able to properly represent an accused person.

The legislation before the house is the result of a process that has been in train now for several years. I suppose the most compelling feature to come out of the report that was ultimately produced, upon which this legislation is largely based, is the examination of the issue of family violence and the way in which in a contemporary sense it has assumed a position in the formation of the law that it did not originally have. The original concepts underpinning many of the aspects of this legislation have changed so much with the passage of time.

In brief, in September 2001 the Victorian Law Reform Commission was given terms of reference by the Attorney-General which were specifically on the majority of the material in this bill. The terms of reference included a request:

> To examine the law of homicide and consider whether:
>
> > it would be appropriate to reform, narrow or extend defences or partial excuses to homicide, including self-defence, provocation and diminished responsibility …

There were other elements of the terms of reference, but that first category is probably the principal one for consideration here.

The final report of the commission was eventually tabled in November last year. The tome is entitled *Defences to Homicide — Final Report* and contains about 360 pages. I pay credit where it is due to those who have been involved in the process of dealing with the terms of reference and producing the subsequent report, which in turn has led to the legislation before the house. The report contains a series of recommendations; this bill enacts the key elements of those recommendations.

The particular purposes of the legislation are recited in clause 1. To paraphrase them, the major purposes are, firstly, to amend the Crimes Act to remove provocation as a partial defence to murder; secondly, to create a new offence of defensive homicide as well as to revise the offence of infanticide; thirdly, to provide expressly for self-defence, duress and sudden or extraordinary emergency and the relevance of intoxication to homicide offences — those offences being murder, manslaughter and this new offence of defensive homicide.

The outstanding issue which dominates the whole of this discussion and which has been referred to by the member for Kew is the issue of provocation. What the bill does in part 2 under clause 3 through the insertion of new section 3B is to abolish provocation as a partial defence to murder. The provision reads:

> The rule of law that provocation reduces the crime of murder to manslaughter is abolished.

The historical origins of provocation and its development are traced through the final report of the commission and on page 21 there is reference to the historical context. Without going through it all chapter and verse, it says at paragraph 2.3:

> The defence of provocation developed at a time when the death penalty was mandatory for those convicted of murder. The existence of provocation as a partial justification or excuse is therefore inextricably linked with the desire to mitigate against the harshness of a mandatory sentence.

The report goes on to trace how the defence developed and it recites in paragraph 2.4:

> The development of provocation can be traced back to 16th and 17th century England when drunken brawls and fights arising from 'breaches of honour' were commonplace.

The report then sets out some of the examples that were said to constitute these drunken brawls, fights and breaches of honour, all of which in this day and age look rather ridiculous. The report then moves to the point of dealing with the modern law of provocation and the fact that it can be traced back to the judgment of Chief Justice Holt in the proceeding of the *R v. Mawgridge* of 1707. Tracing the history to that point in time simply emphasises that the origins of provocation as a partial defence were developed literally hundreds of years ago. Consequently it is perfectly understandable that in this day and age, as our communities have developed, there has been extraordinary frustration in communities that have been subject to this defence and in families who have had this defence raised in circumstances where the persons who are the focal point of commentary by an accused do not have the capacity to defend themselves. It is very easily understood how that measure of frustration has grown to the point of the consistent calls for the

abolition of provocation as a partial defence, and that that has led to the legislation now before the house.

We have then seen the development of the modern law of provocation, but nevertheless and, as the report recites on page 26, there have been many criticisms of it over the years. They have been summarised in the report on a basis that provocation and a loss of self-control is an inappropriate basis for a partial defence; that people should be able to control their impulses even when angry; that the provocation is gender biased; that provocation promotes a culture of blaming the victim; that provocation privileges a loss of self-control as a basis for a defence; that the test for provocation is conceptually confused, complex and difficult for juries to understand and apply; that provocation is an anomaly — that it is not a defence to any other crime other than murder; and finally, that provocation is in this day and age an anachronism as we no longer have the mandatory sentence for murder.

I really think that is a pretty neat summary of the commentary that has been made from a variety of sources about the fact that there had to be a change made in the law and that is the basis in the broad sense for the provisions that are contained in this bill which in effect remove provocation as a partial defence.

There are many other elements in this legislation and the member for Kew has examined them in some detail. With the time available I do not propose to go down that path. I simply say the Victorian Law Reform Commission is to be credited with the fact of the enormous amount of work which has been undertaken here. I would hope therefore that this bill is able to enjoy a speedy passage.

The ACTING SPEAKER (Mr Delahunty) — Order! In accordance with the resolution agreed to yesterday, the time has come to suspend the Legislative Assembly to enable a joint sitting of the Legislative Assembly and the Legislative Council.

Debate interrupted.

Sitting suspended 6.18 p.m. until 8.02 p.m.

CRIMES (HOMICIDE) BILL

Second reading

Debate resumed.

Mr MILDENHALL (Footscray) — This is great legislation. This is also classic Rob Hulls legislation, extensively researched by the Victorian Law Reform Commission, which was revived by the Bracks government after its unjustified axing by the Kennett government. This is bold and committed legislation, the effect of which will be to protect and provide greater justice for women who are subjected to domestic violence and inappropriate — —

Ms Allan interjected.

The ACTING SPEAKER (Mr Ingram) — Order! The Minister for Education Services!

Mr MILDENHALL — I expect interruptions from the other side!

There are few instances in recent legal history that have so outraged community activists for justice as much as the Heather Osland case and cases like those of Vicki Cleary and Julie Ramage. This bill goes straight to the heart of dealing with the legislation regarding murder in cases of that ilk. It could be put no better than the Attorney-General put it earlier this year at the launch of this legislation:

> Well, as I announced earlier this year, provocation will no longer be a partial defence to murder in Victoria.

The article in the *Age* of 3 October reports the Attorney-General as saying:

> This government will not support a mechanism that, implicitly, blames the victim for a crime — one that has been relied upon by men who kill partners or ex-partners out of jealousy or anger; by men who kill other men who they believed were making sexual advances towards them; and even by men who kill their own daughters because they believe they have dishonoured them. We cannot retain a defence that condones and perpetuates male aggression. People who kill having lost self-control in this manner will now, if found guilty, be convicted of murder rather than manslaughter, the question of provocation simply taken into account, if relevant, alongside a range of other factors in the sentencing process.

The article about the launch goes on to say:

> Jane Ashton, whose twin sister Julie was bashed and strangled in her Balwyn home by her husband, James Ramage, after she told him their marriage was over, welcomed the reforms.
>
> …
>
> Ms Ashton said the changes were 'excellent' because they sent a strong message that the killing of partners or ex-partners would not be tolerated.

The article also notes that a spokeswoman for the Heather Osland Support and Action Group said:

> … Ms Osland welcomed the changes, which had made her feel that her incarceration had not been in vain. The article continues:

> … Phil Cleary, whose sister Vicki was stabbed to death in 1987 by a jealous former boyfriend, said the provocation defence was 'a barbaric, misogynist law that had to go'.

It is great to be part of a government that is able to rectify this anomaly.

It is also worth noting that the clarification to the self-defence provisions will not open the floodgates to the likes of Mick Gatto and other gangland operatives. The clarification of the self-defence provisions does not change the requirement for immediacy and proportionality in terms of a response when somebody feels that they are under threat. That provision will not change for gangland-type situations; it is only changed for domestic violence-type situations. Where the defence is able to establish that the defendant had a genuine belief that their life was in danger and the jury upholds that, then instead of being a case of murder it becomes one of a secondary nature equivalent to manslaughter, particularly if it is then upheld that a reasonable person would have found that there was a genuine belief. That particularly relates to instances like those commonly described in the Heather Osland case.

This legislation is a result of extensive work by the Victorian Law Reform Commission and extensive consultation with a range of groups such as the women's legal service, community legal centres, the Director of Public Prosecutions, Victoria Police, the Supreme Court and the Domestic Violence and Incest Resource Centre. It is tremendous legislation, and I note that it enjoys the support of the opposition parties — and so it ought. I am sure it will receive widespread acclamation across the community. I wish it a speedy passage.

Mr WELLS (Scoresby) — I rise to join the debate on the Crimes (Homicide) Bill. The Liberal Party will not be opposing this bill. The reason we are not fully supporting it is that we have some problems with defensive homicide. We strongly support provocation no longer being a partial defence to murder. That is part of Liberal Party policy, and we are very supportive of that part of the bill, and it is for that reason that we are not opposing the bill. However, as I said, we have some serious concerns about the defensive homicide side of it.

The purpose of the bill is principally to amend the criminal law to reflect the Victorian Law Reform Commission's report on defences to homicide. It amends the Crimes Act to abolish provocation as a partial defence to murder, creates a new offence of defensive homicide, extends self-defence, extends the application of the offence of infanticide to two years, introduces a new defence of duress and necessity to the defence to murder and limits self-induced intoxication as a mitigating factor in homicide offences.

As I said, as part of the main provisions of the bill provocation will no longer be a partial defence to murder. The bill harks back to the Heather Osland case, which became a real rallying point for reform after Heather Osland was convicted for killing her violent and abusive husband in 1991. I refer to an AAP wire service report of 4 October:

> Released earlier this year after serving almost 10 years of a 14.5 year sentence, she hailed the reforms today as 'a little victory'.
>
> 'My case has highlighted the need for change when I struggled to survive and then had to survive the backward justice system', she said in a statement.
>
> 'These changes today mean that my incarceration was not in vain'.
>
> Ms Osland's 1996 trial attracted prominence because of her use of the battered woman syndrome to explain the killing of Frank Osland after 13 years of physical, sexual and emotional abuse.
>
> She drugged and buried Frank Osland in a prepared grave in July 1991, but the fatal blow was struck with an iron bar by her adult son, David, who was acquitted in a separate trial.
>
> Her appeal to the High Court was rejected by a 3–2 decision in 1998.
>
> She is now locked in another legal battle after the Victorian government challenged a tribunal's order that it release its legal advice to reject Ms Osland's 2001 petition of mercy.

The member for Footscray also mentioned the case of Julie Ramage, which involved the trial of a Melbourne businessman, James Ramage. An article in the *Herald Sun* of Wednesday, 5 October, states:

> Ramage was charged with the murder of his wife, Julie, but found guilty of the lesser charge of manslaughter after a jury accepted she provoked him into bashing and strangling her to death with taunts about their sex life.
>
> He was sentenced to 11 years jail with a minimum of 8 years.
>
> Attorney-General Rob Hulls said yesterday the law had failed women by excusing male violence and shifting the blame on to its victims.

As I said, the Liberal Party supports that. The bill provides new exceptions to murder — self-defence, duress, sudden extraordinary emergency and necessity — and introduces the new offence of defensive homicide. Defensive homicide is an alternative verdict to murder where the accused did not have reasonable grounds for believing they needed to defend themselves. It is this particular point that we have concerns about.

I listened carefully to the comments made by the member for Footscray. However, proposed section 9AC in subdivision (1AA) states:

> A person is not guilty of murder if he or she carries out the conduct that would otherwise constitute murder while believing the conduct to be necessary to defend himself or herself or another person from the infliction of death or really serious injury.

I am not sure whether 'really serious injury' is a legal term. In understand that 'serious injury' is a legal term, but not 'really serious injury', so I am unsure about that definition.

Then there are the cases of the gangland killings. If a known criminal is walking along and someone from another gang is also in the same vicinity and one believes that the other is there to murder him and the other person commits what would otherwise constitute murder while believing that conduct is necessary to defend himself, how are the courts going to determine that particular case? It is going to be an absolute quagmire.

If when the minister is summing up he is able to explain that part of it to us, fine, the Liberal Party will have another look at this while the bill is between houses and reassess it. In our consultations with them the police have raised serious concerns about this, especially those who are connected to the homicide squad. I would have thought that the Bracks government would take the views of those in the homicide squad very seriously. When people connected to the homicide squad raise concerns about defensive murder, then we have real problems. How do you interpret that part of the bill that refers to:

> … believing the conduct to be necessary to defend himself or herself …

On this side we are really struggling with it. The member for Prahran is very clear about it, but I suspect that we will back in this chamber at some time in the near future making amendments to this part of the legislation, because the courts will not be clear about this particular definition.

Apart from that, as I said, the Liberal Party will not be opposing the bill. We will wait with great interest to see how it operates. I guess there will be more consultation with Victoria Police, with defence barristers and with the court system over time on how it works in practice. I understand what the government is saying. The theory is great — there is no question about that — but we question that part of it with regard to:

> … believing the conduct to be necessary to defend himself or herself or another person from the infliction of death or really serious injury.

Ms MORAND (Mount Waverley) — I rise to support the Crimes (Homicide) Bill, which will implement absolutely essential reforms relating to defences to homicide. First of all I want to congratulate the Victorian Law Reform Commission (VLRC) on the work it has undertaken and the reforms that it has recommended. I also want to congratulate the Attorney-General for the reference he gave to the commission in September 2001, which led to the options paper, the report and the amendments being debated today. I also want to acknowledge the huge contribution made by many individuals and organisations to the commission's report and to the round tables and consultations that were undertaken.

This bill contains a package of reforms, including abolishing the law of provocation, amending the law of self-defence, and introducing the new offence of defensive homicide. The bill also amends the Crimes Act to provide that the defences of duress and sudden or extraordinary emergency should be available in cases of homicide. There are also changes in relation to infanticide and procedural reforms relating to mental impairment. All these changes are absolutely vital to bring our laws in line with community thinking and community responses, particularly as they relate to domestic violence.

I want to focus my contribution on the abolition of the defence of provocation. The laws that are going to be amended in this area will one day, in the not-too-distant future, be spoken about by me and other people to the amazement of our daughters and their friends. They will be amazed that these laws ever existed. I will talk about the fact that a law existed that provided an excuse, or a partial excuse, for killing a domestic partner, and that a law existed that provided for defensive murder based on the notion that it was understandable that the accused lost control and became so violent as to kill their partner because their relationship was under threat. This defence is predominantly used by men in defending the murder of their partners. Some will say that they cannot believe or accept that this type of law has stood for as long as it has.

A complex range of factors and situations contribute to family violence; however, the commission found that there is gender bias in the way that defences are framed and applied. The commission's recommendation, reflected in this bill, is that provocation should be abolished as a defence for homicide but that factors

affecting a person's culpability should rather be taken into account during sentencing.

The commission undertook a study of Victorian homicide prosecutions, the results of which informed the work of the committee and its report. The Australian Institute of Criminology estimates that each year there are around 77 homicides affecting intimate partners and that 75 per cent of these involve men killing their female partners. These men often argue a defence of provocation, the provocation being that the women left them, were threatening to leave or were starting new relationships. This reflects the paternalistic and sexist view that women are the property of men and should not dare leave them. In reading the commission's report and referring to the historical origins of the defence, it is really sickening to consider the way in which women have been treated by the law over the centuries.

Like the Leader of The Nationals I will refer to how, as the report describes, the modern law of provocation can be traced back to 1707. The VLRC report refers to Lord Chief Justice Holt's decision in a case in 1707 which limited the circumstances in which a manslaughter verdict could be open to four categories: killing in response to grossly insulting assault; killing a person you see attacking a friend; killing to free a person who is being unlawfully deprived of their liberty; and killing a man caught in the act of adultery with one's wife. This is of course refers to a man's justification for killing another man, but it is rather telling when referring to the words of Justice Holt's judgment, who said that killing an adulterer is understood:

> … for jealousy is the rage of a man and adultery is the highest invasion of property …

Of course the property being referred to is a man's wife, as a wife is considered the property of man. Sadly this is the historical basis of the laws under which we work today — that is, that a man can be considered to have committed the lesser crime of homicide if his property or honour is threatened.

Unfortunately there are some men who still consider their partners to be their property. The notion of women as property has absolutely no place in our community today. Under the modern law three requirements must be met to establish the defence of provocation: the evidence of provocation; loss of control; and the ordinary-person test. But provocation is not a defence to any other crime. It is also about blaming the victim for provoking the attack, and this particular aspect of the defence of provocation is particularly upsetting to the relatives of people who have been murdered by their partners. This aspect is particularly objectionable. A sudden and violent loss of self control in response to a trigger is seen as a typically male response, and the commission refers to a recent homicide prosecution study which shows that only three women raised provocation as a defence during a trial and that none was successful. In contrast, men have successfully used the defence of provocation, including in several well-known cases, some of which have already been referred to this evening. The commission highlighted the use of this defence in domestic violence cases.

Like other members I will refer briefly to the case of Julie Ramage, who was killed by her husband, James. I think this case very clearly demonstrates why the defence of provocation should be abolished. Julie Ramage was killed by her husband in a jealous rage. She was killed for wanting to separate from him and to start a new life without him. She had moved out of the family home 14 months before she was bashed, strangled and then dumped in the bush.

Like many other people I read the account of the trial and the analysis of the decision, and I read of her life with her husband and the brutal way in which she was killed by a violent and possessive man. The jury found him guilty of the lesser crime of manslaughter after the defence argued that Julie had provoked him into losing control. I remember being very angry and upset while reading about the case. I can only wonder at how upsetting it must have been to the family of Julie Ramage when they heard that he had been sentenced to only 11 years and that, after serving a minimum non-parole, could be released after 7 years.

The way her actions in leaving her husband were presented to the court was really objectionable. She was the victim yet her actions were presented to the court to argue that his losing control and killing her was understandable. Her character was under assault and yet she was the victim. Evidence about previous violent behaviour by her husband and her fear of him was not permitted.

In its report the law reform commission made recommendations regarding the hearsay rule. The hearsay rule usually prevents the jury from hearing evidence of out-of-court statements made by witnesses. I note that the Australian Law Reform Commission, the New South Wales Law Reform Commission and the Victorian Law Reform Commission are jointly working on a review of the uniform Evidence Act, and I look forward to seeing the outcome of that work.

In summary, I think this bill is essential in bringing our laws into line with community thinking and standards, especially as they relate to domestic violence. Once

again I want to congratulate the law reform commission and the Attorney-General for bringing these important amendments into the house.

Ms ASHER (Brighton) — I wish to make a few comments in relation to the Crimes (Homicide) Bill. I will confine my comments to clause 3, which I strongly support. Clause 3 provides for the abolition of provocation as a partial defence to murder. There has been widespread community comment on this particular provision in relation to a number of court cases of recent times.

The Victorian Law Reform Commission was given terms of reference in 2001 by the Labor government and a report was tabled in November 2004. The recommendation of the law reform commission was that the partial defence of provocation should be abolished. The commission went on to advise in its recommendation that:

> Relevant circumstances of the offence, including provocation, should be taken into account at sentencing as they currently are for other offences.

The bill before the house is a very important step forward. It does not surprise me to hear from a number of other female speakers on this particular bill, and I am sure others will follow, that this is regarded as something significant in terms of the removal of an anachronism from the law.

The law reform commission basically went through a number of arguments for and against reform. The criticisms of provocation as a partial defence to murder are outlined at page 26 of the report. The commission notes that provocation was strongly criticised by a number of submissions. It went on to list the arguments advanced in favour of the abolition of provocation. The report states:

> … people should be able to control their impulses, even when angry …

The law reform commission flagged the very important issue of provocation being gender biased, no matter who has used it on the other side in the past. It said provocation encourages a culture of blaming the victim and went on to make two important points: that provocation is not a defence to any crime other than murder, and that it is an anachronism. It said at page 26:

> … as we no longer have a mandatory sentence for murder, provocation should be taken into account at sentencing as it is for all other offences.

Those arguments were tested by the law reform commission, and I think tested particularly thoroughly. At paragraph 2.17 of its report the law reform commission put forward what was for me the compelling argument. It said:

> Short of mental impairment, it is suggested we should expect people to be able to control their impulses regardless of what provocation is offered. In the commission's view, this provides one of the most compelling reasons for recommending the abolition of the defence.

I think that is a particularly significant point. I notice that Tasmania has abolished this defence, New South Wales has modified it, as has one other state, and it is high time Victoria followed suit. I note the conclusion at page 31. It states:

> In the commission's view it is difficult, if not impossible, to explain why anger and a loss of self-control should provide a partial defence to murder, while other circumstances that may reduce an offender's culpability — for instance killing a person out of compassion — are simply taken into account at sentencing.

The commission has taken account of a number of arguments in favour of the retention of provocation, I think probably against overwhelming community opinion but there was some significant legal opinion in favour of the retention of provocation as a partial defence to murder. I will flag these arguments. Clearly I do not agree with them but they were flagged in the commission's report at page 36. It states:

> … provoked killers are not 'murderers';
>
> juries should decide questions of culpability;
>
> …
>
> abolishing provocation would lead to increased sentences and uncertainty; and
>
> abolishing provocation would increase community dissatisfaction with sentencing.

These are not arguments with which I agree. They are not arguments with which the Liberal Party or the government agree and they are not arguments with which the Victorian Law Reform Commission agrees. The commission came to a very strong conclusion on this issue. It analysed the evidence before it and after careful consideration it came to the conclusion that the arguments in favour of abolition were compelling — their word, not mine.

I want to refer to a couple of instances which I think encapsulate why this particular defence was so obnoxious to so many members of our community. I quote from paragraph 2.93. It states:

> In chapter 1 we discussed the commission's view that factors that decrease a person's culpability for an intentional killing should be taken into account at sentencing rather than form the basis of a separate partial defence. In reaching this

> position we accepted that an intentional killing only justifies a partial or complete defence to murder in circumstances in which a person honestly believes that his or her actions were necessary to protect himself, herself or another person …

The commission goes on to advocate that it is 'illogical' to indicate that loss of self-control could be a defence to murder. In paragraph 2.95 the commission expressed the general community concern on this matter. It said:

> We are also concerned that the moral basis of provocation is inconsistent with contemporary community values and views on what is excusable behaviour.

The commission went on to say that to adopt that moral view:

> … suggests there are circumstances in which we, as a community, do not expect a person to control their impulses to kill or to seriously injure a person. This is of particular concern when this behaviour is in response to a person who is exercising his or her personal rights, for instance to leave a relationship or to start a new relationship with another person. In our view, anger and a loss of self-control, regardless of whether such anger may be understandable, is no longer a legitimate excuse for the use of lethal violence.

I could not agree more with that particular view put forward by the commission. We no longer have obligatory life sentences for murder, as we did when this defence was introduced. We as a society expect people to control their emotions to the extent that they do not kill other human beings, no matter how upset they may be under certain circumstances. There are many cases in relation to this, but the sheer shock of the Ramage case and the way it was handled in this day and age probably induced incredulity among a number of our community, and in particular, I would expect, a number of women in our community.

