

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

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

Wednesday, 1 March 2006

(Extract from book 2)

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(*Assembly*): Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells.

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(*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson.

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

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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The Hon. ANDREA COOTE

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The Hon. P. R. HALL

Deputy Leader of The Nationals:
The Hon. D. K. DRUM

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Coote, Hon. Andrea	Monash	LP	Olexander, Hon. Andrew Phillip ³	Silvan	Ind Lib
Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
Darveniza, Hon. Kaye	Melbourne West	ALP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
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Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
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Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy ¹	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

¹ Ind from 17 September 2004
ALP from 10 November 2005

² Ind from 7 April 2005

³ Ind Lib from 30 November 2005

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Wednesday, 1 March 2006

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

**CRIMES (DOCUMENT DESTRUCTION)
BILL**

Introduction and first reading

Received from Assembly.

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

**GAMBLING REGULATION
(MISCELLANEOUS AMENDMENTS) BILL**

Introduction and first reading

Received from Assembly.

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

PETITIONS

Water: fluoridation

Hon. P. R. HALL (Gippsland) presented petition from certain citizens of Victoria praying that the Legislative Council of Victoria does not support the addition of fluoride in any Victorian water supply, including water in the Gippsland region, in view of current scientific doubts regarding its safety (745 signatures).

Laid on table.

Western Port Highway, Lyndhurst: traffic control

Hon. R. H. BOWDEN (South Eastern) presented petition from certain citizens of Victoria requesting that the Victorian government prevent the installation of traffic lights along the Western Port Highway at Lyndhurst (Dandenong-Hastings Road) (17 signatures).

Laid on table.

**Baxter-Tooradin-Fultons-Hawkins roads,
Baxter: safety**

Hon. R. H. BOWDEN (South Eastern) presented petition from certain citizens of Victoria requesting that the Victorian government urgently upgrade the Baxter-Tooradin, Hawkins and Fultons road intersection in the suburb of Baxter so that Hawkins Road and Fultons Road are aligned and that the railway crossing along Baxter-Tooradin Road is widened to safely accommodate pedestrian traffic (11 signatures).

Laid on table.

**Western Port Highway-North Road,
Pearcedale: roundabout**

Hon. R. H. BOWDEN (South Eastern) presented petition from certain citizens of Victoria requesting that the Victorian government install a roundabout at the North Road-Western Port Highway intersection to enable safe access to Western Port Highway for motorists and local residents (117 signatures)

Laid on table.

Disability services: accommodation

Hon. W. A. LOVELL (North Eastern) presented petition from certain citizens of Victoria requesting that the state government act immediately to resolve a shortage of shared supported accommodation facilities for disabled adults in the Goulburn Valley and north-east Victoria (1878 signatures).

Laid on table.

PAPERS

Laid on table by Clerk:

Parliamentary Committees Act 2003 — Attorney-General's response to recommendations in Scrutiny of Acts and Regulations Committee's report on Discrimination in the Law.

Victorian Law Reform Commission — Final Report on Family Violence Laws.

NOTICES OF MOTION

Notices of motion given.

Ms LOVELL having given notice of motion:

The PRESIDENT — Order! The honourable member already has a notice of motion on the notice paper. She will need to either withdraw that or withdraw the current notice

Hon. W. A. LOVELL — I will withdraw this notice.

Further notices of motion given.

MEMBERS STATEMENTS

Boating: ramps

Hon. R. H. BOWDEN (South Eastern) — Another summer has gone and the Victorian government has done next to nothing to improve the boat ramps and pontoons around the state. As a matter of fact an article in the local paper, *The Independent*, has the headline ‘Bad manners on the ramps blamed for rage’, so we have ramp rage. You can talk about road rage, but we have ramp rage right throughout Victoria among the significant boating fraternity. I am concerned about that because this government should be aware that there are approaching 200 000 registered boats in the area plus a lot of trailer-sailors used by yachties.

The state could do better on the question of safety when fishermen go out to fish and explore the waterways in the hours of darkness. This is not a new subject. Millions of dollars a year are taken from the boating fraternity and almost nothing goes back. I am concerned about ramp rage and the poor facilities. I am also concerned about the lack of action and understanding by the state government in not providing sufficient resources and underfunding infrastructure.

The boating fraternity, particularly the recreational boating fraternity, deserves a lot better, but the government is doing nothing. That is appalling, it is awful, and the government should do better. This is a billion-dollar industry. The government is certainly not giving everyone a fair go. If it wants to do the right thing by Victorian boaters it should look at the ramps, because they can be better.

Prahran council: anniversary

Mr SCHEFFER (Monash) — On Monday evening I had great pleasure in joining the Minister for Local Government, Ms Broad, the member for Prahran in the other place, Tony Lupton, the mayor of the City of Stonnington, Cr Anne O’Shea, and councillors and citizens of the City of Stonnington, in celebrating the 150th anniversary of the first meeting of the Prahran council on 25 February 1856. We gathered in the old

council chamber. The girls from Loreto Mandeville Hall sang the national anthem. The chief executive officer, Hadley Sides, summarised the minutes of that first meeting. Fabienne Thewlis, manager of governance and corporate support, read the prayer. The mayor read the city’s indigenous reconciliation statement. The minister addressed the gathering. Motions were put by Crs Chris Gahan and John Chandler that the work of Prahran city councillors from 1856 to 1994 be commemorated. The guest speaker, Philippe Batters, gave an address. The mayor thanked everyone and invited us all for refreshments.

The extraordinary thing about this intimate celebration was that I suspect most of us thought that while 150 years of continuous local government was important, it was nothing extraordinary. But the 150 years of continuous local government in Prahran is a very remarkable achievement. That we so easily accept such anniversaries is a tribute to the fact that we think democracy is natural and inevitable — hardly an achievement at all. The opposite is the case. We achieve these milestones because citizens stand for election and faithfully represent constituents, and because of our adherence to due process that supports and sustains democratic practice. I congratulate everyone whose vision for Prahran and commitment to local democracy enriches the city

Darwin: air raid anniversary

Hon. D. K. DRUM (North Western) — This is the first opportunity I have had in Parliament this week to highlight the services that were held on 19 February around the state and Australia to commemorate the anniversary of the air raids over Darwin in the Second World War. It is interesting that records of the raids, which took around 1000 lives over an 18-month period, were kept secret from the Australian people for over 50 years. It was not until the mid-1990s that information came to light about the full extent of the raids, the number of lives lost, the casualties, the damage caused to ships and airfields and to members of the armed services.

There is growing support for the Darwin Defenders, and every year we should urge as many people as we can not only to support the Anzac Day and Sandakan services but also to support the Darwin Defenders. We need to pay our respects to the people who were on the front line, who were taken unawares by the Japanese raids and who did the very best they could under extremely trying circumstances to protect our country and to continue to give us the lifestyle we enjoy today.

Australia Day: Whittlesea awards

Ms MIKAKOS (Jika Jika) — I rise to congratulate the recipients of the local Australia Day awards. The Whittlesea Australia Day citizen of the year is Kerryn Holland, who has made an invaluable contribution to Thomastown Primary School. As well as being a classroom assistant, Kerryn plays an active role as a member of the school council, is manager of the school canteen and organises fundraising activities. The young citizen of the year is Andrew Buultjens, who is a 14-year-old with a passion for the environment. His aim is to educate others to live sustainably without causing a negative impact on the environment. Andrew has been chosen as a community runner for the Commonwealth Games Queen's baton relay through Mernda.

The North East Melbourne Chinese Association has been selected in the category of community group of the year. NEMCA is an organisation with which I am very much familiar, it having been established in 1994. It organises a number of events throughout the city of Whittlesea and promotes multiculturalism. Nicholas Rutter was named environmental student of the year, and Helen Campbell was named senior citizen of the year. Helen is involved in a number of activities in support of Whittlesea University of the Third Age. I would like to congratulate all those who received the Whittlesea Australia Day awards and thank them for the contribution they make to our local community.

Rail: Alamein line

Hon. D. McL. DAVIS (East Yarra) — My matter today concerns the Bracks government's treatment of commuters on the Alamein line. This line is fast becoming a joke. It is a shame that the member for Burwood in the other place, Mr Bob Stensholt, is not prepared to stand up for commuters on that line, because 125 trains were cancelled in January and more than 5 per cent of trains are late. Key services like the very early train just after 5.00 a.m. are regularly cancelled. It is an absolute outrage that this line is being treated so badly by Bob Stensholt and the Labor government. Commuters are very aware of how badly they are being treated.

On Sunday, 29 January, for 3 hours between 3.00 p.m. and 6.00 p.m. trains were replaced by buses on the Camberwell–Alamein line and high humidity was blamed. As our candidate, Graham Bailey, has pointed out, it is extraordinary that trains cannot run in so-called high humidity. Trains run all over the world in high humidity, including in Singapore and India. Large numbers of commuters are moved in the tropics every

day of the week, but not along the Alamein line and not with Bob Stensholt's focus on it. He has allowed the government to reduce the frequency of trains and to have regular cancellations. This is fast becoming a serious issue in Burwood, and I commend Graham Bailey for raising it. I commend the *Progress Leader* for giving it the prominence it is due — —

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

Liberal Party: federal leadership

Hon. J. H. EREN (Geelong) — I can smell a leadership challenge in the air, and I am not just talking about the state opposition, I am talking about the federal Liberal Party. I predict that this year's federal budget will be Mr Costello's last, and then it will be on for young and old if Mr Howard does not step aside for the ambitious Treasurer. I say that because Mr Costello is trying to soften up the voters by saying that maybe the GST was a bad idea. Darned right it was a bad idea! Just ask any small business people and they will tell you that their arch nemesis is the GST.

The other indicator of a leadership challenge is the fact that Liberal members of Parliament think they can improve their electoral appeal by bullying and picking on minority groups within the wider Australian community. Unfortunately it is now commonplace for some federal Liberal members to attack the Muslim community when they have leadership ambitions or when they think it may improve their electoral appeal. We saw this when the Prime Minister made comments about the children overboard affair and said the famous words, 'We will decide who comes to this country and who doesn't'.

There have been comments made recently that Muslims do not fit into the wider community. Danna Vale said that Muslims will take over the country and linked that to the RU486 debate. Now we have Peter Costello stating the bleeding obvious — that jihadists should go home if they do not like it here. Mr Costello, your government decided who came here and who did not. You have been in government for 10 years.

The upside for Mr Costello is that he got support for his comments. He is now the pin-up boy of — you guessed it — Pauline Hanson. Well done, Mr Costello. I say: for the sake of this country's reputation, why don't they all grow up and stop being so divisive!

Cycling: trail network

Ms ROMANES (Melbourne) — I am glad I met up with Harry Barber, the executive director of Bicycle

Victoria, on the Canning Street bike path this morning. Harry told me how the development of the principal bicycle network and rail trails are booming under the Bracks government. I think many of us know this intuitively. We can see the explosion of bicycle use for commuting and recreation. One useful statistic now available because Parks Victoria is measuring bicycle use on the Bay Trail is that over 2 million cyclists are using that trail each year — that is, an average of 6000 using that trail per day. The expectation is that this could continue increasing immensely.

The application of extra funds for rail trails and cycling facilities in regional Victoria announced in the government's Provincial Victoria Statement at the end of last year will also be a boon for tourism and local economies as it is rolled out throughout rural Victoria in the coming months. Bicycles are making a significant contribution to sustainability in our communities.

Commonwealth Games: baton relay

Hon. H. E. BUCKINGHAM (Koonung) — I am very much looking forward to attending a range of events planned by the Whitehorse City Council to help our local community celebrate the Melbourne 2006 Commonwealth Games. Whitehorse is lucky to be an overnight stop for the Queen's baton relay on Monday, 13 March, only two days before the opening ceremony. Celebrations will take place at Walker Park in Nunawading, with a big community concert and the baton arriving at 6.00 p.m. The baton will depart Box Hill town hall on Tuesday morning.

The relay offers the City of Whitehorse a great opportunity to showcase their city, and I congratulate the council on the range of community events it is organising to enable Whitehorse residents to feel part of the Commonwealth Games. In addition to the baton relay, the opening and closing ceremonies will also be celebrated with free community events. A giant screen at City Oval in Box Hill will broadcast the opening ceremony, accompanied by a concert. A multicultural youth festival at Nunawading Civic Centre will accompany the closing ceremony on 25 March.

I wish all the baton relay runners in Whitehorse well — particularly the community representatives. I am sure that all events will be a great success. The Melbourne 2006 Commonwealth Games is a fantastic opportunity to showcase our great city, and I am delighted that one of my favourite parts of Melbourne is having a starring role on 13 March.

National Vietnam Veterans Museum

Hon. J. G. HILTON (Western Port) — I was pleased to join the Minister for State and Regional Development in the other place, John Brumby, when he announced a \$250 000 grant to complete the second stage of the National Vietnam Veterans Museum at Newhaven on Phillip Island. The current museum at San Remo attracts veterans and their families from all parts of Victoria, from interstate and even from overseas. The project, which the government has funded, will enable the Vietnam Veterans Association of Australia to move out of rented premises into a new museum which will have an interactive audiovisual display and also provide access for people with disabilities.

The museum will present and preserve a comprehensive exhibition of a detailed history of Australia's involvement in the Vietnam War between 1960 and 1972. It is anticipated that up to 30 000 people will be able to visit the new museum when it is opened in the middle of the year. Australia's involvement in the Vietnam War was very controversial; however, it is appropriate that we recognise the contribution Australian men and women made to this conflict, and I am sure the museum will be appreciated by everyone.

Commonwealth Games: volunteers

Mr LENDERS (Minister for Finance) — I rise to talk about the Commonwealth Games and Commonwealth Games volunteers. I have the privilege of being 1 of the 15 000 volunteers for the games, and I would like to share with the house some information as to who the volunteers are and some of the things they do. I have been very fortunate, together with my neighbour, who is a driver for the Barbados team, his son, who is a volunteer at the Melbourne Sports and Aquatic Centre, and my son, who is with St John Ambulance, because the four of us have had the privilege of mixing with thousands of other volunteers.

It is interesting to note the motivations of people involved. People are involved because they want the games to work well and they want to be part of a great event. Some of the younger people want the opportunity to learn skills, but there is an amazing core of people who just want to give to the state and the community. Volunteers are required by M2006 to do a lot of training. I have spent 15 hours training over four sessions over the last few months, which has been very good for me. Again, in that sort of training you get to meet the absolute salt of the earth of our Victorian community and some visitors, whether from interstate

or overseas. We have had visitors from Delhi who are getting ready for the 2010 games, and some from Manchester who are returning to the Commonwealth Games because they liked their games so much.

The great thing about all the people who are working on this is that they are wishing the best for their state. They are unbelievably positive about their role in the community and about how they can assist. People are getting up at 4.30 a.m. and coming to assist with this because of the extended public transport running times we have had in metropolitan Melbourne. They are putting up with a lot of things because they want to give to this state. They are looking forward to 15 March, when the games start in just 14 days. I echo the words of my colleague: they are united by the moment.

AGED CARE: GOVERNMENT PERFORMANCE

Hon. ANDREA COOTE (Monash) — I move:

That this house condemns the government for its neglect of vulnerable senior Victorians, especially in the area of elder abuse, and in its failure to recognise the role of carers in our community.

I would like to say at the outset that I am giving Ms Hadden 10 minutes of the Liberal Party's time.

Aged care in Victoria is a complex issue. People are frequently perplexed about the division of responsibilities between local, state and federal governments, so at the outset I will clarify some of these issues and set out the demarcation of aged care responsibilities between the three tiers of government in this state.

The commonwealth government's Department of Health and Ageing provides funding and accreditation for aged care facilities, but does not own or operate them. Carer assistance provided by the commonwealth government includes domiciliary nursing care benefit, commonwealth Carelink centres, commonwealth carer respite and commonwealth carer resource centres. Dementia services include a dementia 24-hour hotline and a national dementia behaviour advisory service. Concession cards include the commonwealth seniors health care card and various pension cards. Continence services include the national continence hotline and the continence pack. Aged care complaints are addressed by the resolution scheme.

In the state government the Victorian Department of Human Services and the Office of Senior Victorians provides aged care facilities, formerly known as hostels

and nursing homes. The state owns and operates in excess of 190 high- and low-care facilities in rural and regional Victoria and metropolitan Melbourne. This equates to approximately 5 per cent of residential aged care in Melbourne and 40 per cent in rural Victoria.

Supported residential services are usually private businesses that provide accommodation and personal care for people who can no longer live independently at home. They do not receive direct government funding, but must be registered with the state government and are monitored to ensure that they provide certain standards of care and accommodation. Dementia care provided by the state government includes health promotion, falls prevention and management of Personal Alert Victoria.

The Office of Senior Victorians provides advice to the Victorian government on matters affecting the health and wellbeing of older people, such as positive ageing, health and active living, the Victorian Seniors Festival, the Victorian seniors card and population ageing. The key functions of the office in carrying out its activities are advocacy, building partnerships, providing information, policy and research, and program development.

The key functions of the Office of Senior Victorians in the area of positive ageing are the *Paving the Way for Older Women to Work in the Workforce 2025* overview, local government positive ageing project, elder abuse prevention project, older workers, intergenerational relationships, physical environment and seniors information. In the area of health and active living they are: active living projects, strength training review and cycling for seniors. In regard to the population ageing, the office is responsible for the population ageing seminar series, population ageing wall chart, the Alive and Kicking event, and the New Horizons for Positive Ageing event.

Typically the services provided by local government in this state are: aged and disability services, which include adult day centres and disabled parking; food services such as delivered meals and communal meals; home care; home maintenance; household assistance; personal care — for example, personal assistance with shopping, paying bills, banking, appointments and preparation of meals; and respite care, including transport and volunteer coordination. Local councils are also involved with adult education and the University of the Third Age, leisure activities with senior citizens groups and transport such as bus and volunteer transport.

Home and community care is funded by the Australian and the Victorian governments in a ratio of 60 per cent to 40 per cent. Local governments also make a substantial contribution to total resources. Services that are provided by local government or not-for-profit providers are personal care, nursing, community nursing, home nursing, allied health services, physiotherapy, podiatry, dietetics et cetera; food services such as Meals on Wheels and centre-based meals; planned activity groups; property maintenance; respite services; linkage packages; and friendly visiting, telelink, respite and transport services provided by volunteers through the volunteer coordination programs.

All this suggests there really is room for the Victorian government to be more involved in aged care. Increasingly this Victorian government continues to blame and tries to cost shift onto the federal government. Elder abuse is another area in which this government is trying to shift the goalposts and not take responsibility in this state and to make certain the federal government picks up the bill and the responsibility. But mark my words: elder abuse in this state is a Victorian government responsibility. It comes back to the Victorian government.

Hon. Kaye Darveniza — Oh, rubbish!

Hon. ANDREA COOTE — I take up Ms Darveniza's interjection. She said, 'Oh, rubbish!'. It is not rubbish, this is a deadly serious situation, and this government continues to try to blame the federal government.

One issue that I see as quite important to note is the fact that we have four advisers from the department here today. I take it as a compliment and as an indication that in fact this government is listening to what I have to say and how the Liberal Party is condemning the government. Hopefully they are here to take note and do something about it. I hope they are not just here to give words to the minister or to provide Ms Darveniza with a list of things to say. I hope they actually take note of what is said today and that something actually comes out of this.

What is elder abuse? I think it is important to clarify what elder abuse is to everybody here so we are very clear on what we are speaking about. I take this definition from the Australian Society for Geriatric Medicine's position statement no. 1:

Elder abuse is any pattern of behaviour which causes physical, physiological or financial harm to an older person. Elder abuse may occur in the community, in residential care

or in the hospital setting. Elder abuse may take the following forms:

Physical abuse

The infliction of physical pain or injury, or physical coercion. Examples include hitting, slapping, pushing, burning, physical restraint, overmedication and sexual assault.

Psychological abuse

The infliction of mental anguish, involving actions that cause fear of violence, isolation or deprivation, and/or feelings of shame, indignity and powerlessness. Examples include treating the older person as a child, humiliation, emotional blackmail, blaming, swearing, intimidation, name calling, and isolation from friends and relatives.

Financial/economic abuse

The illegal or improper use of the older person's property or finances. Examples include misappropriation of money, valuables or property, forced changes to a will or other legal documents, and denial of the right of access to, or control over, personal funds.

Neglect

The failure to provide adequate food, shelter, clothing, medical care or dental care. This may involve the refusal to permit other people to provide appropriate care. Examples include abandonment, failure to provide food, clothing or shelter, inappropriate use of medication and poor hygiene or personal care.

I think we all live in a community that hopes our senior Victorians do not have to suffer any of those forms of abuse — not one of them — and that we should live in a state where this just does not happen.

Very sadly, elder abuse has come to the forefront in the last two weeks. We have seen a very tragic case emerge of a very frail and vulnerable woman in a nursing home who was sexually abused by a carer — someone in whom her family and she had put their trust. This is absolutely abhorrent to all of us. I think that what has come across over the airwaves — on talkback radio — and in letters to the editor has shown that this is in fact a very deep-seated problem. Our community is, sadly, suffering elder abuse. I think in this country there is something in the vicinity of 80 000 cases a year. That is just the tip of the iceberg. We have an ageing population, and it is important that we address this issue. I do not believe this government is making sufficient inroads on these issues.

I would like to read a report of this incident from the *Herald Sun* of 22 February:

Henry Alexander, 35, who was employed as a personal carer at the George Vowell Home in Mount Eliza, was granted bail and will appear in court next month on four counts of rape and two counts of indecent assault at the home.

...

Three of the alleged victims are still alive, while one has since died.

Deb Chapman was devastated to learn of the alleged abuse of her dementia stricken 98-year-old grandmother, 'Anna', who died last month.

She said her grandmother's health declined after she was allegedly raped three times.

She believed it contributed to her death.

Ms Chapman said her family were angry they were not told of the allegations until police laid charges last December.

Her grandmother, a loved and respected family matriarch, became withdrawn and tearful, and spent her final days crouched in a foetal position after the alleged abuse, she said.

...

Police told Anna's family a witness who allegedly saw her being abused did not report the incident until two months later.

Ms Chapman called on the government to introduce laws making failure to report abuse of the elderly a criminal offence.

'Mandatory reporting in child care has made children safer', she said. 'In any institutionalised environment we need as many checks and balances as possible to make sure vulnerable people are safe'.

I think everyone in this chamber would agree about what an appalling situation this is and about the fact that we must do something very quickly to address it. I charge this government with looking into this situation and doing something very quickly as a matter of urgency. The government has sat on its hands; it has realised that this issue was out there and has done absolutely nothing. I condemn it for its lack of involvement.

Like Ms Chapman in that article I quoted from the *Herald Sun*, I would like to also speak about child abuse in this state. This government has said that mandatory reporting of child abuse really has made no difference, and therefore it will not institute mandatory reporting of elder abuse, because mandatory reporting has not worked. This is absolutely unacceptable. Even if one child — just one child — is saved through mandatory reporting, that is absolutely vital. The same should apply to our seniors — to the elderly and vulnerable sectors of our community as well.

Mandatory reporting was established in this state in 1993 after the absolutely tragic death of little Daniel Valerio. I do not think anyone in this chamber will ever forget that tiny face, on the front of all the newspapers, of a boy who had been battered to death. Mandatory

reporting of child abuse was brought in by the then Minister for Community Services, Michael John. I believe the same issues that were relevant to child abuse at the time are now absolutely relevant to mandatory reporting of elder abuse. I quote from the statement that the then minister made at the time on mandatory reporting. He said:

The government —

this was the Kennett government —

is introducing mandatory reporting as the most effective, practical means of reducing the incidence of child abuse and the numbers of children dying as a consequence of abuse.

This is a critical social initiative for which the Victorian community has demonstrated overwhelming demand.

Our concern — and the community's concern — is that not only do we have an unacceptable level of physical, sexual and emotional abuse of children as well as seriously neglected children, but that there are significant numbers of cases which go unreported.

A further concern is that at present there are insufficiently clear mechanisms for professional workers who see evidence of abuse to report it.

The government — indeed, our society — has an overriding responsibility to provide safety and protection for our children. Where these are missing, we have a duty of care.

I suggest the advisers sitting in the box, Ms Darveniza and the minister have a closer look at what was said about child abuse because mandatory reporting of child abuse has the same ramifications as it would for elder abuse today — exactly the same situation applies.

A press release was issued in September 1993 by Minister John. In it he said:

Of course opinions will vary about what are the most effective measures to take in protecting our children but our society's common goal must be to minimise the risk as far as humanly possible.

The same thing applies to protecting our elderly and vulnerable citizens in 2006. The press release went on:

Mr John said the phased introduction of mandatory reporting of child abuse, increased community awareness and improved staff training would enhance Victoria's child protection system.

This is exactly what should be happening here in Victoria now for elder abuse. Let us cast our minds back to the introduction of mandatory reporting of child abuse in this state. I would like to quote the now Minister for Community Services in another place, Ms Garbutt, who was then in opposition. I would like to quote her speech from *Hansard* at that time. Keep in mind as I read this that what she was saying about child

abuse and mandatory reporting of child abuse can certainly apply here to elder abuse. This was a speech from a second-reading debate on 29 April 1993. Sherryl Garbutt said:

It is the responsibility of every adult to care for the children of our community. As parliamentarians we have the special responsibility of establishing a child protection system that will provide protection to children at risk of abuse where their parents and others cannot or will not protect them. Such a system of child protection must involve preventing abuse, detecting and stopping abuse and providing remedial services for children and families who have suffered abuse. Mandatory reporting is part of an emergency service that will strengthen our ability to detect and stop ongoing abuse, but it will not on its own stop child abuse from occurring.

I agree. She went on to say:

It is not a panacea, and the opposition does not claim that it will stop all abuse.

I agree with that. She continued:

It must be seen as an important part of a broader network of services, each of which is important in the child protection system.

I repeat: it must be seen as an important part of a broader network of services, each of which is important in the child protection system. She then said:

It has been a long and distressing path to this moment when we have substantial political and community agreement that now is the time to introduce mandatory reporting.

I agree that this government has looked at a number of other solutions. It has looked at education and a number of other areas as far as elder abuse is concerned, but it continually refuses to look at mandatory reporting of elder abuse. The government's very own Minister for Community Services, Sherryl Garbutt, advocated back in 1993 the use of mandatory reporting for child abuse. What is different, I ask. What is the difference between mandatory reporting of child abuse and mandatory reporting of elder abuse? I do not believe there is a difference, unless this government does not care about elderly people in our community. I do not believe it does. However, we have heard from the Minister for Aged Care himself, and he does not believe in mandatory reporting of elder abuse in this state.

