PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Wednesday, 4 October 2006

(Extract from book 13)

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By authority of the Victorian Government Printer

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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

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Hirsh, Hon. Carolyn Dorothy [1]	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

[1] Ind from 17 September 2004
ALP from 10 November 2005

[2] Ind from 7 April 2005

[3] Ind Lib from 30 November 2005

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Wednesday, 4 October 2006

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

PUBLIC SECTOR ACTS (FURTHER WORKPLACE PROTECTION AND OTHER MATTERS) BILL

Introduction and first reading

Received from Assembly.

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

PETITIONS

Moorabool: de-amalgamation

Ms HADDEN (Ballarat) presented petition from certain citizens of Victoria requesting that the Legislative Council of Victoria consider the de-amalgamation of the Shire of Moorabool due to the disproportion in demographics, wards and councillor representation, lack of central administration and council meeting point, economic inequity and disparity between the smaller residential Bacchus Marsh area and the larger rural areas in the north and west of the present shire structure (680 signatures).

Laid on table.

Gunbower Island State Forest: status

Hon. W. A. LOVELL (North Eastern) presented petition from certain citizens of Victoria praying that the status of the Gunbower Island State Forest, Barmah State Forest or other red gum forests or parts thereof along the Murray River flood plain remains unchanged, and that — (1) these areas remain multi-use state forests; (2) access to commercial timber harvesting and firewood gathering continue; (3) local communities have input into the management of these areas; and (4) the Department of Sustainability and Environment be funded to a level that allows them to — (a) address pest animal and plant problems; (b) provide sufficient rubbish bins at forest exits; (c) improve and maintain access roads to protect forest areas from off-road driving; (d) employ more staff to look after forest areas; and (e) develop an ongoing education campaign to inform the public of their responsibilities while visiting and camping in forest areas (1208 signatures).

Laid on table.

COUNTY COURT JUDGES

Report 2005–06

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

Laid on table.

COMMONWEALTH GAMES

Overall summary report

Hon. J. M. MADDEN (Minister for Commonwealth Games), by leave, presented Melbourne 2006 Commonwealth Games Corporation report for period 15 July 1999 to 31 August 2006.

Laid on table.

OFFICE OF THE PUBLIC ADVOCATE

Report 2005–06

Mr LENDERS (Minister for Finance), by leave, presented report.

Laid on table.

PARLIAMENTARY DEPARTMENTS

Reports 2005–06

Ms ROMANES (Melbourne), by leave, presented reports of Department of the Legislative Council and Department of Parliamentary Services.

Laid on table.

ROAD SAFETY COMMITTEE

Incidence and prevention of pedestrian accidents

Hon. E. G. STONEY (Central Highlands) presented inquiry report, including appendices, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

Hon. E. G. STONEY (Central Highlands) — I move:

That the Council take note of the report.

The Road Safety Committee is very pleased to present this report which reviews a previous committee inquiry into pedestrian accidents tabled in Parliament in 1999. That inquiry was chaired by the former member for Forest Hill in another place, John Richardson, and I was pleased to be a member of the committee. Two of the key initiatives that came out of the 1999 report were the reduction of the default urban speed limit from 60 kilometres per hour to 50 kilometres per hour and the introduction of 40-kilometre-per-hour school speed zones.

The chairman of the Road Safety Committee, the member for Geelong in another place, Ian Trezise, made a strong point in the foreword to this report:

> … the committee believes pedestrians need to take greater responsibility for their actions, by consuming alcohol responsibly, observing road and traffic rules, and generally being aware of the traffic environment.

This is a very important principle and is one that seems to be overlooked by many on foot on our roads. You see them all the time dodging traffic while walking across the street, including bicycles moving along the street in a very hazardous manner.

The main recommendations in this report include the recommendation that VicRoads, in relation to motorised mobility devices, develop safety standards and regulate the use on public roadways and pathways and investigate third-party insurance aspects of the use of motorised mobility devices, which are becoming more popular. A second recommendation is that the government issue a terms of reference to the Road Safety Committee to conduct an inquiry into the safety of cyclists and safe cycling behaviour, including interaction with pedestrians and other road users. This is very topical because the news on Monday night reflected issues concerning cyclists and their behaviour that is not conducive to road safety.

The committee recommended that VicRoads and the Department of Education and Training have better pre-licence education programs, including Keys Please being further extended to reach all pre-licence drivers in the school curriculum. I know this recommendation is very dear to Mr Bishop, who has fought valiantly for more driver education over the years. I congratulate him for his tenacity in that area.

The committee recommended that increased funding be provided to local councils to carry out road safety plans, including the appointment of ongoing road safety officers. Another recommendation concerning a very good safety initiative that I have seen working overseas is that VicRoads conduct a trial of countdown timers at major pedestrian intersections in Victoria with a view to increasing their use if found successful. These devices give pedestrians a countdown of how long they have got to cross the street. I think they are very valuable, especially for older pedestrians — something I am becoming more interested in.

The committee recommended that the penalty for illegal pedestrian behaviour and accompanying police enforcement be reviewed to reflect the seriousness of the offence and the impact on road safety.

The Road Safety Committee has been very active in this Parliament. It has tabled a number of reports, including this report dated October 2006; an inquiry into driver distraction in August 2006; an inquiry into the country road toll in May 2005; an inquiry into crashes involving roadside objects in March 2005; and an inquiry into road safety for older road users in September 2003, which was carried over from the 54th Parliament and was an inquiry chaired by my colleague the Honourable Andrew Brideson.

The Road Safety Committee was ably chaired by the member for Geelong in another place, who steered the committee well and in doing so maintained the international reputation of the committee. Other members of the committee in the other place included the member for Polwarth, the member for Frankston and the member for Ivanhoe and in this place Mr Bishop, Mr Eren and me. It has been a privilege to serve on the Road Safety Committee for three parliaments. I hope the committee maintains its reputation as a truly bipartisan committee in the interests of the wider Victorian community.

Hon. B. W. BISHOP (North Western) (*By leave*) — Like the Honourable Graeme Stoney this will be the last report from me in relation to the committee structures. It has been a pleasure to serve on the Road Safety Committee. I can say with a degree of certainty that the Honourable Graeme Stoney and I know where we are going; the other members of the committee, who have done a great job, are not as certain in that way.

As I said, it is a great committee. I have had a go at a few committees in the Parliament and in my view the

Road Safety Committee has been the most rewarding one I have served on. As the Honourable Graeme Stoney said, we have been able to work together in a non-partisan way. I think that has been the success of the committee. A lot of that has been due to the chairman, the member for Geelong in the other place, Ian Trezise. He managed to get us through the tough spots without any degree of difficulty. I congratulate him on his chairmanship. I also congratulate the other members for the work they have done and particularly the staff. We have had excellent staff. They have been able to research things fully and well and have been able to keep us up to the mark.

There are 32 recommendations in the incidence and prevention of pedestrian accidents report. With the limited time available to me I will go to recommendation 4, as the Honourable Graeme Stoney did. It states:

> That VicRoads and Department of Education and Training pre-licence education programs, including Keys Please, be further extended to reach all pre-licence drivers in schools curriculum.

I have been a passionate supporter of these educational methods. I believe this would solve some of the difficulties we have with our young drivers.

The first recommendation recognises the growing use of what we call motorised mobility devices — they are better known as gophers. That subject will need to be addressed by the authorities in the future. I wish the committee well in the future.

Hon. E. G. STONEY (Central Highlands) (*By leave*) — I think it would be remiss of us not to thank the Road Safety Committee staff: the executive officers Richard Willis and Alex Douglas; the research officers Graeme Both, Marilyn Johnson, Peter Nelson and Sean Coley; and the office managers Vanessa Hamilton, Heidi Millton-Young, Susie Jocic, Beth Klein and Lois Grogan. On behalf of the committee, I thank them for their endeavours over the past Parliament.

Motion agreed to.

EDUCATION AND TRAINING COMMITTEE

Effects of television and multimedia on education in Victoria

Hon. H. E. BUCKINGHAM (Koonung) presented report, including appendices and an extract from the proceedings of the committee, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

Hon. H. E. BUCKINGHAM (Koonung) — I move:

> That the Council take note of the report.

I bring to the house today the fourth and final report of the Education and Training Committee, which was a new committee in the 55th Parliament. I hope the committee will continue in the next Parliament. This is a report on the inquiry into the effects of television and multimedia on education in Victoria entitled *Education in the Net Age — New Needs and New Tools*.

I know many members in the chamber have a Blackberry, and once you have one you become very used to having one.

Hon. Bill Forwood — Addicted.

Hon. H. E. BUCKINGHAM — 'Addicted' is a good word. I know that some people call them Crackberries, but I am not quite sure why! Technology plays a major role in our lives, probably more so in young people's lives because they seem to adapt to it and take it up more quickly. In his foreword the chair of the committee said:

> The prevalence of multimedia in young people's lives has created new expectations, changed the dominant learning styles of many students and placed new demands on student engagement. Importantly, there is now a need for a new skill set in the world where media literacy is just as important as numeracy or literacy and ICT is a significant catalyst for economic growth.

While undertaking this inquiry we received 35 written submissions, including contributions from education authorities, primary and secondary schools — it was a pleasure to go out and visit schools — teachers, universities, software and hardware companies, media associations, and teacher associations in all three of the education systems. We heard from over 40 witnesses representing multimedia producers, computer companies, infrastructure providers, teacher associations, schools and learning communities.

We held six public hearings at schools, and I was involved in two which were most enjoyable and enlightening. We involved over 80 students and teachers giving formal evidence to the committee. The committee conducted a survey on media literacy and cyber safety issues and had a total of 32 responses

which were received from 23 government schools, 7 Catholic schools and 2 independent schools, with results compiled and used throughout the report. Given the time constraints on this report — it took just over six months — and the fact that it was getting near to the end of Parliament, I think this report is very thorough.

The committee found great value in understanding and tracking trends in student use of multimedia technologies. I refer members to chapter 2 and to the use of tables. It is fascinating to see that Victorian and Australian children have some of the highest levels of access to computers and the Internet in the world. The Australian Bureau of Statistics reports that 84 per cent of Australian households with children have a home computer, and this is higher than anywhere else. Also, 72 per cent have a home Internet connection — once again the second highest in the world. I commend everyone to read those tables.

The report includes a number of recommendations aimed at cyber safety because one of the issues to come up with children being on the Internet is their exposure to dangerous material. Although schools are already dealing with cyber safety issues very well, schools, teachers and parents may need assistance in the face of the rapid evolution of multimedia technologies. Schools need to stay ahead of the trends and it is important that they be able to help parents deal with the constant changes of multimedia landscapes. The committee recommends a rapid implementation of learning platforms in Victorian schools to help integrate information and communications technology throughout schools. Learning platforms are software systems designed for schools to bring classes and electronic content together in a user-friendly way.

In the time left to me I would like to thank the members of the Education and Training Committee with whom I have enjoyed serving: Anne Eckstein, the member for Ferntree Gully in the other place; Victor Perton, the member for Doncaster in the other place; Nick Kotsiras, the member for Bulleen in the other place; Janice Munt, the member for Mordialloc in the other place; the chair of the committee, Steve Herbert, the member for Eltham in the other place; and the Honourable Peter Hall. I commend the 22 far-reaching findings to everyone, and I trust that the government will adopt many or indeed all of them. I thank Karen Ellingford, Andrew Butler and Amanda Benson — the office staff who have contributed not just to this report but to the previous three.

Hon. P. R. HALL (Gippsland) (*By leave*) — I would like to endorse the remarks made by the Honourable Helen Buckingham and particularly thank the staff, particularly Karen Ellingford and Andrew Butler, for the work they have done. I would like to mention of the contribution Mrs Buckingham has made to the report. During the last couple of months I have had little time to spend on my committee work, and therefore the load has been carried by Mrs Buckingham and others on that committee. The work that Helen has done has been terrific, and I think it will be a loss to both Parliament and the committee that she has decided not to continue. Her contribution to the parliamentary committee over the whole term of this Parliament throughout those four reports has been significant.

It was an interesting inquiry from the little involvement that I had in this particular subject. It is a worthwhile subject and the government would do well to consider what I think are some very good recommendations in the report.

Motion agreed to.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Private investment in public infrastructure

Hon. BILL FORWOOD (Templestowe) presented report, including appendices, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

PAPERS

Laid on table by Clerk:

Accident Compensation Conciliation Service — Report, 2005–06

Adult, Community and Further Education Board — Report, 2005–06.

Australian Grand Prix Corporation — Report, 2005–06.

City West Water Limited — Report, 2005–06.

Corangamite Catchment Management Authority — Report, 2005–06.

Country Fire Authority — Report, 2005–06.

East Gippsland Catchment Management Authority — Report, 2005–06.

Education and Training Department — Report, 2005–06.

Emerald Tourist Railway Board — Report, 2005–06.

Emergency Services Superannuation Board — Report, 2005–06.

Energy Safe Victoria — Report for period 10 August 2005 to 30 June 2006.

Equal Opportunity Commission — Report, 2005–06.

Fed Square Pty Ltd — Report, 2005–06.

Film Victoria — Report, 2005–06.

Fisheries Act 1995 — Report on the Disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account, 2005–06.

Freedom of Information Act 1982 — Report of the Attorney-General on the operation of the Act, 2005–06.

Geelong Performing Arts Centre Trust — Report, 2005–06.

Greyhound Racing Victoria — Report, 2005–06.

Harness Racing Victoria — Report, 2005–06.

Infrastructure Department — Report, 2005–06.

Judicial College of Victoria — Report, 2005–06.

Justice Department — Report, 2005–06.

Legal Practice Board — Report, 2005–06.

Legal Practitioners' Liability Committee — Report, 2005–06.

Library Board of Victoria — Report, 2005–06.

Melbourne 2006 Commonwealth Games Corporation — Report, 2005–06.

Melbourne Convention and Exhibition Trust — Report, 2005–06.

Melbourne Water Corporation — Report, 2005–06.

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns, 30 September 2006.

Metropolitan Fire and Emergency Services Board — Report, 2005–06.

Murray Valley Citrus Marketing Board — Minister's report of receipt of 2005–06 report.

Museums Board of Victoria — Report, 2005–06.

National Gallery of Victoria — Report, 2005–06.

National Parks Act 1975 — Report on working of the Act, 2005–06.

North Central Catchment Management Authority — Report, 2005–06.

Parliamentary Contributory Superannuation Fund — Report, 2005–06.

Police — Office of the Chief Commissioner — Report, 2005–06 (two papers).

Port of Hastings Corporation — Report, 2005–06.

Port of Melbourne Corporation — Report, 2005–06.

Prince Henry's Institute of Medical Research — Report, 2005–06.

Professional Standards Council Victoria — Report, 2005–06.

Public Prosecutions Office — Report, 2005–06.

Public Transport Ticketing Body — Report, 2005–06.

Queen Victoria Women's Centre Trust — Report, 2005–06.

Regional Development Victoria — Report, 2005–06.

Roads Corporation (VicRoads) — Report, 2005–06.

Rolling Stock (VL-1) Pty Ltd — Report, 2005–06.

Rolling Stock (VL-2) Pty Ltd — Report, 2005–06.

Rolling Stock (VL-3) Pty Ltd — Report, 2005–06.

Rolling Stock Holdings (Victoria) Pty Ltd — Report, 2005–06.

Rolling Stock Holdings (Victoria-VL) Pty Ltd — Report, 2005–06.

Rural Finance Corporation of Victoria — Report, 2005–06.

Sentencing Advisory Council — Report, 2005–06.

Shrine of Remembrance Trustees — Minister's report of receipt of 2005–06 report.

Small Business Commissioner's Office — Report, 2005–06.

South East Water Limited — Report, 2005–06.

Southern and Eastern Integrated Transport Authority — Report, 2005–06.

Southern Cross Station Authority (formerly Spencer Street Station Authority) — Report 2005–06.

Special Investigations Monitor's Office — Report, 2005–06.

State Electricity Commission of Victoria — Report, 2005–06.

State Services Authority — Report, 2005–06.

Surveyors Registration Board of Victoria — Minister's report of receipt of 2005–06 report.

Sustainability and Environment Department — Report, 2005–06.

Terrorism (Community Protection) Act 2003 — Report 2005–06, from the Chief Commissioner of Police, pursuant to section 13(3) of the Act.

Transport Accident Commission — Report, 2005–06.

Treasury Corporation of Victoria — Report, 2005–06.

Tricontinental Holdings Limited — Report for the year ended 31 December 2005.

Tourism Victoria — Report, 2005–06.

V/Line Passenger Corporation — Report, 2005–06.

V/Line Passenger Pty Ltd — Report, 2005–06.

VicForests — Report, 2005–06.

Victoria Legal Aid — Report, 2005–06.

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VITS LanguageLink — Minister's report of receipt of 2005–06 report.

Yarra Valley Water Limited — Report, 2005–06.

Young Farmers' Finance Council — Report, 2005–06.

Proclamations of the Governor in Council fixing operative dates in respect of the following acts:

Environment Protection (Amendment) Act 2006 — Sections 42 and 44 — 1 October 2006 (*Gazette* No. G39, 28 September 2006).

Transport Legislation (Further Amendment) Act 2006 — Section 32 — 30 October 2006 (*Gazette* No. G39, 28 September 2006).

MEMBERS STATEMENTS

Australian Volunteer Coast Guard Association: service recognition

Hon. R. H. BOWDEN (South Eastern) — Last Saturday evening I had the pleasure of attending the annual awards dinner of the Australian Volunteer Coast Guard Association. As I am sure most members would know, I have the privilege of being the patron of that organisation. Each year we, in the Australian Volunteer Coast Guard, recognise the dedicated service of many hundreds of Victorians who at times and often regularly put their lives on the line to serve their fellow Victorians in the boating fraternity.

With the approach of summer, it is timely to again recognise and remind honourable members and the community of the splendid work that is done by the association on many flotillas located across Victoria and along the coastline. Throughout Australia, the Volunteer Coast Guard has thousands of members who do great deeds through their voluntary work.

I would like to recognise the service of the squadron commodore Ray Campbell; past commander Lynette Thomson of Hastings; and past commodore Peter Swann who has recorded and completed 45 years of continuous voluntary service at the coast guard. This is splendid and I think past commodore Peter Swann deserves special consideration and congratulations. It is a wonderful organisation. It serves the community well.

Iraq: conflict

Hon. J. G. HILTON (Western Port) — Last month Tony Blair, the Prime Minister of the United Kingdom, gave his farewell speech at the Labour Party conference. Tony Blair had the potential to be one of the greatest British prime ministers, but his reputation is forever tarnished by the war in Iraq which hangs like a millstone around his neck.

The justification for the war was always dubious and has now been shown to be totally fallacious. Now, three years after what the USA President George Bush declared as mission accomplished, at least 50 Iraqis are dying every day in a country which is virtually ungovernable. This result was achieved with the deaths of 2500 American soldiers.

David Hicks

Hon. J. G. HILTON — As this is likely to be my last 90 second statement, I ask members of the house not to forget David Hicks. Members would be aware that I have banged on about David Hicks for well over

two years. My first contribution was on 8 June 2004. However, he is still in Guantanamo Bay waiting for justice. In the context of Guantanamo Bay, American justice is an oxymoron. To sacrifice the interests of an Australian citizen on the altar of the American alliance is disgraceful and despicable and will be seen in the future as a dark stain on this country's character and reputation.

WorkCover: private investigators

Hon. B. N. ATKINSON (Koonung) — I wish to make some comments on a concern that has been raised with me by private investigators working for the Victorian WorkCover Authority. I note that the minister is in the house at the moment, so I hope he will take notice of the remarks that I am making, although I guess I make that comment in vain. Private investigators working for the Victorian WorkCover Authority are concerned about the level of payments that are being made by the authority, which I understand to be around $40 an hour. The rate is below the rate used in New South Wales and Queensland for similar services. I also understand that the investigators are concerned that travel allowances have not been adjusted for some time, which is of concern to many people who are providing services in the community, given the high cost of petrol of late.

Private investigators deliver an important service to the Victorian WorkCover Authority. People have all sorts of perceptions about the work they do, but the reality is that the integrity of our system relies on the work they do in this system to ensure that fraudulent claims are not made against the authority and against employers. It is important that their work be recognised and that they be properly remunerated for the work they do. In raising the matter this morning I urge the minister and the Victorian WorkCover Authority to review the rates payable to private investigators.

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

Medical research: stem cell developments

Hon. H. E. BUCKINGHAM (Koonung) — On a topic close to my heart, on Monday the Premier announced the release of a report commissioned by the government and reviewed by Sir Gus Nossal and Professor Graham Mitchell on the latest developments in the field of human cell science. The report shows that the single biggest obstacle to stem cell research in Australia is that the use of somatic cell nuclear transfer remains illegal. Stem cell research has the potential to find cures for diabetes, motor neurone disease, multiple sclerosis and cancer, and possibly to facilitate the regeneration of spinal cords, which would give paraplegics and quadriplegics the ability to walk again. The Premier reminded us that the progress made with human embryonic stem cell lines has been revolutionary, but this needs to continue.

