PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Thursday, 20 July 2006

(Extract from book 9)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AC

The ministry

Premier and Minister for Multicultural Affairs	The Hon. S. P. Bracks, MP
Deputy Premier, Minister for Environment, Minister for Water and Minister for Victorian Communities	The Hon. J. W. Thwaites, MP
Minister for Finance, Minister for Major Projects and Minister for WorkCover and the TAC	The Hon. J. Lenders, MLC
Minister for Education Services and Minister for Employment and Youth Affairs	The Hon. J. M. Allan, MP
Minister for Transport	The Hon. P. Batchelor, MP
Minister for Local Government and Minister for Housing	The Hon. C. C. Broad, MLC
Treasurer, Minister for Innovation and Minister for State and Regional Development	The Hon. J. M. Brumby, MP
Minister for Agriculture	The Hon. R. G. Cameron, MP
Minister for the Arts and Minister for Women's Affairs	The Hon. M. E. Delahunty, MP
Minister for Community Services and Minister for Children	The Hon. S. M. Garbutt, MP
Minister for Manufacturing and Export, Minister for Financial Services and Minister for Small Business	The Hon. A. Haermeyer, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. T. J. Holding, MP
Attorney-General, Minister for Industrial Relations and Minister for Planning	The Hon. R. J. Hulls, MP
Minister for Aged Care and Minister for Aboriginal Affairs	The Hon. Gavin Jennings, MLC
Minister for Education and Training	The Hon. L. J. Kosky, MP
Minister for Sport and Recreation and Minister for Commonwealth Games	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Racing, Minister for Tourism and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Health	The Hon. B. J. Pike, MP
Minister for Energy Industries and Resources	The Hon. T. C. Theophanous, MLC
Minister for Consumer Affairs and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	Mr R. W. Wynne, MP

Legislative Council committees

Privileges Committee — The Honourables W. R. Baxter, Andrew Brideson, Helen Buckingham and Bill Forwood, Mr Gavin Jennings, Ms Mikakos, the Honourable R. G. Mitchell and Mr Viney.

Standing Orders Committee — The President, the Honourables B. W. Bishop, Philip Davis and Bill Forwood, Mr Lenders, Ms Romanes and Mr Viney.

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

President: The Hon. M. M. GOULD

Deputy President and Chair of Committees: Ms GLENYYS ROMANES

Temporary Chairs of Committees: The Honourables B. W. Bishop, R. H. Bowden**,** Andrew Brideson, H. E. Buckingham, Ms D. G. Hadden, the Honourable J. G. Hilton, Mr R. F. Smith and the Honourable C. A. Strong

Leader of the Government:
Mr JOHN LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
The Hon. PHILIP DAVIS

Deputy Leader of the Opposition:
The Hon. ANDREA COOTE

Leader of The Nationals:
The Hon. P. R. HALL

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

Member	Province	Party	Member	Province	Party
Argondizzo, Ms Lidia	Templestowe	ALP	Jennings, Mr Gavin Wayne	Melbourne	ALP
Atkinson, Hon. Bruce Norman	Koonung	LP	Koch, Hon. David	Western	LP
Baxter, Hon. William Robert	North Eastern	Nats	Lenders, Mr John	Waverley	ALP
Bishop, Hon. Barry Wilfred	North Western	Nats	Lovell, Hon. Wendy Ann	North Eastern	LP
Bowden, Hon. Ronald Henry	South Eastern	LP	McQuilten, Hon. John Martin	Ballarat	ALP
Brideson, Hon. Andrew Ronald	Waverley	LP	Madden, Hon. Justin Mark	Doutta Galla	ALP
Broad, Ms Candy Celeste	Melbourne North	ALP	Mikakos, Ms Jenny	Jika Jika	ALP
Buckingham, Hon. Helen Elizabeth	Koonung	ALP	Mitchell, Hon. Robert George	Central Highlands	ALP
Carbines, Ms Elaine Cafferty	Geelong	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
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
Davis, Hon. David McLean	East Yarra	LP	Romanes, Ms Glenyys Dorothy	Melbourne	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Scheffer, Mr Johan Emiel	Monash	ALP
Drum, Hon. Damian Kevin	North Western	Nats	Smith, Mr Robert Frederick	Chelsea	ALP
Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys [2]	Ballarat	Ind	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hall, Hon. Peter Ronald	Gippsland	Nats	Thomson, Hon. Marsha Rose	Melbourne North	ALP
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

CONTENTS

THURSDAY, 20 JULY 2006

Thursday, 20 July 2006

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

SUSPENSION OF MEMBER

The PRESIDENT — Order! Mr Forwood is on a 30-minute suspension which has not concluded. As there are 28 minutes to go, he will leave the chamber in accordance with sessional order 31.

Hon. Bill Forwood — President, does it carry over?

The PRESIDENT — It does. For the edification of the house, under sessional order 31(c):

> If a member is ordered to withdraw under paragraph (a) and the sitting concludes before the expiration of the time ordered by the President or Chair of Committees, the member will not take his or her seat in the chamber on the next sitting day until after the remainder of the time has expired, to be calculated from the end of the ringing of the bells;

Hon. Bill Forwood withdrew from chamber.

HEALTH SERVICES (SUPPORTED RESIDENTIAL SERVICES) BILL

Introduction and first reading

Received from Assembly.

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

CHILDREN'S COURT OF VICTORIA

Report 2004–05

Hon. J. M. MADDEN (Minister for Sport and Recreation) presented, by command of the Governor, report for 2004–05.

Laid on table.

STANDING ORDERS COMMITTEE

Review of joint standing orders

Ms ROMANES (Melbourne), on behalf of the President, presented report, including appendices.

Laid on table.

Ordered to be printed.

Ms ROMANES (Melbourne) — I move:

> That the Council take note of the report.

At the outset I wish to pay tribute to the clerks for their drafting skills in putting together the outcomes of the deliberations of not only our own Standing Orders Committee but the joint Standing Orders Committee and to the collaboration between both houses to achieve this historic outcome, which is a major review of the joint standing orders, the first since 1893.

When each of us looks back on our parliamentary terms — and mine started in 1999 — it is an opportunity to reflect on significant milestones. I feel privileged to have witnessed some significant events during the 54th and 55th parliaments. There was the Centenary of Federation celebration in Victoria in 2001, the commemoration of 150 years of the Legislative Council in 2001, a joint sitting to acknowledge Aboriginal people as custodians of the land in 2001, and of course this year we are celebrating 150 years of representative democracy in Victoria.

Changes to the standing orders of the parliamentary chambers of this Parliament are not of the same dimension of importance. However, they are also in their own way significant. The rules of engagement are critical to the smooth operation of our Parliament. It is therefore important to acknowledge when significant change is occurring.

I go back to 2002 when there was a review of the standing orders of the Legislative Council in this place. It was the first major review of the standing orders of the Legislative Council completed since 1924. In that report the Standing Orders Committee of the Legislative Council drew attention to the joint standing orders of the Legislative Council and the Legislative Assembly. Those joint standing orders were first approved in 1893 and subsequently amended in 1904, 1915 and 1993. The Standing Orders Committee of this place recommended that there be a joint inquiry by both houses to review those standing orders.

On 7 June 2006 a joint meeting of the standing orders committees of both houses met to review the joint standing orders and to make recommendations to both houses on a new set of joint standing orders, which we have before us today.

There are a number of recommendations to omit obsolete standing orders and to incorporate long-established sessional orders for clearer language, for correction of references to acts and procedures which will reflect current practice in some instances. The new joint standing orders also consolidate rules for

the establishment of joint parliamentary committees, procedures for joint sittings and presentation of joint addresses, procedures for making or amending joint standing orders and procedures when a referendum on a bill is required under the Constitution Act 1975.

Significantly the meeting of the standing orders committees agreed to put in place joint rules of practice for any future joint sittings of this Parliament. That is timely in light of the changes made to the Constitution Act by this Parliament in the beginning of 2003. Current practice requires detailed rules to be adopted at such joint sittings, including the appointment of a Chair to preside over the joint sitting, a process for conducting ballots, the application of relevant standing orders, a time limit on speeches, and the conduct of divisions and other matters.

The standing orders committees believe it is more efficient and practical to enshrine the general procedures and detailed rules for the above joint sittings in the joint standing orders. This may become increasingly significant because of the amendments which provide for disputed bills procedures whenever there is a deadlock over a bill, and the filling of a casual vacancy in the Legislative Council. It is significant and historic that we have adopted those practices in advance of any joint sittings.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Auditor-General — Report on Making travel safer: Victoria's speed enforcement program, July 2006.

Terrorism (Community Protection) Act 2003 — Report on Powers under the Act for 2005–06 pursuant to sections 13ZR and 21M of the Act.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Minister for Finance) — I move:

That the Council, at its rising, adjourn until Tuesday, 8 August 2006.

Motion agreed to.

MEMBERS STATEMENTS

Our Environment Our Future: renewable energy

Hon. PHILIP DAVIS (Gippsland) — I wish to draw the attention of the house to the creation of a new magic pudding by the Minister for Energy Industries. The government's policy on renewable energy, which was announced this week, apparently, according to the minister, will only cost households $1 per month; it will not cost small business more than a 1 per cent increase in electricity tariffs; and large energy users, including Alcoa, will be exempted. As a result of all that the government claims it will create 2200 new jobs. The reality is vastly different. This policy will significantly impact on all Victorians. It will therefore cost households between $60 and $80 each per year and thousands of jobs will be lost in industry, particularly in the manufacturing sector.

There are no magic puddings. This is a ridiculous sham. It is a disgrace that the minister would speak about this in the Parliament, let alone in the public arena generally, and suggest that with great incredibility this scheme could advance renewable energy in a way that will not impact on the economy of Victoria. The reality is thousands of jobs will be lost.

Our Environment Our Future: renewable energy

Ms CARBINES (Geelong) — I want to congratulate the Minister for Environment in the other place and the Minister for Energy Industries for our $200 million sustainability action statement *Our Environment Our Future*. Released on Monday, this nation-leading package includes 150 priority sustainability initiatives to secure a sustainable Victoria for generations to come.

This initiative contains actions aimed at putting our water and energy consumption on a sustainable basis, protecting our natural environment, reducing waste and combating greenhouse gas emissions that lead to climate change. These actions will save at least 3.5 million tonnes of greenhouse gas emissions per year and dramatically lessen our environmental impact.

Key actions include establishing Australia's first renewable energy target scheme in Victoria whereby electricity retailers will have to buy 10 per cent of their energy from renewable resources; the installation of new smart power meters in every Victorian home; the establishment of a new research centre for climate change; legislation to protect Victoria's 18 heritage

rivers from damming; increased protection for native vegetation; banning the use of free plastic shopping bags by 2009; establishing 12 new waste recovery centres; rebates to upgrade old household appliances to 5-star alternatives; and leading by example with a $14 million package to demonstrate the Bracks government's commitment to sustainability in our own operations.

Every Victorian has a role to play in reducing our environmental impact and the Bracks government's Our Environment Our Future package places Victoria at the forefront of environmental sustainability in our nation.

Government: broken promises

Hon. RICHARD DALLA-RIVA (East Yarra) — I want to continue with information on the www.bracksbrokenpromises.com.au web site because there are not enough hours in the day for this chamber to actually hear the number of broken promises that this government continues to make. I thought I would give it a bit of a rural feel today: I go to broken promise 189 concerning natural gas reticulation. On 12 and 14 November 2002 the government said that Avoca, Smythesdale, Bright, Myrtleford and Beechworth would all benefit from the government's $70 million plan to extend country Victoria's natural gas network. Where is it? Where are they?

I refer to broken promise 183 concerning fencing between Crown and private property. In its *New Solutions* policy document of February 1999, the government said that it would contribute half the cost of constructing or repairing a dividing fence between Crown land and private property which is destroyed or damaged by natural disaster. Where has that gone?

Hon. D. K. Drum interjected.

Hon. RICHARD DALLA-RIVA — Absolutely out the window, Mr Drum, you are correct. I go to other areas. I refer to 225 concerning statewide infrastructure. The government said on page 6 of its *Listens, then Acts* policy in November 2002 that it would, 'Promote statewide economic growth through provision of better infrastructure'. Where is that? It cannot even get the very fast train system going! It cannot even build the Spencer Street railway station without its being full of fumes, having been built atrociously — —

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

Vietnamese community: *Viet Times — Thoi Bao*

Hon. S. M. NGUYEN (Melbourne West) — I rise to talk about the attacks by the *Viet Times — Thoi Bao* Vietnamese newspaper upon the Vietnamese members of my electorate and the way this so-called newspaper has systematically defamed ordinary citizens with its untrue writings.

I continue to receive complaints from Vietnamese constituents who they are named in the *Viet Times — Thoi Bao* newspaper. The same constituents have absolutely no recourse to clear their names other than seeking legal advice. This newspaper not only attacks people, it offers no right of reply. Persons who are named in this newspaper are not contacted for comment. When they do contact the paper, they are not attended to and nor are their democratic concerns addressed.

This newspaper consistently, week in and week out, prints defamatory stories and letters accusing members of the Vietnamese community of seeking to use their positions to obtain financial gain. The paper simply writes its own letters to the editor, some being as long as two pages, to attack and vilify Vietnamese Australians. Such attacks upon not only me but also on many of my constituents have forced many of us to seek independent legal advice in order for us to clear our names.

Mr Huu Hung Nguyen, the so-called editor of this publication, harasses members of the Vietnamese community through his newspaper to such an extent that they feel frightened and victimised. I believe this paper should be investigated by the Australian Press Council for its scurrilous behaviour. The *Viet Times — Thoi Bao* newspaper has diminished the credibility of the way the newspaper was chosen from the many good businesses and organisations — —

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

Kelletts Road, Rowville: safety

Hon. B. N. ATKINSON (Koonung) — I wish to raise in the house my concern and the concern of Nick Wakeling, the Liberal candidate for Ferntree Gully, about a duplication project proposed for Kelletts Road in Rowville. The concern I have — and it has also been expressed to Mr Wakeling — has come from the Waterford Valley Retirement Village residents who are concerned about the removal of the residents' current right to turn right out of their retirement home. The plans at this stage provide that residents will be required

to turn left and then conduct a U-turn further down Kelletts Road at St Lawrence Way. This is not an adequate option for Waterford Valley Retirement Village residents, which is quite a large retirement home.

I also note there is some concern in the local area about the failure of VicRoads to consider traffic lights at the intersections of either Wyandra Way or Karoo Road. Whilst it is appreciated by residents in the area that traffic lights cannot be installed at all intersections, both these roads are important exit points for the many residents residing in the estate. I hope the government and the Minister for Transport in the other place will reconsider the plans for Kelletts Road and come up with a better plan.

Election: Maffra candidates forum

Mr VINEY (Chelsea) — Last Wednesday, 12 July, I had the pleasure of attending a 'Meet the candidates' forum in Maffra organised by the Maffra District Community Group. There were over 100 attendees at the meeting, and it would be fair to say it was old-style politics, where the candidates for various lower house and upper house seats in that region had the opportunity of meeting and presenting to 100-odd members of the community and taking questions on a range of issues such as water, retaining young people in provincial communities and the development needs of smaller towns in Gippsland like Maffra.

I was pleased to be there with my parliamentary colleagues Mr Scheffer and the Honourable Peter Hall, and the member for Gippsland East in the other place, Craig Ingram, as well as political party candidates Edward O'Donohue, Susie Manson and Chris Nixon. It was a particularly enjoyable evening, and one that I and all the candidates found very rewarding. I congratulate the organiser, the Maffra District Community Group, and in particular Fairlie Kermode and the chairperson, John Duncan.

Tivendale Road–Princes Highway, Officer: traffic lights

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I commend the federal government for its announcement that it will fund traffic lights at Tivendale Road in Officer — a state responsibility which has been ignored by the Bracks government for six years. Tammy Lobato, the member for Gembrook in the other place, failed to attract state funding for this important project and told local residents to get a developer to fund the lights. I was amazed therefore to see a letter in the local paper from Tammy Lobato claiming that although the federal government provided 100 per cent of the funding, she and her government are permitting VicRoads to carry out the works, and therefore she is entitled to joint credit for the project.

In her letter Tammy Lobato goes on to describe residents of Officer who do not share her view as 'ungracious', 'ill-mannered', 'angry' and 'petulant'. Such words are far more applicable to the member herself, as evidenced by Ms Lobato's recent and widely reported petulant performance at the Berwick Lodge Primary School where, in the words of the principal, Ms Lobato angrily confronted a classroom teacher in front of a room of shocked 8-year-olds and 9-year-olds. If Tammy Lobato has such a low opinion of her constituents — —

Hon. T. C. Theophanous — On a point of order, President, I draw your attention to the standing orders and longstanding rules of this house that if there is going to be a substantive attack on the actions or credibility of a member of Parliament, whether they be in this house or another place, then, according to the rules of the house, it has to be done by substantive motion. I have been listening to the comments being made by the honourable member, and they are objectionable and go to the credibility of a member in another place. If the member opposite wishes to make that kind of statement, he knows that the forms of the house require him to move a substantive motion so it can be debated.

Hon. G. K. RICH-PHILLIPS — On the point of order, President, I have not made any allegation against the member, I have merely reported the comments of a school principal. I have made no allegation myself.

The PRESIDENT — Order! Mr Rich-Phillips is correct in saying that he did not make a reflection on the member; however, members cannot use a third person to do so. Mr Rich-Phillips referred to a quote of a principal about a member in the other place. Members cannot get around reflecting on another member by using the words or the comments of a third person about that member. The minister's point of order is upheld in part. I note that it was not Mr Rich-Phillips who said it, but members cannot use someone else's words, even those reported in a newspaper, to reflect on a member in the other place. I make that ruling. I ask the member to continue and to be conscious of that ruling.

Hon. G. K. RICH-PHILLIPS — If Ms Lobato has such a low opinion of her constituents that just four months before an election she calls them ill-mannered and petulant, I can only wonder — —

Hon. T. C. Theophanous — On a point of order, President, the member is showing no cognisance of your ruling. Not only is he quoting the source you mentioned but he is doing it in a way where he is attacking the member. He is using words like Ms Lobato being petulant and so forth. They are a direct attack on a member in another place. I call on you, President, to sit the member down because he is continuing to use the forms of the house to attack a member when under the standing orders he is not entitled to.

Hon. Andrea Coote — On the point of order, President, I have been listening to this debate very closely. It would seem that the Honourable Gordon Rich-Phillips is quoting the member for Gembrook in another place's own words. I would like to know what your ruling is on that, President.

Hon. G. K. RICH-PHILLIPS — On the point of order, President, the words I am using are quoted from a letter to the editor written by Ms Lobato herself — these are her words, not mine.

The PRESIDENT — Order! With respect to the ruling I made earlier, members cannot make reflections on members in the other house. Members cannot use words that are inappropriate and reflect on a member in the other house, even if they are quoting from a newspaper or a third source. Mr Rich-Phillips knows the rules of the house. He is not to cast aspersions or make comments about any member in this place or in the other place.

Hon. G. K. RICH-PHILLIPS — In a letter to the *Pakenham Gazette* dated 19 July Ms Lobato described her constituents as angry, petulant, ill-mannered and ungracious. If that is her view of her constituents four months before an election, I can only wonder what her view of them will be after they pass judgment on 25 November.

Women: heart disease

Ms MIKAKOS (Jika Jika) — Yesterday I joined women parliamentarians from across the political spectrum for a briefing from the Heart Foundation. The Heart Foundation wants to raise awareness among women about the leading cause of death among Australian women. A statement of support has been signed by all 39 women parliamentarians in support of this campaign.

I congratulate the Heart Foundation for this important campaign which is obviously greatly needed. A survey conducted by the Heart Foundation found that only 3 per cent of Australians are aware that heart disease is the leading cause of death amongst women. Strangely, most Australians believe that prostate cancer is the leading cause of death among women.

The campaign aims to increase awareness of coronary heart disease, its causes and preventive strategies. It aims to inform women that more than four times as many women die from heart disease than from breast cancer. On average, 31 Australian women die each day from heart disease, a largely preventable disease.

Prevention strategies include not smoking, eating healthily, being physically active, keeping cholesterol and blood pressure in check and maintaining a healthy body weight. Most importantly I encourage Victorian women to take this issue seriously, to get a medical check-up and to seek advice about their own health.

Sewerage: Home Hotel, Launching Place

Hon. D. McL. DAVIS (East Yarra) — My statement today concerns issues developing in the Yarra Valley on the leakage of sewage and effluent into the Yarra River. It is greatly concerning that places like the Home Hotel at Launching Place are not getting the support they need from the Bracks government and Yarra Valley Water. Despite the hotel's being issued with orders by the Environment Protection Authority and expressing enthusiasm to connect the hotel to the reticulated sewerage system, it is not able to do so because of the policies of Yarra Valley Water. This is strange because a pipe runs right past the hotel and there are mechanisms to connect to high-pressure pipes. The hotel is willing to install the technology to make that happen.

Also the hotel currently has a septic tank which is leaking. The hotel is seeking to replace that or to connect to the sewer. The cost of replacement of the septic tank is around $150 000 — it is a large-scale unit. This small business is being impacted on by the Bracks government's policies. As things currently stand the hotel will be forced to put in a new septic tank and then, perhaps two or three years hence when the government in its own time finally gets around to connecting the sewerage in the area, the hotel will be slugged again to reconnect. These are bad policies for the environment and bad for business.

Industrial relations: WorkChoices

Hon. J. G. HILTON (Western Port) — In my statement this morning I wish to refer to the federal government's newly introduced industrial relations legislation which is supported by the opposition in this

place. We were told that the main reason for introducing this legislation was to ensure that we remain competitive on the world scene and that our historically low unemployment rates could be maintained. Whether we could ever compete with the low-wage economies of India and China is of course a very moot point.

However, I refer to an article by Tim Colebatch in the *Age* of 20 June 2006 entitled 'Wage cuts won't boost jobs'. Mr Colebatch referred to an international Organisation for Economic Cooperation and Development published report on employment practices. The report concluded that different policy packages have yielded equally successful employment outcomes. It went on to say that some countries have achieved high employment despite offering generous unemployment benefits.

The study went on to determine that the level of minimum wages had no significant impact on unemployment levels. It found that modest employment protection policies such as unfair dismissal laws do not hurt employment, and it found that countries with collective bargaining systems tend to have low unemployment.

The Howard government's approach is ideologically driven. It wishes to create a group of people called 'the working poor'. This federal government policy is supported by the state opposition. The opposition will find that its advocacy of such a policy will cost it very dearly at the next state election.

Young Liberals: Aboriginal elder

Hon. J. H. EREN (Geelong) — There was disturbing news the other night on *Lateline* which showed that the breeding ground for future Liberal MPs appears to be becoming a dangerous place. Tony Jones reported:

> Being racist, sexist and homophobic isn't something many people would normally be proud of. But for some Young Liberals it seems it's almost a badge of honour. Tonight, we can bring you a rare glimpse of the unguarded behaviour of some of those Young Liberals captured on video by a documentary team at a student conference. Young Liberals from the shrinking moderate faction say that racist attitudes are now common within the dominant right wing of the movement. And at least one former Liberal Prime Minister says such behaviour needs to be stopped.

The program further reported that:

> In 2004, Aboriginal elder Ted Lovett opened the national student conference with a speech from the land's traditional owners. He says that throughout his speech, Liberal students sung *God Save the Queen.*

Ted Lovett, Ballarat community elder, said on the program:

> I sort of, you know, I just sort of stopped dead and I let 'em finish their song and when they finished I said, 'All right, you've had your national anthem … I'll give you mine.

He further said:

> You know how they humiliated me, they not only humiliated me, but they humiliated all elders right across Australia and all Aboriginal people.

Shame on those Young Liberals!

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

Rail: Bendigo line

Hon. D. K. DRUM (North Western) — I have received a letter from a regular train commuter from Castlemaine to Melbourne. When he found out about the plans for the Bendigo line to be upgraded some two years ago he was horrified to learn that the second track was to be ripped up and replaced by passing loops. He was concerned that trains would have to wait for other trains to come out of the single section of track before they could proceed.

It appears the commuter's concerns were well founded. Since the return of the trains after the works, the 17.33 service from Southern Cross railway station has been dogged with delays. These delays are sometimes caused by carriages not arriving on time or no locomotives being available — a lack of rolling stock. He says generally when that happens his train leaves Southern Cross station about 20 minutes late. It then gets stuck behind suburban services, which can delay it even more. By the time the train gets to Kyneton it is usually 20 minutes late. Then the train has to sit there at Kyneton, waiting for trains to come out of the single section of the line, before it can proceed. Normally the train arrives at Castlemaine about 25 to 30 minutes late. This happens nearly every night, and regular delays are also experienced before and after the 17.33 service.

With hundreds of millions of dollars having been spent on the project, he is concerned to hear regular commuters say, 'We would rather have the express bus service come back', because the current V/Line service is so unreliable.

Liberal Party: federal leadership

Mr SOMYUREK (Eumemmerring) — I rise today to express my concern about the current round of

disputation between the federal Treasurer, Mr Costello, and the Prime Minister, Mr Howard — —

Honourable members interjecting.

Mr SOMYUREK — I know; that it is exactly right. My constituents are very concerned that, with so much happening both in Australia and throughout the world — we are involved in areas of high security — someone like Mr Costello, who has not been elected by the people and does not have the mandate to be Prime Minister — —

Hon. Andrea Coote — On a point of order, Acting President, the member has made a completely inaccurate statement. Mr Costello has been elected by the people — he has been elected by the people of the Higgins electorate. Would you ask him to make a correction?

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! There is no point of order. This is a state house addressing state matters, and I suggest to the honourable member that he stay with state issues as best he can.

Mr SOMYUREK — I understand that the previous practice in this place is to give the member on his feet latitude to speak on any matter that he chooses in his 90-second statement.

Regarding Mr Costello being elected, he certainly was elected — to the seat of Higgins, not as Prime Minister. At least Mr Howard went to the electorate as a leader. People who voted for the Liberal Party expected to have Mr Howard as their Prime Minister.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! The member's time has expired.

STATEMENTS ON REPORTS AND PAPERS

Ombudsman: review of Freedom of Information Act

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to make a statement on the Ombudsman's review of the Freedom of Information Act. This report arose from an own motion of the Ombudsman as a result of the many concerns people had about receiving information from this government.

I remind honourable members of an article headed 'Deception, secrecy hinder FOI' on the front page of the *Age* of Friday, 2 June. I think that paints very clearly where the government stands on providing information. You only need to consider the period of time between that report and today to understand why the honourable member for Brighton in another place has been threatened with a financial penalty for taking a matter to the Victorian Civil and Administrative Tribunal. The threat was made in a letter sent to her on one of the department's own letterheads.

Hon. B. N. Atkinson — On a point of order, Acting President, I point out that Mr Somyurek is actually on the phone in the house.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I remind all honourable members that it is not within the approved practices of the house to use a mobile phone in the chamber while it is in session; so if that is happening, I request that it cease immediately.

Hon. RICHARD DALLA-RIVA — The member for Brighton in the other place was threatened with financial ruin if she proceeded. The reality is that the government has no understanding that due process should take its course. We know from the Ombudsman's report that the Bracks government's 10 departments and the Victoria Police get only 18 per cent of all freedom of information requests, but that they reject access to information about 67 per cent of the time, which in turn forces people to go to VCAT and beyond. In the time between the release of this report and today we have had further examples of the conduct of this government and the way that it has been handling — —

Mr Somyurek — On a point of order, Acting President, I believe Mr Atkinson is reading material that he should not be reading in this place.

Hon. B. N. Atkinson — On the point of order, Acting President, the member is an absolute dill.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! Mr Atkinson would be aware that the forms of the house require him to be called. I call Mr Atkinson on the point of order.

Hon. B. N. Atkinson — There is no point of order. This member has raised a spurious point of order to try to disrupt one of the other speakers in the house. I happen to be reading the Auditor-General's report. This member is a dill and should not be representing the people of Eumemmerring Province.

Mr Somyurek — On the point of order, Acting President, I saw Mr Atkinson reading a newspaper. I

might be wrong, because I am pretty far away from it, but just in case — —

Hon. B. N. Atkinson — You idiot!

Mr Somyurek — Mr Atkinson calling me an idiot is like the pot calling the kettle black.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! Mr Somyurek, I have heard enough. There is no point of order. Let us proceed.

Hon. RICHARD DALLA-RIVA — I think that was probably one of the most inane points of order that I have ever heard — —

Mr Somyurek interjected.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I advise Mr Somyurek that those comments are not helpful. I ask members to respect the processes and procedures of the house. Mr Dalla-Riva, to continue.

Hon. RICHARD DALLA-RIVA — We have been in this chamber for a brief period making statements on reports and papers. It is quite amazing that a member on the other side is continuing to make interjections that are not relevant.

Mr Somyurek interjected.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! The Chair has asked Mr Somyurek repeatedly to respect the procedures of the house. I am asking him again to please remain silent. Mr Dalla-Riva, to continue.

Hon. RICHARD DALLA-RIVA — The continual barrage of inane comments from the other side is becoming a bit of a drone, and from one member in particular. Continual interjections make it very difficult for members on this side of the chamber to make comments about serious reports. That member has been warned.

Mr Somyurek interjected.

Hon. RICHARD DALLA-RIVA — And it is happening again!

The fact is that when you talk about serious issues like deception and secrecy, which are in the Ombudsman's report and the *Age*, it is amazing how government members always jack up, fire up and raise inane points of order. They do not want to hear the truth, because it is quite damning of the government and its role.

Auditor-General: vocational education and training — meeting the skills needs of the manufacturing industry

Hon. RICHARD DALLA-RIVA — I also want to talk briefly about an Auditor-General's report that was released yesterday. It is another great report from the Auditor-General. The foreword states:

> The effectiveness of the VET —

vocational education and training —

> system can be measured in terms of how well it meets the new and emerging needs of businesses and individuals. Our audit of training for the manufacturing industry found that if the vocational education and training sector is to continue to play a key part in skill formation within Victoria, change is needed.

I remind honourable members about a change that occurred under the previous Cain and Kirner governments. They demolished the technical schools that were in operation in Victoria. Decisions made by governments of either persuasion can have long-term implications, and it is no longer seen as attractive for people to enter the manufacturing sector. I know that from investigating, as all members should if they have a portfolio — —

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! The member's time has expired.

Rural and Regional Services and Development Committee: regional telecommunications infrastructure for business

Hon. W. R. BAXTER (North Eastern) — I want to comment today on the report of the Rural and Regional Services and Development Committee on its inquiry into regional telecommunications infrastructure for business, which was tabled yesterday by Mr Mitchell.

Over a number of decades in this house parliamentary committees have had a very proud history of bringing in fairly rigorous reports. As an example, in the notice of motion I gave earlier today I referred to a parliamentary committee report of 1968, almost 40 years ago, which is still current, rigorous and valid — an indication of its importance. I recall that in my early time in this Parliament I was on the parliamentary Road Safety Committee. That committee has done an extremely good job over the years in keeping Victoria to the fore in road safety initiatives, including the introduction of seat belts. I think traditionally the committee system has worked extremely well. Members have taken their

responsibilities seriously, and by and large reports have been brought here in a bipartisan fashion. Many of those reports have contained rigorous recommendations for the government of the day and the community at large.

After reading this report I regrettably have to conclude that it meets none of those benchmarks. It is a very deficient report indeed. For starters, it took far too long to come into being. The committee received its terms of reference from the Premier more than three years ago. It is not good enough in any circumstance to take three years to produce a report, but to take three years to produce a report in an area such as telecommunications, where the rate of change is so rapid, just beggars belief. What the committee started talking about three years ago was presumably right out of date by the time it concluded its report in the last few weeks.