There has been a public outcry about this issue. I will read from a letter to the editor which appeared in the *Age* on 23 February and attacked Minister Jennings. It is headed 'Not reporting elder abuse is just not an option'. It says, among other things:

Having worked in both child and elder abuse investigation, I would prefer to 'waste' time establishing that an older person is indeed safe, despite spurious allegations, than witness the distress of older abuse victim whose vulnerability and risk

increased while waiting for a witness to get a grip on his/her moral obligation to report.

In that report she is referring to a statement made by the Minister for Aged Care in a media release put out by the Australian Labor Party, Victorian branch, on 15 December 2005. Minister Jennings talks in this media release about the recommendations of the elder abuse advisory committee and the mandatory reporting of elder abuse. He says:

The evidence suggests that rather than protect seniors, mandatory reporting can seriously compromise older people's independence ...

Most older people are quite capable of making their own decisions. To treat this group as if it cannot look after itself is patronising. Those that do not have the capacity to make decisions are protected in law through offices such as the public advocate ...

I ask the minister: what about people who cannot make their own decisions? What about Anna? She was 98 and had dementia. How could she — what were the minister's words? — find it patronising? How could she make her own decisions? There should have been mandatory reporting. The person who had known about this issue for over two months felt intimidated by this sector and the organisation and did not report it because there was no clear-cut reporting line or methodology. It is just not good enough. Mandatory reporting is the only way that can happen.

I use the case of elder abuse in a family in Sale. This family has four siblings, two of whom live interstate and two of whom live in Sale. One of the daughters-in-law was regularly intimidating her mother-in-law, who was frail and aged. The rest of the family had no idea this was happening. This person intimidated the older woman into altering her will, and then proceeded to bash her up. The elderly woman was bashed by her own daughter-in-law, which caused huge rifts within the family and enormous concern for everybody involved. The police told the family that had she been killed they could have done something about it, but the way the legislation is at the moment and the way the reporting system in this state is at the moment they had absolutely nowhere to go, no-one to report it to, no-one to discuss it with, and the family was left high and dry and vulnerable with absolutely nowhere to go.

The state minister is on the record on several counts as saying that he does not care about mandatory reporting of elder abuse. A *Herald Sun* article of 22 February states:

But state aged care minister Gavin Jennings said yesterday mandatory reporting of abuse in aged care would be patronising and unnecessary.

'One reason (the witness) may not have come forward is that they were intimidated or fearful, or they did not have the moral fibre. I don't think mandatory reporting would have helped in this case ...

That is what the minister repeatedly said. I suggest it may not always be easy to have moral fibre. I suggest we need to have proper regulations. We need to have mandatory reporting. It is absolutely essential that we have guidelines in place so that this situation does not happen again in Victoria.

There was a scandalous comment made by Greg Munday of Aged and Community Services Australia. On 22 February in relation to this same issue he said that people should have confidence in nursing homes — I agree with that; that is important — but he also said:

These instances, and I certainly would not make light of them, but they are actually very infrequent, they should not occur at all, they are not rife, they are not endemic ...

The one thing mandatory reporting guarantees is that you get lots and lots of false reports that suck up all of the capacity you get to investigate the real ones ...

That is an absolutely scandalous comment. How could anyone in that sort of a position come out and say — I repeat — that you get lots of false reports that suck up all the capacity, that they should not occur, that they are not rife and that they are not endemic. I have referred to one single case. How would you explain this to the family of Anna, the 98-year-old who was allegedly raped? How would you justify that? This is absolutely appalling, and the government has done nothing about it.

The Australian Society for Geriatric Medicine in its position statement, which I have quoted from before, speaks about elder abuse and mandatory reporting. The statement says:

Mandatory reporting has been suggested as one method of managing this very difficult problem —

I think we all acknowledge that this is a very difficult problem, and it is incumbent upon us as politicians and as a community to do something about it —

because it would put the issue of abuse on the social agenda, and ensure adequate funding. However, mandatory reporting stops older people making decisions for themselves, endangers their autonomy, and represents an invasion of privacy. It also creates expectations when a report of abuse is made, demands for services and other resources will be met.

Inherent in that quote is the thinking, along the lines of what Greg Mundy had to say, that mandatory reporting is an easy cop-out, but in fact we should be making certain that funding is provided. That is part of what needs to happen. We need to make certain there is funding of and responsibility for mandatory reporting. We need to make sure that when mandatory reporting is instigated, funding is put in place to make sure it can be adequately serviced, so that when people make a complaint or something is done, an immediate reaction takes place.

In January 2005 I put out the Liberal Party's policy on elder abuse called *Elder Abuse — Breaking the Silence*. I launched it in response to what the community was saying to me. There are several elements to the policy, one of which is to establish an adult protective services unit (APSU) based on the Victorian child protection service unit. The policy says the unit:

... will be responsible for identifying and monitoring the extent of the problem; educating the community about elder abuse; and, responding to and investigating reports of abuse. The APSU will also be responsible for the placing of people who have been abused in safer care.

The policy says the unit:

... will be based within the Department of Human Services. Its establishment will mean that current efforts by enforcement agencies to combat elder abuse are bolstered through research and specialists with experience in this complex area.

It will also:

... liaise with enforcement agencies such as the police, the commonwealth authorities and the care facility providers.

Consult on making certain professionals subject to mandatory reporting laws where there is a belief or suspicion of elder abuse.

Maintain a ... 24-hour helpline for the reporting of elder abuse.

The policy on the mandatory reporting of elder abuse I put out in January of last year was very well received within the community and pre-empted this government's decision to have an elder abuse prevention project. The government had done nothing about elder abuse before, but because the Liberal Party brought out, well and truly before the election, a policy that was well thought through and reflected what the community said, the Labor Party finally came out and said it would do something — but it took a significant period of time.

I refer to the report of the elder abuse prevention project. This project was put together by the minister. It was chaired by Barney Cooney and met on several

occasions, and I will refer to that in a moment. The report entitled *Strengthening Victoria's Response to Elder Abuse* contains several recommendations with which I fully concur and which I certainly hope are implemented as a matter of urgency, because I seriously believe that senior and vulnerable Victorians will benefit from many of those recommendations. I think it is a good start. I am very upset that it was released in the Christmas rush, and that we did not get an opportunity to evaluate it — to look at it, discuss it and put it out into the public arena. As the Australian Geriatric Medicine Association has said, we should be having a public debate. Why on earth the minister put the report out on 15 December 2005, in the Christmas rush, I cannot understand. I suggest it was a half-hearted attempt and that the government really did not mean to implement the recommendations. It was hoping it would fall flat, that nothing would happen and that it would sink like a stone. It will not sink like a stone, because I am not going to let it sink like a stone — and neither will the Victorian public. In fact I think members of the Victorian public are looking for more direction, leadership and guidance from the government.

This report has been out since December. We have not seen any funding put out there or any results of these recommendations. Where are they? We are now in March. What has been happening to this? We have heard nothing from the minister or the department.

I would also like to know what sort of adequate funding is going to be put together with these recommendations. We have seen no sort of recommendations for funding. I have no idea how much it is. I am seriously hoping that Ms Darveniza in her contribution can tell this house exactly how much money this minister is going to spend on dealing with elder abuse and when in fact its program is going to be unravelled and rolled out. I hope that it is going to be very soon, that it will be done as a matter of urgency and that we will have significant funding and a timetable that is adhered to — not just the spin and rhetoric this government is so good at but real timing, real accountability and real money. It is about time we saw some action on this. It is just not good enough.

My concern about this report is several-fold. One of the problems I have with it is that we are talking about elder abuse in this state. We have a number of members on this advisory committee, and many of them are to be commended. I have worked closely with many of these people and I am pleased to see that they are included, but why on earth did this government not take the opportunity to invite Lillian Jetter, who is the executive officer of the Elder Abuse Prevention Association?

Why did it not even ask her to come onto this committee? Why was she not involved? She is an authority in this state. She is out there listening at the grassroots level. Does the government not want to hear what she has to say? My suggestion is that the government did not want to have anything to do with mandatory reporting. It knew that Lillian Jetter would be out there advocating for mandatory reporting, and it did not invite her onto that committee because it knew that is what she would be pushing and did not want to be involved.

I can see that the advisers are getting extremely agitated about this, and I can see that the reason they did not want to have Lillian Jetter involved was probably exactly as I have described it. I am sure they are giving advice to Ms Darveniza as I speak, and I am sure we will hear a response. I will be very interested to hear what I am going to be told.

In the report's terms of reference there is no mention of elder abuse. I certainly concur with its key objectives, which were to provide a new guide for health services and community agencies dealing with elder abuse and for education to increase awareness. Both of those projects are commendable, and I am pleased to see them included in the terms of reference, but I am sincerely upset that mandatory reporting was not even considered under the terms of reference. The minister and the department had absolutely no inclination to cover mandatory reporting as an issue. They paid lip-service to it in this report, but that is not good enough. They had no intention at all of looking seriously at mandatory reporting.

Page 7 of the report, which is the foreword, says:

Consideration was given during the consultation to more protectionist approaches, including the introduction of mandatory reporting and statutory adult protection services.

Both of these have come out of my policy and were included in the Liberal Party policy. That is why they had to be mentioned, because they were out there in the public arena courtesy of the Liberal Party, not of the Labor Party.

The report goes on to say:

These measures were not supported by the advisory committee because of the minimal support for their reintroduction expressed through the consultation process and because the available evidence does not prove their effectiveness in relation to older people.

Who was consulted? How many people were consulted? How old were the people consulted? Were

families consulted? Were carers consulted? Was Lillian Jetter consulted?

Another criticism of this report is that carers have been left right out of the system. Carers, mandatory reporting and elder abuse prevention experts have not been adequately consulted through this whole process. I know that the Carers Association of Victoria was part of the committee, but throughout this report the carers have been left out of the equation. The carers in many instances are going to be the ones to report these issues, particularly in the case of emotional and economic abuse. Their opinion on mandatory reporting has not been registered in this report at all.

Another part of the report I have concerns with is on page 29, dealing with mandatory reporting and statutory adult protective services. As I said, had I not brought this up even this would not have been referred to. The subject would not have been addressed had not the Liberal Party had a look at this. It says here:

The factor most noted as effective in terms of 'identification' was a high level of public and professional awareness. Services provided to older people at home were noted as being the most effective for both prevention and treatment. Very few respondents said that reporting laws were effective for prevention ...

That is a very interesting comment. I would like to know how this comment relates to people like 98-year-old Anna? What would Ms Darveniza say to her or her family? The statement in this report is just not adequate. We should also be looking at other areas in connection with mandatory reporting, such as people who deliver Meals on Wheels and people from the Royal District Nursing Service. There are a number of issues that should not have been neglected in this part of the report.

There is another part of the report that I am hoping Ms Darveniza will be able to clarify for me, and it is on the next page, where it says:

A mandatory reporting scheme has the potential to trigger unnecessary capacity proceedings.

I have absolutely no idea what that means, and I would be very pleased to hear some clarification. Perhaps the advisers who are all muttering away here could clarify this report. I am very keen to know. It goes on to say:

One of the other major difficulties identified with a system based on APS and mandatory reporting is that it becomes a crisis response service with little or no emphasis on preventative activities.

If we go back to the comments of the Minister for Community Services, in the other place, Sherryl

Garbutt, about child abuse and the mandatory reporting of child abuse. She said it was a complex issue that warranted a multifaceted approach including education. As I have said in my policy, education is an absolutely vital part of mandatory reporting.

I do not believe that statement in the report. Recommendation 1 states:

That the Victorian government strengthens its response to elder abuse based on current legislative and service arrangements. This approach recognises the right of older people to determine their own course of action, and where required, access practical assistance to support their needs to deal with situations of abuse and regain independence and control over their lives.

The underlying assumption is that older people are capable of determining their own course of action. How would one deal with cases, such as the 98-year-old Anna? I believe mandatory reporting would help and assist her. It is scandalous for the government to continue to be so cavalier in its attitude towards mandatory reporting.

Recommendation 18, which refers to monitoring and evaluation, is a weak recommendation. All it does is support the government's anti-mandatory reporting position in the committee's report. If the government is serious, why has something not already been done? I want to know from the government why it will not address mandatory reporting. I could go on and on. It is a serious and important issue for us and the community to be looking at, and I have grave concerns.

I do not have sufficient time to talk about the role of carers. I believe carers have a particularly important position in looking into elder abuse. It is important that we ensure they are included, not some sort of vague reference, in dealing with elder abuse in this state. I could say a lot about Carers Victoria, which does an excellent job and is a very valuable resource. It is at the coalface of what happens with elder Victorians, and should have greater consultation in the process.

The minister said that the person who neglected to report elder abuse in the case of a 98-year-old in Mount Eliza would have been intimidated and should have had better moral fibre and reported it. I suggest to the chamber that this is not good enough. We cannot rely on the moral fibre of any of our workers. Most workers in this state are excellent, but the abuse by one is one too many.

The Health Services Union, which I think Ms Darveniza has had a lot to do with, on 22 February on ABC rural radio said:

There are claims aged care workers in country areas are too frightened to report cases of abuse.

The Health Services Union says members are often terrified of speaking out because they face bullying and intimidation from managers.

The union's state secretary, Jeff Jackson, says carers have been intimidated into silence, fearing verbal or physical abuse, or the sack.

He says workers need an ironclad guarantee they will be protected from any backlash if they blow the whistle.

With the suggested Liberal Party policy of a 24-hour hotline people could get advice. If there were mandatory reporting workers would feel secure in the knowledge that something will be done. It will need funding, recognition and support from the community.

The community and the government have to address elder abuse because the government is simply not doing enough. It produced one report that was buried at Christmas time. Nothing was done about it, no funding, no security for the industry or the sector, and no understanding of the excellent work that is done in our nursing homes. Many people want some certainty in this sector. I suggest that the Labor Party go back and have a look at the Liberal Party's policy on mandatory reporting. The community is calling for it. The government should listen to the sector, to talkback radio and to the community. I suggest that the minister get out to the coalface and that members of the Labor Party listen to their constituents. Elder abuse will increase in the state, and it is incumbent upon all of us in this chamber to do something about it.

In 1993 the Labor Party and the Liberal Party came together on mandatory reporting on child abuse. It is the Labor Party's turn now to do something about mandatory reporting on elder abuse in the state. It should do something quickly.

Hon. KAYE DARVENIZA (Melbourne West) — I am delighted to have an opportunity to make a contribution on this motion because it is a particularly important one. The incidences that we have been hearing about in the press recently are indeed shocking and disturbing. They are incidences that we cannot help but be appalled by. They are incidences that we do not want to see occurring again. We want to be doing everything we can as a community to ensure that our vulnerable aged people who find themselves in residential care are cared for in a way that ensures they have the highest quality of care, that they are safe, comfortable and as happy as one possibly can be, given that they find themselves in circumstances where they have to be in supported accommodation. We certainly do not want to see our vulnerable in this community,

particularly our aged, being abused in any way, particularly not in the dreadful way that we have been reading about most recently where an elderly woman was assaulted and raped.

I, of course, am opposing the motion moved by the opposition.

Hon. J. A. Vogels interjected.

Hon. KAYE DARVENIZA — I take up the interjection by Mr Vogels. I find it particularly offensive, because I certainly do not support elder abuse, and he knows very well that I do not support elder abuse. The government has been doing a lot to support the elderly in the community. I suggest Mr Vogels, given his interjection, should look carefully at the Liberal government that has responsibility for the federal Aged Care Act.

Hon. Andrea Coote interjected.

Hon. KAYE DARVENIZA — 'Huh, huh, huh', says the Deputy Leader of the Opposition. You do not like to hear the truth, but it is the truth. We will blame it on the federal government because it has responsibility for the Aged Care Act. I was delighted to hear last night in the media that the federal minister, Senator Santoro, has at last recognised that the federal government needs to look at amendments to the legislation. He is now saying that he would consider mandatory reporting. According to media reports I heard last night on the ABC, he has gone further than that by saying he feels there is a need for whistleblower protection for those people who are reporting incidents that they have either witnessed or suspect are occurring.

Mrs Coote also raised the statements that are being made by the Health Services Union of Australia. Again, the Health Services Union is concerned about the lack of provision in the commonwealth Aged Care Act for mandatory reporting and whistleblower legislation. Mrs Coote knows full well that this government has put in place whistleblower legislation. It passed through this chamber and was voted for by the opposition. We have introduced that protection in facilities that are provided by the state government.

I want to take up a couple of other issues that have been raised by Mrs Coote, particularly in relation to the *Strengthening Victoria's Response to Elder Abuse* report. Mrs Coote talked about how a number of people had not been involved in the committee that supported the consultation that took place. We did have consultation; very extensive consultation took place. Why did we have extensive consultation? Because we are prepared to listen to what people have to say. We

are prepared to listen to people who actually work in and run aged care facilities and who provide the services. We also wanted to hear from people who are the recipients of aged care facility services and from the families whose loved ones are in those facilities. As well as that, we wanted to hear from the various organisations that have an interest in and support aged care facilities, not just residential aged care facilities.

It must be remembered that we have some 900 000 seniors in this state, the majority of whom live quite comfortably and independently in their own homes. With a range of supports, varying from very minor to quite extensive, they are able to live very independent and fruitful lives.

Mr Forwood is gazing at me across the table. I cannot help but think that he is about to retire. He often worries about his own ageing, as we all do ; he is on the record here as talking about it. I worked for many years as a nurse and as a health professional in the aged care area, and my best guess is that Mr Forwood is one of those people who will live very independently for a very long time and take responsibility for their own actions, for their own finances and for the running of their own households, as do some 900 000 senior Victorians.

It became clear through the consultations involved in putting this report together that the majority of seniors do not want a high level of interference, and we have to take that into consideration. They are people who are living fairly independently. There are varying degrees of independence ranging from the very independent to those who need quite a high degree of support. There is a group of people who are in residential care, and they are usually people who cannot be managed with any level of support, even the highest level, in the community. Generally speaking they are people who suffer from dementia or Alzheimer's disease and are unable to be cared for in their own homes because of the nature of those illnesses.

I pick up again on Mrs Coote's point about various people not being on the committee. She mentioned one woman in particular, Lillian Jetter, who she said should have been on the committee. I do not know Lillian Jetter, but she did not even bother to make a submission during the consultations.

Mrs Coote also talked quite a bit at one stage about Carers Victoria, saying what a terrific organisation it is and what good work it does in supporting seniors in this state. I would have to agree with that. I have always found Carers Victoria to be a very good organisation. Members of Carers Victoria were on the committee. They listened to the submissions and they supported the

outcomes and recommendations in the report. Carers Victoria listened to what people had to say, including the issue about blanket mandatory reporting for those who are seniors. People who are over 60 are those who are considered to be seniors.

What is also telling about the opposition's comments about who should have been on the committee and its other criticisms of the report is the fact that it did not even bother to make a submission to the committee to be considered for its report. No-one from the Liberal Party made a submission. Mrs Coote goes on about her policy being released by the Liberals, but neither anyone from the Liberal Party nor the Liberal Party as an organisation made a submission. Mrs Coote, as shadow minister for ageing and carers, did not even bother to make a submission.

That is how important Mrs Coote thinks it is to influence the government position on ageing. We are talking about the government and the opposition.

Hon. P. R. Hall — Did the Labor Party make a submission?

Hon. KAYE DARVENIZA — To take up Mr Hall's interjection, The Nationals did not even bother — —

Honourable members interjecting.

Hon. KAYE DARVENIZA — You did not make one Mr Hall, nor did anybody else.

The PRESIDENT — Order! The member should address her remarks through the Chair.

Hon. KAYE DARVENIZA — Mr Hall did not make a submission, nor did any of the shadow spokespeople on aged care. They bring motions like this into the Parliament, argue about and criticise what is in the report, and say they do not like its recommendations, but they did not bother to make a submission.

Honourable members interjecting.

Hon. KAYE DARVENIZA — You are an absolute policy vacuum! The opposition comes in here and criticises the report when it has not even bothered to put a view in the formal process. While I am talking about the Liberal Party, I do have some details about its policy, but unfortunately I do not have the policy of The Nationals. In its policy the Liberal Party promises to consult, yet when a consultation was going on and there was an opportunity to have a say, it did not bother to do it. Its policy is half-baked and ill-conceived, and

that is probably the best you can say about it. You could say more, but that is probably the nicest think you could say. The Liberal Party does not have the courage to fully commit to mandatory reporting. I do not see anything in the Liberal Party policy that says there must be mandatory reporting across the board for all abused seniors. In fact I do not see anything about mandatory reporting in respect of people in residential care, who are the most vulnerable.

Mrs Coote has not bothered to make a submission and relies on her half-baked Liberal Party policy, which does not go to mandatory reporting. The Liberal Party realises that mandatory reporting is perhaps not accepted by the wider community, and that if its members read the report of the project the government has conducted, they will see that those in the wider aged care sector, the majority of whom are living independently, making decisions and having control of their lives, do not want mandatory reporting foisted upon them.

As I said earlier, I am pleased that the senator responsible for aged care is now prepared to consider mandatory reporting and to meet with the states to talk about the issue. Maybe the Liberal Party will now alter its policy so that it is in line with the thinking of its federal counterparts. If you look at the Liberal Party's policy, you see it has very little to say about aged care.

Having spent many years working as a nurse, and having spent quite a bit of that time in aged care facilities where residents suffering dementia and Alzheimer's disease were being cared for, I can say that those residents were probably some of the most disturbed seniors. They often had to be in fairly restricted residential accommodation, in grounds that were quite nice but which were fenced so that people were able to go for a walk in the garden but could not wander off and become lost. I also worked in residential aged care facilities for people with restricted physical abilities. They were often incontinent, inambulant and had a range of quite serious physical illnesses as well as dementia. They were people who clearly could not be cared for at home.

As a part of the Bracks government I have been very keen to see that the most vulnerable, particularly those in residential settings and those who have their lives considerably restricted by having to live in residential facilities, are cared for. Of course it is not just aged care facilities that are residential. There are similar facilities for disabled people and people who suffer from a psychiatric illness, although the period spent in them is generally not as long term as it can be for those who are aged and nearing the end of their lives. People who

work in aged care are very committed and caring — you do not go into that kind of work unless you are — but that is not to say that from time to time a very bad person slips through the net, and we need to make sure we have provisions in the federal act to protect people in residential care as much as we possibly can from bad people who might make their way through the system.

In my experience over many years I can only congratulate those people who work in aged care facilities. There is no doubt that they are very caring and genuine people who do a very difficult job under often quite difficult circumstances. It is not easy to look after people who are very sick and who are in the last days of their lives. Your job is to make them as comfortable as possible and to make their life as pleasant as possible until the end. There is all the associated grief that goes on among the members of families who come to visit and who often want to spend a lot of time with the staff, and that can also be a difficult part of working in aged care. You often have patients or clients who do not have any family and who often do not see anybody. No-one ever comes to visit them either because they do not have family or because their relationships with the family have broken down. Some aspects of the work can be tragic and sad. It can also be incredibly uplifting and rewarding to work with people who have made such an enormous contribution to our community and have had such interesting and varied lives, and to be able to care for them towards the end of their lives.

The government is very committed to ensuring we look after our seniors. The Minister for Aged Care, Mr Jennings, also has a huge commitment, not only in his capacity as a minister but also as an individual. Our government has been responsible for implementing a whole range of changes, and the elder abuse prevention project is just part of it.

Over a period of time we have been in touch with the federal government about the aged care legislation and will participate very actively with that government in looking at the horrendous and tragic circumstances experienced recently by people in aged care residential services with a view to changing that legislation in a way that will ensure that reporting mechanisms are strengthened so that people are protected. We are also interested in looking very carefully at how we can ensure that people who report instances or suspected instances of abuse can be protected under the legislation.

I do not support this motion. I do not believe it is a good motion. I believe that our government has done

much to protect and support our ageing community, and I oppose the motion.

Hon. P. R. HALL (Gippsland) — First of all I would like to indicate that members of The Nationals are prepared to forfeit 5 minutes of their time to allow the Independent, Ms Hadden, who has expressed a desire to participate in this debate — —

Honourable members interjecting.

Hon. P. R. HALL — If Mr Olexander had made a request to participate, I am sure we would have looked at that request favourably.

Aged care is a very important topic for us to consider. We all know we have an ageing population, and because of that aged care has become an increasingly important topic for communities, governments and parliaments to consider. I would be surprised if any of us in this chamber had not had some direct family involvement with aged care by way of a relative or maybe a friend. I would also be surprised if in the normal course of our everyday jobs we did not regularly visit aged care institutions, so I think we have an exposure to such facilities in this state.

Aged care is an extraordinarily complex area. Most of us in this chamber would not fully understand that complexity, particularly the divisions between federal and state governments and how they relate to one another. I find this is one of the great frustrations in dealing with the health sector generally, the disability sector and the aged care sector. Responsibilities overlap so much between the different layers of government that it is hard to pinpoint areas where improvements are required and who should be responsible for those improvements. That needs to be taken into account in the comments we make in this debate.

The whole nature of aged care has changed very significantly over the years. In a family discussion at the weekend I reflected on the changing pattern in aged care. For example, neither of my sets of grandparents were in aged care. Some of my grandparents were in hospital towards the end of their lives, and my mother cared for her father for a period of time when he was old, but none of my grandparents ever spent time in dedicated aged care facilities as we know them today — that is, nursing homes and such. Some of the issues evolving in this area are relatively recent, and therefore it is timely that we assess their value and where they need to be improved.

I acknowledge that caring is not an easy task by any means. I listened to the Honourable Kaye Darveniza comment that in her experience as somebody who has

been involved as a nurse and direct carer it is not always an easy task, and I acknowledge that. I also acknowledge the fine work that people do in caring institutions. Theirs is a difficult job, and I am sure the majority of them do it to the best of their ability and very well indeed. Unfortunately there are a few who abuse the system, as has been highlighted recently in some cases reported in the media.