I note that Senator Kay Patterson has introduced a private members bill on stem cells in the federal Parliament and that it will be debated in the next month or so. Her bill is centred on the recommendations of the independent panel established by the federal government. I congratulate her on her undertakings. This government will convene a scientific leaders forum on Monday, October 16, to consider the findings of the report on scientific progress in the embryonic stem cell field. The Victorian government believes national legislation is the best way to advance this research, and the forum will hear from scientists on how best to draft this legislation. I look forward to a Council of Australian Governments agreement on this in the future. This research is very necessary for the future health of the entire community. I commend everyone involved.

Granya House

Hon. W. R. BAXTER (North Eastern) — Last Saturday week I had the pleasure of attending an open day at Granya House, a drug rehabilitation centre located east of Wodonga on the Hume Weir. Granya House is a delicensed hotel and has been used for drug rehabilitation for some years now. The former operators were Teen Challenge and it is currently operated by the Faith City church in Wodonga, under the stewardship of the pastor, Warren McMartin. It is doing an extraordinarily good job in giving males who are suffering from drug addiction, whether it be alcohol or hard drugs, an opportunity to get their lives back in order and to get on the straight and narrow again.

This weekend there will be a drug run fundraiser held in Albury-Wodonga. It will start on Friday in Queen Elizabeth II Square in Albury and go across the causeway and around the Wodonga water tower. It is hoped this will raise $50 000. I certainly believe that it will, because this charity has a lot of support in Albury-Wodonga. I particularly commend the organiser of the drug run, Ms Kelly Davis, who is an enthusiast if ever I met one. I believe she is doing a great job in raising money for what is entirely a privately funded drug rehabilitation centre; it does not receive $1 of government money. The centre is doing a sterling job, there is no doubt about it.

Pennsylvania: shootings

Mr SMITH (Chelsea) — I rise to express my deep sorrow for and send my condolences to the families and all members of the Amish community in Pennsylvania, USA. As we know, a couple of days ago they were subjected to a horrific scene when a relatively young family man, for whatever reason, turned on a number of schoolchildren in their school environment and cold-bloodedly shot and killed five of them, with God knows how many more being traumatised forever. This type of incident is an ongoing tragedy in the USA, and I suppose it is a classic example of what happens when you have the sort of gun controls or lack thereof that they have in the USA. The lessons are there for all of us here to learn. Our experiences in recent times, particularly the incident in Tasmania, have demonstrated that we need to have a much stronger system when it comes to gun control. I dare say we will see more examples of this type of incident in America, and I hope and pray that the families involved get whatever support they need. I express my deep sorrow and extend my condolences to them.

Frankston Peninsula Target Rifle Club: premises

Hon. P. R. HALL (Gippsland) — Early last month I attended a forum organised by the Combined Firearms Council of Victoria. At that forum one of the many people I spoke to was Sue McLaren, who is secretary of the Frankston Peninsula Target Rifle Club. She explained to me the difficulties her club was having in securing a long-term tenure on its facility, which is located in McClelland Drive, Langwarrin. She informed me that the property is currently owned by the Department of Sustainability and Environment, but there seem to be complications with the leasing arrangements by which the club gets access to that land.

I am advised that the club has a lease with the federal Department of Defence in respect of that, even though the property is owned by the Department of Sustainability and Environment. Indeed as part of the national firearms reforms those lease arrangements were due to be passed on to the Department of Sustainability and Environment but to date that has not occurred.

The president of the Frankston Peninsula Target Rifle Club, Ken Morriss, wrote to the Minister for Sport and Recreation on 5 September this year seeking his assistance in resolving this matter. I have spoken personally with the minister this morning about this matter and encouraged him to do what he can to try to resolve this important issue for the club. I want to advise the club publicly that I have had those discussions with the minister and intend to also follow it through with the federal member representing that area.

Women's Friendship Group

Ms ARGONDIZZO (Templestowe) — Last Thursday it was my privilege to attend, with the member for Bulleen from the other place, Nick Kotsiras, the inaugural meeting of a pilot program organised by the Women's Friendship Group at St Gregory's School in Doncaster. The pilot program is aimed at connecting women of culturally and linguistically diverse communities so they can share experiences and issues and link up in friendship. The program is particularly aimed at women over the age of 40 who have teenage children, elderly parents or health issues. The Women's Friendship Group has identified this group of women as being in need of assistance and has found that there is a gap in existing models, which are not addressing their needs.

The function was attended by more than 200 women. The guest speaker was Dr Adele Murdolo, executive director of the Multicultural Centre for Women's Health, who spoke eloquently on the issues surrounding the health of women from diverse backgrounds and their needs. Dr Murdolo was received in an overwhelmingly positive and encouraging manner by all who attended. I commend the efforts of the president of the Women's Friendship Group, Helen Jurcevic, in drawing this matter to my attention. I also commend the efforts of the group in assisting isolated and lonely women. I wish the group every success. I am sure all who attended the function were confident the group will go from strength to strength.

Ovens and King Football and Netball League

Hon. R. G. MITCHELL (Central Highlands) — On Saturday, 16 September, I had the pleasure of attending the Ovens and King Football and Netball League pre-grand final breakfast up in Wangaratta with Kenny Jasper, the member for Murray Valley in the other place, at the invitation of Sandy Thomas. It was great to be there to see the inaugural inductees into the Hall of Fame of the Ovens and King football league. There were some fantastic people there, such as Clyde Baker, who was the secretary of the league from 1934 until 1973, after which he passed it on to his son, Fred, who is doing a fantastic job still.

Ray Burns was also there. Known as the Enforcer, Ray played with the Wangaratta Rovers in 1958 and was part of their flag-winning efforts in 1958 and 1960.

After arriving in Wangaratta Ray played in nine grand finals in 10 years, a remarkable achievement. Clem Goonan also attended the function. Clem played with Whorouly and won the Ovens and King best and fairest award at the age of 15. The Galloping Gasometer, Mick Nolan, played in the Wangaratta Rovers premiership teams of 1971 and 1972. Jim Skinns played most of his football as a ruckman and rarely missed a game — only two during his entire career. Richie Shanley went 15 years without missing a match in an amazing injury-free run. He claims to have been selected for every position on the field. Many Ovens and King experts rank Lionel Wallace as the greatest player of all time. He was part of the 1950, 1951 and 1952 premiership teams. I wish them all well.

Aquatic centres: Donald

Hon. KAYE DARVENIZA (Melbourne West) — I take this opportunity to congratulate the council of the Buloke shire, particularly its mayor, Cr Reid Mather, and Cr Jan Corrie. I also congratulate Robynlee Bayles from the Donald swimming pool committee. The committee has worked with the council on making a successful application for a grant of $3000 from the state government, which will be spent on extending the opening hours of the Donald swimming pool. They will need to train volunteer lifeguards, and the $3000 grant will go towards doing that so that pool hours can be extended over the summer. Until now there has not been the option of doing that. Given the drought and the expected long, hot summer, it is terrific that the Buloke shire and the swimming pool committee have had the initiative to make a successful application for this money.

The other day I was pleased to meet with not only representatives of the shire and members of the committee but also a group called the Dolphins, members of which utilise the swimming pool for therapeutic purposes. They are all looking forward to the extended opening hours. Hopefully the lifeguards will be trained soon so that the extended hours can be in full swing for the school holidays and over the summer period. Once again I congratulate all those concerned for taking this initiative and for making a successful application for a grant of $3000 from the state government.

Member for Chelsea Province: representation

Mr VINEY (Chelsea) — In the last sitting week of this parliamentary session I take this opportunity to thank the people of Chelsea Province for the privilege and honour of representing them for the last four years. In particular I extend my thanks to the people of Frankston for having had the opportunity to represent them in this Parliament for seven years, firstly as their representative in the former lower house seat of Frankston East, and subsequently as an upper house member for Chelsea Province.

In that time we have achieved a lot together, particularly in the Frankston area. We have seen major upgrades and extensions of the Frankston Hospital, substantial investments in our road infrastructure, the duplication of the Frankston–Cranbourne road from Frankston all the way through to the Western Port Highway, and the triplication of Moorooduc Road to Robinsons Road. We have repurchased a former high school site in The Pines which had been sold by the Kennett government, and established the new Monterey Community Park on that land. Staffing levels at Frankston police station have been increased and crime rates have reduced. There have been upgrades to dozens of schools across the electorate and new sporting facilities have been provided.

It has been a privilege and an honour to represent the people of Frankston and more broadly the people of Chelsea Province, and I thank them for that honour.

GAMBLING REGULATION (LIMITATION OF NUMBER OF GAMING MACHINES) BILL

Second reading

Debate resumed from 13 September; motion of Hon. PHILIP DAVIS (Gippsland).

Ms MIKAKOS (Jika Jika) — On behalf of the government I am very pleased to make a contribution to the debate on this Liberal Party's private members bill. I indicate to the house at the outset that the government will be opposing this bill, because it is a bandaid measure that offers no practical solutions to problem gambling.

I will turn to the bill in a moment, but firstly I want to indicate that since the Bracks government came to office it has been committed to protecting vulnerable individuals and communities against the negative impacts of problem gambling whilst allowing recreational users to utilise gaming products more safely. We acknowledge that the vast majority of Victorians who utilise electronic gaming machines do so in a responsible way and that it is a legitimate form of recreational activity.

When we came to office in 1999 there were no responsible problem gambling initiatives in place, but

we have moved to implement a comprehensive range of problem gambling initiatives as part of a strategy to prevent and reduce the harm that can be caused to individuals, families and communities by problem gambling. In order to implement this strategy we have tripled the funding for problem gambling services, partnerships and communication since coming to office.

I remind the opposition that whilst the Kirner government introduced gaming machines in Victoria it was the Kennett government that presided over their rapid expansion in this state. We well remember that it was the Kennett government that ran an absolutely pathetic problem gambling campaign called 'If it's no longer fun, walk away'. It was an expensive advertising campaign that provided nothing in the way of information or problem gambling counselling.

The Leader of the Opposition in the other place, Mr Baillieu, was the president of the Victorian branch of the Liberal Party during the Kennett era, and he may well have been privy to Jeff Kennett's planned expansion of electronic gaming machines during this time. Did he oppose them at that time? No. The silence on his part was deafening. Now, many years after the event, he is trying to exploit for his own political gain the genuine pain and suffering of the small number of families who experience problem gambling.

My electorate is a very working-class one in the northern suburbs of Melbourne. During the Kennett era the vast proliferation of machines was concentrated in electorates such as mine in the northern suburbs and also in the western suburbs of Melbourne. Did we see an outcry by the Kennett government or Mr Baillieu at that time? No, of course not. Are we now seeing a solution to take machines out of those particular areas? No. A very simplistic bandaid solution is being offered to the Victorian community, which I am sure will see through the very simplistic policy that the Liberal Party is offering.

In a 4 August media release the Liberal Party leader said that the government needed a lesson in history and:

> … to heed the deeply held concern of Victorians at the scale of damage gaming is inflicting on our society and its intrusion into every corner of daily life.

If Mr Baillieu is interested in looking at history, I am very happy this morning to provide him with a history lesson. It is very important that the Victorian community is reminded of the track record the Liberal Party has on gaming and problem gambling in this state.

I want to very quickly look at history because it goes very clearly to the issue of credibility; it shows the lack of credibility of the Liberal Party in introducing this bill into Parliament. Members would well remember that gaming machines were introduced by the last Liberal government across the state with no consideration of local community concerns. The number of gaming machines increased from less than 5300 to almost 30 000 in 1999.

The Liberals prided themselves on the creation of a gaming industry with no restrictions on advertising, machine spin rates, bet limits or 24-hour licences. Gambling regulation in this state under the Liberals was a joke. The former government had no strategy to address effective regulation in this growing industry, there was no transparency in the decision making and, worst of all, there was no effective strategy to address the issue of problem gambling — the issue that the Liberal Party now claims to be concerned about. I am pleased that the Leader of the Opposition in the other place, Ted Baillieu, seems to have discovered the issue of problem gambling after seven years, but I wonder what he was doing during the seven dark years of the Liberal government. He was most likely busy acquiring shares in Woolworths, which is of course the biggest owner of gaming machines in Victoria.

As for their gaming policy the Liberals have been all over the place like a drunk on a bicycle. First they said they wanted to turn off machines, and now they say they want to remove machines in six years time. We see — and I am sure the Victorian community does too — the Liberal Party policy as a half-baked idea, very much in line with the other half-baked, half-truth, half-toll policies that they have presented to the Victorian community in the past. It was not long ago that Liberal policy was not to remove 5500 machines from the system but merely to turn off 5500 machines at any one time, allowing operators to determine which machines should be turned off. Now we see crocodile tears from the Baillieu opposition about problem gamblers. The truth is that behind closed doors Ted Baillieu is busy reassuring the gaming industry that that is not what he means at all. The Liberals saying they will remove 5500 machines is just about a grab for votes and easy headlines.

What is it that the Liberals are saying they want to do? We are hearing that they are not just going to turn off the machines, they are now going to remove 5500 electronic gaming machines. But they have not provided a great deal of detail as to where those machines will be coming from. Their policy talks about retaining an 80:20 split between regional and metropolitan areas. However, that may well still impact

on many regional communities where electronic gaming machines provide very important support and a great deal of employment to country RSLs and to the hospitality industry in regional areas.

In relation to the lack of specifics in the Liberal Party policy, I point out that it says venues with under 25 machines will not be subject to removal of any machines. However, the vast bulk of venues and particularly those in my area, which have over 25 machines, are given no direction by the Liberal Party policy as to how machines will be removed, on what basis and whether the Tattersall's and Tabcorp operators, or whoever the licence-holders are at the time, will be able to remove the least profitable machines out of gaming venues and keep the most profitable ones in place. It is a very simplistic, bandaid solution that is very light on details and is all about getting a very quick headline.

It has been interesting to see the responses to the Liberal Party's policies so far from a number of different sources. The hospitality industry, Clubs Victoria and even the Leader of The Nationals have stated that removing 5500 electronic gaming machines is a distraction from the real issue of dealing with problem gambling. If there is one lesson that we have learnt in Victoria, it is that the Victorian public cannot trust the Liberal Party. We saw that in relation to hospitals, schools and police stations being closed. The Victorian public is quite justified in being dubious as to whether it will be able to rely on the Liberal Party to deliver on this promise.

By contrast the Labor Party and the Bracks government have a very good record on tackling the issue of problem gambling. We are very much aware that there is some community concern about problem gambling, and we are committed to providing an environment where people can gamble responsibly whilst minimising the chances for harm. The Labor Party has reduced machine numbers in the most vulnerable areas in our community through our regional caps policy, and we are committed to doing more in this area. I recall that a number of years ago I invited the Minister for Gaming in the other place, the Honourable John Pandazopoulos, to come out to my electorate where I convened a community meeting in the city of Darebin. He heard the concerns of the community in relation to that particular locality, which has a very large number of gaming venues and electronic gaming machines. The minister was very responsive in the subsequent establishment of the Darebin Plus gaming cap, and that has been very well received and supported by the local community in my electorate.

The Bracks government has also sought to give local councils a greater say in the approval process for gaming machines, with the introduction of a social and economic assessment for the Victorian Commission for Gambling Regulation to consider before approval can be given as to the location of electronic gaming machines. We well remember that it was the Liberal government when last in office that reduced the ability of local government to have a say in important decisions such as this and sacked councils. Since coming to office in 1999 Labor has committed over $122.7 million to problem gambling programs compared to just $13.9 million from the previous Liberal government. The rate of growth in electronic gaming machines spending has declined to 1.9 per cent over the term of this government compared to 16 per cent in the last term of the previous Liberal government.

The prevalence of problem gambling has halved from 2.14 per cent in 1999 to 1.1 per cent. The number of problem gamblers in this state has decreased, and the number accessing help services, such as Gamblers Help Northern in my area, has increased. That is no accident, it is as a direct result of our problem gambling strategy, which is clearly making a difference to many families in Victoria.

We have adopted a number of measures as a government to tackle the issue of problem gambling, some of which I have already mentioned, but there have been many other strategies — for example, we have put limits on the promotion of gambling in this state, all advertising promoting the use of gaming machines has been banned outside the gaming machine areas of approved venues and the display of gaming machine-related signs that indicate the availability of gaming machines or use terms or expressions frequently associated with gaming machines has also been restricted. We have also introduced a number of measures to make gaming machines safer — for example, gaming machines are required to display information about the odds of winning and the amount of time and money spent by the player, clocks are now displayed on all gaming machines, a maximum bet limit of $10 has been set on all machines, a ban on the acceptance of $100 notes applies to gaming machines, spin rates have been capped at current levels and autoplay facilities had been banned.

We have also sought to make gaming venues safer by introducing compulsory training for gaming venue staff, which will be introduced shortly. Player information about the odds of winning is now required to be displayed at all gaming venues, cash withdrawals from automatic teller machines and EFTPOS facilities

in venues have been limited to $200 per transaction, cash withdrawals from credit accounts have been prohibited and winnings in excess of $2000 are required to be paid by cheque with an optional cheque payment for smaller winnings. There are now no longer any 24-hour gaming venues outside of the Melbourne Casino. In addition to that, lighting in gaming venues has been improved.

In the second-reading speech moved by the Leader of the Opposition there is a lot of repetition of policies and initiatives this government has already put in place. We have had a massive injection of funds in the problem gambling area, with the government spending $122.7 million on the problem gambling strategy and, most importantly, integrating service delivery, community education and community partnerships since we have been in office. Over $80 million has been spent on problem gambling services. These funds have provided a comprehensive statewide gamblers health services system that provides problem gambling counselling, financial counselling, local community education activities and a 24-hour telephone information referral service.

I have been pleased that a number of my local constituents have contacted me or my office and indicated that as a result of the government's advertising in response to its problem gambling strategy and the counselling services they have dealt with their own problem gambling. More than 30 000 problem gamblers received counselling services during 2001, 2002 and 2004–05, with in excess of 158 000 hours of counselling being provided in total. The government has invested $12 million in additional funds for the delivery of after-hours counselling services, for services to culturally and linguistically diverse communities — I note that problem gambling has been an issue in certain communities — for services to indigenous Victorians, for the recovery assistance program to provide material aid, for other assistance to families with gambling-related crises and for better integration of telephone counselling and face-to-face services.

We have also provided a gambling resource kit for health professionals and an online self-help pack for problem gamblers, their friends and their families. In addition to this, we have had a very extensive partnership campaign with the community. There have been many examples of how we are working with different community organisations, such as the Women's Information Referral Exchange, which is very well known to many members of this house; Netball Victoria; Community Meals for Older Women; Incolink; Prison Fellowship of Australia; and the Carlton Neighbourhood Learning Centre partnership. The City of Darebin and other local organisations have been involved in putting together local strategies to provide alternative recreational uses, to older members of the community in particular, to try to address issues such as problem gambling. We are committed to working with the community in tackling these issues.

The response of The Nationals to the Liberal Party policy has been interesting. I am sure Mr Drum will have something to say on this issue, but it comes back to the issue of credibility. The Nationals have indicated that they are opposed to the introduction of the reduction in machine numbers, which means that a future coalition Liberal-National party government, if one were elected in November, would be unable to implement this policy. The Nationals have clearly recognised that this is a bandaid solution, that it does not address the issue of problem gambling and is simplistic. The Community Action on Pokie Problems organisation in a media release issued on 24 July this year said that it regards the Liberal Party's policies as 'pretty uninformed'. CAPP went on to say that there are many other ways problem gambling can be addressed, but that the Liberal Party policy is certainly not going in the right direction.

In conclusion, the government rejects this policy. It is a simplistic bandaid solution. We hope that the Liberal Party will address the issue of problem gambling in a more coherent and cohesive way and adopt policies similar to those the Bracks government has already put in place to tackle this issue.

Hon. D. K. DRUM (North Western) — It is with pleasure that I take the opportunity to talk on the bill. While The Nationals will not be supporting the bill, we need to give genuine credit to the Liberal Party, because this proposal is one of many areas that have been discussed in considering how to curb problem gambling.

Before I get fired up on this issue I advise that The Nationals will give 5 minutes of their speaking time to Ms Hadden.

The Liberal Party has come up with the idea of taking 5500 machines out of the pool of poker machines in Victoria. While we do not support that policy, it should be stated that there is a widespread community perception that it could be of benefit to Victoria. The big issue that needs to be pushed is that the Bracks government has shown the greatest hypocrisy of all time when it comes to gambling. From the very outset, when it was in opposition it was as loud as any opposition could be in labelling the then government as being addicted to the almighty dollar. That was said

time and again. The Bracks opposition pushed down the media's throat the idea that the Kennett-McNamara government was addicted to the gaming dollar and said it would make a whole range of changes if it ever got an opportunity to govern.

It has had the opportunity to govern for seven years but has done absolutely nothing to make serious inroads into problem gambling. The data proves that while the government has been window dressing problem gambling, it has avoided making tough decisions. While we do not agree with the Liberal Party decision to remove 5500 machines, at least it is one of a series of measures that have been put forward, and it is taking its desired course of action. We recommend a different course of action, which we believe will be more beneficial. If we were to support this bill we would be taking our eye off the ball in other areas where our support would be more beneficial to the issue of problem gambling.