There are some 47 recommendations in the report. I think few of them have any real merit or rigour at all: 16 of the recommendations encourage or call on the federal government to do something and 5 urge the federal government to do something. That would seem to me to indicate that this inquiry was misplaced right from the start. The committee was given terms of reference to look into a matter which is entirely within the purview of the federal government under the relevant sections of the commonwealth constitution.

A further 10 recommendations recommend that certain things be supported, reviewed, worked closely with or investigated. They do not actually call for any actions. They do not point at or direct any action. They are fairly anaemic recommendations. I draw the attention of the house to recommendation 38:

> That the state government continue to provide funds to local community houses and other adult and community education providers in rural areas specifically to provide courses on information and communications technologies

Hon. D. McL. Davis — Earth shattering.

Hon. W. R. BAXTER — One would anticipate that a government would do that in any case. Mr David Davis says it is earth shattering, which is not a bad description. It is very disappointing to have a report of this nature come to Parliament. Not only is it disappointing for members of Parliament; it is a slight and an insult to those good people and those many organisations who put their time and effort into making submissions, who travelled long distances and sat in draughty country halls waiting their turn to come and earnestly put forward their views. We and they then get a report like this.

It is not good enough, it should not have happened and it is a very poor reflection on this government that it is prepared to use the parliamentary committee system to play politics rather than have members of Parliament do what the community expects us to do — that is, go out there in good faith, conduct rigorous investigations into matters of importance and bring back recommendations to government which can be put into place and which will benefit the community. This one certainly does not.

Environment and Natural Resources Committee: energy services industry

Hon. J. G. HILTON (Western Port) — Today I would like to make a statement on the report of the Environment and Natural Resources Committee on its inquiry into the energy services industry. I am very pleased to be a member of that committee.

The terms of reference for the inquiry included:

> the progress made to date in developing the energy efficiency services industry in Victoria including its market size and characteristics, profitability, capacity and composition.

In many ways it was a rather difficult inquiry because we had some uncertainty as to exactly what the energy efficiency services industry represented. But in some ways that dilemma was quite instructive inasmuch as it brought home to me and a number of other members of the committee that when references are accepted, they should be critically examined — —

Hon. B. N. Atkinson — Acting President, I draw your attention to the state of the house and the failure of the government yet again to maintain a quorum.

Quorum formed.

Hon. J. G. HILTON — The committee finally prepared a report under a number of headings. Chapters were headed ‘A profile of the energy efficiency services industry’, ‘Energy efficiency services in the OECD’, ‘Barriers and drivers for the adoption of energy efficiency’, ‘Training and education for energy efficiency services’, ‘Current government and industry measures affecting energy efficiency’ and ‘Mechanisms to promote the uptake of energy-efficient products and services’.

We made 27 recommendations, of which I would like to highlight one or two: firstly, the concept of energy performance contracting. An energy performance contract is essentially a contract between an organisation, which could be an industrial company or indeed a government department, and an energy services company whereby the energy services

organisation guarantees to produce energy savings should the government department or other contracting company implement its recommendations. The investment which the organisation is required to make produces an internal rate of return which is acceptable to the organisation, and hence we have a win-win situation. The organisation is compensated by the energy services provider if the returns or energy savings are not realised.

Recommendation 16 is:

> That Victorian government departments consider energy performance contracting or other forms of commercial contracts designed to improve energy efficiency and reduce ongoing energy expenses; and that government provides departments with guidelines for formulating energy performance contracts including examples of contracts and arrangements that have been successfully applied in other jurisdictions.

In another recommendation the committee considered it was appropriate that incentives be offered to owners of residential properties who invest in energy efficiency improvements and in this regard proposed that the government investigate the introduction of a rebate of land transfer stamp duty for residential properties to offset costs associated with energy efficiency improvements. I believe that is a very sensible suggestion. If owners of residential properties can see there is going to be a saving in land transfer stamp duty, that may be sufficient for them to consider investing in upgrading their properties with an energy saving approach.

The committee also felt that the state government should be at the forefront in energy savings and act as a model for other organisations.

In this regard the committee also recommended that government departments be allowed to retain funds saved through energy efficiency projects, and that government departments be encouraged to use these savings to extend energy efficiency measures within their departments. Again, I believe this is a very sensible recommendation as the government can then be seen to be a model for other organisations considering energy efficiency measures.

In my brief two-minute commentary on this report in an earlier sitting week I referred to the excellent cooperation which was exhibited by members of the committee and I again want to emphasise that very excellent cooperation. I also want to compliment the secretariat, Dr Vaughan Koops, Mr David Benjamin and Ms Vanessa Thomas for their excellent support and the fantastic report which they produced.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! The member's time has expired.

Auditor-General: vocational education and training — meeting the skills needs of the manufacturing industry

Hon. B. N. ATKINSON (Koonung) — I wish to comment on the Auditor-General's *Report on Vocational Education and Training — Meeting the Skills Needs of the Manufacturing Industry*. No doubt Mr Somyurek will be particularly interested in this report. He might well have read the document, as I did earlier this morning, and indeed I perused it yesterday.

It is an important and somewhat damning report by the Auditor-General on this government's approach to skills training in Victoria. The government released a skills statement early this year which included quite a range of initiatives. Some of them were a significant step forward in terms of skills development, and were initiatives that would be supported by the opposition as being important to a state that depends so much on the manufacturing industry. But the reality is that this Auditor-General's report exposes the fact that most of that skills statement has failed, and the delivery of training and skills development to this point has failed to understand any of the research or the underlying trends in industry, or to be based on any sorts of performance measures that ensure we are on the right track.

When Mr Dalla-Riva, as shadow manufacturing minister, and his predecessor Mr Gordon Rich-Philips in that portfolio, and I in the small business portfolio troop around and meet with industry groups and individual businesses, we are alarmed at the mismatch between training and skills development and the needs of industry and business in the current marketplace. From our experience and the anecdotal views that have been provided to us by so many companies and industry associations the reality is that that position has been embraced and confirmed by this Auditor-General's report.

The report says the method of funding TAFE colleges is inappropriate, that this one-year funding program which has been developed is really constraining opportunities for skills development in Victoria and that in many cases the development of the teaching base in TAFE colleges is also inadequate to the needs of Victorian industry. In fact it suggests that the performance of TAFE colleges is inconsistent and varied across the network. A number of us have a great deal of knowledge of the operations of our TAFE

colleges, and I know the Honourable Helen Buckingham and I both take a great interest particularly in Box Hill TAFE, which is outside our electorate but which provides services to many students from our electorate. It is not the only TAFE college near our electorate, but it is a very important one and one that has developed some very good vocational programs.

It is clear to us that many of the TAFE colleges are setting directions that members of the opposition think are appropriate and no doubt the government would think are appropriate. But their opportunities to pursue those directions and establish a framework for better skills training to suit Victorian industry is being constrained by the fact that the funding mechanisms and models which have been developed and sustained by this government are not appropriate to the needs of those TAFE colleges. There is a need to address some of the teaching skills within those colleges and the relevance of some of the courses that are offered in some of the TAFE network.

I am particularly concerned when I hear companies say they have to import workers from elsewhere, and Bakers Delight is just one recent case. It is importing bakers from Vietnam because it cannot find people in Australia who are able to work in its stores. What we are now finding is that some manufacturers are looking to move their operations offshore — not just out of Victoria but out of Australia — and part of the reason, compounded by all of the other issues and challenges that confront the manufacturing industry, is a lack of skills available in the work force.

La Trobe University: report 2005

Hon. H. E. BUCKINGHAM (Koonung) — As a member of the Education and Training Committee I wish to continue my pattern of reporting on universities and TAFEs in this time in Parliament. Today I want to speak on the annual report of La Trobe University which was tabled in the other place on 2 May. As a graduate of La Trobe I have a strong affinity with this university. La Trobe University prides itself on being an internationally recognised leader in the provision of high quality education and training underpinned by very strong research. La Trobe was the third university to be established in Victoria just shortly before I attended it. It is named after the first Lieutenant Governor of Victoria, Charles La Trobe. The total student enrolment is over 27 800 at the main campus in Bundoora and at the other campuses in Albury–Wodonga, Beechworth, Bendigo, Mildura, Mount Buller, Shepparton and the new one in Melbourne city.

The regional campuses are all linked to each other and to the main campus in Melbourne by various information and communications technology facilities, including videoconferencing, thereby ensuring that high quality teaching and research is available across all campuses of the university. The key objectives of the university are to be an internationally acknowledged centre for teaching, training, scholarship and research and to prepare students for the various needs and challenges of work and society.

The university has a particularly strong commitment to internationalisation and seeks not only to attract students and staff from all around the world but also to provide opportunities for local students and staff to gain international experience through a scheme of exchange programs. I have helped students with career counselling who went on to La Trobe and who have very successfully taken part in these programs. In particular the university leads the International Network of Universities, which is a consortium of universities specifically designed to promote student mobility. Currently the university has links with over 250 institutions in more than 40 countries.

As an arts graduate with a history major I am pleased to note that La Trobe University has been ranked 98th among the world's top universities in the latest British *Times Higher Education Supplement* league table, an increase from its previous 142nd position last year. Among Australian universities it is ranked 11th, up from 14th place. In the arts and humanities area, La Trobe won a place in the top 25 international universities, ranking at no. 23. I can attest to how well humanities, and in particular history and philosophy, are taught at La Trobe.

The university is committed to student-centred learning and in this regard it is pleasing to report that graduates have consistently accorded a very high ranking to the quality of teaching in the annual surveys conducted by the Graduate Careers Council of Australia. This is a good measure of how well teaching is going. The learning and teaching environment at La Trobe University is shaped by guiding principles that reflect the history and ethos of the university. Specifically the university values a supportive learning environment and community for students; teaching that reflects a spirit of inquiry and is informed by research; a diversity of approaches and styles in learning and teaching, and the commitment of the staff to students, teaching, research and ongoing development.

Significant achievements of La Trobe University in 2005 include the establishment of a new Bachelor of Oral Health Science degree. This degree, based at

La Trobe's Bendigo campus, will assist in stemming the critical shortage of dental technicians and hygienists in Victoria. Also announced in 2005 was the creation of the Bachelor of Nursing degree at the Shepparton campus, which will facilitate the career progression of division 2 nurses to division 1 nurses.

I would like to finish by acknowledging the contribution of the vice-chancellor, Professor Brian Stoddart, the council of La Trobe University and the academic staff, who enable La Trobe University to be renowned for research and learning.

VicRoads: report 2004–05

Hon. R. H. BOWDEN (South Eastern) — I wish to make some comments about and give my views on the annual report of VicRoads for 2004–05. This particular report is comprehensive and easy to read, and it is a good quality report in its presentation. I think it is a good document to present to the public, so I am pleased with that.

I have seriously raised some concerns over a consistent period about specific items and roads issues within the South Eastern Province. Those issues have really not been addressed in either the report or in practice by improvements to the specific items that I have raised. It seems to me, as a member commenting on this particular annual report, from a corporate point of view the board should have a long hard think about the effectiveness of VicRoads. It is a situation — —

Hon. G. K. Rich-Phillips — Acting President, I draw your attention to the state of the house.

Quorum formed.

Hon. R. H. BOWDEN — I would like to thank Mr Rich-Phillips for ensuring me a wider audience; it is much appreciated.

Unquestionably the board of VicRoads has sincere members. There is no question at all that the values of VicRoads and the values of the organisation are good, productive and positive — there is not a problem with that. But from a managerial point of view and following my reading of this report, I have a suggestion: I think VicRoads has lost its focus.

I believe VicRoads is becoming extremely unresponsive to the needs for which it was set up in the first place. My view, which has been slow in forming over a long period and is based on many of my reasonable requests that have been ignored and not actioned, is that it has been diverted from its main task. VicRoads is an organisation which, as it says in the revenue section, was a $2.527 billion operation in 2005, with more than 2500 employees. I cannot see much to do for either that number of people or the dollars involved in their budget.

Page 47 has a good illustration of some of the static performance of this organisation. The table shows the actual speed in urban Melbourne has not changed much at all. In 2000–01 the average speed was 37.9 kilometres an hour in the morning peak, and it has now fallen to 36.2 kilometres an hour. In the evening peak, the actual travel speed in urban Melbourne was 41.2 kilometres an hour on average in the afternoon peak in 2000–01, and that has fallen to 38.5 kilometres an hour in 2004–05.

We know about the congestion and the lack of infrastructure investment under this government. I think VicRoads could take a much more aggressive and productive stance in planning — that is, in providing better plans and insisting that certain capital works be done in several situations around this city. I am not happy at all about the tardiness.

I refer to the illustration that was mentioned earlier today. My colleague Mr Gordon Rich-Phillips has detailed problems he has with traffic lights at Officer in his electorate, where the commonwealth has agreed to provide the lights, but there are delays involved in that. I have been trying to get rid of a stupid set of traffic lights at Lyndhurst. One member wants lights, which is a reasonable and good request, but I want to get rid of them at Lyndhurst for safety reasons.

This organisation needs a shake-up. Its executive in many instances has been too long in the job and there has not been enough change. A close organisational review of the performance of those executives is required. I believe the efficiency of VicRoads is so poor that it is long overdue for a board and a senior management shake-up. This report is a good one, but it illustrates the problems in the organisation.

Auditor-General: vocational education and training — meeting the skills needs of the manufacturing industry

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I wish to make a statement this morning on the Auditor-General's report on vocational education and training and meeting the skills needs of the manufacturing industry of July 2006. As Mr Atkinson said in his remarks, for a number years I was the opposition spokesperson on manufacturing and exports, shadowing firstly the now Minister for Police and

Emergency Services and later the current Minister for Manufacturing and Export. I appreciate the importance of the manufacturing sector to the Victorian economy. It is still the single largest industry sector of the Victorian economy, and for a long time, but regrettably no longer, Victoria's share of manufacturing was the largest in the nation. In recent years we have been overtaken by New South Wales as the largest manufacturing state.

In my role as opposition spokesperson I went around speaking to manufacturers in Victoria, and one of the key themes that came out of those discussions was concern at the availability of the labour work force to support the manufacturing sector. Various manufacturers in niche markets all had concerns about particular skill sets, and a lot of them looked to the government to address that problem. A lot of them viewed the supply of an adequately skilled work force as entirely the responsibility of government. I have to say that that is not a view I agree with. Fortunately a number of the medium and larger manufacturers — those with more capability to develop their own work force — saw it as a joint responsibility of industry and government and were willing to be proactive in recruiting and training their own skilled people for the ongoing use in their enterprise. It is a dual responsibility of industry and government to ensure that we have the appropriate skill base to support our manufacturing sector. It should be noted that the capability to do that rests with medium and larger enterprises more than with the smaller end of the manufacturing industry, which is more reliant on people who have been trained through government programs to provide the required skill sets.

The report of the Auditor-General makes some interesting observations on the framework that is currently in place. One of the key points the Auditor-General makes is that $900 million per annum is committed by the state government to vocational education and training, so it is a significant amount of public expenditure that has been considered in this report. It is important that those funds be allocated in the most appropriate way and target the most appropriate sectors.

The Auditor-General has made a number of observations about shortcomings in the way the system currently operates in Victoria. He has noted that the decisions about placements of particular streams of training and as to which particular trade skill sets are required are made by the Victorian Learning and Employment Skills Commission based on information from the Office of Training and Tertiary Education (OTTE), which is within the Department of Education and Training, and that this is separate from the industry training advisory bodies that have the knowledge about which skills are required in particular industry sectors. He has made strong observations that there is a complete disconnect between the people in industry who know which skills are required and the people who allocate the places to different skill sets with that information filtered through the department. Reading between the lines in the Auditor-General's report, it suggests that the OTTE has very little knowledge of industry requirements whatsoever. The Auditor-General observed that there are serious structural problems in the way in which allocations are made because of this filtering through the department and the lack of direct contact between the particular industry advisory bodies and the commission that allocates the places.

In looking at specific sectors, the Auditor-General focused on three sectors within manufacturing — vehicle, engineering and pharmaceutical manufacturing. He observed that although these are priority sectors for upskilling people, while there had been an increase in the number of people receiving training in vehicle manufacturing there had been declines in the engineering and pharmaceutical areas.

The ACTING PRESIDENT (Mr Smith) — Order! The member's time has expired.

Sustainability and Environment: report 2004–05

Hon. D. McL. DAVIS (East Yarra) — I am pleased to draw the attention of the house to the annual report of the Department of Sustainability and Environment for 2004–05. I want to start with the broader objectives that the secretary lays out in the foreword and the statement in April 2005 by then Acting Premier John Thwaites when he released *Our Environment Our future — Victoria's Environmental Sustainability Framework*. A couple of the key objectives are:

1. Maintaining and restoring our natural assets;

2. Reducing our everyday environmental impacts.

The report also refers to the country town water supply and sewerage program launched in January 2005, which is referred to at length in the report at page 37. We have received further information since that report. The Auditor-General has spent a lot of time looking at water issues around the state, and in particular issues relating to sewerage and septic tanks. The key objectives set by the sustainability framework appear to be not being met in Victoria.

It is instructive to look at some of these key points. At page 82 the Auditor-General's report on protecting the environment and community from failing septic tanks concludes:

> We are concerned that the government's commitment to eliminating backlog numbers is not supported by a statewide plan.

To give some idea of how chaotic and problematic this program now is, it is important to put on record in this chamber the estimated time before the backlog will be cleared. In the case of South East Water in southern metropolitan Melbourne the Auditor-General estimates 40 years as the period before the backlog of septic tanks will be cleared. As is stated at page 89, in the case of Yarra Valley Water the estimate is that it will take 55 years to clear the backlog. Lest the community thinks these are old figures, I advise the house that they are figures to June this year. They are, in a sense, a performance measure of the government's objectives of monitoring and restoring our natural assets and reducing our everyday environmental impact.

Earlier today in this chamber I referred to the Home Hotel at Launching Place, a small hotel which has had poor results from its ability to connect to reticulated sewerage, which means that it is continuing to pollute the Yarra River through a leaking septic tank because Yarra Valley Water's program is blocked and behind schedule. It is interesting that the Auditor-General's report at page 95 contains an instructive table showing the number of connections that have been made by Yarra Valley Water over the years. It is clear that the number of sewerage connections in the backlog areas is falling. Last year, despite about 44 000 being the best estimate of the number of septic tanks across the metropolitan area that need to be connected, Yarra Valley Water managed to connect only 74 septic tanks.

We have the example of the Home Hotel in Launching Place. It wants to be connected because it has a leaking septic tank. It has been told that to put a new septic system in would cost it $150 000, but Yarra Valley Water will not allow it to connect to the reticulated sewerage system.

So, as I said, this is bad for business and very bad for the environment. Launching Place is an area where water monitoring occurs. It shows that the quality of water is regularly poor, with high E. coli readings that indicate human sewage is present in significant quantities in the Yarra River. It is no wonder when so far up in the catchment we have human sewage that we have problems down the whole length of the Yarra River. It is interesting that at Launching Place only 39 per cent of the available connections that were put forward in the late 1990s have been connected. This program of upgrading and connection to sewerage reticulation has stalled and is well behind schedule. This government talks about the environment, but it has not delivered on basic environmental outcomes.

Hon. C. A. Strong interjected.

Hon. D. McL. DAVIS — Mr Strong says it is like greenhouse. This is a very specific example. There is no statewide plan; there is no money expended by the state government — —

The ACTING PRESIDENT (Mr Smith) — Order! The member's time has expired.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).

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

> That the bill be now read a second time.

Incorporated speech as follows:

> The Drugs, Poisons and Controlled Substances (Amendment) Bill 2006 demonstrates the government's commitment to:
>
> > reducing illicit drug supply and use within the community;
> >
> > ensuring that the quantities and types of drugs prescribed in the act remain relevant to the current state of the illicit drug trade; and
> >
> > supporting the effective and efficient investigation and prosecution of major drug offences in light of policing experience.
>
> Illicit drug use in Victoria, and Australia as a whole, contributes significantly to violence and crime, and other social and health problems. The measures outlined in the bill are aimed at deterring and reducing the manufacture and supply of illicit drugs in Victoria, and consequently increasing community safety.
>
> I turn now to the specific provisions of the bill.
>
> Last year the government announced that it would create an offence of possession of a tablet press without a lawful excuse. Whilst tablet presses have a wide range of lawful uses in the pharmaceutical, chemical and food industries, they are increasingly being diverted to more sinister purposes —

converting powdered ecstasy, amphetamines and methamphetamines into tablet form for sale on the streets.

The bill provides that possession of a tablet press without a lawful excuse will be a criminal offence, punishable by a maximum of 600 penalty units, or five years imprisonment, or both.

This will still allow possession of a tablet press for a lawful purpose, such as use in the legitimate pharmaceutical, chemical and food industries, but will clamp down on possession for illegal drug manufacture.

The bill also creates an offence of possession of a prescribed precursor chemical at or above the prescribed quantity without lawful excuse. This offence will have a penalty of 600 penalty units, or five years imprisonment or both.

Precursor chemicals are those which are used to create other drugs (such as amphetamine and ecstasy). As with tablet presses, it is recognised that there are a variety of lawful reasons to possess such chemicals (scientific research, manufacturing et cetera), and the inclusion of a 'lawful excuse' defence ensures that legitimate users will not be captured by this offence. The schedule of chemicals to be prescribed will be the subject of extensive consultation with industry and other key stakeholders during the development of the regulations.

The bill also extends the offence of trafficking involving children. It is currently an offence for an adult to supply a drug to a child for that child to use or to sell to another child, but not for that child to sell the drugs to an adult.

The bill criminalises the supply of drugs to a child for the purposes of that child trafficking the drugs to an adult.

This amendment enhances the objectives of this offence, which are to reduce the supply of drugs for use by children and deter and punish those who exploit and endanger children through their recruitment as street level drug dealers.

Schedule 11 of the Drugs, Poisons and Controlled Substances Act 1981 prescribes the drugs and classes of drugs that are illegal, and lists quantities in which various drugs are deemed to be possessed for the purposes of personal use, trafficking and commercial and large commercial enterprises. The bill makes various amendments to schedule 11 to ensure that the drugs and quantities prescribed remain relevant to recent developments in the illicit drug trade and to promote consistency in the way that similar drugs are treated in the schedule.

A key driver for these amendments is the increase in the sale of 'party drugs' such as amphetamine and ecstasy in tablet form, often heavily diluted with other substances.

In particular the bill adds a new class of 'designer drugs' to schedule 11. It also prescribes 'large commercial' quantities for a range of drugs whose prevalence in the illegal market has increased.

The bill lowers the threshold possession quantity for pseudoephedrine from 20 to 10 grams. The new lower threshold equates to 14 packets of over-the-counter cold and flu medication.

The bill also provides for numbers of plants to be used as an alternative to weight when quantifying the amount of opium poppies an offender has in his or her possession. This method is already used in quantifying cannabis plants. The bill ensures that various amphetamine-type substances such as ecstasy are treated consistently in schedule 11 of the act.

The bill also allows for multiple quantities of drugs of dependence in a dilute form to be aggregated for the purpose of deeming an offender to be in possession of a commercial or large commercial quantity of drugs, to better reflect the scale of the commercial enterprise that they may be engaged in (this is already available for drugs in a 'pure' form).

These amendments are aimed at ensuring that the drugs listed in schedule 11 and the various quantities at which they are deemed to be for personal use, trafficking or commercial and large commercial enterprises, remain relevant to and effective in targeting the illicit drug market in Victoria.

Finally the bill proposes a number of amendments aimed at enhancing the effective and efficient prosecution of drug offences.

Reflecting the increase in the use of hydroponic technology to cultivate cannabis, the bill amends the definition of 'cultivate' to include propagation of cuttings and the definition of 'narcotic plant' to include cuttings, with or without roots.

The bill also enables unsworn police personnel to be authorised to possess drugs in the course of their duties, for purposes such as transport, storage, examination, analysis and destruction of drugs. This will free up sworn police time, whilst ensuring that the handling of drugs during the prosecution process remains strictly controlled.

The bill extends the circumstances in which illegal drugs may be destroyed in situ. These amendments will enable Victoria Police to destroy volatile and potentially explosive substances used in illicit drug manufacture that pose a health and safety risk, without court authorisation.

According to the Australian Crime Commission's *Illicit Drug Data Report 2004–05*, detections of clandestine laboratories in Australia, the majority of which produce amphetamines, have continued to increase since 1996. In Victoria, between 1996 and mid-2005, a total of 157 clandestine laboratories were detected with a general increase in the number of detections annually.

The manufacture of amphetamines involves the use of highly toxic, flammable and explosive materials. Clandestine amphetamine laboratories detected by police may pose a serious and immediate health risk to the community. It is imperative that police have the capacity to swiftly destroy the drugs and equipment in these laboratories where it poses a health and safety risk.

The bill enables the chief commissioner, or delegate (being a member of Victoria Police not less than the rank of superintendent), to authorise destruction or disposal of drugs and related material seized without warrant, expeditiously and, in situ, subject to appropriate safeguards, where an analyst or botanist certifies that this is required in the interests of health and safety. The chief commissioner will be required to keep statistics on the use of this power and report annually upon its use to the Minister for Police and Emergency Services, who in turn will table that report in Parliament.

The analyst or botanist's certificate and the chief commissioner's or delegate's report on the destruction of the

drugs and related material, will also be available to the owner or occupier of the land from which the items were seized and destroyed, and to any person charged in connection with the items seized or destroyed, to ensure procedural fairness in the prosecution process.

Currently all parts of the opium poppy, including the seeds, are classified as drugs of dependence. In practice, police are reluctant to enforce the prohibition on possession of poppy seeds, owing to their widespread culinary use. In recognition of this, the bill decriminalises the possession of poppy seeds.

Finally, the bill makes a technical amendment to the prescribed form of the search warrant set out in schedule 10 of the act to remove apparent inconsistencies between this form and the requirements of section 81 of the act.

The package of measures introduced in the bill implement a range of reforms designed to ensure that the legislative framework continues to provide the best possible support for the effective, efficient and proper investigation of major drug offences.

I commend the bill to the house.

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

Debate adjourned until next day.

COURTS LEGISLATION (NEIGHBOURHOOD JUSTICE CENTRE) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Hon. T. C. Theophanous.

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

That the bill be now read a second time.

Incorporated speech as follows:

The Courts Legislation (Neighbourhood Justice Centre) Bill 2006 will facilitate the establishment of the first community justice centre in Australia. Victoria is now part of a growing international justice movement promoting community justice initiatives to reduce reoffending and crime rates, enhance community perceptions of safety and confidence in the justice system and improve access to justice for the community.

Victoria's Neighbourhood Justice Centre (NJC) will champion a problem-solving approach to justice. This bill allows for the establishment of a multijurisdictional court at the NJC and implements the A Fairer Victoria commitment to improve access to justice, particularly for vulnerable members of our community. It also delivers on our government's commitment to address disadvantage and modernise courts consistent with my 2004 justice statement and promotes the vision of a more caring community as outlined in *Growing Victoria Together*.

The NJC will be proactive and adopt a set of measures to produce more meaningful and effective outcomes. It will address the underlying causes of offending behaviour, utilise restorative justice and therapeutic jurisprudence principles and employ a collaborative, multidisciplinary case management framework, with a principal magistrate dealing with all matters before its court.

It will engage with the community to develop strong partnerships beyond the conventional justice networks to also include residents, local service providers, the council, businesses, schools and others. Developing these types of partnerships with community can be a challenge for government, but if we are to continue to push the boundaries for a more modern and effective approach to justice, then these challenges must be met. We are finding more and more often that local innovation works best to provide the most effective local solutions, and this will be the first jurisdiction in Australia with the freedom to focus solely on the local community in this manner. The NJC will attempt to lift the mystique that surrounds our justice system which for too long has often been misunderstood by the community which it serves. It will promote transparency in the way it conducts business, ultimately increasing the community's access to justice.

This government and the broader community have already shown a willingness to embrace and experiment with inclusive, innovative and modern approaches as to how we do justice business as demonstrated in the establishment of specialist court divisions in Victoria, such as the drug court, Koori court and family violence division, as well as court initiatives such as the disability list at the Melbourne Magistrates Court. The drug court and Koori court were established as pilots and have been independently evaluated with very positive outcomes. The development of the NJC will therefore not only be able to draw on the successful concepts and learnings already developed in these specialist divisions but extend them to further improve the operation of our justice system.

Despite these initiatives, we cannot afford to be complacent about the operation of our justice system. The justice system affects the wellbeing of all those it touches. For example, we cannot ignore the alarming overrepresentation of vulnerable members from our community in our criminal justice system. The prevalence of mental disorders in prisoners is significantly higher than the broader community, with rates for many types of mental illness being three to five times greater than expected. It is even higher for women. Studies consistently also indicate that the level of confidence the community has in the justice system is, at times, unacceptably low. This means being vigilant about new approaches and solutions.

There is evidence from overseas experiences, including the US, South Africa and the UK, that a community justice approach can be an effective way of doing justice business. The earliest of these courts are the Midtown Community Court in Manhattan and the Red Hook Community Justice Centre in Brooklyn, established in 1993 and 2000 respectively. Both were created by the New York-based Centre for Court Innovation and have prompted, due to their success, a multitude of other community courts across the US. I had the pleasure of visiting Red Hook in 2004 and was

struck by the innovative nature of its operations, which took place in an old school building in a district affected by high crime rates and low socioeconomic conditions. Since its commencement there has been a 50 per cent improvement in the compliance with community-based dispositions, a contribution of more than 79 000 hours of community service to the local area (some $400 000 worth of labour), a 300 per cent increase in approval ratings of police, prosecutors and judges, and at March 2006 (using 1998 as the baseline data) the number of murders in the area had dropped by 48 per cent, rapes by 79 per cent, robberies by 25 per cent and assaults by 41 per cent. In a survey of 400 defendants, researchers found that at Red Hook, 86 per cent agreed that their case was handled fairly by the court compared to 75 per cent at the centralised court, and 90 per cent agreed that they were treated in a way they deserved in the court, compared to 75 per cent at the centralised court. These impressive results address the interests of both ends of the justice spectrum, including the community's desire for a reduction in crime rates. This type of balanced response is required to enhance the credibility of the justice system.

Why is the NJC being located in the city of Yarra?

Preparations are well under way to locate the first NJC at the former Northern Metropolitan TAFE site in Collingwood to service the city of Yarra.

The city of Yarra is the ideal site for the NJC. It is a vibrant and progressive community which already has solid and innovative networks, programs and facilities operating throughout the area. The city of Yarra also has one of the highest crime rates in Victoria, with four of its suburbs represented in the top 10 postcodes ranked by offence rate per 100 000 population. Further, areas in the city of Yarra experience significant social disadvantage, with the Australian Bureau of Statistics ranking Collingwood third in the state.

What are the primary objectives of the NJC court?

The primary aims of the NJC court are:

to reduce reoffending rates of defendants;

to reduce the failure to appear rate at court;

to decrease the rates at which both criminal and civil court orders are breached; and

to increase the amount of unpaid community work determined as a priority by the local community.

These represent some of the quantitative aims of the NJC court. More qualitative aims include:

increasing the confidence of victims, defendants, witnesses and the community in the justice system;

increasing the involvement of victims in the justice process; and

promoting a sense of ownership in the administration of justice in the city of Yarra.

The NJC pilot project will be independently evaluated throughout the life of the three-year pilot commencing in January 2007.

How will the NJC court operate?