With those opening remarks I would like to comment on the approach taken to this discussion. Too often the framing of the motions we debate on Wednesday mornings in this chamber sets up a situation where we do not get a consensus view or anything very positive coming out of them, and here I rate The Nationals equally with the other political parties. If it were left to me, the framing of a motion on such an important topic as aged care would have been quite different. It is the turn of The Nationals to move an opposition motion in the next sitting week, and I had considered a motion on aged care. Before doing so I was going to seek the leave of the leaders of the other parties to hold a different sort of discussion. I wanted a forum where members of Parliament could make comments backwards and forwards across the chamber in an orderly fashion about different aspects of the debate that I hoped to have held on a whole range of different issues associated with aged care.

I think we would all agree that the committee-style debate we often have backwards and forwards between a minister and a member is a far more productive way in which to get resolutions and outcomes from a debate. As I said, I was considering seeking the leave of the leaders of the other parties to hold such a debate on a Wednesday morning, so we could have the minister in here responding to the opposition spokesperson and The Nationals lead speaker — —

Hon. Andrea Coote — He is coming in today.

Hon. P. R. HALL — Yes, he is. I will comment about that in a minute. But the usual procedure does not allow us the flexibility of putting questions, getting responses and having a real debate. Aged care is such an important issue, and given the pressure points highlighted by recent issues reported in the media — criminal cases — it would have been more productive had we been able to facilitate the type of debate I suggest. Today we have had the Deputy Leader of the Opposition in this house express a very considered view, but I believe we are going to have to wait for the minister to respond to those issues at a later point in time, when probably nobody will have the opportunity to respond to him. Maybe the mover of the motion will have 5 minutes in summing up, but nobody else will

have a chance to respond to the comments of the minister, and I think that is unfortunate.

If we cannot have a committee-style debate, the most constructive way we can hold these debates in the morning is for the minister responsible to respond immediately to the motion put by a member of the opposition. In that way subsequent speakers can respond to the minister's comments and have a more informed and better debate. As I said, we would have framed the motion in a different way, but so be it — we have what we have here today.

I want to briefly touch upon a number of issues today. Some of these concern having an ombudsman for aged care and a community visitors scheme, which could well be extended to aged care. I also want to talk about random inspections of aged care facilities, mandatory reporting, police checks and whistleblower protection. These are just six issues I have listed quickly that warrant further exploration. I confess that I do not claim to be an expert in any of these areas, which is why it would be helpful to have a committee-type discussion where we can be informed as we go along and make comments. However, I want to make some suggestions to the chamber, and I look forward to hearing a response from the minister about some of the suggestions I will put forward.

The first one I want to talk about is the possibility of introducing an aged care ombudsman — an ombudsman with the specific responsibility of dealing with complaints or issues relating to aged care.

Hon. Andrea Coote — It's in my policy.

Hon. P. R. HALL — The Honourable Andrea Coote says that is her policy, and I think it is an appropriate policy, one that The Nationals would be prepared to support.

It is interesting that Labor federally supports a specific aged care ombudsman. I note that Kim Beazley's 2001 election campaign promised to introduce an aged care ombudsman to protect the health and welfare of the aged in nursing homes and hostels. Mark Latham's 2004 election campaign also promised such an ombudsman. I do not know where the best position for that ombudsman would be — whether it be federal or state — but we can only deal with these things from a state level, and I think there is plenty of potential to have a dedicated ombudsman at a state level to look into complaints about aged care institutions.

Coupled with that need to be things like whistleblower protection, which is one of the six issues I listed. Obviously an ombudsman works best when anybody

can make a complaint without fear or favour, and that includes people who work in aged care institutions, who are often best placed to provide evidence and advice and to report on matters occurring in aged care institutions. So legislation establishing a specific aged care ombudsman needs to be accompanied by whistleblower legislation.

I had a quick look to see whether other jurisdictions had a state-based ombudsman for aged care. I note that the Northern Territory has a Health and Community Services Complaints Commission. To quote from its document, this provides Northern Territorians with a 'free, independent, confidential, fair and impartial complaint service' in the areas of health, aged care and disability services. Since the Northern Territory is specific, I think we could be specific in Victoria as well by providing an aged care ombudsman.

It is true that the health services commissioner may look into reports of issues in aged care in Victoria — that is my understanding, anyway — but having a dedicated aged care ombudsman would give greater clarity and direction to people who wanted to make a complaint about an aged care facility. I should not concentrate purely on facilities, as it could also help somebody who wants to make a complaint about an aged person in the community who might be being abused or another issue. An aged care ombudsman's powers could apply to general community care as well as care with an aged care service provider.

I also want to float the idea that consideration be given to extending Victoria's community visitors program to aged care institutions as well. The Minister for Aged Care is currently reported to by the community visitors established under the Health Services Act. Their annual report is tabled in the Parliament each year. The minister last received a report of the community visitors through the Office of the Public Advocate on 30 September last year. I want to put in context the role of community visitors with respect to aged care. I quote from the 2005 report:

Supported residential services ... are premises registered under the Health Services Act 1988 ... to provide accommodation and care to older people and people with a disability who require support in everyday life.

The role of community visitors is to visit facilities, be the advocate for the residents and report to the minister on matters associated with their care. As I said, they do that in an annual report that is tabled in Parliament. They do report on some care of old people, but only in places where support is required in everyday life. They do not include specific aged care institutions — the hostels and nursing homes — as we know them. They

are more concerned with, I think, predominantly public state-based institutions like community residential units and the like, particularly for people with disabilities. As far as I know they do not visit nursing homes and hostels.

Looking through the report, I think it makes some worthwhile recommendations for consideration by the minister, and I am sure he will look at the report and give it due consideration. If it could be extended to aged care institutions per se, it would be a valuable tool so that the government of the day could pick up on some of these issues that are important to aged care. I would appreciate the minister's response as to whether the community visitors schemes can be extended to cover nursing homes and hostels and whether in the minister's view that would also enhance the reporting of issues occurring in aged care.

Victoria has a community visitors scheme, as do the Northern Territory and New South Wales. I also understand there is a federally funded community visitors scheme that operates in all states and provides companionship to socially isolated people living in Australian government-funded aged care homes. As I understand it, the federal scheme is not a complaints mechanism and the community visitors are not a body that investigates complaints or issues. It is more a scheme to provide socialisation and assistance to people — visiting people and providing them with friendship and companionship rather than receiving and resolving complaints.

I want to talk quickly about the issue of random inspections. This issue has been raised in a number of forums since the recently reported incidents associated with criminal activity occurring in aged care homes. I for one would be a strong supporter of a random visiting program for aged care institutions. At the moment, as I understand it, aged care institutions are notified there will be an inspection to ensure they comply with the standards. As I have read from some of the publicly available comments, it is not unusual for those aged care providers to undertake some extensive preparation for the forthcoming inspection and get their house in order, so to speak, whereas I think random inspections would be a more worthwhile exercise and would ensure that aged care providers were making sure their programs and facilities were as we would expect them to be all of the time. I think there is a strong case for implementing a system of random inspections.

Mandatory reporting is a complex issue. I know when in the past we have spoken about mandatory reporting in the case of child abuse, we have spent extensive

hours debating it in this Parliament. I must say with regard to mandatory reporting being applied to aged care, I am not sure — and I have not made up my mind — whether I believe it is necessary or not. I do not think we have had long enough to debate the issue. I would want to hear a far wider range of opinions on the issue of mandatory reporting for older people before I made up my mind on it. I know about the pleas for mandatory reporting from the families that have had family members abused in aged care institutions. I have read about those extensively. I have also read some comments of Victoria's public advocate, Julian Gardner, who suggests mandatory reporting will not work. I also read the *Age* editorial of 22 February, which suggested that mandatory reporting is not the answer. I know it is not the answer in itself, but I am still not clear in my mind whether it would be a useful additional tool to assist in the prevention of the abuse of older people in our community. I am not sure about that.

On the issue of mandatory reporting — I know others in my party have a different view, and some of them have a determined view on it — as an individual I think there should be more debate on the issue. I would want to see all of the issues associated with mandatory reporting better flushed out so we could better understand and assess whether that would be a worthwhile tool to apply to older people in Victoria.

The issue of police checks is one that I also want to float. I am not sure whether workers in aged care homes in Victoria are required to undergo police checks or not. I think it would be a useful exercise for us to have a discussion in that regard. Certainly I would not be opposed to a serious consideration of implementing mandatory police checks. Of course many other professions now require mandatory police checks, particularly those where people work with children. I am not sure whether we need them for people who work with the elderly, but I think it is an issue that we need to have a good discussion about.

Those are some of the issues, and there are probably others. That is why I say a committee-style debate may have flushed out some other comments, propositions and proposals. I would have welcomed that. As it is, we will be restricted in the number of people who will be able to participate today, and while it may be difficult to get a consensus outcome on this issue, hopefully the debate itself will focus more attention on the prevention of the abuse of older people in our community, and that will be helpful.

I will talk finally about one other issue that was highlighted to me by a letter to the editor of the *Herald*

Sun on Wednesday, 22 February. I think it was a particularly good letter. It was written by Carol Fox of Inverloch. It says that families must show interest. It states:

We learn of yet another horror story of alleged abuse in aged care, with family members saying they don't know what's happening on a daily basis ... Why is this so?

It is because few relatives visit frequently and evening visits are rare. In my experience, nursing homes are an emotional wasteland after 5 p.m.

Also, there is a huge gap between what the Aged Care Standards and Accreditation Agency finds and what the caring employees know is often the reality. Why?

Because agency visits are planned and management spends weeks, if not months, getting all documents in order. Compliance with standards on paper is the priority.

Things will only begin to change when relatives change their priorities.

I think that is absolutely true. If we are concerned about older people in our community, then we have to make the effort to visit them regularly, to be with them regularly, to volunteer in some capacity and just socially visit and provide friendship to older people. We all know that people in aged care facilities are often very lonely. We know that often they do not get many visitors and do not have the experiences they would otherwise have. We also know that fewer older people are now cared for in the home. As I said before, while that may have occurred in the past, as people get older now the trend is for them to be cared for in aged care facilities.

I think the message that Carol Fox gives in that letter to the editor is very pertinent — that is, that we as families need to take a greater interest in aged care generally, and in particular a greater interest in the welfare of the people who are members of our own families. If we did that, and if we were aware of what was going on, perhaps some of these issues associated with elder abuse would also be prevented. I say well done to Carol Fox. I think that was a good message to spread, and she made very pertinent points.

On the motion before us, I have said I think more needs to be done and should be done to prevent the abuse of older people in our community. There is absolutely no doubt about that. It is disappointing that I have not yet heard a response from the minister as to why the government has been tardy in acknowledging that some of these problems exist and moving towards resolving them. It is not just the recent events that have been highlighted. There have been many in the past. We know of the kerosene baths of several years ago. Those sorts of issues should have signalled the need to put in

place better complaints and complaints resolution mechanisms. I hope the response from the minister shows that the government is serious in responding to these important issues. I finish by thanking the Honourable Andrea Coote for bringing this motion before the house. It is most timely that we discuss this very important issue of aged care in our community.

Hon. BILL FORWOOD (Templestowe) — Can I say at the outset that I am very pleased to see the Minister for Aged Care in the chamber. On too many Wednesdays in this house these debates on opposition general business take place in the absence of the responsible minister, and I congratulate him on attending for part of the debate today.

The World Health Organisation's 2002 active ageing policy framework states:

Elder abuse is a violation of human rights and a significant cause of injury, illness, lost productivity, isolation and despair.

Confronting and reducing elder abuse requires a multisectoral and multidisciplinary approach.

I am sure there is no member of this house who would disagree with those words. My criticism of the government is that, despite its now six-plus years in government, it continues to say, 'This is not our problem. This problem belongs to someone else. If something hasn't happened, it's not our fault. It's because Kennett didn't get it right or because the federal government ought to do this'. This government has a track record of not standing up and accepting responsibility for the issues over which it has some control, and this is one of those issues. There is absolutely no doubt that this is an area in which the government in some way itself acknowledged — by asking Barney Cooney to do some work — that it actually can take some initiatives. My great criticism of the government is that in a very difficult area it is not doing enough.

The 2002 Toronto Declaration on the Global Prevention of Elder Abuse says:

Elder abuse is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person. It can be of various forms: physical, psychological/emotional, sexual, financial or simply reflect intentional or unintentional neglect.

I am of an age now when I have dealt with both my mother and my mother-in-law living in institutional care. In each case I was involved in the process of their moving from independent living to low care, to high care, and both my mother and my mother-in-law died

in institutional care. My mother-in-law, in fact, was in the Kenilworth facility that, as members would know, was closed. My wife was active in the Kenilworth family and friends association — I do not know what they called themselves — which went through the process of moving people out of Kenilworth as that place declined and as the staff left. I have absolutely no doubt that the words of the Toronto declaration were entirely appropriate for the vast majority of people who were in that institution. We lived close by, and one member of our family went there every day — and sometimes more than once a day — but the vast majority of the people in that situation did not have relatives who lived just around the corner. This place was literally half a minute's walk from my electorate office, which was also in Kenilworth Parade.

This issue is something that all of us, I know, are aware of. A lot of work is now being done on this matter. I wish to refer to the revised 2003 Australian Society for Geriatric Medicine (ASGM) position statement no. 1 on elder abuse. It goes into a number of issues, including suggested interventions. It says on page 39:

This issue has been researched widely in North America, where it has been addressed through a range of measures, including mandatory reporting of elder abuse in most states in the USA.

Yes, this issue needs a multisectoral, multidisciplinary approach, but I am a bit concerned that what is happening — and I endorse the words of the Leader of The Nationals here — that there is too much of a readiness to rule out some of the actions that might be available. Later on in its position paper, after it details some interventions, the society says:

Mandatory reporting has been suggested as one method of managing this very difficult problem, because it would put the issue of abuse on the social agenda and ensure adequate funding.

The ASGM goes on to say:

However, mandatory reporting stops older people making decisions for themselves — —

and it mentions some of the other criticisms that have been made of mandatory reporting. It goes on to say:

The consensus of government reports and researchers in Australia has been to oppose the introduction of mandatory reporting ...

It is three years since this statement was put out by the Australian Society for Geriatric Medicine, and it is about time the society had another look at its position. It says:

Instead of legislation, more resources need to be allocated for research, education and prevention programs for this increasing problem ...

I applaud that but I do not think that needs to take place in isolation from mandatory reporting. We are now in a situation where there is no doubt that there is an increase in this abuse. The society itself said:

As the numbers of dependent elderly in the community increase, we can expect to see more cases of abuse, especially neglect and financial abuse, which are closely related to the dependency of the victim.

Of the victim — we are talking about victims, and these victims are people, they are old and they are vulnerable. My great disappointment with the contribution from the lead speaker for the government is she said, 'Not our problem'. This issue is a problem for us all as individuals. It is a problem for us as a community and particularly it is a problem for us as legislators. I am looking for this government, for once in its life, to step up and actually take some action. I applaud the Deputy Leader of the Opposition for bringing this motion before the house. I think it is a complex matter which requires a lot of consideration, but we need this house to support this motion and drag this government screaming to do something in this appalling area.

Hon. C. D. HIRSH (Silvan) — I think it is a pity that a motion such as this is an adversarial motion seeking condemnation of a government. I will not be voting for it because the motion speaks about the government's neglect of vulnerable senior Victorians and I find that to be not valid and not correct.

I listened to the Deputy Leader of the Opposition's remarks — I have listened all morning so far — and those of the other speakers with great interest and heard what they said. I think the first thing we have to do is differentiate between aged care and a very small group of very vulnerable, ill, older people in the state who are in care and who require support, assistance and residential accommodation. We need to differentiate between that group and people we call old people, older people, mature Victorians. The majority of these people in Victoria are living very healthy, happy lives. They are enjoying retirement or continuing to contribute to the paid work force, as I am. They are contributing in voluntary capacities to a variety of organisations and issues or they are involved with grandchildren.

Most older Victorians who may suffer some form of injury or abuse are well protected under our current laws. If any form of attack or abuse occurs, God forbid, the law will apply. The exception is that small group of very vulnerable people. For the majority of people, to have mandatory reporting applied to any aspect of their

lives would be offensive. I certainly would be offended by somebody, and I am somewhat older — I am not yet 80 or 79 and I am not yet in any vulnerable condition —

Hon. Bill Forwood — Does that mean you are 78?

Hon. C. D. HIRSH — It means I am 68, actually. I will be 69 on 1 August.

Hon. Bill Forwood — Happy birthday for 1 August.

Hon. C. D. HIRSH — Thank you. I consider myself to be moving into this area of maturity which nearly 1 million Victorians are a part of. It is offensive to think that we need some sort of Big Brother looking over us. Most older people are perfectly capable of making their own decisions.

However, there is another group, a small group, who are not in residential care and who are suffering abuse in their homes, often from a son or daughter or relative.

Hon. Bill Forwood — Who wants the property.

Hon. C. D. HIRSH — Who wants to inherit or, if not inherit, perhaps take the property. I think that small group of people who feel powerless and unable to deal with their situation need somewhere they can go. That is where educative and support programs, with perhaps a phone number they can ring to get help, come in. I think something like that would be of use.

That sort of direction has been taken in this excellent report of the elder abuse prevention project. The committee was chaired in a very efficient way by my good friend and former colleague Barney Cooney. He knows a lot about growing older and living in society as an older person. As Barney said in concluding his foreword:

May we all grow older, confident and happy.

I believe that is a role of the government in this state: to try to ensure that older people remain confident and happy. To this end I want to talk about some of the work the Victorian government is currently doing along these lines. When you look at Victoria's achievements for the aged and the Victorian government's positive ageing program you see 28 community projects to promote active living being run throughout the state. These include projects promoting strength training.

Hon. Andrea Coote — They are very good.

Hon. C. D. HIRSH — I take that up — they are excellent. That is the sort of thing the Victorian government is concentrating on for older Victorians. I

now live very close to the Knox Community Health Centre and I have looked up its programs. It has some great strength training programs for older people. They are not just for older women but it is usually women who participate in them. In fact, I am joining one. The centre also has a great Pilates class which increases strength and, again, allows an older person to live independently for longer. The Victorian government is committed to the University of the Third Age (U3A). This is a great organisation — I intend to get involved next year.

The U3A runs great programs and involvement in them keeps the brain active and keeps people going. I know a number of older people who are totally addicted to the Sudoku puzzles that appear in the paper every day. They find them highly stimulating. I personally cannot do them, but a whole range of older people, my brother included, will not leave the breakfast table until they have completed the day's puzzle. An active brain, like an active body, keeps things going.

Ms Darveniza spoke a lot about that small group of people in residential aged care who are vulnerable. I abhor, as do others, the incidents which have allegedly occurred. I abhor the possibility that any older person who is powerless, helpless and ill may be subjected to any form of violence or abuse. I have a stepdaughter who is working as a personal carer in an aged care facility. She is a very beautiful young woman and absolutely loves the people she cares for, and I think is loved by them in return. It is a good facility where a good deal of care and compassion is shown to residents. However, where this horror occurs there has to be a way out.

Senator Santoro is holding an aged care summit at the end of March, and I believe Victoria is contributing. A discussion of the concept of mandatory reporting and whistleblower protection in supported aged care facilities at that stage and that level would be useful. The Honourable Peter Hall mentioned random inspections of aged care facilities rather than giving notice and allowing some facilities that are not up to scratch to make changes. The idea of random visits should also be looked at and considered very closely.

But the idea of having an ombudsman or some form of mandatory reporting in Victoria for the whole of the older population is unnecessary, and I would consider it to be quite offensive. I feel quite capable of looking after my own life, as do the majority of older Victorians. We do not need someone to look over our shoulder. For that group of people at home — I have already mentioned this group — who are living with some fear of abuse, usually, as I said, from family

members, let us get a widespread education program going. Let us give them a resource. I like the idea of volunteer visitors suggested by the Honourable Peter Hall. A number of people I know do that. Usually they are older people themselves and are no longer in the paid workplace. They visit lonely older people, keep an eye on them, take them out, spend time with them, go to the library with them and give them company, and they are able to see whether something is going on. At least that sort of visitor is someone a person with fears can speak to.

We also have to expand the education programs so older people know that there is a resource they can go to and are not afraid to go to it. Because there is fear in a lot of cases this resource needs to be local and readily available — perhaps a phone number or some form of local government visitation; I am not sure, but that is the direction we have to take for vulnerable older people at home.

I hope the federal government looks at the residential aged care issue and the concepts of mandatory reporting, the whistleblowers legislation and random inspections. Other than that, I hope as our nutrition and health improves older Victorians will continue, as they do now, to contribute a great deal to the community and have the respect and regard they deserve from the rest of the community for the contribution they have made to Victorian society during their lives.

Hon. J. A. VOGELS (Western) — I support the motion that this house condemns the government for its neglect of vulnerable senior citizens, especially in the area of elder abuse and its failure to recognise the role of carers in our community. There is no doubt that under this Labor government the quality of services for mature Victorians has deteriorated. When Labor came to power in 1999 it inherited a very strong economy and a surplus of about \$1.7 billion. It has increased its taxes, fees, fines and charges to \$12 billion a year since 1999. If we work that out, we realise it is receiving \$33 million a day in revenue — more than when it came to power — but it has not spent enough of the extra funding it is receiving on improvements for mature Victorians, the frail and elderly.

We only have to look at two issues which spring to mind straightaway. One is Labor's cruel decision that pensioners for the first time have to pay an \$80 motor car registration fee. That was a cruel decision because a lot of elderly people, especially in rural Victoria, have no other means of transport. Many of these pensioners spend a lot of time and effort driving around to deliver Meals on Wheels or take elderly people to adult day care centres, shopping et cetera. Now they are being

punished by having to pay a registration fee, which once upon a time they did not have to do.

The multipurpose taxi program has also been severely curtailed by this government. The argument is that some of the taxidrivers were abusing the system. Well then, get stuck into the taxidrivers who are abusing the system but do not punish our frail elderly, who in many cases need that multipurpose taxi program to go to the doctor, do their shopping et cetera. That was another cruel blow by this Labor government. It is not just me saying that; it is not just the opposition that is saying that the Labor Party has not managed aged care and elderly people very well. I went into the library before and got a couple of papers. One *Herald Sun* article points out under the heading 'Nursing homes in crisis' that six years on from the kerosene baths revelations here we are still in trouble with our aged care facilities. Another article states:

Victoria is the worst state when it comes to looking after its elderly citizens, making up almost half of the official sanctions on nursing homes and a third of all complaints —

in Australia, that is. It states further:

The state is consistently at the bottom of the list for aged care. Despite having fewer beds than Queensland and New South Wales, Victoria has proportionately higher complaints of neglect, mistreatment and substandard service of its elderly.

And problems in nursing homes are expected to worsen with a rapidly ageing population and a doubling of the number of people aged over 65 in the next 40 years.

We are the worst in Australia. Some of the issues people have complained about are raised in this article. Family members have marked bed linen in pencil with a date, and one woman reported that her 98-year-old mother's sheets were not changed for a month. That is hard to believe, but that is what the article says. Some families bring their own fresh fruit to their loved ones because of concern that they are malnourished. Some supply incontinence pads in bulk because some homes provide only two a day for residents, leaving them to hold on for hours. That is unbelievable. Of just over 1000 complaints made nationally, 290 were from Victoria. This is disproportionately high. This state has 25 per cent of the nation's aged care beds but 30 per cent of the complaints. There is no need for that. It is not as if the government has not got the funding. It is the highest taxing government that has ever existed in this state, and Victorians know that. It has its hands deep in the pockets of anyone who is out there earning a quid.

Another issue I would like to take up and which I think is very important concerns our home and community care service. That is a fantastic service that is delivered

to frail and elderly right across the state. It helps people stay in their homes longer than they would otherwise be able to. I have had a look at the figures, and last year the commonwealth provided \$214 million for home and community care. The state put in \$194 million and local government contributed \$131 million. That would be some of the best-spent money that governments can provide, because having a service that allows people to stay at home much longer than would otherwise be the case — they would have to go into aged care facilities — must save both the state and federal governments hundreds of millions of dollars. I call upon both the state and federal governments to keep increasing their home and community care funding, not just in line with the consumer price index but much more than that.

Local government carries a large share of the burden, because it is supposed to match the federal and state funding, and it used to put in about 20 per cent for home and community care when I was a councillor. But many local councils tell me they are putting in at least 30 per cent and sometimes 35 per cent of the budget for home and community care. They realise its importance, and I hope the state and federal governments do too. I commend the state government. Its matched funding of 40 per cent would be only about \$143 million, but to its credit the Bracks government has topped that up by another \$50 million. It also realises how important home and community care is.

I can give lots of examples to show that we are not talking only of the frail aged. Younger people with dementia can also be abused. I have a lot of sympathy for the carers. For example, someone I know very well who is only in his early 60s — much too young — has now got dementia. His wife spends most of her time looking after her husband. Of course I commend the Lyndochs of the world and the Archie Graham Centre in Warrnambool, which take her husband, usually for 5 or 6 hours a day, and entertain him. At the Archie Graham Centre, for example, they get people to do craft, dance and talk — just keep them occupied — to give carers some relief through the day.

The issue of elder abuse by families and others, together with that of carer abuse, is scarcely recognised in Victoria. It seems to me that at this stage the Labor government has still not recognised it and is going to vote against our motion. I believe there is a poor systemic response to the prevention, recognition and management of carer abuse. It worries me when I hear people complaining about a nursing home or aged care facility that their parents or loved ones are in. They are often very fearful of making complaints in case there is some sort of retribution — and they should not be. The

opposition motion before the house is a very good one, and it should be supported by members on both sides of the house.

Hon. D. K. DRUM (North Western) — Whilst I am happy to talk on such an important motion, I am also disappointed by the lack of people in the chamber for the duration of this debate. The Deputy Leader of the Opposition has moved this important motion, but when she was making her contribution only the Honourable Andrew Brideson was present. I do not think it is good enough that members from both sides of the house refuse to attend and listen to debates on really important issues. It has been openly stated by both major parties that this issue before the house this morning is very important.

It certainly concerns me that while people will be making statements on how they feel about this issue, it was pointed out by a number of speakers that it is a very complex issue which affects all of us. Very few of us have an accurate handle on where the responsibility lies. We can try to educate ourselves as best we can on the various levels of government and their responsibilities, but we are still going to find genuine areas of confusion and disagreement. However, because of the importance of debating this issue and the seriousness of the allegations that have arisen over the last couple of weeks, I would have thought we would have had more members of the Legislative Council present in this chamber today to listen to the facts and maybe educate themselves a bit more.