The bill calls for a limitation on the number of gaming machines. The Nationals believe that the South Australian experience has proved that a limitation will not achieve the desired outcomes. Members may be aware that in 2005 the South Australian government decided to take 3000 machines out of that state's total pool and reduce the number of electronic gaming machines (EGMs) from 15 000 to 12 000 — that is, a 20 per cent reduction. In percentage terms that reduction is similar to what is proposed in this bill.

As a result of the reduction in the number of EGMs in South Australia the overall spend in gaming increased in the three months of the second quarter of 2005 by about $400 000. We believe we can take more substantial and different measures that do not involve reducing the number of machines. If we were to take 5000 machines out of the state — perhaps five from each of some venues and 10 from other venues — people with a gambling problem will still be able to access EGMs. In the same way, if we were to shut down 20 per cent of the liquor outlets, people with an alcohol problem would still be able to access liquor outlets. Decreasing the availability of machines will not impact on problem gamblers. It may impact and inconvenience social gamblers who may have a spare 15 or 20 minutes to spend but cannot as easily find a machine. We believe that people with a genuine problem who plan to spend time at a venue will make sure they can get to that venue and access a machine; they will even have alibis in place to make sure they are not missed at home or at work.

The report prepared by the Centre for Gambling Research at the Australian National University for the then Gambling Research Panel came up with some very interesting statistics. Later I will talk about the fact that the GRP was funded by the Victorian government through the Community Support Fund. The report, which talks about perceptions and community attitudes towards gaming and problem gambling, includes findings that need to be highlighted this morning.

Since the Bracks government came to power the number of people playing EGMs has not increased a lot, but the spend has increased dramatically. In that period there has been an increase of about 3.5 per cent in the number of people using EGMs. The number of people participating in gaming is now up to about 33.5 per cent of the population. We also know that in the same period, the amount the Bracks government has derived from gaming revenue has increased dramatically.

The report tries to identify who are the gamblers. The ANU centre took a sample group of 8500, out of which it identified about 25 per cent as non-gamblers. They then put the number of non-regular gamblers at just under 70 per cent, leaving the number of regular gamblers at 6.2 per cent. I want to focus on the number of regular gamblers. The report says they are mainly male, aged over 50 years, with lower levels of education and lower incomes than non-gamblers. Many are in receipt of age or invalid pensions and have predominately been born in Australia. That is the target group the report looked at.

The report says that most — just under 70 per cent — Victorian non-regular gamblers gave their major reason for gambling as socialising with their friends and their family, whereas just under 22 per cent gambled alone. Of that 6 per cent to 7 per cent of regular gamblers, only 15 per cent form the next group — that is, the group identified as problem gamblers. We are talking about 15 per cent of the approximately 6.5 per cent of regular gamblers, which equates to about 1.2 per cent of the broader population. The report at least identifies the number of people we are talking about as problem gamblers because one of the great criticisms of the Bracks government by The Nationals is the dearth of data that is available. The Bracks government has done minimal research — —

Hon. B. N. Atkinson — They shut down the research body!

Hon. D. K. DRUM — Apart from that, Mr Atkinson, all of the measures the government has taken have been froth and bubble — there has been no substance to the measures they have taken that supposedly have had any impact on problem gambling.

The report quantifies the number of problem gamblers. On top of that 15 per cent who are problem gamblers, there is another group of what they call the borderline cases. We need to be aware that perhaps another 1 per cent of the population are showing trends of heading towards having a problem with gaming. The problem gambler has a slightly different look — he is predominately male and there is a younger bracket, in the 35 to 50 age group, as well as the older age bracket. The characteristics are similar, but it is acknowledged that problem gamblers often have a family history of problem gambling, and there is a strong link to the consumption of alcohol and drugs and to depression. It is worth noting that a significant percentage of our problem gamblers have identified EGMs as their preferred method of gambling.

We need to talk about some of the issues, which the report refers to in terms of what we need to do about addressing these issues. The report refers to school education programs on responsible gaming being introduced in the school curriculum. We need to start young and teach our young people about the chances they have of winning at gambling and make them aware of the damage that can occur and be wrought on their life if they let it take hold.

The report recommends having trained people in gambling venues who can offer assistance to gamblers who display problem behaviours. This is supported by nearly 90 per cent of the broader population who were questioned about this. This is a strong part of The Nationals policy. We believe very much in supporting the existing policy that occurs on the floor of Crown Casino where they have a world-first policy of interventionist counselling. They have people who are trained in identifying stress levels wandering the floor; I think they have probably cast their eyes over me every now and again when I have been down there.

They have proven that with this world best practice model if you have properly trained staff you can identify people who are showing sustained signs of stress, anxiety and all of the characteristics attributed to somebody who is a potential problem gambler. With this interventionist policy they are able to initiate conversation and talk about the range of services available. If it suits, they can escort the person to a quiet place and have a talk about issues. They will then, in a very professional way, put that potential problem gambler in touch with the services which might be able to help turn that person's life slightly, arrest the problem they are experiencing and send them in another direction. We strongly support that type of work. We know it is complex. We know a whole range of matters go with it — for example, privacy issues. We understand all of those problems, but at least Crown has instigated something that we believe could be replicated in some of our larger gaming halls.

The report also says that people should be able to limit the amount they can spend on a poker machine at any one time. As a person sits down to play a machine they should be able to make a decision there and then about how much they are going to spend on that machine. As those who play the machines know, and I have played them myself, you start with the idea that you are quite happy to play for half an hour and win or lose $20 and walk away. If you are still there, if you have had a good time and you think you are going to win a bit more, all of a sudden that $20 turns into $40 and $50.

Problem gamblers have a problem with stopping. If people have the opportunity to understand that they always spend more than they thought they would, maybe there is a real chance to make a change so people can self-govern and self-regulate how much they can spend on any one machine in any one sitting. It will be very difficult to regulate against them getting up and going to another machine but at least they are sending themselves a message. It is an opportunity for a punter to self-regulate their habits and is certainly something we should be looking at.

This is a good report. It states:

> Overall, Victorians appear to see reduction in gambling as a shared responsibility between individuals, the government and gambling providers.

That is something we need to look at very carefully. People in Victoria need to understand that it is a shared responsibility. This is not something Big Brother has to do on his own. We need to take our policies in that direction to make us all understand that it is the responsibility of us all. The report continues:

> The results of the survey have reaffirmed that problem gambling remains an important issue for public policy in Victoria.

They believe there is very strong support in Victoria for policy change. It is an in-depth survey. It is a good report. It strongly calls out for policy change and a different direction in policy in relation to gaming in this state. We do not need a lot of the fluff and the bubble we are currently getting from the government.

The Community Support Fund is another aspect of gaming. We believe it has been rorted to the maximum any fund could possibly be rorted. I have mentioned before in the chamber that growing up in the Goulburn Valley we were able to see a short distance away on the New South Wales side of the Murray River the many

benefits enjoyed by many small communities with community-based clubs. They had poker machines and were able to benefit greatly from a lot of Victorians travelling 50 or 60 or even 200 kilometres — from all around Victoria — to play the poker machines in New South Wales. They poured enormous amounts of money into their own communities.

Places like Moama, Barooga, Tocumwal, Wahgunyah and Corowa were previously small communities, effectively little hamlets. In a very small space of time Mulwala and the like grew into havens for retirees and for young people to holiday. The development boom rode on the back of the revenue derived from gaming. Those communities had to live with the evils we have spoken about here, with problem gambling, with people spending more than they could afford and with all the social damage done by gaming. We live with these evils in our community at the minute, but at least the benefits of gaming were delivered to those communities. They had the absolute best of facilities.

Those small communities had everything a community could want. If a motivated group of community members took on board a couple of community projects which were worthy and warranted funding — if they needed a new scout hall, if they needed a new senior citizens hall, if they needed a project in the local park, if the netball courts needed resurfacing — there was always a strong possibility, even a probability, that they could get the money from the funds derived from gaming. You can drive through these tremendous little towns any day you like and see that they have set themselves up forever on the revenue derived from gaming.

When we saw gaming machines come into Victoria we envisaged that our communities would grow in a similar way, but that has not happened. The Community Support Fund was set up to deliver some of those benefits to the community. When government members were in opposition they swore to the Victorian public that they would hypothecate the funds from gaming back to the areas where the money was raised. This mob went to the Victorian public and said time and again that it would hypothecate the money back to where it came from. However, none of that has happened. There has been no hypothecation of funds back to the areas where the money has been spent. It has all been centralised into the slush fund called the Community Support Fund. This fund is simply a source for the government to rort for anything it wants.

Originally the fund was quite transparent and you could look on the Internet to see where this money had been spent, but that is no longer available. If you look at the Community Support Fund web site, you used to be able to download all of the projects which had been funded and see where they were funded and how much they had been funded for. That is no longer available. You cannot work out how much has been spent in each local government area. You cannot work out which sector of the community has fared well and which sector of the community has fared poorly. The last lot of figures I was able to look at showed there was nothing for Bendigo from the Community Support Fund.

The Minister for Local Government has been talking in this chamber for the past two and a half years about the fantastic Living Libraries program — some $12.5 million has been spent on refurbishing libraries around the state. We have been arguing all this time that historically libraries have been funded simply as a line item in the budget. However, that money has now been kept in the budget papers and we are finding other moneys coming forward to replace money that has been substituted by the gambling dollar.

Hon. B. N. Atkinson — What about sport?

Hon. D. K. DRUM — Sport has been an enormous loser.

Some of the projects that have been funded are planning projects. We all know how tough it is to get money for our various programs, but I will refer to one Victorian community that has received money. The Department for Victorian Communities web site describes the aim of this funding as to help:

> … local residents to identify projects that will improve educational and employment options, expand recreational opportunities and develop more affordable housing and transport solutions across the region.

This money will go to helping people identify projects. They do not have projects that they want money for, but the government will help them identify them. According to the web site another group used a grant to combine the ideas and resources of the local community to make its area a more connected and more vibrant place to live. What does this mean? Another project is described as:

> An energetic coalition of local government and non-government agencies … working to support and sustain local community building processes and initiatives …

This is what the Community Support Fund moneys are being spent on. About $150 million a year is effectively going to support the government so that it can produce enormous budget surpluses on the back of gaming. What is most worrying about the Community Support Fund is that it is an amount of money that could create

an enormous benefit for so many communities if it were properly invested.

Hon. B. N. Atkinson — And transparent.

Hon. D. K. DRUM — Mr Atkinson is right. The government is already receiving $1.5 billion as a straight-up tax from gaming. It does not need to take the final $130 million or $150 million that should be available to the communities that have made the money in the first place.

According to statistics Vietnamese women make up about 1 per cent of our community but about 5 per cent of females in jail. This is a real problem. The government talks about being culturally and linguistically diverse, but it is doing nothing to help the people who cannot speak — the people who have finally ended up in jail because they cannot control their gaming problems. The Vietnamese community has a very strong ethic towards gaming, and it needs support.

We need to stop talking about fluff and start creating genuine solutions. We have found time and again that the government is very big on fluff and saying it will do something, but taking away advertising from a gaming venue does not make any difference. Putting a $200 limit on withdrawals from automatic teller machines in gaming venues might be helping, but it only means that problem gamblers will go to two or three others within walking distance. We need to make serious changes. We have had legislation in this place to address the lighting or the visibility of clocks in gaming venues. The government has to be kidding itself if it thinks these pathetic actions will produce any outcomes. It is staggering that it can be so hypocritical in opposition and then, when it gets into government, do nothing about problem gambling but put in place all these measures that will not make an iota of difference.

In the Bendigo region some $42 million is spent on gaming. It is an enormous amount of money. Before the government took the exact amount that the Community Support Fund had raised, the Geelong region was contributing about $7 million to the fund. I know for a fact that it does not get $7 million put back into the community. About $2.5 million is taken out of the Bendigo community through the community support fund. Again that money is not delivered back.

We have to look at what we can do to make a difference. The Nationals are very strong on collecting the data. Let us get a truly independent academic research group, linked to a university, and give it the power and finances to collect the data. Let us truly identify who problem gamblers are, because we know it is a very hard cohort to pin down. Let us find out who they are and how much money they are losing. Let us expand the responsibilities of the Victorian Commission for Gambling Regulation and require it to oversee the development of programs so that once programs are initiated there is an organisation that has the legislative power to make sure they are enacted.

Perhaps we have to look at gambling as a health problem, not just as a social problem. People are addicted to gambling, and that is a health problem. Perhaps we have to start putting in place all the support mechanisms around health problems to try to address the issue. What about establishing a specific division of the Department of Human Services to address some of these problems? We have a lot of work to do, but at the moment we are doing very little.

I have already spoken about the interventionist counsellors who very discreetly patrol the floors of Crown Casino. Perhaps if we were able to link up some of the other larger gaming venues around the state we could have similar people patrolling them. They could work 5, 6 or 7 venues in any given day, just wandering around, having a cup of coffee and making themselves available to talk to people who want to do so.

Currently Victoria has a whole range of problems in the gambling industry, and they are real and relevant. Effective measures need to be introduced to create some outcomes. While we do not agree with this motion and unfortunately cannot support it, we are scathing in our attack on the government for its do-nothing attitude to gambling and its hypocritical stance in opposition that it has failed to back up in government. If it keeps going this way there will be a revolt by the people of Victoria, who are sick and tired of seeing this government do nothing about problem gambling. On the day that a report on this issue was released, the government produced windfall surpluses, all on the back of the gambling dollar.

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

Quorum formed.

Hon. B. N. ATKINSON (Koonung) — I rise to support the fairly straightforward and simple bill introduced by the Liberal Party as one of the measures it proposes to address problem gambling in Victoria. The legislation before the house simply enacts a commitment we have also made as an election policy, which is to reduce by 20 per cent the number of gaming machines in Victoria — that is, gaming machines situated outside Crown Casino, given that the casino is

subject to different legislation — and to ensure that some 5500 machines are taken out of the system. As I said, it is a fairly straightforward piece of legislation.

I indicate that the Liberal Party will give 10 minutes of its allotted time in this debate to the Independent member, Ms Hadden, and I daresay her contribution will be significantly better than the contributions of Labor members.

Indeed there was a considerable contrast between the position taken by the Labor Party as presented by Ms Mikakos and the position taken by The Nationals. We understand that The Nationals will not support us on this legislation. However, The Nationals at least recognised the problem of problem gambling, pointed to the shortcomings of the government and suggested that a number of initiatives urgently needed to be taken in the interests of the community.

The Nationals recognise that in introducing this legislation the Liberal Party was prepared to take constructive action to address problem gambling. The contrast with the Labor Party position is palpable. Ms Mikakos told the house there was no problem, that everything the Labor Party has done in government has been fantastic. She also sought to rewrite history. I find it extraordinary when a Labor member stands up and tries to rewrite history. Ms Mikakos seemed to have forgotten that the former Premier, Joan Kirner, introduced gaming machines to Victoria, full stop. She put the blame squarely on the Kennett government but seemed to have forgotten the glamour photographs that were used in a television campaign to soft-sell gaming machines to Victorians ahead of the 1999 election.

Why did the Labor Party introduce gaming machines? Why did it enter into a process that was continued by the Kennett government in good faith because of the contracts and agreements that had been struck by the Kirner government introducing gaming machines? It was because of the situation with hotels in Victoria. The ANZ bank was the biggest hotelier in Australia after it had taken possession of many hotels that were in receivership as a result of the Labor government's botched deregulation of liquor licensing laws, and it had to give the Victorian hotel industry something to try to rescue it. The sop that it gave was the introduction of gaming machines. I think that was regrettable. In retrospect if, as was the case, we were to have gaming machines in Victoria, I certainly would have preferred that were all located in clubs rather than in hotels. It seems to me that having the machines in clubs would have increased the community benefits and gone a long way towards addressing and identifying some of the concerns with problem gamblers.

There is no doubt that the Labor Party has given itself all sorts of self-congratulations in this debate, as is its habit with so many things. This government believes that public relations and spin will cover everything. It believes that you do not really need substance and that you do not really need to do anything, that you just need to talk about it and use the correct language. The Labor government says that what it has done about problem gambling so far has been a success, and that it is addressing the problem. However, the only organisation that thinks that is the case is the Labor Party and its contingent of spin doctors. You cannot find any other cheerleaders for what the government has done about problem gambling. Who of Tim Costello, the Anglican Church, the Catholic Church, the Brotherhood of St Laurence, the Salvation Army, the Greens, People Power, The Nationals, the Liberal Party, local government, the Muslim community, the council of churches, or going even further across community and to welfare groups, thinks that the Labor Party policies are working? There is not a single organisation in the community that says the Labor Party's actions to address problem gambling are working — not one can be named.

Ms Mikakos — Not one?

Hon. B. N. ATKINSON — Not one supports what the Labor Party is doing.

Ms Mikakos interjected.

Hon. B. N. ATKINSON — Ms Mikakos has seen our policy and knows it goes much further towards addressing problem gambling than anything the Labor Party has done.

The other issue raised in the debate by the Honourable Damian Drum, and which is salutary in terms of what Victorians ought to know about what this government has done, is how the funds derived from this government's gambling taxes and charges have been used and allocated. This year the government will rake in $1.45 billion — not million, but billion! — from gambling taxes. This government spends around $20 million a year on problem gamblers. As Mr Drum correctly said, most of the money that is raked in from gambling taxes is poured into political stunts and largesse that is designed to curry favour with community groups so this government can be re-elected. The process is not transparent.

The Community Support Fund has been doctored on a number of occasions. Community groups cannot find out the actual criteria and objectives that are used to assess funding applications. Most members of

Parliament have been perplexed about why applications which have come from their communities for worthwhile projects that have been knocked on the head while other projects with much less community benefit have been supported. Why? Because those successful projects were in the interests of the re-election of the Labor Party rather than in the interests of the community. Those community groups were simply in the wrong electorates.

The reality is that this government is addicted to gambling. The government's take from gaming machines is up by 8.3 per cent this year alone — it is has increased from $841 million in the 2005 financial year to $911 million in 2006. A lot of money is being taken from these machines. This government has not recognised the importance of assessing and doing proper research into the impact on the community of these machines. Mr Drum touched on this in his contribution.

The government closed down the independent Gambling Research Panel. The government deliberately went out of its way to make sure there was not accurate information available on the impact of gaming machines in the community and their contribution to the number of problem gamblers. Problem gamblers are involved in other forms of wagering and gambling as well, but the available evidence suggests that gaming machines have had a significant impact on the increase in problem gambling and are changing the profile of some of those people who have this addiction.

This issue is partly about accessibility and partly about the fact that these machines offer socialisation opportunities, which have been touched on during this debate, but there is no doubt that the measures that have been taken by this government so far to address the problem gambling have been inadequate and have been, for the most part, simply window-dressing. And isn't this government good at window-dressing?

The real issue for the community is all about addressing the needs of problem gamblers with constructive responses, not just the spin, rhetoric and boasts that the government continues to make. As I said, it is a great pity that as a starting point the government is not looking at how gaming machines came into this state but is blaming everything on the Kennett government. Again, this is a part of their political ruse of this election campaign, rather than an understanding of exactly how these issues came about. It is only by properly addressing these issues and understanding the development of this industry in Victoria that anyone can really start to constructively respond to problem gambling.

The Liberal Party greatly supports people's right to choose their interests, hobbies and recreational and social activities. There is no doubt that many people enjoy gaming machines and like to patronise venues that have gaming machines. Because of my responsibilities as shadow minister for small and medium enterprises and shadow Minister for Sport and Recreation, I move around many organisations and venues which are involved in the gaming industry, because community clubs and small businesses are involved in those industries.

From that point of view I have a strong interest in making sure those enterprises are successful. It has been my experience that venues are keen, for the most part, to address problem gambling. The operators of venues do not want patrons to wreck their lives because they have an addiction and are unable to control their gambling.

We have found that the Labor Party has an extraordinary approach to this issue. It has tried to create a social divide with its policy on capping the number of machines in some suburbs, but does not reduce the overall number of machines. That means that in all likelihood, there will be a higher number of machines in areas which do not have caps — for example, areas in the eastern suburbs like Whitehorse and Knox which I represent. This government refuses to make some of the fundamental decisions which need to be made to support problem gamblers.

The Liberal Party has a comprehensive policy. The legislation before the house will simply reduce the number of machines and introduce a lower cap than what currently exists. Incidentally that cap was introduced by the Kennett government. Prior to that, under the proposal by the Cain and Kirner governments, there was actually no limit on machines which were likely to be rolled out in Victoria. I understand there was a target figure, but there was no cap on machines until the Kennett government imposed one.

What we are looking forward to is not simply the passage of this legislation and a cap that would reduce the number of machines but a large number of initiatives that would also address problem gambling in other ways. That would include greater support through the Community Support Fund and the establishment of a responsible gambling trust to be administered by VicHealth, an organisation that has integrity and objectivity in the way it functions. We are looking to

double existing funding to gambling help lines and counselling assistance to significantly upgrade their services. That would enable them to operate a single 1800 number across Victoria and make counsellors available in each municipal area or in clusters of suburban municipalities, 24 hours a day, seven days a week, all year round.