The NJC court brings together the criminal and civil jurisdiction of the Magistrates Court, the criminal division of the Children's Court and the work of the Victorian Civil and Administrative Tribunal. One magistrate will deal with all matters arising at the court, allowing him or her to better understand the issues faced by an individual. The multijurisdictional nature of the court will enable people who have multiple issues to resolve them at one location and in some circumstances at the one time.

The NJC court comprises the magistrate and other justice agencies such as, dedicated Victoria Police prosecutors, Corrections Victoria, juvenile justice and legal representatives and will adopt a collaborative team-orientated approach to manage individual cases and multiple court lists.

A defendant, civil litigant or witness will be offered coordinated and immediate assistance with referrals to relevant services and programs which address the needs of the individual in an effective and holistic manner. This can occur before a court appearance or during proceedings at the magistrate's request. In some cases the NJC magistrate will use judicial case management to oversight a particular case or a series of cases. For criminal matters this means a defendant will be seen more frequently and their progress monitored more closely. The range of services offered will include drug and alcohol, mental health, housing, employment, financial and mediation. In the case of criminal matters, services will be tailored to address the underlying causes of criminal behaviour and divert future contact with the criminal justice system. In the case of one or more civil matters, for example a person experiencing family violence, unstable housing and financial problems, services will be tailored to prioritise and address each of these issues.

The NJC court will be supported by a core assessment and case management team. This multidisciplinary team will undertake screening, assessment and case management as well as making appropriate referrals. They will be able to deal with the complex cases that often present in our justice system and involve multiple interlinked problems.

To facilitate case management and coordinated services, the NJC court will have a dedicated officer who will be present during court proceedings and provide a nexus between the court and its services. They will have a close working relationship with the NJC court, the assessment and case management team, service delivery agencies, court administrators and court users.

The NJC court will also focus on restorative justice and restitution to the local community. For example, defendants on community-based orders may perform work which has been recognised as a priority in the local Yarra community. Other opportunities will be explored by the NJC court which recognise and balance the needs of victims, defendants and the community in general, during the sentencing process.

What matters can be heard at the NJC court?

The NJC court will be able to hear a range of both civil and criminal matters. It will hear all criminal matters that would ordinarily be heard at the Magistrates Court and Children's Court except committal proceedings and serious sexual offences. Victims of crime will be able to seek compensation through the Victims of Crime Assistance Tribunal.

Intervention orders will also be available. Civil matters, such as uncontested family law matters and fencing disputes, will be able to be heard by the NJC court. The categories and circumstances for these matters will be determined after further consultation with the community. The NJC court will also hear matters brought before the Victorian and Civil Administrative Tribunal which could include residential tenancy, guardianship and administration and civil claims.

The NJC service delivery model

The 2002 Victorian Prisoner Health Study found that almost half of the prisoners studied were determined to have alcohol abuse or dependence; and more than 70 per cent reported having taken illegal drugs.

Further, compared with non-offenders, offenders are more likely to:

be poorly educated;

be unemployed and, if employed, more likely to be in low paid and insecure employment;

receive a statutory income (pension or benefit);

be homeless or in unstable housing; and

live in socially disadvantaged communities.

With these facts in mind, and the types of cases that are likely to be heard, NJC services will include:

drug and alcohol, mental health, housing, financial and employment assistance;

legal aid and community legal centre lawyers;

a youth policing unit;

victims assistance services;

mediation services;

interpreters; and

staff to address the needs of women, youth, CALD and Koori people.

The NJC service delivery models are currently being developed with a partnership approach which is critical to the development of community justice models. An ongoing extensive engagement process commenced late 2005 and will continue throughout the life of the pilot with the local community and all other relevant stakeholders around the development of integrated, effective service delivery models. The passage of this bill does not require the final determination of the NJC service delivery models.

The NJC magistrate

The NJC magistrate will be pivotal to the success of the NJC court as they will use the authority and standing of the court to promote the underlying therapeutic and restorative principles in its operations. For the first time in Australia the local community are playing a role in the selection of a magistrate. I want to take this opportunity to thank Ms Ann Polis and Mr Robert Bray for discharging this key duty.

The NJC magistrate will enter through the front door of the NJC and use the public space of the building rather than enter and use separate spaces which are traditionally allocated for the judiciary. As well as hearing all matters that arise at the court they will undertake activities and engage with the community to ensure that a strong community partnership is established and maintained around the development and operations of the NJC. This process will be a two-way exchange with the magistrate demystifying the justice system and the community informing the magistrate about the reality of living in their community.

Key features of the bill

I will now turn to some key features of the bill.

The bill is not intended to be prescriptive but provides a framework in which the NJC court can develop its processes and procedures.

The bill proposes two changes to the sentencing process at the NJC. Firstly, in order to ensure that the NJC magistrate can fully understand and address underlying causes of offending, the NJC magistrate will need access to a broader range of information, including from the multidisciplinary assessment and case management team. The bill allows for this to occur. As the types of information and reports that magistrates can consider are currently restricted in the case of the Children's Court, the bill requires that a child must consent to the jurisdiction of the NJC Court.

Secondly, the bill will extend the powers of the NJC magistrate to defer sentencing for adult offenders. The Magistrates Court currently has the power to defer sentencing for a period of up to six months for defendants who are under 25 years. The bill will allow the NJC magistrate to defer sentencing, regardless of the defendant's age, for a period of up to six months. This will allow the NJC court to defer older defendants' matters giving them an opportunity to demonstrate their rehabilitation and to stabilise any issues contributing to offending behaviour. This important extension to an existing sentencing option implements a recommendation of the 2002 Pathways to Justice report. Aside from this change, the NJC magistrate will have all the same sentencing options as in the other divisions including the option to incarcerate.

In addition to pleas of guilty, the bill allows the NJC court to also hear contested criminal and civil matters. The impact of lengthy contests will however need to be monitored given that one primary magistrate will hear all matters in a single courtroom and the desire of the NJC to deliver efficient justice. The introduction of a contest mention list at the NJC will assist with the management of contests. Consideration will also be given to transferring lengthy contested hearings to the Melbourne Magistrates Court or the Melbourne Children's Court as needed.

The NJC is a three-year pilot project which will be independently evaluated over the life of the pilot. The bill contains a sunset clause to recognise its pilot nature. This approach was adopted in the legislation establishing the drug court and the Koori court pilots. In both these cases their sunset clauses were only revoked on the basis of successful independent evaluations.

Conclusion

We have made great progress in advancing the Victorian justice system, and I commend all those who have worked hard for those changes. But we cannot afford to be complacent when clearly more work needs to be done. I believe we must continue to proactively examine different ways to improve our justice system.

An essential component to the ultimate success of the NJC project is the input and partnership with the local community. This is taking place through public forums, focus groups, one-on-one interviews, workshops and working groups which commenced in 2005 and will continue into 2006 and beyond. The NJC community liaison committee has been established with its inaugural meeting having taken place on 20 April 2006. People in the city of Yarra have an ongoing opportunity to identify key justice issues that affect their community and input into the operations of the NJC, and ways to ensure ongoing involvement in the NJC. A consistent theme already emerging is the need for people to have a voice, to be listened to and to be afforded basic respect in their dealings with the justice system.

It is important for me to stress that the partnership with community will not end with the establishment of the NJC but will continue with the development of the governance structure which will be put into place to oversee its operations. I think the impact of involving the local community more intimately in the administration of justice in this manner and the benefits this may bring more broadly will be an important outcome of the NJC.

One of the great strengths of this project will be its ability to drive cultural and procedural change in the justice system. These changes will develop at every level of service delivery, including the way that justice agencies and service delivery networks work together and the manner in which responses are provided to people in the community. This will be particularly relevant to vulnerable and marginalised groups in our community such as the homeless and those with disabilities and mental health problems. Failure to seek and trial innovative ways of dealing appropriately with these people can have effects that ramify throughout the broader community. The NJC approach will require some justice players to take on new roles but with a common guiding philosophy to try and make a positive difference in the lives of people who use the centre. The operations of the NJC will not always finish at the doors of the court, as is often the case in our conventional courts, but will extend beyond to craft solutions that are effective, meaningful and proactive for both individuals and the community.

I commend the bill to the house.

Debate adjourned on motion of Hon C. A. STRONG (Higinbotham).

Debate adjourned until next day.

COURTS LEGISLATION (JURISDICTION) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Hon. T. C. Theophanous.

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

That the bill be now read a second time.

Incorporated speech as follows:

The release of the justice statement in May 2004 confirmed the government's commitment to modernise Victoria's justice system. This bill implements reforms to both the civil and criminal justice systems in line with the justice statement.

It fulfils the commitment to examine the civil thresholds between the County and Supreme courts. It also makes a number of amendments to Victoria's criminal laws, to improve and clarify various jurisdiction and procedure provisions.

I turn firstly to the civil law amendments in the bill.

In committing to examine the civil thresholds of the County Court, the justice statement noted that as a general principle, litigation in the higher courts is generally more expensive and takes longer than litigation in the lower courts. Therefore as a basic principle jurisdiction should be allocated on the basis that users are able to commence proceedings in the lowest appropriate jurisdiction.

The government has examined the continuing efficacy of the jurisdiction of the County Court to hear and determine civil disputes up to a ceiling of $200 000. After careful consideration and extensive consultation with the courts and the legal profession, the government has decided that through this bill the civil jurisdiction of the County Court will be increased from $200 000 to an unlimited jurisdiction.

This will enable litigants to have a choice between the County and Supreme courts in deciding the forum for the resolution of their disputes, with the Supreme Court retaining its exclusive jurisdiction over prerogative writs, judicial review and its appellate jurisdiction.

An unlimited monetary jurisdiction for the County Court will remove the need to review the monetary jurisdiction in coming years. It is consistent with the County Court's unlimited personal injuries jurisdiction and the increase of the civil jurisdiction of the Magistrates' Court in 2004 from $40 000 to $100 000.

I now turn to the key criminal law amendments in the bill.

Committals

Committals perform a valuable role in the criminal justice system. However, they currently focus too much on forms and compliance with processes rather than achieving

outcomes. Less than 20 per cent of matters are contested, but the system currently operates on the assumption that every matter will be contested. The bill changes that approach. The new processes make no assumptions about whether a matter is likely to be contested.

After an extensive examination and consultation process, the bill contains a range of amendments to improve committals, including —

> requiring the parties to discuss the case before it comes before the court and to prepare a joint document indicating the outcomes of these discussions. This document will cover issues such as whether there will be an application for summary hearing or a plea of guilty or whether the matter will be contested and, if so, whether the prosecution agrees with the defence request to cross-examine certain witnesses. This will make the system more effective and will still be fair to all concerned;
>
> allowing the court to adjourn a matter for up to 14 days without the need for parties to appear in court, where the parties agree that further time would be useful to help resolve the case;
>
> enabling the court to direct the parties to attend a committal case conference. The court has trialled case conferences on a voluntary basis and they have proven useful for facilitating further discussions between the parties and assisting the courts to manage cases effectively.

The changes to committals contained in the bill will promote efficiency in the court system, by facilitating the identification and resolution of issues early in the process. This should result in less matters progressing unnecessarily to the County Court and pleas of guilty being identified earlier. This will particularly benefit victims and the court system.

Postal service

Postal service is currently allowed for hundreds of summary offences, but not for many other similar summary offences. In the interests of consistency, the bill will allow summonses for all summary offences to be served by post.

The current safeguards for defendants will continue to apply, including the right to a rehearing if the court is satisfied that the summons was not received. The bill also requires police to have regard to a number of factors such as the seriousness of the offence when deciding whether to serve a summons by post.

Indictable offences triable summarily

By broadening the range of indictable offences that can be heard summarily if the court and the defendant agree, the bill will help to ensure that jury trials are confined to appropriate cases.

Many indictable offences can be, and are, already dealt with fairly and efficiently in the Magistrates Court.

The bill will allow a number of additional offences, including common-law assault and affray, to be dealt with summarily, as well as a range of offences involving property valued up to $100 000, up from the current limit of $25 000.

These changes will enable more cases to be heard in the lowest appropriate jurisdiction, which is an important principle of the government's justice statement.

The bill also makes changes to the process by which the court decides whether it is appropriate to hear an indictable offence summarily.

There are currently no legislative criteria for the court to use in making such decisions. The bill introduces a number of criteria, including the seriousness of the offence and the adequacy of the available sentencing orders if the charge is heard summarily. The court will also consider any prior convictions of the defendant. This list is not intended to limit the discretion of the court. It is an inclusive list which allows consideration of any other relevant matters. It is intended to assist the court in its decision making process and enhance the transparency of this process by specifying key relevant considerations.

Aggregate sentencing

The bill provides the Supreme and County courts with the option of imposing an aggregate sentence, a power that is currently confined to the Magistrates Court. An aggregate sentence is a sentence that applies to more than one offence. In some cases, such as where a defendant has been convicted of multiple, related offences, an aggregate sentence can be a more flexible and pragmatic option than imposing an individual sentence for each offence. It enables the court to impose a sentence reflecting all of the offender's conduct. In some cases, this will enable the court to more clearly explain to the community the total sentence that it is imposing on an offender. It is therefore appropriate to give the Supreme and County courts the option of imposing an aggregate sentence. The bill ensures that a court will not be able to impose an aggregate sentence in some cases, such as when sentencing serious sex offenders, as there is a statutory presumption that such sentences are served cumulatively.

Other amendments

The bill also makes a number of amendments aimed at promoting fairness and greater efficiency in the criminal justice system, including —

> ensuring that the Magistrates Court cannot impose a custodial sentence where a charge is heard and determined in the absence of the defendant: while the imposition of a custodial sentence in these circumstances under the current system is rare, the government wishes to ensure that it is no longer a possibility given its inherent unfairness to the defendant;
>
> requiring charges to be read, or the substance of charges to be explained, to a defendant in the Magistrates Court, unless the defendant is represented: this amendment will clarify the existing common-law rules and will ensure that the defendant understands what he or she is pleading to;
>
> dealing with corporate defendants that refuse to attend court. A defendant must be present for proceedings in relation to an indictable offence to proceed. However, unlike an individual, if a corporation fails to attend court in answer to a charge, the corporation cannot be arrested. Corporations may therefore avoid prosecution for indictable offences by simply refusing to attend court. This is clearly inappropriate. Accordingly, the bill

contains reforms that allow courts to hear matters against absent corporate defendants, subject to appropriate safeguards.

The bill also amends certain requirements placed on the Director of Public Prosecutions. Under the Public Prosecutions Act 1994 the director must consult with the Chief Crown Prosecutor and another prosecutor before directly presenting a person for trial in certain circumstances, for example where the person has not been committed for trial on that charge.

Unfortunately the technicalities of these provisions mean that the director and Chief Crown Prosecutor are involved in well over 100 such decisions each year, instead of the handful of decisions to which this provision was intended to apply.

The amendments contained in this bill will give effect to the original purpose of the provisions. The director will continue to be required to consult with the Chief Crown Prosecutor and another prosecutor in the small number of cases where a person has not had a committal proceeding, not been committed to stand trial from a committal proceeding on a similar or related charge, and the director wishes to present the person directly for trial.

By removing these misplaced technical requirements, the director and the Chief Crown Prosecutor will be able to spend more of their time dealing with the most important cases in this state.

The amendments to criminal law and procedure in the bill were developed in consultation with a high level advisory group including representatives of the courts, the Victorian Director of Public Prosecutions and Office of Public Prosecutions, Victoria Police, Victoria Legal Aid, the commonwealth Director of Public Prosecutions and the legal profession.

The bill will promote consistency, transparency, fairness and certainty in the criminal law, all of which are key principles of the government's justice statement. The reforms in the bill will perform an important role in modernising and improving Victoria's laws and justice system.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).

Debate adjourned until next day.

NATIONAL PARKS AND CROWN LAND (RESERVES) ACTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Ms BROAD (Minister for Local Government) on motion of Hon. T. C. Theophanous.

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

That the bill be now read a second time.

Incorporated speech as follows:

I am pleased to introduce this bill to further enhance Victoria's parks and reserves system. It complements other significant initiatives of the Bracks government in developing the system, notably the creation of the state's outstanding marine national parks and marine sanctuaries and the expansion of parks in the box-ironbark region in 2002, the additions to the parks and reserves system in 2004, and the creation of Point Nepean National Park and the Great Otway National Park in 2005.

The main features of the bill are:

amendments to the National Parks Act 1975 to add areas to six existing parks and to improve the provisions relating to offences in marine national parks and marine sanctuaries; and

amendments to the Crown Land (Reserves) Act 1978 to create Bendigo, Kurth Kiln and Macedon regional parks, several associated water reserves at Macedon, four nature conservation reserves in the Otway region and a recreation reserve at Aireys Inlet.

There are also amendments to the definition of 'restricted Crown land' under the Mineral Resources Development Act 1990 and several other, mostly technical, amendments to the National Parks Act, the Crown Land (Reserves) Act and the Heritage Rivers Act 1992.

Changes to the parks system under the National Parks Act

The bill adds approximately 400 hectares to four national parks, one state park and a national heritage park under the National Parks Act.

Of particular note is the addition of Ironbark Basin to the Great Otway National Park. This significant area of remnant bushland is located close to Anglesea and adjacent to Point Addis Marine National Park. Surf Coast shire has generously agreed to surrender the land to the state at no cost for inclusion in the national park. A generously donated area containing part of the walking track at Sabine Falls, and three small allotments currently owned by Wannon Water, will also be added to the park.

Small areas, mostly land acquisitions, will be added to French Island, Grampians and Mornington Peninsula national parks, Broken-Boosey State Park and Castlemaine Diggings National Heritage Park.

The bill excises sections of roads from Steiglitz Historic Park and Castlemaine Diggings National Heritage Park and a small area from the national heritage park that is not required for park purposes. It also corrects the plans of Grampians and Great Otway national parks and Beechworth Historic Park to exclude areas of freehold and associated roads. The excisions are minor and have minimal impact on the relevant parks. In accordance with section 11 of the National Parks Act, the National Parks Advisory Council has provided advice for tabling in Parliament. The council does not oppose the excisions, additional details of which are attached to the advice.

Marine national park and marine sanctuaries — offence provisions

Victoria's representative system of marine national parks and marine sanctuaries was created under the National Parks Act in November 2002. Fishing was prohibited in most of the parks and sanctuaries at that time, and in the remaining four marine national parks and part of one marine sanctuary in April 2004. An important aspect of managing these areas is the protection of all marine life, including high-value commercial species such as abalone and the deterrence of illegal activity.

The experience gained since 2002 from enforcing the 'no fishing' provisions of the National Parks Act and from prosecuting in the courts has contributed to several proposed amendments to those provisions. The amendments contained in clauses 5, 6 and 7 of the bill do not alter the fundamental position in law that fishing is prohibited in marine national parks and marine sanctuaries. Rather, they are intended to improve the ability to enforce the prohibition and to encourage compliance with it.

The amendments include several relating to the existing provisions in section 45A of the National Parks Act in order to improve their effectiveness. There are also three new offences created relating to the use of recreational fishing equipment in a marine national park or marine sanctuary, the liability for offences committed on board a boat, and the possession while in the water of priority species (abalone and rock lobster) in a marine national park or marine sanctuary, for example, while diving or wading.

Regional parks

A feature of the bill is the reservation of Bendigo, Kurth Kiln and Macedon regional parks under the Crown Land (Reserves) Act. These parks arise from recommendations of the former Environment Conservation Council (ECC) or Land Conservation Council (LCC), the predecessors of the Victorian Environmental Assessment Council (VEAC).

Regional parks provide opportunities for informal recreation in natural or semi-natural surroundings. They are readily accessible from urban centres or major tourist routes, and they often cater for relatively large numbers of visitors. While the primary emphasis is recreation, regional parks may also have important conservation and water catchment values, and there may also be some minor resource use. Management plans for the parks will be prepared in consultation with the community.

Bendigo Regional Park

Bendigo Regional Park comprises nearly 8900 hectares of public land in and around Bendigo. The park, with its distinctive box-ironbark vegetation, will complement the existing Greater Bendigo National Park and the proposed public park based on the Crusoe Reservoir. The permanent reservation of the regional park will reinforce Bendigo's reputation as a 'city within a forest'.

The park is highly significant to Bendigo residents. It is used on a daily basis for many activities, including use of the Bendigo bushland trail, walking, bike riding, horseriding, jogging, nature observation, orienteering, prospecting and walking dogs. The park's values also include threatened flora and fauna, seasonal wildflower displays, Aboriginal cultural values and many historic features associated with past goldmining.

The bill provides for the ongoing authorisation of particular water supply infrastructure located in the park. By agreement, Coliban Water will be able to control, manage and construct specified water-related structures and installations such as channels. There is also provision for the granting of authorities for private water distribution works and pre-existing dams located in the park.

Kurth Kiln Regional Park

Kurth Kiln Regional Park covers more than 3400 hectares north-east of Gembrook and adjacent to Bunyip State Park. The new park includes Egg Rock, waterfalls, the unique Kurth Kiln, and evidence of pre-1939 sawmills and associated tramways. There is also a rich flora, including several rare species. Ewart Park, which has been managed by the Shire of Yarra Ranges, commemorates the association of former local identity and past shire president, Mr Henry Ewart; this association will continue to be recognised in the new park.

Picnicking, walking, bike riding, camping, horseriding, dog walking, orienteering and visiting historic sites are among the activities enjoyed here. Valuable community support to the park is provided by the Friends of Kurth Kiln and the Gembrook Flora and Fauna Group.

In accordance with the recommendations of the former LCC and the Central Highlands Regional Forest Agreement, the bill provides for low-intensity timber harvesting to continue in the eastern section of the park. For this purpose, the bill deems part of the park to be protected forest within the meaning of the Forests Act 1958. Any harvesting would be on a small scale and would aim to minimise impacts on the park's recreation and conservation values.

Macedon Regional Park

Macedon Regional Park comprises most of the forested Crown land on the prominent Macedon Ranges. The park is a very popular day-visitor area readily accessible from Melbourne and nearby towns. Picnicking, walking (including along the Macedon Ranges walking trail), scenic driving, bike riding, nature observation and horseriding are popular activities. The park also has significant water supply, conservation and landscape values.

The bill provides for nearly 300 hectares of forested land currently owned by Western Water to be included in the park after its transfer to the state. I wish to thank Western Water for this significant contribution to this important park. These additional areas, which will continue to be managed to protect catchment values, will consolidate the park considerably and increase its size to more than 2200 hectares. As with Coliban Water, the bill enables Western Water, by agreement, to continue to control, manage and construct specified structures and installations in the park.

The bill also takes the opportunity to permanently reserve for water supply purposes eight areas that contain reservoirs and a tank that Western Water operates to provide water to adjacent towns. The reserves, which abut or are surrounded by the regional park, will include Crown land as well as land to be transferred by Western Water. Also excluded from the park is the Mount Macedon memorial cross, which, in recognition of its special significance, will continue as a

separate reservation with its own trustees and committee of management. Several pine plantations leased to Hancock Victorian Plantations are also excluded from the park.

Macedon Regional Park has significant community involvement and support, including from the Macedon Ranges Park Advisory Committee, which has played an important role in raising the profile of the park, the Shire of Macedon Ranges, the Friends of Macedon Ranges and the Barringo Reserve committee of management. The contributions of the community groups, like those of the groups at Kurth Kiln, are typical of those made by many committed individuals across the state in support of our parks and reserves.

Nature conservation reserves in the Otway region

VEAC's Angahook-Otway investigation recommended five nature conservation reserves in the Otway region, one of which is already fully reserved. These areas contain significant remnant vegetation and threatened species and are important in ensuring that the reserve system is representative of the natural environments occurring on public land in the Otway region.

The bill creates the remaining four reserves, totalling some 5000 hectares, under the Crown Land (Reserves) Act. The Bungador Stony Rises Nature Conservation Reserve comprises three remnants of public land in the stony rises region. Jancourt Nature Conservation Reserve contains the largest remnant of the once-extensive Heytesbury Forest and is complemented by the Coradjil Nature Conservation Reserve. The Marengo Nature Conservation Reserve extends and consolidates protection of the remnant coastal heath lands at Marengo. In accordance with VEAC's recommendations, the bill enables firewood to continue to be harvested from parts of the Jancourt reserve until 2010.

Other Crown land reserves

There are also several other reserves under the Crown Land (Reserves) Act covered by the bill. The bill re-reserves Aireys Inlet Natural Features Reserve for recreation purposes. This reflects the Aireys Inlet community's long-held desire for a sporting oval in the town and follows consultation with the local community.

The bill also amends the plans for the Nathalia, Numurkah and Wattville natural features reserves on the northern plains. The amendments incorporate the results of surveys of roads excluded from the reserves that have been carried out since the reserves were established in 2002.

Restricted Crown land

Restricted Crown land is defined in schedule 3 to the Mineral Resources Development Act. Mineral exploration and mining works on restricted Crown land require the consent of the minister responsible for either the Crown Land (Reserves) Act or the Forests Act.

The bill amends the definition of 'restricted Crown land' by amending the descriptions of several reserves referred to in schedule 3 and by including an explicit reference to Castlemaine Diggings National Heritage Park. This is because the park includes some former freehold areas that would otherwise not be restricted Crown land under the general definition. The bill also excludes from the definition particular land at Carshalton near Bendigo that would otherwise be restricted Crown land but which will now be used as part of Bendigo Mining's operations.

Conclusion

The bill will enhance Victoria's magnificent parks and reserves system and the management of its marine national parks and marine sanctuaries. Permanently protected, the additions to existing parks and the new regional parks and other reserves will contribute to the long-term conservation of our natural and cultural heritage, as well as to the public's enjoyment of a wide variety of recreational activities.

I commend the bill to the house.

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

Debate adjourned until next day.

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES BILL

Second reading

Debate resumed from 19 July; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on this fairly significant piece of legislation, it is normal practice to outline the opposition's position on the bill. In so doing I will go into some detail why we have taken the position that we have before proceeding to look at some of the detail of the provisions in the bill. When the opposition considered this piece of legislation basically two streams of opinion emerged. Firstly, I say this because there are people on our side of the house who see some merit in a charter of human rights: as a charter of human rights and responsibilities this bill has all the force of a wet lettuce leaf.

Hon. R. G. Mitchell interjected.

Hon. C. A. STRONG — Probably not as much as you!

It does in fact fail to protect individual rights from the excesses of executive government. It is basically a fake in its claim to do that. One of the things that is an absolute farce in the whole thing is the first paragraph of the minister's second-reading speech where he says that this is 'an historic day for Victoria'. We are going into hyperbole overload if we call the introduction of this wet lettuce leaf a historic day for Victoria. It is, as I say, hyperbole overload. I will touch later on the extent to which this limp lettuce leaf is just that.

The second stream, and I think the most important one, is that the general thrust of this particular piece of legislation is contrary to our Westminster system. The Westminster system and the primacy of Parliament is inconsistent with this type of legislation.

No matter how limp, soft and fluffy this particular version may be — and it is — it is nevertheless inevitably a forerunner to a full bill of rights. There can be no question of what this is leading to, because it has built into it four-year review periods, and one can imagine that with each of those four-year review periods this will become more and more like a proper bill of rights. A bill of rights will change forever the way the Westminster system that we know and love actually works and the way it protects the people.

It is worth touching very briefly on some of the key aspects of our Westminster system as they compare with other systems involving a bill of rights. I believe the Westminster system is true democracy, because in every way it gives total power to the people. It does not give any of that power to unelected gurus or experts — or, in our case, the judiciary — as it keeps that power for the people. As members probably know, the rules for the bill of rights system in the USA were written down many years ago, and generations of judges have interpreted those rules so they apply to new situations, to changing contexts and to a way of life which was never envisaged or foreseen by the people who set those rules in place. Those changes are carried out and the rules are rewritten by unelected experts.

The experts in the old days, before the Westminster system replaced them over generations, were kings, high priests, popes, witchdoctors — whatever you like. They interpreted the rules, and under the Westminster system — our system — the people said, 'We do not want anybody to interpret the rules. We want the people to set the rules and interpret them'. That is what the Westminster system does through Parliament. The people elect the Parliament to set the rules, and to ensure the Parliament does not become too arrogant and set in its ways, we roll over the Parliament every three to four years. The people have control; control is in no way moved to unelected experts.

We can look at other contemporary examples of systems where constitutions ring loudly of the protection of human rights and where everybody is equal and is fairly treated under the law. If you were to read the constitution of the former Union of Soviet Socialist Republics (USSR) you would find that all these rights were enshrined in the constitution, but all those rights did not actually exist in reality because they were interpreted by experts and by judges who were hand-picked by the Communist Party of the time and by Stalin to interpret their view of the world. But under the Westminster system that cannot happen, because the rules are set by the people, not by some unelected experts.

A key aspect of the Westminster system is that the people make the laws, and when a particular law becomes out of date or the context for that law changes, it is the people, through the Parliament, who make the changes. If the Parliament does not make the changes the people like, the people simply toss out the Parliament and put some new people in until they get the result they want.

Mr Somyurek interjected.

Hon. C. A. STRONG — Under our system the people are in charge in every way. Mr Somyurek knows that. I think that is probably what his interjection was about. It is the people who are in charge in our system, not these unelected experts — these witchdoctors, high priests et cetera.

The Australian people are not dumb. They want to be in charge. The Australian people do not want to hand the power to make laws over to some unelected body. The Australian people want to keep that power to themselves. It makes sense that they would want to keep that power, and it is part of our cultural and national heritage that we are individuals and we want to be in charge of our own destiny. We do not want to be handing that power to somebody else, such as an unelected judge. We want to have that power for ourselves. That is part of the Australian way. It is part of our system, it is something we have grown up with, and it is something that all Australians hold dear. As I said, this bill is the first step of taking us down that slope to a bill of rights, where the right to make laws will be taken away from the people and given to unelected experts.

Because the proposed charter is such a fundamental change to our way of government, the Liberal Party believes that all Victorians should have a say in whether they want to go in that particular direction. It is a decision that all Victorians should take; it is not a decision that should be taken by a government or an opposition. It would basically change our heritage of hundreds of years.

The minister said in his second-reading speech that there had been consultation involving 2600 people — but 2600 people consulted, out of a population in Victoria of close to 5 million, is a bit of a joke. I and the Liberal Party believe the Victorian people should have

a say in whether they want to make this change. Therefore I move:

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

That makes it quite clear that if we go down this route, which is an historic change in how we manage our affairs, then it is appropriate that Victorians be asked their opinion and that they be allowed to make a judgment. If those in government think this is inevitably the right way to go, then they should have no fear of putting the proposal to the people. They are the ones who say they listen and act. Let them put this to the people and see what the people say. Let them live up to their rhetoric.

If the Victorian people think it is the right thing to do, then they will be with the government and we will be with it too, but let the Victorian people decide before we make a change like this that heads us down a slope to a bill of rights and to a fundamental change to the Westminster system.

Members opposite will get up and say in response that this charter of rights is not a bill of rights, it is not like the United States Bill of Rights, Parliament will still have primacy et cetera. They will go through all that rhetoric, but we all know, and the Victorian people know, they would not be doing it with four-year reviews if it were not all about heading us down this slippery slope. Now is the time — before we start down that slope — to ask the people of Victoria what they want to do. The people of Victoria will not believe the government when it says, 'This will not change anything'. If it will not change anything, why the hell is the government doing it?

Let us face up to the fact that whichever way you look at it, a bill of rights is a legitimate form of managing our affairs that has been embraced by other countries, so let us ask Victorians whether they want to embrace it.