I do not always quote the *Age* as a source, but it has editorialised in favour of this proposition. The Attorney-General has brought a bill before the house to remove this anachronism from our law. It pleases me that incrementally since the 1970s a range of anachronisms have been removed by both Liberal and Labor governments where women were regarded as property under the law — rightly or wrongly that was the circumstance previously. This is yet another step forward in the removal of that old-fashioned view that women were property and therefore men could do with women what they wished. It is an incremental process of reform, and I am more than happy to acknowledge that this clause 3 is a very positive step forward.

I draw the attention of the house to a press release issued by the shadow Attorney-General on 18 November 2004. This is also my party's policy. The shadow Attorney-General welcomed the law reform commission recommendation for the abolition of provocation as a defence to murder. I will quote my colleague the shadow Attorney-General. He said:

> Provocation is now outdated, it discriminates against women and is not supported by the community — it has got to go, and the Bracks government must act immediately to get rid of it.

I do not often dish out praise to the Bracks Labor government. I have very firm views about its taxation policies. I have very firm views about the way it has let down country Victoria. I have very firm views in opposition to the Bracks government on a range of issues, but on clause 3 of this bill I am very pleased — and I am more than happy to say it in front of the Attorney-General — that the Labor Party has made this change. The Liberal Party indicated in November last year, as did the Labor Party, that this change should be made. It is a very important step forward. The law is filled with anachronisms, and we have seen since the 1970s, particularly in relation to women, an ongoing process of reform in regard to this matter. I am strongly in favour of clause 3, and I am more than happy to say that the Labor government has got one thing right.

Mr WYNNE (Richmond) — I rise to support the Crimes (Homicide) Bill. The bill represents a very significant advance in criminal law, and specifically it constitutes a substantial reform of the defences to homicide. As has been noted by previous speakers on this side of the house, the bill emerged in response to the report by the Victorian Law Reform Commission on the defences to homicide published in October 2004. It is worth commenting that it was in fact this Attorney-General who reinstated the law reform commission. As we know, the commission was sacked under the former Kennett government.

I recall the debate when I was assisting the Attorney-General as his parliamentary secretary and the then shadow Attorney-General, who is no longer in the Parliament, resisted this initiative. Nonetheless the test of time has shown us that an extraordinary amount of work and reform has come out of the law reform commission under the stewardship of Professor Marcia Neave. We owe her and her colleagues a great debt of gratitude. The bill makes changes to the law in connection with a number of issues raised in the report, all of which pertain to the defences to homicide and related offences.

The change that has received the most attention is, quite rightly, the abolition of the partial defence of provocation. As the Victorian Law Reform Commission noted, this defence can be traced back to the 16th and 17th centuries, to a time when drunken brawls would arise from supposed breaches of honour.

Notwithstanding that the defence has undergone refinement over the centuries, the essence has remained the same. The defence was available where an ordinary person would lose self-control and form an intention to inflict grievous bodily harm or death on another individual. Where provocation could be proved, a charge of murder would be downgraded to manslaughter.

The principal criticism of provocation is in many ways self-evident. The existence of the defence sends a message that it is acceptable to lose control and kill or seriously harm a person if that person has allegedly provoked you. Unfortunately this defence has continued to reflect its archaic origins, even quite recently being used to downgrade some particularly heinous crimes against women on the grounds that the victim's behaviour had provoked the offender.

Plainly, this law is an anachronism, as the member for Brighton indicated in her contribution to the debate, and should be abolished. It is incumbent upon us as legislators to make a few points very clear through the legal system. Firstly, it is not acceptable for a person to kill their spouse because the relationship has been terminated. It is not acceptable for a man to kill another man for making perceived sexual advances to their wives or partners. It is not acceptable for men to kill their own daughters because of their alleged belief that they may have been dishonoured. Above all, the Bracks government is clearly stating that Victorians will not tolerate violent crimes of this nature in the community.

This bill also delivers a codification and reform of the laws of self-defence. Victoria is the only jurisdiction in Australia which continues to rely on the common-law definition of 'self-defence'. With this bill Victoria's law will be brought into line with the rest of the country by enshrining the rules in legislation.

Importantly, the bill will affirm court decisions that have recognised that family violence should be a relevant factor when deciding if a killing should be excused on the grounds of self-defence. The law will also be reformed to adjust the operation of the common-law test that applies to self-defence in murder trials. The bill will retain the longstanding elements of the common-law test, but it will separate those instances into two stages: firstly, whether a person believed it was necessary to kill to defend themselves; and secondly, whether that belief was reasonable. If a person passes the first but not the second of those tests, they will now be guilty of the new offence of defensive homicide. It replaces the defence of manslaughter in this context, but remains with the same potential 20-year penalty.

The third and final element of the bill which it is important to briefly touch on is that it does codify the defences of duress and sudden and extraordinary emergency. In that context I know that in his summation on the bill the Attorney-General will mention the defence of duress. I just want to indicate that I was with the Attorney-General and a number of my caucus colleagues at the launch of the Victorian Law Reform Commission's report in the Legislative Council rooms a short while ago, and I must say we did have a large number of groups interested in law reform, a number of women from centres against sexual assault and other support agencies, and a number of members of families of victims of homicide. For many of us it was truly a pivotal point, when people really applauded both the work of the Victorian Law Reform Commission and the reforms the Attorney-General has so vigorously pursued. This bill is the culmination of that work.

This is an incredibly important symbol to the Victorian community, but most particularly it is an incredibly important symbol to the women of Victoria that this government stands with them. I commend the bill to the house.

Mr CLARK (Box Hill) — I want to express three concerns and make a further observation about one provision in the bill — namely, proposed section 9AI relating to sudden or extraordinary emergency. My first concern is that this provision applies not only in cases of murder but to other relevant offences, and the other relevant offences are manslaughter and defensive homicide. I am finding it difficult to understand how it could be that a defence of sudden or extraordinary emergency might be invoked in the case of manslaughter or defensive homicide. The offence of murder is constituted by a mental element either of intention or of recklessness. However, manslaughter is constituted by an act with gross negligence. So the mental conjecture that one has to have is how one can do something constituted with a mental element of gross negligence but do it in a way which is justified in a sudden or extraordinary emergency.

A similar concern applies in relation to defensive homicide which may be described as homicide in the circumstances of unreasonable self-defence. If the self-defence is deemed unreasonable and therefore falls outside the complete defence to murder constituted by proposed section 9AC but falls within the offence constituted by proposed section 9AD because there is a lack of reasonable belief — if the grounds for the belief are not reasonable — how is it that this offence of defensive homicide can be excused because it takes

place in a circumstance of sudden or extraordinary emergency?

My second concern relates to proposed section 9AI(3), which says:

> This section only applies in the case of murder if the emergency involves a risk of death or really serious injury.

That would seem to imply that if, notwithstanding my previous reservation, it is possible to commit an act that would otherwise be manslaughter or defensive homicide in cases of sudden or extraordinary emergency, that sudden or extraordinary emergency could be constituted by something other than death or really serious injury. I appreciate that there are some further restrictions in proposed subsection (2), but nonetheless it does seem strange that proposed subsection (3) should widen the grounds beyond death or really serious injury in the case of manslaughter or defensive homicide.

My third concern is that I am struggling to find examples that would not already attract other defences. The Attorney-General mentioned the example of cutting the rope of a fellow climber. Possibly it might be argued that sacrificing one life in order to save many others constitutes a sudden or extraordinary emergency. I think this is something that needs very serious thought rather than lightly, and without very careful specifics, reaching the view that one person's life can deliberately be sacrificed on behalf of others without very carefully circumscribing the situations, if any, in which that may be justified.

My final observation puts to one side the concerns that I have expressed and assumes that an action is justified because there is, for example, a deliberate killing in the case of what would generally be accepted to be a sudden or extraordinary emergency. My observation is this: in the context of the current federal debate on terrorism laws, a provision to this effect has been characterised as a shoot-to-kill provision. There have been a great many reservations expressed by state governments around the country about the federal government's proposal to include a so-called shoot-to-kill provision in its legislation. As I understand the commonwealth's position, it believes that is simply giving effect to common law and statute law that is already on the books of the respective states and is not an extension of that law and therefore does not constitute a so-called shoot-to-kill policy in a sense that should be regarded as reprehensible.

I simply make the observation that if anybody is going to characterise what I understand is being proposed by the commonwealth government in its anti-terrorism legislation as a shoot-to-kill policy and reflect adversely on it, then in the same terms the same characterisation should be applied to this proposed section 9AI — in other words, the Bracks government is itself introducing in this bill a new measure that can in those terms be characterised as a shoot-to-kill provision. I would be grateful if the Attorney-General would address that issue when he concludes this debate.

Mr HULLS (Attorney-General) — I thank all those who have contributed to the debate on this very important piece of legislation. It is a very proud moment for me as Attorney-General and for the government to be introducing such, can I say, groundbreaking legislation into this state.

As we know, the partial defence of provocation was developed at a time when it was acceptable for men to have a violent response to jealousy, anger or a perceived breach of honour. That is the reality. It promotes a culture of blaming the victim, and it has absolutely no place in a modern society. These reforms are about eradicating entrenched and outdated bias from the law. These reforms are about sending a very strong, loud and clear message that Victorians will not tolerate violent crime in our community.

The opposition has raised a number of technical issues that do need to be addressed. They were really encapsulated by some of the issues raised by the member for Kew. He expressed a concern that under the bill the danger that the accused person was responding to would no longer have to be immediate as long as it was inevitable. The bill does not alter the current legal position, which is that the immediacy of the threat is not a separate issue but is simply an aspect of the core issue of whether the accused person believed it was necessary to do what he or she did and whether there were reasonable grounds for that belief.

The Victorian Law Reform Commission recommended that the law of self-defence be expressed to apply when a person believes the harm to which the person responds is inevitable, whether or not it is immediate. However, can I say that this bill has not acted on that recommendation. It makes no reference to inevitability.

Importantly the bill affirms a series of court decisions that have acknowledged that in cases involving family violence an absence of immediate harm does not necessarily mean the accused person did not believe that his or her actions were necessary and were based on reasonable grounds. That is the important aspect of reform in relation to this bill.

The member for Kew also raised a concern in relation to new section 9AH of the bill that the evidence provisions would allow hearsay to be introduced in murder trials. He indicated that the government should conduct a review in relation to hearsay generally. The provisions in relation to evidence state that certain evidence — for example, evidence of a history of family violence between the accused and the victim or evidence regarding the general nature and dynamics of family violence — may be relevant to certain cases.

On this side of the house we believe that that is absolutely crucial, because evidence about the history of a domestically violent relationship can be absolutely critical in providing the court with information about the context in which homicide occurs. In particular women who kill in response to being assaulted by their partner have traditionally faced difficulties in arguing that they reasonably believed their response was necessary. Evidence about the nature and dynamics of family violence can be absolutely critical in dispelling jurors' misconceptions about family violence and explaining why a woman may have genuinely believed that homicide was her only option.

There is no obligation on a judge to allow such evidence if the evidence is not relevant or is inadmissible for some other reason, including when the evidence is inadmissible as a result of the hearsay rule. The bill does not amend the hearsay rule in that regard. In its report on defences to homicide the law reform commission recommended various modifications to the hearsay rule which would, if implemented, create new exemptions to the rule and allow hearsay evidence in certain circumstances. These recommendations were based on certain sections of the uniform evidence legislation; however, this bill does not implement those recommendations at this stage.

In relation to the member for Kew's view that there should be a review, I can say that at my request the law reform commission is conducting a review of the laws of evidence and of whether the Uniform Evidence Act should be enacted in Victoria. Therefore the government decided that any amendments to the laws of hearsay should wait until the outcome of the law reform commission's broader review of evidence.

The shadow minister for police raised an issue regarding defensive homicide being exploited by underworld criminals. Can I say that we need to be clear about this. In cases where there are no allegations of family violence, including cases where one underworld crime figure has killed another, a person will not be able to claim that they genuinely believed it was necessary to kill to defend themselves rather than taking other steps such as seeking help from the police, unless they were faced with an immediate attack.

The equivalent of defensive homicide — it is called excessive self-defence — has existed in South Australia since 1995 and has been in place in New South Wales since 2002. Far from stopping murder convictions in New South Wales convictions have risen slightly since the equivalent of defensive homicide was introduced. So the halfway house of excessive self-defence in New South Wales has been found to apply in only eight cases since it came into effect. There has been extensive consultation on this in relation to all stakeholders, including Victoria Police and Assistant Commissioner Simon Overland and the judiciary. We believe we have the balance right.

Can I say in conclusion that this is very important legislation, it is crucial legislation and it is legislation that all members of the government are absolutely proud to be associated with. This is a reform that is aimed at removing entrenched bias and misogynist assumptions from the law to make sure that women who kill while genuinely believing it is the only way to protect themselves or their children are not condemned as murderers. We believe this is important legislation, and I certainly wish it a speedy passage.

I thank all the members of the house who have supported the legislation. I even thank those members who cannot bring themselves to support the legislation but are not going to oppose it. On behalf of the government I certainly wish this legislation a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

JOINT SITTING OF PARLIAMENT

Victorian Health Promotion Foundation

The ACTING SPEAKER (Mr Ingram) — Order! I have to report that this house met with the Legislative Council this day for the purpose of sitting and voting together to elect three members of Parliament to the Victorian Health Promotion Foundation, and that Mr Hugh Francis Delahunty, MP, the Honourable William Forwood, MLC, and Ms Maxine Morand, MP, were elected.

WATER (RESOURCE MANAGEMENT) BILL

Second reading

Debate resumed from 6 October; motion of Mr PANDAZOPOULOS (Minister for Gaming).

Government amendments circulated by Mr THWAITES (Minister for Water) pursuant to standing orders.

The Nationals amendments circulated by Mr WALSH (Swan Hill) pursuant to standing orders.

Mr PLOWMAN (Benambra) — This bill is being treated with absolute disdain by the government, and I have rarely been more disappointed by the actions of any government in respect of introducing legislation of such importance. After all, this bill introduces the most wide-ranging changes to water legislation since the Water Act was rewritten in 1989.

In fact we have had delay after delay today in respect of the legislation. We have people from northern Victoria wanting to sit in on the debate to hear what the minister has to say and what the legislation actually means. Those people have either had to go home or put up with the level of delay. Amendments to this bill have been introduced by the minister right on the death knell — amendments to the most important water legislation that has been introduced in recent times. The minister is trying to protect his position on this, because I have to say that his position is deplorable.

Those on both sides of the house are seeking more time for consultation on this complex legislation. On that basis the opposition desires to move a reasoned amendment that has been circulated in my name. 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 autumn 2006 sitting, to allow for the economic and social impacts of the legislation to be fully considered by the water industry, irrigators and local government'.

Clearly that is what is required for this legislation. Although we have had a period of about 12 months to consider the white paper, there has only been a matter of between two to three weeks for consideration of the legislation. The legislation in its present form, with so many uncertainties and the fact that those people affected by a water entitlement reduction brought on by the minister will receive absolutely no compensation, is totally unacceptable. Those people face the possibility of losing or having reduced a water entitlement that they have had the right to all their lives. On that basis the opposition totally opposes this legislation.

I am not sure how seriously this matter of water management is being considered by the government. This minister appears to find plenty of time for personal promotional opportunities, but he did not have the time to appear when this legislation came before the house and the Minister for Gaming was required to read the second-reading speech. The Minister for the Arts attempted to sum up the ground water bill — —

Mr Helper interjected.

Mr PLOWMAN — The member for Ripon was then asked to take on that responsibility because the minister was not present.

This legislation is important, water legislation for the state of Victoria is important, and I do not believe this minister is doing justice to the legislation before the house. When the Groundwater (Border Agreement) (Amendment) Bill came before the house it had a series of errors that required 16 amendments. I can only hope that in this case the minister has done a better job, because we cannot afford to have that level of errors in this legislation, which is so important to all those people concerned with the water industry, particularly the irrigation industry in northern Victoria.

The implications of this legislation are hard to comprehend. There are 307 pages to the bill and the explanatory memorandum. Only two to three weeks being available to comprehend and to disseminate that information to the community is certainly not enough. Although we have had the time to look at the white paper, this will be the law and this is what people need to understand. That is what they need to have the detail of, and they certainly have not had the detail of this legislation to be able to comprehend and understand it.

Mr Thwaites interjected.

Mr PLOWMAN — The minister says that this bill has been around for 14 months. I would like to say that that is a heap of codswallop. It is 14 days, not 14 months. Get it right, Minister, get it right —

Mr Thwaites interjected.

Mr PLOWMAN — You have people here — —

The ACTING SPEAKER (Mr Ingram) — Order! The member for Benambra, through the Chair.

Mr PLOWMAN — The minister has people here to listen to this debate. He has to get it right if he is going to say that sort of thing. It is just not acceptable.

I must say that we have found mistakes in this bill, and a multitude of amendments need to be made to this bill to make it acceptable to the industry. Again, on that basis we wish to see this bill held over to the autumn session. I say to the minister that it is not a big ask. It has taken this long to get this far, so why have only 14 days to consider the legislation as it is, instead of giving the whole community a chance to properly consider it?

The responsibility vested with the minister in this legislation is enormous. The changes that have been granted with the centralised control by the minister and the department will completely and radically change the way the water industry is administered. Prior to this water authorities had that vested interest and that vested responsibility and their water services committees played a major role in getting advice up to those authorities. I suggest that all of this legislation is reducing the effect of those water authorities and those water services committees.

Mr Thwaites interjected.

Mr PLOWMAN — I have talked to every one of those water services committees and I can tell you that the majority of them are appalled by this legislation. They are certainly appalled by the minister who is responsible for it because they do not think that minister is listening to the community — to the very people who know what this legislation is all about.

The major issue is the complexity of the unbundling of the water entitlements from land. As an example, I contacted the director of the Australian Bankers Association. He advised me that the complexity of this is such that he and the banking industry are now totally unsure about the security of water as it relates to their mortgages on that land at the moment; they currently have mortgages on that land and on that water. He even explained in a letter to me their difficulty. The banks will have to ask irrigators to increase the amount of water they hold in order to have sufficient water entitlement to hold their mortgages, especially if they wish to have mortgages on new irrigation equipment. Any reduction made by the minister must be compensated by additional water that is held by the irrigator.

The irrigation industry will be grappling with this for sometime. If this were simplified or made easier to administer, I would suggest that the industry would accept it. But personally I cannot see any way that this has improved the industry, the way the water industry is to be administered and the way the irrigation industry will go ahead with its irrigation practices under this new system. It is complex. One certainty is that the increased level of administration will lead to increased costs, and that will be borne by the irrigators.

The third issue that is quite perplexing is the issue of non-user ownership of water entitlements or water shares. Nowhere in the industry, particularly from irrigators, have I heard a good word or a word of praise about this concept of non-user ownership of water. There has been much said about water barons, but I see this as a bit of a smokescreen. I understand that there will be those people, those non-users, who will trade in water to their financial benefit. But that will probably relate to relatively few people, and maybe those few people are trading on commodity futures anyway. The one sure thing is that there will be not one iota of increased productivity — and that will be at a cost to the industry, to those legitimate irrigators. They will end up paying more for their water, with those people outside the industry having the opportunity to make a profit out of trading in water.

The major concern with non-user ownership is that the banking industry could actually end up having a controlling influence over the price of water, particularly if the 10 per cent limit currently envisaged in the legislation is increased as the legislation allows. It is absolutely nonsensical that of two clauses one says that the minister must relate any increase to a panel — a panel that he has appointed — but the following clause says that if the panel does not properly represent the interests of those people who will be affected by this increase in the limit of non-user ownership, that does not affect the decision made by the minister. It is just nonsense, and it is certainly not in the best interests of the industry.

Another area in which the water market might be manipulated is by local governments wanting to secure water for their urban communities, and in fact in doing so they are doing the right thing by their urban communities but putting at risk those people in the industry that require this water for irrigation. Let us make no mistake about it. As you well know, Acting Speaker, the irrigation industry has added billions of dollars to this state's economy. It is responsible for the majority of exports out of the port of Melbourne. The minister has totally underestimated the effects of this ill-considered legislation. He is not in the slightest bit interested in this debate.

The power generation companies too will increase their ownership of water under this opportunity, because they will have the chance on the spot market to make more out of generating water than we could possibly make out of irrigation. This will distort the water market. I have to say that this is again going to be at the cost of irrigators.

The issue of reconfiguration and the resultant stranded assets is of real concern to the industry. Nobody would deny that there are circumstances when reconfiguration should occur. Implementation of reconfiguration may bring about more efficient use of that water and, in some cases, a higher financial return. The main concern for irrigators is that in some cases some of the most efficient producers, who have used the best scientific methods to overcome environmental problems in respect of irrigation, will now lose their livelihoods. The problem with that is not only that the irrigators will lose their livelihoods as a result of the opportunity, under this legislation, for water authorities to close down the water going to them but that they will not be compensated except for the loss of value of their land — which has nothing to do with the loss of the productive capacity of their business or the actual worth of their business.

This is going to be a loss to them. They will be asked to move away and irrigate somewhere else. That is like asking someone to leave a home they have lived in for 100 years, saying, 'Don't worry, we are going to put a freeway through here. You will have to find yourself somewhere else to go, but we will not compensate you adequately for what you are losing'. The minister could not do that to the people of Melbourne, and I promise him that the people of country Victoria resent that attitude.

As a result of this legislation, water authorities will be asked to make ends meet, and because of that there will be plenty of times when to protect their own financial viability they will be forced to introduce reconfigurations, even against the interests of their members and particularly of their advisory water committees.

This leads to the question: why has the government not been prepared to prescribe an economic and social impact statement as to how these proposed changes will impact on the country communities and the individuals affected by the introduction of this legislation? I have heard that question a hundred times — why is there not an economic and social impact statement? Without it, you cannot possibly envisage the hurt and the damage that is going to occur to many of our country communities, but you can bet your bottom dollar that if this legislation was likely to have the same impact on urban dwellers in Melbourne, or in the major cities of Victoria, this government would be bending over backwards to provide that economic and social impact statement; but not so for our irrigators. It is a travesty and a complete lack of recognition of their rights and what they contribute to our community.