As the Leader of The Nationals has stated, he does not consider himself an expert. I am even less an expert on this issue. Yesterday we had extensive discussions on this issue when we first were given notice of the motion. We looked at its wording and asked ourselves whether we wanted to be part of a political party that wanted to condemn the state government for its inability to act in securing the wellbeing and security of our elderly citizens.

Those discussions prior to this debate set the scene for each member of The Nationals to make up their minds on the strength of the respective contributions in the house. Officially we have no political stance on this issue. I personally will vote on the strength of the arguments put forward on both sides.

Mrs Coote said that the Minister for Community Services in another place called for mandatory reporting in cases of child abuse. She drew the analogy of the government's philosophy and policy on child abuse with another section of our vulnerable

community — that being aged care. That is a relevant analogy.

Hon. E. G. Stoney — On a point of order, Acting President, there is no minister present in the chamber.

The ACTING PRESIDENT

(Hon. J. G. Hilton) — Order! The minister is present.

Hon. D. K. DRUM — That analogy was apt in that if the government sees the need to develop mandatory reporting in cases of child abuse, it should also have implemented a program for mandatory reporting of elder abuse.

I listened carefully to Ms Darveniza's argument. I specifically wanted her to explain to the chamber what steps the government has put in place over time. As Mr Hall pointed out, this problem has been simmering in the Victorian community over the last decade. We know about the kerosene baths and the three or four aged care institutions that were closed down. Consequently a new raft of reporting procedures and criteria were put in place by the government, increasing the level of accreditation to a totally different level which forced many aged care owners to vacate the industry because it became so onerous to reach that exceptional level of accreditation.

We said it was a good thing by putting greater emphasis on the conditions of wellbeing for our aged people. I wanted to hear from the government's lead speaker what actions have been put in place, but Ms Darveniza spoke only about her experiences as a nurse and a carer. She spoke about the diverse situations that exist in the diverse range of groups that make up our senior citizens. She pointed out that a large number of our elderly citizens live independently and happily and another group obviously needs a range of aged care support. It is difficult to have a one-size-fits-all philosophy for people who have a range of support needs. What we heard from the government's lead speaker, which may have had something to do with the wording of the motion, was a defensive response. I go back to Mr Hall's contribution, when he said that had we had more of a joint non-party political discussion about where we are with aged care in the state then we would have been closer to achieving outcomes rather than having one side of the chamber attacking the other side.

Ms Darveniza was quick to point out that many of the responsibilities in this field are the responsibility of the federal government. In this case there was some merit in what she said. We tend to hear it said time and again on a whole range of issues, but it does not abrogate this

government's responsibilities for at least doing what it can in addressing the issues under its responsibility. The government is quick to pontificate and extol the virtues of opening up new aged care facilities, pouring money in here and there and taking credit when everything is going well, particularly with a specific aged care facility, but it is only right that the government accepts responsibly for its portion of the aged care industry when things are not going well. What has been missing so far in this debate is ownership of the sector that it takes responsibility for.

I have already spoken at length about the issues raised by Mr Hall, but I endorse his call for an aged care ombudsman who can look into and investigate the various problems associated with aged care. Mr Hall called for the extension of the community visitors program, which is a relevant part of this debate. Community visitors play an enormous role in looking after our jails and ensuring that they reach an acceptable level of residential care for the criminal sector of our community. They also do an exceptional job in some of our aged care institutions to ensure the levels of residential care are acceptable.

It should be along the lines of the Australian government's program regarding companionship and social integration. It is a natural extension to give those community visitor programs added responsibilities to entail a monitoring program so that they can go in and check such facilities, and that those checks be done on a random basis. We cannot have a situation that Mr Forwood spoke about in his contribution where the paper trail is organised with two or three weeks notice and the particular institution spruces itself up in the advance knowledge that there will be an inspection.

The jury is still out on the benefits of mandatory reporting with Julian Gardner, the Victorian public advocate, saying that it will not effectively fix the problem, but we have certainly other people in the sector calling for mandatory reporting. Personally I am now leaning towards the introduction of mandatory reporting. Although it will create a more onerous task for people working in the sector, if it will stop one incident of abuse we should look seriously at introducing it.

It is also worth reading from an editorial that appeared in the *Age* of 22 February, because it sheds a different light on these matters. The editorial says:

The allegations have led to renewed calls for mandatory reporting of abuse at nursing homes. This has long been a contentious issue. While mandatory reporting of child abuse has been in force for more than a decade, no Australian state has mandatory reporting for abuse of the aged. Furthermore,

the emphasis on physical mistreatment in nursing homes can be deceptive. There is evidence to suggest that, contrary to public perception, the most common forms of abuse are psychological and financial and the most common perpetrators are family members on whom the victims depend for care.

This is an area that members participating in this morning's debate have effectively not entered. The editorial tells us that the most common forms of abuse are actually being perpetrated by family members, and that is another area at which we have to look very seriously. Who is going to be responsible for raising these issues? Maybe this editorial gives even further weight to the point that we need to introduce an aged care ombudsman sooner rather than later. We should not be just casting aspersions on the people who work in our aged care facilities, because anybody who has had anything to do with them, as Mr Forwood pointed out, has nothing but admiration for people who make it their vocation in life to look after and protect the aged in this state. Any of us who have had experience in this area — and most of us in this chamber would have had parents, aunts, uncles or grandparents in aged care — would have admiration for people who work with the aged and people who suffer from dementia and a whole range of afflictions as they move on in life. That is another aspect of this issue on which we need to really focus.

I am disappointed that to date in this debate the government has not told us what specific steps have been put in place to protect elderly citizens in aged care facilities from abuse. In her contribution the Honourable Carolyn Hirsh, a member for Silvan Province, pointed out that the government is looking at introducing a positive living program that includes strength training and also supports the University of the Third Age. That is fine. It is a nice, positive program, but it will not help to stop further incidents of elder abuse, and this is what this debate should be centred on. The one thing we are all after is that when we take our elderly relatives to aged care facilities we should only need to be concerned about the day-to-day wellbeing of that person. We should not even have to think about the potential for the abuse that we have heard about in the last few weeks and whether that could ever happen to our loved ones in aged care facilities.

Mr GAVIN JENNINGS (Minister for Aged Care) — I am happy to join the debate today, but I am not happy about the circumstances in which prominence has been given in the media and in the community to instances of elder abuse and concerns about the safety and security of older members of the community. I am certainly not happy about that. In fact I join members of the community and members of this

chamber in condemning any behaviour that abuses the vulnerability of any citizen in this state or across the nation, and particularly in condemning those who prey upon older members of our community. But I am happy about the spirit in which the debate this morning has been conducted and the constructive way in which most members who have made a contribution to the debate have tried to think through these issues, which are very complex and permeate the quality of life of all our citizens. Members have tried to drill through to find ways in which we as a community can respond to the needs of older people and provide them with confidence and certainty that their frailty and their vulnerability in certain circumstances will not be abused by others.

I am also happy that there has been recognition for the overwhelming quality of care that is provided in residential facilities and other care support systems across the nation and recognition for the commitment of those who work in the caring professions to provide the best quality of support for older members of our community. They make that contribution each and every day right across the nation. Within the context of elder abuse sometimes the drama, the tragedy and the concern we feel generate a degree of anxiety in the community that somewhat skews our attention and our focus so that we may lose sight of that overwhelming reservoir of support and quality of care we see right across the nation.

Over 40 000 Victorians are living in aged care. If we have a look at the quality of residential aged care that has been assessed under the auspices of the Aged Care Act, we can see that in the last five or six years there has been a continual improvement in the quality of that care. If you compare the standards of compliance and care that were measured in the year 2000 accreditation assessments with the accreditation that was completed in the year 2003, you can see that on a statewide basis there has been a major increase in the quality of compliance with accreditation standards and the quality of care measured by the 44 criteria in those assessments — and we can confidently say that right across the system that standard continues to improve.

Whilst that may sound like an abstract idea that does not deal with the acute nature of the instances of elder abuse prominent in the media in the last two weeks, it does provide our community with some degree of confidence that the foundation of the quality of care is continually improving. The Victorian government has recognised that there is a need to invest significantly in the quality of residential aged care facilities within its portfolio of responsibilities, and that is the best part of 200 facilities across Victoria.

During the life of our government we have made significant investments in the redevelopment of almost one-quarter of the stock of those facilities around Victoria. We recognised a need for additional support to the training and capacity of the staff who work in those organisations, and the need for additional programs to support the quality of life for residents. I note that my colleagues Ms Hirsh and Ms Darveniza have drawn attention to the Well for Life program and other support programs that we have developed within residential aged care which recognise that each and every Victorian, even if they are perhaps less able than they once were — they are more vulnerable and have a higher degree of frailty or disability — deserves to have a quality of life, and we have a commitment to that quality of life each and every day.

In this debate members have concentrated on the complexities and difficulties of providing certainty when tragic or dramatic circumstances occur which are indicative of or prove elder abuse. At that time people say, 'What are the procedures within the commonwealth regime to ensure that there is some confidence?'. In the main there has been a continual improvement in accreditation and quality of care, but the commonwealth act does not have all the guidelines or protocols necessary to deal with instances of elder abuse, and that may be a blind spot in the commonwealth jurisdiction relating to residential aged care.

People also indicate that there may be blind spots in terms of ongoing protection for whistleblowers — for people who feel the need to identify abuse of older people but who may themselves feel they would be vulnerable exposing those issues and that whistleblower protection could play a role in enhancing their capacity to do so in the future. People have asked whether the existing complaints mechanisms in the commonwealth act — where there are clear lines of accountability in complaints mechanisms which culminate in an authority under the Aged Care Act — should be rebadged or recast in the form of an aged care ombudsman. Those types of procedures are in place. Whether they have sufficient rigour and discipline is a question that we should quite rightly ask in the context of this consideration.

We should also recognise that there is a crossover to state jurisdiction in relation to criminal behaviour. Regardless of where they live, all Victorian citizens should have the opportunity to pursue with vigour and confidence their rights and protections through the criminal justice system. On many occasions in the past fortnight while this has been a very prominent issue right across the national media I have said that I expect

people who work within the sector to recognise the moral obligation and imperative to ensure that when they see abuse and when people have been abused in their presence they pursue the matter with full vigour and confidence in the law in terms of achieving justice, so the appropriate sanctions are brought to bear on the perpetrators of that abuse.

In the range of responses that I have just outlined in terms of existing mechanisms, blind spots in the mechanisms that currently exist and the confidence that people should have to pursue cases of criminal behaviour through the criminal justice system, there needs to be some clarity and protocols which are crystal clear to anybody who engages in the sector to know where the appropriate recourse is available, and the ways in which these issues should be pursued. As a community we have witnessed a degree of confusion, and that is why we need to embark urgently upon conversations between the state and commonwealth jurisdictions, providers and community leaders about how we can provide that greater certainty, confidence and consistency in the approach we take.

On behalf of the Victorian government I voluntarily entered into discussions with the newly installed commonwealth Minister for Health and Ageing, Santo Santoro, who has demonstrated to me, and I think to the community at large, his preparedness to consider these issues and to roll up his sleeves and be involved with them. I congratulate him for what appears to be his determination to try to overcome any blind spots in the protocols and to look at collaborative ways in which the state, the commonwealth, the sector itself and the community can be involved in improving their response to abuse, to mitigate abuse in the future and to make sure that the full force of the law applies to any circumstances of demonstrated elder abuse. I look forward to taking that work further.

I look forward to members of this chamber and members of our community perhaps being engaged in discussions beyond today's debate. I hope there will not be a rush of blood that comes to people's heads when they see this issue raised in the media. It may be an issue that warrants a drastic or dramatic resolution in the house, but the real issue is the quality of our follow through and our quality of ongoing concern about these matters.

I congratulate Mr Hall for recognising, in effect, the work we need to do by suggesting that if he had had his call on the way in which this debate took place in the chamber today it could have taken place in the spirit of a committee-style discussion about these issues. I congratulate him for recognising the value of that.

Hon. Andrea Coote — We can do it with you; we cannot do it with any other ministers.

Mr GAVIN JENNINGS — I note the shadow minister recognises the capacity to have that form of conversation. During the life of this Parliament and indeed in future parliaments, which will be constituted in a slightly different way and have more committee stages and opportunities for the consideration — —

Hon. Andrea Coote — Will you still be here?

Mr GAVIN JENNINGS — I hope as many of us as possible can be here! I look forward to the opportunities that we may take in relation to this as a community.

I want to comment on the elder abuse prevention project that I commissioned over a year ago which has considered many of these issues in the context of the close to 1 million Victorians who are over the age of 60 years and their vast array of circumstances, whether they live in residential care right through to people who are living happily and independently at home, and the way in which we can respond as a community to the range of activities that may impinge upon their quality of life and may lead to some form of abuse. It may range from financial, emotional, physical and indeed sexual abuse, which is seen in certain circumstances as being the most dramatic form of abuse. But in fact there are a whole range of forms of abuse which could take place. Each and every one of them requires a response and appropriate strategies and support mechanisms to provide for older people to take power over their own lives and to maintain their independence and dignity as much as possible.

Work was undertaken by former federal Senator Barney Cooney and his team, which interestingly enough involved a range of stakeholders including the Office of the Public Advocate, Council on the Ageing (Victoria), Carers Victoria, Victoria Police, the Royal District Nursing Service, victims groups and community legal representatives. It was a well-rounded discussion, and a view was formed that mandatory reporting in the broader context was not an appropriate panacea for all the potential ills of abuse and of itself would not necessarily provide the wherewithal and the empowerment of older people to provide for their own dignity and sense of self and determination over their own lives.

We must be mindful that whatever regime we adopt in terms of protocols, procedures, accountability mechanisms and recourse to the law does not disempower older people. Older people want dignity

and confidence in the future. Hopefully in the spirit of the way this debate has been generated today, we, as a Parliament and as a community, can rise up and meet the challenges that confront older people at times when they are vulnerable and can add to their sense of empowerment over their own lives. Indeed we shall have the procedures crystal clear and in place and the connectivity between the regulation of their care settings and their home environment to ensure they have the certainty and confidence to walk the streets of Victoria knowing the way the law and the service system works. We need to work diligently to ensure that we empower older people in the years to come.

Ms HADDEN (Ballarat) — I rise to speak on this very important motion moved by the Honourable Andrea Coote, and I commend her on the motion. I want to place on record the fact that as an Independent member of this place representing the rural electorate of Ballarat Province I do not have as of right the opportunity to speak in the debates on the very important opposition general business motions dealt with on Wednesdays in this Parliament because I am not a political party. That is thanks to the Bracks Labor government, which changed the standing and sessional orders in February last year to recognise only political parties in this place.

Again I put on record my thanks to the Liberal Party and The Nationals for giving up 15 minutes of their valuable time to enable me to make an important contribution to the debate. It is a pity the government and the Minister for Aged Care, Mr Jennings, who is at the table, did not likewise give me some time to make a contribution, because I have a lot to say on this issue, but I am only given 15 minutes. Again I point out that I would have no minutes at all had it not been for the generosity of the Liberal Party and The Nationals.

I want to correct a few things — —

Mr Scheffer interjected.

Ms HADDEN — It is important, Mr Scheffer. I pick up that interjection. It is very important for the democracy of this state that I get to speak in this chamber in general business — very important. I will not be talking about mushy multiculturalism in my contribution either.

In relation to the answer given by Mr Jennings in this place yesterday to a question without notice from Mrs Coote in relation to elder abuse, I was shocked by his lack of knowledge of the law in this state. Victoria does not have a criminal law code system; we have a common-law system, and I am surprised that even the

illustrious Barney Cooney in his report to the government last December said we have a criminal code system — we do not. I am quite happy to give Minister Jennings a dissertation on what our criminal law is in this state, but I would refer him to the final report of the Victorian parliamentary Law Reform Committee on the administration of justice offences. At pages 6 and 7 the 2004 report says:

The Australian jurisdictions generally fall within one of two streams: the common-law jurisdictions (or non-code states) and the code jurisdictions. New South Wales, Victoria the ACT, South Australia and the commonwealth are generally regarded as common-law jurisdictions whereas Queensland —

of course that had the first criminal code, in 1901 —

Western Australia, Tasmania and the Northern Territory are known as code jurisdictions.

We do not have a criminal code. Therefore those poor souls suffering elder abuse in our nursing homes and aged care facilities at the moment — and especially since January this year — cannot avail themselves of our criminal code system, because we do not have one. I would like Minister Jennings to correct his misinformation in *Hansard*, and I would like Barney Cooney to revisit his report, which is factually and legally wrong.

Mr Gavin Jennings — On a point of order, Acting President, I would be happy at the earliest opportunity to put on the record that I stand corrected. Hats off to the member for recognising that her view of the phrase that should have covered this matter is more correct than the phrase I used. I think the substantive point, that it relates through the criminal justice system in Victoria, prevails, but hats off to the member for recognising the failing in my description of it.

The ACTING PRESIDENT (Hon. Andrew Brideson) — Order! That was not a point of order. The member, to continue.

Ms HADDEN — He is only wasting my time. Barney Cooney's report to the government — it will have to rewrite and reprint the report on this very important topic of strengthening Victoria's response to elder abuse — perpetrates the myth that we have a criminal code in Victoria. We do not. So I would urge the minister to have that rewritten and corrected. Otherwise they are making absolute fools of themselves.

The minister spoke very well, as he always does — he is a great orator — about empowering the million people in our nursing homes and aged care facilities.

The bottom line is that you cannot empower people unless you make them feel safe. People in aged care facilities are frail, vulnerable, elderly and often suffer from dementia. I have had first-hand experience in Ballarat since September last year of the frail and vulnerable people in nursing homes. They cannot get up and walk out. They cannot assert their independence or make their voices heard.

My father has had a right-sided stroke and is paralysed down the right side of his body. He is in a nursing home facility — Ballarat Health Services Queen Elizabeth Centre in Ballarat. The staff are marvellous, but the residents in his unit cannot get up and walk, and most of them cannot talk. Their speech has been taken away as a result of stroke. They can only eat pureed food, spoon-fed with a teaspoon. They have no ability to voice their views to a community visitor or to anyone. Some have dementia. They are totally vulnerable, as were the ladies at the Mount Eliza facility. As I said, they cannot speak because stroke has affected their throats and therefore their ability to eat and speak. We are talking about very vulnerable and frail aged people who need protection. The only way you can make them feel safe and make their families feel confident they are safe is through mandatory reporting.

We have mandatory reporting for the abuse of children in this state. Children are under 18 and therefore do not have a voice other than through an adult, but neither do the frail aged in nursing facilities have a voice. If mandatory reporting had been put in place in this state after the first rape and sexual assault that occurred in February — I think it was at an aged care facility at Mount Eliza — then maybe the fourth, fifth and sixth incidents might not have occurred. We have to be serious about this. It is no good talking and talking about it. We need to protect our elderly, frail and vulnerable who are in nursing homes and aged care facilities. We do it for children, why do we not do it for those people, who need to be absolutely safe? It is not something that we can prevaricate or equivocate about. They must feel and be unequivocally safe.

I was pleased that the new federal Minister for Health and Ageing, Mr Santo Santoro, organised a meeting in Canberra yesterday. He is looking at mandatory reporting, whistleblower protection and police checks of aged care staff. All those measures need to be brought in pretty quickly. I do not think we have time to sit on our hands and neither does the government. I think the kerosene baths incidents at a Victorian nursing home occurred in 2000. The minister has had six years to contemplate the issue. Let us do something now and not wait until the next incident of rape or sexual assault in a nursing home.

The minister says the criminal justice system will assist and protect these people. How could a 98-year-old, or my father, who at 77 cannot speak, make a statement to the police and be a complainant in a criminal trial? How could they stand in, or be wheeled into, the witness box to give evidence? They simply could not do it. The criminal justice system cannot help the frail aged and vulnerable in our nursing homes and aged care facilities. If the minister thinks it can, he ought to talk to some lawyers who know about this — including me — to look at whether these people can pursue their rights in the criminal justice system or have their rights pursued for them. He would be laughed at. It is absolute nonsense. You need mandatory reporting, because in my view it is the only way to protect the vulnerable and the frail aged who are currently in our nursing homes.

I did a quick check of the government web site of the government's policies on the protection of older people and the eradication of elder abuse. I clicked on the site for aged care and the Department for Victorian Communities and it flicked across to the Liberal Party's policy document entitled *Elder Abuse — Breaking the Silence*. The government did not have a policy on its own web site. The Liberal Party's policy of having an adult protective services unit, based on the model of the child protection service unit in this state, is admirable. It would operate on the basis of mandatory reporting laws as well as a toll-free 24-hour helpline. Such a system operates in the 50 states across the United States of America. Mandatory reporting to an adult protective services unit is also in place in Israel and Canada. It works in those places, there is obviously a need for it to be done there, and we need to do it in this state.

When I eventually flicked off the Liberal Party's web site and returned to the government web site, which it was linked to, I saw that this government's elder abuse prevention project has two clear objectives. One is developing a new guide for health services, and there is nothing wrong with that. The other is an education and community awareness strategy, and there is nothing wrong with that. But where is the protection of the frail and vulnerable aged people in our nursing homes and aged care facilities? There was nothing about that. There was no statement to say, 'We will do X, Y and Z to protect them', despite the incidents of rape and sexual assault of vulnerable frail aged residents in nursing homes that have occurred in this state over the last two months.

As for the issue of consultation, I will go into the consultation process that Barney Cooney apparently conducted around the state, especially the Ballarat forum. The press release was issued on Tuesday, 23 August, last year for the forum to be held at

10.30 a.m. for 2 hours — mind you, at the Ballarat North Sports Club, which is a gaming venue! I suppose you could have a little flutter while you were out listening to Barney Cooney. The government's press release gave less than 24 hours notice. It was issued on 23 August for the forum to be held on 24 August, the very next day, at the gaming venue. I find that totally inappropriate. Of course I did not know about it; I was not told about it. That was not real consultation. The government did not really want to know what people thought and what their ideas for the prevention of elder abuse were about. Had the government really been serious it would have done a lot better than that. But this is typical of Bracks Labor government spin — plenty of press releases, at death's knock or the day after, but nothing about preventing elder abuse.

I have only a couple of minutes left in which to conclude. The motion also deals with the government's failure to recognise the role of carers in our community. We all know what this government thinks of carers in our community. It does not think very highly of them at all. We had the government voting down a private members bill brought in by the Honourable Bill Forwood in July last year, which was debated in this chamber in August last year. I made a contribution, I think on 10 August, in the debate on that private members bill relating to protecting carer families, so that the Minister for WorkCover and the TAC, Mr Lenders, would be required to sign off personally on any Victorian WorkCover Authority recovery attempt against carer families.

We heard all about the terrible actions by this government and its WorkCover authority against the Krupjak family at Traralgon. The two parents were being sued by the government's WorkCover authority for \$15 000 which the authority had paid in medical bills and compensation for an injury suffered by a carer employed by a government-funded agency. These two parents who have two severely disabled boys were being sued by the government's WorkCover authority. Guess what happened to the private members bill. It was voted down by this government — a government which says it cares and wants a fairer Victoria! It is all nonsense, no-one believes it. I do not believe it and my electorate does not believe it. The private members bill was a chance for this government to actually do something to help carer families in this state.

Today is also a time for this government to actually get up and do something about preventing elder abuse. Let us not apply bandaids and have more talks, let us prevent it. The government should put in the mandatory reporting process now. That will prevent the next rape or sexual assault in a nursing home or aged care facility.

Then it can put in its strategy of a helpline. But that will only be of use if the victim can talk. As I have just explained to the house, most of them cannot talk in the facilities in Ballarat. They are not ambulatory. Their movement in and out of a bed and in and out of a wheelchair takes place by use of a hoist in the ceiling of their room.

I am quite happy to show the minister where my father resides now because I think he needs to refresh his memory on what it is like. It is horrendous. I have lived this every day since my father had his stroke. It is actually soul destroying for my father. He can never have a beer again. He cannot drink water. Any fluid he takes is thickened with tins of Thicken Up; his food is pureed. It is soul destroying. If he was ever sexually assaulted or assaulted in any way, I do not want to put on record what I would do, but I tell you now I would not go quietly. So I support this motion.

Hon. ANDREA COOTE (Monash) — First of all I would like to put on the record what I did not get a chance to say in my earlier contribution — that is, my admiration for all the people that work in the aged care sector. Many of the contributions today have recognised the work that people do within the aged care sector: in aged care facilities, home and community care and across the whole community. Our community at large really does care for our senior Victorians.

In any community there are some that abuse the rules of society. The examples that have been given today, particularly of the 98-year-old woman who was sexually abused in the aged care facility by a carer, which has been reported in the last two weeks, sadly show that there are people in our community who cannot be trusted and in fact cannot operate in our society with decency — or to use the minister's term, with morality. We therefore have to protect those vulnerable people. It is really important that we make laws, rules and regulations, because we are the legislators in this state. We are the ones who have been charged with making those rules — making certain that our vulnerable Victorians are safe and secure and that all of us can face our senior years with confidence, knowing that our community recognises what we need to ensure that we age in safety. I would like to put on the record my praise for all those aged care sector workers who really do an excellent job in our state. I think this entire chamber would join with me in praising those people and encouraging them to continue in their chosen field and their career.

Today's debate has been a point of demarcation in opposition business in this Parliament, and I would like to put on record my praise for the Minister for Aged

Care for being in here for the majority of this debate and indeed for providing four of his advisers to come and give advice and listen to this debate. I think it shows how this Parliament should work to its very best advantage. Mr Hall said in his contribution that we should be looking at this time in the parliamentary week when we can have opposition business and that it should be a two-way street. I think the minister's presence today certainly did a lot towards achieving that result and shows this particular minister is prepared to face the hard issues, have a look at what the community is saying, and see where better practices can be implemented.

I know the minister disagrees with the mandatory reporting issue and am aware of some of the reasons and some of the arguments he presents. I disagree with those, and I seriously suggest that the minister broaden the report and research into mandatory reporting in this state, given the fact that it is probably timely to have a really good look at it. I agree that the Elder Abuse Prevention Project Advisory Committee had a look at a number of issues, but I charge the minister with developing and looking into this specific issue of mandatory reporting. The minister should have an inquiry, have it well researched, give it funding, have a look at the entirety of what this community thinks and see what the people of Victoria are calling for, given all the facts and figures at the moment; and then report back to this chamber and to the people of Victoria.