My reasoned amendment says, 'Let us just stop. We are three or four months out from an election so let us have a referendum at the election on whether we should have a bill of rights.'. Why not have a referendum about this particular piece of legislation? I urge all members, particularly members opposite, to think about that. If they really believe in this, why not get the accolades of all Victorians by involving them in the process? If the government is going to the election on a platform of listening and acting and doing all the things Victorians want, why does it not ask Victorians what they want to do in such an important area as this?

Let me go on and say that if my reasoned amendment is lost, the opposition will be opposing this bill. We quite frankly believe that this is an issue of such magnitude that it should be taken to the people of Victoria before it is approved. Therefore, we will oppose the bill.

I said in my opening comments that another stream of views about this bill is that it has all the force of a limp lettuce leaf. Let me spend a little bit of time highlighting what a limp lettuce leaf it is. I will start with a very macro overview of how the bill is meant to work. Essentially the human rights provisions are based on the International Covenant on Civil and Political Rights 1966. Any new legislation that comes before this house will have to be accompanied by a statement of conformity which says the legislation conforms with the charter. If it does not conform with the charter, there needs to be another statement saying that it does not conform with the charter and why. Therefore, Parliament has some ability to ignore the charter if it seeks to.

The charter does not create any new rights for anybody whose rights seem to have been transgressed. They have no action for damages or retribution under this charter. It gives them no rights to have a trespass of their charter rights rectified or compensated for in any way. The only thing the courts can do is issue a declaration of inconsistency with the charter. If somebody's rights are transgressed, the only satisfaction they can get is the courts will say, 'Chris, your rights have been transgressed.'. I knew that anyway. Why do I need the court to tell me that? Why do I need to go through all this palaver of going to court so the court can tell me, 'Chris, your rights have been transgressed.'? How does that help me? Am I able to get any compensation or have that transgression reversed? No. None of that exists at all. This declaration of inconsistency goes to the Attorney-General and is tabled in Parliament. The Attorney-General then has six months to make some statement saying, 'Yes, Chris, your rights have been transgressed. Bad luck, mate.'. The issue is then effectively dealt with. I ask you: could you get anything more limp lettuce leaf than that?

Public authorities are bound to carry out their activities and consider their decisions in light of the charter. However, once again, if they do not, all that happens is they get one of these declarations of inconsistency against them after you have spent years and God knows how many thousands of dollars dragging this thing through the courts — just to be told that what you knew were the facts were indeed the facts. There is no way of

satisfying your aggrievement as it were, all you can do is have your aggrievement confirmed.

Further, nobody can take a trespass against the charter of rights to court in its own right — they can only do so as part of an action that is already on foot. There is also a requirement that the courts make all their decisions in the context of the charter of human rights. You can see that when it comes to effectively protecting people against the excesses of the administration, the bill is pretty low key.

I will just touch on a few of the details of how the system is supposed to work, just to highlight further what a farce it is. In his second-reading speech the minister said this was an historic day for Victoria — I cannot get over the flights of hyperbole on such a limp lettuce leaf of a bill.

In light of the debate we had yesterday on the bill which gutted the ability of the Scrutiny of Acts and Regulations Committee to comment on whether legislation infringes people's rights by saying SARC is no longer required to produce a report on legislation before it comes into this house, it is interesting to note that this bill gives SARC the ability to consider the charter of human rights in its deliberations, although those deliberations will probably be after the bill is passed through the house.

One of the most interesting issues is that the courts will be required to interpret all of their judgments in the context of the charter. All questions about the charter aired during a trial, whether it be in the Magistrates Court, at the Victorian Civil and Administrative Tribunal or wherever, can be referred to the Supreme Court. The Attorney-General is given the right to intervene in any of those cases which involve the charter. In considering whether the charter rights have been breached, and given that a lot of the charter rights have been picked up from the International Covenant on Civil and Political Rights, if any judgments or decisions have been made regarding those rights in other jurisdictions — in other courts around the world — the Supreme Court is obliged to consider those judgments of other courts and those other rulings, whether they be from European courts, American courts or whatever, that involve these charter rights. They might even be from the Zambezi court for all we know. Once again we have removed some of the key rights of Victorians to have power over their own destiny by asking our courts to modify their judgments to match those of other jurisdictions and other countries.

I want to quickly go through the bill. I highlight that I am doing so to indicate to the house that this is a limp lettuce leaf, that it is a farce. It is no more or less than a deliberate first step to a proper bill of rights and therefore on that count alone it is a farce. It should be put to the people so that they can clearly understand its full impost.

Part 2 of the bill sets out what your rights are. I will run through them quickly. There is recognition and equality before the law. We need not be told that; I think we all accept and know that is something that we have here. We have freedom from being forced to work. Once again we know that. We have freedom of movement. So what? We know that. We have privacy and reputation; freedom of thought, conscience, religion and belief; freedom of expression; peaceful assembly and freedom of association; protection of families and children; taking part in public life; cultural rights; and property rights. All these rights which we have, and which we know we have, the government is telling us we have got. All these rights which have been built up for many years are listed here. It is very nice to have them listed, and we are told that the courts have to take notice of them. Of course they do. They do already.

However, there are a couple of interesting ones. I would like to draw to the house's attention the right to life. We all know that the issue of right to life has some contention about it, but hidden away at the very end of the bill under 'Savings provisions' we have clause 48 which states:

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

The bill clearly says, 'Do not think all you right-to-life people can use this bill in any way because we have taken that ability out'. Interestingly you have all these rights set out in part 2, but all these rights are qualified under clause 7(2) which says:

> A human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society …

We know that that is how we work here and how we have always worked here. What does all this mean, honestly and truthfully?

Part 3 of the bill deals with the procedures. How will this charter be enforced and made to work? Any new piece of legislation that comes in here has to conform to the charter and there has to be a little bit of paper. Clause 28(1) says:

> A member of Parliament who proposes to introduce a Bill into a House of Parliament must cause a statement of compatibility to be prepared in respect of that Bill.

So any bit of legislation that comes in here needs another little bit of paper to be tabled saying, 'Yes, this bill is in conformity'. But if it is not, that does not matter. You need a statement saying it is not compatible, or that a part is not compatible. So we have the requirement for new legislation to have a compatibility statement, but if it does not have a compatibility statement it can have a statement of non-compatibility, which has to say why it is not compatible.

Then the bill under clause 30 gives the Scrutiny of Acts and Regulations Committee the ability to look at it. I would have thought SARC's basic charter is to look at those rights as it is. But we have just had SARC gutted anyway, so that is a bit of a joke.

Clause 31 allows Parliament to override any of these rights. Clause 31(3) provides that a member of Parliament who introduces a bill containing an override declaration must explain why. If there is an override declaration — in other words, a declaration saying that one particular part of the bill is not subject to the charter — it means that the courts cannot deal with that. The courts cannot enforce the charter in that particular piece of legislation or those particular provisions. They cannot do so for another five years. The Parliament can then say for another five years it is going to exempt that piece of legislation from the charter.

As I said in my summary, the courts have to interpret all the judgments or use the charter in making their judgments. Clause 32(1) states:

> So far as it is possible to do so consistently with their purpose, all statutory provisions must be interpreted in a way that is compatible with human rights.

The next one is interesting. Clause 32(2) states:

> International law and the judgments of domestic, foreign and international courts and tribunals relevant to a human right may be considered in interpreting a statutory provision.

How many people in this place on both sides of the house have said, 'Why have we ratified these particular international covenants that mean we have to do things that we do not particularly want to do because they are part of an international covenant we have ratified?'. Here we are saying in interpreting these rights that international law and the judgments of foreign and international courts and tribunals relevant to a human right may be considered in interpreting the provisions. As I said, a whole procedure is run through by the courts. The penultimate slap on the wrist with a limp lettuce leaf is a declaration of inconsistent interpretation, which the Supreme Court can issue by way of saying that what was done was inconsistent with the charter. There is a process giving the minister the obligation of tabling that in Parliament and having some comment come back within six months as to why or what he intends to do with it.

As I said before in my previous example, the court would say, 'Yes, Chris, your rights have been trespassed, so we have issued a declaration to that effect', and six months later the Attorney-General would say, 'Yes, Chris, your rights have been trespassed; that is absolutely correct'. How would you feel any better for that?

As I said before, this can only happen regarding a case that is on foot; nobody can start a cause of action for an alleged transgression of the charter for a case that is not already on foot. I point out to the government that it will be very interesting to watch this, because many planning issues — which I talk about a lot — go before the Victorian Civil and Administrative Tribunal, where there is an issue on foot. I can foresee that in many instances these planning issues will be interpreted as a charter violation where someone's property rights, right to privacy, right to peace and quiet, right to sunshine — or any other sort of rights you like — have been trespassed, and they would therefore demand that the case be taken from VCAT to the Supreme Court to see if there is a charter breach. If there is a charter breach — if the person's rights under the charter have been violated by a planning decision — then it would go back to the minister. There could be hundreds of such cases. We all know the passions which planning issues inflame; there will be hundreds of cases of what are taken to be charter violations coming out of VCAT planning decisions.

I foresee a significant amount of work for the Supreme Court in that area simply because it happens to be an area I know about. I am sure other members know about fairly active areas which might also involve perceived violations of charter rights because of the passion of the people involved. All of this will achieve no good, because at the end of the day nothing will happen, and then the people involved will be even more furious. As if people are not furious enough at VCAT's planning decisions, when they take those to the Supreme Court and are told, 'Your individual property

rights have been violated by this planning decision, so we will issue a certificate saying so', they will say, 'What is going to happen now?'. They will be ballistic — that is the only way to describe it.

These are some of the issues that make this bill nothing more than a limp lettuce leaf in terms of protecting people from the excesses of the administration of government. This historic day for Victoria is a limp lettuce leaf. We as a Parliament have no option but to hold, to not proceed and to think deeply about whether we want to go down the road of a charter of rights. The government should take this issue to the people, as I have moved in my reasoned amendment. If the people then say they would like a charter of human rights, maybe we should put in place one that is not a limp lettuce leaf — we should have a proper one. If the people decide that is what they want, we should do this properly. We should not do this crazy first step by subterfuge. It is neither here nor there, neither fish nor fowl. It is not a charter but clearly a pipe-opener to charters down the track.

The government should take the Victorian people into its confidence and ask, 'What do you want? Do you want something like this?'. If the people decide they do, the government should do it properly, but this is a farce. It should be halted where it is. The whole question should be put to the people, and then we can go forward with some sensible idea of what Victorians want for the future of their governance, because that is what it is about. This is a long-term, 100-year, generational issue — whether we will be changing from the Westminster system to some form of charter rights. Do not fool yourselves: this is just the first step. Once we start this process the outcome will be inevitable. We should pause and ask ourselves whether we want to go forward. If the answer is yes, we can do a lot better than this piece of junk.

Hon. P. R. HALL (Gippsland) — It is my pleasure to present the views of The Nationals on the Charter of Human Rights and Responsibilities Bill. In assessing the legislation the first thing you need to do is look at its purposes to see what the minister's intentions were in introducing this legislation. The minister said in the second-reading speech that the bill will:

> … provide better protection for human rights …

The first question I ask myself is: how will it provide better protection for human rights? Part of the analysis I will present this morning will go to that very question — how will it do that, and indeed if it will achieve what the minister has said he expects it to. The second question I ask myself is: what extra provisions or what additional penalties will apply if a public authority is seen to be in breach of the rights set out in the bill?

I can say that the answer to those questions, Acting President, is that no additional penalties are created by this legislation — not one. No compensation will be available to an individual for an action arising from this legislation. Precious few extra provisions are created by this legislation, and most of them can be overwritten by the government anyway if it has the will to do so.

The third question I ask myself is: to whom does this legislation apply? One would have thought that if this is a grand piece of legislation designed to prevent abuse of human rights in Victoria, it would apply to protection from the actions of other individuals, companies and organisations, but the only application that this particular bill has is to actions that are undertaken by public authorities. The definition of 'public authority' is contained in clause 3 of the bill. Indeed as part of the explanation for that, you need also to look at clause 6 of the bill, which talks about the organisations to which the provisions of this bill actually apply.

Clause 6 on page 9 of the bill tells me that this legislation only has application to the Parliament itself, to courts and tribunals and to public authorities as set out in the definitions provisions in the bill. So there is no application whatsoever to the actions of another individual or a private organisation, business or company — none at all. The only application is to a very limited number of public authorities as defined in the bill.

What implications will this legislation have for an individual or a public authority that may act in a manner contrary to those rights set out in part 2? I am going to explore this in a bit more detail in my contribution, but the simple answer is that there is no implication. While you might be charged under the Crimes Act, for example, for committing a murder, you cannot be charged under this act for removing another person's right to life, so there is no meaning at all in terms of putting that particular right in this charter.

You can be sued for discriminating against a person under the Equal Opportunity Act, but there are no means for suing a person for discrimination under this act, despite the fact that we have in here a human right which says that we are not allowed to be discriminated against on a whole series of grounds.

Therefore this legislation only has application — and very limited and compromised application, at that — for actions undertaken by public authorities. But then

again, as the Honourable Chris Strong adequately said in his contribution, there are no consequences for the actions of an authority anyway. There is no recourse for compensation or to have actions justified — none at all. It is simply a feel-good statement and a feel-good action that a court may rule you have been harmed according to this particular charter of human rights in the act of Parliament, but there is no recourse for the harm that has been caused to you.

We in The Nationals say that this legislation serves no worthwhile purpose. I believe the second-reading speech is littered throughout with meaningless rhetoric, and it will not provide better protection for human rights. It is for those reasons that The Nationals oppose this piece of legislation with as much vigour as we can muster.

I want to qualify and justify some of the comments I made in my opening remarks by having a look at the structure of the legislation itself, having a look at exactly what it does and how it pretends to do it. It is important to look at the bill's structure because it is a bit different to most pieces of legislation that come before the chamber. It is referred to commonly as a charter of human rights and responsibilities rather than as an act. Indeed the title of the bill is the Charter of Human Rights and Responsibilities Bill but, as I said, it is predominantly referred to as a 'charter'. It is a bit different to most pieces of legislation. What is the legal status of the charter? What does it actually do? Its legal status is that it becomes an act of Parliament, and I will try and analyse what it does.

I want to have a look at some of the provisions of this bill and make comments as I go through to justify some of the comments I made in my opening remarks.

Interestingly, clause 1 is headed 'Purpose and citation'. Again, that too is a bit different to most acts of Parliament. Clause 1(1) says:

> This Act may be referred to as the Charter of Human Rights and Responsibilities and is so referred to in this Act.

The bill itself tells us that we should refer to it as a charter rather than an act of Parliament.

The commencement provisions in this bill are also interesting in that they do not come into effect at the earliest date — that is, not until 1 January 2007. I would have thought that if this government is heralding this piece of legislation in the second-reading speech as an historic day, it would want to put it in place as soon as possible, but divisions 1 and 2 of part 3 would not come into play until 1 January 2007.

Moreover, divisions 3 and 4 of part 3, which one would not perhaps describe as the actions under this bill, do not come into effect until 1 January 2008. If the government is serious about this legislation, I do not understand the logic behind waiting the best part of one and a half years before the main parts of this legislation commence. It seems strange that the government has heralded this as such an historic moment and such a great piece of legislation but seems not so keen to enact it.

As I said before, the legislation contains a series of definitions. General definitions are contained in clause 3. Clause 4 contains the definition of 'a public authority', which is a lengthy and important one. I will not quote that definition, because this bill only applies to public authorities. A reader of the act would need to read clause 4 very carefully to see to what sort of organisation this might apply.

Clause 5, which is what I call the catch-all provision, is interesting. It says:

> A right or freedom not included in this Charter that arises or is recognised under any other law (including international law, the common law, the Constitution of the Commonwealth and a law of the Commonwealth) must not be taken to be abrogated or limited only because the right or freedom is not included in this Charter or is only partly included.

That says, 'If we have forgotten about something, we did not mean to forget about it. You should include it anyway as part of the list of human rights under this provision'.

I have already referred to clause 6 as the application clause. Briefly, it spells out very clearly that this only has application to the Parliament, the courts and the tribunals, and public authorities. Indeed for further clarification one could refer to page 14 of the minister's second-reading speech on page 14, where the minister states exactly which organisations there is no application to. It says:

> The charter does not apply to private businesses or entities or non-government organisations except to the extent that they may be exercising functions of a public nature on behalf of the state or a public authority.

That is good. It is clear that this legislation has very limited application. It is purely for those public authorities that might be carrying out a public function, but principally the Parliament, courts and tribunals, and government departments.

I want to turn to part 2 of the bill because it contains a list of human rights, and about 20 of them are listed in clauses 7 to 27. This is where I can see the lawyers' eyes light up, because there is no doubt that a lawyer's

picnic is contained within this list of 20 human rights. I am not going to go through all the human rights listed, but I can see that each of them presents in itself an invitation to argument which will eventually end up in courts around Victoria.

For example, clause 9 is about the right to life. As the Honourable Chris Strong has already indicated, there is always going to be a debate and issues about the application of that particular right. There already is; we have seen the debate going on in the newspapers. There is the right to freedom of movement, which basically says that in Victoria we can go anywhere we like, but you, Acting President, and I know that we cannot. Certain areas are out of bounds — for example, some workplaces, for safety reasons. When certain areas are closed off for special events we are not allowed to go across those areas and we can be held to be trespassing in those areas.

I can see again that something as simple as freedom of movement is open to becoming the subject of much litigation. The winners out of that will be the legal profession in this state. It is the same with privacy and reputation provisions, which are in clause 13 of this bill.

Clause 16 concerns peaceful assembly. I can see the protesters grabbing this particular right for all it is worth and intruding upon the rights of other decent law-abiding people who wish to work. I can see the forest protesters in East Gippsland claiming that under this particular provision they have a right to peaceful assembly, which will consequently impede the lawful actions of timber workers wanting to go about their business. I could go on, but all I can say in respect of those lists is that each of them in their own right is just a simple invitation to legal debate. I have no doubt whatsoever that the picnic will soon become a banquet for lawyers in this the state.

Before I finish commenting on these rights, I want to say this about each of them: no fair-minded human would disagree with the rights in themselves and the principles behind them. We all have certain rights which have been developed through the way our society works and through common law. We all expect those sorts of rights to apply in the society in which we live and, as I have said, they do. There are laws which make it illegal for people to impact upon those human rights. We have antidiscrimination legislation, we have crimes legislation and we have a whole series of acts which protect people's rights. But we simply say that we do not need the collection of rights as is presented in this form of legislation because it does nothing new. It is purely provocative to intolerant people. I can see people who are not tolerant using these rights as a vehicle to create distrust and disharmony in our society. The Nationals believe that in many regards these rights will be totally counterproductive to their intention of protecting human rights and to enabling people to live in a harmonious society.

I want to deal with part 3 of the bill, which is about the application of the legislation. As I have said, it is interesting that part 3 and part 4 do not commence until 1 January 2008. These are the very limited actions that arise out of the legislation. The first clause under part 3 states:

> 28. Statements of compatibility
>
> (1) A member of Parliament who proposes to introduce a Bill into a House of Parliament must cause a statement of compatibility to be prepared in respect of that Bill.

None of us exactly knows what a statement of compatibility is. I do not know if the government is going to define it in regulation so we can know what it is. I am not sure whether is going to be a precursor or pre-statement to the second-reading speech. I have read that it has to be laid before the Parliament prior to the second-reading debate taking place. I am not sure whether that means it will be a comment within the second-reading speech, like statements regarding amendments to the Constitution Act are now included as a part of the second-reading speech. How will a statement of compatibility be presented to the Parliament and what form will it take? There is no suggestion of what form it will take.

The next clause says:

> 29. No effect on Victorian law
>
> A failure to comply with section 28 in relation to any Bill that becomes an Act does not affect the validity, operation or enforcement of that Act or of any other statutory provision.

That means it does not matter anyway. It means that if you fail to table a statement of compatibility, it has no impact on the legislation that will be passed. You can choose to do it or you can choose not to do it, there is no impact either way. That is why Mr Strong and others have said this is limp lettuce legislation, because it is not enforceable. Clearly this issue about statements of compatibility is going to be entirely up to the member, whether they be a government minister or an opposition member introducing a private members bill. Do it if you want to, but if you do not do it, it will not have any impact. That is the stupidity of this legislation.

Clause 30 deals with the Scrutiny of Acts and Regulations Committee. The following clause is very interesting:

> 31. Override by Parliament
>
> (1) Parliament may expressly declared in an Act that that Act or a provision of that Act or another Act or a provision of another Act has effect despite being incompatible with one or more of the human rights or despite anything else set out in this Charter.

That means that the government can actually introduce legislation which is incompatible — it could take away people's human rights — and it would still have the effect of law as if nothing had happened. Therefore this particular charter of human rights will have no impact whatsoever on legislation which the government wishes to introduce and incompatibility will not render a law ineffective. Again this is why we say that this is a meaningless piece of legislation which will have no real impact on how law is enacted in this state. It will place no limitations on laws enacted in this state in respect of human rights. Parliament can override this charter. One must ask whether the government is serious about this legislation.

The classics roll on in the form of clauses 33 and 34. Clause 33 is 'Referral to Supreme Court'. Again the lawyers are laughing and rubbing their hands together because of this clause. It says:

> (1) If, in a proceeding before a court or tribunal, a question of law arises that relates to the application of this Charter or a question arises with respect to the interpretation of a statutory provision in accordance with this Charter, that question may be referred to the Supreme Court …

Off we go to the court again to decide whether this has application or not. Clause 34 means that the Attorney-General can join in the court proceedings as well. I can see this being an invitation to those who are less tolerant in our society to pursue matters through the courts. These sorts of clauses are an invitation to do so.

Those are parts of the structure of the legislation. There are further provisions concerning the Victorian Equal Opportunity and Human Rights Commission, which I will not go to in detail. There is a change to the name of and a slight function change for the Equal Opportunity Commission Victoria. The main provisions are the ones I have spoken about today, so I will not go to those other matters.

Let me make a comment about the reasoned amendment moved by the opposition. First of all, because The Nationals view this legislation as unwarranted, counterproductive and unnecessary, in the first instance we oppose it strenuously outright. It would not be our wish to take it to the general community, but in the interests of fairness I believe that an issue of such potential magnitude as this should be tested by the public. So although we would not support a case to support a referendum that suggested the adoption of a charter of human rights, we are prepared to put it to the people of Victoria by way of referendum. Therefore we will support the reasoned amendment moved by the opposition, and we are happy to do so. But if a referendum occurs, I can assure the house that The Nationals will be right in the case for opposition to the introduction of such legislation.

Having had a look at the structure of the bill, I want to go back to a question I posed at the beginning of my contribution — that is, have we protected and promoted human rights by introducing this legislation to the Parliament? I say that what we have is a list of motherhood statements that confer no new rights or obligations on any of us; they deliver no new material benefits for any of us.

What does this legislation do? In my analysis I basically said I believe it simply does two things; two actions arise from this legislation. First of all, it requires the issuing of a statement of compatibility under clause 29 when new legislation is introduced. But no, it really does not, because if you do not want to do it or you forget to do it, it does not matter anyway, as per clause 29.

The second thing that arises from it is if you believe a public authority — not another person or private company or business, but a public authority — has acted in contravention of a human right, you can take it to court, but you cannot be compensated for it. You can simply achieve a moral victory by having somebody deem that, yes, a public authority acted in contravention of the charter of human rights and responsibilities.

If a moral victory gives you a boost, good and well, but it does not help you financially, and it may not help you retrieve the situation that the action caused. My conclusion is that this will not protect any form of human rights abuse. Charters of human rights around the world have not worked in places like Rwanda, China, the Sudan and Nazi Germany, and simply will not work here. A charter will not promote greater respect for human rights and will simply, as I said before, be a catalyst for less tolerance in our society and less respect for others. The views of The Nationals are pretty clear about where we stand on this legislation.

Finally I want to acknowledge the efforts of a few before I sit down. I acknowledge the work of some associated with the parliamentary library for

constructing a current issues brief on the Charter Of Human Rights and Responsibilities Bill 2006. The authors of the document are Greg Gardiner from our library staff, Brian Costar from outside Parliament and a Ms Tumini whom I do not know. It was a very helpful resource for members of Parliament, and I could have quoted extensively from it but have chosen not to. I have tried to keep my comments to a reasonable length this morning.

In chapter 5 in particular, contending views on the charter of rights were explored and there were some very good points on both sides of the argument about that issue. I commend Greg, Brian and Ms Tumini for putting that work together. I also want to thank Charles Francis, AM, QC, RFD, who has provided me with material, comments and advice on this piece of legislation. Again, I have not chosen to quote any of those people, but I value the contributions they made.

I also want to thank Mrs Jenny Stokes who is the research director of Salt Shakers. She has over a period of time given me some very informed and passionate opinion about this piece of legislation. I have not chosen to quote any of the material she has given me, but I could well have, and I appreciate her conveying to me her views and those of her organisation on this piece of legislation. I particularly want to thank those three sources of advice on this legislation.

It was interesting that in all the material that came into my electorate office in respect of this piece of legislation not one person contacted me in support of it. I must add I am not surprised about that, because this legislation adds absolutely nothing to the effort to improve the way in which we live our everyday lives. As I said, it is a meaningless piece of work that is best placed in the paper recycle bin. That is where it has been consigned by every one of The Nationals, and that is where other members of this chamber equally should consign the worthless piece of legislation we are considering here this morning.

Ms MIKAKOS (Jika Jika) — I am greatly honoured to speak on the Charter Of Human Rights and Responsibilities Bill. I am convinced that this bill will be the signature legislation that epitomises the contribution of the Bracks Labor government to Victoria. I believe it will be part of our continuing legacy to Victoria and, through our example, to the rest of Australia.

Personally I would have preferred to have seen a charter of human rights and responsibilities being debated and passed by the federal Parliament. I believe these issues need to be discussed at a national level, but obviously in the absence of any national leadership on or concern for human rights, the Victorian government is certainly prepared to help fill the vacuum and protect the rights of Victorians.

I noted that in an article in today's *Age*, Brian Walters, SC, president of Liberty Victoria, talked about the very many instances where the federal government has failed to champion human rights at the United Nations. Time does not permit me to go through all these examples in any detail, but I encourage members to read this article.

I think it is a sad day for democracy when a political party, the Liberal Party in this particular case, which under the Fraser government in 1976 ratified the International Covenant on Civil and Political Rights, fails to live up to its traditions — the traditions of Menzies and many others — by opposing this legislation. I am greatly disturbed by the comments of the Leader of The Nationals, the Honourable Peter Hall, that he was consigning this legislation to the dustbin. I think many Victorians would be greatly disturbed by that comment. He thinks that a document that seeks to articulate our human rights and responsibilities in this state is worthy of being consigned to the dustbin.

I say at the outset that I think this is an absolutely landmark piece of legislation. It is legislation that I am convinced an overwhelming number of Victorians will be very supportive of. This has very much been reflected in the community consultation process that has been undertaken to date. I acknowledge the very important role that the Human Rights Consultation Committee undertook. That committee included former Liberal Attorney-General Haddon Storey, QC. It spent many valuable months travelling across Victoria consulting with a wide range of individuals and groups.

I understand that the committee received over 2500 submissions and held 55 community forums at which there was overwhelming support for the protection of our human rights by means of legislation. In fact 94 per cent of those who contributed to the committee through the submission process and through petitions indicated that they supported the protection of human rights through Victorian legislation. It is for that reason and because of the fact, which has remained unstated so far in this debate, that we are talking about an act of Parliament and not changes to the Victorian constitution, that the government will be opposing the amendment that seeks to put on the backburner the passage of this very important piece of legislation.

In proposing that we hold a referendum the opposition has missed the point that this charter is an ordinary act

of Parliament. It is not seeking to make any changes to the Victorian constitution. This charter has been deliberately designed and introduced as an ordinary act of Parliament because it enshrines the sovereignty of the Parliament. It will enable future parliaments to amend this charter in accordance with the wishes of the Victorian people. This Parliament is reflective of the voice of the Victorian people. It would be a missed opportunity not to have this legislation passed today, because there is such overwhelming support for it from the Victorian public.

As I said at the outset, this legislation is seeking to enshrine a whole host of rights and liberties that will provide a basic framework of rights protection for all Victorians. It will set down rights that I am sure many Victorians assume we currently have but which are not protected by law or are rights that are scattered throughout the statute books and in common-law precedents in a haphazard way.

The charter of human rights and responsibilities will strengthen and support our democracy. It is sad to know that Australia remains the only Western democracy at this point in time that has no clear human rights protection. Our charter recognises that we have many gaps in the law at the present time — for example, we have no guaranteed right to a vote and we have no guaranteed right to freedom of expression in this country.

As a member of Parliament I spoke to community groups about these issues in the lead-up to this debate in Parliament. I can tell you that the Victorians that I have spoken to have been absolutely appalled to know that rights that we just take for granted in this country have no protection whatsoever. Whilst many people take these rights for granted, many thousands of our fellow citizens have come to this country, fleeing persecution in their own homelands. They may have experienced civil war or political upheaval, where human rights have been very much abandoned or ignored.

I think it is absolutely no argument whatsoever to say in this Parliament that there are instances overseas where countries have put in place very high-minded documents espousing protection for a range of rights and freedoms that have been ignored. Of course we have to acknowledge that no document or piece of legislation is a 100 per cent guarantee of protection against tyranny. We have been blessed in this country to have a politically stable democracy, but we need to put in place protections to ensure that no future government can encroach upon those rights and freedoms that we all take for granted in this country. The charter recognises that our rights also come with responsibilities, including a responsibility to respect other people's rights. It is for this reason that the charter has been deliberately framed and articulated as a charter of human rights and responsibilities.

This landmark legislation will be the first, I hope, of many to come in other jurisdictions. Victoria, if this is passed, will be the first state to introduce and pass such legislation. The Australian Capital Territory has already passed similar legislation and, as I understand it, other states have also expressed a strong interest in what Victoria is doing, and I hope they will follow our lead in this regard. We have followed a model that exists in a number of countries such as the United Kingdom and New Zealand. The bill is very different to an American-style bill of rights, which is a laudatory document; however, it has remained static and inflexible over the years.

The model we have adopted, rather than allowing the courts to strike down legislation as occurs in the United States of America, promotes dialogue between the three arms of government while giving Parliament the final say. We believe our fundamental values — those principles we all believe in — should be articulated clearly in a document which we can all read and locate. This is not only part of community education or the promotion of human rights but is also a new way of doing business in government.

The charter will be an agreed set of democratic rights and freedoms espousing essentially those rights set out in the International Covenant on Civil and Political Rights. They relate, for example, to matters such as freedom of expression, freedom of association, the protection of families and the right to vote. They also relate to the right to freedom of thought, freedom of conscience, freedom of religion and freedom of belief, and the freedom to display that belief or religion as a group or in private.

The right to life is an essential provision as all other rights flow from this right. However, as has already been said, the bill is not intended to impact on the issue of abortion law. The charter is also concerned with the rights of those involved in the criminal justice system, ensuring that people are treated fairly and humanely, and that they receive a fair trial and are not punished twice for the same offence.

Other rights such as the right to privacy are enshrined. Matters such as the right to culture and ethnic, linguistic or religious rights are also included. The charter also recognises the special contribution of our indigenous people and their special connection to the land and to family ties.

In terms of how the legislation will work, public authorities will be under a legal obligation to observe these rights. With new laws introduced into the Parliament a statement of compatibility will be made to the Parliament to ensure that the bill that is being considered by the Parliament meets the standards set in the charter, and the Scrutiny of Acts and Regulations Committee will also examine the legislation. The Parliament will have the final say. It will be able in exceptional circumstances to override the human rights protected by the charter. The courts will have an important role, as they always do, in interpreting legislation. They will be able to interpret laws in a way that is consistent with human rights so far as is possible, and the Supreme Court will be able to issue a declaration of inconsistent interpretation.