We would also enable them to run further counselling assistance if it were proved that the work that they were involved in suggested that there was a need for greater government support, because we really want to nail this problem. We also look at re-establishing the former independent Gambling Research Panel to undertake much-needed and independent research on problem gambling that The Nationals were calling for through the Honourable Damian Drum, and which most of the community is calling for. As was said earlier in this debate, it is difficult to make the right decisions or decisions of substance if you do not have the facts upon which to base those decisions and you are not targeting your measures effectively.

We would also look at integrating the gambling issues education program within existing secondary school social education programs, including the odds against winning and the risks regarding problem gambling. We would ensure better integration of problem gambling advertising and the Gamblers Help Program, and we would ensure that adequate problem gambling advertising campaigns were conducted in languages other than English. We have a range of other policies as well as part of our comprehensive and constructive approach to responsible gaming and to tackling the problem gambling issue. This legislation is one of the cornerstones of that policy. I urge the house to support this legislation.

Hon. KAYE DARVENIZA (Melbourne West) — I am really pleased to make a contribution on the bill that is before the house; I rise to speak against it. I think this is the first time I have spoken in a debate on opposition business when the government is actually on the same side as The Nationals — and that is a bit of a change! We certainly oppose this bill.

There is no doubt that this bill is a great deal of quite shameful posturing by the Liberal Party. The bill it has introduced gives us an opportunity to look at what they say they are planning for in the future and what the Bracks Labor government has done. More importantly, it allows us to take a look at what the Liberal-Nationals coalition did in the past; that should never be forgotten. You can only look at somebody's record and to see what they have done and judge them on that.

The coalition's record when they were in government was very poor. When you look at their record you can see what a sham this bill is and how it is just political posturing in the lead-up to an election. They are grabbing at straws — grabbing at anything that they think might get some traction with constituents. But when you actually look at what their policy is and the way they have behaved in the past, you can see that they are not showing any consistency at all in their approach.

They were talking earlier about turning off some 5000 machines — that is, at any one time they would just turn off the machines. Now it seems that are going to actually remove 5500 machines, but it is not in any targeted or specific way. This is a very simplistic approach. What they would be doing is unpicking a lot of the very good work the Bracks Labor government has done since 1999.

Clearly what those opposite did when they were in government was to put in place machines that seemed to be targeted at the areas that were most vulnerable, often areas like my electorate of Melbourne West where there are lower socioeconomic groups, often with large numbers of migrants.

Mr Drum mentioned the need for special services for culturally and linguistically diverse communities. But where were the machines, Mr Drum? They were out west in communities with very large numbers of Vietnamese population, in venues that were frequented by Vietnamese people. It was the Bracks government that actually gave funds for projects to look at ways in which we might be able to assist the Vietnamese community to address the issues involved in problem gambling.

I do not think anybody in this chamber would disagree with me when I say that, for the vast majority of people, gaming — having a bit of a bet, going to the casino or local club and playing the pokies or having a bet on some other game — is not a problem. It is a recreation that many people enjoy. It is not one that I personally have much time for; I would rather spend my money than watch it go down the gurgler, but that is just a personal preference. By far and away the majority of people do not mind a bit of a flutter, and there is nothing wrong with that — it is not a problem for them, but it is a problem for a small number of people.

The previous coalition government actually put more machines in and targeted those areas where gaming was likely to be a problem. Your lot did that, Mr Drum, and your lot did that, Mr Atkinson.

Hon. Philip Davis — That is absolute rubbish!

Hon. KAYE DARVENIZA — That is not rubbish; that is fact. Far more gaming machines were put in the west than in the east.

Hon. Philip Davis interjected.

The ACTING PRESIDENT (Mr Smith) — Order! I remind Mr Davis that his referring to other members of the house as 'dills' is unacceptable. I ask the honourable member to continue.

Hon. KAYE DARVENIZA — What those on the other side want to do now is really unpick that. As a government we looked very closely at where those problem gambling areas are — and we did it via research. I can talk about that research, which showed that there has been a decrease in the number of machines in those areas where people are more vulnerable to problem gambling. This legislation would simply unpick all of that. It is a distraction from the job of dealing with the real issues of problem gambling, and certainly our government has gone a long way towards ensuring that we minimise the amount of problem gambling in the community.

I take up a couple of issues raised by other members. Both Mr Drum and Mr Atkinson raised the fact that the Gambling Research Panel was disbanded. In fact that is wrong. While certainly the Gambling Research Panel does not exist in its previous form, the work it did has been taken over by the Responsible Gambling Ministerial Advisory Council. Let me tell you who is on that panel: the Victorian Local Governance Association is represented on it, the Salvation Army is on it, the Interchurch Gambling Task Force is on it, the past president of CPA Australia is on it, the Australian Gaming Council is on it, and Tabcorp, Tattersalls, Community Action on Pokie Problems, Crown Casino, the Council of Gambler's Help, Clubs Victoria, the Victorian Council of Social Service, the Ethnic Communities Council of Victoria and the Australian Leisure and Hospitality Group are all on it. A whole range of organisations with a real interest in addressing problem gambling are involved in ensuring that our venues work in a way which gives recreational activities to those who want to gamble but which also addresses gambling problems.

I want to take up the issue that was also raised by Mr Drum of how measures that the government has taken are really just, to use his words, fluff and bubble. In reality they are important measures that have had a real effect on problem gamblers, who are now stopping and assessing their problem gambling. The measures include introducing the cap on gaming machines and, eliminating the 24-hour gaming venues apart from the casino. We did that. When the other lot was in government there was a whole range of 24-hour venues, but now there is only one. The measures also include limiting access to cash via automatic teller machines, installing clocks in venues and ensuring that there is natural light. Those measures have had a real impact.

Since coming into office in 1999 we have committed over $122.7 million to problem gambling programs, and the rate of growth in electronic gaming machine spending has declined to 1.9 per cent over this term of government compared with 16 per cent in the last term of the previous government, when the coalition was in power. Since 2001 we have reduced losses by $1.8 billion, the problem gambling prevalence rate has halved since 1999, and the number of problem gamblers has decreased and the number of those accessing our help lines has increased. This is not any sort of accident; this is our gambling policies making a real difference.

Hon. DAVID KOCH (Western) — I have looked forward to making this contribution to the debate on the Gambling Regulation (Limitation of Number of Gaming Machines) Bill this morning. I have to say that it was incredible to hear the contributions of the speakers on the government side of the house, Ms Mikakos and Ms Darveniza, who live by rhetoric, who depend heavily on amnesia and who demonstrate a serious lack of vision in relation to the gaming industry. There is little doubt that gaming machines came to Victoria under the stewardship of the Kirner government. They were seen as a panacea for its disastrous financial woes. There was also the opportunity under that regime to put 45 000 machines in the marketplace, which was not only careless but gave no consideration to or thought for the downsides of this industry. The idea was to raise as much revenue as possible to aid the government's financial plight at the time.

It was through the fortune of the Kennett government coming to power that we saw the number of these machines reduced from 45 000 to 30 000, with the three licence owners we still have today. Two and a half thousand machines go to the casino, with the other 27 500 machines being split between Tabcorp and Tattersalls, on the 80:20 ratio between country and metropolitan areas, as was mentioned earlier.

The difficulties suffered by people who have a gambling problem are accentuated in regional Victoria because, as we all realise, those people are far more

visible in regional Victoria. I have some figures on the position in metropolitan versus regional Victoria as to the number of venues, the number of machines, the amount of money going through and the population of machines per thousand people. In the city of Brimbank, for instance, which is the example — these have been taken purely at random — we see that there are 15 venues and a total of 950 machines. The largest venue is the Taylors Lakes Family Hotel, where there are a 105 machines, and the smallest is the Sunshine City Club, with 23 machines.

In Brimbank the expenditure per head of population through electronic gaming machines (EGMs) is $879, the distribution of machines per thousand people is 7.24 and the total expenditure over the 12 months of 2005–06 is $115 million. If we go across to a rural municipality and take the East Gippsland shire as an example, we see that there are 10 venues and a total of 345 machines in that shire. The largest venue, with 72 machines, is the Bairnsdale Returned and Services League, and the smallest venue, with 15 machines, is the Bairnsdale Club. We can see that the population of the of East Gippsland shire is putting $667 per head through the EGMs located there, and we have a distribution of 10.73 machines per thousand people, which is way beyond what was anticipated in the legislation. On average there should be no greater than around 6.9 machines per thousand people. That demonstrates quite clearly that there is a loading of machines per thousand people in regional Victoria — and the turnover through those machines quite obviously is having an impact on those communities.

There is absolutely no doubt that streams of money — or streams of gold, as some people describe them — flow through gaming venues. It is not all on the downside. I am the first to acknowledge that regional communities have been very fortunate to receive some of the grants and donations made to them, especially in the areas of health care, hospitals, sporting venues and what have you. Just recently I attended the opening of the Nhill hospital in far north-western Victoria. Tattersall's made a generous donation of around $2 million to assist with the redevelopment of campuses across the district served by the West Wimmera Health Service.

Opposition members reflect on the fact that there have been many advantages, and that many gains have been made from the point of view of employment, especially in the area of hospitality — in hotels and clubs across regional Victoria as well as in metropolitan areas. But we also reflect on the many downsides, the principal one being associated with, as has been mentioned in the debate today, problem gambling. It is not easy to recognise hot spots where problem gambling is taking place, especially in regional Victoria. Moneys returned to regional areas through the Department for Victorian Communities are grouped into local government areas. We cannot identify, as we used to be able to do, where the hot spots are, which towns are making greater contributions than others and which communities are not receiving support funding for problem gamblers. I am sure that continues to be a great concern for everyone.

The opposition points out here quite openly that the Bracks government has little or no vision on the issue of problem gambling. The Liberal Party certainly recognises the lack of endeavour on the part of the government. We are seriously endeavouring to confront the blight of problem gambling. My colleague the member for Bass in another place, Ken Smith, needs to be congratulated for the work he has done. He has put together a comprehensive policy which reflects the concerns that members of the Victorian community have raised for the government of the day. Unfortunately his policy has fallen on deaf ears. Mr Smith has gone to great lengths in putting this comprehensive policy together. Many things have been raised this morning, but I would like to mention the major one — that is, the removal of 5500 machines from venues. Some 20 per cent of machines will be removed. Our venues will have a maximum of 80 machines, and smaller venues holding 25 machines or less will not be asked to cut their numbers of machines.

The Liberal Party will also introduce a large range of operating initiatives. The maintenance of the ban on 24-hour poker machine venues across the state — including at the casino which, as we all know, operates 24-hours a day — will be of some advantage to those who suffer from problem gambling. We are going to extend the administration of current self-exclusion zones from Australian Hotels Association members to all hotels and clubs. This will be done on a voluntary basis. People who wish to register their concern will be able to do so on a voluntary basis either with management or a representative of management of any of these venues. They will be able to take counselling as a consequence on the back of registration, whereas at present counselling takes place prior to registration. That will be a great advantage. We are going to introduce a maximum payout from our machines of $1000 and maintain the ban on having automatic teller machines on gaming floors.

We will double existing funding to the Gamblers Help line and we will significantly upgrade counselling services. Again, this is terribly important in regional

Victoria, where people do not have the opportunity, as do people in metropolitan areas, to reach out for counselling services. We will provide within local government areas mobile counsellors who will be available on a 24-hour call basis. This will be a great advantage, along with the operation of a single 1800 number right across Victoria. As Mr Drum mentioned, the importance of re-establishing the independent gambling research panel will not only be considered but put in place. The community is calling for this to happen, which is a sad reflection on what the current government has done about problem gambling.

The bill before us is a good bill and deserves the recognition and support of the house, especially by giving problem gamblers further assistance and limiting the number of gaming machines in venues across the state so that problem gamblers will not come undone as a result of using them. I commend the bill to the house and encourage support from both sides.

Mr SMITH (Chelsea) — I rise to oppose the Gambling Regulation (Limitation of Number of Gaming Machines) Bill. The principal reason I oppose it is the hypocrisy associated not only with its framing but the delivery of the contributions of those opposite. This is hypocrisy pure and simple. It is a blatant grab for votes in a soft part of the electorate. Opposition members believe such people are so strongly opposed to this particular industry that they will shift their votes. The reason I can say that with a genuinely held belief is the fact that through this bill opposition members are proposing that the changes will come in in 2012. That is how committed they are to it. If they were genuine and serious, they would be saying, 'We will do this immediately'. But no. The year 2012 is a couple of elections away. For goodness sake! Opposition members were jumping all over the place about the EastLink tollway. First they said, 'We will not toll it', but then said, 'Hang on! We will half-toll it, but only for a little bit of time'.

This legislation is worse; it is simply pathetic. I am sure that, by and large, the Victorian public will see through it and see it for what it is. We have just heard the shadow Minister for Racing — racing being one of the principal industries in this state — stand up and bag gaming machines. The horseracing industry is a significant beneficiary of income from gaming machines; it forms some 25 per cent of the industry's income. According to Mr Koch, the Victorian racing industry is travelling so well that it can afford to lose up to $60 million a year, which is how much money it gets from gaming machines. I have to say that Mr Koch's timing in attacking the horseracing industry is impeccable. We are coming into the Spring Racing Carnival, probably the premier racing carnival in the world, and its importance to Victoria is huge. The Spring Racing Carnival is monumental, yet Mr Koch is attacking the industry for which he is the shadow minister! I find that almost bizarre, but I have to say his action is consistent with positions held by other opposition members on this issue.

Opposition members have finally found something they think might benefit them in the community, but they are wrong. It is almost like harking back to the days of 6 o'clock closing. What a pack of wowsers. Everyone is going to hell in a hand basket if we do not get rid of all poker machines in Victoria! I think this is nonsense, because by and large the overwhelming majority of people who engage in this form of gambling do so with no problems whatsoever. I do not suggest for 1 minute that there are no people out there who have problems and could be classified as problem gamblers. I will take a few minutes to talk about what the government has done to assist those people. We are not cold-hearted about and ignorant of the fact that this problem exists.

What we have done is in stark contrast to what those in the previous government did. Its record includes a story that goes back about eight or nine years. I remember reading about a proposal by the Liberals that they would allow — wait for it! — poker machines in shopping malls. Wasn't there a hue and cry in the general public then! People were screaming about it, and it was dropped like a hot potato — they said, 'Whoops, we will not go there!'. They would have done anything possible to expand the industry. I am wondering why that would be! I remember one of Jeff Kennett's mates was a big bloke named Bruce Mathieson. He drove a big, red Ferrari around. He was the pokie king. Do members remember him? He was one of their real mates; he was very close to Jeff Kennett. There is a bit of hypocrisy here, I think.

We heard Mr Atkinson wax lyrical about former Premier Joan Kirner's introduction of poker machines. Yes, she did. I talked to her about this; I think she made a huge mistake in allowing poker machines to operate out of hotels. That was a huge mistake, and she has admitted that. I am one of those people who believe the machines should have been restricted to golf clubs, bowls clubs, tennis clubs, racing clubs or any other clubs where the benefit flows back into the community directly and at a much more significant rate. But contracts were signed and deals were done — and here we are! It is not going to happen now because the genie is out of the bag — —

Ms Argondizzo — The bottle!

Mr SMITH — Bag or bottle; the bottle was in a bag! What we have done under the stewardship of the Minister for Gaming in the other place, who has been extremely competent in the way he has handled this particular issue, is put together guidelines whereby we have restrained, restricted and controlled the industry to the point where it provides a world-class environment in which people can enjoy themselves. Make no mistake about this: whilst many people think every senior citizen in the state, be they male or female, has a problem with gambling because they are always frequenting these places, they do not. Most senior citizens who go to these clubs do so to enjoy themselves with their colleagues or neighbours. They like the environment — it is warm in winter, and they are safe as the places are well lit. They have a good time, and I know those on the other side hate people having a good time because they are wowsers when it is all said and done. I know the fact I am exposing them for what they are gets to them a little bit.

Mr Drum said we have done nothing to address these problems through regulation. I would like to point out a couple of things to the house. They would concern Mr Drum; he might like to have a think about them. Since coming to office we have recognised that some people in the community have a particular problem, and we have put in place strategies that will make a real difference. We limited the number of machines; the total expenditure on gaming reduced under this government between 2001–02 and 2005–06; and total net gaming expenditure across Victoria decreased by 3.5 per cent.

Hon. D. K. Drum interjected.

Mr SMITH — Mr Drum said, 'No, it has not'. It might not have decreased in terms of dollars, but it certainly has in percentage terms. Given that the economy is healthy and growing and people have more expendable income, what is the problem with that? People are allowed to spend their money how they see fit; certainly that is our view. We have undertaken the most extensive reforms in Australian history, including the introduction of caps, removing gaming machines in vulnerable areas, eliminating all 24-hour gaming venues outside the casino, banning smoking in gaming machine areas, restricting gaming venue signage — —

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

Hon. ANDREA COOTE (Monash) — I am absolutely taken aback at the contribution by Mr Smith. It was done because he thought the minister was still here; he was hoping the minister would give him a few brownie points. It was absolutely breathtaking in its hypocrisy. I am sure when he reads it, he will be seriously ashamed of his contribution. He will find it absolutely shallow, and he will be very embarrassed; it will come back to haunt him in years to come.

Yesterday we saw the headline about gamblers losing $4.5 billion in this state. I do not have much time to speak on this bill because we are running out of time as it is the last sitting week, and Ms Hadden has 10 minutes to make her contribution after me. However, I must say I have some major concerns about a number of issues.

The major issue I have concerns about is that the government has closed down the independent Gambling Research Panel. How can this government properly orchestrate any future rules and regulations on gambling if it cannot back them up with research? I have some major concerns about this, particularly in relation to my own portfolio areas. When I had a look at the annual report of the Victorian Commission for Gambling Regulation I was absolutely astonished to see the lack of information about senior Victorians and their gambling problems.

I am the shadow Minister for Aged Care, and I have some major concerns because I believe the government is targeting vulnerable Victorians. Some of the $4.5 billion that this government has collected has come from the pockets of senior Victorians, who in fact fall for all the things that Mr Smith talked about.

They go into the gambling venues which are warm, because other people are there and because the food there is cheap. We should be looking at this problem and take into account the proper research; we should consider how these vulnerable senior Victorians are being coerced into these gambling places. It is appalling that the Labor government has closed down the independent Gambling Research Panel. How can it possibly go on without independent research if it does not know what the problem gambling crisis is doing? This is totally unacceptable.

Labor has also avoided scrutiny by failing to inform Victorians where the money for the problem gambling programs has been spent and how effective the programs have been. We need to understand what has transpired in the past so that we know what is going to happen in the future.

We are very pleased to see this bill. It is very timely and welcome here. I have some major concerns about senior Victorians who are not being adequately cared for by this heartless Bracks government. The Liberal

Party fully supports this bill. It is extraordinary to think that yesterday the headline in the *Herald Sun* read 'Gamblers lose $4.5 billion'. It is time for Victoria to wake up. I fully support the bill.

Ms HADDEN (Ballarat) — I support the bill before the house. At the outset I acknowledge and thank both the Liberal Party and The Nationals for allowing me time to speak in the debate, because the government certainly does not do the democratic and right thing and allow me time to speak on such important matters.

It is unfortunate but it is the Bracks Labor government that needs counselling. It needs addiction counselling because it is addicted to the pokie dollar, thanks to the Premier of the time, Joan Kirner. At least she has had the good grace to apologise to the Victorian community for the shocking scourge of the pokie gambling addiction that has been imposed upon our community since 1991. It is the Bracks Labor government that is addicted to gambling, which is an experiment that has gone terribly wrong.

It is an experiment that really should end and should end now. I equate the Bracks Labor government with a reverse Robin Hood: it takes from the poor and gives to the rich. Less than 1 per cent of the gambling take by this state government is spent by the Premier, Mr Bracks, and the Treasurer, Mr Brumby, on counselling and related services to the community. What a poor, pathetic effort! As we saw in today's *Age* and *Herald Sun*, the government's take on gambling revenue over the last 12 months has increased by 8.3 per cent. What a shame and a disgrace! This government ought to hang its head in shame. Some $2.5 billion comes from hotels and clubs, yet we have this government gloating about a budget surplus of $825 million, which is double the May 2006 estimate. I say to Treasurer Brumby, 'That is nothing to be proud of'. They ought to be ashamed of themselves. They are addicted to gambling, and it is ministers of this government who need addiction counselling.

This bill does not go anywhere near far enough, but at least it is a start, and it is more than this Bracks Labor government has done in seven years. The bill proposes a cap of 22 000 poker machines in Victoria, excluding Crown Casino, to reduce the number of poker machines by 20 per cent from the 27 500 machines currently permitted under ministerial direction. So the minister of the day can increase the number of machines; he can double or triple them for the two providers after 2012, if he wishes. The bill also imposes a legislative cap so that no future government without parliamentary approval can increase the number of machines beyond the new maximum of 22 000. That is a good thing, and it is a start.