Let us have a very close look at what mandatory reporting in this day and age, in this state, in these circumstances will mean for this state. Let us have a proper look at mandatory reporting, not just include it as one of the issues, or not even include it as one of the issues. That was my point before: that in fact the committee the minister instituted did not really go into mandatory reporting in any depth at all. Let us be brave enough. Let us have a closer look. Let us put it out there.

This debate was interesting. I thank my colleagues the Honourables Bill Forwood and John Vogels for their contributions. I know both of them feel very deeply about this issue and they made valid and important contributions to this debate. I also thank Mr Hall for the comments he made, especially on the issue of an ombudsman. As I said at the time, in the policy that I released in January last year the Liberal Party spoke about an ombudsman for the aged care sector along the lines of the health services review commissioner. I think we need to have a closer look at a whole range of issues for older Victorians.

We have an ageing population. There will be a number of issues to deal with. Mandatory reporting of elder abuse in sexual, physical, psychological and economical areas is one aspect that could be reported to an ombudsman, but I think we need to have an ombudsman looking into the issues affecting an ageing population, to give our community certainty and confidence as they grow older. Mr Hall's contribution and suggestions were excellent.

Certainly Mr Drum raised some very valid points as well, and indeed Ms Hadden gave a very poignant and personal contribution about how her specific situation was affecting her. I think each and every one of us in this chamber can sympathise and empathise with some of the comments she made about her own personal circumstances. She also spoke at length about Carers Victoria, and although I do not have time in this debate to be able to speak about the carers and how this government has failed to recognise their importance within the community, let me just say in the time I have that carers in our state and our country have the most extraordinary role. In fact if you look at it from an economic perspective, they save our community an enormous amount of money. But it is not about money; it is about lifestyle and about people being able to have the flexibility to stay within their own homes. Carers are to be commended. We could, I believe, have a 3-hour opposition business debate just on the subject of carers.

I agree with Ms Hadden's remarks about this government and the fact that it voted down Mr Forwood's private members bill, and indeed that will be on the record for all time. Ms Hadden said that we cannot empower people when we cannot make our community safe. I think that is a very good point for us all to remember and to take away from this debate.

Elder abuse is not going to go away. Elder abuse is going to increase. It is going to be difficult for us as a community to debate it, to talk about it and to recognise it. It is going to concern our loved ones; it is going to concern members of our family, who may be even the perpetrators. It is going to require recognition of the fact that the people to whom we have entrusted our elderly Victorians cannot always be trusted and will not always do the right thing. But I say again: we are the legislators. We are the people who can make a difference. I think we all feel the same in this chamber. I urge the Labor Party to vote for this motion so that it can put its credentials on paper and can support what is a very important issue in this state. I thank everyone for their contributions, and I urge them to support the motion.

House divided on motion:

Ayes, 17

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

Noes, 23

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

Motion negatived.

Sitting suspended 12.53 p.m. until 2.03 p.m.

QUESTIONS WITHOUT NOTICE

Commonwealth Games: Progressive Business

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for Commonwealth Games. I refer to the illegal use of the Commonwealth Games logo by the Labor Party's fundraising arm, Progressive Business. Did the minister authorise the illegal use of the logo for Labor Party fundraising, as claimed by Anna Mitchell, the spokesperson for Progressive Business?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — It is great to see that with 14 days until the commencement of the Commonwealth Games — the biggest event in this state — the Honourable Gordon Rich-Phillips is asking questions and asking pertinent questions. It is great to see that he has moved on from the ships.

Hon. Bill Forwood — You are a crook.

The PRESIDENT — Order! I ask Mr Forwood to desist from interjecting and to desist from using those words, or I will get him to withdraw them.

Hon. Bill Forwood — You are a crook.

The PRESIDENT — Order! I take offence at the words used by Mr Forwood, and I ask him to withdraw.

Hon. Bill Forwood — I withdraw.

Hon. J. M. MADDEN — It is no surprise that individuals, companies and the wider community are talking about the Commonwealth Games, because this is the biggest event in this state. We are particularly proud to be the government delivering the Commonwealth Games. We are confident about delivering the games because of the enormous amount of work that has been done by thousands upon thousands of members of the community in not only delivering but also endorsing the games. Members of Parliament have been promoting the games. They have been handing out flags to schools. Community groups are also getting behind the games. They are warming up for the games; they are adopting a second team. It is great to know that people are excited about the games.

There are organisations and individuals who may from time to time in their enthusiasm use the logo. I am pleased to have it on my lapel today. I cannot see too many members of the opposition with the logo on their lapels, but I think I can see that Mr Drum has it on his. I am glad to see that Mr Drum is such an outstanding supporter of the Commonwealth Games! Sometimes people and organisations are a little overenthusiastic about applying the logo where it should not be applied. For organisations to use it, they must seek clarification and approval from Melbourne 2006. In this case I understand the organisation referred to was confused about the artwork it was entitled to use. It realised its mistake when it was pointed out to it, and hence it reissued its invitations and withdrew the logo from any of the marketing material that it used for that event.

When there have been any instances of that — I understand Melbourne 2006 has from time to time found instances of merchandise and marketing materials being used with the logo in the sort of arrangement where it should not have been there — Melbourne 2006 has sought for those individuals and organisations to withdraw it and has also determined whether or not any further action should be taken.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — The minister did not address the issue of whether or not he provided the authorisation that Progressive Business claimed he did. Will he assure the house that he has not given other approvals for the Labor Party and its mates to exploit the Commonwealth Games image?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — What we have done with the games is try to make it a games for the entire Victorian community and the broader Australian community. We have encouraged everybody possible to be involved in the games. It is great to know that with only 14 days to go the opposition has finally gotten excited about the games, because the government has been excited for probably five or six years. What is great about the games is that it is a great opportunity to unite — —

Honourable members interjecting.

Hon. J. M. MADDEN — The motto of the games is ‘United by the moment’. We are not only united, we are excited. Victorians are united and excited. While we are united and excited I am not sure I can say the same — —

Honourable members interjecting.

The PRESIDENT — Order! Members of the opposition have asked a question, and they should allow the minister to answer it and be heard. Hansard is attempting to record the minister’s answer, but it has been made impossible by the noise.

An honourable member interjected.

The PRESIDENT — Order! No member will speak while I am on my feet! I put all members on notice that if they continue to interject, I will use sessional orders to remove them.

Commonwealth Games: rural and regional participation

Mr SMITH (Chelsea) — I will attempt to bring a bit of sanity to the house, President. My question is directed to the Minister for Commonwealth Games. The minister has on many occasions informed the house of the successful infrastructure projects that are being delivered by the Bracks government for the sporting program of the Melbourne 2006 Commonwealth Games. I ask the minister to advise the house what action has been taken to ensure that other sporting venues across Melbourne and the rest of Victoria will also have the opportunity to host the world’s best athletes and benefit from the games.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — With just under a fortnight to go until the games it is great to know that all our facilities are ready. We are ready to host the games. Not only Melbourne will be hosting the games: while the world will be tuned in to Melbourne it will also be

tuned in to our regional centres. On many occasions in this chamber I have made the case that the fact we are hosting events in regional centres — which were neglected by the opposition when it was in government — reinforces our commitment to regional Victoria.

One of the great highlights of the lead-in to the Commonwealth Games occurred only last week when I had the great pleasure and privilege of opening the Traralgon basketball stadium with my parliamentary colleague the member for Morwell in the other place, Mr Jenkins. This was a fantastic outcome for the Traralgon community. This is particularly significant not only for the games but also for the future of Traralgon beyond the games. That is one of the differences between this government — —

Hon. Philip Davis interjected.

The PRESIDENT — Order! The Leader of the Opposition will stop interjecting or he will be absolutely on notice. One more interjection from the Leader of the Opposition and he will be removed from the chamber. I ask all other members to desist from interjecting.

Hon. J. M. MADDEN — The fantastic thing about this new stadium is that the \$800 000 contribution from the state government has ensured we have a world-class facility in Traralgon for not only the Commonwealth Games but also beyond the games. It shows that the Commonwealth Games is about investing in our future. It is about investing not only in Melbourne but also in our regional centres. One of the great and most popular events that will be held down there will be when the Australian women's basketball team plays the Indian team on 16 March. The stadium will not only be available for the Commonwealth Games events but will also provide the community with the opportunity to host other events into the future. We hope a preseason National Basketball League game can be played at that venue. It shows that we have put a lot of time, effort and energy into not only the development of these facilities but also the strategic nature of the economic and social value of these communities into the future beyond the games.

From Broadmeadows to Ballarat and across the rest of the state we will see local communities being involved at every level. As well as seeing the likes of these facilities we will see teams training right across Victoria. I will give a few examples. I can inform Mr Atkinson that the visiting Tongan rugby team will practise in Mildura. I compliment Mr Atkinson on raising the issue. As well as that I can inform Mr Baxter

that the Jamaican team, including some of the world's best track and field athletes, will visit Wodonga. Zambian athletes will be visiting Hume. That is all in terms of training right across the state.

This complements the success of the Adopt a Second Team program. Whether you are here in Melbourne or whether you are in the regional centres or whether you are further out across Victoria, there is a great opportunity to be involved in the games at every level. As I said, the great thing about the games right across Victoria is that we will be united by the moment.

Commonwealth Games: Progressive Business

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is again to the Minister for Commonwealth Games. What advice did the minister receive from Melbourne 2006, the Office of Commonwealth Games Coordination or the Department of Justice before he announced to the media that Progressive Business would not be prosecuted for the illegal use of the games logo?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — It is worth appreciating that I did not say that Progressive Business would not be prosecuted. I said I did not believe it would be prosecuted, which is different. Let me just say that what you need to appreciate — which Mr Rich-Phillips does not necessarily appreciate because he has not thoroughly and comprehensively read the legislation for which he has the shadow responsibility, but if he had read the legislation he would appreciate it — is that Melbourne 2006 is the authority. It is not only the government authority delivering the games, it is also the authority that is entitled to allocate or take up complaints in relation to any matters concerning licensing, marketing and merchandising, and that includes the likes of the logo.

The advice I received from Melbourne 2006 is that there had been other instances where logos had appeared on merchandise or marketing material, and where that had occurred — a few locations were in marketplaces or other such instances — Melbourne 2006 asked for that to be withdrawn from either sale or distribution. The advice I have is that the individuals or organisations involved did that and that satisfied Melbourne 2006 in relation to those matters.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — Given the minister's comments yesterday and in the media this morning about providing an exemption from

prosecution, will the minister also provide a blanket exemption for all illegal use of the Commonwealth Games logo or is it a privilege only extended to the Labor Party and its mates?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — Surely the member opposite must have heard the answer I gave, because if he had listened to the answer I gave he would appreciate that Melbourne 2006 is the authority. Those licence requirements, particularly in relation to the likes of logos and other materials, are left with Melbourne 2006 to pursue in a whole range of activities. The member opposite should appreciate that and also appreciate that if there is any follow-up on these matters in relation to any complaints, it is Melbourne 2006 which has the authority to follow up those matters.

Commonwealth Games: cultural events

Hon. H. E. BUCKINGHAM (Koonung) — My question is directed to the Minister for Commonwealth Games, the Honourable Justin Madden. Melburnians have always had a passion for sport, but equally we are a cosmopolitan city with a love of the arts and culture that is unrivalled in Australia. I ask the minister to inform the house how the Bracks government is promoting our well-established arts and cultural institutions to visitors as well as Victorians during the Melbourne 2006 Commonwealth Games.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I thank the member very much for her question. One of the great things is that this is an opportunity for all Victorians to be involved in the Commonwealth Games, whether it be through purchasing a ticket to the games, taking the opportunity to be involved in local celebrations in their own communities, going to those events or seeing the free roadside events like the marathon or the triathlon or any of those events, and the great complement to all those events will be the free festival activities. Festival Melbourne 2006 will be a hallmark of these games. It will be a celebration of the cultures of the commonwealth.

One of the great things about this festival is that it is free. It is free for Victorians to visit. We will see over 2000 performers and artists who are now gathering to be involved in this festival. We will see the performing arts; it will feature music, dance, circus, aerialists, roving street theatre and wonderful free concerts in the Sidney Myer Music Bowl. As well as that there is a youth program which will deliver a cutting-edge program of alternative music, fashion, dance, visual arts and street theatre.

We will also see exhibitions right across Melbourne, and I have had the good fortune to open a number of those exhibitions in recent days. They are truly spectacular. I hope those who appreciate cultural events and the exhibition of the cultures of the commonwealth, particularly members from this chamber, take the opportunity to visit some of the exhibitions in some of our main cultural institutions right across the city and in regional centres, not only concentrating on the sport but concentrating on the festival as well.

One example of that will be the Melbourne Museum, which will host a spectacular exhibition called 'Spirit of the Games'. This is a wonderful exhibition of the costumes and props from the opening ceremony, and it will be open to the public from 18 March. This is a great way for people who may not have been directly involved in that but saw it on television to see the props and all the costumes first-hand as part of the exhibit. As well as that there are major festival activities in the regional centres — Ballarat, Bendigo, Geelong and in particular along the Murray, which I am very excited about.

The cultural program has been supported by the *Herald Sun* and the *Weekly Times*, and I would like to compliment them on that support. We have seen that support with the release of the program for the festival in recent days. Last week I had the great pleasure of opening 2006 Contemporary Commonwealth, the flagship, at both the National Gallery of Victoria and the Australian Centre for the Moving Image. This is a magnificent exhibition of contemporary artists from right across the commonwealth — cutting-edge stuff which I know the opposition would appreciate because it is from time to time so cutting edge!

This is a marvellous festival to complement what will be a marvellous Commonwealth Games. I look forward to everybody supporting not only the sport and not only the country, but the festival as well, because those participating in the festival — the performers, the artists, the exhibitions — have come from across the commonwealth, across Australia and across Victoria to take part. It has been done spectacularly through all these institutions. I would just like to take this opportunity to compliment the curators, those who have bought festival together, because they have done a spectacular job, many of them on short notice. They have reaffirmed that these games will be games which will unite us by the moment.

Government: advertising

Hon. W. R. BAXTER (North Eastern) — I direct a question without notice to the Leader of the

Government in his capacity as Minister for Finance. Is the minister aware that Shannon's Way has recently been awarded its 56th contract by the Bracks government? Bearing in mind his responsibility as finance minister to get value for money for taxpayers, how can one firm hold a virtual monopoly on government advertising?

Mr LENDERS (Minister for Finance) — The issue of government advertising in general falls under the purview of the Premier in his responsibility as Leader of the Government in the other place. However, I will respond to Mr Baxter in terms of my own portfolio rather than across the whole of government, in the interests of being responsive to the house.

Firstly, I am surprised that this question comes from Mr Baxter, the only member opposite who sat around the cabinet table when the Kennett government sold its soul to Leeds Media and, without any transparency or serious reporting back to government, basically gave one company, of whom the principal was a mate of the Premier, unfettered access to government advertising. Unlike the Kennett government, which debased itself with Leeds Media, this government has set up a very open and transparent process for dealing with advertisements.

I know that Shannon's Way is a company with the number of contracts Mr Baxter referred to. I could not say how many are in my portfolio, but I certainly know Shannon's Way has done work with WorkCover and probably the Transport Accident Commission on some of the state-of-the-art material in some of the really good campaigns — for workplace safety in particular. Those contracts, certainly in the agencies in my portfolio, are ones that I as minister have not been asked to sign off on nor as minister to approve, because they are handled by an independent board which goes through a very rigorous probity process in awarding these contracts. I am absolutely satisfied that in my portfolio areas the contracts have been awarded to get the best value for money in getting across the government's messages, and to achieve that is the important part in the awarding of any of these contracts.

This government, unlike its predecessor, publishes contracts of over \$100 000 on the web and publishes large contracts in detail six months after the event. It has a rigorous process whereby the Auditor-General calls in and reviews them. We just need to reflect for a moment on the fact that, as a result of the Leader of the Opposition raising an issue about government advertising, the Auditor-General is doing a review of that. In the days of the previous government the independent parliamentary watchdog was chaired by a

member of the executive, Mr Forwood, who was then parliamentary secretary to the Premier, in a government where the Auditor-General was nobbled. We know what the people of Mitcham thought of that when they had the first opportunity at the by-election. We know what the people of Victoria thought of that later on at the general election. This government has given back the power to independent bodies to look at government contracts and advertising.

We are proud of our record of getting best value for money in contracts. In my portfolio area, regarding the large contracts that Mr Baxter referred to, I as minister have not been asked to sign off on them, nor have I been asked to note them, nor have I been consulted with, because the independent bodies base their decisions on merit. On some occasions this company has achieved contracts and on some occasions I am sure it has also missed out on contracts. We are proud of our record and of the message coming out in WorkSafe and the Transport Accident Commission — and I look forward to Mr Baxter's supplementary question.

Supplementary question

Hon. W. R. BAXTER (North Eastern) — You always know it is a sensitive issue when the person responding has to resort to ancient history to defend himself. I have taken on board the minister's comments that the Premier is largely responsible for advertising and that the minister is answering in respect of his own portfolio and he has assured us that he has nothing to do with it anyway. I will take that at face value. I ask the minister: can he give the house a guarantee that all government advertising contracts in his department and under his responsibility are entered into only after strict tendering protocols have been applied?

Mr LENDERS (Minister for Finance) — Yes.

Consumer affairs: conveyancing

Hon. J. H. EREN (Geelong) — My question is to the Minister for Consumer Affairs. I know that members of both houses have shown an interest in the Bracks government's current review of conveyancing regulation. Will the minister inform the house of progress with the review, which will benefit Victorian consumers?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the member for his question. I know that this issue of conveyancing is of personal interest to the member. While Victoria has a revenue through this of around \$300 million per annum, there is also special significance for the people of Geelong. For consumers,

buying a home is usually the most expensive purchase they will make; therefore confidence in the conveyancing process is very important. The Bracks government is committed to Victorians having a sense of confidence in the process of conveyancing when they purchase a home. We want to make sure that Victorians understand what they are entering into and that the people they deal with are dealing with them honestly and appropriately and are looking after the best interests of their clients.

That is why the Attorney-General and the former Minister for Consumer Affairs, Mr Lenders, announced a review to examine the efficiency and effectiveness of current conveyancing regulations in Victoria and to look at options for reform. I am pleased to inform the house that the final report of that review, prepared by Allen Consulting, and the government response were released on 19 January. The government response outlines the preferred way it wishes to deal with the issues that arose from that review.

We intend to set up a licensing scheme for non-lawyer conveyancers to better protect Victorian consumers who are using conveyancing services. This will ensure that conveyancers have undertaken a mandatory professional qualification, have gained at least 12 months relevant practical work experience, hold professional indemnity insurance coverage and have not been disqualified because they are undischarged bankrupts or have been convicted of an offence involving dishonesty.

From the collapse of Grove Conveyancing we also know that Victorian consumers deserve protection from the mishandling of client money by conveyancers. We intend to put in place anti-fraud protections for consumers to regulate how conveyancers must hold an account for their clients' money and to make them disclose any actual or potential conflicts of interest to their clients. We are also proposing to abolish the distinction between legal work and non-legal work in conveyancing. This means that conveyancers will be able to compete with lawyers on all aspects of conveyancing transactions, bringing the benefits of competition to Victorian home buyers, including lower costs.

As I said, we are currently seeking further feedback from the public on important issues such as the level of personal indemnity insurance cover that should be required for those undertaking conveyancing and whether or not the legal work performed by conveyancers should also include high-value commercial conveyancing. I ask members to make constituents who may be interested in this issue aware

that they can input directly into that process. This review is another example of how the Bracks government is making decisions that will benefit all Victorians and make Victoria the best place to live, work and raise a family.

Commonwealth Games: Progressive Business

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is again to the Minister for Commonwealth Games. I again refer to statements in the media by the minister about the government's refusal to prosecute Progressive Business for the illegal use of the games logo. This morning the *Age* newspaper confirms that the government said it would not prosecute Progressive Business for the breach and quotes the minister's spokesman as saying:

At this stage we are satisfied that they have removed the logo and reissued the invitations.

Similarly the *Herald Sun* says:

The minister is satisfied if the logo is removed promptly and the invitations are reissued.

Hon. T. C. Theophanous — On a point of order, President, I refer you to the rules relating to questions. Rule 1.03(c) says that members should not ask questions of ministers in relation to whether media statements are accurate. I have been listening carefully. In his previous question the honourable member referred to a media statement. In this question he has referred to two media reports, one quoting the minister and another in which he quoted directly from the press. I ask you, President, to bring him back to order in relation to not asking questions as to the accuracy of those media statements.

The PRESIDENT — Order! The member referred to two media statements. The member is not allowed to ask a minister whether a media statement is accurate, but he has not asked that question yet. I understand the two media quotes came from the minister's spokesperson, so it was not quoting the minister, it was quoting the minister's spokesperson. With respect to the member asking the question, I will listen carefully. If the question asks whether the media statements are accurate it will be against the rules and will be ruled on accordingly, but if it is different from that the minister will be called upon to answer it.

Hon. G. K. RICH-PHILLIPS — The minister himself repeated the same comments this morning on radio. Given that in his previous answer the minister pointed out accurately that prosecution is a matter for Melbourne 2006, why did he rule out prosecution

himself through his spokesman in the media yesterday and again on radio this morning?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — My answer remains the same as the answer I gave in response to the last question, which is that the authority for the follow-up on these matters rests with Melbourne 2006. It determines whether there has been a breach and whether or not it should be pursued.

If the member opposite appreciated the organisational arrangements around Melbourne 2006, the Commonwealth Games authority, and if members of the opposition understood them — and we debated the legislation at some length at various stages after it was introduced — they would appreciate that Melbourne 2006 is the organising authority for these games and that those decisions rest with the organisation.

I reinforce that everything else that needs to be done in relation to the games has been done. We are ready to host the games. We are waiting for the athletes to arrive, and they are arriving as we speak. Asafa Powell, the fastest man in the world, arrived yesterday. We are ready for the games. We want to deliver the games. We have people around the state who are enthusiastically united by the moment, and it is a shame that the opposition is not united by the moment as well.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — Has the minister or his office discussed with or directed Melbourne 2006 not to prosecute Labor or Progressive Business for this blatant breach of the act?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — It is interesting that the member opposite should use the word ‘direct’, because it is one of the things the minister can do from time to time under the legislation, if he feels he needs to. One of the great things about the role the chairman and the board are playing is that I have not had to give Melbourne 2006 any specific directions in relation to the games, because basically we have an outstanding working relationship. From time to time we have correspondence on issues. From time to time there have been issues on which we have had rigorous discussion. The member opposite would appreciate that Ron Walker is the sort of personality who you can have one of those rigorous discussions — —

Mr Gavin Jennings — He is no shrinking violet!

Hon. J. M. MADDEN — He is no shrinking violet by any means. You can have those discussions and

leave the room the best of friends. I have not had to give a direction in relation to this matter to Melbourne 2006, and we are united by the moment.

Aboriginals: government initiatives

Hon. C. D. HIRSH (Silvan) — I have a question for the Minister for Aboriginal Affairs, Mr Jennings. One of the Bracks Labor government’s initiatives announced in *A Fairer Victoria* was \$9.6 million over four years for the Aboriginal land and economic development program. Can the minister advise the house of the projects to be funded in the first year of this program?

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — I thank Ms Hirsh for not only her question and her concern for the wellbeing of Aboriginal people but also her excitement about the potential for a great tourism-based economic development within Aboriginal communities right around Victoria, and in the first instance throughout south-western Victoria. Ms Hirsh was quite right to indicate that in last year’s budget a feature of the *A Fairer Victoria* policy was a \$9.6 million allocation for the Aboriginal Land and Economic Development Fund. After the announcement in the budget we embarked upon not only extensive consultation with Aboriginal communities but also an examination of the viability of tourism enterprises to be supported throughout south-western Victoria.

I am pleased to say that an event held last week brought together many significant Aboriginal people through Aboriginal community organisations and tourism-based activities. That event was held at Tower Hill, outside Warrnambool, where we made the announcement. It is a beautiful and wonderful location. A \$2.65 million first-year allocation will provide the essential building blocks for the capacity of the infrastructure associated with a number of culturally significant heritage sites throughout Victoria.

It will also provide the wherewithal for Aboriginal people themselves to manage the land, to interpret it, to restore it and to guide tourists who come not only from Australia but from all over the world to this wonderful part of Victoria. We know it is very popular, because 93 per cent of the tourists who land on the shores of Victoria expect to have some exposure to Aboriginal cultural heritage. This package will provide support to offer that exposure in the years to come.

Ranging from protection and interpretation at Bunjil’s Shelter in the Gariwerd National Park near Stawell to the Brambuk centre, where we are developing a registered training organisation that will train

Aboriginals in land management and tourism operations, we will have an accreditation process. This means hundreds of Aboriginal people will be exposed to this process and will be supported to promote these great works.

In the Lake Condah area Budj-Bim Aboriginal tours will be supported in conducting what will be world-renowned tourism through a unique environment where Aboriginal people cultivated eel traps along the lava flow and established and lived in stone huts on a permanent basis for thousands of years. It is extremely unique and is found only in this part of the globe.

Hon. Bill Forwood — No, just unique.

Mr GAVIN JENNINGS — I am glad that for the first time throughout my answer Mr Forwood was listening. I thank him for that. The Aboriginal people of south-west Victoria are hopeful that, just like Mr Forwood, some people will wake up to the fact that there are great international attractions in Victoria. Those attractions will be the subject of cultural heritage interpretation and guided tours, thereby supporting Aboriginal development in the community.

The Winda Mara people will be involved in the restoration and rehabilitation of the Tyrendarra lava flow, and tours will operate in that area. In Port Fairy there will be an opportunity to bring together the Kaawirn Kuunawarn Hissing Swan Arts cultural centre, the Tarerer Indigenous Music Festival and Welcome to Country Tours.

An honourable member interjected.

Mr GAVIN JENNINGS — Hissing Swan. In fact, let us use the Aboriginal name, Kaawirn Kuunawarn. That will probably resonate better. The Worn Gudidj Aboriginal Co-operative will redevelop Tower Hill and make sure there is camping under the stars.

We will bring all of those together through a collaborative marketing approach which will make sure that people in their thousands will come to appreciate the great attractions of cultural heritage in south-west Victoria.