I note in terms of the scaremongering that opposition members are engaging in, looking at the ACT and the United Kingdom experience, in the UK only 17 such declarations have been made and only 10 have been finalised. This has not led to a huge amount of litigation, as opposition members are claiming.

In conclusion, this will be a significant piece of legislation. The charter of human rights and responsibilities will ensure that human rights remain at the forefront of our public's consciousness and will no doubt engender an important and essential debate. It will be a debate that will help us to determine who and what we stand for now and into the future. I urge members to support the Charter of Human Rights and Responsibilities Bill and to oppose the reasoned amendment. This will be a day we will look back proudly on in the future.

Hon. B. N. ATKINSON (Koonung) — I support the Liberal Party's position that this legislation should not proceed through this house. I support it personally as much as any party position that might have been arrived at. The government all too often seems to confuse its media releases and publicity program with legislation. Too often media releases seem to make it into legislation. This is one of those cases. Much of the chest beating that the government goes on about in terms of human rights are certainly accepted rights that we all have in the community and that we all respect and honour. The reality is that when it comes to legislation like this it becomes an absurdity because it is almost not worth the paper it is printed on.

To start with, the very prospect of having human rights charters at a state and territory level is a nonsense. If we are to embrace the concept of a charter of human rights then it ought to be in the federal jurisdiction where it apply to all Australians, where it would not make one type of Australian different from another, and where it would not accord certain benefits, privileges or rights to one Australian over another, including those who happened to be moving through a particular state at a time as a tourist, a visitor, a temporary worker or whatever. There are some ludicrous provisions in this legislation. Because the government has introduced it in an effort to try to presumably prop up some of its support in its own electoral base it has ignored fundamental debates that the community should have as part of any process in enshrining some of the provisions in legislation. It has also moved to a position where the government is opening up a Pandora's box on a number of crucial issues that confront the community.

Mr Hall, in his contribution, said that nobody had approached him asking for this legislation or indicating support for this legislation. That is my experience as well. I have not had a single phone call, visitor or email that has supported the legislation. I can tell the house that I have had a lot of calls from people who oppose the legislation. A lot of people have suggested to me that this legislation is poor legislation.

Frankly I do not think the government understands what it is doing. The speech of Ms Mikakos — one of the better informed members of the government because she tends to get to ministerial briefings and so forth, so her speeches usually have a little more import in this place than most other members of the government — showed the contradiction of the legislation and the government's position on the legislation. Ms Mikakos tried to play down its importance and placate the opposition and The Nationals on the basis of, 'Oh, well, there are all these checks and balances. Parliament can override it and the courts can still go their merry way in certain respects. It is enshrining these rights, but it's not too draconian. It's not really enshrining them. There is still some leeway'.

Ms Mikakos tried to play down its importance. On the other hand she says it is landmark legislation; that it is the most important legislation that has come into this field; that Victoria is leading the pack so far as this legislation is concerned. You cannot have it both ways. The fact is that this is either a press release gone wrong — it went into the wrong tray and ended up in Parliament — or it is a piece of legislation that the government intends to use to change some of our social structures and social ethos in this state. I am very concerned about it.

The issue of the right to life was referred to fleetingly by the previous member in her contribution. The right to life is set out in this legislation. What does that mean? It means something very different to Margaret

Tighe from what it means to many other people in the community. That debate will be a crucial one after this human rights charter, and I wonder whether the government is ready for the debate. I wonder whether the government understands what it is doing by establishing this provision in this legislation and opening up the debate in a way that I do not think it ever thought through.

A right to life! What is the right of a person to euthanasia? That is yet another controversial issue in the community that is simply brushed over in the press release and propaganda, but sadly that press release and that propaganda are part of the legislation.

Clause 26 concerns me. It says that someone who has committed a criminal offence cannot be tried a second time or punished a second time for a crime for which they have already been found guilty or acquitted. Clearly, if they had been found guilty and been punished, I would have less concern about it, but the issue of double jeopardy is a current issue in the community.

This piece of legislation — this so-called innocuous legislation that is really just all things beautiful — says that the technology we have to determine people's guilt in some heinous crimes will be ignored because they have a right not to be tried if proceedings the first time did not lead to a conviction. That is the current position in our law as it stands today, and I acknowledge that.

The reality is there is a community debate about this. There is a community debate about whether that is a responsible response by society to people who perpetrate a crime on society, particularly heinous crimes such as rape, murder, terrorism and similar crimes. This legislation, if we are to believe it, says that is okay. We will ignore the fact that DNA technology allows us to prove beyond any reasonable doubt that someone perpetrated a crime where in the past we were not able to do so. I think there is a very important community debate that ought to be had before this provision is put into legislation.

There is no doubt in my mind that the Liberal Party's position in insisting that the legislation ought to go to a referendum before the government plays with it is correct. The government ought to have another look at some of the provisions of the legislation and ought to stimulate the community debate on its key elements. It is all very well to have the caravan tour that was referred to by Ms Mikakos in her speech, going around Victoria talking to handfuls of people in country halls. Most Victorians do not know about the legislation; most Victorians do not understand the impact of the legislation, and I daresay the government does not understand the potential impact of the legislation. Those who have been appraised of the legislation are concerned about it. They do not believe this is appropriate legislation for the books and believe there would be serious consequences from its passage. I think it is absurd that state and territory jurisdictions should move to a charter of human rights when it ought to be part of the federal jurisdiction.

I turn at this point to the provisions in clause 40, and onwards, about the Victorian Equal Opportunity Commission becoming the Victorian Equal Opportunity and Human Rights Commission. I note the legislation gives it the power to intervene or join any party in proceedings before any court or tribunal in which a question of law arises that relates to the application of the charter or question.

Given the broad range of rights enshrined in the legislation, the commission can get involved in anything. It can find an opportunity to join in any court case or tribunal hearing — a gateway into those proceedings — under this legislation. This organisation has been shopping for more business for some time. It has been pestering the minister trying to win a power to go into companies and audit their equal opportunity policies and see if they are complying. It has been trying to drum up business because it does not have enough complaints to work with. What a shame!

Now it has hit the jackpot because now, with this legislation, it has an opportunity to intervene in almost any court proceedings or tribunal. I daresay there are very few proceedings that occur anywhere in the state of Victoria where the equal opportunity commission could not make out some reason for being part of such proceedings under this legislation. Somebody even appearing in a Magistrates Court somewhere who is suffering some form of disadvantage could say, 'Well, this is an opportunity for the equal opportunity commission to come in and press my case based on the disadvantage that I claim I have'. That very broad-ranging power is being given to that agency.

I do not know that the bill has been really thought through. I do not know that the government really understands what it is talking about. I notice that the government proposes to review the charter and legislation on two occasions — one at a four-year mark, and one at an eight-year mark. I think the government acknowledges that it has no idea what it started, but I daresay that at both those marks — the four-year mark and the eight-year mark — it will be very difficult to

rein in some of the problems that the legislation will create, unless the house sees sense and accepts the Liberal Party position, that the legislation ought to be part of a much broader debate. I am not talking about a debate of Labor Party luminaries nor a debate of its union mates and branch members but a broad community debate — a debate involving all those people likely to be impacted by this legislation.

This piece of legislation ought to be one that was subject to material put before people to explain what their rights were and whether or not they actually want this government to act unilaterally, not in concert with other governments around Australia, to introduce a human rights charter. That might well, in my opinion, not advance their human rights but impede or impinge upon them. People ought to have had the opportunity to make that election.

The Liberal Party suggests they ought to have that now by way of referendum. That has been played down by the previous speaker, who said, 'We are not really talking about the constitution'. In fact, when you are talking about the rights of the citizens of this state, you are very much starting to talk about the constitution. Whether or not you take the formal step of altering the Constitution Act, the reality is this legislation impinges on the Constitution Act. This legislation must be taken into account by courts, agencies and authorities of the government and government departments and by this Parliament in exactly the same way that the constitution must be taken into account because that is what the legislation says.

Despite the fact that so many of the definitions are loose, despite the fact that the government has not thought through the implication of those definitions and has not considered whether or not those rights are properly protected by this legislation, or whether they are simply giving some sort of motherhood statement in terms of a press release gone wrong, this certainly has an impact when you charge an agency like the equal opportunity commission with the powers to go out far and wide and intervene in so many proceedings and to have a power conferred under clause 42.

Clause 42 states:

> The Commission has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions under this Charter.

That is one of the widest ranging charters I have seen for a government agency. It says it can do anything and it can go into any proceedings where it believes there are human rights issues at stake. If you look through all of those issues, as I said before, you will see that the commission can basically make a case to enter any particular proceeding in this country. This is just not on. This legislation is ill conceived by a government that is desperate to wallpaper over the cracks of its waste and mismanagement — a government that simply wants to impose on people some sort of social engineering experiment. I assure the house that this legislation will provide great problems for Victoria.

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

Hon. J. G. HILTON (Western Port) — I would like to make some brief comments on the Charter of Human Rights and Responsibilities Bill. First, I commend my honourable colleague Jenny Mikakos on a most erudite and concise exposition of the bill.

I have some sympathy with the need of some opposition members to debate this type of legislation. I believe that in an ideal world there would be a range of rights which were so obvious and so universally accepted as to obviate a requirement for this debate. However, these days I can well accept that even the most basic rights should be enshrined in legislation, because without that protection there is no guarantee that future governments may not wish to restrict the scope of those rights.

Honourable members may remember that in my contribution to debate on the anti-terrorism legislation I alluded to the fact that in my view the federal government was introducing legislation which had a significant effect on civil liberties. The rights which this bill sets out have been mentioned before, but I think it is worthwhile stating them again. They include, inter alia, equality before the law, freedom of religion and belief, freedom of thought and conscience, the right to assemble peacefully, the right of free association and the right to liberty and security. I do not think anybody could possibly argue with those rights. I refer to a comment made by Mr Robert Doyle, the member for Malvern in the other place, when he said:

> … I do not think there is any question in this debate about the value and importance of the rights described in the Charter of Human Rights and Responsibilities Bill …

I think nobody would disagree with him.

One of the fundamental purposes of this bill is to ensure that any new laws and any review of existing laws require the consideration of basic human rights. It may be that on occasion — I would sincerely hope on rare occasions — the Parliament decides that legislation is required for the community's protection that could be in conflict or, if not in conflict, incompatible with those

basic human rights as detailed in this bill. Obviously the supremacy of Parliament is absolute, and Parliament can make those decisions. It is my understanding that this bill would not in any way override community protection legislation but that the contents of this bill merely have to be taken into consideration when such laws are proposed.

I said at the start of my contribution that in an ideal world we would not have the need for this legislation. In fact Australians tend to presume that we enjoy many rights and freedoms and that these rights and freedoms must in some way be protected by the law. However, this is not necessarily the case. It is my understanding that such rights as freedom of expression have no legal protection, and the purpose of this charter is to ensure the protection of those basic human rights.

I am very pleased that the Victorian government is to some extent in the vanguard of this type of legislation. It could be argued, as Mr Atkinson indeed has argued, that this type of legislation is the federal government's responsibility, and in an ideal world that is probably the way it should be. However, it would appear to me that the federal government is not concerned with these issues at all. If it were, it would be introducing its own legislation. Indeed many other essential services, including child protection and mental health, are covered by state law, so even if a federal law were enacted, it would not cover every right to which a citizen of Victoria is entitled.

I have referred previously to the rights that are contained in this charter. The charter in fact is based on the International Covenant on Civil and Political Rights of 1996. That covenant is a United Nations treaty which was ratified by over 150 countries, including Australia. The Australian ratification was in 1980.

Of course with all rights come responsibilities. In a previous debate I referred to the fact that the right of free speech does not allow a person to shout 'Fire!' in a crowded theatre. Human rights must be exercised in a way that respects the rights of others and must not be misused in order to destroy the rights of others. I believe this charter gives due recognition to that balance. It recognises that human rights must be balanced against other competing public interests. Clause 7(2) of the bill states:

> A human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society …

Again I believe there could be no argument with that.

As has been referred to previously, it will be up to the courts to decide where the balance justifiably lies, and judges have a role in ensuring that laws are respected. However, the model which is included in this legislation ensures that Parliament will always have the final say, and indeed that is as it should be. Courts will be required to interpret laws in a way that is consistent with human rights but only so far as it is possible to do so consistently with the purpose of the law. Of course the courts do not in any way have powers to invalidate legislation.

Earlier in my contribution I referred to my previous comments on the anti-terrorism legislation, and I believe it is worth pointing out that in no way would the Charter of Human Rights and Responsibilities Bill prevent future governments from introducing appropriate counter-terrorism measures. However, what this bill will do is provide a framework for considering whether the measures are proportionate to the perceived threat. I believe this legislation has the added advantage of introducing a more transparent process for balancing civil liberties and personal security. Parliament would always have the prerogative of overriding this legislation if it were seen that the security of the population was a risk and appropriate measures to safeguard the security were necessary.

Finally, I repeat what I said at the beginning, that in an ideal world this legislation would not be necessary, as we would all have an intuitive understanding of what are fundamental and basic human rights. However, we do not live in an ideal world, and I believe this bill is a very good statement of what we all understand to be our basic human rights. They are now set in legislation that can be used as a framework for considering all other legislation.

I will close by making some comments on what previous speakers have said. Mr Strong seemed to me to be trying to have it both ways. First he said that this legislation was taking us down a slippery slope and that democracy in the way we know it would cease, yet in another part of his contribution he said it was limp lettuce legislation. I do not think you can have it both ways. It is either limp lettuce legislation or it is taking us down a slippery slope. He was proposing to put the issue to a referendum. Of course we do not have government by referendum in this country except on issues which affect the constitution or change the constitution, which, as has been pointed out, this legislation does not. Is he proposing that we have a referendum on limp lettuce legislation? I presume not.

I believe this is very worthwhile legislation. It is useful legislation that sets a framework in which other

legislation can be considered, taking into account the basic human rights which we all hold dear. I am very proud to be associated with a government that views these issues in such a way, and I have great pleasure in commending the bill to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise on behalf of the Liberal Party to make my contribution to the Charter of Human Rights and Responsibilities Bill 2006. I support the contribution made by the Honourable Chris Strong and the reasoned amendment he moved, which states:

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

The Liberal Party has a strong view on this. This is a significant piece of legislation which could have far-reaching ramifications, as I will explain further. I heard Mr Hilton talking about his connection to where this bill is believed to have been primarily derived — that is, the International Covenant on Civil and Political Rights. However, as I am about to explain, while that may be the framework or the basis for this bill, there are a number of glaring omissions — things have been removed to suit the political ideology of this government. As the Honourable Bruce Atkinson indicated, that might have been done to pacify some of those within the Labor Party who may be of the view that a bill of rights has been an article of faith for the Fabians for well over 150 years and finally they are getting the chance to put forward in Parliament their proposals.

The problem we see is there has been little if any broad-ranging communication or consultation with the community. As the Honourable Bruce Atkinson indicated, most Victorians would have little or no understanding of what is about to confront them. That is a worrying concern on a more general principled issue.

This bill will add no additional value to the rights of individuals. If anything, I believe it will take rights away. It is interesting that where we do not have legislation or laws that are the foundation of a society those societies prosper and benefit. It seems that where governments have wanted to put their fingers into the pie on issues of what they perceive as rights such as freedom of speech, worship and association, history has demonstrated that noble statements of principle do nothing to protect the weak, the oppressed or the forgotten. If government, Parliament or the courts are not emboldened to stand up to these arbitrary powers, those persons, and indeed the society they represent, are forever the weaker.

There are a number of principal reasons we are opposed to the bill. The bill needs to be put out into the broader marketplace in terms of the community so people understand what is happening. This bill will move the legislative power away from Parliament — the people's house — to unelected judges. It is peppered throughout the bill that there can be interventions if persons feel their rights are in conflict. The bill shifts the rights away from the Parliament and the electors to the courts. We have seen time and again in the US that the right to freedom of expression and the right to a fair trial have had to be resolved in the US Supreme Court. If time permits, I will go through and explain some of the clauses in the bill.

Mr Atkinson and Mr Strong outlined the unintended consequences of the bill as another principal reason we are against the bill. What do we know will be the intentions of some of the legislative changes? I will go through them in detail. It says in the bill that to define a right is to limit that right. We see some fundamental issues with what that statement means in relation to clause 17, and I may get to that.

The other underlying principle is that rights are a fashion — they are a fashion statement of the time. It is amazing to think what would have happened if we had had a bill of rights 20 or 30 years ago when the White Australia policy was fashionable. The government of the day would have included that policy in a bill of rights. It would have said the White Australia policy was okay because it was the fashion of the day. The reality is this is a fashionable statement that reflects this particular juncture in the year 2006. How a bill of rights will affect the people of Victoria in the next 10 and 20 years will be interesting. I have great concerns about where this is heading. As I said, I think the underlying principles are that this needs to be brought out into the broader community before we start fiddling with and codifying it.

I will touch on some of the areas which attracted my attention. Some of the provisions raise the stupidity of codifying these types of things. I am very thankful that my chooks are not covered. Clause 6 of the bill is headed 'Application' and clause 6(1) states:

> Only persons have human rights.

I am very pleased the bill says that, because I would have been concerned if my two chooks at home had human rights! However, the government has codified it here. We can all have a bit of a laugh, but it is at the

stupidity of the statement that all persons have human rights. That is good. I am glad that has been clarified.

Hon. Andrew Brideson — Do you have guinea pigs?

Hon. RICHARD DALLA-RIVA — I do not see guinea pigs there.

Hon. W. R. Baxter — Dogs?

Hon. RICHARD DALLA-RIVA — No, no dogs, just, 'Only persons have human rights'. I am glad that has been clarified there, because if it had not been clarified it could have been anything. That is the stupidity of trying to clarify things of that nature, things that have been part of society and part of the establishment and growth of our society for hundreds, if not thousands, of years.

Clause 9 is headed 'Right to life' and states:

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

Thank you very much — I thought I was going to go outside and be arbitrarily deprived of my life or that I would not be allowed to have a life. However, it is in the legislation now, so I am right. The stupidity of that statement stands out.

Clause 12 is headed 'Freedom of movement' and states:

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

That makes sense. As a statement it makes sense, as does the notion that human rights apply only to persons and my chooks are not covered.

However, the fact of the matter is that this brings up an unintended consequence. Does this mean that a prisoner incarcerated in a prison cannot be directed to move to a location that does not suit his or her needs? By this definition every person lawfully within Victoria has the right to move freely within Victoria and to choose where to live. The fact of the matter is this allows prisoners to make significant complaints to the relevant bodies. The Ombudsman has reported time and again that the major complainants to his organisation are prisoners. We know there are vexatious prisoners currently in Victorian jails who will apply this clause to a tee. Make no mistake about it, this will apply to prisoners.

Once prisoners understand that this legislation is in place they will complain. They will be saying, 'Mr Bracks, you have infringed on my human rights. I do not want to be locked up for 23 hours a day because I am a mad psychopath. I want to be placed in the open security jail in Beechworth'. Government members have enshrined it and put it in the law. I suggest they watch this space, because I can tell them it will be applied in earnest. That is frightening stuff. Why do we not exclude prisoners? If you look at what is excluded from the International Covenant on Civil and Political Rights, why are prisoners not excluded here?

I had to laugh when I read clause 16. It is headed 'Peaceful assembly and freedom of association' and states:

> (1) Every person has the right of peaceful assembly.
>
> (2) Every person has the right to freedom of association with others, including —

here we are —

> the right to form and join trade unions.

Where is the right not to join trade unions? Where is the right of the individual to say, 'I do not want to join a trade union'? The government wants to put down in black and white what it believes about unions and their mates. It wants to entrench it in an act. Union membership is declining, and this is the only way the government can do anything about it.

Clause 20 deals with property rights. It says:

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

Where are the words 'on just terms' that are in the provision in the Australian constitution? Again this issue will be fought out in the courts as they are asked to make determinations on the exclusion of 'on just terms'.

Mr Atkinson has already raised clause 26, which deals with the right not to be tried or punished more than once. The Attorney-General is currently reviewing double jeopardy. Here in black and white the provision says that a person will not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law. As I said, this is a fashionable law, but in the future we may have capacity to undertake further investigations using aids such as deoxyribonucleic acid (DNA) testing. DNA was thought irrelevant in the 1960s and 1970s but is now a significant investigative tool. It is now being used in reference to offences where people have been acquitted.

Clause 28 in part 3 is interesting. It says:

> (1) A member of Parliament who proposes to introduce a Bill into a House of Parliament must cause a statement of compatibility to be prepared in respect of that Bill.

In my view that will make it even harder for Independents or opposition members to introduce private members bills. I think the intention is to make it that little bit harder.

I agree with the points Mr Atkinson raised regarding part 4. Clause 40, headed 'Intervention by Commission', states.

> (1) The Commission may intervene in, and may be joined as a party to, any proceeding before any court or tribunal …

In other words a person who has been arrested and taken to the court can then get an intervention by the commission. Imagine how many people charged with very serious crimes such as murder, rape and the like will go before the commission to say, 'My human rights have been unfairly dealt with'. That is what we are looking at here. A person can now say, 'You have interfered with my human rights, Mr Police Officer, and I am going to use this new piece of legislation to stop any application and stop you proceeding to a court'. Again, this legislation will be used time and again by criminals and by those charged with offences.

In my remaining 30 seconds I will address clause 21(5). It says:

> (5) A person who is arrested or detained on a criminal charge—
>
> (a) must be promptly brought before a court …

A direct interpretation of that would mean that a person who had been charged with murder could not be interviewed by the homicide squad but must be taken to a court. If they were not taken to a court they could apply under section 40 — —

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

Mr SCHEFFER (Monash) — It is a privilege to speak in support of the Charter of Human Rights and Responsibilities Bill. I am appalled by Mr Dalla-Riva's contribution. He seemed to be making a mockery of the struggle for human rights. The achievement of human rights, to the extent that we have achieved them in this country, has been as a result of the work of generations of men and women who in many cases have died with a commitment and conviction. It brings Mr Dalla-Riva's no credit to say that human rights are a fashion. It trivialises an important struggle that is being played out daily, in fact as we speak, right across the world. It is a disgrace.

The 2004 Attorney-General's statement makes the point that even though Australia has ratified the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, these international agreements are not in themselves legally enforceable without further legislative action by the Australian government.

Even though that is true, it is also the case that the rights contained in these international agreements are already part and parcel of Australia's social, legal and political framework. The right to vote and the freedom to assemble are two examples. The charter should not be confused with a United States of America-type bill of rights as contained in the US Constitution, which specifically limits the government's power by preventing the Congress from altering certain listed freedoms such as freedom of speech, freedom of the press, freedom of assembly, freedom of religious worship, the right to bear arms and some other provisions such as trial by impartial jury. Contrary to what Mr Dalla-Riva said in his contribution, our charter does not give the courts the power to strike down laws or allow citizens to go to court because their rights may have been breached.

The charter does not create absolute rights, because the rights included in the charter are still subject to public debate through the parliamentary process, which gives the Parliament the final say. The charter of human rights and responsibilities is the product of extensive and careful community consultation, and sets up a framework that can protect and promote civil and political rights in Victoria. The bill makes sure that all Victorian laws are consistent with the listed civil and political rights, and all public authorities are expected to operate in ways that are compatible with the human rights identified in the bill. This legislation also renames the Equal Opportunity Commission; it will be called the Victorian Equal Opportunity and Human Rights Commission from now on.

Sitting suspended 1.00 p.m. until 2.03 p.m.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Our Environment Our Future: renewable energy

Hon. PHILIP DAVIS (Gippsland) — I direct my question to the Minister for Energy Industries. Will the minister confirm in respect of the Victorian renewable energy target policy that major electricity users such as Alcoa will be exempt?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — This opposition is going to do everything it possibly can to try to discredit a scheme that will deliver 2200 jobs in rural Victoria, that will deliver $2 billion of investment and that will reduce this state's greenhouse gas emissions by 27 million tonnes. It does nothing more than come in here and continue to try to find an angle for criticism in a desperate attempt to discredit this proposal. I make this point in response to the honourable member: the fact of the matter is that Alcoa has been subject to a contractual obligation — that is, an agreement.

It is an agreement with the state of Victoria, and under that agreement there is no capacity for Alcoa to be charged further than what is allowed for under the agreement. What I would like to know, given that both the Leader of the Opposition in here and the Leader of the Opposition in another place have gone around saying that Alcoa should be included in payments in relation to the Victorian renewable energy target (VRET) scheme, is whether they are intending to legislate in some way to force Alcoa to pay, contrary to the agreement and contractual arrangement which they have with the state of Victoria.

Let me make this point: there was another scheme called the mandatory renewable energy target (MRET) scheme. Which government introduced that scheme? The federal government. Did Alcoa pay anything for renewable energy under the MRET scheme? No, it did not. Why? For the very same reason, being that it has a contractual arrangement with the state of Victoria. Of course it is possible for a future government to decide that it is going to legislate and overturn that arrangement and force Alcoa to pay despite the fact that it has this contractual arrangement with the state of Victoria, but that is not the way the Bracks government does business. We do not do business in that way. We understand and respect the fact that an arrangement was put in place. That arrangement is continuing through to 2016, which is approximately the time at which the VRET scheme will end anyway, when we have achieved the 10 per cent target. If the opposition wants to legislate and try and impose a charge on Alcoa, it is up to it. I do not believe the people of Victoria expect that we are going to do that. It would destroy our international reputation if we even thought about doing something like that.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I am surprised by the minister's response and his claim that the scheme ends in 2016. It is a fact that the Alcoa power contracts expire in 2016, the year in which VRET has full effect. Therefore the only reason for the exemption is because of the unreasonable financial penalty, which would jeopardise jobs and further investment. I therefore ask the minister which other Victorian manufacturing businesses or investment proposals will be exempted from this jobs tax in the form of additional electricity price premiums under the VRET policy.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Sometimes I cannot figure out whether Mr Davis is just thick or he is deliberately trying to confuse people in this place, because he very clearly understands that the take-up on the VRET scheme will have occurred by the year 2016. It will have been taken up, therefore all of those renewable energy certificates will have been given out during the course of that time. If the member is suggesting that while we have a contractual arrangement with Alcoa through to 2016 we should somehow change that arrangement and charge them for it, even Mr Forwood is rolling his eyes at the stupidity of his statements.

Local government: language service program

Ms ARGONDIZZO (Templestowe) — My question is addressed to the Minister for Local Government. I refer the minister to the government's commitment to making Victoria's suburbs great places to work, live and raise a family. Can the minister inform the house what the Bracks government is doing to assist Victorian families from non-English-speaking backgrounds to find out about and use the valuable services local councils provide, especially in our growing outer suburbs?

Ms BROAD (Minister for Local Government) — I thank the member for her commitment to Victorian families in our outer suburbs. The Bracks government believes that all Victorian families deserve decent access to council services. The Bracks government wants all Victorians, particularly those who are not confident or fluent in reading or speaking English, to understand their rights and the services and support available to them in the community. Language or

culture should not be a barrier to families receiving appropriate services. That is the reason I am pleased to be able to inform the house that a total of $256 000 is being made available in 2006–07 through the local government language services program.

The local government language services program has been designed to improve access to council services and information for people who have a low level of proficiency in English by assisting councils to meet the cost of purchasing interpreting and translation services. Funds will be provided to 41 Victorian councils in metropolitan and regional Victoria in areas that have more than 200 people with low levels of English proficiency. Councils can choose to receive their grants directly or to use the Victorian Interpreting and Translation Service's LanguageLink. Because we know there is significant population growth in our outer suburban council areas, we also recognise that that means there is a need for translation services for families in those areas as well. That is why almost 20 per cent of the grants I am announcing today will be targeted at interface councils in our outer suburbs.

The Bracks government recognises the special needs of the nine interface councils, which stem in part from the challenge of population growth and the need for decent services in all of those areas. While we are targeting local government areas with significant levels of people with lower English proficiency, those councils with smaller non-English-speaking communities will still have access to the service through pooled funds.

This initiative demonstrates again the Bracks government's commitment to working in partnership with local councils to strengthen local communities. We know that interpreters are essential for newly arrived migrants and people from smaller communities who may not have community support networks to assist them while they are settling in Victoria. Victoria attracted some 3251 migrants from overseas over the last 12 months. Almost one out of every three people who migrated to Australia chose Victoria, which has provided a significant boost to Victoria's economy. This program will enable more Victorian families to find out about the wide range of services that are available to them through local government, especially in our growing outer suburbs, and will help people to help themselves.

We make this investment because the Bracks government is proud of Victoria's cultural diversity, and we strongly believe that no matter where you come from, what language you speak or what your cultural background is, you should have the same access to government services as every other Victorian.

Questions interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I wish to acknowledge a special guest of the Minister for Energy and Resources, Mr Theo Theophanous. The Honourable Costas Papacostas, Vice-President of the House of Representatives of the Republic of Cyprus, is in the gallery. Welcome!

Questions resumed.

Wind energy: Waubra

Hon. PHILIP DAVIS (Gippsland) — I direct a further question without notice to the Minister for Energy Industries. The minister advised the house on Tuesday of the Acciona Energy investment in the Waubra wind farm project. The minister said that this investment:

> … would not have occurred without the Victorian government's renewable energy target scheme — it simply would not have occurred.

This admission that the Waubra wind farm project is financially dependent on VRET consumer subsidies and the Acciona announcement less than 24 hours after the government's policy announcement invites public scrutiny. I therefore ask: will the minister advise what inside information was provided to Acciona to assist in its commercial decision making?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — President, I could take exception to the tone and the content of the honourable member's question, which of course was a ridiculous question.

The stupid comment began by quoting me as having said that the Waubra wind farm would not have gone ahead without the Victorian renewable energy target (VRET) scheme and that this is a government subsidy — so what? Of course it is and it would not have gone ahead. The whole purpose of bringing in the VRET scheme is to have these wind farms developed, and it is not only the Waubra one that will come on stream.

Let me tell you, President, that the member for South-West Coast in the other place, Dr Napthine — a former leader of the Liberal Party — strongly supported the Portland project getting up. But guess what? The Portland project had no hope of getting up without a VRET scheme; it would have stalled. The remaining parts of the Portland project would never have been built. I have not heard Dr Napthine stand up and say, 'I

do not support the VRET scheme because the Portland project is finally going to get built, but it was not going to get built in other circumstances'.

It is the case that when you are a minister — and I do not know whether you will ever be one, Mr Davis, but God help us if you are! — you have discussions with and talk to all sorts of people from industry sectors. You do that especially if you are proposing or thinking about a new project. I had discussions with the generators, the wind industry, green and brown groups, and all sorts of groups in the lead-up to making what was an important decision to go with the VRET scheme in order to get renewable energy in this state.

Obviously there is always going to be a level of speculation when you go out and consult in relation to those things. That is why we were very open. We put out a discussion paper and we consulted with industry on that paper. We went through an absolutely pristine process before coming to a decision. I do not think I can remember speaking to this particular company during the whole process, but I spoke to many other companies about the fact that we had a discussion paper out there. They could make a submission, and we would consider those things.

This is another example of a project which we are happy to have scrutinised. Mr Davis should remember that we do not have any problem with scrutiny. It was Mr Davis, when his party was in power, who tried to nobble the Auditor-General and get rid of accountability in this state. We do not have a problem with it. I do not have a problem with this particular scheme being scrutinised. I do not have any problem with that at all because this is a good scheme. It is going to deliver jobs to country Victoria. It is going to deliver investment to country Victoria and it is going to reduce greenhouse gas emissions. I know the opposition hates to hear the sound of those things but they are going to happen anyway.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his answer to the question. I have something further to seek by way of information. I would like the minister to advise members of the house what offers, inducements and undertakings the government made to Acciona when the Premier met with it in Spain in June last year.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — You are pathetic! You are so grubby that it is embarrassing to everybody in this house. It was not only the Premier. I was not present when the Premier visited Spain, but not only did the Premier visit Spain, I visited Spain, and I met with Acciona and I met with GMESA.