The introduction of a new register which will hold the details of the title to land and water and to the mortgages attached to either or to both provides an opportunity to lose the privacy of this information. We have had advice through the briefings on this legislation to say that only the mortgage document will detail the amount of money that each of those mortgages hold. However, the legislation says, this information will be available to classes of people. There is no definition as to what those classes of people are. The very fact that this information will be available to some people indicates to me that there is a chance this information, which I would find totally private or that should be totally private, could be made more public. I know how the industry works. If people are under pressure financially and that information is made available to others who want to take advantage of that, they will do that. This is an area where that privacy is most important.

The introduction of the new register is important. It will improve the information available on the land that is being used and on the water that is on that land, but for all of that this could be disastrous for some people who are under pressure from their bankers and from other people in the industry to sell that water. It might be the difference between whether they are able to hold or not.

Local councils have advised me that they want where water is going to and where it is coming from clearly identified in the register. If the register contains that information, it will certainly be an improvement for councils in respect of their rating of irrigation land. Again, this leads to the ridiculous issue which has been totally ignored by this government: how will councils irrigate land once this unbundling process has been determined? The Municipal Association of Victoria has totally underestimated the impact of this, but not so the councils which are affected. The latest advice from government, though, is that this requirement will be deferred until 1 January, 2008, which is well after the next election. In the meantime, instead of being given directions on how to fix it, those affected councils have been told that they have to sort it out themselves. In other words, they have to sort out this deficiency by 1 January 2008.

There are a series of further issues. One is the minister's right to reduce entitlements under the new legislative qualification of rights with no compensation. There is also the failure to identify farmers or water-user membership on panels and committees appointed by the minister. Membership is usually qualified by the term 'landowners', which could mean people with no experience in the water industry at all. The minister also has the right to increase the non-user limit to the ownership of water. That is an extraordinary situation, because clearly this is going to put the whole of the ownership of water and trading in water at risk.

The bill has 30 pages of conditions that irrigators are bound to abide by, despite the fact that there are virtually no conditions specified by the minister under which the environmental water reserve is to be managed. In many circumstances the minister is given the power to reduce irrigator entitlements in favour of water for the environment. In the past environmental allocations have been tied to bulk entitlements. That separation of entitlement has worked well. Unfortunately this has the appearance of a grab for water for the environment without the appropriate compensation from the state government. That is in direct contradiction to the national water initiative — —

Mr Thwaites — It is supported by the national water initiative.

Mr PLOWMAN — It is in contradiction to the national water initiative, which demands that the states find the greatest majority of water required for the environment from savings. How much has the minister achieved in savings when putting Victoria's contribution to the national water initiative? The minister might laugh about it, but he is denying what the national water initiative proposes to do. I suggest that the Bracks government is thumbing its nose at the requirement of the state to match central government funding. These funds should be upgrading the state's ageing and outmoded irrigation infrastructure.

Water authorities in both urban and rural areas across the state have met in order to establish how to meet Victoria's share of that initiative, which particularly includes the 500 gigalitres needed for the Murray River. There is concern that when water districts are declared, with the resultant conversion of water entitlements to water shares, there will be some entitlements which may be sleeper or dozer licences held under trust or in an estate which never actually get converted to water shares. This appears to be another means by which the minister can win more water for the environment without spending a red cent.

Another concern is that despite the prolific promises made by the then Minister for Water that 'farmers would have no restrictions imposed on them when constructing stock water dams', the minister or a water authority is now required to give prior approval. This will provide yet another disincentive for farmers wishing to build farm dams. It is also totally inappropriate that this legislation allows a water authority to cease the supply of irrigation water to a farm under the process of reconfiguration without any binding requirement that stock and domestic water will continue to be supplied. It should be a mandatory requirement.

The introduction of a water-use licence is not opposed by the industry, but many irrigators are concerned that the minister has the power to apply inappropriate conditions on land use or irrigation practices after advice from catchment management authorities, most of which have little or no representation from the irrigation industry.

One of the most frequently asked questions is: why is the minister delaying until late 2006 the implementation of the 80:20 deal struck between the government and the Victorian Farmers Federation? Many irrigators in northern Victoria are opposed to this deal on the basis that the VFF completely underestimated how little sales water would be made available to them. It is now estimated that, once this medium security entitlement is introduced, the water available will be reduced from 100 per cent sales water to approximately 46 per cent. But this 46 per cent in fact will only be available in 40 years in 100, further reducing it to a mean of about 20 per cent.

The delay is also designed to maximise the publicity the Bracks government can give to the allocation of this water for the environment just prior to the next state election and using the war chest of funds that have accumulated in the state government's coffers from the tax on water, the so-called environmental contribution. The government will have a field day using these funds inappropriately to promote its pre-election promises to the environment at the cost of the irrigation industry at the next election.

The fairest means of accommodating the environmental requirements would be to impose a 3.5 per cent reduction to all irrigation entitlements in place of the 80:20 deal. This would be much fairer, providing greater equity to irrigators and greater certainty to the environment. If elected at the next election the opposition would substantially change this legislation if it is passed in its current form. There is one thing for sure: we would return security of the ownership of

water entitlements to the irrigators who hold those entitlements. There would be a mandatory and much greater participation by irrigators in the reconfiguration process and in the determination and application of water-use provisions.

The non-user ownership of water would be repealed, and further purchases by non-users would be made illegal. Confidentiality would be applied to the amount of any mortgage listed on the water register, either on land or water. Farmers forced out of irrigation as a result of configuration would be fully compensated for the loss of value of the business as well as the loss of value of the land. There would also be a new system introduced for local government rating of irrigation land which maintains a comparable rate for land that continues to be irrigated.

Questions relating to the environmental water reserve that need to be answered by the minister include: does environmental water, whether it is part of the environmental water reserve or in any other allocation, become liable for the use of infrastructure either by way of a holding charge or in a reservoir or a delivery charge for the use of irrigation infrastructure? A question that must be asked is whether the environment is going to pay its fair share. Secondly, when water is transferred from an environmental entitlement it is reported in an authority's annual report; will the reason for this transfer also be similarly identified? Thirdly, are sustainable water strategies introduced to overcome a reduction of water in a water district or are they only there to improve and increase the volume of water for the environmental water reserve? If so, the government should say so.

Fourthly, consultative committees that are appointed to advise on the preparation of sustainable water strategies are required to have experience and knowledge of these matters. Is there any restriction on the number of public servants who are going to be on those committees? Quite clearly what is required is a fair percentage of people from outside the public service, not just a public service consultative committee. Fifthly, a water resource assessment, after being submitted to the Environment Protection Authority for scientific review, can be changed by the minister. As the result of an assessment a reduction in an irrigator's entitlement to water can be incurred. Does that irrigator have the right to appeal the minister's changes? I do not think so.

One of the main issues I see for the environmental reserve is that it is being legislated. Once it is legislated, then rules are created which will lead to a less flexible system than we currently have. The science behind riverine environments and the best use of water for those environments is constantly evolving, and flexibility is required for the best use of this water. It is not just there to increase stream flows; it has got to meet environmental outcomes if it is going to be of value for the environment. This legislation has created a despotic system for the water industry, with the minister and his department sitting in Melbourne, wielding increased power as Minister for Water and at the same time Minister for Environment. What the water industry needs in Victoria is greater power being returned to the people, not taken away from them.

I would like to conclude, despite the fact that time for debate is greatly restricted on this legislation, with the issues that need to be changed. We will return security to water entitlements. That is a most important and significant thing not only for the owners of those entitlements but for the banking industry which is going to lending money on those entitlements. Non-user ownership of water will be repealed. This is something that is contributing and will contribute nothing to the productivity of this state but will reduce the productivity of the irrigators using the water. Thirdly, full compensation will be made available to irrigators who have their water entitlements either reduced or removed through a reconfiguration. Fourthly, there will be greater representation of water users in the decision making affecting their industry.

I am appalled by this legislation because not enough consideration has been given to the people who are going to be most affected by it. It deserves more time, and there is the opportunity for that time to be provided. If the minister would consider allowing this legislation to go over to the autumn sitting, it would give every one of the people affected by it a fairer opportunity to understand it. I implore the minister to reconsider his decision.

The ACTING SPEAKER (Mr Jasper) — Order! The honourable member's time has expired. I understand there has been general agreement to allow the Deputy Leader of The Nationals to speak for 30 minutes.

Mr WALSH (Swan Hill) — I thank the government very much for its indulgence, because this is a once-in-a-lifetime change to the Water Act, as we know. I desire to move an amendment to the reasoned amendment moved by the member for Benambra. I therefore move:

> That all the words after 'in their place the words' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to provide — (a) for a better balance between environmental objectives and social and economic costs; (b) for compensation to be provided to those adversely

> affected in cases where the minister permanently qualifies water rights; (c) that water held within the environmental reserve carries the same obligations to contribute to the costs associated with its storage and delivery as other water; and (d) for clarification that the environmental manager is liable to damage, injury or economic loss arising from release of water from the environmental reserve'.

In the process of working on this bill we provided the Minister for Water with the opportunity to see all our amendments as soon as we had them prepared, which was early on Tuesday morning, in the spirit of trying to achieve some sensible changes to this legislation.

I understand the difficulties in getting amendments drawn up, but it would have been appreciated if, given the minister's resources, we could have had his amendments more than half an hour before we started this debate. It is quite a challenge, but the minister has the resources of a whole department and — —

Mr Thwaites — We were still consulting.

Mr WALSH — Still consulting? That leads me to my next point. When this bill was introduced two weeks ago, we had quite a heated debate in this place about the bill lying over until November. The bill has been lying over for only two weeks. We have just had the minister admit that up to an hour ago he was still consulting on those amendments. It is very disappointing that we have 240-odd pages of changes to the act which have had two weeks of public scrutiny. This, to my mind, just reflects the arrogance of this government. These are, as I said, the most significant changes since the changes in 1989, when there were something like 700 amendments to the Water Act. I believe these changes have far greater consequences for those involved in the water industries than the cumulative effect of all the changes in 1989.

Not many of us were in this place in 1989, but my understanding of the folklore of this place is that at that time all sides of politics worked together to make sure those amendments would work well for the industry and that there was consensus on how they went forward. My understanding is that everyone sat around the table in the committee stage and constructively worked there. At that time Labor did not control the upper house; there was a need for the government to work with the opposition parties because it did not have absolute power in the upper house. As I said before, it reflects the arrogance of this government that it has introduced 240 pages of changes to the Water Act and has effectively allowed two weeks of public consultation.

These 240 pages supposedly implement in legislation the recommendations flowing from the white paper. However, the disappointing part about this, in terms of the consultation process, is that the consultation with the industry in general was based around secret meetings. The chairs of the water authorities were summoned to Melbourne, quite often at short notice, to sit in at the meetings with the department and at times with the minister, but they were sworn to secrecy. They were told, 'If you go back and talk to your committee, let alone talk to the wider irrigation community, you will not be invited back to these meetings in the future'.

Mr Plowman — That is what they all said to me.

Mr WALSH — That is what they said to me. They said, 'We are not allowed to talk to you. If we are found talking to you, the minister will not have us back in the meetings ever again in Melbourne'. So there was no public consultation on this. There was consultation with a select few who were sworn to secrecy. How can you get a good outcome when that sort of thing happens? Again it comes back to this issue of arrogance. It comes back to the issue that the government has the majority in both houses so it does not really have to deal with people. The attitude is: 'We will live through the pain that is given, but we will just do it anyhow, we will force it through'.

A particular issue I will come to later is the fact that local government was not consulted on this for a long time. As everyone would know from the press coverage, we have now seen quite substantial changes to the rate base for local government and the pain that is going to cause. Admittedly the minister has postponed those changes for a while, but I do not think anyone actually knows a way through that yet. They do not know how that is going to be figured out.

The minister has said continually that this legislation actually implements the white paper. As late as today an article in the *Weekly Times* quotes him as having said that the bill creates certainty of investment for irrigators and that there is security of tenure into the future. I do not believe that is so. Having read this legislation I do not believe this gives an irrigator greater security of tenure to go and invest into the future. I do not believe it gives security of tenure, and I do not believe it implements some of the things in the white paper. I will come back to that later. As a classic example we only have to talk about stock and domestic water. Page 86 of the white paper says:

> … where irrigation supplies are to be phased out, must —

must! —

> propose a way of domestic and stock needs being met …

But the bill only says that they must give consideration to how domestic and stock needs are going to be met. They will have a committee and talk about it, but in the end they actually do not have to supply water for domestic and stock needs. There are some key recommendations that have come out of the white paper that are not implemented by this bill.

The bill gives the minister unprecedented powers to qualify, which is code for 'reduce', water shares into the future. The minister can reduce an irrigator's net worth at the stroke of a pen without compensation. Where is the issue of security of tenure and security for investment when a minister can reduce that at the stroke of a pen? As a lot of people would know, land and water are quite often a farmer's most significant asset, and for older people that asset is often their superannuation for the future. Effectively this bill gives the minister the power to qualify someone's superannuation. He can wipe 10 per cent, 20 per cent or whatever it might be off the value of someone's super with the stroke of a pen.

How many members on the government benches would like a minister in this place to have the power to qualify their super, which is code for 'reduce', with the stroke of a pen and without any compensation? How would they like the Minister for Water to be able to go and take 10 metres off the backyard of their house without compensation? Effectively that is what this bill will do into the future. It gives the minister the power to actually take money off irrigation farmers. In the future every 15 years the minister will have the power to qualify or compulsorily acquire wealth from these people without compensation.

As an example, before I entered this place I was an irrigation farmer for 29 years. It seemed a long time when I was doing it but, in the context of this bill, twice during that time I could have had my rights qualified. Twice in that time I could have had the minister take wealth from me without any compensation at all. In that time I lived through the issues of floods, wet years, dry years and droughts. In recent times I will concede that seasons have been drier rather than wet, but the problem with this bill and processes behind it is that it is being driven on what I believe is select information and media hype from the likes of Environment Victoria and the Wentworth group, because this government is captive to the desire to appease the leafy, green suburbs of Melbourne and to make sure it can gain Greens preferences into the future.

I believe the establishment of the environmental reserve is based on the misconception that stream flow actually delivers catchment health. I put on record that The Nationals are absolutely committed to maintaining and improving catchment health, but catchment health is not just about flow. It is actually about management of the — —

Mr Helper — It is a pretty important ingredient.

Mr WALSH — No, there is a lot more to catchment health than just flow. The member for Ripon may believe it is just flow, but that is not true. It is about how you actually manage your riparian zones, about biodiversity of the whole catchment and about turbidity in the water and water quality. Quite often just eliminating or controlling carp can have a lot bigger impact on the stream that putting any more flows down there.

The really big issue on catchment health that no-one seems to want to address is soil acidity. The response of the government to a recent parliamentary report on that subject was found to be significantly wanting. Flow does not necessarily give catchment health, because it is also about the time of flow. Historically in Australia we have had rivers that run dry. Some people may remember the photos of the Murray River in the early 1900s in which you can see horses and gigs parked on the river bottom for an Australia Day party. There are times when our rivers run dry, times when they flood and times when they are somewhere in between. There is a misconception among a lot of people, particularly those on the other side of the house, that waterways should always have significant flows.

The Nationals also support balance in the debate, and in this bill there is nowhere that the social and economic costs that need to be balanced against environmental outcomes are talked about. To my mind this bill fails what I would call the people test. As humans we actually live in communities; we do not live in an environment where the environment can take everything at our expense, and we do not live in a community where people should take everything at the expense of the environment. We need balance.

A number of years ago there used to be a lot of discussion about the three legs of the stool, where social, economic and environmental factors were balanced. I believe this bill only has one leg; the other two legs effectively have been sawn off. It is just about the environment. It takes no account of the social and economic costs and balancing them with environmental outcomes. It is very easy for the Wentworth group to talk about take, take, take, or Environment Victoria to talk about taking water off farmers and other people, because they do not have to think about the social and economic costs and the impact on communities,

particularly the communities that The Nationals represent — in northern Victoria, Gippsland and the west of the state, which is represented by the member for Lowan. The Nationals represent communities that are built and rely on water and on irrigation for the wealth and jobs that are created in those areas. There has been a lot of debate about the Living Murray process and getting the water for — —

Mr Thwaites — The Sharing the Murray process.

Mr WALSH — Sharing the Murray was a good process, because people actually sat down and worked together. They did not have to go to secret meetings and be told, 'If you talk to anyone about this, you will never be invited back again'. It was open, transparent and was a good process.

In the Living Murray process there was a lot of talk about having a socioeconomic study in that process, but we did not have one. It all became too hard. I think there was a threat, or that environmental groups felt there was a threat, that talking about the socioeconomic cost of some things might frighten people. The greatest way to put discipline on anyone in this sort of process is to put money on the table — that is, to get the Minister for Water to walk down the corridor at Treasury, go to the Treasurer and the people in Treasury and say, 'If we are going to do this, then it is going to cost X dollars'.

When you start doing that you will get some real rigour into the debate, because as we know, when the people who work in Treasury were babies, the very first word they ever learnt was 'no'. They work back from 'no'. If you are going to have some real rigour in this, then you have to put money on the table and discipline in place so that the Minister for Water has to walk down the corridor to the Treasurer and say, 'I am going to need X amount of dollars to make this happen'. Then you will get rigour into this whole process and some balance into the outcomes into the future. As I said, there is a lack of resource security in this whole bill.

The people we represent feel very disenfranchised and are very disenchanted with this whole process and what is happening. I dispute what the minister has said, as reported in the *Weekly Times* today. I do not believe this government understands the wealth irrigation delivers to Victoria. I am even more appalled by the fact that the Minister for Agriculture has been absolutely silent in this debate.

The Minister for Agriculture has been totally silent on one of the more vital issues in his portfolio area, and that is irrigated agriculture. At another time I used the following phrase in this place in talking about the Minister for Agriculture: 'They seek him here, they seek him there, that damned elusive Minister for Agriculture!'. I believe the Minister for Agriculture has been missing in action when it comes to sticking up for his constituency and being out there as a passionate leader of agriculture here in Victoria. He has been missing in action; he has been totally silent on another pivotal issue for agriculture in Victoria.

I come to the amendments The Nationals are proposing. In standing to speak on this debate I feel almost exhausted by the negotiations that have gone on in this house tonight so that we might get into consideration in detail. It has been an absolute farce. We were supposed to be on this bill at 5.30 p.m. but the amendments were not ready — the minister said he was still consulting with people. At 5.30 tonight when we were supposed to start this debate the amendments were not ready so we moved on to the Crimes (Homicide) Bill.

Honourable members interjecting.

Mr WALSH — Let me finish. The crimes bill is a very important bill but debate on it went on longer than was first thought so we got on to this bill later than was originally intended. As I understand it, and discussion has been ongoing, we have an agreement that we are going through to 11.30 tonight so there is some more time. We are looking at 240 pages of legislation which makes what is probably a once-in-two-lifetimes change to the Water Act and which has the power to take significant wealth off people, and we will have only something like $2^1/_2$ hours to debate it — and we will go into the consideration-in-detail stage for a while.

It is my understanding that the Minister for Water is not available tomorrow to do any more consideration in detail. Parliament sits for 50 days a year or whatever it is and we have this once-in-a-lifetime bill here, something the minister has hung his hat on and put a lot of work into to appease his environmental constituents, but apparently he is not available for any more consideration in detail of this bill tomorrow. That is an absolute disgrace. This deserves a lot more than $2^1/_2$ hours of debate and being jammed up in the government business program tomorrow and rammed through.

We have people who have made the effort to come down tonight. They came down today because we thought the bill would be on earlier. They have come down tonight to sit here and listen to the debate because we are talking about taking money out of their pockets. This is about the minister having the power to reach into people's pockets and take money out.

We have amendments in eight key areas and we have had to approach them with two different means. We have an amendment to the reasoned amendment, which I have moved, and we have textual amendments which we will deal with in consideration in detail. We have to do some through a reasoned amendment because under the rules of this place opposition parties are not allowed to move amendments to a bill that would require a transfer out of consolidated revenue. Any of our amendments that involve expense by the government have to be done by reasoned amendment asking that the bill be withdrawn to take into consideration X, Y and Z — we cannot move amendments that would require the government to spend money. The other amendments we have are textual amendments which we will go through in the consideration-in-detail stage.

The other thing that has made a lot of people in country Victoria very concerned about this bill is that quite a few of the clauses are what is called enabling legislation — the bill does not set out what is going to happen. After tonight and after the bill goes to the other place and is passed in a couple of weeks, no-one will have any certainty because no-one will know what is going to happen. All this does is set up a process so the minister can do things into the future. It is what is called enabling legislation. We do this bill, the other place does this bill and at some time in the future the minister implements it. It never comes back to this place or the other house for scrutiny, it is just implemented by the minister. That is a concern we have.

I will go through the eight key principles The Nationals are trying to achieve. I have talked about the first one in a broad sense but it is right at the start of the bill and concerns new section 4B(1). We will seek to change the definition — —

Honourable members interjecting.

Mr WALSH — I remind the Minister for Manufacturing and Export that water is a very precious resource and that he should not waste it, because he might find in the future that the Minister for Water will come over and take 10 per cent of it off him without compensation, and then where would he be?

New section 4B sets out the objectives of the environmental reserve. Those objectives are referred back to in a lot of places in the bill so they underpin a lot of the reasoning for the bill. They are all about the environment. There is absolutely no balance in there. We are trying to achieve two things with our foreshadowed amendments. Firstly, stock and domestic water should maintain its position in the hierarchy of supply, as it has as long as we have had a Water Act in this state. This bill takes away that hierarchy of supply and does not give stock and domestic water — water for humans and animals — priority over any other use. It gives environmental water priority and stock — —

Mr Helper — No, it doesn't.

Mr WALSH — It does. You read the bill; it does.

Mr Helper — It gives it equal priority.

Mr WALSH — It should have higher priority. I believe that humans and stock are the most important things we have in our society here in Victoria.

The other amendment is to include in there that we have to balance environmental with the economic and social costs and benefits. Anywhere else in business where you do something you balance outcome versus the cost — —

Mr Thwaites interjected.

Mr WALSH — I do not believe you do, with respect, Minister. I do not believe in this bill we balance the economic and social costs with the environmental outcomes. I do not believe it goes far enough to do that.

The second issue The Nationals want to talk about with our amendments and the things we would like to achieve is a mixture of the amendment to the reasoned amendment and our textual amendments. Where the minister has the power to qualify water rights — that is, take away people's water — there should be compensation. Anywhere else in society where a government takes something away from people, it pays compensation. We believe that should be the case in this bill. The Land Acquisition and Compensation Act sets up a model for how that could be done. Those amendments also talk about making sure we balance the environment with the social and economic costs into the future.