I am not a wowser by any means, but I have visited my family in Western Australia, and over there Sir Richard Court did the right thing. He fought his Liberal Party at the time and stopped gaming machines in the community. He restricted them to the Burswood Casino, and that is a very good thing. We ought to take a very clear lesson from that. The Minister for Finance, who is in the chamber, should sit and listen to this. If he has not visited Perth, he should, because the Burswood Casino is where the gaming machines are placed, and that is where they should be. I have heard that South Australia has also taken a lead and reduced the number of machines in the state from 15 000 to 12 000. It is a start, and it is something that we ought to think very seriously about. The government should vote in support of this bill and take some leadership.

Ballarat city has 203 gaming machines more than the state average, and there is no attempt to reduce that at all. I have figures from 2003 and 2004, which show that the net electronic gaming machine (EGM) expenditure per adult is nearly $747. Ballarat, with a population of 87 000, cannot afford it. Figures from the Office of Gambling Regulation for 2003–04 show it had 674 machines across 16 venues. Total expenditure on EGMs in the shire of Macedon Ranges in the year 2003–04 was nearly $8 million from 81 machines across three venues, and the expenditure per adult was $265. In the shire of Moorabool nearly $6.5 million went into 110 machines across three venues, and the net EGM expenditure per adult was $334. These are communities that can ill-afford that type of expenditure.

The government spends some of the gambling dollar on a little pamphlet entitled 'The pokies — before you press the button, know the facts'. It asks, 'Who really wins on the pokies?'. I have the answer — the Bracks Labor government. The second question it asks is, 'How do the pokies work?'. The answer is, 'Very well'. The third question is, 'What are my chances of winning?'. The answer is, 'Zilch, nil', because that is the fact of the matter. I am probably the only one who picks up these pamphlets, because the problem gamblers who spend their money filling up the coffers of the Bracks Labor government do not.

People Power has released A Pokies-Free Victoria policy. I must say that is something that the government, and any future government after the November 2006 election, should look at and consider. People Power says that it will not renew the poker machine licences of Tattersall's and Tabcorp when they expire in 2012. That is not something that should be

ignored. That is something that should be seriously considered, because the government has refused to release the report on the reassessment of licences after 2012. It proposes not to release the report and the review until after the state election. A government could very well extend the licence, as envisaged in the newspaper reports, for another 20-odd years, because that is what Tattersall's and Tabcorp want.

We have to be serious about stopping the harm from problem gambling across country Victoria especially. Of course we know there are loopholes that criminals can use to launder money through pokies. That was exposed in an article in the *Sunday Herald Sun* on 17 September 2006 entitled 'ID loophole for laundering — crims cash in on pokies'. What was the response from the Victorian gaming regulator? It conceded it was possible that a launderer could go unidentified. It is not possible, it is probable, and it does happen. As the *Sunday Herald Sun* reported:

> Drug dealers take 'dirty' cash from street sales to pokies venues.
>
> Feed $2000 into a gambling machine and play for minimal time.
>
> Cash out 'winnings'.
>
> With no legal requirement to produce photo identification, ask for winnings paid as a 'clean' cheque.

That is the situation, yet we have the government snubbing its nose at these problems in our community. It was reported in the *Herald Sun* of 30 December 2005 that last year the government raked in $1.4 billion and gave just $13 million back to gambling addicts, which was then equivalent to 3.3 days worth of pokies tax. What a poor example of a government — it reaps $2.5 billion from gaming revenue and gives back a measly $13 million towards problem gambling. The government is not serious at all.

The Australian Bureau of Statistics released a report on 14 February 2006 estimating the component of gambling within the overall retail sector of the economy. The ABS said that between December 2003 and the December 2005 quarter total retail turnover had increased by 7.7 per cent to $51.8 billion. Over that same period, 2003 to the 2005 December quarter, gambling net proceeds grew by 22.1 per cent to almost $2 billion, and turnover through hotels and licensed clubs was up 12.1 per cent to more than $4.8 billion. The Australian Bureau of Statistics said that:

> Gambling now accounts for 40 per cent of total turnover in the nation's pubs and licensed clubs.

We know from the media scrutiny of problem gambling that nearly 56 000 adult Victorians are addicted to gambling — I dare say that figure includes the Bracks Labor government; that 4.7 per cent of poker machine players are problem gamblers; that 42.3 per cent of poker machine profits come from problem gamblers — and these problem gamblers are the people who can least afford it, generally they are people on fixed incomes, such as pensions; and that 26 per cent of problem gamblers are under 45 years of age. The government is preying on the poor and giving to the rich. We know also from an exposé by the *Sunday Herald Sun* of 4 September 2005 in relation to pokie losses that country Victoria lost $510.6 million in the period from July 2004 to June 2005, which was equivalent to $490 per adult, compared with the overall figures for Victoria of $618 per adult and $2.39 billion lost. Things are bleak in country Victoria so far as problem gambling goes.

The Ballarat city pokie operators defend the pokies because they have a vested interest in them. The council has complained vehemently and vigorously over the last couple of years that it has 662 gaming machines, which is 203 more than the state average, and something like $52 million was lost last year in pokie revenue going from Ballarat city alone to the state government. We cannot afford it — families cannot afford it, the welfare agencies cannot afford it, taxpayers cannot afford it and the criminal justice system cannot afford it. I am not a wowser by any means, and I have forced myself to go into gaming venues occasionally in Ballarat to expose myself to what is going on. I see people who can least afford to be gambling in there gambling, because it is nice and cosy — it is warm, it is dark, there is tea, coffee and biscuits provided and the staff are nice to you. It is very inviting for the lonely, the poor and generally people in the lower socioeconomic group in our community. It is a terrible shame, because they could be better welcomed in other, non-addictive, entertainment areas.

Late last year the government released a report comparing gambling in Victoria and Western Australia. The report revealed that gambling-related employment for money spent was lower than in other industries, with 3.2 jobs for every $1 million spent compared with 20.2 jobs per $1 million spent on food and meals. Recently Ballarat City Council was forced to approve, with its hands tied behind its back, a transfer of six machines from one hotel in Ballarat to another with the promise that if it agreed to that transfer, one hotel venue would reduce one of its machines. The council thought it was on a winner — the number of machines was reduced by one! The council said that it was also sending a message to the community — —

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

Hon. PHILIP DAVIS (Gippsland) — Let the record show that the Liberal Party is the only party in the Victorian Parliament that is prepared to take any direct action to deal with problem gambling. The bill will effectively reduce the number of gaming machines in Victoria's hotels and clubs by 20 per cent. I urge the house to support it, notwithstanding the contributions of certain members in this debate from the point of view of the Labor Party, which were wrapped up in extraordinary hypocrisy. A headline in today's *Herald Sun* states:

> The Bracks government is awash with cash as Victorians gamble away a record $4.5 billion a year — a staggering $145 every second.
>
> More than half of that, almost 2.5 billion, was pushed into poker machines in hotels and clubs.

Further the article states:

> But it was an all-time high gambling tax take of $1.459 billion that gave the government a huge election war chest just 52 days from the November 25 state poll.

The article wraps up by saying:

> The government's own figures reveal $3.30 in every $100 spent by Victorian households is now lost to a form of gambling.

That is an interesting recitation of the facts, but there are more facts. We know that the figures released yesterday show that gambling taxes increased by 6.6 per cent, or $91 million, in 2005 compared with the previous year. Importantly the most devastating part of all is that these figures show that gaming machine revenue to the government was up by 8.4 per cent, or $70.3 million, on top of the $45 million extra that Labor is gathering from the $1500 per machine it has imposed under the guise of a health benefit levy.

Talk about hypocrisy! If ever there were a government dependent upon the revenue from gamblers it is the Bracks Labor government. The hypocrisy is that if we return to Labor's policy for the 1999 election on responsible gaming, we see that the Labor Party acknowledged in that policy:

> It was a Labor government that first recognised the potential benefits of these industries and laid down a basic framework for their introduction and development.

Let me put to rest the lie promulgated by the government in this place during the debate today about the Kennett government's management of the gaming industry. The fact is that it was the Kirner Labor government which first introduced the notion of gaming machines into Victoria as a response to the financial crisis that existed because of 10 years of mismanagement by the Cain and Kirner governments. Victoria was in need of a new revenue stream, and that golden goose was identified to be the gaming industry. In fact it was proposed by the Kirner government that there should be 45 000 gaming machines in Victoria. It was the Kennett government that introduced a cap of 30 000 machines, the cap which in effect is still in place today.

The Liberal Party bill proposes to lower that cap and impose it by way of legislation rather than by ministerial direction, so that any review of the cap at a future time would have to be given parliamentary assent. It is interesting to note in the 1999 Labor gaming policy that:

> Labor will seek a fairer revenue deal from the federal government to reduce the state government's reliance on revenue from gambling.

If ever there was hypocrisy in this place, it is demonstrated by the Bracks government. The government railed against the Howard government for introducing the GST. The state Labor government is the beneficiary of the GST, as a result of which Victoria has been awash with money, which the state Labor government has been wasting hand over fist. It has received a record $6.2 billion in stamp duty and record revenue from the GST. What is the government doing with it? It is throwing it down the drain and slugging people with problem gambling addictions. This bill is the first step in a number of measures — —

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

House divided on motion:

Ayes, 15

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

Noes, 25

Argondizzo, Ms	McQuilten, Mr
Baxter, Mr	Madden, Mr
Bishop, Mr	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Pullen, Mr

Carbines, Ms (*Teller*)
Darveniza, Ms (*Teller*)
Drum, Mr
Eren, Mr
Hall, Mr
Hilton, Mr
Jennings, Mr
Lenders, Mr
Romanes, Ms
Scheffer, Mr
Smith, Mr
Somyurek, Mr
Theophanous, Mr
Thomson, Ms
Viney, Mr

Motion negatived.

HUMAN SERVICES (COMPLEX NEEDS) (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The multiple and complex needs initiative became fully operational two years ago, in August 2004.

Its focus is a small but significant group of individuals with multiple program support requirements. Typically, these individuals have combinations of mental health issues, substance abuse issues, intellectual impairment or acquired brain injury. They are high users of accident and emergency departments and many have involvement with the criminal justice system. Individuals with multiple and complex needs are frequently isolated from their family and communities. These individuals present significant risks to themselves and/or others and their needs challenge the service system.

In essence, the initiative provides multidisciplinary assessment and holistic care planning to ensure better engagement and service coordination to support the individual. It focuses on improving stability in four key areas of accommodation, health and well being, social connectedness and safety.

The multiple and complex needs service response comprises four structural components:

(a) a regional gateway — providing a single point of access in each region;

(b) a multiple and complex needs panel — to determine eligibility for a service response and to determine and review care plans;

(c) a multidisciplinary assessment and care planning service; and

(d) an intensive case management service — to provide case management and care plan coordination when this function cannot be identified in the broader system.

The Human Services (Complex Needs) Act 2003 underpins the initiative and establishes the panel and multidisciplinary assessment service.

The act also establishes eligibility criteria to target access to the initiative to only those with exceptional needs. In addition, it allows service providers to disclose information about a person in their best interests. The circumstances under which this information exchange can occur are limited to the determination of eligibility, the completion of a multidisciplinary assessment and the determination and review of care plans.

It is important to remember that participation in a multiple and complex needs service response is voluntary. The act requires that the individual be advised that, at any point in the process, they may refuse to participate. While initial profiling suggested that many of those in the target population would be resistant to engagement, it is a mark of the initiative's impact that none of those referred to date have refused to participate in a service response.

While the initiative has been informed by extensive research, it was determined that the inclusion of a sunset provision in the act would ensure that the model undergo rigorous evaluation to assess its effectiveness and provide clear direction for future service responses.

External evaluators were engaged at the establishment of the initiative to undertake an action-based evaluation of its impact.

While the evaluation's final findings and recommendations will not be known until mid-2007, early evaluation reports and initiative data provide a number of positive indicators of the initiative's influence.

These include:

appropriate targeting to those with exceptional needs. Recent data analysis indicates that in two years of operation the initiative has received approximately 300 consultations. In excess of 80 per cent of these appear to meet the eligibility criteria. To date, only 39 of these matters have gone on to be referred to the panel;

improved cross-program coordination is contributing to a relatively high proportion of matters being resolved at the regional gateway level — that is, without having to be referred through to the multiple and complex needs panel;

for individuals with care plans developed through the initiative, there are some early indicators of:

improved stabilisation in accommodation arrangements;

a decrease in accident and emergency department admissions;

better identification of health care requirements;

improved coordination and goodwill between service providers.

In light of these positive indicators, the bill does not make substantial amendments to the act. Rather, it introduces

refinements that relate only to the act's time frame and the membership of the multiple and complex needs panel.

The major elements of the bill are:

Constitution of the Multiple and Complex Needs Panel

In approximately two years since the panel's establishment, demand has steadily increased. To date, the panel has:

considered 39 referrals;

determined 16 care plans; and

conducted 26 reviews of care plans.

Each of these matters requires, at minimum, a half-day panel session for consideration. Since the beginning of the year, the panel has increased the frequency of its schedule from fortnightly to weekly sessions to meet the demand for eligibility determinations, care plan determinations and care plan reviews.

The panel currently consists of seven members — a chairperson and alternative chair appointed by the Governor in Council, and five members appointed by the minister.

Experience has shown that the current pool of five members has not provided enough scheduling flexibility to allow the matching of panel member expertise to specific cases or to cover member absences.

To improve scheduling flexibility, the bill amends section 6(1) of the act to increase the overall membership of the multiple and complex needs panel from 7 to 14 members. The bill also amends section 6(1)(b) of the act to require that 12 persons be appointed by the minister.

This increase in membership will not affect the quorum for panel meetings, which will remain at 4, comprising the chairperson and 3 other members (1 of whom is the Secretary of the Department of Human Services or his or her nominee).

Extension of the sunset provision by two years

The act's three-year sunset provision is due to take effect in May 2007.

While I have outlined some indicators of the initiative's early influence, we will not have sufficient experience of the model, prior to the act's sunset, to make informed decisions about its future directions.

As the initiative involves major change management and a different way of doing business across programs, sectors and departments, significant change will take time. At the individual client level, the sustainability of change for the multiple and complex needs population will also take time to achieve.

The bill amends section 33 of the act to extend its expiry date from the third to the fifth anniversary of the establishment of the panel. As a result, the sunset provision will come into effect in mid-2009.

This will enable the Department of Human Services to establish a more robust evidence base upon which to assess the effectiveness of the initiative — both in terms of service system coordination and, most importantly, lifestyle outcomes for some of the most vulnerable individuals in the state.

In implementing the multiple and complex needs initiative, Victoria has led the way in improving service responses to a very high-needs and high-risk group. I am pleased to say that other states are now looking to the Victorian model in the development of their own service responses.

I believe our continued support of this important initiative is extremely worthwhile.

I commend the bill to the house.

Debate adjourned for Hon. ANDREA COOTE (Monash) on motion of Hon. E. G. Stoney.

Debate adjourned until later this day.

PUBLIC SECTOR ACTS (FURTHER WORKPLACE PROTECTION AND OTHER MATTERS) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

In 2004 the government demonstrated its commitment to reinvigorating the Victorian public sector and ensuring high standards of governance in Victorian public entities with the passage of the Public Administration Act 2004.

This bill further refines and improves the operation of that act, and importantly, seeks to redress some of the flaws of the commonwealth's WorkChoices legislation as it might apply to the Victorian public sector.

The bill:

makes amendments to the definition of 'public entity' in the Public Administration Act 2004;

applies the Freedom of Information Act 1982 to the State Services Authority, retrospectively to its creation;

applies part 7A of the Financial Management Act 1994 to the State Services Authority;

makes changes to the right of return in relation to Victorian public servants;

creates a new Victorian unfair dismissal jurisdiction for the public sector standards commissioner in relation to Victorian public sector employees including parliamentary officers;

makes changes to the Public Sector Employment (Award Entitlements) Act 2006 to further protect Victorian public sector employee terms and conditions; and

makes a number of other consequential amendments, specifically to confirm the State Services Authority's powers in certain circumstances.

I now wish to identify some key areas of the bill.

Definition of 'public entity'

The bill modifies the definition of 'public entity' in the Public Administration Act 2004 to put beyond doubt its coverage to entities which are created by an order where the minister or Governor has the power to determine the rules governing the appointments to the entity's board. The governance structures of these bodies are already under the control of the minister or Governor as, generally speaking, such orders can be varied at any time. Consequently, this type of entity should be covered by the Public Administration Act 2004.

Right of return

The Public Administration Act 2004 currently contains a right for executive staff in the Victorian public service to return to non-executive positions in the Victorian public service in certain circumstances. This right is designed to aid the retention of highly skilled people within the service.

To improve the operation of the right, the bill now provides that a person exercising their right of return may choose to waive that right by written agreement. This provides greater flexibility to the scheme. However, a person will not be able to claim both their right of return, and a termination payment in lieu of notice in their executive contract.

The State Services Authority

The bill makes the State Services Authority subject to the Freedom of Information Act 1982 in the same way as if it were a department. This provision is retrospective to the date of its establishment. This ensures that a significant accountability mechanism is applied to the body, as it does for other Victorian statutory entities.

The bill also makes the State Services Authority subject to part 7A of the Financial Management Act 1994 as if it were a department, most particularly the Victorian Government Purchasing Board procurement policies. This again is another accountability mechanism which is appropriate for such a body. This provision does not, however, affect any contracts already entered into by the authority.

The bill also makes a series of consequential amendments to ensure that the State Services Authority continues to be able to clearly carry out its functions under the Public Administration Act 2004 in relation to a number of specified public entities.

A new unfair dismissal jurisdiction for the public sector

The bill importantly creates a new unfair dismissal jurisdiction, providing the Victorian public sector standards commissioner with the power to deal with unfair dismissal applications from Victorian public sector employees by way of conciliation and, if necessary, arbitration.

These provisions are intended to redress one of the most unfair aspects of the commonwealth's WorkChoices legislation — that is, the removal of the unfair dismissal rights of employees employed in workplaces with 100 employees or fewer. The Victorian government believes that all public sector employees should have a right of redress if they have been unfairly dismissed, regardless of the size of their employer. The new jurisdiction is consistent with, and complements, the public sector principles enshrined in section 8 of the Public Administration Act 2004.

The bill ensures that Victorian public sector employees employed by a public sector body with 100 employees or fewer continue to have rights and remedies in relation to unfair dismissal. The bill mirrors the rights, exclusions, remedies and limits on compensation of the federal unfair dismissal jurisdiction as provided in the Workplace Relations Act 1996. It is anticipated that the public sector standards commissioner will rely on established precedent in decisions of the Australian Industrial Relations Commission and courts made under the federal jurisdiction.

The jurisdiction will only apply to Victorian public sector employees who are excluded from the Australian Industrial Relations Commission jurisdiction because of the 100-employee limit.

This jurisdiction is also replicated for officers employed under the Parliamentary Administration Act 2005, and the new provisions in the Public Administration Act 2004 relating to unfair dismissal are also inserted in the Parliamentary Administration Act 2005.

Public sector agreements

Consistent with these changes, the bill also inserts new objectives into the Public Administration Act 2004, the Parliamentary Administration Act 2005 and the Public Sector Employment (Award Entitlements) Act 2006 which refer to relevant international conventions. The government believes that these changes, especially the new unfair dismissal jurisdiction, can be seen as aiding compliance with those conventions. These new objectives further demonstrate the government's ongoing commitment to an industrial relations system which is fair.

As part of these changes the government also wishes to further protect more broadly the award entitlements and terms and conditions of employees within the Victorian public sector. To this end, the bill also amends the Public Sector Employment (Award Entitlements) Act 2006 so that Victorian public sector employers do not have the legal capacity to offer, nor to accept an offer of, any statutory industrial agreement which differs materially from an employee's collective agreement, relevant award or preserved award. The government believes that collective agreements provide the best way for employers and employees to reach mutually beneficial outcomes in their workplaces.

This legislation will ensure that the government, as an employer, will not be able to discriminate against its employees by offering statutory industrial agreements on terms materially different from their collective agreement or award. This means, for example, that it will not be possible to induce public sector employees to sign Australian workplace agreements by offering terms more favourable than the relevant collective agreement, or to undercut wages and conditions using Australian workplace agreements.

As a consequence of these changes, it is also necessary to modify Victoria's referral of industrial relations power to the commonwealth.

Provisions amending the Audit Act 1994

The bill also includes two provisions amending the Audit Act 1994. These amendments are of a technical nature and ensure that the act is brought up to date by ensuring that the Auditor-General uses the new auditing standards issued by the Auditing and Assurance Standards Board.

Amendment to the Ombudsman Act 1973

The bill also makes an amendment to the Ombudsman Act 1973. The amendment will allow the Ombudsman to delegate his powers and functions under other acts such as the Freedom of Information Act 1982 or the Whistleblowers Protection Act 2001 when it is necessary to do so, for example, when the Ombudsman is on leave.

Amendments to the Commonwealth Games (Arrangements) Act 2001

The amendments to this act will transfer all the rights and liabilities of the Melbourne 2006 Commonwealth Games Corporation to the state. These assets and liabilities comprise such things as warranties and indemnities relating to the supply of goods, and services and rights under insurance policies.

The Commonwealth Games (Arrangements) Act 2001 contains no provision for the transfer of assets and liabilities, as it was not possible to determine the appropriate body to transfer the rights and liabilities to until after the games had been concluded and the relevant stakeholders had been consulted.