Hon. Philip Davis — A minute ago you said you had not met with it.

Hon. T. C. THEOPHANOUS — Mr Davis is an idiot. Go back and read what I said. I met not only with it but with a number of companies whilst I was overseas. Do you, President, know what? They were all interested in investing in Victoria. Do you, President, know what all of them said to us? They said, 'There is no scheme for us to be able to invest in Victoria'. That was the message that we brought back and have taken notice of. That is why we developed the Victorian renewable energy target scheme.

State Volleyball Centre: construction

Mr SOMYUREK (Eumemmerring) — My question is directed to the Minister for Sport and Recreation. Can the minister update the members of the house on the progress of the state volleyball centre and Dandenong basketball stadium redevelopment?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome Mr Somyurek's interest in this project in particular because I know he is a great enthusiast of sport, particularly in his region.

The $9 million redevelopment of the State Volleyball Centre and Dandenong basketball centre in the one complex is a spectacular project which will meet the huge growth in volleyball and basketball in this growth corridor. I know that even Mr Forwood is enthusiastic about this. It is a wonderful project, and I know that even the shadow Minister for Sport and Recreation described this project last month in this house as a good project. It is great to know that members in this place are so enthusiastic about this project.

It would be good if Mr Atkinson were just as enthusiastic about other policy areas when it comes to this portfolio. I look forward to him announcing, through press releases, his enthusiasm for the portfolio. It has been some time since he issued a press release. I think the last one he issued was prior to the Commonwealth Games. Whilst we are going ahead — building, planning, developing and growing sport — we know the opposition members are sitting on their hands. That is not good for sport in this state.

Can I also report that delivering this project is going particularly well. We will deliver the project with the local community and local government in that area. Recently ADCO Constructions was appointed to

undertake the main building works for the redevelopment which commenced on site earlier this month. You, President, would appreciate that we agreed to contribute an additional $2 million via the Community Support Fund towards the development of this state facility and the Dandenong basketball stadium. We did that because it enabled the development of a larger facility to meet the current demands of both volleyball and basketball.

As I have said on a number of occasions, one of the great achievements of this government has been to increase the levels of participation in sport and recreation in the last six years as opposed to when we came into government, when participation levels across the state were declining. That is the absolute contrast we see in this state when it comes to the sport and recreation portfolio.

The finished stadium will include 6 volleyball courts with increased flexibilities for sports development programs. It will see 10 basketball courts, 3 indoor beach volleyball courts, spectator seating in the volleyball area, improvements to change rooms, kiosk and reception, improved circulation in the complex for spectators and players, an office to cater for both Volleyball Victoria and Dandenong Basketball Association, and increased car parking. This is a tremendous project, and it addresses not only the huge demand in terms of participation in this state but the huge amount of growth that has taken place in that corridor, with approximately 90 more teams playing basketball — 755 teams in total, I believe. Volleyball has had a significant increase in its number of players, with the number of registered participants growing by 45 per cent.

It gets better than that, because the upgraded stadium will be one of the largest indoor court centres in Australia. It will support the no doubt growing population in the region, but it will deliver a major sport and events centre for the region as well. We are proud of this commitment, we are proud of this delivery and we look forward to the opposition making some policy commitments in this area in the future, because we do not mind a bit of competition when it comes to sport and recreation in this state. We are committed to making Victoria, through this project and through other projects in this portfolio, a better place to live, work and raise a family.

Hazardous waste: Nowingi

Hon. B. W. BISHOP (North Western) — My question without notice is directed to the Minister for Major Projects, Mr Lenders. There have been a number of allegations of bias directed at the environment effects statement panel sitting on the government's proposal to site a toxic waste dump in the Mallee.

The latest allegation prompted me to write to the Premier on behalf of my community on 22 June, with a copy to the minister and others, requesting that the panel be stood down and there be a full inquiry into its conduct. There has been no acknowledgment or response from the Premier, which reveals a kangaroo court attitude by the government which is determined to ram this proposal through at any cost. Will the minister, who is responsible for Major Projects Victoria, the proponent of this flawed proposal, request the Premier to provide an immediate response to the community's concerns?

Mr LENDERS (Minister for Major Projects) — I thank Mr Bishop for his question and for his ongoing interest in the long-term containment facility project in Sunraysia. It is interesting to note that the barrel of 'toxic' lollies that Mr Bishop sent me the other day was imported from overseas, so I suggest to Mr Bishop and his friends in Sunraysia that if they are interested in protecting Australian jobs they should buy Australian products.

Mr Bishop raises issues of natural justice and bias. He raised a couple of issues about the environment effects statement (EES) panel. Again, as a proponent of the project I am always willing to take questions in this place from Mr Bishop and others on the long-term containment facility, but Mr Bishop should refer his question to the Minister for Planning in the other place, because it would be absolutely inappropriate for me as a proponent of the facility to have any say whatsoever in who sits on the independent EES panel.

The Victorian Civil and Administrative Tribunal, an independent judicial body, has made determinations in these areas, but it would be inappropriate for me to do so. I can assure Mr Bishop and the house that this government has embarked on probably the most extensive EES process — certainly that I have been involved with — that has been known. It has been a long period of time; there have been 24 studies and 6 supplementary reports.

The Major Projects Victoria team has been in Sunraysia when necessary. There have been hearings in Melbourne, Bendigo and Sunraysia. It is an open and transparent process, and if Mr Bishop has any issues with the panel's nature, he knows the appropriate place to go is through the areas under the EES legislation — that is, VCAT and the courts — but certainly not to a minister who is a proponent of the scheme.

Supplementary question

Hon. B. W. BISHOP (North Western) — Again the house hears the evasiveness of the minister. This process has been an absolute disgrace since day one. The panel is now in disgrace, and the lack of government action to correct the bias is outrageous. Will the Minister for Major Projects, the minister responsible for the project, now arrange a deputation of the Mildura Rural City Council, the Save the Food Bowl Alliance and other community members to meet with the Premier about these serious allegations of bias?

Mr LENDERS (Minister for Major Projects) — Mr Bishop plays his politics. He tries to promote Peter Crisp, The Nationals' candidate for Mildura, who chairs the food bowl alliance. Mr Bishop has an unbelievable focus on pursuing his own matters for The Nationals on this Sunraysia issue. You will notice Mr Bishop does not suggest we take Ms Lovell or any of the Liberals along on this. He just wants his own little cabal.

The Mildura city council has had extraordinary access to the government. The government has extended this process again, again and again to give the Sunraysia community access — —

Hon. D. McL. Davis interjected.

Mr LENDERS — Even to give access to yappers like Mr David Davis — Mr Insincere Green Davis — who could not even be bothered getting his application in on time. This is an open and transparent process. In fact the opposition parties have criticised the government because it is taking longer than we budgeted for. That is because it is open. There are avenues for Mildura council. It can correspond with the Premier. The Premier, not I as Minister for Major Projects, will deal with its requests.

Dandenong: Metro Village 3175

Mr SOMYUREK (Eumemmerring) — We have heard in this chamber on numerous occasions about the Bracks government's commitment to rise to the challenges of urban renewal in Victoria. With this in mind can the Minister for Major Projects inform the house of recent developments in the VicUrban Dandenong project Metro Village 3175?

Mr LENDERS (Minister for Major Projects) — I thank Mr Somyurek for his question, for his interest in life in the suburbs and his interest in the great Victorian government project at the former Dandenong saleyards, Metro Village 3175. The Bracks government, in partnership with the local community, is building 1000 homes in a vacant area close to Dandenong station as part of an urban renewal process that fits in intrinsically and beautifully with Melbourne 2030.

It is all about revitalising the suburbs and providing opportunities for local people in those areas. This is a great project. It will have affordable housing and a variety of other housing. Unlike the naysaying head-in-the-sand people like Mr David Davis and others who would like Melbourne to become like Los Angeles, it will be a good, planned urban development that will greatly enhance Dandenong. It will accommodate 3500 residents and will be Dandenong's newest residential community in more than two decades. Mr Davis may dream of living in Los Angeles and being the new Arnold Schwarzenegger — Heaven forbid! — but he should be positive about Victoria and about Melbourne 2030, and not aspire to be Governor Schwarzenegger.

These are important areas. It is very important that we have confidence in our suburbs and treat them well. It is interesting because the man sitting to the right of Mr David Davis comes from the former Premier Jeff Kennett's school of naysaying. Mr Rich-Phillips has talked down this area. Like his mentor Jeff Kennett he talks down Dandenong, which is a great suburb of Melbourne. For years it has called itself Melbourne's second city and it is a great part of Melbourne. It is a community that is growing and the Bracks government has invested $290 million in a revitalisation of central Dandenong. Metro Village 3175 is a great project and one that we are getting the community to come into. Mr Rich-Phillips talks it down. He mocks it. He does not understand a free market.

What is happening in Dandenong is a great story. It is a Bracks government commitment in partnership with Dandenong. It is a great area where we are working together. I very much look forward to seeing it in the years ahead, and I know Mr Somyurek is an advocate for Dandenong and the suburbs. I only wish Mr Rich-Phillips was such a friend and not a friend of Mr Kennett in talking down Dandenong.

Accident Compensation Conciliation Service: appointments

Hon. B. N. ATKINSON (Koonung) — I direct my question without notice to the Minister for WorkCover and the TAC, Mr Lenders. I refer to the recent appointment of conciliation officers to the Accident Compensation Conciliation Service. I note that the minister rejected the appointment recommendations of the selection panel he appointed, replacing two experienced conciliation officers with his own

nominees. I note that he told the Parliament yesterday in answer to my question:

> I interview candidates for these positions because I take my role of recommending a Governor in Council appointee seriously.

I ask: how many of the 13 nominees for conciliation officer positions recommended by the selection panel did the minister interview personally before making recommendations to the Governor in Council?

Mr LENDERS (Minister for WorkCover and the TAC) — I am delighted that Mr Atkinson continues to show an interest in the Accident Compensation Conciliation Service. While he nitpicks and tries to find dark secrets of government or things to try to talk down the system, I am absolutely delighted that, like his predecessor Mr Forwood, he is showing an interest in WorkCover. Hopefully he will develop the same broad interest in WorkCover that Mr Forwood did. I do not wish to embarrass Mr Forwood by praising him in this place, but I certainly hope he will — —

Hon. B. N. Atkinson interjected.

Mr LENDERS — It is great to see that he is starting to show an interest. I really look forward to him starting to look at what conciliation is about, to look at how injured workers resolve some of their issues and to talk positively about it rather than roaming around the place doing whatever he can to damage the reputations of people.

Hon. B. N. Atkinson interjected.

Mr LENDERS — Mr Atkinson is quite excitable on these matters, but I can assure him that the new people who were appointed — —

Hon. B. N. Atkinson — The new people? The new Labor mates!

Mr LENDERS — I am sure that at some stage in his life Mr Atkinson has considered appointing a particular person. You obviously deal with all the information including curriculum vitae and other material in front of you in these matters. I can assure Mr Atkinson that the new people being appointed, the ones that were interviewed — —

Hon. B. N. Atkinson interjected.

Mr LENDERS — I suggest Mr Atkinson looks carefully at *Hansard*. If I informed the house of anything other than the fact that I interviewed the new people then that was unintended. I think my words were quite clear yesterday, and the two women who were appointed to the positions were interviewed. I also take the opportunity to say what qualified candidates they are.

Hon. B. N. Atkinson — Labor mates!

Mr LENDERS — In his uninformed manner Mr Atkinson says, 'Labor mates'. It is interesting because Rosamund Wells is one of the two people appointed. We heard a lot from Mr Atkinson as he besmirched the reputation of Nina McCarthy, a person who interviewed incredibly well, a person with probably two decades of extraordinary experience in this area. She has compassion, ability and a willingness to work flexible hours. Mr Atkinson stood up here and besmirched her because of who her sister is and because she worked for a trade union.

If Mr Atkinson would bother to look he would see that this service is balanced. These are people from employer organisations, medical professions, trade unions and the law. Rosamund Wells, who he calls a Labor mate from a plaintiff law firm, worked for Herbert Geer and Rundle, a commercial litigation firm. She also worked for Yuncken and Yuncken, a generalist commercial practice. She is also a barrister who has worked for TAC Law as a defendant lawyer, and yes, she has worked for Ligeti Partners, a plaintiff law firm. She has come from commercial, plaintiff and defendant law practices and is a barrister.

Mr Atkinson besmirches everyone as a Labor mate. I interviewed both these women. They will both add to the Accident Compensation Conciliation Service. They will broaden the experience of the service and provide great benefit to injured workers who come for conciliation. They have life experience, compassion and intellectual rigour. I interviewed and was satisfied with both of them.

I suggest Mr Atkinson should focus on what the service does and acknowledge that ministerial responsibility means that a minister is going to appoint new people. I am happy to take recommendations when an existing person comes forward and consider those recommendations. But these are new people. I interviewed them. Their thoughts on the service and their experience in the area is something I suggest Mr Atkinson should get a little bit of, and on the basis of that with great confidence I recommended these two competent women to the Governor in Council for appointment.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — I welcome the minister's answer today because yesterday he

conveyed to the house the impression that he had interviewed the candidates for the Accident Compensation Conciliation Service officer positions. In fact he has admitted today that he only interviewed the two candidates he was appointing, not those who were recommended by the panel, including those he choose to overlook when he rejected the panel's recommendation. I ask the minister: is the move to install these two candidates part of an attempt by him to further the agenda of the Accident Compensation Conciliation Service as a political organisation stacked with his union and Labor mates?

Mr Viney — On a point of order, President, although I do not have them in front of me, under the rules relating to questions a question cannot contain inferences or in any way make allegations against a minister, as I believe Mr Atkinson's question just did. There were inferences that the minister had acted improperly, and I think the supplementary question should be ruled out of order.

Hon. B. N. ATKINSON — On the point of order, President, the reality is that all I did was take up what the minister said yesterday in the house and simply pointed out that the minister had not been fulsome with the truth in terms of providing the full details of whom he met with. All I did was take up what he had said yesterday. There was no other inference.

The PRESIDENT — Order! Before I rule on the point of order, I am just a bit concerned about Mr Atkinson's comments referring to the minister as not being fulsome with the truth. I have some concerns about that. I believe the comments were inappropriate, and I ask the member to withdraw them.

Hon. B. N. ATKINSON — In deference to you, President, I withdraw.

Hon. T. C. Theophanous — Further on the point of order, President, I was listening carefully, and I am pleased that this point of order has been raised, because there is a tendency for this type of thing to slip into question time. I refer you to R1.02(d) and (e) of the Legislative Council's rules of practice which relate to inferences and imputations. It states that questions should not contain those inferences and imputations. I believe there were significant inferences and imputations in the comments that were being made by Mr Atkinson. I ask you to ask him to ensure that he does not do it in the future.

Hon. Philip Davis — On the point of order, President, I respect the minister reminding the house of the rules relating to questions. It is reasonable for us to understand that the interpretation of that rule is inevitably a matter of judgment, because the function of the Parliament is to undertake a scrutiny of the executive. It is difficult for members to put a question in relation to the actions of a minister which carries no inference whatsoever. It is a matter of the degree of the inference or imputation. In the sense of the effort the member has made to frame his question, he has endeavoured to make this point clear. If anybody takes offence at that, I am sure he could make it even clearer.

Mr Viney — Further on the point of order, President, the reason I raised this matter is that if a member gets up and makes a particular inference, it does not make it so. The rules for questions provides that if a member wants to have a debate on this, they have available a process of moving a notice of motion in relation to a member. But the member's question asserted inappropriate actions on the part of the minister, which was nothing more than his own assertion. In my view if the member wants to move a notice of motion in relation to the actions of the minister, there are processes in the house to do it, but it is not appropriate to do it in question time via a question.

Hon. B. N. ATKINSON — On the point of order, President, the purpose of a supplementary question is to ask a further question to elicit further information based on material that is responsive to the original question — and the answer that is given, more importantly. In response to my original question, the minister gave me an answer. In that answer the minister said that he had only interviewed two people. That was at odds with what he had said yesterday, and I drew on *Daily Hansard* in regard to that. Therefore I did not make any inference. I simply worked on the facts that were presented to this house, and the question was fair and in order.

The PRESIDENT — Order! I will rule whether it is in order or not. The member can have an opinion. With respect to the comments that I asked the member to withdraw, he has done that.

With respect to the point of order about the supplementary question, Mr Atkinson was reading from yesterday's *Daily Hansard* and implying that the minister was not fulsome with the truth. If that was said, I have the same problem with that as I did with the comments he made. However, the concluding part of his question to the minister was, 'Are you stacking it out with Labor mates?'.

I do not have a problem with that question being asked, but I do have a problem with part of the supplementary

question leading up to the crux of the question when Mr Atkinson made the comment that the minister was not fulsome in his response. I have an objection to that. On my understanding of the debate that has taken place, I believe that is the part that started the points of order about imputations against the minister. If Mr Atkinson used those words in the preamble to his supplementary question, I ask him to withdraw them. In respect of the last part of the question, I do not have a problem with it, and I will ask the minister to answer it.

Hon. B. N. ATKINSON — I assure you, President, that in the preamble to my supplementary question I did not use the words that I used in my comments in the point of order earlier. With the President's indulgence, I will just rephrase the question to ensure that she is happy with it. My question to the minister is: is it true that he only met with the candidates that he wanted to install on the Accident Compensation Conciliation Service as part of a political agenda to stack the service with union and Labor mates?

Mr LENDERS (Minister for WorkCover and the TAC) — I obviously received a list of names. A lot of people applied; there was a list of names. Yesterday I made the general statement that I interviewed people rather than as a specific statement that I interviewed the two new people. That is my recollection of *Daily Hansard*. Without quoting from *Daily Hansard*, I am sure anyone who looks at pages 37 and 39 will actually confirm that. If the agenda was to stack the service, surely if I was stacking a service I would have appointed 13 mates, if that is what Mr Atkinson is concerned about. But no, this was about appointing a range of people. The ones who had been appointed and who had not been on the service before, I interviewed. I had good interviews with them and discussed the future of the service with them. I also received information on a range of others. I think it was a process of looking at written material, as you do when you go for jobs, and interviewing some people. We have a good service. It is a mixture of old and new, a mixture of experience and new people. It is a good service.

National Aboriginal and Islander Day Observance Committee Week

Ms MIKAKOS (Jika Jika) — My question is to the Minister for Aboriginal Affairs, Mr Jennings. Can the minister inform the house of the way in which the Bracks government is assisting Victoria's indigenous people to celebrate their cultural achievements?

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — I thank Ms Mikakos for her question and her concern about the wellbeing of Aboriginal people. It provides me with an opportunity to inform the house of a wonderful range of events that took place, which were supported by the Bracks government and other sections of the community, during National Aboriginal and Islander Day Observance Committee (NAIDOC) Week, which occurred last week. That saw a great proliferation of community-based events right throughout the width and breadth of Melbourne suburbs and across regional Victoria.

I had the good fortune of spending quality time with the leading members of the Aboriginal community who participated in community events under the great leadership of Phil Cooper and Nicole Bloomfield, the co-convenors of the National Aboriginal and Islander Day Observance Committee. They put together a great raft of community-based initiatives ranging from their traditional flag raising at the Aboriginal Advancement League in Northcote right through to the very high profile marches, such as the one from the Victorian Aboriginal Health Service in Fitzroy to Federation Square, and a number of events that took place beyond that.

I am pleased to say that I took the opportunity to travel to Shepparton to be a participant in a community event known as Asheletics, which is the first time students from the Academy of Sport, Health and Education in Shepparton put on a traditional sporting event for young Aboriginal children in the Shepparton region. A couple of hundred young students from the Aboriginal community in a range of schools across the Goulburn Valley attended that event which saw all of these enthusiastic children participating in traditional Aboriginal games. There was a great sense of pride and enthusiasm both from the people who were supervising it and from the participants about this sporting endeavour.

As we know, there is a great range of attributes, cultural and artistic capacities of Aboriginal people that were well and truly on display during the course of NAIDOC Week. Indeed the Parliament of Victoria in Queen's Hall housed an exhibit of Aboriginal art that was on display during the course of NAIDOC Week, and we saw the great talents and capacities of indigenous artists from south-east Australia draw attention to themselves in a variety of ways through that art exhibition.

We have a range of activities that seek out what might be isolated and vulnerable Aboriginal people during the course of NAIDOC Week, and we tried to provide a degree of support to them in maintaining their cultural identity. As an example of that, I attended a great event at Port Phillip Prison during the course of the week. In fact it is my misfortune, because Parliament was sitting

yesterday, that I was not able to go to an event at the Parkville Juvenile Justice Centre, but I was here participating in question time, even though a question did not come my way. Perhaps I could have gone, but it is my loss.

We provide opportunities to recognise great achievement in the Aboriginal community. We in Victoria celebrated some elders, such as Howard Edwards and Pam Pederson, who were the patrons of NAIDOC this year; very significant elders in the Victorian community, such as Elizabeth Hoffmann, who received the National Lifetime Achievement Award at the NAIDOC awards in Cairns during the week; and Vince Ross, a Victorian elder who participates in the Uniting Aboriginal and Islander Christian Congress and who was recognised as the Elder of the Year.

We are making a great contribution through these people in the quality of Victorian life, and the Bracks government is happy to provide ongoing support to NAIDOC and the great capacities that are on exhibit in Aboriginal communities right across Victoria throughout the year.

Accident Compensation Conciliation Service: appointments

Hon. B. N. ATKINSON (Koonung) — I direct my question without notice to the Minister for WorkCover and the TAC, Mr Lenders. I advise the house that yesterday, while the minister was arguing the probity of his decision to overrule a selection panel's recommendations on appointments to the Accident Compensation Conciliation Service, I am advised that the senior conciliation officer informed conciliation officers and staff at his office that the minister had adopted a new appointment policy.

I ask the minister: could he confirm that his new appointment policy conveyed to the senior conciliation officer is that anyone who has completed two terms as a conciliation officer will not be eligible for reappointment apart from exceptional circumstances determined by the minister; and that, contrary to assurances given to the house yesterday, he is currently considering a legislative amendment that would allow the minister rather than the Governor in Council to appoint officers?

Mr LENDERS (Minister for WorkCover and the TAC) — All I can say is that I wish Mr Atkinson would focus his faulty psephological antenna a bit more on policy than he actually does on what he seems to try to trawl for scandal. His psephological antenna probably needs to be a bit more attuned!

Mr Atkinson raises the issue of the appointments policy. I suggest it is no great surprise that the standard rule of government board appointments and the like are that after two terms — —

Hon. B. N. Atkinson — It's fascinating that you conveyed it to the news yesterday.

Mr LENDERS — Mr Atkinson has it totally wrong, but I will answer his question rather than his inane interjection. The standard government appointment policy for boards and the like for Governor in Council appointments is generally two terms, unless there are exceptional circumstances. There is nothing new, nothing radical and nothing different about any of that.

On the WorkCover board we apply the same Governor in Council appointments, as is the case with the Transport Accident Commission board and the Essential Services Commission board. I appoint the emergency services board, the Victorian Managed Insurance Authority and all the boards. There is nothing new, hidden, sinister or unusual.

If it gives Mr Atkinson any comfort about my agenda with the Accident Compensation Conciliation Service, a number of those 13 people he was talking about were appointed to more than two terms because there were good circumstances. One of those commissioners, Greg Enticott, was one who had been the acting senior conciliation officer on a number of occasions. If I recall correctly, he was originally appointed by the former WorkCover minister, the Honourable Roger Hallam. This was a man who had been there a while, so it is not a hard and fast rule. It is government policy, unless there are exceptional circumstances.

Hon. B. N. Atkinson — Giving him his marching orders now? You need a bit of help.

Mr LENDERS — That is the policy. If there is anything new or radical about communicating a policy, then I think it is all part of openness and transparency. That is interesting.

Hon. B. N. Atkinson — There is something new — you are trying to politicise the whole service.

Mr LENDERS — Mr Atkinson talks about politicising the service. If he actually inspects the 13 people who were appointed — he has focused on one in particular but backed off on the second one whom he called a Labor mate when he found out she

was not; he is backing off a bit — some of those people who were reappointed, if I recollect, and these things are not particularly important to me because you look at merit, I think a number of the conciliators were appointed by Roger Hallam. Last time I knew, Roger Hallam was not a Labor mate, he was a minister in the Kennett government. A number of Roger Hallam appointees have been reappointed.

Hon. B. N. Atkinson interjected.

The PRESIDENT — Order! If Mr Atkinson wants to ask a supplementary question, I suggest he stop interjecting and allow the minister to respond.

Mr LENDERS — In a sense Mr Atkinson cannot have it both ways. He has been focusing on 1 appointment out of 13. When I tried to broaden it to the 13, whether they are Mr Hallam appointments being reappointments — and there are a number of those on the commission — suddenly he backed off. The government has a policy of reviewing every appointment before a minister recommends back to Governor in Council, which you would hope and expect ministers would do. You would expect a regeneration and you would expect a communication on where things are. But if he thinks conciliation officers need to be concerned, they just need to look at a number who have been reappointed.

Hon. B. N. Atkinson — For 10 months.

Mr LENDERS — No, for three years. If Mr Atkinson checks some of the conciliators, he will find that they have been appointed for three years, including some who were appointed by Mr Hallam. This government believes in having accountability on refreshing bodies, reappointing with experience and seriously reviewing them from time to time. Mr Atkinson has nothing to fear — in fact, he should rejoice.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — I note there has been no industry consultation on the minister's new appointment policy for the Accident Compensation Conciliation Service and that at 31 March next year, conveniently just after the state election, he proposes to sack most of the experienced officers, to replace them and create the opportunity to stack the service with Labor mates like Nina McCarthy. Could the minister confirm that his new reappointment policy would mean 25 of the current 33 conciliation officers will not be eligible for reappointed in March?

Mr LENDERS (Minister for WorkCover and the TAC) — I categorically reject Mr Atkinson's outlandish and outrageous statement designed to instil fear. You can tell he is a clone of the Howard government in that he likes to instil fear into work forces. A number of conciliators have been appointed to a third term. Everyone is under review. A number have been reappointed.

Mr Atkinson revels in fear because that is how he thinks, and that is how the federal Liberal government thinks. These are the same people who, without any interview or any merit, appoint John O'Sullivan straight from a political office to a court.

President, I can assure everyone at the conciliation service, everyone who puts in an application, that that application will be considered. As they have seen with the number of three-year appointments that have just gone through the Governor in Council, people who have had more than two terms, more than three terms, have been appointed further.

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

Electricity: underground powerlines

Hon. R. G. MITCHELL (Central Highlands) — My question is directed to the Minister for Energy Industries. Will the minister inform the house what the Bracks government is doing to help local communities improve the visual amenity of streets through the relocation of powerlines underground?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the member for his question. This is another program that the Bracks program has delivered and is continuing to deliver to help local communities improve the visual amenity of their streets through the relocation of powerlines underground. This is a scheme which has resulted in powerlines being put underground in a large number of areas in regional Victoria.

On a number of occasions I have been to places in regional Victoria where members of the opposition have turned up and congratulated us on undergrounding powerlines in those areas. But it is not only in regional Victoria, because outer suburban areas such as Frankston, Hastings, Dandenong and Sunbury are also gaining the benefit of this program. The program is so successful that we have exceeded our own targets for the amount of grants to be approved, and in the last financial year the Bracks government contributed over

$3 million towards projects to remove powerlines from aboveground to below ground.

This was one of the areas where the Liberal Party had a policy. Its policy was announced by Mr Honeywood, the member for Warrandyte in the other place. It was supported by Mr Forwood and put out as a policy of the Liberal Party. The policy was to put all powerlines underground.

Hon. Bill Forwood — On a point of order, President, the minister is well aware that I have never advocated that all powerlines in Victoria should go underground. I ask him, therefore, to withdraw the imputation that I am that stupid!

Hon. T. C. THEOPHANOUS — The policy was put out by the Liberal Party. It was a stupid policy. If Mr Forwood does not support it, he is obviously not as stupid as the Liberal Party, and I accept that.

When it was put out this policy was going to cost billions and billions of dollars. I thought that I would have a look what the Liberal Party's new policy is today. I looked at the position statement, which is under the title 'Poles go underground'. On the Liberal Party of Australia web site it says that the position statement has been superseded. The parliamentary party's position is now to support the existing Powerline Relocation Fund. This is the policy of the Liberal Party. It has superseded its own policy and put out a one-liner. Its other policy went underground — that is the only thing that went underground. Now it has put out this policy, which says that its new position is to support the Labor Party's existing policy. That is its new policy. It put it up on its web site and somebody must have worked out that once it was on the web site it was a bit stupid to have something that said that its new policy was to support the Labor Party's Powerline Relocation Fund.

You will not find it any more because it has subsequently been taken off the web site. Even this policy has gone underground! The Liberal Party has no policy on undergrounding, but I commend Liberal members for supporting our policy. I recommend to them that they put up another policy that says in relation to renewable energy 'Our new energy is to support the renewable energy scheme of the current government'.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 7990–8.

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES BILL

Second reading

Debate resumed.

Mr SCHEFFER (Monash) — The idea of the human rights and responsibilities charter was recommended after the Human Rights Consultation Committee conducted a seven months Victoria-wide consultation. The point has already been made that Victorians overwhelmingly endorse the view that our human rights should be better protected. Interestingly the committee felt there should be a process through which the community could consider, debate and enlarge the scope of human rights and that a charter and the mechanisms the bill sets out would do this.

In his contribution earlier this afternoon, Mr Hall said that the charter would in the end be an invitation to all of those whom he described as being less tolerant in the community to launch vexatious court cases. He suggested they would fabricate infringements of the rights listed in part 2 of the bill. The government believes that a debate on rights is healthy in a democracy and that the processes contained in the bill will structure and contain the debate so that the Parliament can enlarge human rights. On this side of the house we are confident that these reforms are well supported in the community.

Ms Mikakos, the Parliamentary Secretary for Justice, referred this morning to the article written in this morning's *Age* by Brian Walters, the president of Liberties Victoria. I use the article to further press some of the points made there. It says:

> In Victoria, the Charter of Human Rights and Responsibilities, based on the rights recognised in the ICCPR, has passed the lower house, and is being introduced into the upper house today. This follows a consultation chaired by Professor George Williams, supported by far higher public participation than in any previous such process. The charter, which will soon become law, is an immensely important first step for Victoria.

That is a fairly high endorsement. The 2004 Attorney-General's justice statement that I referred to earlier this morning sets out the key objective of the charter: to strengthen human rights in Victoria by encouraging the growth of a culture that is aware of rights protection, a culture that is tolerant and respectful of human rights.

The Australian Constitution contains very few provisions that specifically protect human rights, because at the time of the drafting of the constitution

people felt that the common law and representative democracy would be enough to ensure that our rights would be protected. I was surprised to read, and I guess many Victorians would be also surprised to know, that there is no provision in any Victoria law that prevents legislation being enacted to create criminal offences retrospectively, and there is no prohibition on the use of torture or cruel, inhuman or degrading treatment and no law that guarantees freedom of speech. The consultation committee reported that those laws that do protect human rights are scattered throughout the body of the law, and the committee felt that it would be an advantage to have our basic rights set out in one document.