The third grouping of changes we have proposed is about making sure there is greater transparency and accountability for water allocated to the environmental reserve. This is about making sure that by putting water into the environmental reserve we quantify the outcomes we want, we monitor that and the minister reports against that.

The fourth area is the issue where this legislation allows 10 per cent of water shares to be held by non-irrigators into the future. That 10 per cent can be changed by the minister with the stroke of a pen. What we want to achieve with our amendments is a requirement that if that 10 per cent limit is going to change, it has to come

back to this house to be changed. If we enshrine it in the legislation, it has to come back to this place so we ensure the change in the future is debated in this place and is open to scrutiny in this place.

The other change we are trying to achieve is that, where some of the 10 per cent that is held by non-irrigators is bought for the environment, for argument's sake, and is transferred to the Crown to put in an environmental reserve, under the current rules that share is then cancelled and lost forever and would leave the opportunity for someone else to buy into that 10 per cent. This actually makes sure that water out of the 10 per cent that is transferred to the Crown for the environmental reserve is still accounted for in that 10 per cent. It can be used by the Crown — it can be used however it sees fit — but it is still accounted for in that 10 per cent.

The fifth area is that the environmental reserve water must pay its way. We have a real concern that we are going to transfer water into the environmental reserve, which is going to use the storages and the distribution system but which is not going to make a contribution to the cost involved. This is going to put higher costs onto the other water entitlement holders, and as more water is transferred to the environmental reserve without any qualifying of rights into the future, that will actually push up the cost for the entitlement holders that are left, because their percentage of the system will be smaller, but their costs will actually be higher. We want to make sure that the environmental reserve pays the appropriate costs, as any other water user would, into the future. If needs be, the environmental reserve should pay the appropriate tag charges or exit fees, as any other water user would.

The sixth area concerns water for stock and domestic use. We want to make sure that we maintain a hierarchy of water use in which humans and stock have priority when there is a limited water supply into the future. I do not believe this bill currently achieves that. Page 86 of the white paper says that, if there are any changes or reconfigurations into the future, the government has to address the issue of stock and domestic use, not just consider it. If we find that we have a reconfiguration of an area in, say, northern Victoria where the channel is taken away and there is no stock and domestic water, that will effectively depopulate that whole area, because there is not sufficient rainfall or run-off to have catchment dams. It relies on water that is brought in for stock and domestic use. Under this bill we will find that areas of Victoria will be depopulated and effectively unable to run stock into the future unless there is a guarantee that stock and domestic water can be used there into the future.

The seventh area we are concerned about is the issue of water licences and water registration. This bill is very draconian in the powers it gives the minister to actually delve into and manage people's farms.

The eighth area that we want to talk about is the transfer of water shares beyond the catchment. Under the bill the minister has to approve the transfer of a water share. What we are trying to do with our amendments is prohibit the minister from approving the transfer of a water share from a catchment outside Melbourne or Geelong to a water authority that actually services Melbourne and Geelong. We do not want to see the wealth of country Victoria transferred to meet the thirst of Melbourne or Geelong. If we have not got enough water for industry in Melbourne and Geelong, let us actually shift some of that industry to country Victoria, where it can create wealth and jobs in those communities. Why transfer water to make Melbourne or Geelong bigger? Let us think about how we can have decentralisation in Victoria. Let us think about how we can use the natural wealth we have to create jobs and create stronger communities for our country areas, not transfer the wealth out there to the centre.

In conclusion, I am very disappointed that we have had only two weeks to deal with this bill. I believe it shows the arrogance of this government. Because it has the numbers in both houses it believes it can effectively trample over country Victoria and ram this bill through.

Ms DUNCAN (Macedon) — I rise to speak tonight on the Water (Resource Management) Bill, which implements the second stage of the government's water reform legislative program and makes important and far-reaching changes to the way we manage and plan Victoria's water resources. Members will recall that the first stage of the government's water reform agenda was achieved in September last year with the passing of the Water Industry (Environmental Contributions) Bill.

Both of these reforms arise out of the government's white paper, *Our Water Our Future — Securing Our Water Future Together*, and demonstrates this government's commitment to ensuring we have a sustainable water resource into the future. This bill will significantly improve the way we plan for, assess, allocate and manage our water to provide for all our water needs now and into the future.

There are a number of key elements of the bill. It will introduce a sustainable water strategy which will set out long-term regional plans to supply water for local growth while maintaining the balance of an area's water system, safeguarding the future of its rivers and creeks. The bill will create an environmental water

reserve that will set aside a share of water to safeguard rivers and aquifers across the state. The environmental water reserve will prevent over-allocation of our water resources in the future.

The bill will provide greater flexibility to farmers in the way they use water by creating more flexible water entitlements. It will establish a public register of all water shares and use so that we know how much water we have and who is using it. It will also enable water authorities to upgrade and alter irrigation systems to reflect demand for service. The bill provides more certainty for irrigators. It provides more choices for irrigators. It enhances sustainable management of water resources, and it prepares us for the future. It responds to emerging water markets and provides for opportunities for public involvement in decision making.

While the Water (Resource Management) Bill will enable Our Water Our Future water reform, it will not trigger it. It will be triggered in consultation with farming communities through specific localised conversion orders. Unbundling will provide irrigators with a number of new opportunities which they may choose to adopt as part of their businesses. However, if they want to, irrigators will be able to continue to manage their water in the same way as they did in the past. I commend the bill to the house.

Mr HONEYWOOD (Warrandyte) — This is a very important bill. Whilst the previous Liberal government allowed speakers after shadow ministers to speak for half an hour, we are limited to 10 minutes by the so-called open and transparent Bracks government. In order to get to the consideration-in-detail stage tonight and ensure that the minister will be present during that important stage of debate we have been told we need to cut our contributions to the debate from 10 minutes to 5 minutes. With that constraint I would like to raise a number of key environmental issues associated with the bill.

The Water (Resource Management) Bill is an another example of the current government's propensity to produce a whole lot of gloss and very little substance. In my capacity as shadow Minister for Environment I am keenly interested in all steps that stand to improve the prospects of ecologically sustainable practices and initiatives that further increase the security of our vitally important natural resources. I know that everybody across the state, be they environment organisations, irrigators or farmers, share the same concern.

Obviously in this case Victoria's water resources are being examined, and in this vein I was very interested in the government's plan to include a so-called environmental water reserve ostensibly aimed at ensuring that a percentage of the overall sales water entitlement is secured, to be used exclusively for environmental purposes. It is also the intention of the reserve to guarantee that the water set aside for the environment is accorded the same status as water allocated for other non-environmental purposes.

However, as is often the case with the current government, when you look a little closer at its policies you find it promises a lot in conjecture but guarantees very little in practice. The so-called environmental reserve is not a legislated guarantee, and there is nothing in the new amendments that ensures a guaranteed volume of water.

Business interrupted pursuant to standing orders.

Sitting continued on motion of Mr THWAITES (Minister for Water).

Mr HONEYWOOD (Warrandyte) — The so-called environmental reserve is not a legislated guarantee, and there is nothing in the new amendments that ensures a guaranteed volume of water is protected for environmental purposes on a per annum basis.

In reference to the white paper and the proposed 80:20 deal, it is proposed that 20 per cent — —

Mr Thwaites interjected.

Mr HONEYWOOD — When the member for Macedon read her contribution word for word she was heard in silence. Given that we are being gagged and may speak for only 5 minutes, the minister might like to extend us the same courtesy. In respect of the white paper and its proposed 80:20 deal — that is, it proposes that 20 per cent of the total volume of the low-security sales water available is to be allocated to the environmental reserve — this allocation of water to the environment is in no way secured and will depend solely on annual rainfall.

According to a recent Murray-Darling Basin Commission report it would appear that the proposed 20 per cent environmental allocation is a farce, as it is not sustainable under current conditions. For instance, the report indicates that projected availability of the total sales water is expected to decrease substantially, not increase. For instance, the commission predicts that the availability of sales water will decrease from the current 46 per cent of total capacity to only 18 per cent in future years. A drop in available low-security water of this magnitude will leave the environmental reserve with a very small piece of the pie indeed.

Mr Crutchfield — Are you reading that?

Mr HONEYWOOD — As the honourable member for Macedon read word for word and as I have only 5 minutes to speak in this debate, I would ask the member, who knows nothing about water — —

The SPEAKER — Order! The member for South Barwon is out of his seat. I ask him to be quiet.

Mr HONEYWOOD — Otherwise we will sit right throughout the night if you want. I am more than happy to accommodate the member for South Barwon.

The SPEAKER — Order! The member for Warrandyte, on the bill.

Mr HONEYWOOD — If the member for South Barwon would like us to — —

The SPEAKER — Order! As I said, the member for Warrandyte, on the bill.

Mr HONEYWOOD — The government has put the gag on. We are trying to respect its gag in order to have a consideration-in-detail stage.

In fact, as the trend over the last several years has indicated, parts of Victoria have received no allocation of sales water because of rainfall deficits, and we can expect that this will happen in the future. It would not be unreasonable for to us to assume that the Minister for Environment had considered these factors when devising the policy for the environmental reserve, emphasising his approach to environmental policy of all glitz and no substance once again. The objective of the reserve, as noted earlier, is to establish the protection of water allocation for Victorian environmental purposes. However, it is clear that both the new legislation and the white paper strategies cannot guarantee anything other than empty promises.

This bill also indicates the government's ongoing campaign to centralise power and control through the minister. For example, in clause 41 of the bill, in new section 33AR under the heading 'Division 11 — non water user limit' the minister has allocated to himself the entire power to make determinations of the sum of maximum volumes of entitlement for water shares of a particular class in a water system. New subsection (4) states:

> The Minister must not make a determination … unless the Minister has first consulted —

'consulted', that magic word —

> with a panel of persons established by the Minister to represent the interests of persons likely to be affected the by making of the determination.

In the next breath, however, subsection (5) of the same new section states:

> A failure to appoint a panel that represents the interests of persons likely to be affected by the making of the determination, does not affect the validity of a determination made under sub-section (1).

In other words, the minister can do exactly what he likes, and the panel of so-called experts can be totally ignored, as is often the case with this government. This provision would indicate that, no matter the outcome of the panel's findings and no matter how unrepresentative the panel might be — full of Labor Party hacks, as usual — the minister can make a determination and go ahead with that decision, with or without a fair go for the stakeholders involved.

The final environmental initiative outlined in this bill that I can refer to in the brief time allocated to me is the long-term water resources assessment that is aimed at determining whether there has been a decline in the long-term availability of surface water or ground water and whether the decline has fallen disproportionately on the environmental water reserve or on the allocation of water for consumptive purposes.

Obviously the minister is not taking this review very seriously, because he has charged the EPA, that wonderful Environment Protection Authority that has totally messed up the Yarra and Maribyrnong rivers, with the responsibility of assessing the overall procedures and methodologies adopted to conduct the review. The EPA will ultimately decide if the data used in the draft assessment is the best data available, and of course whether or not the conclusions reached in the review are valid in that they are supported by the data and methodologies used for the review.

In conclusion, if the minister is referring to the same EPA that is currently responsible for the monitoring of data regarding dangerous chemicals, E. coli et cetera in the Maribyrnong and Yarra rivers, this is of great concern, because clearly its data analysis skills and ability to investigate environmental issues are far below what they should be. The EPA has been politicised. It is not objective anymore.

Mr HELPER (Ripon) — I rise to support the Water (Resource Management) Bill. As the member for Macedon said earlier and as the minister said in his second-reading speech, it is a fundamental change and an update to water management in this state.

In my short contribution to the debate — because I am keen to allow other members to put their views — I just want to point out some of the glaring contradictions that have occurred in contributions from members opposite. We are just into the debate and already they are tying themselves in knots.

The most glaring amongst those glaring contradictions was the contradiction in the contributions made by the member for Warrandyte and the member for Benambra. I wonder what the member for Benambra will say to the member for Warrandyte when they next bump into each other in the party room about the member for Warrandyte's encouragement that environmental water should be a fixed volume. What a ridiculous proposition by the member for Warrandyte!

The other issue worth pointing out is that the Deputy Leader of The Nationals made much about the environmental reserve paying its share of the infrastructure costs. I went through the amendments proposed by the Deputy Leader of The Nationals, and there is not a single reference to having the environmental reserve charged against infrastructure costs. In my short experience of this house it has been sad to see The Nationals move away from the bipartisan support they displayed on water matters in a previous term of Parliament, where it was recognised that the efficient and sustainable management of water resources was beyond politics.

It is a pity that current members of The Nationals do not take a leaf out of the book of the former member for Swan Hill, Barry Steggall, when it comes to adopting a bipartisan approach to finding solutions for water management in this state. With that brief contribution I support the bill and wish it a speedy passage.

Dr NAPTHINE (South-West Coast) — It is extremely disappointing and frustrating that the government has gagged this very important debate on water, which is the most fundamental issue for country Victoria. I am extremely disappointed at the lack of government support and understanding for the importance of irrigated agriculture in Victoria. The second-reading speech on the most important changes to water management, especially irrigation and ground water, since the Water Act in 1989 contained 26 pages, but there was no proper acknowledgment or recognition of the importance of irrigated agriculture to the Victorian and Australian economy.

The Liberal Party and I strongly support irrigated agriculture. Let me make that very clear. We strongly support and acknowledge the significance of irrigated agriculture to the economy of Victoria and Australia, and particularly the economy of rural Victoria. We understand that it is worth billions of dollars to our economy and creates literally thousands upon thousands of jobs both directly and indirectly across rural and regional Victoria. The dairy industry is the single biggest exporter from the port of Melbourne. That should be a salient lesson to the government about how important irrigated agriculture is to Victoria and Australia.

It is not just about dairying on farms, it is about value adding in dairying across rural and regional Victoria. It is about the horticultural industry, with apples and pears, stone fruits, citrus fruits and vegetables, and the processing of those products. It is about the viticultural industry, which has some of the fastest growing export products for Victoria and Australia. The dried fruits industry, the ever increasing nuts industry and the olive industry are all industries built on sound water management. In the 26 pages of the second-reading speech there was barely a mention by the Bracks Labor government of the importance of water, particularly the importance of irrigated agriculture and water for agriculture. I find that disappointing and frustrating and a sign that the government really does not understand or care about country Victoria and the importance of agriculture to the Victorian economy.

One can argue that towns like Mildura in Sunraysia and Shepparton in the Goulburn Valley would barely be villages without irrigated agriculture. I say to you, Speaker, and to the house that it is time the government understood and came to grips with the importance of irrigated agriculture to Victoria and Australia. It is not just about irrigated agriculture in the Murray Valley, Gippsland and western Victoria but about the use of water for agricultural farming, from ground water, rivers and streams, as well as other irrigation sources.

It is an absolute disgrace that this most important legislation is being debated in a rush at 10 o'clock at night with a gag applied by an arrogant city-centric government on the proper consideration of these fundamental issues. I will mention some of the concerns with this legislation in the little time I have left. The main issue that people throughout my electorate in country Victoria are concerned about is the unprecedented powers the legislation gives to the minister to arbitrarily and unilaterally make decisions which could have a devastating impact on farmers, water users, rural communities and the economy of Victoria and Australia.

When one looks at the bill one sees that clause after clause gives unprecedented and unilateral power to the minister to ignore advisory committees, ignore the best

interests of Victoria and Australia, make decisions that he or she thinks fit and not act necessarily in the best interests of Victoria and Victorian agriculture. I think that is a disgrace and the legislation should be opposed simply for that reason.

I also raise the impact of the unbundling process on local rural municipalities, which will have a devastating effect on their rate bases. I urge the government to meet with those municipalities to provide transition funding and time for adjustment so they can adjust to the unbundling effect on their rate base. I raise specifically the plight of the 130 farmers in the Campaspe irrigation system. These farmers have been neglected by government, ignored by ministers for water and agriculture and have been denied access to reasonable water supplies. They have now moved from 2 per cent of their rights to 10 per cent, which is still absolutely insufficient to meet the needs of feeding their stock and domestic supplies, let alone for irrigated production farming. I oppose the legislation. It is wrong legislation and it is based on a premise by the city-centric government that does not understand the importance of water and irrigated agriculture to Victoria and Australia.

Ms NEVILLE (Bellarine) — I am pleased to support the Water (Resource Management) Bill. It is part of implementing the Our Water Our Future policy, which is all about setting a policy framework for securing our water future in Victoria. We are leading the nation in this regard. All Victorians know that water is our most important resource and that if we did not act and take the necessary steps we would struggle to meet our demand into the future. That particular policy has had extensive consultation and wide support across the community. This bill is part of implementing some of those steps and the action plan talked about as part of that policy. As I said there is broad support across the range of our regional, metropolitan and country communities.

This is all about balancing the economics of the environmental issues that confront us. It is all about looking at the roles each of us can play, whether it is about reducing water consumption, water saving or about a better management structure to manage our water into the future. An interesting comment raised by The Nationals was whether we should reduce industry in Geelong to secure water for other parts of the community. I would like to know whether that position is supported by the Liberal Party and the member for Polwarth. Should we be talking to the Geelong community about moving important key resources that support our regional communities? That is a major concern when it comes to where The Nationals and the Liberal Party stand on this. Do they support the Geelong community and the residents of Geelong? It would be good to have on the record where they stand on the Geelong community. Working with the Geelong community is part of the process of securing water into the future. The residents of Geelong know that they need to make decisions about how we guarantee water into the future for all of us, and we are working together to do that. I commend the bill to the house.

Mr RYAN (Leader of The Nationals) — The travesty of all of this is that here we are debating a piece of legislation which is probably one of the most significant items of law to be passed in the state of Victoria — but while we are all under the pump because of time constraints. We should be talking about this in a fulsome way. We should be consulting properly with the people who are directly affected by this, and then we should be having a debate in this Parliament that properly canvasses all the issues, because they are vast in their implications.

What should be considered first in this matter are the people who are directly impacted upon by what is happening tonight with this legislation that will influence their lives. They should be the first barometer for consideration by the government, and it is in the name of those people that this debate should be held. When you go along the river towns and you come to Gippsland, where I live, you can see the way in which those people in the communities where they respectively live contribute to the state of Victoria with what they do. That should properly be the first area of concern to be talked about in this Parliament tonight — and it is that very element that is absent from this legislation. That is one of the aspects of the lack of balance to the way this whole bill has been drawn.

The second issue that runs with it is the productive capacity which is generated to the state of Victoria by the work of those people and their presence in their respective communities. It is second to none when you look at the virtues of what Victoria is today and what it will be in time to come. Our irrigation industries in all their forms make an absolutely magnificent contribution to this state's fortunes, and given the opportunity, they will do it better and will do it more and more with the passage of time. To think that this bill is being rammed through the Parliament tonight in a circumstance where the productive capacity generated by the people who are involved in it is subject to the time constraints being imposed on us all by the government is nothing less than a disgrace.

The key issue missing from this is that, from The Nationals perspective, the people involved in this debate and the productive capacity for which they are responsible are more than a measure for the environmental concerns which underpin the way this bill is being drawn. There is no doubt that the environmental issues are important to us — of course they are. Members need only look at the way irrigation is practised these days compared with 5 or 10 years ago, let alone 20 or 30 years ago.

The best environmentalists in Victoria at the moment are the people who run the irrigation industry, because it is those people who well understand the importance of the preservation of this extraordinarily significant asset — namely, our water supplies. It is this notion of paying homage to the environmental aspects against the interests — way past the point of balance — of the people and the productive capacity that they generate that is at the core of why The Nationals have sought to amend this legislation in the way that we have and the basic reason why we will oppose it when the vote is ultimately taken here.

The member for Swan Hill has outlined the eight areas where we are looking to make amendments. I am concerned, like so many others are, to use the time, limited though it is, so that we can get involved in the consideration-in-detail stage to make sure that as many amendments as possible can be talked through and hopefully can be accepted by the government. If they are, at least what we will get out of this shemozzle will be the best possible result in all the prevailing circumstances.

If we do that, we will at least be able to justifiably say that, if nothing else, we have struck that proper balance between the first issue and the only ones that really matter in this — that is, looking after the people and the interests of the respective communities; secondly, looking after the production that they generate in the state of Victoria; and thirdly, looking at the issue of the environmental importance of all this. But for heaven's sake, let us get the order right. That is what this debate should be about.

Mr LOCKWOOD (Bayswater) — I will make a brief contribution on the Water (Resource Management) Bill.

Mr Smith — It is all written down for you, is it?

Mr LOCKWOOD — Absolutely, yes. Securing the future of water — —

Mr Smith interjected.

Mr LOCKWOOD — I probably could — —

The SPEAKER — Order! The member for Bass is out of his seat, and I ask him to be quiet.

Mr LOCKWOOD — Securing the future of our water is what this bill is all about. Yes, irrigation is important. We have heard lots about irrigation in the past few minutes, and it is vital for our agriculture. We have to have water for our agriculture, but we need to safeguard the long-term health of our water supply. We need to conserve, preserve and reserve our water so that we can sustain our population, sustain our agriculture and sustain our environment. Certainly water is essential to our future.

The bill contains amendments that will support the introduction of sustainable water strategies and set out long-term, regional plans to supply water for local growth while maintaining the balance of an area's water system and safeguarding the future of its rivers and creeks. It will also create an environmental water reserve — so it is certainly important to the future — while setting aside a share of water to safeguard rivers and aquifers across the state. This reserve will prevent an over-allocation of our water resources in the future.

The bill will provide greater flexibility to irrigators in the way they use water by creating more flexible entitlements and establishing a public register of water shares, and enable water authorities to manage irrigation systems to reflect better services.

As I said, water is essential to our future. It is something that we cannot live without and something we have relied on and taken for granted for many years. It has been called an asset. It is an amazing asset — a scarce asset and an essential asset — and is something we need to preserve and use. There is an old expression 'water, water everywhere' — if only it were true! It is certainly not true, and we need to act to preserve and use our water wisely. I commend the bill to the house.

Mr MULDER (Polwarth) — I rise to make a brief contribution on the bill in the minimum amount of time that has been offered to the opposition — 5 minutes to speak on a bill that is possibly one of the most important pieces of legislation to come before the Parliament.

I rise to support the member for Benambra and his reasoned amendment. If that is not accepted, the opposition will be opposing the bill. At this point in time I would like to point out that when this bill came before the house on 6 October there were two pieces of legislation that affected my portfolio area — the Rail Safety Bill and the Transport Legislation (Safety

Investigations) Bill. While I agree that neither of those has anything to do with this bill, I point out to the house, and to the gallery in particular, that those two bills have been withdrawn because of a very small amount — —

The SPEAKER — Order! The member for Polwarth, on the bill.