Currently the Melbourne 2006 Commonwealth Games Corporation will cease to exist on 31 December 2006. As the finalisation of the activities of the corporation is likely to occur earlier than expected, the amendment to the act will also enable the corporation to be dissolved at an earlier date by order of the Governor in Council. The earlier date may be set after consultation with the Commonwealth Games Federation and the Australian Commonwealth Games Association.

I commend the bill to the house.

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

Debate adjourned until later this day.

SENTENCING (SUSPENDED SENTENCES) BILL

Second reading

Debate resumed from 3 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Sentencing (Suspended Sentences) Bill I start by outlining the Liberal Party position. We very strongly support the concept that suspended sentences for serious offences is untenable and should not be allowed to continue. This is what I think all members thought this bill was intended to do — that is, rule out suspended sentences for serious offences; as such, we found ourselves supporting the bill.

However, when we got to the detail of the bill we realised there is a loophole in that it does not actually rule out suspended sentences for such serious offences but still allows the court in so-called exceptional circumstances to bring down a suspended sentence against a serious offender. Serious offences are offences such as murder, manslaughter, rape and armed robbery.

Our position therefore is that in the committee stage we will be moving an amendment to make it quite clear that the bill removes the ability to apply a suspended sentence. We would hope, and I am sure the community at large would hope, that the government will accept that amendment. If it does not, we will support the bill because at least it goes some way towards achieving what the community desires — that is, no suspended sentences for these serious offences.

In essence the bill introduces factors which the court needs to consider when it is imposing a suspended sentence. It creates a presumption against a wholly suspended sentence for serious offences, and amends the procedures for breach of suspended sentences, noting, as I did before, that serious offences include murder, manslaughter, rape and armed robbery. Although the bill creates that presumption against wholly suspended sentences, it does not outlaw wholly suspended sentences. That is something I think the community at large has been clamouring for.

The bill makes a series of other changes to make clearer the conditions of suspended sentences, how they can be imposed, how they are to be managed, and the issues the court is required to consider when giving suspended sentences. The bill requires the court to consider whether suspended sentences adequately punish an offender for his conduct. The court also needs to

consider whether giving a suspended sentence is adequate in deterring others from committing similar offences, whether a suspended sentence reflects the gravity of the offence, whether it takes into account previous suspended sentences for like offences, and whether the offence was committed while the offender was serving a suspended sentence.

The whole issue of suspended sentences is at times hard for the average citizen to grasp. Someone commits an offence, is taken to court, is found guilty and is given a sentence of, say, three years in jail for committing that crime but then the court suspends that sentence and the person does not have to go to jail. It makes a mockery of the whole thing. Somebody can be convicted of a crime and sentenced to a term of incarceration but then not have to be incarcerated. Quite rightly the public simply does not understand this.

Further, as I understand it, it creates very significant problems when there is an appeal against a sentence. It is not unusual for there to be an appeal against the gravity of a sentence — somebody might have been given a sentence of two years in jail for a particular offence and that sentence is suspended so they get a two-year suspended sentence. If that sentence is appealed to a higher court on the basis that the gravity of the crime warranted a greater sentence, as I understand it, the court cannot consider the question of the sentence being suspended, all it can consider is the length of the sentence. In other words, the court cannot say the offender needs to spend those two years in jail rather than have them as a suspended sentence. The court can only look at the sentence: a person is sentenced to two years jail and that is it; whether they actually go to jail is not something a court of appeal can rule on. That makes a further mockery of the issue of suspended sentences.

I think the issues are sufficiently clear to most members in the house and most people in the community. It serves little purpose for me or others to labour the issue in this place, except to say that there is an expectation in the community that when people are sentenced, they will serve their sentence. Even the government has agreed to the principle of that. The government asked the Sentencing Advisory Council to look at this issue. The council reported and in essence took the view, as its chair, Professor Arie Freiberg, said in a media release dated 24 May:

> We remain of the view that suspended sentences are flawed and the way in which they have been used has undermined community confidence in sentencing …

That is a very significant statement by the chairman of the Sentencing Advisory Council. However, I think it simply reflects the view of the community, which thinks this is a bit of a joke and the government should do something about it.

As a consequence of all this, in May the Attorney-General in another place said the Bracks government would be acting to restrict the use of suspended sentences for serious crimes. There was clear anticipation that suspended sentences for serious crimes would be outlawed. Many months later and after many more suspended sentences have been imposed by the courts for serious offences we have this bill which contains a loophole, as it were, that means the court is still able to grant suspended sentences for serious offences in exceptional circumstances. The point needs to be made that that is theoretically what the court has always done. It has always granted a suspended sentence to an offender if the circumstances meant that was appropriate. What is this bill doing? It really does very little to stop the courts giving suspended sentences for serious offences. It may tidy things up a little bit by saying it is to happen only in exceptional circumstances and by putting a few markers around what exceptional circumstances may be but the court will still decide this. The court will still decide the sentence, as it always has.

In essence this bill allows the court, if it thinks fit, to grant suspended sentences to murderers, manslaughterers, rapists and armed robbers. Frankly this is not acceptable. The community does not find this acceptable. The government's own Sentencing Advisory Council finds this is not acceptable. I believe that when I come to move my amendment in the committee stage the house should agree to that amendment and make it quite clear that there are no circumstances under which an offender can receive a suspended sentence for these serious offences.

Otherwise this is simply very little change from what we have now. A court can still give those suspended sentences and that makes a mockery of the community's expectation. It makes a mockery of what the Sentencing Advisory Council has recommended. It is also tricking the community, because the government will go out and say it has acted to stop suspended sentences when in fact it has not. I urge honourable members to seriously consider these issues and to support my amendment in the committee stage.

Hon. P. R. HALL (Gippsland) — I am pleased to present to the house the views of The Nationals on the Sentencing (Suspended Sentences) Bill. The Honourable Chris Strong is right when he says there is community concern about the issue of suspended sentences. I think the government has recognised that in introducing this bill and in requiring a review by the

Sentencing Advisory Council of the issue of suspended sentences. I believe there is a place for suspended sentences in our justice system. It is a useful tool to apply to those who have perhaps committed crimes of a minor nature and perhaps first-time offenders. The concept of the suspended sentence is a useful tool, but certainly The Nationals do not believe suspended sentences should apply to serious crimes. That is why we are prepared to support the amendments that have been foreshadowed by the Liberal Party. But in the case of those amendments being rejected by the government, we acknowledge that this bill is a step in the right direction, and we will ultimately support it when it is voted on later today.

The issue of suspended sentences, as we were advised by the minister in his second-reading speech, was the subject of an inquiry in 2004 by the Sentencing Advisory Council. It was requested to undertake a review of the use of suspended sentences. It has come up with recommendations, some of which have been implemented in this bill, but more importantly we are told that the Sentencing Advisory Council has recommended that wholly suspended sentences be phased out by December 2009. We would support the intent, despite the fact that I think for minor and first-time offences a suspended sentence is a useful tool available to the courts. This bill goes some of the way, as the Honourable Chris Strong has said.

First of all I will just mention three of the main components of the bill. Clause 4(1) details further factors to which the court must have regard when considering when it is desirable to impose a suspended sentence. Those factors include a whole range of things and I will precis some of them. The bill provides that the court needs to take into account the circumstances before imposing a sentence of imprisonment. The court must have regard to the impact on the victim, whether a suspended sentence is going to be an adequate deterrent or not to somebody recommitting such an offence, whether any previous suspended sentence of imprisonment was imposed and the degree of risk of the offender committing another offence punishable by imprisonment during the operational period of the sentence if it were to be suspended. I would have thought those sorts of provisions were commonsense. I would have thought the court already would have taken those matters into consideration. However, if it clarifies the facts by putting them into legislation then so be it. We are prepared to support that.

The issue of main concern is contained in clause 4(2). In some instances it is possible for the court to issue a suspended sentence for crimes of a serious nature under special circumstances. As I said in my opening, we believe this is a step in the right direction, but it does not go far enough. That is why we are prepared to support those amendments that have been foreshadowed by the Liberal Party. Those serious offences are detailed in the Sentencing Act 1991; and serious offences include murder, manslaughter, defensive homicide, causing serious injury intentionally, threats to kill, rape, assault with intent to rape, abduction or detention and a whole range of sexually related crimes as well.

I would have thought the community perception would be that people who commit crimes of that nature deserve to do the time, and consequently people are offended by the fact that it is possible that they may have a wholly or partially suspended sentence. Although clause 4(2) in the amending bill strengthens that provision and therefore suggests that suspended sentences will be given only in exceptional circumstances, we believe it needs to be strengthened even further. To clarify that, we do not believe it is appropriate that suspended sentences apply to those serious crimes as identified in the provision I have just referred to from the Sentencing Act.

Clause 6 of the bill accommodates anomalies in the application of suspended sentences to young offenders aged between 18 and 20 years and specifically those who breach a suspended sentence. As I understand it now, if a person between 18 and 20 years who would normally have served a prison sentence in a juvenile detention centre is given a suspended sentence and breaches it, then the judiciary has no option but to send them to jail — to an adult prison not back to a juvenile detention centre. That seems to us to be inappropriate, and the government has recognised that inappropriateness by the amendment contained in clause 6. We believe that is an appropriate provision too, so we are prepared to support that.

In general terms this piece of legislation heads in the right direction. It reflects to some extent community perceptions. The bill could be strengthened further and that is why we are prepared to support the proposed amendments. I honestly believe suspended sentences have a role but not when serious crime is involved. In that regard we will support the bill as well as the amendments to be moved in committee.

Ms MIKAKOS (Jika Jika) — I am pleased to rise and make a contribution in support of the Sentencing (Suspended Sentences) Bill. The bill was developed after a review of suspended sentences was conducted by the Sentencing Advisory Council. This is the first substantial review conducted by the council since it was established by the Bracks government. In 2004 the

Attorney-General asked the council to look at how suspended sentences were used. In late May 2006 the Sentencing Advisory Council handed down part 1 of its final report on suspended sentences. I understand part 2 of the final report is due at a later date. The report recommended the immediate restriction of the ability to use suspended sentences for serious violence and sexual offences, and that will be done by virtue of this bill. It is important to note that this is the first step in the process, because the council has also recommended that suspended sentences be completely phased out.

The government is committed to considering the recommendations of the council to abolish suspended sentences and replace them with a new range of sentencing orders entirely by 2009. This is a complex change that has many implications for our criminal justice system, the corrections system and the state budget. New sentencing orders need to be developed, and that is why this change needs to happen in a staged and considered way. As we are all aware, the Sentencing Advisory Council is there to ensure not only that the government is kept abreast of legal and statistical trends in sentencing but that the interests of the broader community are considered.

I want to take this opportunity to commend Professor Arie Freiberg and the Sentencing Advisory Council for their important work to date. As members of Parliament, I am sure we all regularly receive through our electorate offices copies of the sentencing snapshots publications, which provide important information about sentencing outcomes and trends. I am sure they are of enormous value to us as legislators. The council has also looked at issues such as community attitudes to sentencing.

I also want to commend to members of Parliament a research paper that was published in July of this year by the Sentencing Advisory Council entitled *Myths and Misconceptions — Public Opinion versus Public Judgment about Sentencing*. I think it is a useful publication because it frames this debate and other debates about sentencing in a broader context of the information the public receives about sentencing and the attitudes that result from that. It is important to see this issue in context. There are thousands — I think it is about 80 000 — judgments handed down by Victorian courts in any one year, yet only a handful of cases, perhaps a dozen, seem to attract media headlines. It is those cases that perhaps unduly colour the public's perceptions of sentencing.

Sentencing is a complex and time-consuming task. In Victoria we are well served by a professional and dedicated force of magistrates and judges who must make complex legal decisions each day that impact on people's futures. I do not envy their task. They are decisions and matters that cannot be taken lightly. Often the reasons given for particular sentences are complex and difficult to transcribe into easily digestible media headlines. The Bracks government recognises this and is committed to the principle of judicial discretion. This is a principle that is upheld in the provisions of this bill. But we believe the community is entitled to have its voice heard on the issues that concern it, including sentencing issues. This is where the Sentencing Advisory Council comes into its own.

On the council are representatives from the community, the judiciary, the legal profession, the police and victim support groups. They come together to review sentencing in Victoria and provide the government with useful advice. It became apparent that there was significant community disquiet about the use of suspended sentences, particularly when they were applied in the past to offenders who were responsible for violent and serious crimes. The council recognised that suspended sentences are not seen by many in the community for what they are — they are a punitive sentencing option and a last resort before prison. Instead the community has viewed suspended sentences as a slap on the wrist, not the second most serious penalty available to the courts. The original purpose of suspended sentences was to provide a more serious punishment than a fine for first offenders who were not considered a risk to the community. In the present system a court can suspend a prison sentence if it is between two to three years in length with a corresponding operational period of suspension. The courts are able to impose a wholly suspended or partially suspended sentence. Offenders who have their terms of imprisonment suspended have a conviction recorded against their names and face having the suspended prison term reinstated if they commit another offence.

The Sentencing Advisory Council found that because of community disquiet, suspended sentences are no longer serving their intended purpose as a sentencing option. However, it is important to emphasise that any changes to sentencing must be made carefully and cautiously. Minor changes to sentencing can have significant effects on the resources of and facilities in the corrections sector and on the community.

It was interesting to listen to the Honourable Chris Strong and observe the Liberal Party position on suspended sentences. The fact is that over time the shadow Attorney-General has flip-flopped on the issue of suspended sentences. He said in a press release on 16 May 2005:

> … suspended sentences should be retained as a sentencing option …

He now says that we should immediately act to abolish suspended sentences in all cases, which is against the recommendations of the Sentencing Advisory Council. These issues should not be treated in this way. Positions should not change from day to day depending on whether the shadow Attorney-General wants to grab a headline.

The Liberal Party's position now is to immediately abolish suspended sentences, making no allowance for the potential ramifications. I can think of no more fitting saying than 'act in haste, repent at leisure'. I am extremely concerned that the Liberal Party is advocating a position without having given any thought to the budgetary and other ramifications in our correctional and justice system that would result from it. We know that the opposition is only interested in headlines and obtaining publicity in the lead-up to the election. They are not interested in governing, and they are not interested in the justice system.

By contrast, the Bracks government has acted quickly to address the Sentencing Advisory Council's report. Within three months of the report being handed down, the government has consulted with stakeholders, including the Director of Public Prosecutions and the court system, to develop a bill that is very well thought out. This bill seeks to guide the exercise of the court's discretion to suspend a term of imprisonment by requiring a court to first consider whether suspending the whole or a part of the sentence would fail to adequately denounce the offender's conduct, or deter the offenders or others from committing similar offences.

It requires the court to consider whether the offender has previously received a suspended sentence and, if so, whether the offender has breached that sentence; whether the offence was committed whilst the offender was subject to a suspended sentence; and the risk of the offender committing another offence, punishable by imprisonment, whilst the offender is subject to this suspended sentence. This guidance will apply to all decisions to suspend all or part of a sentence of imprisonment.

In addition, the bill will create a presumption against wholly suspending a period of imprisonment for a serious offence. A 'serious' offence is defined in the Sentencing Act 1991 to include murder, manslaughter, rape, sexual penetration of a child under 16, incest, causing serious injury intentionally, threats to kill and armed robbery. A sentence for a serious offence may still be suspended but only if the court finds that this is appropriate because of the existence of exceptional circumstances and that it is in the interest of justice. If a judge does wholly suspend a sentence of imprisonment, he or she must give written reasons explaining this.

I note that in his contribution the Honourable Chris Strong suggested that we had not abided by the recommendations of the Sentencing Advisory Council. I want to assure him that we have, and that he has in fact got it wrong. We are clearly implementing the recommendations of the Sentencing Advisory Council. Whilst I have not as yet seen the amendments that the Honourable Chris Strong foreshadowed in his contribution, I understand from his contribution that they are identical to those introduced in the other place and, on that basis, the government will be opposing those amendments.

I will come to that in a moment, but I want to draw the opposition's attention to page 67 of the Sentencing Advisory Council's report, in particular paragraph 4.51, which states:

> Rather than removing the power to suspend altogether for serious offences, an alternative option would be to allow the court to retain some discretion to suspend in some cases — for example, where exceptional circumstances can be shown. This would allow courts to make a suspended sentence order in cases where ordering the offender to serve the prison sentence might result in some injustice, but would actively discourage courts from doing so in other cases.

What the Sentencing Advisory Council was saying in its report was that there should be some discretion retained by the courts, but that the courts should only be allowed to exercise it in exceptional circumstances and in the interests of justice, which is attested to in the bill, and that they also be required to give reasons. To do so of course means that the community is provided with an opportunity to understand the reason for the decision.

By contrast, the opposition is seeking to put a blanket ban on suspended sentences and to do so immediately without any regard for the circumstances of a particular case. That is consistent with their very simplistic, one-size-fits-all approach to sentencing and with their advocating of mandatory sentencing, which the government opposes.

The Attorney-General, when summing up the debate in the other place, gave the very useful example of an assisted voluntary euthanasia case where one spouse assists another in the very difficult family circumstances of an elderly person being terminally ill. He gave that as an example to suggest that there may well be circumstances even in a manslaughter case where a court should be able to retain the discretion to

impose a suspended sentence where there is an elderly, frail member of the community who is seeking to help another family member. For those reasons, we will be opposing the opposition's proposed amendments.

By way of conclusion, this bill is an example of the Bracks government's commitment to judicial discretion and ensuring a voice for the community in regards to sentencing. We have put in place a very balanced approach that seeks to achieve a balance between the views of the community and having a justice system that is just and fair in the circumstances. I commend the bill to the house.

Sitting suspended 12.57 p.m. until 2.03 p.m.

Business interrupted pursuant to sessional orders.

DISTINGUISHED VISITORS

The PRESIDENT — Order! Before I call the first question I wish to acknowledge visitors from the United States of America. A delegation from the American Council of Young Political Leaders is currently visiting Australia and Victoria. We welcome them to the Victorian Parliament.

QUESTIONS WITHOUT NOTICE

Melbourne Convention Centre: cost

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Major Projects. I refer to the 2005–06 financial report from which is revealed the true cost of the Melbourne Convention Centre public-private partnership (PPP) at not the $370 million purported by the government but an estimated $1685.6 million. I therefore ask: precisely what services are the Victorian taxpayers getting for the $67 million a year for the next 25 years that the minister has committed them to pay into this major project PPP?

Mr LENDERS (Minister for Major Projects) — I thank the Leader of the Opposition for his question and his interest in the convention centre. Sadly, the interests of the opposition are those of naysayers, who talk down the state of Victoria, and it is interesting, President, that none of them is wearing the Victoria badge that their former Premier used to wear with pride. It is good to see that Mr Forwood, in his second last day in Parliament, is now handing out some badges so that those opposite can take some pride in this great state of Victoria.

The convention centre is a state-of-the-art feature that will bring tourism in abundance to the state of Victoria. The 5000-seat convention centre will bring jobs, jobs and more jobs to this state. When the convention centre opens in January 2009 we will have tens of thousands of delegates coming into Victoria, predominantly from the Northern Hemisphere during the northern winter, coming down to Melbourne for conventions. Those delegates will generally bring a partner with them, they will generally stay for several days beyond the convention, and probably half of them will come back to regional Victoria, because the Bracks government governs for the whole state and not just the centre of the city like its predecessor did. They will bring jobs with them, and we know that their partners will come back with them and go to places like Sovereign Hill in Ballarat, Phillip Island, the Grampians, the Great Ocean Road, the north-east and to every great part of this state.

To get to the Leader of the Opposition's question on the cost of the convention centre, it is being funded through a public-private partnership, and the Department of Infrastructure's annual report and the Department of Innovation, Industry and Regional Development's report clearly show the cost of this venture. Unlike our predecessors, all of these annual reports have been tabled in the last week of Parliament because this government is open, transparent and accountable. We are letting the opposition and the Victorian community scrutinise our accounts without fear or favour. These annual reports were not due to be tabled before the dissolution of this Parliament, but the Premier directed all departments to present their reports so they could come under scrutiny. We welcome the scrutiny.

Mr Davis talks about a figure of, I think he said, $1.685 billion. The entire concept of public-private partnerships is that you bring forward into the venture not just the capital costs but the running costs of a project. For 25 years you bring it up front. Yes, the state of Victoria has committed in excess of $340 million towards the capital cost of the construction of the convention centre. Yes, the City of Melbourne has augmented that with approximately $43 million of its funds towards some of the urban landscape, the bridge and other things. Yes, the consortia that runs it — the Plenary Group consortia — is bringing in probably in the order of $600 million more to the capital cost of setting up the convention centre. The convention centre will seat 5000 people and will include a Hilton hotel and retail shops. It will fill the picture of the south bank of the Yarra so it will go from Docklands all the way up to Southbank.

Some of the operating costs brought forward 25 years are obviously being recorded here, which an open,

transparent and accountable government would require. It is a great project. I wish the opposition would stand up for it as it will bring jobs to Victoria — and jobs, jobs and more jobs are what we need to make Victoria a better place to live, work and raise a family.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I will let the cynical comments by the Leader of the Government about disclosure with regard to annual reports pass. But in respect to his expansive answer about PPPs, based on his comments and on what I regard as a fraud, will he tell the house what is the true cost of the move of the wholesale fruit and vegetable market to Epping, as it certainly will not be the $300 million which the government claims.