In recent times various states and territories have made changes to their own laws that have tried to strengthen human rights at a time when the commonwealth has not acted to specifically enshrine human rights and does not in the short term seem likely to do so.

None of this is to say of course that the Australian and state parliaments have not done anything at all to protect human rights; they have. The freedoms and rights that citizens in this country enjoy have been the result of many individual reforms made to a wide variety of legislation concerning equal opportunity, privacy, voting, antidiscrimination and a fair trial, for example. Even if the establishment of a bill of rights or a charter along the lines laid out in this bill were on the commonwealth's agenda, it would still be necessary for Victoria and the other states and territories to pass supporting legislation, because many of the areas affected by the legislation do not actually fall within the commonwealth's jurisdiction.

The provisions of the present bill could coexist with a future commonwealth bill of rights. The bill is very specific about which rights are included in the charter, and the 19 rights that the Parliament seeks to protect and promote are set out in part 2 of the bill. The charter is based on the rights contained in the International Covenant on Civil and Political Rights — rights that the commonwealth adopted when it ratified that covenant in 1980. The democratic rights and freedoms that are in the charter will be protected by law, and all government departments will be placed under a legal obligation to observe them.

The government is very clear that every policy, every law and every decision must be looked at in terms of those rights by every government department, local council, statutory body and public official. Protecting and promoting human rights by putting them in a charter adds to the health of democracy because it makes people more aware of the law and of ways to stand against attempts by governments and government officials to treat them unequally and unfairly.

The charter can also get people to respect and stand up for the rights of their fellow citizens both at home and in other countries. Unequal access to rights has a disproportionate and negative impact on people who are already disadvantaged — the old, the young, those with physical and intellectual disabilities, members of culturally and linguistically diverse communities, Aboriginal Victorians, the homeless, and members of the gay, lesbian, bisexual, transgender and intersex communities. The rights of people who belong to these groups are not as a rule well respected, and we know this because many people from these disadvantaged backgrounds come into our electorate offices asking for help in their dealings with one or other government department or official.

The basis for the introduction of the Charter of Human Rights and Responsibilities Bill goes back to *Growing Victoria Together*, the 10 directions of which relate in one way or another to the enlargement of human rights and to building a fairer society that reduces disadvantage and respects diversity.

The bill moves forward the government's program to strengthen democracy and rights, and it is also linked to *A Fairer Victoria*, which is our action plan to reduce disadvantage and improve the equality of opportunity. Under the A Fairer Victoria policy, $6.7 million has been allocated over four years to support the implementation and ongoing operation of the Charter of Human Rights and Responsibilities Act after it comes into effect next year. A human rights unit will be established in the Department of Justice to put the provisions contained in the charter into effect. The funding will enable the Equal Opportunity Commission Victoria to get a community education program going to provide training to Victoria Police, Corrections Victoria and the Department of Human Services, and to help the Human Rights Law Resource Centre give direct human rights advice to and provide advocacy for disadvantaged communities.

The charter will be a big help in improving government, because there will be a process requiring the government to take human rights seriously when laws, policies and action are being developed. The charter will also make sure that whenever a government decides it needs to restrict a human right, it will have to go through a process of thorough public scrutiny and will be obliged to spell out its arguments for wanting to introduce that sort of legislation.

The most important thing the charter does is to give the Parliament and the community a clear human rights framework against which human rights can be looked at. At the moment, while we do debate and discuss human rights, I do not think we do that in a particularly coherent way. We each draw on different source documents, jurisdictions or personally held opinions. The lack of an agreed framework means there is no clear human rights standard that MPs, public servants, local councillors or municipal officers can use as a proper legal foundation.

This is landmark legislation that will bring together our human rights law in one body of legislation and will strengthen and support our democracy. I commend the bill to the house.

Ms HADDEN (Ballarat) — Thank you very much; I am on at last. I rise to speak on the bill before the house and the reasoned amendment. I support the very sensible reasoned amendment moved by Mr Strong, and I oppose the bill before the house — the so-called Charter of Human Rights and Responsibilities Bill. I have less than 15 minutes to make a contribution to the debate on this bill, so I will raise only a couple of matters. It alarms me that the rights of the unborn child are not covered in this bill. It alarms me that the reform of double jeopardy — the common-law principle of autrefois acquit — is interfered with under this bill. They are two issues that are clearly in the public mind and have been for some time.

A number of criticisms of the bill have been made in the debate so far today, and I must say I concur with just about every one of them. It is a wet bill. It is pathetic. It fails to protect individual rights from executive government. It is a farce; it is a fake. It is not a historic day for Victoria, it is actually a very sad day. It is hyperbole overlay. A bill in this form that will impact on people's rights — all Victorians' rights — should be given to the people to determine. If you trust the people to make a decision — it is okay to trust the people to pay their taxes — trust them truly and then let the people determine at a referendum whether they want this charter or whether they want something else, because certainly this charter will have some massive impacts on our community. It is already going to cost us nearly $7 million, because that funding was announced in the state budget handed down in May, to socially engineer and dumb down the departments. So let the people decide; that is very important in our democracy.

There are two major issues among many which concern me, and one is the very important issue of the double jeopardy rule. Clause 26 of the bill deals with the right not to be tried or punished more than once. It states:

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

The Council of Australian Governments (COAG) and the Standing Committee of Attorneys-General (SCAG) have been discussing the issue of double jeopardy for the last four or five years. The Model Criminal Code Officers Committee (MCCOC) reported in March 2004 in relation to the double jeopardy law and its proposed reform by both the states and territories, and federally. Its report recommended that the double jeopardy law be reformed so that a person can be tried twice for the same offence if there is fresh and compelling evidence and only if it is a very serious offence. It recommended that the reform apply retrospectively and that only the Director of Public Prosecutions have authorisation for the matter to go before a court of appeal.

The Law Commission for England and Wales recommended reform of the double jeopardy rule in 2001. The United Kingdom Parliament reformed the law of double jeopardy in November 2003, so that cases can now proceed to the Court of Appeal where there is fresh and compelling new evidence of guilt and a retrial would be in the interests of justice. That law was changed to recognise the need to enhance public confidence in the criminal justice system by enabling manifestly questionable acquittals in serious cases to be called into question. Queensland's Premier Peter Beattie is reported as supporting the reform of double jeopardy in the state of Queensland, saying that it should follow Great Britain, New South Wales and New Zealand. The New South Wales Parliament, under former Premier Bob Carr, introduced a bill to reform double jeopardy two years ago. It is a very important issue, particularly in light of the very sad killing of young Jaidyn Leskie in 1997. As we know, his body was found weighted down at Blue Rock Dam, near Moe, on 1 January 1998. If nothing else, that case cries out for the reform of double jeopardy in this state, as does the case of Carroll in Queensland.

Clause 9 of the bill says the charter establishes the right to life. Clause 9 talks about the right to life of a person. It states:

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

Clause 3 states:

> **"person"** means a human being …

That excludes the unborn child. If an unborn child is injured by a violent, criminal perpetrator or in a vehicle accident, that child has no rights under this charter. That concerns me greatly. This issue has been raised with me by many professional bodies and many people, especially in my electorate of Ballarat Province. It is not good enough that this government wants to try to socially engineer our laws and our rights and those of victims without opening up the question to every voting Victorian to have a say via a referendum.

Another issue in relation to this charter is it purports to protect civil and political rights. A number of scenarios will be played out under this, like the question of people's right to privacy and Mr Baldy. Mr Baldy is his nickname. His name is Brian Keith Jones, and he also goes under the names Shaun Paddick and Brendan John Megson. He is a notorious convicted paedophile. He was placed on a 15-year extended supervision order as a high-risk child sex offender in August of last year by order of County Court Judge Rozenes.

Hon. D. K. Drum — Is the government giving him rights?

Ms HADDEN — Mr Baldy will have lots of rights — he has them at the moment. He is being supported by this government, the Attorney-General and the corrections department through the Victorian Civil and Administrative Tribunal (VCAT) in preventing people from finding out why his victims — and potential future victims — were not protected from this heinous person when he was released into our community. The Department of Justice opposes the release of documents in that case. Mr Jones — or Mr Baldy or Mr Paddick or Mr Megson — has written to VCAT asking it to keep his details secret and for his privacy to be respected. What about the privacy of the victims? Who cares about them?

This charter will do nothing to protect future victims of paedophiles like Mr Baldy. He will have a field day with the passing of this bill, as will Mr Fletcher. They will be bringing action before the renamed Equal Opportunity Commission saying their rights are being imposed on by the onerous conditions of their extended supervision orders. Mr Fletcher is another one. He is a prolific litigant against the government and government departments. He sees it as his right to be a paedophile.

These are two convicted child sex offenders who will use the charter of rights for their protection against the child victims of this state. That leaves me quite speechless, which is unusual for me. There is nothing in this charter to protect the rights of the unborn child. There is nothing in this charter to protect the rights of the child. On those two aspects alone I do not support the bill.

The Law Institute of Victoria put in a submission last year. It said it supported a charter of human rights but that it should include economic, social and cultural rights as well as civil and political rights. It also recommended the creation of an individual cause of action for breaches of rights so that compensation can be paid if you can prove that your rights have been breached under the charter. Mr Baldy and Mr Fletcher will probably be first off the rank to seek compensation if the charter is amended in that fashion. I see nothing in the second-reading speech or all the spin doctoring that has come out from the Attorney-General's department to persuade me otherwise.

Charles Francis, AM, QC, has published a number of articles on this charter. He said in a paper dated May 2006 that:

> Even more worrying is the proposed creation of a new human rights commissioner. The proposed charter implies that such a commissioner could become one of the most powerful persons in Victoria.

As we know from the bill, the new human rights commissioner will have an overriding power in relation to the so-called protection of the human rights of some people. As I say, it will exclude the human rights of the unborn child and exclude the human rights of potential child victims of paedophiles.

Mr Francis also said in this paper that:

> Human rights are best protected when there is a separation of the Parliament (which makes laws) from the judiciary (which applies them). A charter of rights has the effect of transferring decisions on major policy issues from an elected Parliament to judges who are not directly accountable to the people.

He also talked about the fact that the charter provides no rights for the unborn child in the clause I have referred to. He said:

> the … legislation negates any rights of unborn children by defining the right to life to begin only after birth.

As I have said, the definition of 'person' in the bill is 'a human being'.

I have received many concerns from constituents of Ballarat Province against the charter. I have not received any support from anyone for the charter. I must say that when the commission came to Ballarat it advertised in the Ballarat *Courier* on the day it was in Ballarat. That did not give anyone any opportunity to go and visit the commission. I know one person tried to locate the commission but the venue was missing from

the advertisement in the *Courier* — they certainly did not want too much input from Ballarat.

Father Bernard McGrath of Inglewood has been vehemently opposed to the so-called charter of rights. He has written letters to the editor at newspapers all around country Victoria, as well as to the *Courier* on 26 June. He said in that letter that the proposed charter of rights will:

> … result in big changes in the way laws and policies are developed. Important social and moral issues should be debated in Parliament and not decided by unelected judges and bureaucrats in the court system.
>
> …
>
> History shows the protection of human rights does not need a charter so much as a good constitutional framework and a culture based on democracy, truth and justice.

I received a representation from Dr David Phillips, national president of the Festival of Light Australia. He said:

> The proposed Victorian charter of rights and responsibilities has major implications for the lives of people and runs a great risk of unintended and undesirable consequences. Please take the time to read the attached paper providing a detailed analysis of some implications of this bill.

Professor Mirko Bagaric of Deakin University's law school, Peter Faris, QC, and Professor James Allan of the University of Queensland law school called the bill 'bloated nonsense' in an article which appeared in the *Herald Sun* on 7 March 2006. I could not agree with them more. They said:

> After all, the right to vote is near the top of his rights list.

They recommended that the Attorney-General put a referendum to the people to allow them to decide and vote on this bill — to let all Victorians vote on it. These three learned writers said:

> He —

being the Attorney-General —

> won't do this, because the punter agrees with the Prime Minister that bill of rights documents restrict rights.

Other eminent lawyers and barristers warned of 'killer MPs'. They said this charter will allow the court system to be thrown into challenge by people testing current laws against the charter of rights. They fear it is likely convicted criminals will use the legislation to tie up the court system. Paul Denyer is a very good example. Mr Dunn said in an article in the *Herald Sun* on 31 May 2006 that Paul Denyer is:

> … just the person to try that sort of caper.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! The member's time has expired.

Mr SMITH (Chelsea) — In the time available to me I wish to speak in support of the bill and oppose the reasoned amendment. I have to say that at the outset I had some serious concerns about the road we are heading down with this, and I made it my business to find out more about it to attempt to allay my concerns, particularly the concern that we would be handing over power to the judiciary in the same way as you could argue happens in the USA, with the judiciary to usurp the power of Parliament. I am assured by those much better qualified than I in these legal matters that I ought not to be too concerned about that and in fact it cannot happen. So on that basis I am much more comfortable with it.

I want to rebut a couple of comments made in contributions by some of those opposite, including the Honourable Richard Dalla-Riva, who in my view made a disgraceful contribution to this debate when he referred to chickens and dogs and human rights, trying to saddle them all together et cetera. I thought it was petty and demonstrated his incapacity, if you like, to understand what was happening here. It is not just the terminology members opposite used in referring to human rights but their delivery of their comments. They actually have disdain for it as if we were doing something underhand or below the expectations of general society.

I would like to directly rebut his statements about how this would affect prisoners and their rights et cetera. His statement was to the effect that prisoners will be able to use the right of freedom of movement in the charter to say that they should not be held in prison, should be transferred to a lower security prison et cetera. I will, but only in some small way because of time constraints, I will rebut that. The charter makes it very clear that freedom of movement, like all the rights in the charter, is subject under law to such reasonable limitations as can be justified in a free and democratic society based on human dignity, equality and freedom. Accordingly restrictions on the freedom of movement of prisoners and people who are unlawfully detained will not infringe the charter.

Ms Hadden interjected.

Mr SMITH — I am sure that even Ms Hadden can understand the implications of that comment. I will rebut some disgraceful comments made by the previous speaker, Ms Hadden, when she referred to this government's support for Mr Baldy. What an absolute

disgrace. How outrageous! I say directly in response to her contribution: will the charter prevent the government from dealing with serious sex offenders like Mr Baldy? The short answer is no, it will not.

House divided on omission (members in favour vote no):

Ayes, 21

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms	Romanes, Ms
Darveniza, Ms	Scheffer, Mr
Eren, Mr	Smith, Mr
Hilton, Mr (*Teller*)	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr (*Teller*)	Viney, Mr
Madden, Mr	

Noes, 18

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

Amendment negatived.

House divided on motion:

Ayes, 21

Argondizzo, Ms	Mikakos, Ms (*Teller*)
Broad, Ms	Mitchell, Mr (*Teller*)
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms	Romanes, Ms
Darveniza, Ms	Scheffer, Mr
Eren, Mr	Smith, Mr
Hilton, Mr	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr
Madden, Mr	

Noes, 18

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

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In doing so I wish to thank honourable members for their respective contributions.

House divided on motion:

Ayes, 21

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr (*Teller*)
Carbines, Ms	Romanes, Ms
Darveniza, Ms	Scheffer, Mr (*Teller*)
Eren, Mr	Smith, Mr
Hilton, Mr	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr
Madden, Mr	

Noes, 18

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CHILDREN, YOUTH AND FAMILIES (CONSEQUENTIAL AND OTHER AMENDMENTS) BILL

Second reading

For **Mr GAVIN JENNINGS** (Minister for Aged Care), Mr Lenders (Minister for Finance) — I move:

That, pursuant to sessional order 34, the second-reading speech be incorporated into *Hansard*.

I inform the house that there were some minor amendments made in the Legislative Assembly, and they are incorporated into the second-reading speech.

Motion agreed to.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Given that the bill was amended in the Assembly, it is incumbent on me first to outline to the house the nature of the house amendment. The house amendment introduced in the Legislative Assembly enables the Minister for Children and the Secretary of the Department of Human Services to authorise medical assessments and treatment for children placed in a hospital or a baby/parent unit under an interim accommodation order. The amendment flows from the creation of new interim accommodation order provisions in the Children, Youth and Families Act, requested by hospital administrators, to reduce the administrative burden on hospitals when children are placed with them by the Children's Court. The amendment maintains the current powers of the minister and secretary under the Children and Young Persons Act 1989 to authorise hospital admissions and medical assessments and treatment, so that children will receive the medical care that they need.

The Children, Youth and Families Act was passed by the parliament in 2005 and received assent on 7 December 2005.

The scientific evidence that underpins the act conclusively demonstrates that children need a certain type of environment in order to develop healthily, and that the absence of such an environment affects the development of the brain in such a way that the child's development can be seriously impaired, leading to an adult with poor cognitive and social skills and higher incidences of mental health and other problems.

That is why investing in children's early years, giving parents the help they need to raise their families and ensuring our most vulnerable young people receive the support they need — when they need it — are among the most important things any government can do.

The Children, Youth and Families Act recognises that every child deserves a stimulating and nurturing environment where they can grow and develop to their full potential.

The act translates the science of childhood development into law, by making children's best interests paramount in all service delivery and decision making and by enabling and promoting earlier intervention, stronger responses to cumulative harm and greater emphasis on children's stability, development and cultural identity.

Significantly, the new act provides the legislative basis for a more integrated system of child, youth and family services — a system that focuses more directly on children's safety, health, learning and wellbeing and development.

Through this legislation, and through the related policy and service delivery reforms, we want to connect families to the services they need earlier and make those services more accessible and more adaptable to the changing needs of today's families.

As with any major piece of legislation, there are a significant number of consequential amendments to be made to other acts. There are also a number of transitional arrangements to be made, especially with regard to matters before the Children's Court. We have taken care to strike a balance between administrative ease and fairness, so that no party is disadvantaged by the implementation of the Children, Youth and Families Act.

Today's bill incorporates appropriate transitional arrangements and the necessary consequential amendments. The bill provides that provisions of the new act will take effect on the day the act commences, with three exceptions.

> The Children, Youth and Families Act spells out maximum time frames, after which the secretary must assess children's needs and parental capacity and determine whether a stability plan should be developed. A stability plan will address a child's longer term care away from home. Time frames commence when the Children's Court makes an order, which results in a child being placed in out-of-home care. Under the transitional arrangements, any time spent in out-of-home care prior to the commencement of the act, will not count towards the time frames for stability plans. This means that time frames for making of stability plans will not apply retrospectively.
>
> Similarly, new minimum time frames for the making of permanent care orders will not have retrospective effect. On commencement of the act, the Children's Court will only be able to make a permanent care order if a child has been out of home for two years — as currently provided under the Children and Young Person's Act — or the new six-month minimum time frame for these orders is met.
>
> Finally, transitional arrangements will provide for pre-hearing conferences to continue in their current form until October 2007. This will allow for new models of dispute resolution to be developed, in consultation with the Children's Court and other experts and stakeholders.

The act has been subject to the highest levels of scrutiny, and this close scrutiny has continued. As a result, some technical amendments to the principal act are proposed, to achieve the policy objectives of the act. Some of the additional amendments are very minor but there are some matters we do wish to draw your attention to, as follows.

Timely and appropriate information sharing is critical to ensure children's safety, stability and wellbeing. Today's bill amends information-sharing provisions, to enable child protection to undertake effective risk assessments when they receive a report that a child may be in need of protection —

> Under the Children, Youth and Families Act, information holders are defined as including a range of professionals such as doctors, nurses, teachers, police members and psychologists. The act was intended to allow family services intake services and child protection to consult with these and other defined professionals to assess a child and family's needs and risks. The capacity for child protection to consult with these professionals was inadvertently omitted in the act and the amendment bill corrects this oversight.
>
> Community services include family services and out-of-home care services. Under the current drafting, child protection may only consult with family services in determining whether protective intervention is required. The consultation provisions will be amended to enable consultation with all community services, as was

originally intended, and as is consistent with the provisions enabling information disclosure to child protection after an investigation has commenced.

The bill also contains an amendment to provisions supporting the referral of families between a family services intake and child protection. The act provides for the protection of the identity of people who make reports or referrals to a family service intake or child protection intake. The act also enables that a referral or report to one intake can be referred to the other, if this is the most appropriate way to respond to the matter. Proposed amendments more clearly enable the disclosure of the identity of the referrer or reporter to the other intake, while also prohibiting the further disclosure of their identity by the other intake service to anyone else.

The final amendment to information-sharing provisions relates to the compulsory disclosure to the secretary of information about children subject to Children's Court protection orders. The act currently spells out that the secretary can only require information that is relevant to the protection or development of the child. This bill clarifies that the secretary can then use and disclose this information for the same purposes of protecting a child and promoting their healthy development.

The act contains a range of measures to assure the quality and safety of services provided to vulnerable children and families. In particular, regulations will prescribe criteria to be applied by out-of-home care services in approving foster carers and employees and contractors of residential care facilities. In recognition that other professionals may also come into close contact with children, the act also requires agencies to approve providers of services to children in residential care facilities. This bill excludes prescribed services from this requirement.

A key aim of the new act is to strengthen service responses to Aboriginal children and families and better maintain Aboriginal children's connection to their community and culture.

Amendments spelt out in this bill clarify the requirements in relation to voluntary child-care agreements for Aboriginal children. These agreements are made voluntarily between parents and either the department or out-of-home care agencies — for example to provide respite care for a child away from home. The Children, Youth and Families Act requires voluntary agreements to be subject to the Aboriginal child placement principle. This requirement is maintained under this bill. In order to promote parents' right to choose whom they enter into such an agreement with, an amendment is proposed to remove the requirement that a gazetted Aboriginal agency must advise on the appropriateness of a voluntary placement.

Provisions in regard to Aboriginal family decision-making convenors will be amended to enable them to be appointed by any Aboriginal agency registered with the Secretary of the Department of Human Services. The act will clarify that Aboriginal family decision-making processes should be utilised in relation to significant decisions about an Aboriginal child or family.

Finally, today's bill spells out amendments to youth justice provisions of the act, including in relation to the children and young persons infringement notice system (CAYPINS) and the payment of fines.

Conclusion

The Children, Youth and Families Act 2005 is a once in a generation reforming piece of legislation. This consequential and other amendments bill enables effective implementation and rectifies some minor matters that have been identified as requiring clarification.

Having passed the principal act last year, I am now calling upon you to pass this amendment bill that will enable its implementation.

I commend the bill to the house.

Debate adjourned on motion of Hon. ANDREA COOTE (Monash)

Debate adjourned until next day.

CORRECTIONS AND OTHER JUSTICE LEGISLATION (AMENDMENT) BILL

Second reading

For **Hon. T. C. THEOPHANOUS** (Minister for Energy Industries), Mr Lenders (Minister for Finance) — I move:

That, pursuant to sessional order 34, the second-reading speech incorporated into *Hansard*.

I again advise the house that there were minor amendments in the Legislative Assembly, which are incorporated into the second-reading speech.

Motion agreed to.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

This bill will give effect to a recent government commitment to provide new powers to prevent offenders subject to extended supervision orders under the Serious Sex Offenders Monitoring Act 2005 from changing their names for improper purposes.

The bill will also make a series of amendments to the Serious Sex Offenders Monitoring Act 2005, the Corrections Act 1986 and the Firearms Act 1996. These amendments, which are primarily of a minor or technical nature, will facilitate the effective operation of these acts.

Powers to prevent improper name changes

The government recently made a commitment to provide for new powers to prevent offenders who are subject to supervision under the Serious Sex Offenders Monitoring Act 2005 from making name changes for improper reasons.

The Serious Sex Offenders Monitoring Act 2005 was introduced by the government last year to provide for significant new powers for the extended supervision of serious child-sex offenders in the community after they have completed their sentences.

Under the act, an application for an extended supervision order can be made to the court by the Secretary of the Department of Justice. An application must be supported by a clinical assessment report outlining the risk that the offender will re-offend. The court can impose an extended supervision order for a period of up to 15 years if it is satisfied that the offender is likely to re-offend. The making of such an order is subject to a number of safeguards, including rights for the offender to appeal against the making of the order and regular court reviews of the ongoing need for the order.

An offender who is subject to an extended supervision order remains under the strict supervision of the Adult Parole Board in the community. As part of this supervision, the offender can be required to comply with a range of supervision requirements. These include curfew requirements, prohibitions on contact with children and obligations to undertake further clinical treatment.

These supervision powers provide an important new tool in reducing the threat posed by serious child-sex offenders to the safety of our children in the community.

Currently, an offender on an extended supervision order can apply to the registrar of births, deaths and marriages to change his or her name in the same way as other members of the public.

Concerns have recently been highlighted that offenders who are subject to extended supervision orders may seek to change their names in ways that may be offensive to victims of crime and the community more generally. Such name changes may create additional distress to victims who have already experienced a significant impact on their lives due to the criminal actions of these offenders.

To address these concerns, the bill will provide for new powers for the Adult Parole Board to scrutinise and prevent improper name changes by offenders on extended supervision orders. The new powers will also apply to name changes by offenders undertaking parole, which raise similar issues to name changes by offenders subject to extended supervision orders.

The new name-change powers are similar to the existing powers under the Corrections Act 1986 which prevent prisoners in custody from changing their names for improper purposes.

The name-change powers for offenders subject to extended supervision orders and offenders on parole will mirror each other. These powers will be contained in new division 6 of part 8 of the Corrections Act 1986 and new part 4A of the Serious Sex Offenders Monitoring Act 2005 respectively.

In the case of either an offender on an extended supervision order or an offender on parole, the Adult Parole Board will be able to approve an application for a name change if the offender satisfies the board that the change of name is necessary or reasonable. Examples of this may be if the offender wishes to adopt a different name for cultural reasons or seeks to adopt a spouse's name after marriage.

Even if a prisoner makes a strong case for a change of name, the Adult Parole Board must refuse a name change if it considers that the proposed name change is likely to be offensive to a victim of crime or an appreciable section of the community.

In addition, the Adult Parole Board must refuse a proposed name change that is likely to be used by the offender to evade or hinder his or her supervision requirements under the extended supervision order or parole order, as the case may be.

The Victorian registrar of births, deaths and marriages will be precluded from registering the name change of an offender on parole or an extended supervision order unless an approval has been provided by the Adult Parole Board. The Victorian registrar will be empowered to correct the register if a relevant offender's name change is inadvertently registered without such an approval from the Adult Parole Board.

To deter offenders who may seek to evade the new approval mechanisms in the bill, it will be an offence for an offender who is subject to an extended supervision order or parole to apply for a change of name without the approval of the Adult Parole Board.

These measures in the bill will provide stringent controls over name changes by offenders subject to parole or an extended supervision order. These controls will strike an appropriate balance between allowing these offenders to make name changes for legitimate purposes and protecting the interests of victims of crime and the need to maintain effective supervision of these offenders in the community.

Extension of victims register

As a further measure to safeguard the interests of victims of crime, the bill will extend the existing victims register provisions to ensure that relevant victims can be kept informed of supervision orders that may apply to an offender under the Serious Sex Offenders Monitoring Act 2005.

Currently, the Corrections Act 1986 provides for a victims register that enables specified victims and family members to be given information about a prisoner who has been convicted of a violent crime against them. Eligible victims can elect to be included on the register and receive information about the administration of the prisoner's sentence.

A registered victim also has a right to make submissions to the Adult Parole Board about whether the prisoner should be released on parole and any relevant supervision conditions. The Adult Parole Board must take these submissions into account before making a parole order.

These provisions ensure that registered victims can be kept informed about when the prisoner will be released into the community and give them the opportunity to have their say in relation to the prisoner's parole process.

Registered victims may have an equally strong interest in being advised if the offender is subject to ongoing supervision in the community after completing his or her sentence of imprisonment.

The bill recognises this interest by expanding the information that can be given to registered victims under the Corrections Act 1986. Where the offender in respect of whom a victim is registered may be eligible for an extended supervision order under the Serious Sex Offenders Monitoring Act 2005, the Secretary of the Department of Justice will now be able to advise that victim whether an application for an extended supervision order has been made and the outcome of that application. If an extended supervision order is made, the

secretary will also be able to advise the victim of details relating to the order and subsequent changes affecting the order's operation.

The bill will also give the registered victim a right to make submissions to the Adult Parole Board about the supervision requirements of the offender under the extended supervision order. The Adult Parole Board must take such submissions into account before imposing supervision requirements on the offender. These provisions will be contained in new sections 16A and 16B of the Serious Sex Offenders Monitoring Act 2005.

While the information that can be provided to registered victims will be expanded, the existing criteria for a person to be included on the victims register will remain substantially the same. In the case of a primary victim, the victim can request to be included on the register if he or she has had a 'criminal act of violence' committed against him or her, which includes specified serious sexual offences. Specified family members of a primary victim can also apply to be included on the victims register, and in certain circumstances spouses or domestic partners of the offender can also be included.

Together, these proposed amendments will further reinforce the government's commitment to supporting victims and ensuring they are treated with respect, dignity and compassion in their dealings with the justice system.

Amendments to corrections legislation

In addition to the amendments I have already outlined, the bill makes a number of minor amendments to the Corrections Act 1986.

Firstly, the bill will clarify and improve the operation of the Adult Parole Board's powers in relation to arrest warrants under that act.

The Adult Parole Board has powers and responsibilities under the Corrections Act 1986 for supervising offenders undergoing parole or home detention orders. This includes powers to cancel an offender's parole or home detention in appropriate cases and return the offender to custody. To facilitate this, the Adult Parole Board can issue a warrant or obtain a warrant from a magistrate which authorises a police member to arrest the offender and return him or her to prison.

Unlike similar arrest powers in other Victorian legislation, the powers to arrest under warrant in the Corrections Act 1986 do not allow police to enter and search premises to execute the warrant. The bill will rectify this to ensure that police can enter and search the offender's home or other place where he or she is believed to be for the purpose of arresting the offender.

In addition, the bill will clarify the Adult Parole Board's warrant powers under the Corrections Act 1986 by providing express powers to recall and reissue warrants and to issue duplicate warrants where the original warrant has been lost or destroyed.

The bill also addresses a technical issue that has been identified in relation to the capacity to detain certain federal prisoners who may be transferred to Victoria under the national scheme for the interstate transfer of prisoners. That scheme, which is underpinned by complementary commonwealth and state legislation, allows prisoners serving a state or federal sentence to be transferred between states for trial and welfare purposes. The commonwealth legislation that forms part of the scheme also makes provision for prisoners serving a sentence for a federal offence to be transferred between states on national security grounds.

The Corrections Act 1986 provides for persons transferred to Victoria under the interstate transfer scheme to be detained as prisoners in the legal custody of the Secretary of the Department of Justice. However, due to a gap in these custody provisions they do not cover all federal prisoners who may be transferred to Victoria, but only those federal prisoners transferred for trial purposes.

The bill amends these provisions to ensure that they apply to any federal prisoner who may be transferred to Victoria under the interstate transfer of prisoners scheme. This will ensure that the custody provisions in the Corrections Act 1986 operate as intended to complement the national interstate transfer arrangements.

The bill also makes a minor amendment in the nature of a statute law revision to repeal redundant provisions in the Corrections (Management) Act 1993.

Amendments to the Serious Sex Offenders Monitoring Act 2005

As I have indicated, the bill makes some minor and technical changes to the Serious Sex Offenders Monitoring Act 2005. These changes primarily relate to procedural aspects of that act.