Mr MULDER — Yes, on the bill. I am just pointing out, Speaker, that the bill in its own right has been crushed in the consultation period. As I said, other pieces of legislation, over which there have been minimal amounts of concern, have been pulled from the business program. You have to ask the minister why, after the bill's second-reading speech and when both the Liberal Party and The Nationals requested more than the two weeks that the government offered for consultation within the community, this debate has been stymied by the minister in terms of consultation, when other pieces of legislation that could have come before the house have been put aside. I just cannot work out where the priorities are. As I said, other pieces of legislation have been put aside — yet when the entirety of rural Victoria and irrigators throughout the state are affected and impacted on by this bill they are denied the opportunity of being involved in consultation throughout the process.

At this point I would like to raise, as I raised during the debate on time for this bill — that is, having only a two-week adjournment period — the issue of its timing at this stage of the year. A lot of the farmers in the Western District are out cutting and storing silage at this point in time, and a lot of those people are heavily reliant on irrigation water. You would expect the government to have taken that into consideration. But when I raised that matter in the house the minister looked dumbfounded and stared at the air as if to say, 'Is that the case? Is that really what happens out in rural Victoria?'. I believe that gives you some indication of exactly how divorced he is from what actually happens in the real world, particularly out in rural Victoria.

The government has approached this bill with the same degree of arrogance and lack of consideration as it has with other issues that affect rural Victoria — in relation to toxic waste dumps and the Child Employment Bill — and I could go through a raft of other legislation that has come before this Parliament and about which it has taken no consideration of rural Victoria. As this legislation is being debated people out in the Western District, the area that I represent, will possibly still be hard at work on their tractors with lights burning, well into the night.

The issue that is of the greatest concern to me, and I take this back to a business point of view, is the initial 10 per cent of water shares in any system that may be owned by non-water users, such as environmental groups, speculators, punters — or water rats, as I call them — or power station operators and owners. These groups will not be required to have a water-use licence for their land. It makes you ask what right they have to water when that water could be used by farmers for legitimate farming practices, and what has driven the minister to include this in this bill and to offer this type of favour to these sorts of groups?

The issue that I would like to pick up here relates to the 10 per cent shares and the speculators and the punters, because we know that they are the people who stand back and prey on farmers, especially in drought periods. They will hold on to their water until they know they are going to get the best price. They will see people out there on the land in dust bowls, and they will drive the price up as high as they possibly can, then speculate and then get whatever value they possibly can out of it. I notice it has been said that environmental groups will not have the money to obtain or purchase a lot of water. I know it has been said in the Parliament in the past that they will not be supported in relation to the purchasing of water rights or shares, but with the inclusion of environmental groups in this part of the bill, I wonder whether environmental groups will be given any assistance to purchase water shares or whether they will be given them at discount rates? That is an issue I would like the minister to take on board.

The other matter relates to the 10 per cent claw back — and another 10 per cent claw back and then another 10 per cent claw back by the minister into the future. I would like to know how many banks and financiers the minister has spoken to regarding the impact that that is going to have on property values in terms of people's current financial arrangements and the business plans they have in place to take them well into the future. The fact is that the minister has the right, having set himself up as the water god in Victoria, to walk onto a property and start to claw back assets that belong to people. I oppose the legislation, and I support the member for Benambra.

Mr CRUTCHFIELD (South Barwon) — I rise with pleasure to speak on the Water (Resources Management) Bill 2005 — —

Mr Delahunty — The people of Harrow are listening.

The SPEAKER — Order! The member for Lowan is out of his seat.

Mr CRUTCHFIELD — Harrow will be listening, and Harrow will not be affected. In fact the people of Harrow and Balmoral are a little more broadminded than their member. This is more of a strategic bill that looks at Victoria as a whole. We can be as parochial as we like, but ultimately water issues will have an effect on all of us in Victoria — and sooner rather than later. Climate changes are upon us. We have the emus who want to put their heads in the sand and say it is not going to happen — and The Nationals may want to do that — but the issue is upon us. I am certainly not giving The Nationals any credit in respect of acknowledging that climate changes are upon us, but even the Liberal Party acknowledges that our previous behaviours ultimately have to change.

That is not just an urban perspective, it is also a rural perspective. Change will occur, whether we like or it not and regardless of which government is here now and into the future. Change is going to be thrust upon us, and we can go on fighting and kicking against it or we can behave in a more mature productive way, with the help of organisations like the Victorian Farmers Federation — and certainly in a more productive way than the alarmist and, as usual, very political approach of The Nationals.

Honourable members interjecting.

Mr CRUTCHFIELD — You talk about being non-consultative. There is a forum for consultation as we go, and there is an established — —

Honourable members interjecting.

Mr CRUTCHFIELD — There is an established consultation process for decommissioning rural water supply infrastructure and changing the levels of service. The Nationals can be as alarmist as they like, and they can engender some degree of angst among their constituency, but ultimately they will be the ones to blame. Frankly, it is not about that, it is about looking ahead into the 21st century to address the changes that are around us. Ultimately all of us — both urban users and rural users of water — will have to change. That is what it is about. Geelong residents, Geelong industrialists and Geelong businesses recognise that. The Geelong people and Barwon Water in particular have been Victorian leaders in changing people's behaviour in terms of water usage. Frankly The Nationals should take a long hard look at how Barwon Water's model is influencing people productively, consultatively and in a coordinated way. If they did, they would go a long way towards influencing their own constituency for the benefit of all Victoria.

Mr SAVAGE (Mildura) — I have to issue some protest that it is unacceptable to truncate this debate because this is a very important bill. This is the future and the lives of people who have been irrigating in my region for 100 years, and we cannot go through this without a fair degree of scrutiny. I was not party to time limits being imposed. The amendments that were delivered to the house tonight are of significant dimension and are too important for them to be considered at short notice. I support the reasoned amendments of The Nationals. This bill should be put off until next year so there is proper time to assess the amendments.

The Sunraysia Irrigators Council has communicated with me. It is very concerned about the impact of this bill. The maintenance of irrigators' rights are going to be fought for and have been fought for over a long period of time, and it is no different on this occasion. The economy of Mildura and the Sunraysia area is based on irrigation and, as their elected representative, I am bound to follow those particular merits.

It is a fact that the white paper was structured to favour the environment and the urban users ahead of irrigators. It is about wresting control of water from irrigators and giving control to the minister. It has been described to me that this could have been from the green paper to a now predetermined outcome. The environmental reserve is to be managed by catchment management authorities (CMAs) who do not pay for river management, and under the unbundling arrangements, governments can now refuse to supply, whereas under the old act they had obligations to supply water.

The environmental reserve is not subject to examination and the minister can grant licences on extra advice of the CMA, and licences will be slowly eroded. The reserve can continue to grow as irrigators' access to water is reduced, all on the advice of CMAs and the Department of Sustainability and Environment or rural water authorities.

The environmental water reserve component must be subjected to the same rules as irrigators and other water users. We cannot have two sets of rules. It must be fairly applied to both sides. The CMAs must be accountable to the community and boards should be elected and not appointed by the minister. The CMAs will have huge control in the future on water and, without some control by people who are the end users, it is possible for the CMAs to unfairly administer the recommendations to the minister. As to improved planning and management, there is far too much power in the hands of the minister to be able to order water

entitlements every 15 years without consultation. That is a dangerous premise.

As to the unbundling of water, the Sunraysia Irrigators Council has advised me that that is a good move in terms of the recognition of water. We have had this huge problem with water being able to be misappropriated. The Sunraysia Rural Water Authority had a dishonest operator there and it is thought that millions of dollars of water were misappropriated because not all licences are used, and to my knowledge that has never been resolved appropriately. Giving the identification of water proper ownership is an appropriate measure, and that part of the act is to be recognised as such.

Under the old Water Act, a government could not refuse to supply water, but the removal of section 33(7) of the Water Act, which has been repealed with no replacement where, if you have permanent plantings, you no longer get preference over irrigators of sown crops has the potential to be very difficult for irrigators with permanent plantings. You must have water at the same cycle every year. With the 25 per cent efficiency on the unbundling of entitlements and the efficiency gained by 2010, the CMAs can now achieve by reducing the irrigators' yield on the entitlement used in the site, used licence provisions. These measures will be fought and opposed very vigorously by the community that I represent and the Sunraysia Irrigators Council.

I am aware of the time constraints and that there is a consideration-in-detail requirement, and I will accede to that, but this is very important legislation. It should be postponed until next year. There is no compelling reason why a move to have the bill lie over for a couple of months could not be achieved.

Mr Plowman — It will benefit everyone.

Mr SAVAGE — The member for Benambra said it will benefit everyone, and it will. It will benefit the government, the opposition and certainly the Independents. I would like to clearly indicate that I will be vigorously opposing this bill.

Ms GREEN (Yan Yean) — It gives me great pleasure to join the debate on the Water (Resource Management) Bill. No-one in this Parliament, the community, this state and this nation can ignore the reality of climate change. The community wants us, as a responsible government, to actually take measures to protect this important resource in the context of climate change.

The discussion paper, the white paper, which was preceded by the green paper, was out in the community for a very long time. There has been extensive consultation on the bill. I know my community supports it. Many times in this house I have spoken about how 20 per cent of Victoria's agricultural products emanate from the Port Phillip region. To ensure that that production continues, we need to take steps to ensure there is a sustainable water resource in the future. But in an environmental context we also have to be sensible. This legislation supports the introduction of sustainable water strategies. There are long-term regional plans to supply water for local growth while maintaining a balance of an area's water system and safeguarding the future of its rivers and creeks. Ultimately, we all need to act to secure this future.

As I said, my community is very mindful of the need to develop a sensible water regime. It knows this is vital because it is in our backyard: we supply Melbourne's water. My seat is named after Melbourne's first water storage in Yan Yean, the Yan Yean Reservoir, which was established 150 years ago. We have the Sugarloaf Reservoir and the Toorourrong Reservoir. There have been substantial efforts to manage the other tributaries in the area. The Yarra in Melbourne is an important boundary of my electorate. It is also crucial to Melbourne's water storage. In short — and in the time I have available — I commend the bill to the house.

Mr INGRAM (Gippsland East) — I would like to make a very brief contribution to this part of the debate on the bill. I would like to indicate that I oppose both the reasoned amendment and the amendment to it. I would like to put that on the record, because the reasoned amendments have been introduced before the consideration-in-detail stage. I think the reasoned amendments go too far in respect of the changes which are proposed. I agree that there should be an increase in time, but I support the — —

Mr Plowman interjected.

The SPEAKER — Order! The member for Benambra is out of his seat. He has already had an opportunity to contribute to the debate. I ask him to be quiet.

Mr INGRAM — As I have indicated, I think the amendments go too far. I understand the issue of time, and I agree with that concept; however, the reasoned amendments go much further than that. That is why I oppose them.

Mr THWAITES (Minister for Water) — I thank all members for their contributions to the debate. I will sum up fairly quickly to give members the chance to contribute to the consideration-in-detail stage.

The first point that was raised by a number of members opposite is the issue of consultation. Can I say there has been an enormous amount of consultation about every one of the issues that has been raised tonight. The issues that have been raised as matters of concern — I have noted them — include the sales water deal, the issue of compensation for farmers, sustainable water strategies, the environmental reserve, qualification of rights, which is probably the biggest and most important of the issues, the charges for the environmental reserve and the fact that 10 per cent of water can be held by non-water users. Every one of those issues was extensively canvassed over the last 18 months, including the detail, which is set out in the white paper. There was not universal agreement on every issue, but when the white paper was released it was widely supported across the community because it gave security both for the environment and for farmers.

When it was released the Victorian Farmers Federation (VFF) — which had advocated very strongly on behalf of its constituents and sought and obtained changes to the government's approach — came out in support of the white paper, which outlined the very provisions that the Liberal Party and The Nationals have attacked today. It pointed out that the reason it supported the white paper is that the current entitlement to sales water is only a discretionary one, whereas this legislation gives farmers a legislated right to their sales water — something they have never had before.

Mr Plowman interjected.

The SPEAKER — Order! I have already called the member for Benambra once for inappropriate interjections. I ask him to be quiet to allow the minister to sum up. If the member for Benambra and the member for Swan Hill have other matters they wish to raise, they can do so later, in the consideration-in-detail stage.

Mr THWAITES — The member for Benambra raises the issue of qualifying rights. He may not be aware of this, but the current legislation, the Water Act, allows the Minister for Water to qualify rights with no compensation or process whatsoever. We are removing the provision that allows a minister to do that, and in its place we are introducing a very open and transparent process.

The issue of compensation has been a major issue, and I understand why farmers are so concerned about it — because water is their livelihood. However, there was no compensation before, and the previous government took water from irrigators with no compensation whatsoever. It is absolutely hypocritical — —

Mr Plowman interjected.

Mr THWAITES — With the Sharing the Murray scheme. Where were you?

The SPEAKER — Order! The minister should address his remarks through the Chair.

Mr THWAITES — Under the previous government water was taken from irrigators without any compensation. At the time of the release of the white paper the head of the VFF, Mr Paul Weller, pointed out that the Victorian position had to be looked at in the light of the national water initiative. It is an initiative of the federal government — of The Nationals and the Liberal Party federally. As Mr Weller pointed out — and as he has pointed out to the federal Liberal member for Murray, which includes Shepparton, Sharman Stone, on a number of occasions — this legislation provides a better deal for farmers than they get under the national water initiative. That is exactly what Mr Weller said — that the VFF was able to get a better deal for farmers in Victoria than you have provided from your own colleagues in Canberra — and he is right — —

The SPEAKER — Order! Through the Chair!

Mr THWAITES — The national water initiative provides for a qualification of rights with no compensation for the first 14 years — —

An honourable member — That is not correct.

Mr THWAITES — It is correct. There is no compensation under that initiative for the first 14 years and all the burden of the effects of climate change falls upon farmers, whereas under this legislation the burden is shared between farmers and the environment.

I quote from the article that Mr Paul Weller wrote in the *Weekly Times* of 30 June 2004, where he pointed out:

> The NWI —

national water initiative —

> risk-sharing arrangements provide a national benchmark, but in Victoria we expected and obtained a much better outcome.

We have a better deal for the farmers in Victoria. The member for Benambra put up the Liberal Party

alternative, with which he is going to go to the next election and which is a 3.5 per cent reduction in water to all irrigators. I hope he goes out there and sells that policy, because I have talked to many irrigators. I certainly agree there are some here tonight who would support the 3.5 per cent. The northern irrigators have supported that, just as they put out a proposal originally to take even more water than that from farmers. But 3.5 per cent from farmers means 3.5 per cent every year, including in a drought, including in a dry year.

I ask the member for Mildura to look at this and see whether his irrigators would support it. In dry years like we have had recently the Liberal Party would ask farmers to give up 3.5 per cent of their water, with no compensation. What are we doing in Victoria? We are only affecting the amount of water that irrigators get in a good year, and that is when the sales water comes in. As the former president of the Victorian Farmers Federation said, that is a better deal for farmers. I can imagine — —

Honourable members interjecting.

Mr THWAITES — I understand there are different views in the farming community.

Mr Crutchfield interjected.

The SPEAKER — Order! The member for South Barwon!

Mr THWAITES — On this side of the house we have had to take the balance. We believe it is more in the interests of farmers not to be losing water in a drought or a dry year, which is the Liberal Party policy. I will be very interested to see whether the member for Benambra goes out selling that as a policy.

Amongst other points that are worth making is the 10 per cent issue and whether that can be held by non-irrigators. I might point out that under the national water initiative signed by the Liberal Prime Minister and supported by The Nationals federally, is a policy that water should be de-linked from land. That is what the Council of Australian Governments agreed to in the national water initiative. Yet in this state we have limited that to 10 per cent. In Queensland and New South Wales there has been a much broader de-linking, but in — —

Dr Sykes — They are Labor states too!

Mr THWAITES — The member for Benalla interjects. As far as I am aware, the national government is a coalition government, and a coalition government — —

Dr Sykes interjected.

The SPEAKER — Order! The member for Benalla!

Mr THWAITES — The federal coalition government has said that water should be de-linked from land. In Victoria we have limited that to 10 per cent so that we ensure that we do not have water barons. Once again, that is something that the leadership of the farming community, the VFF and leading irrigators pushed for and were successful on, and I think that has been completely ignored in this debate. Associated with this legislation has been a very large government investment in regional Victoria and in irrigation. We have committed to a $100 million package of benefits for irrigators, and we have already started spending that money.

Mr Plowman interjected.

Mr THWAITES — A very good example of that is the Eildon Dam wall, now complete, which the government invested in. As a result of the sales water deal we put that extra money in.

Mr Plowman interjected.

The SPEAKER — Order! The member for Benambra!

Mr THWAITES — We are investing in dam safety upgrades — the money has gone in. We are investing in irrigation upgrades. We are investing in automatic channel control throughout the Goulburn Valley. We are investing right around the state. We have shown as a government that we are prepared to listen — and we have done that over two years — and then we are prepared to make a decision and not just take the easy way out, like the Liberal Party, where the spokesperson on water told this house that the environment was getting too much. Then the environment shadow gets up and says there is not enough for the environment. They were completely split, and that is a reflection, I am afraid, of the split on virtually — —

Mr Plowman interjected.

The SPEAKER — Order! The member for Benambra!

Mr THWAITES — We will continue to have discussion about some of the amendments and I look forward to that discussion, but even as recently as this week there has been support from irrigators — leading irrigators — to get on with the job of passing this legislation. There has been an argument put by some

today that we should delay. In a media release from the Torrumbarry Water Services Committee, Geoff Williams said:

> The majority of irrigators welcome the new Victorian legislation …
>
> These reforms will give irrigators certainty about their water entitlements, plus more choice and flexibility in how we can use them.

Richard Anderson, chair of the Rochester-Campaspe Water Service Committee said — —

Honourable members interjecting.

Mr THWAITES — The opposition want to have a go, it wants to attack anyone who does not agree with them. The member for Swan Hill was attacking Mr Geoff Williams, saying he just does whatever the government says. Then he begins to attack Richard Anderson. Will the member attack every committee chair? No, because the committee chairs are elected by irrigators. They are able to speak on their behalf and good on them for doing so. I know that there are different views, but we have got the balance right. We have implemented with this legislation what we said we would do in the white paper.

The white paper will see real benefits for farmers because it will give them security over their sales water that they never had. Because the thrust of the debate today has been around farming most of my comments have been directed to that, but this legislation also contains major reforms in improving the environment, in establishing environmental reserves and in water planning for this state.

What it does is set out a system of sustainable water strategies which will enable all Victorians to have their say in proper management of water in Victoria. It will be a much more open and transparent process than we have had before. The legislation prescribes in a very detailed way the way in which the public can have their say, the way in which people involved in industry can have their say, and the basis on which the minister will make his decision.

The minister has that power under the existing act now, but under the new act there is a much more detailed and prescriptive process to enable people to have their say. This will benefit the environment. This will benefit the rivers and aquifers which we rely on for a healthy agricultural sector and for healthy towns. That is vital and we as a government are delivering on that and we have already delivered by putting water back into the Snowy. But we will be doing it in a way that ensures that farmers can continue to do the great job that they do — —

Mr Crutchfield interjected.

The SPEAKER — Order! The member for South Barwon will be quiet. I warn the member for South Barwon.

Mr THWAITES — They will be able to do a better job because they will have much more security over their sales water, something that they will be able to use as a capital asset to buy and sell, to make money and then to further develop their businesses. I urge all members to support this legislation.

The SPEAKER — Order! The minister has moved 'That the bill be now read a second time'. To this motion the honourable member for Benambra has moved a reasoned amendment proposing to omit all the words after 'That' with a view of inserting in their place the words copies of which have been circulated and are in the hands of honourable members. In addition the honourable member for Swan Hill has moved an amendment to the reasoned amendment proposing that all the words after 'in their place the words' be omitted with a view of inserting in their place the words which have also been circulated. I will firstly put the question in relation to the member for Swan Hill's amendment to the reasoned amendment. The question is that the words proposed to be omitted stand part of the reasoned amendment. Those who support the honourable member for Swan Hill's amendment should vote no.

House divided on Mr Walsh's omission (members in favour vote no):

Ayes, 53

Allan, Ms	Jenkins, Mr
Andrews, Mr	Kosky, Ms
Barker, Ms	Langdon, Mr
Batchelor, Mr	Languiller, Mr
Beard, Ms	Leighton, Mr
Beattie, Ms	Lim, Mr
Brumby, Mr	Lockwood, Mr
Buchanan, Ms	Loney, Mr
Crutchfield, Mr	Lupton, Mr
D'Ambrosio, Ms	McTaggart, Ms
Delahunty, Ms	Marshall, Ms
Donnellan, Mr	Maxfield, Mr
Duncan, Ms	Mildenhall, Mr
Eckstein, Ms	Morand, Ms
Garbutt, Ms	Munt, Ms
Gillett, Ms	Nardella, Mr
Green, Ms	Neville, Ms
Haermeyer, Mr	Overington, Ms
Hardman, Mr	Perera, Mr
Harkness, Dr	Robinson, Mr
Helper, Mr	Seitz, Mr
Herbert, Mr	Stensholt, Mr

Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 23

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

Amendment defeated.

The SPEAKER — Order! I will now put the question in relation to the reasoned amendment. The question is that the words proposed to be omitted stand part of the motion. Those who support the honourable member for Benambra's reasoned amendment should vote no.

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

The SPEAKER — Order! I ask members to take their allocated seats in the house, and I ask the Clerk to record the vote.

The Clerk — The member for Gippsland East?

Mr Ingram — Yes.

The Clerk — The member for Mildura?

Mr Savage — Yes.

The Clerk — The Nationals Whip?

Mr Maughan — Seven noes.

The Clerk — The Opposition Whip?

Mr Dixon — Fifteen individual noes.

The Clerk — The Government Whip?

Mr Langdon — Fifty-two, yes.

The Clerk — Are there any other votes?

Mr Savage — On a point of order, Speaker — —

The SPEAKER — Order! I cannot take a point of order in the middle of a vote. I will take it after the vote. Is the matter in relation to the vote of the member for Mildura? The member for Mildura may correct his vote.

Mr Savage (*Speaking covered*) — My vote is no.

Ayes, 53

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

Noes, 23

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

Amendment defeated.

Motion agreed to.

Read second time.