Commonwealth Games: Labor Party calendar

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is again directed to the Minister for Commonwealth Games. I refer to yet another illegal use of the Commonwealth Games logo and mascot by the Labor Party on a calendar authorised and distributed by Labor members of Parliament. Will the minister

assure the house that he has not provided an exemption from the law for Labor members of Parliament?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's question, and I welcome the fact that he has asked four questions today. He is doing pretty well. It is good that he has asked had four questions. We do not have too many sitting days before the Commonwealth Games to ask questions, so it is nice to know that he is forthcoming with questions today.

The authority for allowing the use of the Commonwealth Games logo basically rests with Melbourne 2006, as I explained in answer to previous questions, and the follow-up in relation to authority for the use of that logo, the indicia, or any other elements of the Commonwealth Games rests with Melbourne 2006. Where individuals or organisations have used those, I would expect that they would have first sought authorisation through Melbourne 2006. I would also expect the follow-up in relation to that to rest with Melbourne 2006.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I thank the minister for his answer. I point out that he is responsible to this Parliament for the enforcement of the act. I draw his attention to the illegal use of the Commonwealth Games logo and mascot on a calendar authorised by Peter Lockwood, the member for Bayswater in the other place. Will the minister assure the house that he will pursue this latest breach of the act, or will another Labor mate be exempted from the law?

Honourable members interjecting.

The PRESIDENT — Order! I ask all members to put those pieces of paper down now.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — Again I relate the member's question to the authorisation that would be provided by Melbourne 2006. Any follow-up in relation to these matters would also be carried out by Melbourne 2006. I compliment the members of Parliament who have been extraordinarily active in promoting the Commonwealth Games for their communities. It is nice to know that both sides of Parliament have been promoting the games.

Honourable members interjecting.

Hon. Philip Davis interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Pursuant to sessional order 31, the Leader of the Opposition will remove himself from the chamber for 30 minutes.

Hon. Philip Davis withdrew from chamber.

Questions resumed.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I know that a number of the members of this chamber have been involved with the likes of — —

Hon. Bill Forwood interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Pursuant to sessional order 31, Mr Forwood will remove himself from the chamber for 30 minutes.

Hon. Bill Forwood withdrew from chamber.

Questions resumed.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — There have been a number of members of Parliament who have also presented flags to many of the primary schools across the state, and members of Parliament — —

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

Housing: water-saving project

Ms ARGONDIZZO (Templestowe) — My question is addressed to the — —

Mr Somyurek interjected.

Questions interrupted.

SUSPENSION OF MEMBERS

The PRESIDENT — Order! Pursuant to sessional order 31, Mr Somyurek will remove himself from the chamber for 30 minutes.

Mr Somyurek withdrew from chamber.

The PRESIDENT — Order! The Honourable David Davis interjected whilst I was on my feet. Pursuant to sessional order 31, he shall remove himself from the chamber for 30 minutes.

Hon. D. McL. Davis withdrew from chamber.

Questions resumed.

Ms ARGONDIZZO (Templestowe) — My question is addressed to the Minister for Housing. Can the minister inform the house of any recent water-saving initiatives undertaken by the Bracks government in Victoria's public housing estates?

Ms BROAD (Minister for Housing) — I thank the member for her question. I am very pleased to inform the house of a recent innovative water-saving project on Fitzroy's high-rise public housing estate that will slash water use and create a more pleasant environment for tenants. Along with my parliamentary colleague the member for Richmond in the other place, Mr Richard Wynne, I recently had the pleasure of announcing a \$1.3 million project that will save 5 litres of water every minute by harvesting rainwater and recycling laundry water at the Atherton Gardens estate in Fitzroy. Through this project not only are we doing something for the environment, we are also using water to transform what could otherwise be something of a barren wasteland into attractive gardens for public housing residents. All of this will make the estate a better place to live through better design and greater community ownership of the estate. This project proves that the Bracks government is not just talking about water savings, it is getting on with the job of doing something about it.

Whilst at the Atherton Gardens estate I was pleased to unveil the latest facilities to harvest rainwater from tower roofs and treat the run-off water from the estate's car park for use in gardens, as well as inspect new water-and-energy-efficient heavy-duty washing machines used by tenants on the estate. The estate has also benefited from extensive landscaping designed to work with the new irrigation system.

I am pleased to say that the new works will also provide easier access for people with disabilities — both tenants and visitors to the grounds — and help to reduce vandalism and maintenance costs through this better design. In a further environmentally friendly initiative the waste from the construction of the new facilities will be recycled rather than being sent to landfill. The project includes more than 12 000 new plants as well as nesting boxes for native wildlife.

I know that on behalf of his constituents my colleague Richard Wynne has welcomed the improvements to the local area. Under the Bracks government we have seen the open space at Atherton Gardens come alive again. It is now much more family friendly and environmentally friendly, and residents are very pleased to have a brand new garden on their doorstep.

I wish to acknowledge that this terrific project has some partners who have made very important contributions to it. They include the Victorian Water Trust, which contributed \$495 000, and Melbourne Water, which contributed \$200 000, together with \$628 000 from the Bracks government. The fact is that projects like this would not go ahead in the future if there was a change of government because such funds would all be spent on EastLink — some \$700 million would be required as a result of the opposition's policies. But on our side, the Bracks government continues to govern for all Victorians, including public housing tenants, making Victoria an even better place to live, work and raise a family.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 5100–16, 5122–29, 5303, 5503, 5505, 5506, 5508, 5512, 5515, 5518, 5524, 5526, 5553–68, 5571–78, 5720, 5736, 5737, 5743, 5750, 5754, 5780–95, 5798–5805, 6268, 6269, 6271–79, 6281, 6283, 6287, 6288–93, 6393, 6446, 6448, 6449, 6451, 6452, 6454, 6455, 6457, 6458, 6461, 6465, 6467, 6469, 6641, 6649, 6652, 6796, 7094, 7095, 7097, 7098, 7100, 7101, 7103, 7104, 7300–06, 7308–12, 7314–16 and 7318–20.

Ms HADDEN (Ballarat) — On Tuesday, just after question time, I was handed a reply from the Minister for Local Government dated 31 January. I am not sure whether it has been backdated or sat on, because the first sitting day after 31 January was 6 February and I was handed this by the orderly just after question time on 28 February. I would like some clarification on this from you, President. I can table the written reply. I have written on it my contemporaneous notes as to when it was handed to me —

The PRESIDENT — Order! The member has raised this with me before, and I will rule this time in the same way as I did last time. The papers office receives answers from the ministers and they are processed at the first available time. The member would have received it yesterday because it was delivered to

her at the first opportunity after the papers office received it from the minister's office. The date is not an issue so far as the Parliament is concerned in passing that answer on to the member. Members would be aware that sometimes they get answers from ministers that are not even dated; there is no requirement for a date to be on answers. The Parliament receives it, processes it and members get it as soon as possible.

TERRORISM (COMMUNITY PROTECTION) (AMENDMENT) BILL

Second reading

Debate resumed from 28 February; motion of Mr LENDERS (Minister for Finance).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Terrorism (Community Protection) (Amendment) Bill, I indicate that the opposition will be supporting this legislation. The bill makes various amendments to the Terrorism (Community Protection) Act 2003 to enable counter-terrorism measures. Essentially it gives members of the police force two new powers which are specifically aimed at preventing terrorism acts from occurring, and also for preserving evidence related to any terrorist act or attempted terrorism act. The bill implements legislation that was part of a nationwide series of counter-terrorism initiatives that was agreed by the Council of Australian Governments (COAG) on 27 September 2005 most of us can remember the various discussions that took place at that time.

These amendments enable the preventative detention of a person for up to 14 days through a new order called a preventative detention order. I will repeat that because it is a very significant widening of existing powers: someone is able to be detained for 14 days on suspicion that they may perhaps be involved in some forthcoming terrorist act. The bill also allows for a very significant increase in the power of the police to declare a certain area to be a danger area from the point of view of a potential terrorist act, and gives the police very sweeping powers to do virtually whatever they want in that declared area. The bill therefore significantly changes many of the rights and freedoms that we have come to expect over many years.

This bill amends the commonwealth Criminal Code to insert new definitions that are necessary for the control order — the preventative detention order. The bill therefore implements the COAG agreement of 27 September 2005. Very appropriately the measures in this bill will be subject to review in 5 years time and

will sunset in 10 years time, so there will be a chance to review the extent to which they are effective and the extent to which they may impinge on various rights. I must say I am very pleased with the provision that allows them to sunset.

The preventative detention order will, on the say-so of a police officer, allow somebody to be detained for up to 14 days. On the say-so of a police officer it will allow somebody basically to be held in quarantine. Because the preventative detention order also allows the police to say that a person is to have no contact with anybody at all, that person can essentially disappear for 14 days. These are very sweeping powers and a significant step backward from what I think we accept as fundamental human rights, human rights that generations have fought to preserve and enhance. They are rights which this Parliament has not only a duty to uphold but also a self-interest in upholding, because this very institution depends on the rights of free speech, freedom of assembly and freedom from arbitrary arrest and detention, all of which are diminished by this bill.

The rights of citizens and their accountability to courts and the Parliament rather than to the executive and police are essential elements of the human rights built into our system, and this bill takes us a step backward from those essential human rights. The Parliament and the community are justified in asking why are we doing this, why are we stepping back from these fundamental human rights that, as I said, we have fought for, preserved and valued over hundreds of years. We are doing it to protect the community from the threat of violent terrorism such as the September 11 World Trade Centre attack, the Bali bombings, the Madrid train bombings and the recent London Underground bombings, when innocent citizens going about their normal, everyday work without any intent to damage anybody else were targeted by suicide bombers. It is clearly our obligation and responsibility to try to defend our citizens from such outrages. We have no option but to do whatever we can to try to head off these terrorism events before they happen so that we can protect our Australian and Victorian communities.

There is a real conundrum for us. Those who attack our society are all too often seeking to take away the very rights and freedoms we have as individuals and replace them with their own rules and beliefs. In short they seek to replace a free society, in which the individual is sovereign, with their view of the world, in which individual rights are subsumed, directed and constrained more often by some religious mantra. Perhaps not only a religious mantra by which these rights are constrained and directed but also by people who interpret that mantra. It is not necessarily any

religious belief that suicide bombers are trying to force on our society but the interpretation of those beliefs formed by individuals and by themselves. The conundrum is: to the extent that we trade away our freedoms, the very things we are trying to protect, by handing more of those freedoms over to the police in an attempt to protect ourselves from those who would seek to take away those freedoms, are we simply playing into the hands of our enemies? To what extent are we prepared to suffer the attacks of those who seek to change our society so that we can protect those freedoms?

I would also like to reflect briefly on the so-called war on terror. I believe this will be a long struggle that will test the resolve of our society and the beliefs on which it is based. It is a test many in the current generation have not been faced with and the beliefs are beliefs many of them take for granted because they have never been called upon to defend them. In essence it is about a principle — the belief in the right of the individual. If we go right back into history — this matter is steeped in hundreds of years of history — it is the right of the individual versus the divine right of a king or of a Marx, a Stalin, a Hitler or some other ism, potentate or high priest who may interpret the word.

In what I believe will be a long war to defend our principles, which I most certainly believe in, we may have to suffer for our beliefs, which is something we have not been called upon to do in recent times. If we want to defend what we have, we have to be prepared to stand up for those beliefs. I hope therefore that we hold to our beliefs, that we resist trading them away for some illusion of security, because that historically is the trap that free societies have so often fallen into — they have traded away those freedoms for some illusion of security. My personal, lingering concern is that this bill is a small step down that slippery slide. We as a Parliament must ensure that it does not turn into a further step down that slippery slide. We must resist further moves to achieve this illusion of security by trading away the rights we have built up over so many years.

I divert a little bit to say that as an individual I have always been extremely interested in history. I love history, because I think it is a wonderful teacher. Very little that is happening today has not happened before, and if we understand and study history we have so much better knowledge as to how to deal with what is happening today, what it may lead to and the like. At Christmas time we all have a problem: what are we going to give our spouses and relations for Christmas presents? My family has always given me some sort of great history book — a tome to keep me occupied over

Christmas — because they know I love it. This Christmas I got a very interesting book as a Christmas present. It is called *The Great War for Civilisation* and is by Robert Fisk, who is a correspondent with various English newspapers and has covered the Middle East for about half a century. It is very heavy and ponderous — it is about 12 centimetres thick, so there is a lot in it — but it is a fascinating read on the Middle East and the problems that have taken place and will take place there. I have always believed — and this book would have convinced me if I had needed any convincing — that our current struggle will be long and difficult. Peace will not come easily in this area. Let us not beat around the bush — a lot of these terrorist problems come from the Middle East. The problems there have significantly changed over the last 100 years. They have changed because of two things — oil and Israel. That has made our relationship with that area extremely difficult, and makes it very hard for us to find a simple solution. That is why this will take some time. It will need a lot of hard work and determination to hold fast to our beliefs.

In the context of these comments, I turn to some of the main provisions of the bill. Perhaps the main provision is the new preventative detention order. Part 2A of the bill introduces a scheme of preventative detention orders. It also introduces prohibited contact orders, which prevent an individual from having contact with some other individuals. The orders permit the detention of someone in a police jail or prison and prevent them from contacting anyone other than those persons permitted under the order. The subject is also prohibited from disclosing certain facts about the existence of the order. In other words somebody who is subject to a preventative detention order and a prohibited contact order can be taken out of the community for up to 14 days. Nobody need know that they have gone at all, because they are prohibited from highlighting the fact that they have disappeared, as it were. The authority and the individual are prohibited from saying why they are no longer in circulation in the community, so it would be a classic case of somebody just disappearing.

There is a whole process involved with these preventative detention orders. It starts with a police order, which may be made on application by a member of the police force to a senior police officer. If that member of the police force has a reasonable suspicion that an individual would otherwise be engaged in a terrorist act, that detention is necessary and that the making of the order would substantially assist in preventing the terrorist act from occurring, the order can be granted by that senior police officer. That order could last for 24 hours.

If further detention of the individual is desired, an interim order can be made to the courts *ex parte* by the member of the police force. An interim order can last up to 48 hours. If an order for a longer period is required the application must go before a court. In this case the parties concerned have some status before the court and can argue their case, and such a detention order can last for up to 14 days. In certain circumstances the order can in fact be renewed by the court. Interestingly the decision whether or not to grant the order is made not by the normal beyond reasonable doubt test that we all know about. The test will be a finding of fact by the court that the detention of the particular individual will, on the balance of probabilities, minimise or aid in the minimisation of terrorism events.

As I said before, a contact order can also be applied for. This order ensures that the person who is the subject of a preventative detention order simply disappears.

Hon. R. H. Bowden — Acting President, I draw your attention to the state of the house.

Quorum formed.

Hon. C. A. STRONG — I was outlining that as well as the ability to make somebody subject to a preventative detention order, another order called the contact order can be granted which allows that individual, as it were, to be totally quarantined from any contact with the outside world. Such an order can prohibit any contact at all with friends, families or anybody else, although it can have various conditions which would allow contact of certain types — for example, with the next of kin, an employee or somebody else just to let them know that the person would be gone for the next 14 days. But generally the order would prevent any communication of why the person was gone, that he was subject to an order, was suspected of being a terrorist, or whatever. Both the prevention order and the contact order apply to persons over the age of 16, so the normal 18-year cut-off age for a child is amended here to 16.

It is interesting to note that the legislation provides that when somebody is held on one of these preventative detention orders the detained individual may not be questioned whilst in custody other than in respect of their identity and their welfare. However, the act goes on to say, interestingly, that the individual may be released from the order at any time and then questioned under any relevant criminal investigation, and while the 14-day order is still running the individual can be put back under the order after questioning. It is an interesting issue. The act says they cannot be

questioned under the order, but it allows them to be, as it were shuttled in and out of the order, to be questioned. I was rather intrigued by those provisions.

As I said before, the orders can be extended. A member of the police force may apply to the court for an extension of the order. The individual subject to the order must be given notice of the application and may, of course, appear before the court to give evidence, call witnesses et cetera. Notwithstanding that, an extension of an order could not go for a period of more than another 14 days. Somebody who is held under an order can be questioned as to their identity; they can have voice recordings and fingerprints taken and DNA and the like extracted from them, and, of course, reasonable force can be used in getting such evidence or information.

The contact order can totally restrict the extent to which somebody is able to communicate with anybody at all during those 14 days, although the act does allow for a whole series of exclusions from that if presumably the court and the police who require and request the order allow it — for instance, it allows contact with a family member, et cetera, but it stipulates quite clearly that all contact must be observed by and passed through and in the presence of police officers so there can be no chance of secret information being given.

The other major provisions of the bill deal with what are called special police powers. These give police the ability to declare a certain area, and once that area is declared they can exercise very significant powers in that area. They can do virtually anything within that area. They can tell people who can come in and who cannot, they can detain people, and they can search them, including strip-searching them. They can go into any house or any property and inspect it without warrants and they can take any property or goods that might be in that particular area and hold it for evidence and so on. So in essence the police have total and unfettered power to do what they want in these declared areas.

To get one of these orders part 3A will allow the Chief Commissioner of Police to apply to the Supreme Court for an authorisation to exercise special police powers in the circumstances. There can be any reason for that. It might be to protect a prominent person if there is some special gathering, such as a COAG meeting, and there is some perceived or possible threat of terrorism. That is when a particular area can be declared under these provisions. Once an area is declared there is virtually nothing the police cannot do in that area.

As I said, in order to exercise these powers the Chief Commissioner of Police is required under part 3A to apply to the Supreme Court. However, in so-called urgent circumstances — where a terrorism act has occurred or is imminent in the view of the relevant police officer — an interim authorisation may be made by the commissioner for a period of up to 24 hours without the prior approval of the court. So a police officer who gets some information that a terrorist act is about to happen can in an emergency circumstance go to the commissioner, that area can be defined and an interim order can be issued which would allow the police to exercise these unfettered powers in that area.

The threshold test of whether the court should allow the exercise of the special police powers or whether the chief commissioner should grant an interim order will be lower than the threshold test of reasonable suspicion for the detention orders — it is simply a reasonable belief. If a police officer has a reasonable belief, these powers can be enacted. As I said, once those powers have been enacted for a designated area, the police have very significant powers of direction, detention, search, seizure — of everything.

The bill also allows for an extension of covert search warrants that allow police to go in covertly and search premises for any goods, activities or other things that could be involved in a terrorist act. This provision of allowing an area to be designated where special police powers will exist — and I think this is an essential provision — can also be extended to major infrastructure assets. It is becoming fairly well understood and known that there are very significant risks to our major infrastructure assets, whether those be telephone exchanges, power stations, transformer yards, rail infrastructure and so on. There will now be the ability to put those assets into these areas for particular protection.

In conclusion, this bill has very wide-ranging provisions and powers. As many members have said, it does in fact diminish many of the rights that we have grown accustomed to, and it does this for the very good and sound reason that it seeks to provide protection for innocent citizens against terrorists. Like all these things that come before us, there is a trade-off of some of the rights that we have become accustomed to, and that trade-off is to grant greater security to our community against terrorist attack. Given this, I must say that I personally think the bill strikes a reasonable balance, because there are still significant protections in the bill.

Although under their own initiative the police can implement many of these draconian provisions — preventative detention, quarantining somebody from

having any contact with anybody else, going into an area where they have untrammelled powers and sealing it off — at the end of the day the ability to do that still comes back to the court. The police are only able to do it on an interim basis; at the end of the day it will be a court that will decide. That essential check and balance of going back to the court will be enough to ensure that these very significant powers are not abused.

As I said, although this takes away many of our rights it is an appropriate balance. I think it is workable, and it will certainly be a great benefit in hopefully stopping further terrorist actions. Without doubt it will provide the community with a greater sense of security. People will know these powers exist for the police to move in and try to stop one of these terrible events before they happen. As I said earlier, the bill has a sunset clause.

I personally and the Liberal Party urge the house to support these measures. I think they are an appropriate trade-off. I will not be here in future parliaments and many of us probably will not be here in the future but as a Parliament we must be mindful and ever vigilant that this trade-off, this balance between our rights and security is a very difficult balance. We must be ever mindful that it does not tip too far one way or the other. With those few comments, I commend the bill to the house.

Hon. P. R. HALL (Gippsland) — I am pleased this afternoon to put the views of The Nationals on the Terrorism (Community Protection) (Amendment) Bill. The first thing I want to say is that the thought of acts of terrorism puts us all on edge. We have all witnessed the impact terrorist actions have had on people and people's lives. While that impact has been greatest on those persons who have been directly affected and their families, we have all been affected in some way. If nothing else, our concerns about potential terrorism activity closer to home have been heightened.

The impact of terrorist activities has resulted in parliaments around the world responding to those actions or the threat of terrorist activity by giving law enforcement agencies special powers. We did that in the principal act and we are doing it again with the amendments to the Terrorism (Community Protection) Act.

While some people have described the powers we are granting to Victoria Police in this instance as draconian, it is my belief that the vast majority of our communities would support the granting of those powers in the interests of greater community safety. That view is supported by The Nationals, and that is why we will be supporting the bill. I understand completely what the

Honourable Chris Strong said when he spoke about the need for balance and the issues concerning civil liberties as opposed to community safety, and we need to bear that balance in mind. However, I think in this particular instance it is worth supporting these initiatives because I think, as I said before, the greater community would see this as being a fair and reasonable balance when you consider the need for greater community safety.

We have now had a number of pieces of legislation before the Parliament which adopt what is termed the precautionary principle. In my definition the precautionary principle means that if we are not certain about things it is better to take preventative actions just in case those things occur. Again that is a subjective decision but in terms of this action and the potential actions of terrorism which are spoken about when we talk about this bill, I think we need to be very cautious. It is a bit like an insurance policy — the precautionary principle applies a bit like an insurance policy. This legislation adopts a precautionary principle, especially with the use of preventative detention orders. I think those insurance policies are necessary.

I will now talk about some of the features of the bill. The Honourable Chris Strong did a good job of explaining in detail many of the features of this bill. However, I want to talk a little bit about the preventative detention orders. They are orders which can detain a person for up to 14 days. That is a pretty bold move. It is a big departure from the current detention abilities of Victoria Police where if somebody is suspected of criminal activity they can be detained and questioned for only a matter of hours before either being charged or released. Here we are talking about 14 days so there is a big variation between the normal period a person may be detained without being charged and what is being proposed in this bill.

You have to ask yourself the question is this a reasonable measure? The second-reading speech for the bill states:

... individual liberties must always be balanced against the needs of the community, in particular community safety.

In my mind that balance is appropriate when you consider the circumstances in which a preventative detention order can be carried out.

If you look at page 8 of the explanatory memorandum for the bill and the section about division 2 it states:

... the police member must be satisfied of specified matters indicating that the detention of the subject is necessary to either prevent an imminent terrorist act from occurring (i.e. an

act expected to occur within 14 days) or to preserve evidence relating to a terrorist act.

As the Honourable Chris Strong said, there must be a reasonable suspicion that this will occur. I would think that police officers exercising this preventative detention order would be pretty sure of themselves. I am quite sure they will not take these extra powers lightly and apply them willy-nilly — it will be in extreme situations. I have confidence in Victoria Police exercising these powers judiciously.

Quite a number of safeguards in respect of preventative detention orders have been built into the bill before us. As I said, these orders last up to 14 days but the person detained under a preventative detention order will have access to a lawyer. They cannot be questioned during that time apart from identification purposes. The courts can authorise family visits to a person held under a preventative detention order. The person who is the subject of such an order can also apply to the Supreme Court to have that order revoked. In addition, there can be an application by Victoria Police to have the order extended. There are those safeguards but this is just a very cursory listing of a couple of the safeguards.

Eighty or more pages of the bill before us deal with preventative detention orders, describe the circumstances in which they can be applied and what safeguards and reassurances are built into the authorising of such a detention order. It is the view of The Nationals that given those safeguards and given the extraordinary detail associated with preventative detention orders and the need for them, we are prepared to support that concept in the bill.

The other provisions I want to have a look at here relate to what the second-reading speech describes as stop, search and seize powers and what are described in part 3A of the bill as special police powers.

If we want to look at the particular powers given under this new part 3A contained in the bill, I can best quote from the second-reading speech, which says:

These powers will enable police to demand identification, stop and search people and vehicles, direct persons to leave or remain in an area specified in the authorisation, seize things connected with a terrorist act and cordon areas to improve their ability to prevent or respond to a terrorist act.

As the Honourable Chris Strong said, these special police orders can only apply to a defined geographic area or piece of infrastructure. An order can only be obtained by the Chief Commissioner of Police on application to the Supreme Court. It is not as if these special powers given to police will be applied in every situation and in every walk of life; they can only be

applied in those areas within which a Supreme Court order has enabled them to be used.

If you look at page 24 of the explanatory memorandum to the bill, which describes some of the aspects of these special police powers, you see it says:

Section 21O empowers a police force member to request a person —

who the member believes is named or described in an authorisation (or in the company of such a person);

who is in a vehicle described in an authorisation; or

who is in an area specified in an authorisation —

to disclose their identity and provide proof of identity.

...

Section 21P empowers a member of the police force to stop and search a person, without warrant, including anything in the possession and control of the person (such as bags or luggage carried by the person) if —

and there are certain conditions described as to when those particular powers can be applied.

There is an issue — perhaps the only issue on this bill that has been raised with me by constituents — in regard to personal searches. I draw the attention of the house, readers of this debate and my constituents who have expressed concern about this matter to clause 6 of this bill. What clause 6 does is insert a new schedule into the act. Proposed new schedule 1 on page 107 of the bill is entitled ‘Conduct of personal searches under part 3A’. The schedule describes fairly extensively how, in what circumstances and under what conditions a personal search can be conducted. I draw the attention of those who have concerns about this matter in particular to clause 5 of the schedule, which is entitled ‘Preservation of privacy and dignity during search’, where there are quite a number of points that address that issue and, to my mind, ensure that a search, as far as is reasonably possible, will protect a person’s privacy and dignity. I also draw attention to clause 6 of the schedule, which contains the rules for the conduct of strip-searches. Again spelt out fairly explicitly are the conditions under which a strip-search can take place. Finally I draw attention to clause 7 of the schedule, which prohibits strip-searches of children under 10 years. It is important that that is clarified as well.

I understand the concerns expressed by some people about children between the ages of 10 and 18 having to undergo a strip-search. I understand the amendments agreed to in the Assembly debate attempted to address some of the concerns, but I dare say people will still be

concerned about that particular power. You have to look back at the way and the circumstances in which these powers will be applied and put some trust in Victoria Police to act in a responsible way, and I am sure its members will. On balance we have to accept something which not all people in our communities will accept, but we in The Nationals are prepared to support it in the greater interest of community safety.