These include amendments to:

clarify the procedures that apply where an offender initiates a review of an extended supervision order;

rectify an oversight in the appeal mechanisms under the act to ensure that they apply to court decisions made on a review of an extended supervision order initiated by the secretary;

enable the secretary to initiate proceedings for breach of an extended supervision order without first giving notice to the offender, where this is warranted by the seriousness of the alleged breach;

give the secretary an express power to direct an offender to attend for clinical assessment under the act. It will be an offence punishable by up to two years imprisonment for an offender to fail to attend as directed; and

provide the court with greater flexibility in relation to the timing to make an extended supervision order. Currently, an extended supervision order can be made once 25 working days have elapsed since the initial application. This period enables the offender to seek legal advice and an independent clinical assessment before the court proceeds to make an order. The bill will allow the court to make an extended supervision order sooner than 25 working days if it is satisfied this is in the interests of justice. This could occur, for example, if the offender does not wish to obtain an independent assessment and would not be prejudiced by the matter being heard more quickly.

These amendments to the Serious Sex Offenders Monitoring Act 2005 will enhance the effective operation of that act.

Disposal of forfeited firearms

Lastly, the bill overcomes a limitation in the arrangements for the disposal of forfeited firearms.

The Firearms Act 1996 currently enables firearms that have been forfeited to the Crown to be disposed of by giving them to any person or body approved by the minister. This enables forfeited firearms to be given to Victoria Police for forensic and like purposes, and to museums and similar bodies for historical purposes.

An amendment was made to the Firearms Act 1996 last year that was intended to remove legal uncertainty about the ability of bodies that received forfeited firearms to actually retain possession of those firearms following forfeiture. However, that amendment had the effect of limiting the range of uses to which forfeited firearms may be applied. While the ability to give forfeited firearms to Victoria Police for law enforcement and forensic purposes was retained, the ability to give these firearms to museums and like bodies was unintentionally limited. That amendment, which was made by section 54 of the Firearms (Further Amendment) Act 2005, will commence on 1 October this year unless proclaimed earlier.

The bill will ensure that forfeited firearms can continue to be disposed of to Victoria Police and museums and like bodies to be retained for legitimate purposes approved by the minister.

I commend the bill to the house.

Debate adjourned for Hon. RICHARD DALLA-RIVA (East Yarra) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

LONG SERVICE LEAVE (PRESERVATION OF ENTITLEMENTS) BILL

Second reading

Debate resumed from 19 July; motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Long Service Leave (Preservation of Entitlements) Bill let me say that this is a relatively small and straightforward bill that does exactly what its title says it will do: it preserves long service leave entitlements. I must say that it is a bit unusual for this government to bring in a bill and give it a title that actually relates to what it does, but this time the government has done that. The bill simply preserves long service entitlements where those entitlements may have been at risk as a result of the WorkChoices legislation.

Let me give a little bit of detail. As we all know, essentially long service leave has been an issue which has been regulated and legislated at the state level. Members will remember that on several occasions we have dealt with long service leave acts that have entrenched and changed entitlements, therefore the question of long service leave is dealt with by the states. As a consequence of WorkChoices it has been removed as one of the small number of issues that are dealt with under federal legislation, as has been done with one or two other things that are covered by state legislation. There is a very small number of instances — nobody is able to tell us exactly how many that may be — where people have been on a particular award prior to the introduction of WorkChoices and that particular award has resulted in a long service leave entitlement in excess of that set out under the existing state legislation.

There are certain classes of employees in respect of which that is the case — for example, police and nurses — but the point needs to be made, certainly in the case of the police force, that police are employed under an enterprise bargaining agreement (EBA) with the government, and presumably the government would not be about to reduce their long service leave entitlements, so this particular piece of legislation will have no effect on them. Likewise, by far and away the majority of nurses are employed by the government sector through EBAs, and I am sure the government will not be seeking to reduce their long service leave entitlements.

The fact of the matter is that we have been hard pushed to identify, and certainly in briefings we have not been able to get any idea of, how many people will be affected by this piece of legislation. We suspect there will be very few, but there is always the possibility that there may be one or two people who, as a result of the introduction of WorkChoices, would normally fall back to the state-legislated long service leave provisions that may in certain instances be slightly less than they are getting now. This bill simply ensures that they will not be disadvantaged by the change to the WorkChoices legislation — in other words, it preserves their entitlements. The opposition has no problem with that and does not seek to oppose the bill. However, there are certain provisions in the bill with which we have some problems, and I will move amendments during the committee stage to deal with those. They are fairly detailed in nature, so I do not seek to canvass them at this stage. I will be able to adequately canvass them during the committee stage.

As I said, this bill does exactly what the title says it will do. The opposition does not have any problem with it, apart from those issues I will deal with in the committee stage. We hope those amendments will be agreed to, but even if they are not we do not intend to oppose the bill. We feel it is quite reasonable, and we also

understand that it will affect very few people, if any. With those few comments I will wind up my contribution to the debate on the bill.

Hon. W. R. BAXTER (North Eastern) — On this occasion I have to say that I am parting company with my good friend Mr Strong, because The Nationals are opposing this legislation, and we are doing so — —

Mr Lenders — You are not in coalition any more.

Hon. W. R. BAXTER — We have not been in a coalition for a long time. We are doing so on quite a number of grounds, and I will outline those to the house today. The principal ground upon which The Nationals are opposing the legislation is because we believe it is totally unnecessary. It is another piece of grandstanding by the garrulous Minister for Industrial Relations in the other place, who seems to have taken it upon himself to undermine the commonwealth industrial relations legislation as much as he can, mislead the public and mislead workers. Of course he does all this completely overlooking the fact that Victoria ceded its industrial relations powers to the commonwealth some time ago, and he has made absolutely no attempt whatsoever to seek the return of those powers.

He is happy for the commonwealth to have the industrial relations power — as it should, so that we have some national uniformity in industrial relations rather than allowing state borders to be an impediment — yet at the same time he wants to have his cake, eat it too and do his best to undermine what the commonwealth might democratically legislate.

This follows on from some earlier legislation that this minister introduced to the Parliament which went to the preservation of benefits for state employees. The Nationals did not oppose that legislation on that occasion because it was absolutely superfluous; under the WorkChoices legislation this government, as the employer, has the right to provide whatever benefits it wishes for its employees provided they are over and above the minimum provided by the WorkChoices legislation. That piece of legislation was absolutely nothing but grandstanding. This is in the same ilk, but it does include a couple of dangerous barbs in it. I will come to those in a moment.

When I was in the briefing and inquired what would be the circumstances in which this legislation could come into play, there was much scratching around. The only award that could be produced that might have any implications was the nurses award. Nurses have long service award entitlements which are above the norm that are included in the Victorian Long Service Leave Act. That struck me as hardly a sufficient reason to legislate, bearing in mind that in any event, the great bulk of the nursing profession are employed in the public sector. The government has already legislated to require those benefits to continue in public employment. It beggars belief that in the private sector there would be fewer long service leave provisions offered, bearing in mind the competition that is out there in the marketplace for nurses. It is a profession that is in short supply.

Even if they were contemplating offering fewer long service leave provisions than is currently provided under the award, under the Australian workplace agreements (AWAs) it is impossible to contemplate that they would not be well and truly compensated in some sort of a trade-off for that change. It is just not possible to believe that an employer could somehow or other or by subterfuge lessen the entitlements without offering compensation in return.

I think it is entirely unnecessary that we have this legislation; if it is unnecessary, does it matter if it is passed? It does matter, because it has a couple of barbs in it which I will refer to. For example, it includes a penalty for not disclosing a reduction. That flies in the face of reality anyway, because there can only be a reduction under an AWA if an agreement were reached between the employer and the employee. An agreement, by definition, includes signing off that agreement. That would surely indicate and draw attention to any changes in long service leave provisions.

It just does not have any sense at all, if one was to contemplate that that would not occur and that somehow an agreement would be reached without long service leave provisions being discussed. The penalty for an employer who does not disclose that change is fairly hefty — it is $10 000. I am saying that it would be disclosed in an AWA.

The bill also includes a penalty if the employer cannot prove that a dismissal of an employee was not based on a lack of agreement. That is reverse onus of proof. We should be only accepting a reverse onus of proof in few circumstances where it can be properly justified. I do not think the case has been made out in this bill for that at all.

I also alert members of the house to the fact that there are some retrospective provisions in this legislation. They are not particularly onerous retrospective provisions, but my party has a policy of voting down retrospective provisions unless it can be demonstrated that they are absolutely essential. In the second-reading

speech of the bill there has been no attempt to justify those retrospective provisions.

The other matter I am concerned about, as I think Mr Strong is also — I think his amendment might allude to this fact — is that in terms of the civil penalties that can be applied for failing to disclose unfair long service leave entitlements — allegedly unfair, anyway — an employer can be fined up to $10 000. Clause 92 states that with regard to the court that is imposing that fine:

> (3) The court may order that the penalty, or a part of the penalty, be paid —
>
> (a) to a particular person or organisation; or
>
> (b) into the Consolidated Fund.

If the courts are going to have power to direct fines other than to the consolidated revenue, this is introducing a entirely new principle. I do not think members of the house should accept this principle simply because it happens to be a bit of an addendum to the bill. Members should think for a moment about what this could lead to and its implications. This could be quite a slush fund for the unions.

If the unions can convince the courts to direct that fines be paid into one of its accounts or front organisations, this would be a great incentive for the union movement to go around, wherever it can, and make allegations under proposed section 87 that somehow the employer did not make proper disclosure under the legislation. I think it is likely to turn into money for jam for the unions, because it is going to be very difficult indeed to prove otherwise if an employee backed by a union takes this to court.

I do not think the Parliament should agree for one moment to give the unions the opportunity to garner in some funds via this mechanism and impose that provision upon employers in Victoria. On those grounds, The Nationals will be opposing the legislation.

I want to say more generally it is amazing that the WorkChoices legislation is getting the publicity it is on the television and in the newspapers, generated largely by unions. It is simply misleading, and I want to make a couple of remarks about that.

We have all seen the advertisements of employees allegedly having got their marching orders unfairly — one from an abattoir, one from a cleaning business and so on. I am informed by the WorkChoices people that not one of the persons featured in those advertisements has made a complaint to the Office of Workplace Services (OWS), which is the policeman organisation that goes out and checks on these concerns. If these people are genuine and believe that they have been unfairly treated, why are they not exercising their rights under the law and having their cases investigated?

We all saw the young lady on television the other night alleging she had to give 12 hours notice that she was going to take sick leave. If that were true, we would all agree that is simply not on, but I understand that that young lady has not made a complaint to the OWS either. I understand from other sources that she has had media training, and it is beginning to look more and more as if this is some sort of stunt. There may well be some facts to still come out in the wash; we do not know, but on the surface this appears, again, to be a stunt conducted by the union movement.

There was also the Spotlight case. It got so bad that a union official had to admit that the facts were not as they were being portrayed. I give that particular gentleman full marks for having the honesty and the gumption to say, 'Hang on a minute, what is being said here really is not the true situation'. He went up a long way in my estimation and gave me some confidence that we have got people out there in the union movement who are not prepared to let these outrageous claims be made by some of their colleagues without some sort of pulling back into gear.

I had an interesting run-in, for want of a better word, with the Minister for Industrial Relations in the other place when he appeared before the estimates hearings of the Public Accounts and Estimates Committee as to the role of the workplace rights advocate (WRA) here in Victoria. As the house will recall, The Nationals opposed the appointment of a workplace rights advocate in Victoria on the basis that there is already a similar office at the commonwealth level, and it would be duplication.

At the time that legislation was passed we were assured in response to questions from me and others that the staff numbers at the office of the WRA would be very minor indeed, with very few people engaged, and it would be a small part of Industrial Relations Victoria. Surprise, surprise! Like Topsy, it is growing exponentially, frankly, and I can see there is going to be an army of people in the Office of the Workplace Rights Advocate under what the Minister for Industrial Relations has in mind.

I asked the Minister for Industrial Relations a couple of questions when he appeared before the committee on 20 June. I do not want to bore the house or take up too much time reading aloud, but I think it is worth putting some of this on the record. I asked:

> Minister, in your answer to Ms Romanes in relation to the workplace relations advocate you used words to the effect that the WRA will be advising persons who contact it not to sign AWAs. Is that a standing instruction to Mr Lawrence, and would that not mean that he would not be able to assess the merits of the particular AWA and see if it had other features that more than compensated for any removals of traditional measures, and therefore it would disadvantage some persons and he would not be able to give impartial advice?

The minister replied:

> No. If I have been misinterpreted as saying that he has instructing people not to sign — what he is doing is actually instructing people on the facts so people have the facts.

I will leave out some of the less relevant bits that the minister said. He then went on to say:

> The advocate will indeed investigate unfair employment practices, will provide free independent information and advice to Victorian workers trying to get a fair deal under the federal government's unfair legislation …. Employees can be advised what they stand to lose by signing a workplace agreement: penalty rates, overtime, rest breaks, allowances, annual leave loading. It is really about providing honest information and impartial advice to employees in relation to what they may lose.

I then asked the minister:

> As a corollary to that, does that mean that if the WRA concludes that the employee is going to be better off he will recommend to the employee that he sign the AWA?

It would have been nice to get a yes or no answer to that question from the minister, but I did not of course. The minister replied thus:

> An employee who contacts the workplace rights advocate will be getting independent, impartial advice. An AWA may include, for instance, a higher hourly rate for a particular job but will actually take away a whole range of penalty rates, leave loading and the like.

To which I interjected, and he went on to say:

> Yes, and the workplace rights advocate will give independent advice to a person as to whether or not what they are about to sign is going to take away conditions or otherwise. Ultimately it is going to be up to the employee whether or not, having the full facts — —

I intervened and said this:

> What I am trying to establish, Minister, is the WRA just going to list what is being taken away in one column without compensating for that in the other column with the advantages?

The transcript continues:

> **Ms GREEN** — He has just answered that.
>
> **Hon. W. R. BAXTER** — That is what he is saying, that it is going to be one-sided advice.
>
> **The CHAIR** — No, that is not what he is saying, but the minister can speak for himself.
>
> **Mr HULLS** — It is not one-sided advice, Bill, with due respect. Here is the AWA. Let us say the AWA gives you a higher hourly rate. You might like that but you need to understand that you are trading off for that higher hourly rate overtime, a whole range of other penalty rates that may well affect work-family balance and the like. You may well be losing long service leave; who knows? It is up to you to decide whether or not it is worthwhile signing on the basis that you will get a higher penalty rate but you lose all these other conditions.

After all that I was still left with the clear impression that the minister has instructed the WRA that he is to concentrate very much on explaining to employees who might come to him with a proposed agreement what they are allegedly losing without having any obligation on the other side of the coin to say, 'But this is the trade-off; this is what you are getting in return', and then allow the employee to make up his mind whether he thinks it is fair or not.

I am very concerned. Some of the examples I have been advised about in the short time the legislation has been in place lead me to believe that this particular workplace relations advocate is in fact under some direction, implicit or explicit. I am not suggesting the advice he gives is going to be misleading; I am suggesting that it is going to be very one-sided. He has been given a charter to say to people, 'This is what you are losing' — allegedly — but he is not to concentrate on what the positives might be. What use is that? What good is that going to be to an employee who comes along to a statutory officer and thinks they are going to get absolutely independent, sophisticated, true advice. It is a pretty poor picture, I would have to say.

I am very sorry that the minister at the Public Accounts and Estimates Committee beat around the bush so much rather than saying, 'No, that is what the situation is. They are going to be giving inquirers the full bottle'. I am less than convinced that they are going to get the full bottle. It is going to be very coloured advice. That is an absolute waste of time in my view.

Hon. B. N. Atkinson — I welcome Mr Viney back to the chamber so that he is now one of two government members here. Acting President, I draw your attention to the state of the house.

Quorum formed.

Hon. W. R. BAXTER — Now that I have an audience it is very tempting to recapitulate my remarks;

but seeing the minister listened, I will resist the temptation.

Let me conclude by saying that whilst it can be tempting to endorse legislation which appears on the surface to be magnanimous and benign and of assistance to employees, one needs to look deeper. As I have said, I think this legislation introduces principles which are not desirable and which could set a precedent for matters getting out of hand in other respects. They could be used for purposes that this house does not intend at all, if the house endorses what appears on the surface to be a small piece of legislation. I am not saying that it has been deliberately designed that way. I do not know whether it has; I cannot say. But I do not like some of the provisions in this legislation, and that is why it is being opposed.

Mr VINEY (Chelsea) — There is one simple reason why this legislation is required: the conservatives do not respect workers' entitlements and rights. They have demonstrated they do not respect them by indicating that they are not supporting this legislation — at least The Nationals are not, but I do not think the Liberal Party is supporting it either. They indicated that they do not support the legislation because of the actions of the Howard government under the commonwealth Workplace Relations Act. The Workplace Relations Act now puts workers' long service leave entitlements at risk. It puts them at risk through the changes in the provisions of the Workplace Relations Act, which in a number of ways make it possible for employers to remove long service leave entitlements of workers through sales of the business and through changes to enterprise agreements. This legislation ensures that workers' long service leave entitlements will be protected in Victoria. That is what this legislation is about. I think all Victorians would welcome that level of protection. We know absolutely that the Australian and Victorian communities are deeply concerned and worried about the impact of the Howard government's industrial relations policy.

Hon. C. A. Strong — On a point of order, Acting President, Mr Viney is misrepresenting the position of the Liberal Party on this bill. If he had been listening, he would have known that I made it quite clear in my opening comments that we would not be opposing this piece of legislation.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! That is a debating point. There is no point of order.

Mr VINEY — I am happy to stand corrected. Mr Strong has indicated that he will not be opposing the bill. I always find it humorous the way opposition members say they will not oppose something. They cannot bring themselves to actually support what this government is doing to protect the rights of workers.

It is interesting that this is occurring at a time when the changes to the new Workplace Relations Act are being used to try and force a group of workers at Huon Corporation to go back to work when in fact the administrator of that company has indicated that even if they go back to work the company probably will not be able to pay their wages. Those workers are on strike because their entitlements, such as long service leave, are at risk.

I refer honourable members to an article in the *Age* of 15 July which indicates that there are potentially in my electorate 150 job losses at Frankston, and that the administrator has indicated there are no funds available to pay those workers any redundancies or entitlements. It quotes, at the end of the article, John Wilkinson, the National Union of Workers on-site delegate at Frankston, as saying that the situation is clear, and:

> I've been jibbed out of my entitlements … after 17 years of loyal service.

That is the kind of environment that the Workplace Relations Act is now protecting.

Hon. W. R. Baxter interjected.

Mr VINEY — It does, Mr Baxter, because the WorkChoices legislation is being used to try to force those workers back to work when there are no entitlement protections from the administrator. According to the administrator, the Huon Corporation has removed assets from the company and put them into a personal trust account of the new owner. The administrator is trying to get a caveat on those assets so that people's entitlements can be paid.

At the same time the administrator is trying to do the right thing to get people their proper entitlements, including long service leave, the Workplace Relations Act is being used to try to force workers back to work when they probably cannot be paid their wages, let alone their entitlements. That is the environment the Howard government has been putting this country in through its Workplace Relations Act.

The bill is to try to ensure that workers who, in a uniquely Australian benefit, work loyally and provide service to their companies over many years are entitled to have their long service leave entitlements protected. That is now at risk under the new Workplace Relations Act through the various complex mechanisms that have

been put in place by the Howard government where companies are sold and where there are changes to enterprise agreements. That is where long service leave entitlements are put at risk. This legislation is to protect it. I commend the bill to the house.

Hon. B. N. ATKINSON (Koonung) — I do not expect to speak for long on this legislation because its features have been well covered by Mr Strong, and particularly by Mr Baxter in remarks he has made on behalf of The Nationals. The Liberal Party has some sympathy with The Nationals' position in opposing this legislation outright, because some of the points he made cause us some concern as well.

For Mr Viney's benefit, there is a distinct difference between not opposing legislation and supporting legislation. I guess there are some aspects of this legislation that The Nationals might well have joined with the rest of the house and supported had the bill not been a bill that introduces a number of provisions that have little to do with what the government suggests the bill is supposed to be about, which is protecting workers' entitlements.

There are few members, if any, in this house who would take issue with that. As Mr Baxter pointed out in his speech, there are certainly due processes for workers and employees of companies to follow in respect of their entitlements if they are of a belief that they are being dudded out of their entitlements — that is, if they believe they are losing their entitlements, unfairly.

The difference for us is that we are unable to support the legislation for many of the reasons that Mr Baxter highlighted, but we have decided on balance to not oppose it because of the legislation's basic premise, which is to protect the entitlements of a number of workers.

From my point of view, the area of this legislation that is of greatest concern is the delegated prosecution right to the unions. This is an instrument that we have seen in other legislation, including the outworkers legislation where there was a delegated right of prosecution to the unions under that act to initiate proceedings. Obviously a union, like any entity, is able to undertake civil proceedings. Clearly that is an avenue available to them at law, but where we have this situation in the outworkers legislation, and the long service leave legislation before us today, the unions are given a provision that says, 'You are entitled to pursue a prosecution under this legislation', rather than to see the government pursue this. They could say, 'We have established this workplace relations advocate so why would he not have that right to take legal action if it is considered to be so important? Why would we delegate to the unions?'. We are concerned about that.

I am particularly concerned that in such proceedings the union might well receive a settlement for the worker but then also seek a punitive determination by the court. There is some doubt as to where that punitive determination might be directed — whether it goes straight to unions' funds or whether it might be paid back to the government in terms of court fines and so forth. What is clear is that it does not seem to be going to the worker who is the injured party in the proceedings. That is an outrageous proposition.

I met with the federal Minister for Employment and Workplace Relations last week. At that time the Victorian workplace advocate had raised no matters with the Office of Employment Advocate, which is the federal government agency that is able to take up and address any outstanding issues in regard to worker entitlements that might have been wrongly, perhaps inadvertently or perhaps mischievously, denied to workers as part of an agreement process or an Australian workplace agreement.

One of the interesting things about employees in the workplace today is that many of them are seeking flexible employment opportunities. It occurs to me that many people, particularly young people today, certainly do not see themselves as hanging around in a job for terribly long. They are building careers and are very often moving from employer to employer. In many cases many of them would not see themselves as staying with one employer for seven years, which is the amount of time that they have to stay in order to qualify for long service leave eligibility.

It might well be that some of those employees would go out of their way to strike a deal with employers that might well involve other arrangements, such as higher remuneration on a weekly basis or perhaps greater flexibility in their working arrangements, rather than to have a long service leave liability against their employment.

That is not to suggest that all employees would like that. It is certainly not to suggest that the long service leave entitlements that have been struck in this house as recently as earlier this year, or are attempted to be preserved in this legislation, are not a provision or a benefit that is not welcomed by many workers. It is simply to say that the Workplace Relations Act — that is, the WorkChoices package — is all about flexibility in employment. It is good for Australia because we need that flexibility.

It has benefits for employers, but it is true that it has a great many benefits for many employees in that people are able to structure flexible working arrangements which increasingly in the world that we live in today is what they want — where they look to share child care and where they look to other arrangements in their lives that enable them to pursue the sort of lifestyle that they want on the basis that they are not committed to a traditional 9–5, 40-hour-a-week job.

The world has moved on. It seems that only the Labor Party has not moved on. The reality is that this sort of legislation is proof positive that again we have a deal that allows the unions to pursue prosecutions in the court system against companies with the prospect of a real prize of a $10 000 punitive fine going to the union and not the worker whose entitlement was at risk in the first place.

House divided on motion:

Ayes, 28

Argondizzo, Ms	Madden, Mr
Bowden, Mr	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms	Rich-Phillips, Mr
Coote, Mrs	Romanes, Ms
Dalla-Riva, Mr	Scheffer, Mr
Darveniza, Ms	Smith, Mr (*Teller*)
Davis, Mr P. R.	Somyurek, Mr
Eren, Mr	Strong, Mr
Hilton, Mr	Theophanous, Mr
Jennings, Mr	Thomson, Ms
Lenders, Mr	Viney, Mr
McQuilten, Mr	Vogels, Mr (*Teller*)

Noes, 4

Baxter, Mr (*Teller*)	Drum, Mr
Bishop, Mr (*Teller*)	Hall, Mr

Motion agreed to.

Read second time.

Ordered to be committed next day.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Frankston–Flinders Road, Somerville: speed zones

Hon. R. H. BOWDEN (South Eastern) — My adjournment item tonight seeks the assistance of the Minister for Transport in the other place and relates to a road issue in the township of Somerville. For the assistance of honourable members I indicate that by sheer coincidence this road happens to be adjacent to my own home. I want honourable members to know that I am being transparent and am making them aware that this road is next to my property but that the issue was originally raised by members of the local community rather than by me.

It is to do with the speed limits on the northern side of Somerville on Frankston-Flinders Road where there is a straight stretch of the road which goes towards Baxter and thus to Melbourne. The situation is that in recent years there have been fatalities, serious injuries and increased community concern from several property owners who have experienced dangerous circumstances when they have entered and left their driveways. In the area immediately to the north of Somerville, about half a kilometre north of the intersection of Eramosa Road and Frankston-Flinders Road, the speed limit rapidly goes up to 90 kilometres an hour. It is often the case that motorcycles go past there at well in excess of 100 kilometres an hour. It is just as bad to the south. Immediately one comes over the hill into the township there are dangerous circumstances because of multiple driveways, narrow roads and difficult shoulders. What has happened is that we have had fatalities, unexpected rear-end collisions and very serious injuries. On several occasions I have narrowly missed being hit as I stopped my car to make a right-hand turn into my driveway.

My question is that in view of community concern will the minister ask VicRoads to take a very careful engineering look at lowering the speed limit in accordance with the correspondence, which I am perfectly happy to provide. There has been considerable community correspondence on this, so I would appreciate VicRoads and the minister working to improve safety for many of the constituents in the township of Somerville by reducing the speed limit.

Members: Legislative Council electorates

Hon. RICHARD DALLA-RIVA (East Yarra) — I take part in the adjournment debate to raise a matter for the Minister for WorkCover and the TAC. The query I am proposing is perhaps a bit quirky in the sense that it relates to the new upper house boundaries that will be applied post the 2006 election. Under the occupational health and safety regime we are now looking at eight

regions that will cover large areas. One of the issues that I am asking the Minister for WorkCover and the TAC to consider is that a region in northern Victoria covers around 48 per cent of the state. That is an issue that I think is of major concern, because it takes in a large part of Victoria going from Mildura all the way across to Beechworth on the other side. It is an issue of concern in the sense that it is the minister's responsibility to ensure workplace safety not only for the broader community but also for members of Parliament.

This is a serious issue that I am trying to raise for the house and for the minister, because it is clear that whilst some members will be representing relatively small regions, like my own area of Eastern Metropolitan Region, other members will be representing significantly larger country regions, and the fact that they will be expected to be on the road for lengthy periods raises the unfortunate risk of road crashes involving members of Parliament. I know that issue has been raised privately amongst some of the members affected. It is a very serious issue I am raising for the Minister for WorkCover and the TAC to consider. The minister and the government need to look at the new regime in the broader sense and provide some capacity to ensure that members are not put at risk as they go about their parliamentary duties throughout the large new regions.

I ask the Minister for WorkCover and the TAC to consider what action can be taken to deal with the occupational health and safety implications for members while they are on the road for lengthy periods of time in the large new regions that will take effect post the next election.

Planning: Knox venue

Hon. B. N. ATKINSON (Koonung) — I raise a matter for the Minister for Planning in another place through the minister at the table, the Minister for Energy Industries. I make representations to the minister on behalf of the City of Knox in regard to a request for planning scheme amendment C60, which is called the interim adult entertainment venues/adult sex bookshops local planning policy.

The council has dealt with an application for an adult entertainment venue in the Boronia shopping centre precinct. It refused an application for a planning permit. As I understand it, that refusal has been appealed to the Victorian Civil and Administrative Tribunal (VCAT). The council was most concerned about the detrimental impact of this venue at this location, and it raised the matter with the Premier. The Premier advised it that what it should do is develop a local planning scheme amendment which would prohibit this sort of venue. Whilst the appeal for the Boronia venue is already in train at VCAT, the Premier was of the opinion in his advice to the council that the Knox council's arguments would be significantly strengthened if it were to go to VCAT with a policy that had been thoroughly developed and had the endorsement of the Minister for Planning.

The council points out that in the context of this type of venue there is very often an adverse impact in terms of loss of amenity, safety, character and image in shopping centre locations where there is a mix of people and businesses. The council does not believe this venue is appropriate for the Boronia shopping centre or indeed for other activity centres within the council's area. As I have indicated, the council has prepared a planning scheme amendment — the interim adult entertainment venues/adult sex bookshops local planning policy, amendment C60. It has been submitted to the minister for his approval.

The action I seek from the minister on this occasion is that he expedite that approval to ensure that the council's position is strengthened at the VCAT hearing on the current application and that the council is then in a position to deal with similar applications in what it regards as inappropriate locations in the future.

Wild dogs: control

Hon. PHILIP DAVIS (Gippsland) — I raise for the Minister for Environment in the other place a matter that concerns a persistent challenge for rural communities — that is, the problem of feral animals, in particular wild dogs and foxes. We know that the number of wild dogs has been escalating in proportion to the frequency of bushfires in our state forests and national parks. Crown land management is frankly in disarray. Weeds infest our Crown land, and so do feral animals, but with the recurrence of bushfires over the last three summers wild dog numbers are at epic proportions, and the dogs are having a major impact on the neighbouring private land-holders and rural communities.

The New South Wales government has recently completed a series of aerial baiting trials that were conducted over several years to determine finally whether or not the native tiger quoll, which was the species thought most likely to be at risk from non-target baits, would be endangered. The result of the trial work has confirmed what earlier experience had taught — that is, there is no risk to the quoll. Therefore the New South Wales government has announced it is moving

from aerial baiting trials to a full program of aerial baiting of wild dogs.

Recently Parks Victoria conducted a trial of targeted ground baiting of wild dogs in the Dargo and Benambra areas. The evidence from that six-week trial was that there is a large number of dogs and foxes in the area. In fact in the Benambra region alone baits were taken by 50 dogs alone. This would indicate very clearly the large number of dogs that are not just preying on farm animals and intimidating people in rural communities but are also preying on native wildlife.

I urge the government to adopt the policy position that has long been advocated by the Liberal Party, which is to introduce an aerial baiting program for wild dog control. This must be done as soon as possible. I ask the minister to advise when the state government will adopt an aerial baiting program.

Responses

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The Honourable Ron Bowden asked a question of the Minister for Transport in another place in relation to speed limits on Frankston-Flinders Road in Somerville. I understand this is very close to the member's house and he personally has had some issues with this. While there are rules about raising personal issues in the adjournment debate, I do not think this falls within that category because there is a broader safety issue associated with it. I will be happy to pass it on to the Minister for Transport for him to respond directly to the honourable member.

Mr Dalla-Riva asked a question for the Minister for WorkCover and the TAC. It was quite an interesting question. I am not sure whether it is his own occupational health and safety he is interested in, that of the members of the Labor Party who will be elected into the Northern Victoria Region or who it is he is concerned with. I am happy to pass this on for the consideration of the Minister for WorkCover and the TAC. However, it is the case that lots of country MPs do quite a lot of driving at the moment and like everyone else on the road they need to be aware of the road laws and take appropriate breaks and so forth.

Mr Atkinson asked a question for the Minister for Planning in another place in relation to a proposed adult venue in the city of Knox. He expressed his concerns in relation to the city's applications. I will pass that onto the Minister for Planning for consideration.

The Honourable Philip Davis asked a question for the Minister for Environment in relation to an ongoing problem in rural Victoria — feral animals — which we all recognise. His question was about whether aerial baiting could be introduced. I will pass that question on to the Minister for Environment for response to the honourable member.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 4.45 p.m. until Tuesday, 8 August.