Consideration in detail

Clause 1

Mr MAUGHAN (Rodney) — This is outrageous. It is 11.00 o'clock at night and we have had $2^1/_2$ hours — —

The DEPUTY SPEAKER — Order! Before the member for Rodney commences, can he tell me which clause he is speaking to?

Mr MAUGHAN — It is clause 1. I just want to make some general comments about how outrageous this whole debate is. It is one of the most important pieces of legislation to deal with the livelihoods of people in country Victoria and we have had $2^1/_2$ hours to debate it after only having seen the actual bill for a matter of a couple of weeks. We have not really had the opportunity to consult with our constituents and to get — —

Honourable members interjecting.

Mr MAUGHAN — This is a very important piece of legislation that is going to affect not only the livelihoods of the farmers and irrigators, many of whom are here tonight, but — —

Honourable members interjecting.

Mr MAUGHAN — Do you want to stand up and speak on this? It is very important to the people that I and The Nationals represent in northern Victoria, who are dependent on the irrigation industries. The irrigation industries in northern Victoria contribute about $8 billion per annum to our economy. Why is it that this government is not prepared to give us time to consider this legislation properly? Here we are at 11 o'clock at night considering the bill in detail, and it is going to be rushed through, as government members well know. The minister did not have the amendments ready until after 8 o'clock tonight, we did not get onto the bill until after 9 o'clock, and now it is 11 o'clock. This is ridiculous.

The Murray and Goulburn valleys have built an enormous amount of wealth for the state of Victoria. Nation-building projects, like the Hume and Eildon weirs and the Dartmouth Dam, have created enormous wealth for the state of Victoria and for Australia, and quite a bit of it is at risk because of what we are doing here tonight.

The towns that are dependent upon irrigation — the Sheppartons, Kyabrams and Numurkahs — are all under threat because of this legislation. It is absolutely outrageous. The government is not prepared to stand up and consult with the people who are in the gallery tonight — the farmers and the irrigators. Those in the small group that has been consulting with the minister have been sworn to secrecy. This debate is an insult to members on this side of the house, to the irrigators and to the people we represent. It is absolutely outrageous and an indictment of the way this government is treating the people who really are generating wealth for country Victoria and for Australia.

Mrs POWELL (Shepparton) — As members of this house have said for the last 2 hours, this is too important a piece of legislation for us to be debating at this hour of the night and to be given only about 3 minutes to speak on, particularly so when it will have a huge impact on many of our farming communities and irrigators.

The DEPUTY SPEAKER — Order! The member for Shepparton is on clause 1.

Mrs POWELL — The government's white paper is entitled *Our Water Our Future*, which is significant for country Victoria because it is our water and our future. Water is vital for agricultural production and for people living in rural and regional Victoria.

The legislation deals substantially with water for the environment. It does not deal with the impact on people who live in those regions — the social, environmental and economic effects. The reasoned amendment moved by The Nationals requested that there should be a better balance between environmental objectives and social and economic costs.

In the last six years our communities have been through drought, and the impact on those communities has been absolutely enormous. Over the last few years I have attended public meetings, rallies and protests in Shepparton and the surrounding districts. The Minister for Water has said that the government has consulted. Not one member of the Labor front bench or backbench has been at any of the public meetings, rallies or protests that I have been to, so how are they consulting with the people who are down on the ground — the people whose livelihoods this legislation will affect?

This legislation will have a huge impact on the economy and on the social fabric of not only irrigators and farmers but also businesses in our community. If the agricultural sector is not going well, then neither are businesses. It is one of those wheels that goes around in country Victoria that relies very much on agriculture. I have to say that The Nationals do not support this bill.

Mr JASPER (Murray Valley) — As far as I am concerned there has been an absolute lack of

consultation. When you look at the legislation before this house, you see a bill of 245 pages, and we have had only two weeks to consult with people within our electorates. We need more consultation. Earlier the minister spoke about keeping calm, but I am angry because of what he is doing and what the government is doing in not allowing us to be able to take this legislation back to the people in our constituencies and get feedback on it.

The minister talked about the consultation he had prior to this bill coming to the house. This is the ultimate forum for debate on all legislation. As far as I am concerned that is what we should be doing — debating the bill before the house. My experience over the years is that when a big piece of legislation like this comes before the house mistakes are made and invariably you find you have to come back to the house and make changes.

The minister spoke about Eildon Dam and said what a great result there was in upgrading Eildon Dam and spoke of how much the government has spent. How much did the government put into Eildon Dam? It put in $11 million of the $50 million that was spent on it. The water users, the irrigators — the wealth creators as far as we are concerned — will be paying the balance of that. The water rights that irrigators have are sacrosanct. They should be able to own their water rights and do what they want with them. I agree that we should not be looking at taking water rights from a particular irrigator and farms. I have grave concerns about that issue.

In considering the investigation that The Nationals have conducted into this legislation to date, the eight points raised by the Deputy Leader of The Nationals need to be looked at. Members need consider only the first point, in which he said we need to have commonsense and better balance in looking at the legislation. We must make sure that we have consultation with everyone involved. The critical thing in all this is that irrigation has been the lifeblood of the economy of the state of Victoria — for primary producers producing the wealth through irrigation. We will see the environmentalists taking a greater share of the water and the irrigators will lose their water rights — the rights to their production.

Mr Nardella interjected.

Mr JASPER — You say it is rubbish. I do not agree with that. We should be able to debate these issues in the Parliament. I listened fairly quietly most of the time to what the member had to say. We need to make sure that we listen to what other people have to say — people from irrigation areas, who understand what the issues are.

This bill needs to be taken back. We need more time. For once I agree with the member for Mildura and others. What we should be doing is taking this into next year and taking it back to the people. They must have consultation. That is the key to all legislation. The minister talked about the background consultation. The Deputy Leader of The Nationals said that a lot of people were sworn to secrecy.

Mr Nardella interjected.

Mr JASPER — I am interested to hear what the member for Melton has to say. He really would have no understanding of irrigation or irrigators. Let him stand up and tell us all about what he understands — —

Mr Nardella interjected.

Mr JASPER — What the member for Melton always seeks to do in this house is shout down other people, because he does not want to listen to what other people have to say. He needs to understand that other people have important points of view that they can put forward.

The other issue that is most critical in all this is regulation. What we are getting is a massive piece of legislation and then there are regulations made under the act. It is giving the minister enormous power. We are putting the rights of the Parliament into regulation. It needs to be brought back to the Parliament. We should be able to debate this legislation for the people of Victoria. The time that we have been given is not appropriate. We need additional time. In addition, regulation-making powers are being taken away from Parliament. This is the ultimate forum for debate. This is where these bills should be debated fully. We need to follow that through and make sure that the people of Victoria get appropriate balance in this particular bill, which is for the irrigators of the state of Victoria and others who use water across this state.

Mr INGRAM (Gippsland East) — I rise to speak on clause 1. A number of things have come out of the consultation undertaken on the bill. There is some concern about clause 1(c) in relation to the unbundling of water entitlements and particularly how that will impact on local government into the future. I understand that that has been postponed to allow time for it to happen.

However, in discussions with Wellington shire in particular in relation to the Macalister irrigation district I noted that while it is not quite as large as some of the

northern irrigation areas, there will be quite a significant cost impact on that council because of the unbundling of the water entitlements. The council would like to know how that process will be undertaken and how the government will go about addressing the potential loss of income for rural councils. As we know, rural councils like Wellington in East Gippsland are not very wealthy and they have large road networks and other costs. It is essential that they do not end up behind the eight ball. The funds that used to come from the rates and water entitlements have to be secured from elsewhere. That is one of the issues I would like the minister to address.

I would like to make some comments on the environmental water reserve and some of the other changes that are being made. There have been some comments about a lack of consultation on this bill. If you look at the process of this, it has gone through the green paper, through the white paper, through the implementation of the national water initiative. There has been ample opportunity for members to comment on this. It is important that we establish environmental water reserves.

I hear comments in this place that the government just wants to pour water down the Snowy. The honourable member for Murray Valley often makes the comment that he does not support the environmental flows to the Snowy, and I think it is The Nationals policy not to support environmental flows to the Snowy. It is important that a river has a right to the basic amount of flows required to sustain the environment. It is not the only thing that needs to be done and on its own that will not solve every problem in our rivers but it is the base entitlement.

I am quite disappointed that members of this place believe the environment should pay the cost of providing infrastructure. I do not think there is a dam in this state that benefits the environment. The dams are there for use of consumptive water. The funds for the maintenance and management of the dams and the management of that water have to come from consumptive use. You cannot expect the environment to pay for the management of a dam that is there to provide for consumptive use. This is what the dam is for.

With those comments, I would like to say that I would like a response from the minister on how that will be dealt with, particularly the issue of local government and how that rate impact will be addressed.

Mr HELPER (Ripon) — I want to make some very brief comments about the quality of the debate in the broad-ranging discussion we can have on clause 1. It is quite astounding that all members opposite have spent a huge proportion of their contributions complaining about the lack of time to debate this legislation. Why did they take up their time talking about that rather than raising specific issues? I take as an example the member for Benambra's contribution to the second-reading debate.

As all members of the house would appreciate, the member for Benambra is used to timing contributions during question time. I timed him during his contribution to the second-reading debate and he used 7 of his allotted 30 minutes to talk about the lack of time he had to make a contribution. What a ridiculous waste of time rather than taking the opportunity — —

Mr Walsh — On a point of order, Deputy Speaker, the member for Ripon is not speaking on clause 1. I ask you to bring him back to speaking on clause 1 of the bill.

Mr HELPER — On the point of order, Deputy Speaker — —

The DEPUTY SPEAKER — Order! I do not think we need to have a debate on the point of order. In contributing to the debate on clause 1 to date members have been allowed to speak on issues of time. That has been allowed in some of the earlier contributions on clause 1 without interruption from the Chair. However, I remind the member for Ripon that he should make passing references to but not necessarily an entire contribution on that subject.

Mr HELPER — Thank you, Deputy Speaker. I value your guidance very much, and to reinforce that guidance I shall take points of order on the contributions made by the opposition, which undoubtedly, as past history shows, will be about the matter of time rather than the substance of the clause — as opposed to the member for Gippsland East, who actually discussed the substance of clause 1. If more members of the opposition and The Nationals actually discussed the substance, we might have a healthy and positive debate. With that comment I conclude my remarks.

Dr SYKES (Benalla) — I wish to speak on clause 1 to record my absolute disgust at the disgraceful performance by this government and at the contempt with which it has treated country Victorians and the parliamentary process. This government is drunk with power. It has started a fight which will go on for a long time yet, and it will be interesting to see the outcome.

The preparation of this bill was a continuation of the arrogant approach of this government and this minister, which started with the implementation of the farm dams legislation. Despite the good intent of that legislation its implementation has resulted in a maze of red tape and such constraints that the economic growth and the viability of people in the upper catchment of northern Victoria have been absolutely frustrated. Furthering the frustration of the development and economic and social wellbeing of north-east Victoria is the major issue of the definition of 'a waterway'. The government has been overzealous in the definition, and this bill has done nothing to address that issue.

I move on to another issue which is a festering sore and which has a long way to go yet, and that is the gross incompetence of this government in the management of the proposal to decommission Lake Mokoan. The consultation process has been nothing but a charade and one of callous deceit. The government will fail to deliver on its commitment to security of supply unless it buys water out of the system. It has grossly underestimated the cost of rehabilitating the Winton wetlands, it has grossly underestimated the impact of decommissioning Lake Mokoan, it has grossly underestimated the effect of flood mitigation on the community of Benalla and downstream, and it has failed to address the need to compensate those people who have had or will have their access to water removed.

The future of the people in the Benalla area and in the north-east generally is being sold down the river by this government, and the implementation of this bill is an extension of that selling off of the wealth-generating potential of people in northern Victoria. It is up to the government to introduce the amendments recommended and desired by The Nationals, through which we are seeking a more balanced approach. We recognise the importance of water to the environment, but we also recognise that we must balance that against social and economic considerations, things on which the government talks the talk but on which it has failed to deliver in relation to this legislation.

Mr DELAHUNTY (Lowan) — Seven years of below average rainfall and therefore low water storages have had a major impact on social and environmental issues in my electorate. This water bill is of vital importance to the electorate of Lowan, which I represent. It is an absolute disgrace that we have been given only $2^1/_2$ hours to debate and outline The Nationals reasoned amendment and the other amendments. Having this bill for only two weeks gave people in my electorate limited time in which to respond, but I received three letters. I will not be able to go through them, but they cover the unbundling issues, the ability of the minister to remove water right entitlements without compensation and irrigators who have been threatened with large increases in their charges. The Nationals have circulated amendments covering eight major changes, and we believe these are necessary to make the government's legislation more balanced.

This bill places environmental objectives above the economic and social considerations of country communities. Good government requires striking a sensitive balance between the environment and economic and social objectives. Our amendments will maintain the current provision that stock and domestic use takes precedence in times of water shortages.

We see how important this bill is to this city-centric government. During the debate tonight we have seen very few Labor members in the chamber. The Nationals have all been here, listening and contributing to the debate. We have been given only $2^1/_2$ hours to debate this very important bill for country and regional Victoria. The Minister for Agriculture has not been seen. If the government is going to reach $12 billion of exports by 2010, the water industry will have to contribute to that.

I have always said that anything that is good for my electorate and good for rural and regional Victoria will get my support. This bill is not good for country Victoria and therefore will not get my support. Victoria is bigger than Melbourne. Melbourne is trying to take water from country Victoria and for every megalitre it takes from country Victoria, it takes away $10 000 worth of economic activity. I will not be supporting this bill.

Clause agreed to; clauses 2 to 3 agreed to.

Clause 4

The DEPUTY SPEAKER — Order! The member for Swan Hill, to move amendment 1 standing in his name.

Mr WALSH (Swan Hill) — New section 4B is absolutely pivotal in this bill. It actually sets out the environmental reserves objective. As you go through the bill, everything relates back — —

The DEPUTY SPEAKER — Order! I interrupt the member to ask him to formally move the amendment.

Mr WALSH — I move:

1. Clause 4, lines 25 to 32, omit all words and expressions on these lines and insert —

"(1) The environmental water reserve objective is the objective that, subject to meeting essential domestic and stock use, the environmental water reserve be maintained to protect the environmental values and health of water ecosystems for the benefit of all Victorians in a way which balances environmental, economic and social costs and benefits.".

Our proposed amendment will make sure that the environmental objective talks about two additional issues. The first is that stock and domestic water use has precedence over other types of water in the system, because this bill actually changes the hierarchy of water use in the Water Act. Historically, in the Water Act water for humans and water for animals has had precedence over water for other uses in the future. This clause changes it so that the environment has precedence over people. If we are serious about living in Victoria, that is a dangerous precedent. The last part of our change to this clause puts in place the concept that we have to take into account the social and economic costs to the environment of any changes we make.

Over the last decade we have had a lot of debate about balancing the environment with social and economic objectives. This bill goes right away from that concept. It puts in place a concept where there is effectively only the environment in the debate, and no-one is going to take account of the social and economic costs. Quite a few members of The Nationals have spoken on this issue of social and economic cost.

Whole communities have been built on the back of irrigation water. Historically, Elmore in northern Victoria used to be bigger than Shepparton until irrigation went through Shepparton. We all know the history of how much bigger Shepparton is than Elmore now because Shepparton had irrigation water and all the industries that developed around that. Given that everything in this bill relates back to the environmental objectives, if we do not actually take into account the social and economic costs of what we do with the environmental reserve, we run the risk of throwing the baby out with the bathwater and actually destroying the communities of northern Victoria.

Mr PLOWMAN (Benambra) — I rise on behalf of the Liberal Party to support the amendment moved by The Nationals that determines that the environmental water reserve objective does give prior right, which I believe should not be the case. Nobody could argue against the words in new section 4B(1). It says:

> The environmental water reserve objective is the objective that the environmental water reserve be maintained so as to protect the environmental values and health of water ecosystems, including their biodiversity, ecological functioning and quality of water and the other uses that depend on environmental condition.

Those are lovely words, but if ever you have heard a motherhood statement, that is it.

This whole bill gives priority in the use of this water for the environment ahead of either stock or domestic uses, which are fundamental to human and animal life and the productivity of agriculture, which is fundamental to our economy. The balance is not right in this. I think the minister has deliberately put in this provision to bring about a division in the good management of water between the environment and other consumptive uses. Therefore it is impossible to do other than support the amendment that the Deputy Leader of The Nationals has put before the house tonight, difficult as it is to oppose the very words in that provision in the bill.

Dr SYKES (Benalla) — I wish to make brief comments on clause 4 and support the notion that we need a better balance between water for the environment and water for stock and domestic purposes. I draw on the example of my property at Benalla on Hollands Creek. It is downstream from the Loomba Weir, which is the weir that stores water for Benalla. Over the past 10 years whenever we have had a burst of dry years we have run into a problem with the issues of balance and priorities. We got to the point where no water was coming downstream from the weir between December and April. That created a serious environmental problem — if the members of the backbench are listening — and was a major difficulty for people downstream in accessing stock and domestic water.

To the credit of the people involved — that is, North East Water, which manages the Loomba Weir for the Benalla community, and two individuals, Terry Ring and Don McFadden — there was an ability to negotiate a stream flow so that the flow coming out of the weir matched the flow going in at that time of the year. As a result of using commonsense and taking a balanced approach to stock and domestic use as against environmental use we were able to recreate a flow that met those needs. I support the amendment proposed by the member for Swan Hill because it attempts to bring back that balance rather than having the out-of-whack arrangement we have at the moment — an arrangement

that supports the environment without giving due consideration to stock and domestic needs.

Mr RYAN (Leader of The Nationals) — I urge the government to accept the amendment. If you look at this from the perspective of the government for a moment — and putting it at its lowest the amendment contains nothing that threatens the government's proposals in this legislation — I suspect that the minister would say the administration of the environmental water reserve will take into account the sorts of concerns that are echoed in this amendment. I suspect the minister's view would be that the government means no demons to apply in the operation of that environmental reserve — that things will be done in a balanced way and the issues we are expressing concern about will be respected. I would urge the minister to accept the amendment, because if he does that will satisfy people's concerns about this absolutely crucial aspect of how this legislation will operate.

It puts the words in there so that, if I am right in what the minister's contention would be, they are in fact reflective of that contention, but simultaneously — —

Mr Thwaites interjected.

Mr RYAN — It would satisfy the people who are worried about the fact that the government is planning to do other than what this amendment contemplates. I do not see that the government loses anything by accepting the amendment. All it will do is put into black-letter law the things that are worrying the people about the administration of this environmental reserve. I suspect, as I said — and I am granting it — that the government's intent is to observe the sorts of issues of balance that these words reflect. So there is no loss to the government in accepting the amendment. On the other side, if it does not accept the amendment, then it just gives added concerns to the worry that people have about the way in which it will actually be administered.

Mr PLOWMAN (Benambra) — Can I pose a question to the minister: if he does not accept this amendment, will he accept that this gives priority to the environmental water reserve over all other water use?

Mr THWAITES (Minister for Water) — I am glad that the member put that question, because I can answer quite clearly it does not. This does not give priority to the environmental water reserve over other uses. In fact the other uses are protected and can only be changed if there is a qualification of rights, and that follows an assessment after a long-term review. The assessment process and the qualification of rights both contain the protections that have been sought. If you go to new section 22P, which provides for the review process that has to be undertaken, it specifically says that in carrying out the review the minister must have:

> … regard to any relevant social, economic and environmental matters.

Similarly if you then go to the qualification process, which is provided for under new section 33AB, you see once again that the minister must have regard to any relevant social, economic and environmental matters So in fact — —

Honourable members interjecting.

Mr THWAITES — I am happy to respond to the interjection. The environmental reserve is about the environment; that is the reason you have it. All that this is defining is the objective of having an environmental reserve. It does not make sense if you are defining an environmental reserve to say that the objective is for some other factor, such as a social or economic factor. But if there is going to be a change in the environmental reserve that affects a user's rights then the social and economic factors have to be taken into account, and that is in the legislation.

Mr RYAN (Leader of The Nationals) — That construction, as the minister has just put, does not equate with the amendment which is before the house. The amendment speaks of the environmental water reserve objective being 'subject to' — it is specifically subject to — meeting essential domestic and stock use. That is just taking that point on its own. It is not a question of 'having regard to', as the minister is referring to in new section 22P, because 'having regard to' simply means you have a look at it and you can consider it and decide yes or no, and you can dispense with it. You look it up and have a look at it, go through whatever you want to, but you do not have to have the operation of the provision subject to it. The great thing about this amendment is that it uses that expression 'subject to', and that is the point that we are trying to drive home here.

Mr THWAITES (Minister for Water) — The Leader of The Nationals clearly has not carefully read the legislation or the framework. Domestic and stock rights, like all other water shares, are not subject to change unless it goes through this process.

The minister cannot change the domestic and stock rights or any other water share unless he has gone through a process that considers the social and economic factors. As a matter of plain English construction, it is not sensible to try to import into the

definition of 'the environment' a whole lot of factors that do not relate to the environment, and that is what the amendment is purporting to do. It is not relevant to the environmental reserve, but whether it is a domestic and stock right or any other form of water share, it is not subject to change without consideration of those matters.

Mr PLOWMAN (Benambra) (*By leave*) — In response to what the minister has just said, new section 33AC(4) on page 26 of the bill says:

> … any qualification under section 33AA of rights to water must apply to all rights in the same proportion …

In that I quite agree with the minister; it is to be apportioned equally, and that means the environment has no priority over stock and domestic or irrigation use. But it then goes on to say:

> … unless the Minister is of the opinion that the circumstances are so extreme as to justify some other basis.

That is the time when the minister can determine that priority to the environmental water reserve takes priority over stock and domestic and over water for consumptive use.

Mr THWAITES (Minister for Water) — That provision is in the existing act, and that is the provision that protects stock and domestic. That is the way in which, if there is an extreme shortage, stock and domestic can be protected. The other issue that has been raised is, for example, in horticulture where it has been suggested that in an extreme circumstance it might be appropriate to adjust rights differently for horticulture than for other irrigator users. This provision allows that to be done. Otherwise, in an extreme position where there was very little water, horticulture would be treated the same as domestic and stock.

This provision is already in the legislation. All this clause does is repeat the ability for the minister to qualify in different ways in an extreme circumstance. It is in the current legislation and it is translated into the proposed amended legislation.