The PRESIDENT — Order! I have some difficulty with the supplementary question, because, as I understood it, it had to do with a centre which was being built and which would have 5000 seats in it, but now we are talking about a fruit and vegetable market. I ask the Leader of the Opposition to clarify the connection between the supplementary question and the first question.

Hon. PHILIP DAVIS — I did ask a question about a major PPP, and in the minister's response he gave an expansive answer with regard to the general principles about PPPs, and so my supplementary question is in accord with his response, which is dealing with the fact of the value for the Victorian taxpayer in connection with PPPs. If the minister does not want to answer the question about the impact — —

Honourable members interjecting.

The PRESIDENT — Order! I have given rulings previously about supplementary questions. A supplementary question should only be asked to elucidate or clarify the answer given to the original question. It should relate to that answer, and should only be asked if the member asking the question feels it is necessary to seek further information on the matter or to ask the minister to further explain the answer. Mr Philip Davis talked about public-private partnerships and about the convention centre and then referred to a fruit and vegetable market, which did not quite connect. I have some difficulties with that.

Hon. PHILIP DAVIS — It is all about value for money, and this government is not giving us value for money. That is all there is to it. Will the minister answer the question?

The PRESIDENT — Order! I do not believe the supplementary question relates to the original question. I rule it out of order.

Sport and recreation: participation rate

Hon. KAYE DARVENIZA (Melbourne West) — My question is for the Minister for Sport and Recreation, the Honourable Justin Madden. Can the minister outline to the house how the Bracks government has contributed to the fantastic increase in sport and recreation participation since the government came to office?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the member's question because I know she has a great passion for and a great commitment to sport and recreation in this state. We know that sport and recreation contribute not only to individual wellbeing but also to community pride. Participation rates in the state of Victoria are now in the order of 84 per cent. That is not how we found them when we came to government. When we came to government they were at 75 per cent and on the decline. Now they are close to 85 per cent and rising. That is the difference, and I will tell you why there is a difference: it is because we have invested strongly in sport and recreation in Victoria.

It is also worth appreciating the economic impact of sport and recreation in this state. The economic impact was in the order of $4.3 billion in 2004–05, when it was last surveyed. As well as that, the sector employs in the order of 88 000 people, so we should not underestimate the value of sport and recreation in this state. As well as that, in our time in government Victoria's sporting and major events reputation has been cemented through the delivery of the Commonwealth Games. Victoria, and in particular Melbourne, is the sports capital of Australia. It is now undisputed. There is no doubt about it. We have done that by delivering world-class infrastructure for the Commonwealth Games, including the redevelopment of the Melbourne Cricket Ground, which I remind the chamber was delivered by a Labor government. As well as that there have been the Melbourne Sports and Aquatic Centre; the State Mountain Bike Course at Lysterfield Park; the State Lawn Bowls Centre — Mr Atkinson!; the State Netball and Hockey Centre — Mr Forwood!; the William Barak Bridge; and the Commonwealth Games Village.

As well as those, yesterday I announced that $3 million would be spent on 96 projects through the country football and netball program. This is in stark contrast to the frightful neglect during the seven sad years of the

Kennett government. Can I just reinforce that there is more, and we have done more — —

Hon. Philip Davis interjected.

Hon. J. M. MADDEN — We have done a hell of a lot more, Mr Davis! We have invested in the order of $120 million in 1500 community facility projects. Liberal opposition members ask where the money has gone. I will tell them where it has gone. It has gone into 102 swimming pools; into 106 major facility developments; into 986 minor facilities, including sports services, BMX tracks, change room facilities and the like; and 280 planning projects to deliver quality outcomes for communities. But there is more to come! Some $14 million will go to state sporting associations to develop and enhance the state sporting associations that make such a significant contribution to sport in this state.

As well as that, we have distributed over 260 lots of sporting equipment to every local government area as a legacy of the Commonwealth Games. There is more — I could go on for hours — but let me just point out that one of the great investments has been in women's sport, an area in which we have seen participation rates rise. We have invested more than $12 million in women's sport. That is in stark contrast to the policy announcements of Liberals and the Country Party — sorry, The Nationals — the opposition parties.

Honourable members interjecting.

Hon. J. M. MADDEN — You would think they were. Neither opposition party has mentioned women in its sports policy — not at all. That is in stark contrast — —

Hon. B. N. Atkinson interjected.

Hon. J. M. MADDEN — Mr Atkinson, though, has released 208 articles in *FOODweek* and 179 articles in *Inside Retailing*. None of that — —

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

Banyule: governance

Hon. BILL FORWOOD (Templestowe) — I direct my question without notice to the Minister for Local Government, Ms Broad. On 17 July Peter Rickard, CPA, former auditor of the Bell Street Mall Traders Association, wrote to Doug Owens, the chief executive officer of the City of Banyule, about the use of the member for Ivanhoe's electorate office.

Honourable members interjecting.

Hon. BILL FORWOOD — It is a four-page letter and you can all have a copy. It says in part:

> In over 30 years of being … associated with the not-for-profit sector I have never experienced an organisation invoicing for a 'donation'.

I ask the minister: should a letter such as this, from a respected auditor to a council chief executive officer on a highly public and contentious issue, be made available to elected councillors?

Ms BROAD (Minister for Local Government) — I have no difficulty at all in responding to Mr Forwood's question on this matter. He has raised these matters about Banyule council from time to time in this house. As he well knows, these matters have been the subject of a number of inquiries and responses to him and have also involved the Speaker of the Parliament. I do not intend to add to what I have already placed on the public record about these issues in relation to the inquiries that my department has properly made in response to the matters Mr Forwood has raised previously.

Matters relating to correspondence between the chief executive officer (CEO) and other people are properly matters for the council to deal with. The fact that Mr Forwood continues to raise in state Parliament his demands for ministers for local government and others to intervene in the activities of local councils simply demonstrates to any Victorians who were in any doubt at all about these matters what the true attitude of the Liberal Party still is to local government as an independent tier of government in its own right.

The government has made its attitude clear by recognising local government in the constitution. We regard a whole range of these matters as matters properly to be decided by elected local representatives of municipalities. But of course Mr Forwood thinks that ministers for local government and state governments should direct how local governments should deal with these matters. This is a very clear difference between the Liberal Party and the Labor government and between our policies and the policies which the Liberal Party fails to set out but makes clear every day when its members come into this Parliament and call for action to be taken through the state Parliament and through state ministers rather than taking them up through the electoral processes at local government level and through elected councillors.

CEOs are accountable to elected councils. They are appointed, and they can be removed by elected

councils. This government acted very early in its term of office to amend the Local Government Act to make it clear that CEOs are accountable to elected councillors and not to the Minister for Local Government. If there are councillors or members of the community who have issues with the council or with the CEO, they should take them up with the elected representatives through that council and not through the Parliament or the Minister for Local Government.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — There is no doubt that there is a major difference between the opposition and the government on this issue, because the opposition believes in governance, ministerial responsibility and accountability, particularly in cases of fraud and corruption. The fact that the minister is not prepared to do something speaks volumes to the people of Victoria. My question to the minister is: what is the relationship between elected councillors — any of them in any council — and the CEO when matters of contention are hidden by the CEO from the members who have been elected by their constituents?

Ms BROAD (Minister for Local Government) — If the member had been paying attention, he would have heard me very clearly say that the CEO is answerable to elected councillors. If they do not like the things he is doing, they can remove him.

Mr Forwood is making allegations in this place about fraud and corruption. He well knows that such allegations are matters for the police and not for the Minister for Local Government. If Mr Forwood has any evidence of fraud and corruption, he should take it to the proper authority, which is Victoria Police, as he well knows.

Seniors: community support programs

Mr PULLEN (Higinbotham) — My question is to the Minister for Aged Care, who is the minister responsible for senior Victorians. Could the minister explain to the house what the Bracks government has done to support Victoria's seniors to live independent, healthy and active lives?

Mr GAVIN JENNINGS (Minister for Aged Care) — I am very pleased that Mr Pullen has been very happy to ask me a question both inside the chamber and outside the chamber! Thank you, Mr Pullen, for providing me with the opportunity to reflect on your goodwill and concern about the wellbeing of senior Victorians and to provide the house with an opportunity to reflect on the great capacities and talents that exist within the seniors community of Victoria.

As I looked around recently I saw some young political achievers, and I also saw many senior community achievers — and some of them were pretty brilliant in this chamber today. In fact they are not alone, because on many occasions during the Seniors Festival this week seniors in their hundreds, if not thousands, have been taking part in many events right across Victoria. They were celebrating what is a great Seniors Festival, building on the International Day of Older Persons.

Older members of our community have every right to be fully engaged and supported in active community life, and they are taking up those opportunities in their thousands, whether through concerts or through physical activity such as Tai Chi. I joined a very healthy and well-coordinated group of seniors at Federation Square yesterday morning at sunrise. It was a joy to be in the company of people who are dedicated to staying fit, healthy and focused.

Hon. P. R. Hall interjected.

Mr GAVIN JENNINGS — I could perhaps, but the President might pull me up.

Hon. P. R. Hall interjected.

Mr GAVIN JENNINGS — We will be very fluid in our movement — well balanced! Very few contributions in this chamber are well balanced, Mr Hall, but thank you for trying to provide one.

Members of the community and members of the chamber would be well aware of the commitment by the Bracks government to provide that support and encouragement to seniors regardless of where they live. Members of this chamber will have heard me talk many times about our government's recognition of the need to provide for residential aged care and a variety of home-based and community-based services for our seniors to maintain healthy and independent lives.

If people can visualise a map of the state of Victoria and draw a triangle that goes from Red Cliffs down to Omeo and back to Portland, right across the breadth of Victoria, they would find that within that triangle the Bracks government has invested in 43 redevelopments of residential aged care facilities during its term of office. We have invested $396 million to make sure that people — regardless of where they live, even at the extremities of the state of Victoria — will receive care at a time when they need it. That is an important commitment of our government and one that I am very pleased and proud to be associated with.

I certainly know that the members of the government make sure that I am acutely aware of our obligation to meet the needs of members of our community. Certainly with the growth in the home and community care programs that we have witnessed during the life of our government we have more than matched our funding requirement under the home and community care state-commonwealth agreement. Every year the state of Victoria exceeds its matching requirement to the extent of $50 million to try to drive this program further and support the healthy independent lives of members of our community.

We do not leave any stone unturned. Whether there has been a particular need or whether there are issues in the area of elder abuse, we have risen up as a community to respond to these issues. The Bracks government responded in the last budget with $6 million to implement the integrated community support network to ward off potential incidents of elder abuse and to support those in our community who may be vulnerable.

We make sure that people are actively engaged in healthy activities. The activities that took place during the course of Seniors Festival week included strength training, Tai Chi and a whole range of other programs, such as the falls prevention program. They are not isolated to this one week of the year; they occur each and every day throughout Victoria. Seniors in their thousands are participating to the full extent in community life to keep their hearts, lungs and minds active and engaged in the community of life. Our government is proud to support those seniors.

Obesity: government initiatives

Hon. D. K. DRUM (North Western) — My question without notice is to the Minister for Sport and Recreation. As we now have 48 per cent of all Victorians who are officially either overweight or obese, and, as trends indicate, the problem is going to get worse, why has the government refused to adequately fund the state's nine regional sports assemblies in a manner that would enable them to cut obesity rates?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I know Mr Drum has been speaking to the respective organisations. It is worth appreciating that if Mr Drum actually understood what is taking place in the state in relation to obesity — and been a fair degree of research has taken place — he would know that we have had, as I mentioned before, a significant increase in participation in sport right across the state. That has taken place among all age groups, all levels and all the respective demographics. That is fantastic. But what we are finding in terms of that research is that at the end of the day people are eating more calories than they are offsetting with their exercise.

Hon. B. N. Atkinson interjected.

Hon. J. M. MADDEN — We have had a huge uptake in participation but not enough activity, Mr Atkinson. Whilst we are investing heavily in the Go for Your Life campaign, which is promoting activity, we have spent more money than ever before right across the community, whether it be for seniors or whether it be for other demographics, to make sure that we get people participating.

I advise Mr Drum that at the end of the day we do not feed people by putting food in their mouths. It is about the choices these people make; they make choices in terms of dietary behaviour, which is causing the significant obesity problem right across the community. All you have to do is look at the opposition from time to time in the dining room to get a sense of why the community — —

Hon. Bill Forwood — On a point of order, President, it is not appropriate for the minister to make remarks like that about the behaviour in the dining room of any member from any part of the chamber. I ask you, President, to bring him back to order.

The PRESIDENT — Order! There is no point of order. The minister will resume his answer to the question.

Hon. J. M. MADDEN — I guarantee that Mr Forwood does not have many dining-room meals left in this place.

Getting back to Mr Drum's question, at the end of the day we have funded the respective organisations more than any other state government. Let me just reinforce that. The Kennett government refused to fund country sport in any shape or form in the way that we have funded country sport. Let me reinforce the fact that we filled the breach in terms of funding when the federal government withdrew its funds. We have funded — —

Hon. D. K. Drum interjected.

Hon. J. M. MADDEN — Mr Drum should do the research. We have funded the organisations better than ever before and we have also funded them to fill the breach caused by the federal government's reduction in funding a number of years ago. Hence they are receiving more funding than ever. I reinforce that we

will continue to work with them, and we will continue to invest heavily right across the state. I am very confident that our investment in sport and recreation has increased participation and will continue to do so, but we have also got to focus as a community on the dietary behaviour of people right across the state to make sure that their calorie consumption is offset by activity or that they reduce their calorie consumption. We will do our work. We have done our work and will continue to do it. We will continue to promote it to people right across Victoria, no matter where they live.

Supplementary question

Hon. D. K. DRUM (North Western) — I thank the minister, but it is a bit too convenient for him to lay the whole blame for the obesity problem facing Victoria on calorie intake and not acknowledge that whilst participation rates may be up slightly there is certainly a long way to go in this area. Over the last three years this government has had its revenue increased by over 30 per cent across the board. Why is it then that the payments this government is making to the nine regional sports assemblies have in fact remained stagnant at $60 000 per year and are showing no signs of further increase?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As I said before, we have made strategic investments right across the state, and if Mr Drum were conscious of what was taking place out there, he would know that we have our facilities at peak capacity. If on any weekend you drive around any centre, whether it be a regional centre or a suburban centre, you will find that nearly every facility is chock-a-block. We can continue to increase participation, but where we need to make our investment is in facilities. We have done that and will continue to do that.

I reinforce the point that we have funded in the order of 1500 projects across the state with $120 million worth of funding, and hence we have increased participation. We will continue to do that. We will continue to increase participation, invest in infrastructure and invest in education programs to make sure we offset obesity. But I must reinforce that we have funded them better than any other government, even the federal government.

Mining: Benambra

Mr SCHEFFER (Monash) — My question is for the Minister for Resources. The Department of Primary Industries annual report, which was tabled yesterday, reports on many fine achievements of the Bracks government over the last 12 months. One of those achievements was the clean-up of the Benambra mine site. Can the minister advise the house of details of the Benambra mine clean-up, the cost to taxpayers and whether it is possible to recover costs from the miner responsible?

Hon. T. C. THEOPHANOUS (Minister for Resources) — I thank the member for his question. The Department of Primary Industries is involved in ensuring that the mining industry protects and indeed enhances the environment. In the vast majority of cases it is successful in doing that and does it very well. But in relation to the particular mine that the member has raised with me, the Benambra base metals mine, which was operated between 1992 and 1996 by a company called Denehurst Ltd, the history is that the rehabilitation bond for the mine was set in 1994 under the Kennett government. It was reviewed and set at $375 000.

In July 1996 Denehurst Ltd ceased mining operations, and in 1998 it was placed under administration. The then Department of Natural Resources and Environment called in the bond of $375 000 and commenced planning to try to fix up the almighty environmental mess that was left by this company. I can report to the house that the total cost of rehabilitation of the Benambra mine site is likely to be around $6.9 million — that is, $6.9 million of taxpayers money — as a result of the failure to acquire an adequate rehabilitation bond in the first place, back in — —

Hon. Philip Davis — In 1992 — the Kirner government!

Hon. T. C. THEOPHANOUS — The Leader of the Opposition can make up whatever he wants, but the fact of the matter is that it was 1994 and it was $375 000. But there is more. The Benambra mine is owned by a company called Denehurst, and I must inform the house that a prominent shareholder of that company is none other than the Leader of the Opposition in the other place, Ted Baillieu. I am not suggesting that he was involved in the company's getting a low $375 000 rehabilitation bond back then. I would not suggest that. But what this shows is that there would be massive conflicts of interest should we have the unfortunate situation of Ted Baillieu ever becoming Premier of the state. He would have to be the absentee Premier. Every time he walked into the cabinet he would have to walk back out again, because he would not be able to make any decisions about goldmining, as he has interests in goldmines as well as interests in this Denehurst mine company, which incidentally is still under

administration. We have no hope of getting any money back from this company.

Here is a man who puts himself forward to be the Premier of this state but who owns shares in this company. If he wanted to do the right thing, he would give any profits he acquired from this company towards the rehabilitation of that mine instead of keeping them for himself. He is not fit to govern this state and should be rejected outright.

Mr Smith — On a point of order, President, given the comments from the minister with regard to the interest in the goldmine by the Leader of the Opposition in the other place, Mr Baillieu, and the fact that no-one opposite chose to defend him, is it appropriate that we may have the opportunity to defend him?

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! There is no point of order. That is a frivolous point of order which under sessional order 31 warrants Mr Smith removing himself from the chamber for 30 minutes.

Mr Smith withdrew from chamber.

Questions resumed.

Hon. Philip Davis — On a point of order, President, given that you abridged my opportunity to respond to the point of order, I raise a further point of order and make the point that the member was factually incorrect about his assertion — it was not a goldmine, it was a copper mine. The truth of the matter is that the company has been in administration for a number of years.

Hon. T. C. Theophanous — On the point of order, President — —

The PRESIDENT — Order! The minister will get the opportunity when I sit down. With respect to the point of order raised by the Leader of the Opposition, I rule that there is no point of order.

Hon. Bill Forwood interjected.

The PRESIDENT — Order! If Mr Forwood opens his mouth one more time, he will be out of here.

Hon. T. C. Theophanous — On the point of order, President, the member suggested that I had incorrectly stated that it was a goldmine. I make it clear that the opposition leader has interests in the Benambra mine, which, as the member said, is a copper mine, but he also has interests in a number of goldmines, including — —

The PRESIDENT — Order! The point of order raised by the Leader of the Opposition was with respect to comments made by Mr Smith, not comments made by the minister. He was not questioning the minister; he was questioning Mr Smith, who was out of order. Mr Smith's point of order was frivolous and he was thrown out of the house. We only have to get through this question time and one tomorrow and then members can go and do whatever they want to do, but at the moment they should behave themselves.

WorkCover: surplus

Hon. B. N. ATKINSON (Koonung) — My question without notice is to the Minister for WorkCover and the TAC, Mr Lenders. I note in the annual report of the Victorian WorkCover Authority for the 2006 financial year that the authority's long-term funding ratio is now 119 per cent. I understand the board of the Victorian WorkCover Authority has a benchmark of 109 per cent as a long-term funding ratio. In view of these figures, I ask the minister if he will provide an assurance to the house that the government will not seek a capital return from the Victorian WorkCover Authority, given that it ripped $600 million out of the Transport Accident Commission this year in a capital return?

Mr LENDERS (Minister for WorkCover and the TAC) — I should be careful about what I say. I almost said, 'I wish Mr Atkinson were a minister so that he would learn to read reports', but I might wrongly be taken to mean that I wish him to be minister one day.

Mr Atkinson said he read the Victorian WorkCover Authority report. I have just got the reports that I tabled today for transparency purposes. He is talking of a capital ratio of 119 per cent, and one would hope he is not just another one of these people in Baillieu land where money grows on trees and you promise everything to everyone. The Victorian WorkCover Authority has reported a 119 per cent funding ratio, which basically means it is managed well long term. The authority is performing well because injuries are down, claims are being managed and we have cut premiums.

Mr Atkinson has missed the fact that this is a return to 30 June 2006. Of course on 1 July 2006 we had already announced a 10 per cent premium cut, so Mr Atkinson once again wishes to double dip, like all voodoo Baillieu economists seem to do, thinking you can dip

into the same well 4, 5 or 6 times. He may have let the cat out of the bag. Perhaps this is how a Baillieu government plans to fund its reckless promises and tax cuts, by slashing services and promising everything to everyone by having a couple of dips at WorkCover. If the shadow minister thinks you can cut 10 per cent in WorkCover premiums and have another go by doing a capital withdrawal, and presumably having another go to fund every policy from every opposition member over there, then woe betide Victoria if there is ever a Liberal government. Alan Stockdale would weep at the economic irresponsibility of those opposite.

Opposition members do not understand budgets and they do not understand figures. They think you can dip 5, 6 or 7 times into the same well. The fact that the opposition is thinking of plundering the Victorian WorkCover Authority is a real problem.