The bill will also make some amendments in relation to covert search warrants, and I am not going to go into them in any detail except to say that I think those measures are reasonable given that we could be dealing with an act of terrorism or a potential act of terrorism in this particular instance. It is a big bill for a small number of amendments. There are three principles in the bill, which I have spoken about briefly, and we are prepared to support them in the circumstances.

I want to make a couple of closing comments. I note some people have described this bill as a leap-of-faith or trust-me piece of legislation. I say to that: now we live in a world where trust and faith are terms regarded with less reverence than they once were. I suspect we have all in part contributed to those value changes in trust and faith, and collectively we will pay for those changes. To my mind this legislation is at best a short-term, stop-gap measure. I do not know the long-term solution to all of this; I do not know if anybody knows the long-term solution, but I suspect the only solution we are ever likely to find rests within our collective hearts and minds and not within our egos. This whole issue has been driven by a lot of egos all around the world, in all the different communities, and it has driven us to the sad point where we are today: enacting legislation to address potential threats of terrorism. That is the situation we have today, and it is necessary that we take these measures. I do not take them lightly, nor do my colleagues in The Nationals.

Ms MIKAKOS (Jika Jika) — I am very pleased to be able to speak on this bill. The context of this, as members would be aware, is that at a special meeting of the Council of Australian Governments (COAG) in September 2005 the introduction of nationwide counter-terrorism initiatives were agreed to. The Bracks government has been keen to cooperate with the other Australian governments to ensure that there is a coordinated national approach to the issue of counter-terrorism.

That cooperation has been tempered with caution at the introduction of such wide-ranging legislation. I am very pleased that the Victorian government has played a leading role, with the support of other jurisdictions, in ensuring that there will be strict judicial oversight and

control of these new powers. I am very pleased that the Victorian government has, for example, been able to temper some of the more extreme proposals that were initially mooted by the federal Attorney-General, such as the shoot-to-kill provisions.

The COAG agreement also contained a sunset clause of 10 years — and the need for a sunset provision was very much supported by Victoria — and also an automatic review after five years which would enable parliaments around Australia to ascertain whether these types of powers are still required.

Other members have already acknowledged that these community protection measures are in response to the increased threat to the Australian community from terrorism. It is important to acknowledge that this threat is a real one and that the people of London, New York, Madrid and Bali know that this is a very real threat that exists in today's world. We have even had Australians recently convicted of terrorist-related offences. Government representatives who attended the COAG meeting were briefed by security agencies about the potential for terrorist acts in Australia. That information was sufficient to convince all the jurisdictions that these measures were required to protect the community.

The object of the bill is to forestall and prevent terrorist attacks from taking place, to preserve evidence related to a terrorist attack and to provide police with the necessary stop, search and seize powers. Whilst the bill was initially introduced in the spring sitting of Parliament last year, the government recognised that there would be considerable interest in the community to have an opportunity to raise serious issues about this legislation and agreed to lay over the bill until this year. At the time the bill was introduced the Premier indicated the government would consider the Senate inquiry report into the federal legislation and also any issues that arose out of the community consultation process.

As a result of that opportunity the Bracks government introduced house amendments in the other house that reflect the feedback of Victorians and also the examination that has been conducted of legislation introduced in the other jurisdictions. Whilst I do not wish to dwell on the house amendments in any great detail, I note that the amendments relate in large part to concerns regarding preventative detention orders, with particular reference to minors, and that there is provision for strict guidelines and oversight of these extraordinary powers as a way of addressing community concern about these issues.

There is no doubt in my mind that this legislation is draconian in nature. It allows for detention of a person without criminal charges having been laid, and I would not support such measures without very good reason and without adequate safeguards. I believe the legislation seeks to achieve an appropriate balance between protection for civil liberties and protection of our community.

For preventative detention orders the Bracks government has instituted a rigorous oversight process with application required to be made to the Supreme Court for such an order and also the court has the ability to vary and revoke such orders. A detained person is also able to seek judicial review at any time. A person may be detained under the terms of the bill under a preventative detention order for a period of up to 14 days if authorities believe a terrorist attack is imminent — that is, expected to occur in the next 14 days — or when a terrorist attack has been committed in the previous 28 days and evidence needs to be preserved. If a young person aged between 16 and 18 years is detained under such an order, the house amendments now provide that they must be remanded to an appropriate juvenile detention facility, unless the Supreme Court is satisfied that there is sufficient reason for that person to be detained elsewhere.

Both federal and state legislation provide that a detained person must be treated with humanity and respect for human dignity. In addition those detained must be given access to a lawyer and an interpreter if required. If the events in Guantanamo Bay and Abu Ghraib in Iraq are any indication, it is very important that we have these types of protection in place in this legislation.

In addition a person under preventative detention order may not be questioned except to confirm their identity. They may also be subject to a prohibited contact order so that they are not able to have contact with a specified person on the basis that that contact could constitute a further security risk. The bill does not prevent a detained person from contacting and seeking legal representation, nor does it prevent them from complaining to the ombudsman. They will also have the right to seek compensation if they are wrongly detained and they will also be able to contact parents or family members to advise that they are safe.

The bill also contains a number of new stop, search and seize powers to allow police to exercise special powers in the event of a terrorist threat. These powers may be authorised with respect to a person or persons identified by name or description, a vehicle or vehicles identified by description or a specific geographic area. These

powers will enable police to cordon off areas, to search people and vehicles, to demand identification, to seize things connected with a terrorist attack and to direct people to leave an area.

An authorisation must be made by an order of the Supreme Court, but in addition an interim authorisation is able to be made by the Chief Commissioner of Police provided that it is subsequently approved by the Supreme Court within a 24-hour period. These particular measures are important for the Commonwealth Games and will add significantly to the Victoria Police's ability to protect all those individuals who will be attending the games. I note that in response to community concerns an amendment was introduced in the other house that relates to strip-searching of children aged between 10 and 18 years. The amendment will ensure that the requirement for a parent or guardian to be present is followed and will only be waived in urgent or serious circumstances. In addition the officer responsible for the search must, wherever possible, be of the same gender as the minor being searched, which is consistent with current police protocols in relation to the searching of minors.

The bill also extends the powers of police to obtain covert search warrants, which have been in place in Victoria since 2003, to prevent an attack in the planning phase when the target is unknown rather than when an attack is imminent.

It would be easy for the Bracks government to overreact to the current international and domestic circumstances and go in for the hyperbole and cultural stereotypes that have now become sadly all too familiar on Sydney talkback radio. Instead, in consultation with the commonwealth and other Australian jurisdictions, the Victorian government agreed at a Council of Australian Governments meeting to formulate legislation that would provide an appropriate balance between a free and open society and one that could respond adequately to the threat posed to all its citizens.

I am pleased that Victoria is a tolerant and multicultural community. I do not believe that multiculturalism is in any way mushy. It is about providing an inclusive society that welcomes the contributions of all Australians, regardless of their backgrounds. This leads to a stronger and more robust democracy, with rights and freedoms, including the freedom to follow a religion or not to profess a religion, the freedom to protest and the freedom of speech. That is why I am extremely concerned about the commonwealth government's sedition laws, which I believe are contrary to our democratic tradition. The Bracks government has ensured that that democratic tradition is

not compromised by this legislation. The powers will only be used in the direst of circumstances when a terrorist attack is imminent or has been committed. I hope that this bill never needs to be used, but if it is used, we as legislators need to ensure that the powers in this legislation are only able to be used in exceptional circumstances and not as an instrument for the oppression of minorities or dissenters.

The Bracks government maintains an open and honest dialogue with the community and with various religious leaders. That is something I also welcome. We recognise that the surest way to beat terrorism is not just through the law but through the things that have made our society the success it is today — a welcoming, multicultural, egalitarian and open society that provides opportunity for all its citizens. The charter of rights and responsibilities the Bracks government has flagged it intends to implement in Victoria is another example of its commitment to protecting the rights of all Victorians. The charter's implementation will provide additional assurances that the new antiterrorism laws are consistent with our international obligations. It is reassuring that measures such as judicial oversight and the charter of rights and responsibilities will be in place to ensure that the powers contained in this bill are not misused.

This legislation is just one way the Bracks government is combating terrorism. Since September 11 it has committed over \$150 million to upgrade Victoria's counter-terrorism capabilities and arrangements. We have invested in equipment and training, including additional surveillance and intelligence equipment, enhanced laboratory facilities and specialist forensic equipment. We have also funded specialist antiterrorist groups in Victoria Police, such as the security intelligence group and the counter-terrorism coordination group. However, our greatest defence against terrorism is our resilience and the robust nature of our society. When necessary we can make the hard decisions to protect the things we love, which include our freedoms and way of life. It is with a very heavy heart that I support this bill.

Hon. B. N. ATKINSON (Koonung) — I am troubled by this legislation, and I guess a number of members are also troubled by this type of legislation, because it takes us in a direction alien to what we have regarded as hallmarks of our society in Australia — democratic freedoms and the rights of individuals at law. There are some very disturbing aspects of this legislation and similar legislation to do with terrorism that has been introduced in recent times. I will support the legislation, as my party is doing. Were I to vote individually on it I would probably reluctantly support

it of my own volition as well, because it is a case of being sure rather than sorry. However, I share some of the concern — a sentiment implied in previous speeches, particularly that of the Honourable Peter Hall — about a significant shift in the way we are approaching this issue of terrorism and issues of law in the community as a result of horrific incidents that have involved Australians and Australia.

As has been indicated, Australians perished in New York and Bali, and we were obviously affected by the London Underground bombings. We had an act of terrorism on our own shores some years ago during a conference at a hotel in Sydney. We have been touched by and understand the insanity of terrorism. We understand that it does not obey the normal, conventional rules of engagement with the community, with governments or even with peoples. There has therefore been a need to address that in legislation that sadly reflects a significant change in the way we have traditionally run our legal system.

For certain people this legislation takes away the presumption of innocence and some of the legal rights they would have in any other circumstance where they were accused of a crime. In the case of this legislation, persons may not necessarily be accused of a crime; there may be only a reasonable belief that someone may be about to commit a crime. I have some real concerns about that, and the Honourable Chris Strong has spoken about a balance, but the bill has the support, if reluctant support, of all of us. Perhaps some are enthusiastic about it, but I think most would be reluctant about it.

With this legislation passing all of us are hoping that it passes with a recognition by those people who are to use these laws that there is clearly a need for balance. There is clearly a strong shift of responsibility to them to get it right and not to unnecessarily infringe on people who might well be vulnerable, people who might well be isolated in the community or have been singled out by somebody as capable of attacking the community and the ideals we stand for but who is in fact not really a person who has any intention of committing a crime.

The legislation tests people's consciences and ethics if they are to look at these issues in detail and are to assess some of the issues and standards and the rights and responsibilities that we enjoy as Australians. I understand that this is effectively template legislation that has been agreed between the states and the federal government, and I understand the context in which it has been considered necessary to embark on this course of action.

We obviously live in a world without borders these days. We live in a world where technology not only can be invoked for the good of humanity but is also a marvellous tool if one wants to wreak havoc upon other citizens anywhere in the world. Indeed the Internet can be used for the recruitment of people for all sorts of inane and insane causes. It can be used for engagement and for developing their interests in particular issues and even to direct them to carry out various activities.

In many cases we are not talking necessarily about a threat from people who might come from somewhere else, it could well be a threat from within. Terrorism has certainly touched Australia and Australians. It is sad that this legislation has to be introduced and we cannot simply ignore the threat of terrorism. I certainly hope that as a society and as a legal system we give careful consideration to what this legislation does, that we recognise that it is unusual legislation to deal with unusual circumstances and ought not be seen in any way as a benchmark or any position that is likely to see an erosion in other areas of people's rights in the law. We need to recognise that civil liberties in this country are something that people have fought and died for, and civil liberties in this country are very important to all of us.

It is one of the reasons the freedoms that people enjoy in Australia have brought so many people from other countries to Australia as immigrants to build new lives. Many of those people would be alarmed at some of the tenets of the legislation because they would recognise that over many years provisions of this nature have been used in their home countries to persecute, hunt down and destroy many of the people of their nations. They need to be assured that Australia is certainly not going down that road. Australia recognises that this legislation has only been created to deal with extreme acts against the community by people who really do not understand reason, people whose engagement is not a conventional engagement and whose actions are often an attack on innocent individuals who have absolutely no interest in or opportunity to influence the outcome of some of the issues that apparently propel these people to these criminal acts.

Vigilance is important in our community, and I trust that this legislation will ensure that there is vigilance — vigilance by the community to ensure that we have a safe community and vigilance by the people who are empowered by the legislation to undertake investigations and to protect our community that they do not unnecessarily infringe on people's rights and civil liberties.

We need to ensure that we do not, through this sort of legislation, in future arrive at a position where we are creating further divisions and distrust in the community, because the outcome we all should be going for is a far more cohesive community. I believe in many cases Australia has had some terrific achievements in creating a caring and cohesive community. It is important to me that that is not lost because of some very hawkish attitudes and people wishing to extend some of the legal opportunities to deal with crime using terrorism as an excuse for doing so.

This is important legislation, legislation that I will watch very carefully as it proceeds into use within the community. I will be keen to see that it is used properly and responsibly by those who are charged to carry out the protection of the community using the provisions of the legislation. It is a sad day that we have to come to legislation like this, but I understand why. From my point of view, and no doubt from the point of view of other members, it is one of those issues where it is better to be sure than sorry, when it is better to take a position that ensures innocent people do not lose their lives simply because we failed to recognise the need to deal with people whose behaviour is not conventional and whose motives are often driven by bizarre and unfortunate viewpoints that show no real ethics about who they involve in their battle for their ideals.

Extreme actions no doubt require significant and substantial measures to counter them, and that is what this legislation is. I hope, as the Honourables Peter Hall and Chris Strong said, that we are able to achieve a balance with this legislation going forward.

Mr SCHEFFER (Monash) — I also speak in support of the Terrorism (Community Protection) (Amendment) Bill. Terrorism and counter-terrorism measures have been vigorously debated since the events of September 2001 in the United States of America. Commonwealth and Victorian legislation, developed over the past three years, has generated strong feelings and opinions everywhere, and Monash Province is no exception.

The strength of feeling has been fuelled by community reaction to the horrendous offences in Bali, Jakarta, Madrid, London, Egypt and Israel, for example, and attention has been focused on the perceived vulnerability of people in this country, especially the big cities. The Sydney Olympics and the Melbourne Commonwealth Games are two examples of the kinds of major events where many people think there are grounds for reasonable concern about possible terrorist attacks. Of course, Australia's support of the United States of America and its involvement in Iraq has been

pointed to by many as further reason for concern. Many residents in Monash Province believe this involvement has made Australian cities more of a target and this in turn makes it necessary to set in place laws that protect against such possible attacks.

The community I represent in this place has two opposing views on the legislation. On the one side are those who believe the present powers available to authorities are sufficient to deal with terrorist threats. They believe the Australian and Victorian governments have been panicked into putting through unjustified and dangerous laws that threaten our hard-won rights and liberties. On the other side are those who believe that the threat of a terrorist attack is real and that all reasonable steps must be taken to prevent this happening — even if it means limiting citizens' rights and liberty.

My sense is that more people in Monash Province agree with the second position. This does not mean that their judgment is necessarily correct, but they are entitled to be assured that the government is doing everything it can to protect the community's safety. The government has said very clearly that the security and safety of the community is paramount.

Since the attack on the World Trade Centre in New York in September 2001, terrorism has taken on a new dimension. All of us have wrestled with the question of why this should be so, because terrorism did not begin in September 2001, and the audacity and magnitude of the attack is not in itself an explanation of why so much changed in its aftermath. The fact is that it is becoming more and more difficult to recapture what the world was like before the attack on New York.

In October 2001 the Honourable Justice Michael Kirby gave an address to the Law Council of Australia entitled 'Australian Law after 11 September 2001'. In his address Justice Kirby examines various terrorisms that emerged during the 20th century. The measures taken against terrorists by some governments led to the weakening of human rights and liberal democratic institutions. In other places, such as Italy and Germany, the activities of terrorists failed to undermine these institutions. Justice Kirby asks whether there are any lessons for the law in the way different societies have tackled terrorism. He concludes that the countries that have done best against terrorism are those that have kept their cool, retained a sense of proportion, questioned and addressed the causes, and adhered steadfastly to constitutionalism.

Overall this country has followed these precepts more than some others. The Victorian government is deeply

conscious of the fact that antiterrorism laws give increased powers to law enforcement authorities, and that the debates that surround their passage play out within cultural discourse that can pose serious threats to the cohesive diversity of our multicultural society.

Last September the Victorian government released the policy paper, *Protecting Our Community — Attacking the Causes of Terrorism*. Besides setting out the government's position on legislative matters, law enforcement, emergency services, effective prevention, deterrence, response and recovery, the paper devotes considerable space to the government's continuing commitment to multiculturalism, partnerships with faith leaders, the promotion of democratic principles and community harmony, the strengthening of freedom of expression and debate and freedom against racial or religious vilification. The provisions contained in the present bill are one element in a wide range of measures necessary to deal with the phenomenon of terrorism. But it is critical that all sections of our community subscribe to these laws. The provisions in the law should not be used to feed community fear and suspicion of each other.

To put it plainly, in the public debate surrounding terrorism, Muslims — Australians who are Muslim rather than terrorists — are increasingly and alarmingly becoming 'the issue'. This is outrageous and dangerous. Recent remarks by the Prime Minister and the federal Treasurer that sections of the Australian Muslim population are antagonistic to Australian culture are sending confusing, reckless and dangerous messages that are frightening and isolating people who are Muslim. The statements are nebulous and as insubstantial as they are unsubstantiated. There are no facts, so there are no remedies. In the face of these remarks, what are Muslims supposed to do? When their leaders respond by naming their fear, they are told that they are being too sensitive and they should not try to silence fair comment.

All this does is build a climate of fear and a nebulous sense of terror. This is exactly what we do not want because it polarises the community. That is the death of a liberal democracy and takes us away from Justice Kirby's remarks that the countries that have done best against terrorism are those that have kept their cool, retained a sense of proportion, questioned and addressed the causes, and adhered steadfastly to constitutionalism.

In a recent the lecture at the Australian National University entitled 'Fear and Public Policy', Dr Carmen Lawrence asks how is it possible for people to perpetrate extreme violence on their fellow citizens.

Dr Lawrence looks for answers in the behaviours of ordinary people living ordinary lives in circumstances where intolerance and prejudice are surreptitiously fostered and go unchallenged. She said:

Hitler was only able to construct the awful machine that spawned the Holocaust because of a pre-existing political culture of anti-Semitism on which he could draw to drive the relentless campaign to eradicate European Jewry. His depiction of the Jews as vermin, as dangerous and highly infectious bacilli intent on destroying the fabric of German society both reflected and amplified commonly held fears.

Dr Lawrence went on to say that this and other examples:

should remind us that such prejudicial ideas, such cognitive models, are socially constructed. They are inculcated by families and reinforced by social institutions and broader social conversations amongst our political leaders, in the media and around us. These cognitive models define and form our understanding of the world and motivate our actions. People come to accept them as self-evident truths, especially if they are uncontested. Every time a shock-jock or a politician depicts indigenous Australians as violent drunks or Muslims as hostile to Australian values, and no-one disagrees, these ideas gain credibility.

The measures outlined in the Victorian government's *Protecting Our Community — Attacking the Causes of Terrorism* document are important because they work to counteract the whipping up of fear of 'the other', fear of 'the outsider' that stalks our community. The government's document states that the time has come to take a longer-term view to address the question of what may cause terrorism. It states:

Australia has reached a point where counter-terrorism measures are also likely to impact on the elements that define Australia as a nation and Australians as a people.

This is why the consultative process that the Premier instigated deserves high praise. This enabled greater public input to improve the legislation itself and to facilitate its acceptance in the community. The Scrutiny of Acts and Regulations Committee played a critical role in the process, calling for public comment and conducting hearings on the original bill. The committee raised a number of issues, including the application of search powers and a range of other provisions relating to children, judicial oversight of the revocation of a preventative detention order, the compatibility of the preventative detention provisions within the International Covenant on Civil and Political Rights, entitlement to legal assistance and payment of legal costs to persons subject to a preventative detention order and questioning of detainees. The committee wrote to the Premier setting out its concerns. All these matters have been considered, and a number of them

were provided for in amendments subsequently made to the bill.

This is difficult legislation which gives none of us any joy to have to support, but on balance it should be supported in its amended form because it has been thoroughly questioned through community debate, because it is in proportion to the magnitude and complexity of the problem and because its safeguards sufficiently protect against the arbitrary exercise of power. I commend the bill to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — I am pleased to make a contribution to the Terrorism (Community Protection) (Amendment) Bill, and in doing so I also indicate my support for the bill. Listening to various speakers from both sides of the chamber it is quite interesting to hear some of the concerns about elements of the bill. We have not heard much about the specifics of the bill, although we have heard much about the principles attached to why the bill has been created. We have heard about the belief systems that are shared by many members in this chamber, about why they are grappling with the legislation before us and about how we are going to see it applied in the real world.

While we have heard from various speakers — Mr Scheffer in particular made an impassioned speech, and I understand his beliefs in this area — the reality is that it is the application of the legislation we are here to talk about because that is what the police will be empowered to enforce. This is about ensuring that we get the balance right — we keep hearing the word 'balance' mentioned — and that the police are adequately geared up to enforce the relevant requirements of the bill so that the job of providing protection to the broader community is assured. This is about being assured that incidents like those that occurred on September 11, in Bali, in London, in Madrid and in other locations do not occur in Australia. That is what being a parliamentarian is all about — being respectful to the broader community, both those who elected you and those who did not. It is about being mindful of history — as the previous speaker indicated — and understanding the insidious process of creating anxiety and a climate of tension. We must not embark on a campaign of singling out particular individuals or groups.

Terrorism is often considered to be unseen and unknown. The bill includes the words 'act of terrorism'. What is an act of terrorism? I know there are legislative definitions of the term, but I guarantee that if you go to every person in the chamber and to members of the community and ask them what an act of terrorism is,

you will get a different answer based on their beliefs, on what they have seen and heard, on what they have discussed around the family table or on what they have seen on television. The legislation before the house is right, because its enforcement will enable protection from terrorism.

I recall speaking about a report into Victoria Police and terrorism during statements on reports and papers in September 2005 and raising my concerns about the Terrorism (Community Protection) Act. The 2003–04 report demonstrated that there was very little activity in relation to the number of telephone interception applications made or refused and the number of warrants issued. Everything seemed to be recorded as nil, including the number of premises covertly entered and the number of occasions on which items were seized. I said at the time that it is one thing for legislators to enact legislation and to debate the merits or otherwise of that legislation, but it is no good if we do not apply it in the real world.

I hope following the enactment of this legislation that at some point we are able to say, ‘Yes, we prevented an act of terrorism in this country’, because this is about prevention. The last thing I want to see is that we have the legislative framework in place, the willpower and the capacity to deal with acts of terrorism but that one occurs because we were not able to apply our capacity in the real world. Many members will know that I am pretty pragmatic. I believe you apply what is given to you and achieve outcomes. Hopefully this is a bill which can be acted upon with the outcome being that there will be no terrorism attacks in Victoria.

Turning to the detail of the bill, certain issues have been raised about the power of entry and strip-searches. It is a serious matter to apply to a Supreme Court judge for a preventative detention order. From memory I think that in relation to the special powers there is a requirement for not only the commissioner to make the application — it is not to be delegated — but also that it is to be approved by the Premier of the state. I think they are significant checks and balances that go well beyond any concerns that may be raised in the community.

I also want to talk about strip-searches. It is a topical issue, and I can understand why, particularly in relation to persons under the age of 18 years. Clause 6 is headed ‘New Schedule 1 inserted in Principal Act’ and relates to the conduct of personal searches under part 3A. It is quite prescriptive. Those who have concerns can be assured that the bill is quite specific and, from my experience, goes well beyond provisions found in other pieces of legislation, including drugs legislation. For

example, I remember strip-searching offenders for drugs, but there was nothing as prescriptive regarding detail in that legislation as there is in this and nothing that allowed for the protection of our children as there is in this bill. I understand the concerns of the community, but it is very clear that there is a need for us to protect the broader community without creating the fear and the hysteria that one could create in such a climate.

The bill is an important part of the fight against terrorism. I always ask: who are we fighting? Where are they? They are not in some far-away land as was the case in previous wars when we sent our troops off to fight. Terrorism is not like that, and as the previous speaker indicated, that is one of the problems. Fear and hysteria can often be created because we do not know where or who the terrorists are. Human nature being what it is we often direct our attention towards individuals or groups we see as easy targets to try to understand why we are in such a climate.

Can I say for the record that thankfully the vast majority of Victorians get up every day without any consideration of terrorism. I just hope those who are now being empowered to conduct the appropriate investigations under this bill do so with the rigour and the understanding that they have the full support of this Parliament and the people of Victoria.

Mr VINEY (Chelsea) — Often in this Parliament we debate legislation that is important to all Victorians, and occasionally legislation that is not of enormous significance but tidies up or makes changes to legislation that is going to affect only a very small number of people. But every now and again in this chamber we are confronted with legislation that goes to the heart of some very fundamental principles about how we are to exist as a civil society. When that legislation comes before this chamber it is important to me to make clear the way I intend to vote and the reasons for it. In this instance I will support the legislation before the chamber, but I do so acknowledging that it changes some very fundamental principles that have been the basis of civil society in Australia and established under our system of government and justice over many centuries.

There has been discussion in this chamber in relation to the issue of terrorism, to which this legislation is responding directly. I, along with, I am sure, all members was horrified on the occasion of September 11, 2001, by the terrorist acts in New York. I was in fact watching television at the time and saw it happen live. I was almost unable to go to bed because of what was happening before my eyes. However, I

think we need to put in context that terrorism has existed in humanity for a very long time. One could look at the acts of very early armies many centuries ago in destroying villages and acting very inhumanely. Unquestionably those were acts of terrorism to instil fear into communities that those armies wanted to dominate or overtake. We have been faced with terrorism almost throughout humanity.