Mr WALSH (Swan Hill) — The minister has missed the point with this. Permanent planning has been taken out, and in a subsequent amendment further on we actually put back in what was in the old Water Act. The key issue here is the issue of stock and domestic. Under that unbundling you are actually taking away the stock and domestic right that irrigators have had in the past and you are rolling it in with general irrigation water into the future. You have taken away the specific stock and domestic water that is there, and under the hierarchy that is going to be developed it has no other — —

The DEPUTY SPEAKER — Order! While there is a greater degree of informality during the consideration in detail stage, we still require the debate to be conducted through the Chair.

Mr WALSH — By giving stock and domestic water equal value to irrigation water, it no longer has that priority whereby water authorities will supply stock and domestic before they supply other types of water. That is why we believe it is imperative that in clause 4 priority is given to the supply of stock and domestic water. It is pivotal that humans and animals have the first use of water.

The DEPUTY SPEAKER — Order! The question is that the amendment moved by the member for Swan Hill be agreed to. Those of that opinion say aye, to the contrary, no. I think the noes have it.

An honourable member — The ayes have it.

The DEPUTY SPEAKER — Order! A division is required. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The DEPUTY SPEAKER — Order! This division is on amendment 1 to clause 4 moved by the member for Swan Hill. Originally the Chair used the words 'the amendment moved by the member for Swan Hill be agreed to' when the correct wording is 'that the words proposed to be omitted stand part of the clause'. Therefore members intending to support the member for Swan Hill should vote no.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! Again for the clarification of the house, this is on amendment 1 moved by the member for Swan Hill. The question is:

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

Members supporting the member for Swan Hill should vote no.

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

Ayes, 51

Allan, Ms	Ingram, Mr
Andrews, Mr	Kosky, Ms
Barker, Ms	Langdon, Mr

Batchelor, Mr
Beard, Ms
Beattie, Ms
Brumby, Mr
Buchanan, Ms
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Gillett, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Languiller, Mr
Leighton, Mr
Lim, Mr
Lockwood, Mr
Lupton, Mr
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Perera, Mr
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 23

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

Amendment defeated.

Clause agreed to; clauses 5 to 10 agreed to.

Clause 11

The DEPUTY SPEAKER — Order! Before calling the member for Swan Hill to move amendment 2 in his name, I advise the house that it is my opinion that if this amendment is not agreed to, the member for Swan Hill will not be able to move amendment 3 in his name because it is consequential upon this amendment.

Mr WALSH (Swan Hill) — I move:

2. Clause 11, page 9, line 30, omit "strategy." and insert "strategy; and".

As you have quite rightly pointed out, Deputy Speaker, the passage of amendment 2 would allow me to move amendment 3 which inserts an additional provision into the bill. It says that in managing the environmental reserve and in managing the catchment health, there is the opportunity to improve catchment health with less water. This bill is predicated on the fact that it is all about more flow equalling catchment health. We wish to insert an additional provision which says you should try to achieve good catchment health without additional water.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The level of conversation is too high. I ask members who wish to conduct conversations to take them outside the chamber.

Mr WALSH — I must admit that I am very disappointed that the member for South Barwon thinks the whole issue of debating the environment is rubbish. I thought he cared about the environment, but he obviously does not because he says what we are trying to achieve with this amendment is all rubbish. We are leaving in this clause in its entirety to do the things the minister has asked, but we wish to insert an additional provision to put some rigour into it and to make the effort to look at the changes that can be made to achieve good catchment health without additional water.

Let us get serious about looking at how we might achieve outcomes without just flow, how we might manage the riparian areas around the stream, how we might look at the turbidity of the water and the quality of the water, and how we might look at soil acidity. Soil acidity is an issue that no-one is taking into account in this debate. This is about how we might achieve good environmental outcomes without additional water, instead of just focusing on water.

Mr PLOWMAN (Benambra) — In support of The Nationals amendment I want to select new section 22B in respect of the preparation of the sustainable water strategy. New section 22D(2) states:

> The Minister must make sure that, so far as it is possible, the membership consists of persons who have knowledge or experience in the matters to be covered in a Sustainable Water Strategy.

Unfortunately if you compare that with the consultative committee on long-term water resource assessment, you find that new section 22Q says that at least half of the membership must consist of persons who are owners or occupiers of land in the area to which the review relates, appointed after consultation with bodies representative of those persons. Frankly, that is the sort of committee membership that should apply here. The way this is written 'members consisting of persons who have knowledge and experience of matters covered in a sustainable water strategy' could relate to an entire committee consisting of public servants, so you could

have your own department advising you on something that properly should be advised on from outside the department.

Given the way it is written, there is absolutely no limitation on the minister's discretion as to who should be on that committee, and for his own purposes it could well be members of his own department. I support the amendment moved by the Deputy Leader of The Nationals, but I would also like the minister to comment on the membership of that committee to assure the house that what I have suggested could not occur.

Mr THWAITES (Minister for Water) — The government does not support the amendment. It is a reasonable thing to put, but in our view it is overly prescriptive in the circumstances. The sustainable water strategies need to be fairly broad, and they have a broad range of purposes that are set out in the bill. The government does not believe we need to be more prescriptive than that. In relation to the point raised by the member for Benambra, the government has said in the legislation that the members need to have the relevant knowledge, and that is appropriate. He said they could all be public servants. That is possible, but it is not likely to be the practice of the government. We are going to seek wide views on this, as we have throughout the whole white paper process.

The legislation gives the minister the power theoretically to appoint all public servants. I am not going to bind all future ministers, but I am saying that the government's practise has been to engage a broad range of people, and we will continue to do that.

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

Ayes, 50

Allan, Ms	Hulls, Mr
Andrews, Mr	Ingram, Mr
Barker, Ms	Kosky, Ms
Batchelor, Mr	Langdon, Mr
Beard, Ms	Languiller, Mr
Beattie, Ms	Leighton, Mr
Brumby, Mr	Lim, Mr
Buchanan, Ms	Lockwood, Mr
Crutchfield, Mr	Lupton, Mr
D'Ambrosio, Ms	McTaggart, Ms
Delahunty, Ms	Marshall, Ms
Donnellan, Mr	Maxfield, Mr
Duncan, Ms	Mildenhall, Mr
Eckstein, Ms	Morand, Ms
Garbutt, Ms	Munt, Ms
Gillett, Ms	Nardella, Mr
Green, Ms	Overington, Ms
Haermeyer, Mr	Perera, Mr
Hardman, Mr	Robinson, Mr
Harkness, Dr	Seitz, Mr
Helper, Mr	Stensholt, Mr
Herbert, Mr	Thwaites, Mr
Holding, Mr	Trezise, Mr
Howard, Mr	Wilson, Mr
Hudson, Mr	Wynne, Mr

Noes, 23

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

Amendment defeated.

Mr WALSH (Swan Hill) — I move:

4. Clause 11, page 10, after line 11 insert —

"(3) A Sustainable Water Strategy must set out —

(a) targets for water quality and waterway health for the region to which it relates; and

(b) an estimate of the direct and indirect economic and social costs associated with implementing the Strategy and the implementation plan for the Strategy; and

(c) a program of measuring actual changes in water quality and waterway health compared to targets established in the Strategy and implementation plan for the Strategy.".

Amendment 4 goes back to this issue that we have continually raised. It inserts in the bill the discipline that we must assess the social and economic costs of what we do in implementing an environmental strategy and puts in place the rigour — —

The DEPUTY SPEAKER — Order! There is far too much background noise in the chamber and it is making it difficult for members who wish to hear the debate to do so. I ask members to either leave the chamber or contain their conversations.

Mr WALSH — As I said, when we talk about environmental benefits the social and economic costs have to be taken into account. We have widely canvassed this issue. So far the government has refused to accept any of our amendments that demonstrate we are serious about addressing not only the environment but the social and economic costs.

Mr Maxfield interjected.

The DEPUTY SPEAKER — Order! The member for Narracan!

Mr WALSH — We are interested in balancing those and seeing what we can achieve for the environment. At some time in the future we may say that the social and economic cost is too great to do something — that is a decision members in this place will have to make in the future — but we should not just proceed with achieving environmental outcomes without any regard to the social and economic cost. It is an unbalanced debate. This amendment tries to put some rigour back into that discussion.

Mr PLOWMAN (Benambra) — The opposition supports the amendment moved by the Deputy Leader of The Nationals. Any member who was in the house when I spoke during the second-reading debate will know I said that the one thing that was missing from the whole debate — and the green paper, the white paper and the bill — is the lack of discussion about the social and economic impacts on those areas, particularly on those communities where the irrigators are going to be impacted on. It is essential that this impact statement determine the impact on those communities and is actually provided in cases where entitlements are being reduced.

I pose a question to the minister: if it were the case where a water district was to use a lot of water because of reconfiguration or the reduction of entitlements, would an impact statement be delivered by this government about the social and environmental impacts?

Mr THWAITES (Minister for Water) — As I indicated previously to the member, whenever there are qualifications of rights and whenever there is a review of the long-term assessment, there is a consideration of the social and economic factors.

Amendment defeated.

Mr THWAITES (Minister for Water) — I move:

1. Clause 11, page 11, lines 27 to 29, omit all words and expressions on these lines and insert —

   "(1) The Minister may, by instrument, appoint a panel of persons to consider comments made under section 22E(f) on a draft Strategy, and the persons appointed to the panel must be persons who have knowledge of or experience in the matters that the panel is to consider.".

The amendment responds to a concern that has been raised by the Victorian Farmers Federation.

Mr PLOWMAN (Benambra) — The opposition supports that amendment.

Amendment agreed to.

The DEPUTY SPEAKER — Order! The member for Swan Hill is to move amendment 5 in his name. In doing so, I advise the house that if this amendment is not agreed to, the member for Swan Hill will not be able to move amendment 6 in his name because it is consequential upon this amendment.

Mr WALSH (Swan Hill) — I move:

5. Clause 11, page 13, line 28, omit "Strategy." and insert "Strategy; or".

As you, Deputy Speaker, have quite rightly pointed out again, amendment 5 is the condition to achieve amendment 6.

Amendment 6 puts some rigour into how we manage the environmental reserve by setting environmental targets and monitoring against those targets so people can go to reports and say, 'This is the target we set, this is the outcome we have achieved and this is the water we have used. Is it worthwhile? Has the minister or the department done the right thing?'. Over time we would then be able to see if we are achieving a good environmental outcome for the water or money we are spending or whether it is simply an airy-fairy idea that we have to run more water down the river to achieve an environmental outcome.

Mr PLOWMAN (Benambra) — The opposition supports the amendment on the basis that it is environmental outcomes that are important; it is not just a matter of putting more water down a river or stream. We have a classic case in south-west Victoria on the Merri River. The productive capacity of irrigators in the area has been diminished by about $3 million a year, yet there is no measurable improvement to the environment due to the loss of that water. It is essential, as the Deputy Leader of The Nationals says, that we use environmental water for environmental outcomes.

Mr THWAITES (Minister for Water) — Deputy Speaker, I would just like to get some clarification. Are we dealing with amendments 5 and 6?

The DEPUTY SPEAKER — Order! It is the practice of the house that, where one amendment is consequential on another and would not be able to be put if the first were lost, the mover may speak to the two at the same time.

Mr THWAITES — I must admit that I am somewhat confused by the contributions of the Deputy Leader of The Nationals and the member for Benambra because my understanding is that amendments 5 and 6 relate to something different from what they have talked about — that is, the requirement on the minister to consider whether he has qualified rights in a region where he is dealing with a sustainable water strategy. That has not been raised by the members opposite. It is a completely different issue. As I understand it, the purpose of the amendment is to require the minister to consider whether there has been a qualification of rights in an area. If that is what is intended, rather than the information they have given us, then it is not considered appropriate for a sustainable water strategy to deal with rights that have been qualified in the past.

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

Ayes, 50

Allan, Ms	Hulls, Mr
Andrews, Mr	Ingram, Mr
Barker, Ms	Kosky, Ms
Batchelor, Mr	Langdon, Mr
Beard, Ms	Languiller, Mr
Beattie, Ms	Leighton, Mr
Brumby, Mr	Lim, Mr
Buchanan, Ms	Lockwood, Mr
Crutchfield, Mr	Lupton, Mr
D'Ambrosio, Ms	McTaggart, Ms
Delahunty, Ms	Marshall, Ms
Donnellan, Mr	Maxfield, Mr
Duncan, Ms	Mildenhall, Mr
Eckstein, Ms	Morand, Ms
Garbutt, Ms	Munt, Ms
Gillett, Ms	Nardella, Mr
Green, Ms	Overington, Ms
Haermeyer, Mr	Perera, Mr
Hardman, Mr	Robinson, Mr
Harkness, Dr	Seitz, Mr
Helper, Mr	Stensholt, Mr
Herbert, Mr	Thwaites, Mr
Holding, Mr	Trezise, Mr
Howard, Mr	Wilson, Mr
Hudson, Mr	Wynne, Mr

Noes, 23

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

Amendment defeated.

Mr BATCHELOR (Minister for Transport) — I move:

That the debate be now adjourned.

Dr NAPTHINE (South-West Coast) — I seek advice as to whether, if the debate is adjourned, we can have an assurance from the Leader of the House that there will be further opportunities to consider this bill in consideration-in-detail stage tomorrow. We have considered only 1 of 54 amendments proposed by the government and only 6 of 64 amendments proposed by The Nationals, and my recollection is that we are only up to clause 11 of a bill of 70 clauses. During the second-reading debate other speakers said this is a very significant bill of enormous importance to Victoria as a whole and particularly to those involved in agriculture and water management, so I seek — —

An honourable member interjected.

Dr NAPTHINE — It is not a point of order. I did not take a point of order.

The DEPUTY SPEAKER — Order! The member has not raised a point of order. He is speaking to the question.

Dr NAPTHINE — I am speaking to the question that the debate be adjourned, and I am seeking advice from the Leader of the House, before we make a decision to vote on the question that debate be adjourned, as to whether it is the government's intention to bring this bill back for further consideration in detail tomorrow so that the remaining 53 government amendments, the 55 or 56 Nationals amendments and the remaining 50 or 60 clauses will be able to be considered in detail. The people who are involved in the water industry and irrigation agriculture in regional and rural Victoria deserve that there be proper debate on this bill.

I seek advice from the government before the house votes on this adjournment motion as to whether it is the intention of the government to allow this bill to be considered in detail fully tomorrow so that we can adjourn now. If it is not the intention of the government to come back to the consideration-in-detail stage, unfortunately the house will have to further consider this bill tonight and we would have to oppose the adjournment.

Mr THWAITES (Minister for Water) — I am interested in the comments of the member for South-West Coast, who said that he would have to oppose the adjournment because his party and The Nationals had indicated that there was an agreement

that we would in fact complete business tonight by midnight. In order to further facilitate discussion we have extended that until now, 12.25 a.m., so we have endeavoured to extend the time after a further conversation. I would be very surprised if the Liberal Party were to break an agreement it had already made on this — —

Honourable members interjecting.

Mr THWAITES — If that is going to be the way the Liberal Party handles agreements, it will not be possible to have such agreements. It is not appropriate to make an agreement and then subsequently try to put a range of other conditions on it, which is what the member is seeking to do now. I do not know whether the member is speaking for his party on this issue or whether he is speaking for himself as an individual, but he indicated that his party would oppose the adjournment unless further conditions were satisfied which were not part of the agreement which we had earlier.

If we are going to see a situation where parties simply make agreements and then break them, the proceedings of this house will not be able to be satisfactorily dealt with. We have endeavoured to extend the debate tonight. If the matter comes back tomorrow, it will be in the consideration-in-detail stage, and that is a matter for the house to determine tomorrow — as it is appropriate that it should be.

Mr PLOWMAN (Benambra) — As the person who reached the deal with the manager of government business, I can say that we will not break that deal. We will in fact do as we suggested and go on to the time agreed. However, it is quite legitimate for the member for South-West Coast to ask whether it is going to come back on tomorrow. If it is, then we certainly would prefer to see it come back on in order to see the rest of that consideration-in-detail stage continue and be completed. But I say quite clearly that we respected the deal that was made, we have done that to the best of our ability and we will continue to do that. For the Deputy Premier to suggest otherwise is an aspersion which I think he should withdraw.

Motion agreed to and debate adjourned.

Debate adjourned until next day.

Remaining business postponed on motion of Mr HOLDING (Minister for Police and Emergency Services).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Office of the Public Advocate: performance

Mr CLARK (Box Hill) — I direct to the attention of the Attorney-General the handling by the public advocate of the case of Mr Francis Jeffrey, which has been raised with me and I believe with other members of Parliament by Mr Jeffrey's son, Nicholas. I ask the Attorney-General to investigate whether Mr Jeffrey's case has been handled as well as it could have been by the public advocate and whether any steps need to be put in place in light of this case.

The documentation provided to me by Nicholas Jeffrey shows that Mr Francis Jeffrey suffered two strokes in August and September 2004 and was subsequently cared for at home by his wife and Nicholas Jeffrey. An application was then made to the Victorian Civil and Administrative Tribunal by a third party for the appointment of a guardian. The case was heard and decided by VCAT on 17 November 2004. The tribunal found that, because of family conflict over deciding on an appropriate nursing home for Mr Jeffrey, an independent decision-maker needed to be appointed to determine where Mr Jeffrey should live. An order was made appointing the public advocate as a limited guardian with powers and duties to make decisions concerning accommodation and access to services.

Following the VCAT hearing Mr Jeffrey returned home to the care of his wife and Nicholas. On the morning of 19 November 2004, after Mr Jeffrey's health had deteriorated, Mr Jeffrey's doctor had him admitted to Dandenong Hospital. After consulting with Mr Jeffrey's wife and two sons, Dandenong Hospital then arranged for Mr Jeffrey to be admitted to Waverley Private Hospital the following day, 20 November. On 23 November Mr Jeffrey's doctor told Mr Jeffrey's wife and Nicholas that Mr Jeffrey would soon be able to go home. To that point the public advocate had made no contact with either Mr Jeffrey or any other member of the family.

On 26 November Nicholas Jeffrey made repeated efforts to have the public advocate take action to decide whether Mr Jeffrey could be discharged from hospital and to arrange physiotherapy and other services. However, he was told no-one would be assigned to the case until the following week. On 29 November the person then assigned to Mr Jeffrey's case contacted

Nicholas Jeffrey and told him that no decisions would be made until after she had met with the family in eight days time. In the meantime Mr Jeffrey was required to remain at Waverley Private Hospital. A request to move him to Koo Wee Rup hospital was rejected. On 7 December the public advocate staff member met with some family members, and on 9 December Nicholas Jeffrey was told by a hospital nurse that the public advocate's office had agreed that Mr Jeffrey could be moved to Koo Wee Rup hospital. However, on 10 December Mr Jeffrey was diagnosed with pneumonia, and he died on 11 December.

Nicholas Jeffrey is strongly of the view that the apparent tardiness of the public advocate in acting on Francis Jeffrey's case and in making decisions about where he should be cared for and what care and other services he should receive contributed to his death and meant he had a far poorer quality of life over what proved to be his final days.

I appreciate that the resources of the public advocate are stretched and that the public advocate and his staff have responsibility for a large number of clients, many of whom have difficult and complex cases. Nonetheless, the delay in the public advocate's office becoming actively involved in this case, coupled with an apparent veto over any changes to Mr Jeffrey's care arrangements in the intervening period and a lack of explanation to Mr Jeffrey's primary carers, seems to have been most unsatisfactory.

Rail: crossing safety

Ms MARSHALL (Forest Hill) — I rise this evening to raise a matter for the attention of the Minister for Transport. I seek the minister's action to urgently investigate ways of making railway crossings safer for pedestrians and motorists. Safety at railway crossings is an issue that has been raised with me by a number of my constituents. There are still quite a number of crossings that over the years have caused concern for a variety of reasons to a number of different people. I know the Bracks government takes the safety of all Victorians very seriously, and no issue is of greater importance than the safety of the public at level crossings. In the past Victorians have lost their lives as a direct result of collisions between motor vehicles and trains at level crossings, and whilst the figure is particularly small it is no less important. The impact of any loss of life has a ripple effect on the family and friends of those people and on the wider community.

We all realise that improving safety at railway crossings is a multifaceted issue that requires a range of initiatives in terms of physical improvements and community education initiatives. A major focus is needed in the area of community education and awareness, as there are a great number of accidents each year that could well be prevented by the simple creation of a greater difference between when trains are approaching and when they are not. With our ever-increasing elderly population, visual aids to assist with the current system would surely be of benefit. This would apply to pedestrians and motorists alike.

Throughout Victoria there are a number of crossings with a far lower level of accidents registered each year. These could be used as templates for the higher risk areas and therefore used to better evaluate the relative safety risk of each level crossing. By the same token the areas that have relatively high levels of accidents should be identified and evaluated in terms of the contributing factors and the ways in which the general public can avoid the circumstances that contribute to such situations.

Railway crossings are inherently high-risk areas, and every measure needs to be examined to improve public safety. With a variety of dangers ever present, people who face a higher level of difficulty in accessing crossings, such as people in wheelchairs, need to be particularly vigilant. I am always shocked that, despite the measures we currently have in place, there seems to be a small percentage of the public that is determined to take the risk of crossing illegally.

I ask that the minister evaluate all the possibilities in order to improve safety at railway crossings and request him to work towards implementing measures that will achieve this goal.

Hospitals: executive salaries

Mr RYAN (Leader of The Nationals) — I wish to raise a matter for the attention of the Minister for Health. The issue is with regard to remuneration structures for chief executive officers and other executives who work within the public hospital structure in Victoria. There are about 87 public hospitals and health services in our state, many of which are located in country Victoria. For the past four years hospital boards have received directions on chief executive officers' salary bands from the government sector executive remuneration panel. As recently as late in 2004 the boards were receiving letters approving the salary rates based on published rates with no suggestion that rates could in any way be reduced.

In June 2005, in a phone call to the remuneration panel to confirm the processes for consumer price index adjustments, one of the hospital chief executive officers

was given advice that there was no need to put in a request because all the scales would shortly be increased. On Monday, 10 October 2005, all hospital presidents received advice from the Secretary of the Department of Human Services, Patricia Faulkner, that said the remuneration structures had been modified and various changes had been made.

One of the outcomes was that 13 of the hospitals that were formerly in what was known as group D in the six-rank system under which the hospitals were structured have now been placed in the lowest rank — namely, no. 4 — in the new structure, which runs from 1 to 4, which is applicable to the ranking of the hospitals in the state. By dropping 13 of the former category D hospitals into this new category, there is the prospect that in time, as the chief executive officers who presently occupy those positions are replaced, the people who will replace them are going to drop in salary. Those substantial salary reductions will be of the order of 15 per cent — from about $175 000 maximum down to $149 000 maximum.

The action I seek from the minister is to ensure that this simply does not happen. Although this work has been undertaken by the remuneration panel, it has nevertheless been endorsed by the government, and so it is that the head of the department has written a letter to the board chairmen to advise them of the outcomes. The responsibility clearly lies with the minister to address this. Of course, if this is not addressed, it is going to make it even harder for country hospitals in particular to be able to attract the personnel they need to enable their hospitals to function. That in turn is going to have serious ramifications for the services that can be delivered from those hospitals. This matter needs to be addressed urgently, and so it is that I seek the intervention of the minister.

Parliament: 150th anniversary

Mr CRUTCHFIELD (South Barwon) — My adjournment matter is for the attention of the Minister for the Arts. I ask her to consider supporting funding for historical references for the 150th anniversary of the Victorian Parliament. I have a constituent called Ian Caldwell — the Government Whip knows him very well: he is a good and close friend of the whip's — who has raised a number of issues for the minister to consider in relation to our celebrations of the 150th anniversary of this Parliament.

He has raised the issue of whether Victoria has planned to produce a book containing historical maps of the electorates of the Victorian Parliament. I note that the Australian bicentennial celebrations produced a book in 1988 that looked at some of the electorates, but clearly Ian wants those updated. As is the case with all our electorates, South Barwon has not had an updated map since 1988. He thinks it would be a fantastic gesture to update the maps of all the electorates of the Victorian Parliament as a significant part of our celebrations. I know that a previous Liberal member for South Barwon, Harley Dickinson, has been a repetitive visitor to my office and indeed strongly supports me. He has also mentioned the fact that he would — —

Dr Napthine interjected.

Mr CRUTCHFIELD — I note the criticism made by the member for South-West Coast of the previous member for South Barwon, and I will relay those concerns to him during our next conversation.

Ian Caldwell has raised the issue of upgrading the biographical register of the Victorian Parliament, which everyone here would be aware of. Currently there are two editions, one for the period 1856–1900 and another for 1900–1984. Ian is asking if they can be reprinted and hopefully updated. Finally, Ian suggests that for the 150th celebrations of the Parliament of Victoria a book be produced about colonial Victorian elections. Such a book would be a companion to *Election Statistics for Colonial South Australia* by Dean Jaensch, and I am sure that every parliamentarian here has that book.

Minister for Consumer Affairs: performance

Dr NAPTHINE (South-West Coast) — I wish to raise a matter for the Minister for Consumer Affairs in another place through the Minister for Police and Emergency Services, who is at the table. The action I seek is for the minister to investigate false and misleading advertising statements and service promises being made across south-west Victoria. It seems that these false and misleading statements are deliberately designed to deceive customers and consumers of this service.

The organisation concerned has previously provided a high-quality, locally based and face-to-face personal service and advice to its clients and is backed up by a locally staffed toll-free number. Indeed officers were available five days a week in Warrnambool and four days a week in Portland and Hamilton for face-to-face consultation and advice. The organisation has cut back its services but is now trying to con local consumers and cover up these clear reductions in local services.

Despite these obvious and clear cutbacks in services, officers of this organisation and its leader recently have been touring south-west Victoria falsely claiming the

delivery of improved services, and this is the issue I wish the minister to investigate. The new service system replacing a locally based service and locally experienced staff is a 1300 number and a Geelong office. Advertisements have been placed in local papers urging people in Warrnambool, Portland and Port Fairy to:

> Drop into our office at level 5, 30–38 Little Malop Street, Geelong —

for their services. The person responsible for these false and misleading advertisements and claims about improved services is the Minister for Community Services. The minister is touring south-west Victoria trying to claim — —

Mr Holding — On a point of order, Acting Speaker, this is transparently not a matter for the Minister for Consumer Affairs in the other place. It is a criticism that the member for South-West Coast wishes to make of a government department. He is entitled to do it in the appropriate and proper way and not to misuse the forms of the house by pretending that this is some matter that somehow relates to the administrative responsibilities of the Minister for Consumer Affairs.

Dr NAPTHINE — On the point of order, Acting Speaker, the matter certainly relates to the Minister for Consumer Affairs because it relates to false and misleading advertising and it relates to falsely misleading consumers and misleading clients.

The ACTING SPEAKER (Mr Nardella) — Order! I will rule on the point of order. As per the standing orders, the member for South-West Coast is not to impugn the reputation of another member of this chamber or the other house. He may continue with his adjournment matter, but not by impugning a minister or another member of Parliament.

Dr NAPTHINE — I may have misled the house when I said it was the Minister for Community Services who was perpetrating these problems. It is actually the Minister for Consumer Affairs who is perpetrating this misinformation, this misleading advertising and this misleading of consumers. She used to provide a good service to south-west Victoria, but now she has cut back the service and is trying to tell the people of south-west Victoria that it is a better service when it is clearly and blatantly a worse service.

The ACTING SPEAKER (Mr Nardella) — Order! The member is not to impugn the minister. The honourable member's time has expired.

Racing: Cranbourne complex

Mr PERERA (Cranbourne) — I raise a matter for the attention of the Minister for Finance in the other place. The issue I wish to raise relates to the Cranbourne Thoroughbred Training Complex, which is located on 93.86 hectares of Crown land in Cranbourne. I ask the minister to take action to ensure that the Cranbourne Thoroughbred Training Complex is sold to Racing Victoria on a restricted Crown grant for exclusive thoroughbred training purposes. This is an urgent task since Racing Victoria is contemplating raising funds to expedite further development of the property and generate substantial economic employment and social benefits throughout the Cranbourne region.

Training at the facility commenced in 1990. In 2004–05 the Cranbourne training complex produced 6265 race starters, or 15 per cent of all Victorian starters. Averaging 538 per month, the Cranbourne training complex produces 32 per cent more starters than the next biggest training venue in Victoria. Of all those starters, 9 per cent have won a race and 38 per cent have been placed between first and fourth in races. The starters are managed by 637 managing owners. More than $10 million in prize money has been won. On any day an average of 80 trainers, 589 horses, 150 stable hands, miscellaneous owners, farriers and vets will attend training between 4.15 a.m. and 9.30 a.m. Up to 100 horses per hour will use the sand and viscoride tracks, while up to 280 horses may use the equine swimming pool.

Racing Victoria wishes to increase the training facility's capacity by 100 per cent. That will increase the job opportunities to locals and enhance economic activity in the area. On 21 October the government caucus members who are friends of racing visited the facility and discussed issues with Racing Victoria officials. One of the issues brought up at the meeting was the ownership of the training complex land. Racing Victoria stressed the importance of owning the land for further development of the facility. I am absolutely positive that all members present agreed on that issue.

Therefore I urge the minister to take quick action to ensure that the Cranbourne Thoroughbred Training Complex is developed to its full potential in terms of providing maximum benefits to the Cranbourne region. I also take this opportunity to thank the government caucus members who are friends of racing for visiting the Cranbourne training complex.

Police: Commonwealth Games

Mr WELLS (Scoresby) — I raise a matter of concern with the Minister for Police and Emergency Services. The action I ask the minister to take is to provide Parliament with a plan of where the police who will be available for the Commonwealth Games will come from. All sides of Parliament agree that the Commonwealth Games will be a fantastic event, and we are supporting that strongly.

Already joint operations have been conducted between the army and Victoria Police and obviously private security guards will play a significant role in them at some time before March. It has been indicated that all leave for Victoria Police officers will be cancelled. All members understand that and support it in most cases. In theory it sounds good; I am just not sure about the practice. The plan we request from the minister needs to include the actual stations that the police will come from. I know the plan is being developed. When it is completed and properly formulated, why not make it available to the public?

The issue for many people is how the deployment of police to the Commonwealth Games will affect their local communities. On a couple of occasions today I have mentioned the shortages of police in communities. We are not talking about the police on the roster but those who will actually be available. I have given examples of a couple of cases today. A roster might have 30 people at a particular police station but that number might include officers on annual leave, sick leave or maternity leave so that the 30 may be down to an operational level of 15. We are very concerned about that. It is important that the plan is provided so that communities can look at it.

It is also noted that the police stations that people were told would be operating for 24 hours are operating for only 16 hours. The concern is that the 16-hour stations may go down to operating for 8 hours. In the Western District there are shortages. The assistant secretary of the Police Association of Victoria, Bruce McKenzie, has said that stations in the Corangamite district have suffered more shortages than anywhere else in the state. He is quoted as having said:

> … at least nine officers within the district were off at the same time last month due to stress leave, sick leave and holidays.

These police officers being away is having a direct impact on communities in Cobden, Camperdown and Terang. We request the minister to provide the Parliament with a plan so we can have a look at it and reassure those local communities that they will be well looked after during the Commonwealth Games period.

Anglicare: Lilydale centre

Ms McTAGGART (Evelyn) — The matter I raise is for the Minister for Victorian Communities and the action I seek is for the minister to support an application to build a family service centre for Anglicare Lilydale. As the house is aware, Anglicare provides outstanding support and care to children, youth and families in crisis. The Lilydale office meets the needs of the most vulnerable members of my local communities.

I maintain a strong relationship with the manager, Marg Kearsley, and am proud to support this organisation whenever possible, whether it be by attending community forums or special events or by supporting funding applications. Anglicare provides excellent resources throughout the state but Marg and the team at Lilydale are to be commended for their tireless work and the commitment they make to residents facing hardship in Lilydale and the surrounding district. They also work collaboratively with other organisations such as Anchor and St Vincent de Paul in Lilydale.

I also strongly support the family violence programs run out of the Lilydale office, and have been a strong advocate for the program for men who want to stop using violent and abusive behaviour. Jim Allen has been instrumental in providing these programs to local men, and I have heard testimonials from the men and their partners about how these programs have changed their relationships in positive ways. Anglicare Lilydale also provides an emergency relief program, financial counselling, drug and alcohol support and strong foster care services and assistance to families.

I have also met with some women who have been victims of family violence, and have heard testimonials from many of them that they have been supported by various programs run by Anglicare and peer support groups. Anglicare is in very cramped buildings in Castella Street, Lilydale, and new buildings are required to assist in the delivery of many of the programs it offers to the community. I seek the support of the minister to deliver funding to assist Marg Kearsley and her outstanding team at Anglicare Lilydale.

Housing: north-eastern suburbs

Mrs SHARDEY (Caulfield) — The issue I raise is for the attention of the Minister for Housing in another place. It concerns an Aboriginal mother who is seeking public housing so she can access job training and employment. I have personally brought this matter to the attention of the minister's office, but I hope that by

raising it in the house the minister will give it her utmost and early attention to find a solution to what I describe as a tragic situation.

In July of this year Ivy Hudson, a young Koori woman who has one son living with her and three other children living with her ex-husband, was forced to leave the home of her brother, where she had been residing, after he told her she needed to find her own accommodation. Ivy approached the Aboriginal Advancement League for assistance in gaining public housing. She was assessed as being in need of early housing as a segment 1 client, I believe by the North East Housing Service. This means she is considered recurrently homeless.

Ivy wishes to stay in the area where her son attends a Northland special school and to take up a place in the structured training and employment program of the Replay Group's Australian Centre for Workplace Learning. This program, which is specific to indigenous people, is conducted in the mainstream aged care area and would offer Ivy the opportunity to gain a recognised certificate III in aged care work and a job in the industry. She has already been offered a position at a facility in Glenroy, but will not be able to take up the position if she is not offered a home in the area.

As of today Ivy and her son, who have stayed at the Lady Gladys Nicholls Hostel for the past two weeks, are homeless and are relying on friends to provide a roof over their heads. I ask the minister to personally take up the cause of Ivy Hudson, who deserves a real chance.

Children: state plan

Mr LANGUILLER (Derrimut) — I rise to bring a matter to the attention of the Minister for Children. As the house would be aware, this week is Children's Week, and in fact today is Universal Children's Day. Childhood is of course something in which all of us should have an interest. Many of us have children of our own, and many of us have friends and family members who have children — and as far as I know, all of us have at one stage or another been children ourselves! More importantly, children are our future. What we offer children today will affect not only the sorts of people they become as adults but also the sort of community we grow into. That is why we have to plan well for children: if we do not get it right now, we simply will not get another chance.

I was very pleased to hear the Minister for Children speaking over the past few days about the government's intention to develop a statewide plan for children. Given this government's solid track record of working in partnership with communities, I call upon the minister to take action to ensure that parents and other members of the community get plenty of opportunities to play a part in the development of this really exciting plan for the future. The state plan is based on a fabulous vision for the future in which children's services will blend together a lot more and be more relevant and adaptable to the needs of children and modern families.

It is a far-reaching vision and I am very eager to see the local rank-and-file parents get the chance to have their say. As I see it, the state plan is like a broad outline to set the scene for the future. We are now at the stage where we need to fill in the details.

Responses

Mr BATCHELOR (Minister for Transport) — The member for Forest Hill is absolutely correct in saying the Bracks government takes rail and road safety very seriously. We certainly do, as I know the member for Forest Hill does. In particular we believe public safety at level crossings is of high importance. The reason is that, since 2000, 18 people have died in collisions between motor vehicles and trains at level crossings in Victoria. This represents less than 1 per cent of all road deaths, but the government, like the member for Forest Hill, acknowledges that every single road death is a tragedy for a family and its local community.

In order to try to reduce the number of deaths at level crossings the Bracks government is undertaking a number of initiatives that the member for Forest Hill has asked it to undertake. Firstly, we have increased funding by $10.8 million across the next four years on upgrading level crossings and pedestrian crossings across the state. This additional funding will mean that over the next four years around 20 level crossings will be upgraded each year rather than the 12 level crossings originally planned. The upgrades will extend the number of level crossings being installed with flashing lights and/or boom barriers, providing increased safety for motorists and train users alike.

An additional $2.8 million over the next two years will be spent on a pedestrian crossing protection upgrade program, which will mean that on top of the eight crossings per annum a further three crossings per annum will be upgraded from passive to active protection. The Department of Infrastructure is also about to conduct risk assessments on all public railway crossings in Victoria using an updated assessment model which will allow it to better evaluate the relative safety risks of these level crossings. This will ensure

that each safety dollar is spent where it can generate the greatest safety improvements.

We are also trialling a number of new safety initiatives, including the painted safety zone at level crossings. We are evaluating the effectiveness of these yellow grid lines painted on the road surface, which indicate the area at the crossing on which vehicles should not be stopped. The trial will provide guidance as to potential benefits and future use of this treatment. A level crossing safety camera was trialled at the Springvale Road, Nunawading, level crossing. This has been a very successful trial in recording visual evidence of motorists breaching the road rules and has led to a second trial in the same location currently taking place. The government has allocated an additional $500 000 to expand the program across a number of other sites that have been identified because of their high risk. The result of these trials will be used to raise community awareness of the risks to motorists at level crossings.

The second initiative, in broad terms, is that the government has undertaken to develop a public awareness campaign on the dangers of level crossings. The objective of this campaign will be to increase public awareness of the potential dangers that exist at level crossings and to remind drivers to take care and not take risks at these crossings. The message that we hope to deliver to motorists is that they should never be complacent about level crossings.

The third thing that the Bracks government is doing is continuing to explore new engineering devices that might be used to increase safety at level and pedestrian crossings. The government recently announced a raft of measures aimed at improving pedestrian safety at level crossings, and these are to be trialled at the Bentleigh station. These measures include extending the fencing at crossings to discourage pedestrians from entering them at unsafe times and improving signage for exit gates on the emergency enclosures. In effect, we will be using Bentleigh as a trial location for a red man electronic sign, similar to pedestrian road crossings, which shows when it is not safe to cross the railway lines. We will be trialling a 'Second train coming' electronic sign, which is designed to indicate that additional trains are approaching, possibly from either direction. Early next year we will commence a program of upgrading railway pedestrian crossings in Victoria to the new disability access standards, and an extensive consultation process will be undertaken with disability communities over the coming months.

Whilst we are improving railway infrastructure, which is an essential part of the process of keeping people safe around railway tracks, it is important that people take responsibility for their own safety. A review of behaviour at Bentleigh station found that the pedestrian crossings were used about 2800 times a day. Unfortunately, 2 per cent of the crossings each day involved people illegally crossing the tracks at the station after the gates had shut to allow trains to pass.

Even with bells, whistles and boom gates in place there are still some people who take risks by not obeying these safety signals. People need to understand that trains travel at speed. They are heavy vehicles, they have a high velocity and they cannot stop quickly. Pedestrians, especially children, parents and motorists are strongly advised to take care around railway crossings. The message to all these people is quite simple: it is not worth the risk.

The ACTING SPEAKER (Mr Nardella) — Order! The Minister for Children, to respond to the member for Derrimut. I remind the minister that she cannot anticipate debate on a bill on the notice paper. The minister can respond to the action requested, but she may not refer to or debate the bill before the house.

Ms GARBUTT (Minister for Community Services) — I thank the member for Derrimut for raising with me the development of Victoria's first-ever statewide plan for children and how we can involve parents in that process. The member is absolutely right when he describes the importance of this plan, both for children and for Victoria's future.

This government has already set some broad directions in its approach to supporting children in the future, including where our children's services need to be and what sorts of services we envisage. That is set out in our response to the report and recommendations of the Premier's Children's Advisory Committee, which we released in December last year. Since then we have given children's services a whole new lease on life, making them much more connected to each other and to their communities.

The next step is developing the statewide plan, and that will detail exactly the steps to take us in that direction. That simply has to include parents. In fact, it has started with parents because this morning I attended our first parents round table where parents provided their ideas and gave some very clear insights into how children's services were serving their needs and those of their children, and some ideas of how we can move forward.

I am very pleased to advise the member and the house that we are running a series of forums right across Victoria with parents and members of the general community being invited to come along and have their

say and put their ideas on the table. They will be run in both metropolitan and regional areas during the next few months, and I would be very pleased to see parents come along and be part of shaping the statewide plan for children, which is a very important piece of work.

Mr HOLDING (Minister for Police and Emergency Services) — The member for Scoresby raised a matter specifically connected with the arrangements for policing security for the Commonwealth Games and more general issues around so-called police shortages. As I indicated to the house yesterday, all honourable members on this side of the chamber find the ongoing attempts by the member for Scoresby and other members of the opposition to breathe life into this shabby campaign on police numbers quite extraordinary. We had on the radio this morning none other than Senior Sergeant Paul Mullett acknowledging that the government had met its previous commitments in relation to police numbers and was actually likely to meet its ongoing election promises in relation to police numbers.

We are very proud of our record of recruiting additional police into Victoria Police and also of making it an environment where police members want to stay and be involved in the organisation. That record can be contrasted with that of the previous government which promised 1000 police then cut 800 and drove the attrition rate within Victoria Police to the highest of any police organisation of any state in Australia. We now have the lowest police attrition rate of any state or territory in Australia, and we are very pleased about that.

The member for Scoresby specifically raised the issue of Commonwealth Games policing arrangements. He acknowledged that Victoria Police proposes to cancel all leave for police members during the period of the games themselves. Those arrangements will obviously be coordinated from the Chief Commissioner of Police down. We will draw police from all over Victoria to support the activities and security arrangements for the various games venues and games-related activities throughout the state. We will also draw on police from interstate. Included in those arrangements are new laws that have been passed by states and territories throughout Australia to enable special constables to be sworn in in a more streamlined way. Some of those special constables — that is, police members from other jurisdictions — will support not only games-related activities in other parts of Australia such as the Queen's baton relay but also games-related activities in Victoria. We will also have 1200 personnel supporting the security arrangements for the games, and a large number of security operators will be contracted for the games period itself and also in the lead-up to the games.

Of course the arrangements for coordinating police resources will not compromise public community safety in any part of the state, nor will they detract in any fundamental way from the various community policing activities in which the police are involved in communities throughout Victoria on an ongoing basis. We are very confident that we will be able to enjoy both a successful and, we hope and expect, an incident-free Commonwealth Games. We also hope local communities will not be deprived of vital police resources which underpin their safety.

The ACTING SPEAKER (Mr Nardella) — Order! The Minister for Police and Emergency Services, to respond to the honourable member for Box Hill, the Leader of The Nationals, and the honourable members for Barwon South, South-West Coast, Cranbourne, Evelyn and Caulfield.

Mr HOLDING (Minister for Police and Emergency Services) — I have made extensive notes in relation to those issues raised by various members and I intend to furnish ministers with those so that they can respond to those members directly.

The ACTING SPEAKER (Mr Nardella) — Order! The house is now adjourned.

House adjourned 1.08 a.m. (Thursday).

Wednesday, 26 October 2005

JOINT SITTING OF PARLIAMENT

Victorian Health Promotion Foundation

Honourable members of both houses met in Assembly chamber at 6.18 p.m.

The Clerk — Before proceeding with the business of this joint sitting it will be necessary to appoint a President. I call the Premier.

Mr BRACKS (Premier) — I propose:

That the Honourable Monica Mary Gould, President of the Legislative Council, be appointed President of this joint sitting.

The Clerk — As there is no other proposal, the Honourable Monica Mary Gould will take the Chair.

The PRESIDENT — The first procedure will be the adoption of the rules. I call the Premier.

Mr BRACKS (Premier) — I desire to submit the rules of procedure, which are in the hands of honourable members, and I accordingly move:

That these rules be the rules of procedure for this joint sitting.

Mr HONEYWOOD (Warrandyte) — I second the motion.

Motion agreed to.

The PRESIDENT — The rules of procedure having been adopted, I am now prepared to receive nominations from honourable members with regard to three members being elected to the Victorian Health Promotion Foundation for a three-year term commencing on 27 March 2006.

Mr BRACKS (Premier) — I nominate Mr Hugh Francis Delahunty, MP, the Honourable Bill Forwood, MLC, and Ms Maxine Morand, MP, for election as members of the Victorian Health Promotion Foundation. I understand they are willing to accept their appointments if chosen.

Mr HONEYWOOD (Warrandyte) — I second the nominations.

The PRESIDENT — Are there any further nominations?

As there are only three nominations, I declare that Mr Hugh Francis Delahunty, MP, the Honourable Bill Forwood, MLC, and Ms Maxine Morand, MP, have been elected as members of the Victorian Health Promotion Foundation for a three-year term commencing on 27 March 2006.

I now declare the joint sitting closed.

Proceedings terminated 6.21 p.m.