It is very important that our reaction to terrorism is balanced and considered. A fundamental objective of terrorism itself, the very reason why terrorism exists, is to cause change in the society under attack and to create fear. We must be very careful that the legislation we pass does not of itself bring about the changes in our society that are in fact the objective of those who are attacking it. Therefore we must be very careful that changes to legislation to protect the rights of individuals at the same time as protecting the safety of our community are not moving towards the objective of the terrorists in the first place — that is, to fundamentally change our society. We must be careful to make sure that our legislation is balanced.

I believe the legislation we have before us is very difficult. It goes against a fundamental principle in our judicial system — that one is innocent until proven guilty and that one ought to be able to expect not to be detained by police or other authorities without having the opportunity to be charged and to defend those charges. Those are fundamental principles that I strongly believe in. This legislation makes some changes to that process. It provides the opportunity for people to be detained without charge for a period of 14 days and for subsequent 14-day periods subject to continuing judicial oversight.

The overriding reason I am prepared to support the legislation is that governments also have an obligation to protect the community, and in the end protection of the community is a prevailing responsibility. However, I must put on record that I believe Australia has become embroiled in an argument on terrorism as a result of some decisions of our national government. Whilst I accept that it is the right and responsibility of the national government to determine how our armed forces might be engaged in international activity, I put on the record again that I did not support the federal government's decision to go to war in Iraq. I believe as a consequence of that decision to join with the United States and Great Britain in that engagement Australia has become a more likely target for international terrorist activity. Therefore, as a Parliament, we have an obligation to consider this matter quite seriously. Irrespective of how we might view the federal government's decision, the reality of an increased

possibility of terrorist attack means that as the Victorian Parliament we must consider those potential consequences. That is what this legislation does.

I am disappointed that in much of the community's consideration and concern on the question of terrorism there has been a tendency to diminish what has been one of the great strengths of our community — that is, multiculturalism. I am disappointed that there has been an attempt to separate out the Islamic community and that that approach has been used in a political way. That is a dangerous development in our national status and ethic. A truly civil society welcomes and encourages people to respect the diversity of a nation. It reaches out for understanding and to provide support. The events at Cronulla showed how quickly these kinds of attacks on minority communities can get out of control. It is very important that leaders of this community from all parties and parliaments work to reach out to people, encourage respect for diversity and celebrate that diversity. Nevertheless, despite all the disappointments I might have about the way this national debate has gone on many occasions, the Victorian Parliament has an absolute obligation to protect the safety of Victorians and Australians when these threats might go beyond our state borders.

The systems of law in this country and in this state have served us well. It is my view that committing an act of terrorism is a criminal offence. Whilst I am not a lawyer, my understanding is that conspiring to commit an act of terrorism is also a criminal offence. If that needs to be strengthened, then I would fully support the strengthening of any legislation about conspiring to commit a criminal offence, particularly in the context of terrorism. But I think we must be careful to go to those fundamental aspects of law — that is, that if someone has conspired to commit a criminal offence they should be detained and charged and the charge should be heard in a court of law. If someone commits a terrorist criminal offence, those things should occur. We should strengthen our existing legal system if it needs to be strengthened.

The concept of preventative detention needed to be introduced because of what we face in this society, but we need to be extremely careful of it. I particularly support the concept of there being sunset clauses and opportunities for this Parliament to revisit these things. I feel more secure in the legislation knowing that it has such rigorous judicial oversight. For those reasons I have decided that I will support the legislation and have put on the record my views and also my concerns about where this could potentially lead us in the longer term.

Hon. R. H. BOWDEN (South Eastern) — This legislation is necessary and timely. I also share the sentiments and concerns that have been expressed by several honourable members about the need to have this legislation in the context of the long and successful democratic and free society that Australia is and is acknowledged to be around the world. But sadly events, particularly the September 11 attack and other regrettable atrocities, make it necessary for this state, other states and our federal government to put in place legislation that in understandable ways is regrettable but necessary. I support the legislation. I also support the genuine comments of concern made by previous speakers about how regrettable it is that we have to bring in legislation that restricts individuals in our community.

This bill is the result of decisions that were made between the Australian states and the commonwealth at a Council of Australian Governments (COAG) meeting in September 2005 and is necessary to implement an approach to the distressing prospect of the potential for terrorist acts in our state and country. There are intelligent and carefully considered safeguards in this legislation. The sunset provisions — a 10-year sunset clause and a 5-year review — are desirable and helpful and will allow the bill to proceed to its implementation phase.

When you consider the World Trade Centre atrocity in the United States of America, the different but equally distressing events in Madrid, the Bali bombings and the London bombings, and when you see and hear, regrettably, the daily bad news from Iraq, you realise that although each of those countries and communities is different from the next the common thread is terrorism and a lack of respect for their fellow man by the terrorists who are carrying out these unforgivable actions. Many in our community believe that we too face those dreadful prospects, and that we need to do everything we can within reason to prevent those things happening here. I hope when this bill is enacted it will play its part in reducing the prospect of those dreadful circumstances coming to our shores.

We are and have always been proud of our democratic rights. Australia is on record as being a successful country that has most successfully implemented the deliberate encouragement of a multicultural community and contributions from those communities. Nowhere in this bill is there any singling out of any component of the Australian or Victorian communities. Individual honourable members may have thoughts about one group or another, but they are not in the bill. The provisions of this bill apply to everybody in the Australian and Victorian communities. There is no

singling out of any community or ethnic group. It is a law that will be binding on everybody. That is only fit and proper, and we expect all our laws to apply in that way.

I also suggest that actions against terrorism and to protect the people of Victoria and Australia have to take into account the international characteristic of terrorism. These days, with the relatively easy access to aircraft and international travel, whether it be by jet aircraft or high-speed shipping, there is a strong international component to terrorism. Whilst some honourable members may have very real and totally sincere reservations about our national approach to the international aspects of fighting terrorism, I think it is necessary that we do so. I know each of us may have our own views, but my view is that we have no choice but to play our part in the international resistance to terrorism. It is a sad reflection on the individuals who are terrorists that they just do not respect human life; they tend to profess a totally alien view of life to the one we hold. We have no choice as a community but to fight these people in legal and, if necessary, in forceful ways to protect our community. I fully support the efforts of our national government, and I fully support the efforts of our state authorities. However, I also respect the sincere beliefs of my other colleagues who have expressed those beliefs in the chamber.

Border protection is a problem for Australia. We are a small nation in numbers, but through our influence and patterns of world engagement we are a significant nation, and we have a long and sparsely populated border. That is a difficulty for quarantine, customs and defence purposes — and I think the defence role blends with the terrorism challenge. We have traditionally looked for threats to our country to come from outside, but the events in London last July were quite different. That was a significant change in the pattern of terrorism, because many of the people involved in the London outrage were domestic UK citizens. We may have people in our great country and in our great state of Victoria who have the awful predisposition of those in the UK who were responsible for the outrage in London last July. We have to strengthen our laws and make provision for the awful prospect that not only may we face international terrorists who come here for their dreadful activities but we may also have home-grown citizens who are willing and ready to unleash their inhumanity on others.

This law deserves full support. This legislation is necessary. It is also a type of legislative approach with which we are not comfortable in our collective minds because it tends to take away some of the precious privileges and freedoms that generations of Australians

have fought and died for around the world. But we are doing this for the common good. We are doing this for the right reasons. We are working with our international friends and allies for the right reasons, and we are trying hard to protect our community.

Hon. E. G. Stoney — Acting President, I draw your attention to the state of the house.

Quorum formed.

Hon. R. H. BOWDEN — Thank you Acting President. I do have about 7 minutes of time left, but I will be briefer than that. One of the things we need to consider as legislators is the need to protect our infrastructure as well as our citizens. I believe that with our huge coastline, the infrastructure around our nation, particularly near the waterfront, is in need of enhanced protection and security. I am pleased that several actions are under way at both the state and national levels to address the need to protect our infrastructure.

There are several ways a country is measured, including its treatment and good governance of its people, but also by how it protects its assets and infrastructure. I believe the judicious use of this legislation will not only protect individuals but will go a long way towards protecting our infrastructure. We need the important facilities that we have at our ports and airports and all of the other vital essential services we have. I am satisfied that the collective result of this bill and the bills in the other states and the commonwealth will be that the citizenry will be better protected than it has been, and that the infrastructure we all depend on will also be better protected. With those words, I support the bill.

Ms HADDEN (Ballarat) — I rise — —

Hon. S. M. Nguyen — Do you support it?

Ms HADDEN — Sit and listen, Mr Nguyen, and you will find out. I rise to speak on this bill, which certainly alarms me greatly. I am not supporting the bill. If certain provisions in it which trample on rights and liberties had been removed, then I would have supported it, but in all the circumstances and on balance I do not support the bill and will not be voting for it.

In adopting that view I am relying heavily on my knowledge and understanding of the law. I also refer members to a report of the Scrutiny of Acts and Regulations Committee, *Alert Digest* No. 1 of 2006, which raises the committee's concerns with just about every area of the Terrorism (Community Protection) (Amendment) Bill. In that report, SARC alerted the Parliament to the fact that the bill trespassed unduly on

rights and freedoms. I commend SARC for being very brave in its report, because it did take a lot of bravery. I commend the members of SARC because they have placed on the record their concerns regarding a trampling of our civil liberties, our human rights and the rights of children.

I will say on the record that I believe this bill breaches the United Nations Convention on the Rights of the Child. I also believe the bill tramples on and contravenes the preventative detention provisions, especially the provisions of the International Covenant on Civil and Political Rights.

I do not know if anyone has really thought about strip-searching a child or detaining a child for up to 14 days. I suppose those members who have had no experience with the law would not understand or have any idea — I am not putting them down but they really would not have any idea — of the process. However, I would not like my 15-year-old daughter to be detained in a facility for up to 14 days. I would not like my 15-year-old daughter to be strip-searched either. I do not know if members have sat down and thought about the impact of a strip-search on a young person. It would be absolutely mind-boggling for that young person. I do not believe they would ever recover from a strip-search by a police officer. Members here would do well to speak to an adult who has been strip-searched by police or in a prison facility to understand the full ramifications, both psychological and emotional, on that adult. They should then try and extrapolate that back to how it would impact on a young person or child. I think such provisions in this bill are over the top. They are out of proportion with the balance that is needed in today's environment of terrorism. I agree there needs to be a balance but there needs to be an appropriate balance.

When we trample on and give away our human rights and when we trample on and give away the rights of the child, they can never be recovered. I do not know if members here have sat down and thought about that. Instead of following their party lines have members honestly and realistically sat down and thought about it? I do not believe they have. I have been listening to the arguments while down in my room preparing my speech. I have been reading and reading and thinking about what I was going to say and I do not think members have sat down and thought about it. There is perhaps one person in this chamber — the Honourable Richard Dalla-Riva — who would understand what a strip-search is. He would understand the psychological and emotional impact on a child. Would any of us like that to happen to any child let alone our own children? The answer is no. Certainly the Premier would not like

it. He has three children who clearly would be impacted upon if they were apprehended on a reasonable suspicion — not a reasonable belief mind you but a reasonable suspicion; a lowering of the standard forever, or at least for the next 10 years. Would the Premier like Nicholas, Amy or Will to be subjected to a strip-search and be detained in a prison facility for a maximum of 14 days? I know what the Premier's response would be — 'No! Someone else's kid but not mine.' I put myself in the shoes of a parent or guardian whose children may well be subjected to this provision and I pray to God that they are not subjected to this horrendous bill. It tramples human rights and it tramples on the rights of the child.

The Premier seems to think he has watered down the full impact of this bill. I have read his letter to SARC. The first one was undated but he apparently sent a second one dated 9 February 2006. I am not satisfied with the Premier's cursory responses to SARC's very serious questions.

Hon. D. McL. Davis — A shocking letter, shameful.

Ms HADDEN — Yes, it is a shameful letter, Mr Davis, I agree. The Premier dismissed the concerns quite glibly. Pages and pages of concerns raised by SARC have been glibly dismissed by the Premier of the state of Victoria. That concerns me greatly. For instance, a person's right to legal assistance. Forget that — it is out the window unless the Attorney-General is going to sink a whole lot of money into Victoria Legal Aid. The Supreme Court might direct that a person be represented by Victoria Legal Aid but then the person sits in prison until Victoria Legal Aid can find the money for that representation — it does not always happen. I am not happy with the Premier's glib response.

A public interest monitor was suggested, as is the situation in Queensland. The Premier dismissed that suggestion and said we do not need it. A highly experienced Supreme Court judge, as of course they are, considers ex parte applications and the Premier says creating a new statutory position such as a public interest monitor is not necessary under the preventative detention order scheme. I would have thought oversight of such a wide-ranging and serious order such as the preventative detention order would be required and that that could not be done through a hearing down the track as the Premier suggests would be satisfactory as far as he is concerned.

Another issue is that the Premier thinks he has done a favour to children in this state by what he says is a

watering down of the full impact of the bill by saying the strip-searching of children is governed by the Victoria Police manual. Has anyone ever read it? Does anyone know what it says? Do you think a child will have access to it before they are stripped? Will the child be told their rights — their rights as told to them by a police officer with a lawyer present whose legal advice will be monitored by the police? Has anyone sat and thought about this? Do members know what it is like to be interviewed by the police? Has anyone sat in with a client — members here would not have because they are not lawyers but I will ask the question on the record — and seen what goes on in an interview? Have members seen a taped record of interview where the suspect is interviewed without anyone present in the room other than two police officers? It is a pretty frightening experience. It is frightening enough for an adult with a long criminal record who has plenty of experience with it, so can you imagine what it would do to a young person or child? It is not good enough, Premier; it is not good enough, Bracks Labor government. I am ashamed of you.

The watering down which the Premier seems to think is great and which I say is not great means a strip-search of a child can only be performed — mind you, this is a child or a mentally impaired person — in the presence of a parent or guardian unless serious or urgent circumstances exist. That criteria is totally at the behest of the police officer. What parent is going to agree to stand there and watch their child be strip-searched? I would not. Would anyone in this chamber be prepared to put their hand up to that? I bet they would not. This is all nonsense. There is no protection for children in this state. Quite simply children should not be strip-searched. That part of the bill should never have been included.

Another aspect of the bill which is absolutely frightening is the segregation of a child from other inmates. The Premier said in his letter that they will not be isolated but what does that mean? Does he know what a facility looks like? Isolated or segregated — same thing. The Premier says they will still be entitled to contact with family or other persons the court allows. You do not just knock on the door of a detention facility and say you want to go in. Has anyone ever tried to do that at Malmsbury? I suggest people try it and see how far they get.

I believe the bill is totally incompatible with the United Nations Convention on the Rights of the Child. It is totally incompatible with the International Covenant on Civil and Political Rights. Nothing I have heard in this chamber has convinced me otherwise.

The Law Institute of Victoria delivered a paper to the government on 23 January this year. It was a submission from the administrative law and human rights section of the law institute. The submission runs for many pages and the institute raised quite a number of concerns. The Law Institute of Victoria's position was that this bill and its proposed counter-terrorism measures are not warranted based on the current criminal law and existing counter-terrorism laws, which have been significantly expanded since 2001.

The institute also said that it believed the bill proposed an undue trespass on fundamental rights and freedoms and that persons not charged with or found guilty of a criminal offence should not be subjected to imprisonment without trial or to restrictions on their liberty. It went further to say that the incremental expansion of powers under various recently enacted security and counter-terrorism laws have granted powers to the executive that go beyond what is required to prevent or protect the community from a terrorist attack. It gave as an example the terrorist arrests made in Melbourne and Sydney in late 2005 to demonstrate the adequacy of the existing criminal law and bring into question the need for new extensive questioning and detention powers under the Australian Security Intelligence Organisation Act 1979.

The institute also raised a number of other issues in relation to the preventative detention legislation. It said the detention must not go beyond 24 hours, but the bill provides for a maximum of 14 days. Even the federal legislation does not say that; it says 48 hours. Certainly this bill goes way beyond what was acceptable to the federal government at the Council of Australian Governments meeting.

The bill tramples on our rights. It presumes that people are guilty rather than innocent, and that is not our law. There have been many articles in the *Age* in relation to the horror of the strip-searching of children in particular. The newspaper reports the consternation of the newly appointed child safety commissioner, Mr Bernie Geary. In the *Age* of 3 February he is reported as rapping the strip-search plan and making a public criticism of the Bracks Labor government. He is quoted as saying he has great concerns about police officers being allowed to strip-search children between the ages of 10 and 18 without parental consent and that in relation to the strip-searching of children the legislation is unacceptable. He is reported as questioning whether the right balance between children's rights and the need to allow police to operate effectively during a possible terrorism situation has been struck. I agree with Mr Geary wholeheartedly.

There are many other articles setting out people's absolute horror that the government would go this far.

In summary — I have 40 seconds left — this bill is a trade-off against our human rights and the rights of the child. As I said, once your rights have gone you do not get them back. It is very sad that this bill goes as far as it does, because it is not an appropriate balance to strike. It is out of proportion. It goes way beyond 'being alert and not alarmed', and in all the circumstances I do not support the bill.

The ACTING PRESIDENT (Mr Smith) — Order! The question is:

That the bill be now read a second time.

Those of that opinion say aye, against no.

Honourable members — Aye.

Ms Hadden — No.

The ACTING PRESIDENT (Mr Smith) — Order! I think the ayes have it.

Ms Hadden — No. I call for a division.

The ACTING PRESIDENT (Mr Smith) — Order! Does the member want her dissent recorded or does she want a division called?

Ms Hadden — I want a division.

The ACTING PRESIDENT (Mr Smith) — Order! A division is required. Ring the bells.

Bells rung.

House divided on question:

Ayes, 37

Argondizzo, Ms	McQuilten, Mr
Atkinson, Mr (<i>Teller</i>)	Madden, Mr
Baxter, Mr	Mikakos, Ms
Bowden, Mr	Mitchell, Mr (<i>Teller</i>)
Brideson, Mr	Nguyen, Mr
Broad, Ms	Olexander, Mr
Buckingham, Mrs	Pullen, Mr
Carbines, Ms	Rich-Phillips, Mr
Coote, Mrs	Romanes, Ms
Dalla-Riva, Mr	Scheffer, Mr
Darveniza, Ms	Smith, Mr
Davis, Mr D. McL.	Somyurek, Mr
Davis, Mr P. R.	Stoney, Mr
Drum, Mr	Strong, Mr
Eren, Mr	Theophanous, Mr
Hirsh, Ms	Thomson, Ms
Jennings, Mr	Viney, Mr
Lenders, Mr	Vogels, Mr
Lovell, Ms	

Noes, 1

Hadden, Ms (*Teller*)
(*Usher of the Black Rod appointed as second teller*)

Question agreed to.

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

Third reading

The PRESIDENT — Order! As I am of the opinion that the third reading of this bill requires to be passed by an absolute majority, I ask those members who are in favour of the question to stand where they are.

Required number of members having risen:

The PRESIDENT — Order! An absolute majority is present. Does Ms Hadden want her dissent recorded?

Ms HADDEN (Ballarat) — I want my dissent to be recorded.

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Sex offenders: register

Hon. RICHARD DALLA-RIVA (East Yarra) — My adjournment query is for the Minister for Corrections in the other place. I am addressing him in his capacity as the Minister for Corrections, although he may wish to assume his other hat as the Minister for Police and Emergency Services, which I will explain in my contribution to the debate.

The matter I raise relates to a particular individual whom I will not name in this house whose 15-year-old daughter was subjected to sexual abuse. The person who committed the offences was convicted on 12 July 2005 of 10 counts of sexual penetration and attempted sexual penetration of a child under his care, supervision or authority. We know the requirements because this house has debated the Sex Offenders Registration Act. I am reliably informed that as a result of that conviction the magistrate sentenced the offender to nine months

jail, wholly suspended for two years, and ordered that he be placed on the sex offenders register. I support this register and believe it is an important tool, but like most registers that are new in our system it has created an enormous amount of angst and confusion, for the victim's mother in particular, and in the processes that are followed. That is why I am raising the matter with the Minister for Corrections. Under one of his portfolios he may be able to provide some clarification.

It was put to me by the victim's mother that the person had an obligation to put himself on the sex offenders register. I raised that obligation as a concern when the bill was debated. It appears that the offender has not done that since his conviction. The victim's mother initially tried to go through Corrections Victoria, which told her the matter was not its responsibility. The matter then went through to Victoria Police, and the acting senior sergeant dealing with the sex offenders register emailed the victim's mother with details. I am concerned about how the legislation is impacting on victims, and in particular why we have a system that allows people who have been convicted of such serious crimes to be not listed on the register. I understand this person has now moved interstate.

I ask the minister to provide clarification of the sex offenders registration processes engaged in by Corrections Victoria and Victoria Police.

Geelong Camera Club: public site access

Ms CARBINES (Geelong) — I wish to raise a matter with the Attorney-General in another place, the Honourable Rob Hulls. It is about an incident that has caused concern to members of the Geelong Camera Club and professional photographers and has gained considerable attention in both the local and state media. Following a photo shoot at the Shell oil refinery in December, members of the Geelong Camera Club were surprised to receive visits to their homes from police officers. I quote from the *Age* of 18 January:

The problem came to a head last month when award-winning club stalwart Hans Kawitzki was photographing a cluster of spherical gas storage cylinders attached to the Shell oil refinery. In the golden light of sunset they looked like giant oranges, and he recorded the scene on public land from outside the fence.

'I took about 15 shots from different positions, but the next thing a security guard arrived and demanded to know what I was doing. I told him I was taking photos for a club competition. He told me to stop and said he would record my numberplate.

'About an hour or so later, at home, two police came to my door. They told me to stay away from industrial things and to

let the camera club members know they were to stay away from sensitive areas'.

One of my constituents, Mr Sandy Gray, who is a professional photographer, contacted me to express his concern about what he considers to be an infringement on his right to work in his profession and to conduct his business. Mr Gray has asked me to pursue this matter not only on his behalf but on behalf of all photographers, amateur and professional.

In light of what has happened to people taking photos of the Shell refinery in Geelong, I ask the Attorney-General to clarify the law in relation to photography at public sites in Victoria.

Orchards: storm damage

Hon. W. A. LOVELL (North Eastern) — I raise a matter for the attention of the Minister for Agriculture in the other place regarding financial assistance for primary producers who are the victims of natural disasters. The Bracks government recently announced financial assistance to the farmers who were the victims of the January bushfires. I point out that I agree that those fires were a tragedy, and I welcome the government's announcement of this assistance. However, I cannot help but draw a comparison with the losses suffered by those farmers and the losses suffered by orchardists in the Goulburn Valley who were adversely affected by hail in December 2005.

At the time of the hail damage the minister refused to offer any assistance to the orchardists based on the logic that hail was an insurable event, yet the issue of an insurable event was not mentioned when assistance was made available to the bushfire victims. Both bushfires and hail storms are natural disasters and both are insurable events. The difference between the two is the cost and availability of insurance. Fire insurance is relatively cheap and easily obtained, but in contrast hail insurance is cost prohibitive and is only available through two suppliers.

I recently received correspondence from Mr Morrie Sulejman, who has had 26 years experience as an insurance agent in the Goulburn Valley. Mr Sulejman has advised me that the average cost of insurance against hail damage is approximately \$6500 per \$100 000 sum insured. By contrast, the cost of insuring against fire damage to buildings, excluding homes but including fencing, livestock, hay and machinery, is approximately \$450 per \$100 000 insured — only 7 per cent of the cost of insuring against hail damage.

Mr Sulejman has also advised me of further restrictions that contribute to making hail insurance cost prohibitive

including policy excess, which generally ranges from 10 per cent to 20 per cent of the claim. Hail insurance for a small orchard of 8 hectares would require approximately \$200 000 of cover, the cost of which, based on \$6500 per \$100 000, would be \$13 000 for the premium and \$20 000 for the excess if the lower, 10 per cent excess had been negotiated. This would equal a cost of \$33 000 for the \$200 000 sum insured. The cost of insuring an average-sized orchard of 20 to 24 hectares would be almost three times this figure.

All Victorians should be treated equitably. While the Goulburn Valley has been fortunate enough to avoid major destruction by bushfire, it does face other natural disasters such as the recent hail storm.

The action I seek is for the minister to treat orchardists in the Goulburn Valley with the same compassion shown to farmers who were adversely affected by the bushfires by providing financial assistance to those orchardists to assist them in overcoming this natural disaster.

Rail: Box Hill crossing

Hon. B. N. ATKINSON (Koonung) — I wish to raise a matter with the Minister for Transport in another place concerning the Middleborough Road railway crossing which was subject to a government promise during the 2002 election to the effect that there would be grade separation achieved at that road. Interestingly enough that promise followed an election commitment by the Liberals on that occasion that we would create grade separation at the Springvale Road railway crossing, which was certainly a much more significant project in terms of impact on traffic and public transport movement in the city of Whitehorse. The government came up with a knee-jerk reaction to the effect that it would underground Middleborough Road, which is a poor solution to traffic issues and does very little in the advancement of public transport.

As I understand it, local gossip suggests that the government intends to create a railway cutting that would allow the railway line to pass under Middleborough Road, the cost of which would be more than \$55 million. It would certainly involve the rebuilding of the Laburnum station which already has the distinction of being the tallest station in metropolitan area because it is built on stilts. I note that this was an election policy, but there has been no start on the project and a limited amount of information has been available to local residents. I will not be surprised if the same Middleborough Road railway crossing is trotted out again very soon as another election year announcement so that you get two elections for one

promise. I am sure that is good economy for the government but not particularly good for the community.

I ask that the minister look at the opportunity to conduct a comprehensive study of undergrounding the railway from Box Hill to Heatherdale or Ringwood railway stations. If he has already started on the Laburnum solution — and undergrounding seems to be the solution for Laburnum — then it would make sense to try to achieve better efficiency in the public transport system as well as fixing road congestion in the city of Whitehorse if it were to continue that cutting through the other key areas of Blackburn Road, Springvale Road, Rooks Road and Mitcham Road in particular. I ask the minister to undertake a study to that effect.

Responses

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Richard Dalla-Riva raised the matter of a sex offenders register. I will refer that to the Minister for Corrections in the other place.

Ms Carbines raised the matter of the Geelong Camera Club and photographing of public sites. I will refer that matter to the Attorney-General in the other place.

The Honourable Wendy Lovell raised a matter of natural disasters and assistance for primary producers. I will refer that to the Minister for Agriculture in the other place.

The Honourable Bruce Atkinson raised the matter of the Middleborough Road rail crossing and other associated matters. I will refer that to the Minister for Transport in the other place.

Motion agreed to.

House adjourned 5.31 p.m.