Hon. Philip Davis — On a point of order, President, I am quite happy to sit here and give the Leader of the Government plenty of leeway, but when he starts abusing question time to attack the opposition, then it is inappropriate. I ask that you remind the Leader of the Government that question time is a time to answer questions about government administration and not cast aspersions on the opposition.

The PRESIDENT — Order! I ask the minister to come back to the substance of the question in his response about the Victorian WorkCover Authority and benchmarking.

Mr LENDERS — Responding to Mr Atkinson's question — I will not be distracted by the opposition's inability to manage money — about the government drawing capital out of the Victorian WorkCover Authority, not even Alan Stockdale in his greatest pillaging, when he took $1 billion out of the Transport Accident Commission, ever talked about plundering WorkCover for capital. When the Victorian WorkCover Authority has a surplus, as it has over the last three years under the astute management of Minister Cameron and his team at WorkCover, under the astute management of Minister Hulls and his team at WorkCover and the continuing astute management of the Victorian WorkCover Authority, the government takes a portion of those returns and invests it in injured workers by improving their benefits, whether it be a return to common law, whether it be the 104 weeks going out to a longer period, whether it be the return-to-work initiatives or whether it be the health and safety initiatives to bring down injuries, and what it does after allowing a prudent margin is cut WorkCover premiums. We cut them by 10 per cent, not once, not twice but three times, and we have also levelled off the amount for low premium holders. We are removing some of the inequity of subsidies and we are assisting industries where they are needed. Mr Atkinson can rest assured that this government is not about to seek a capital withdrawal from the Victorian WorkCover Authority. This government is determined to bring down injuries, which it has, to reduce premiums, which it has, and to provide greater assistance to injured workers, which it has, while keeping the authority safely in the black. We are not reckless with taxpayers money, unlike the Baillieu opposition, which lives in la-la land, thinks money grows on trees and promises all things to all people.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — The minister would be aware that actuaries awards indicate that any increase above 4 per cent in a payroll this coming year will wipe out the 10 per cent premium reduction. There are not too many businesses that would have less than a 4 per cent increase in their payroll. The minister also sought to turn the question by saying that the opposition was interested in capital return as part of its policy. It is not. That is not our policy. I ask the minister to provide an assurance to the house and Victorian employers that any surplus in the Victorian WorkCover Authority deemed to be above the prudential funding requirements of the scheme will be returned to employers in lower premiums in future or to claimants in benefit improvements and not be redirected to the government as a windfall tax gain on employers.

Mr LENDERS (Minister for WorkCover and the TAC) — We need Mr Stockdale to come back and educate Mr Atkinson on economics. I point out to Mr Atkinson that a 4 per cent rise in payroll is way off in la-la land with Baillieu economics. We are talking here about the average salary paid in WorkCover premiums in Victoria coming down over three years from 2.22 per cent of payroll to 1.62 per cent of payroll. Regardless of the size of your payroll, there is a cut in WorkCover premiums. Mr Atkinson says it is not real money. He should go out there and talk to some Victorian manufacturers who are finding it tough with exports to China; he should talk to some Victorian small businesses that do not like business imposts and costs and say that he thinks WorkCover premiums being cut by a third is irrelevant. He should go out and educate himself by talking to the small business community and see what small business thinks about WorkCover cuts. They like it. You should learn!

Housing: affordability

Ms ROMANES (Melbourne) — I direct my question to the Minister for Housing, Ms Broad. I refer the minister to the government's commitment to making Victoria a great place to live and raise a family. I ask the minister to inform the house of how the Bracks government is acting to deliver more homes and better quality homes to Victorian families in housing need.

Ms BROAD (Minister for Housing) — I thank the member for her question and her concern about the very important issue of affordable homes for Victorian families. The Bracks government believes every Victorian family deserves a decent place to live, which is why I recently announced the details of a $314 million investment in local housing initiatives for Victorian families in housing need. The housing blitz I announced recently will fund 369 new homes and upgrade works on 2685 properties this year to make those homes safer and more comfortable for the families who live in them. That takes the investment in housing assistance for low income Victorians by the Bracks government to $1.3 billion over the last seven years. This compares with the $749 million spent over the previous seven years when the Leader of the Opposition in the other place, Mr Baillieu, was president of the Liberal Party.

The Bracks government believes it is important to not only build new homes but also to upgrade existing ones to make them safe and of a decent standard. That is why the Bracks government has allocated $1.75 billion over the last seven years to make the homes of low-income families safe and decent. That is a 75 per cent increase on the amount spent over the previous seven years by the Kennett government, when again Mr Baillieu was president of the Liberal Party. In growing the supply of affordable housing the government is also continuing its focus on the construction of new homes, not just the purchase of existing properties.

Building homes generates jobs for our construction industry and will add to the 320 000 extra jobs the Bracks government has created. It also contributes to Victoria's record building approvals, which are higher than for any other state.

Our investment in housing assistance and housing upgrades is being made at the same time as we are delivering on our financial objectives and protecting Victoria's AAA credit rating. Meanwhile, in Baillieu land the Liberals have already announced $2 billion in promises to date — promises that would threaten Victoria's financial position as well as requiring cuts to services and cuts to investment, including cuts to social housing. We already know, I think, that the Liberals have no commitment to delivering affordable homes for Victorian families in housing need.

For our part, the Bracks government knows there is more to be done. We have a plan, and we are working hard to ensure that Victoria remains a great place to live, work and raise a family.

Victorian Government Purchasing Board: annual report

Hon. PHILIP DAVIS (Gippsland) — I direct my question to the Minister for Finance. I refer to the 2005–06 annual report from the Victorian Government Purchasing Board and to his responsibilities for the administration of tendering in this state's public sector. I therefore ask: why was there a 90 per cent increase in the number of government contracts being exempted from public tender last year?

Mr LENDERS (Minister for Finance) — Is it not refreshing that the Leader of the Opposition can read an annual report that was brought forward by the direction of the Premier to be tabled in this session of Parliament so there was open transparency and accountability! It is worth putting on the record that, if the Premier had not intervened, all these reports would have been hidden until the 56th Parliament. I put that on the record as we open up. The Premier's action has meant this report is in place.

Hon. B. N. Atkinson — You did not want them tabled. It was the Premier!

Mr LENDERS — No. I take up Mr Atkinson's interjection. There is nothing I like more than taking questions in this Parliament, because it is absolutely a time when, if questions are asked succinctly, members get the response. But then you have people like Mr Dalla-Riva, who put in some 5500 questions on notice, including really incisive questions such as, 'What are the major capital works of the Victorian Strawberry Industry Development Committee?' — really good ones like that, which take a lot of research. Some people wonder why government is just a tad scathing of some of the 5500 questions he asks. They are about as incisive as the economic policy debate in the Liberal Party think tank.

Mr Philip Davis asked me about tenders shown in the Victorian Government Purchasing Board report. I am delighted to say that the report has been tabled and the member can access the information, so he can fearlessly

probe the minister at any time and ask questions about the ministerial portfolios and go forward.

Honourable members interjecting.

Mr LENDERS — What can I say to the house and to Mr David Davis, who clearly has not read the report yet? I invite Mr David Davis to read any of the reports that I have tabled.

The PRESIDENT — Order! Through the Chair!

Mr LENDERS — Yes, President, and I will be very incisive. Mr Philip Davis said there has been an increase in the number of tenders that have not gone out, or whatever his term was. I think he will find that about 1 per cent of the value of government tenders has gone through the exemption process where secretaries of the departments can exempt them, which is a consistent level.

Hon. D. McL. Davis interjected.

Mr LENDERS — I take up Mr David Davis's interjection. I suggest Mr David Davis talk to his colleagues such as Mr Vogels — —

Honourable members interjecting.

The PRESIDENT — Order! The minister should ignore interjections.

Mr LENDERS — President, it is very easy to ignore Mr David Davis, so I will take your advice. Mr Koch and Mr Vogels, for example, will know that when a storm hit the stick shed outside Horsham in their electorate — I believe it was at Rupanyup — and huge pieces of roofing iron were flying right across the town, there was not time for the Secretary of the Department of Treasury and Finance to go to a tender to get someone to put chicken wire over it so that the sheets were not flying over the town and endangering half the population of the Wimmera. There are times when there is an earlier tendering process but when exemptions are made. They are made at times of emergency and the like.

There will always be some contracts made exempt from the tendering process. I use as a serious example when the roofing iron of the stick shed was blowing right through the town in the Wimmera. You could not expect the normal process to be gone through. Where the Bracks government differs from the Kennett government is that where these things happen, as it did in Rupanyup, when the roofing iron is nailed down without a normal tendering process, we report it. We report that an exemption was made, and that is open for scrutiny, whether it be by the Parliament, the Auditor-General or through any other method.

I welcome Mr Davis's supplementary question in which I am sure he will praise the government and look forward to its answering it as it does all questions.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I welcome the Leader of the Government's commitment to openness and transparency, and in the light of his extensive response and advice that these 59 exempted contracts were less than 1 per cent in terms of value of total tenders, I wonder if the minister will, before the house rises this week, release the full details of those 59 contracts which were exempted from tendering.

Mr LENDERS (Minister for Finance) — I will certainly take on notice Mr Davis's comments.

Hon. Philip Davis — No, no, no.

Mr LENDERS — It is a serious and legitimate question. The Bracks government is not afraid. As a minister I am happy to receive a question that is not one of Mr Dalla-Riva's crazy ones but a serious question, and I am happy to respond to it. Mr Davis — —

Hon. Philip Davis interjected.

Mr LENDERS — Mr Davis is too anxious to hear my answer and he is not letting me, in my limited time, answer the question — a time limit, I might say, which was imposed by Mr Forwood when for only the second time in the history of this chamber we had time limits. The first was introduced by the Kennett government for general business and the second was introduced by Mr Forwood. I will take the question on notice. I will look at the exemptions and ensure they are not commercial in confidence. If something is not commercial in confidence, this government is open, willing and happy to have transparency. We publish our contracts worth over $100 000 on a web site. We publish the exemptions here.

Hon. Philip Davis interjected.

Mr LENDERS — Mr Davis is persistent. I am seeking to answer his question and make this answer time and not question time but the member is not assisting me.

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

Consumer affairs: contracts

Hon. H. E. BUCKINGHAM (Koonung) — My question is to the Minister for Consumer Affairs. The minister has spoken in the house in the past about how the Bracks government — —

Hon. Philip Davis interjected.

The PRESIDENT — Order! The Leader of the Opposition has asked his question and I ask him to be quiet.

Hon. H. E. BUCKINGHAM — The minister has spoken in the house in the past about how the Bracks government is leading the way in protecting Victorian families from unfair terms in consumer contracts. Could the minister inform the house of any recent developments that demonstrate how the government continues to ensure Victorian consumers get a fair go with these contracts?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the member for her question. The Bracks government has restored Victoria's position as the leading state for consumer protection in this country. During the Kennett era the Liberal Party, headed by its then president, Ted Baillieu, undid and downgraded consumer affairs. It weakened our consumer protection laws and it ignored Victoria's proud record of leading on consumer affairs issues and protections. I am proud of the fact that the Bracks government has reversed this situation and that we can look to a number of achievements which have restored consumer laws and services for Victorian families, including reinstating consumer affairs as a ministerial portfolio and reinvigorating Consumer Affairs Victoria.

However, we have done more than that. We have ensured that Victoria has the best consumer laws in the country. We are the only government, federal or state, to have put in place laws which protect consumers from unfair terms in consumer contracts. I am very pleased to report to the house that we have recently been even more successful in negotiating fairer contracts for Victorian families. Consumer Affairs Victoria has negotiated with some of Victoria's leading businesses to change unfair contract terms in their loyalty card, voucher and gift card schemes so that Victorians really get a fair go. Dymocks Booksellers has agreed to revise its Booklover loyalty program terms, including a term that allowed it to vary or terminate the scheme at any time. Hilton Hotels has agreed to remove several terms from its Hilton Premium Club contracts. Langham Hotels has agreed to review the terms and conditions of its gift vouchers after claiming to consumers that vouchers could not be replaced in any circumstances, even though it could track its vouchers.

However, there is more than that. We now have businesses coming to consumer affairs to ask that their contract terms be looked at to ensure that they are fair to consumers. I would like to congratulate Coles Myer on that count. It came to consumer affairs in relation to the gift card program it runs.

These outcomes come on top of a long list of achievements in relation to unfair contract terms. For example, we have secured changes to hire car contracts, fitness and gym contracts, pay television contracts and mobile phone contracts, including the successful court action against AAPT.

It is a mystery why the opposition cannot bring itself to support these terms in our Fair Trading Act. This is important. The federal government does not do it, the opposition in this state will not do it, so it is obvious that it is only the Bracks government which can be trusted to ensure we have a fair and balanced consumer protection regime in this state and make Victoria a great place to live and raise a family.

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

Mr LENDERS (Minister for Finance) — President, I seek to correct an answer to a question I was asked. The town where the stick shed is located is Murtoa, not Rupanyup.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 3343, 4000, 7473, 7558, 7575, 7579, 7586, 7726, 7768, 7823, 7852, 8110, 8136, 8141–4, 8204–5, 8243, 8253–4, 8268, 8271, 8355–6, 8358–60, 8378, 8410, 8428–9, 8431–2, 8434, 8475–89, 8508, 8516, 8759–61, 8765.

Hon. BILL FORWOOD (Templestowe) — At the outset I would like to thank government ministers for their efforts in getting answers on my behalf. Mr Jennings has left the chamber, but I particularly thank him; he has done very well. Ms Broad has as well.

Mr Lenders — He didn't want to be embarrassed.

Hon. BILL FORWOOD — I am very grateful to the minister for the efforts he has made to get me

answers. There is one day left. I wrote to the Minister for Finance on 3 August and again on 29 August and there are 12 questions outstanding which were asked in my name through the minister to the Treasurer. They are question 4673, asked on 24 February 2005; question 8012, asked on 3 May; questions 8030–38, asked on 4 May; and question 8735, asked on 8 August. I will not be here after tomorrow. I would be most grateful if the minister were able to ensure that the Treasurer answers my questions before I leave.

Mr LENDERS (Minister for Finance) — I will give my absolute best undertakings to Mr Forwood. I must apologise — my staff have been so busy chasing the major capital works expenditure of the Victorian Strawberry Industry Development Committee that we have not been able to focus on all questions. However, I will use my best endeavours to get it done.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I also have some questions on notice outstanding, to which I seek answers. I note the Minister for Consumer Affairs has left the chamber. These are questions 8137–40, which I followed up with the minister on 24 August, 13 September and again today. They are questions for response by the Minister for State and Regional Development in another place. I seek an explanation as to when those answers will be supplied.

I also have two questions with the Minister for Finance — one for the attention of the Treasurer, question 8743; and one for the Premier, question 8746 — with which I seek the assistance of the minister.

Mr LENDERS (Minister for Finance) — Again we will seek to get as many of those answers as possible by tomorrow. In a serious response, when there are 7500 questions it is sometimes very hard to work through and get them all done, but we will give it our best endeavours.

SENTENCING (SUSPENDED SENTENCES) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Mr SCHEFFER (Monash) — As has been noted by previous speakers, the amendments contained in this bill arise from recommendations made by the Sentencing Advisory Council in part 1 of its final report on suspended sentences. The bill aims to give greater guidance to the courts on the use of suspended sentences, and to limit the use of these types of sentences for serious offences such as murder, manslaughter, rape and armed robbery.

The sentences courts impose must make sense to the general community. The justice system is undermined wherever there is a general perception that the courts are being too lenient or too severe. The courts must ensure that the general community is confident that the punishment fits the crime. However, assessing community opinion is difficult, as is devising effective ways to communicate and educate all of us about the complex matters that need to be weighed up in a just sentencing process.

Often the loudest voices are the most heard. As an example, the often sensationalist reporting in the tabloid media has much to answer for. It whips up knee-jerk reactions against the courts and offenders, disregarding the responsibility journalists have to report the evidence and reasoning on which the courts base their sentences. The Victorian government set up the Sentencing Advisory Council in 2004 in response to these issues. Its purpose is to build up the research evidence to educate and inform the community and the government and to provide information that judges can draw upon to promote consistency in the sentences they impose. The council also assesses public opinion on sentencing matters. The objective of this is to help bridge any credibility gap between the sentences that the courts impose and public expectations.

The Sentencing Advisory Council's recent public opinion report entitled *Myths and Misconceptions — Public Opinion versus Public Judgment about Sentencing*, took a very careful look at what the community thinks about sentencing and how these opinions are measured. The very valuable purpose of the project from which the report arose was to work out agreed ways to gauge public opinion on sentencing on an ongoing basis. Over recent decades public opinion has steadily been factored into sentencing processes, and most democratic governments find themselves caught in the tension between what the council's paper calls the rehabilitative paradigm on the one hand and the political rhetoric of the law-and-order lobby on the other. The tension has given rise to the establishment of bodies such as the Sentencing Advisory Council that seek to incorporate public opinion in the advice they tender to government and the judiciary.

Public opinion has been enlisted by a range of interests within Western democracies to justify their push for hardline sentencing under the rubric of being tough on crime. The work of the Sentencing Advisory Council

offers the community an evidence base that can be used to ensure that sentences imposed on offenders by the courts will contribute to reducing crime and making the community safer rather than feeding public insecurity and imposing penalties that militate against the rehabilitation of offenders.

Despite the calls from some quarters for more severe penalties, the council says:

> … researchers have repeatedly shown that public opinion on crime and justice issues, and on sentencing in particular, is far more nuanced and complex —

than much of the polling suggests.

The council says in its public opinion project report that the idea that the public is highly punitive is drawn from the result of superficial polling and from surveys the approaches of which often give a wrong and unjustifiable picture of public attitudes. Researchers have shown that we need to distinguish between people whose views are based only on limited information and slender experience and those whose views are formed through a deeper understanding of the issues and who have come to see that there is more than one point of view involved in just and fair sentencing. According to the Sentencing Advisory Council's public opinion report, researchers believe that responses to simple polling questions do not and cannot be used to identify the range and variety of views that exist side by side in a complex and multilayered community. Some researchers have said that the so-called highly punitive public is merely a methodological artefact.

The public opinion project found that pollsters usually ask respondents whether sentences are too harsh, about right or too lenient, and that for many decades the result has consistently been that about 70 per cent to 80 per cent of respondents right across the UK, the USA and Canada think that sentences are too lenient. Not a lot of polling of this type has been conducted in Australia, and the project found that there is a real dearth of information about public opinion on sentencing in Victoria. But the findings from the overseas polling have led to the view that the general public wants to see more rather than less punitive sentencing. It is very important to get to the bottom of what citizens really think so that an informed understanding of sentencing can be fostered. The Sentencing Advisory Council uses round-table focus groups, interviews with specific individuals who have expertise in a relevant field and submission-based responses to specific questions. The council is hopeful that these approaches will enable better and, as they say, more nuanced information to be gathered on what the community really thinks on a range of matters.

The amendments contained in the Sentencing (Suspended Sentences) Bill need to be understood against the background of the methodological issues examined in the Sentencing Advisory Council's public opinion report as well as its *Suspended Sentences: Final Report — Part 1*. As Mr Strong previously pointed out in this debate, the council found that the suspended sentence is an inherently flawed order, largely because of its overuse, and that it should not be retained. The council came to the conclusion that even though the power to suspend a term of imprisonment has in the past served a useful purpose by enabling courts to divert offenders away from prisons and so deter offenders from committing further offences, alternatives are now available that, as the council's interim report says:

> … will provide courts with a more credible and flexible range of intermediate sentencing orders that will overcome many of the existing problems with suspended sentences.

The suspended sentences report says that Victorian courts are increasingly using suspended sentences, that their use has increased by about 20 per cent to 24 per cent in the higher courts and by about 6 per cent to 7 per cent in the Magistrates Court, and that the breach rates of offenders on suspended sentences indicate that they may not in the end be all that successful in preventing reoffending. The report says that the Arthur Andersen review of community correctional services found that 19 per cent of community-based orders and 15 per cent of parole orders are breached, and that the breach rate for suspended sentences is even higher, at 36 per cent in the higher courts and 31 per cent in the Magistrates Court. Clearly the evidence shows that the current use of suspended sentences is not fulfilling its intended purpose.

The suspended sentences report says that the council believes that the new range of sentencing orders it has developed would satisfactorily substitute for suspended sentences without simply sending more offenders to prison. As a result, the council recommended that suspended sentences should not be abolished straight away but stepped out over a three-year transition period. The key changes that the council recommended are that the availability of suspended sentences should be limited for serious offences unless there are exceptional circumstances and that the court must take certain factors into account where it wishes to suspend a sentence. The factors include the seriousness of the offence and whether the suspension would in any way compromise the message, denunciation or deterrence that the sentence ought to publicly express. The court should also take into consideration the risk of the offenders offending again and the number of suspended

sentences that the offender has already received and whether there have been any breaches of the orders.

The Sentencing (Suspended Sentences) Bill lists the factors that a court must take into consideration when it is thinking about suspending a prison sentence. In the case of serious offences, the amendments create a presumption against a wholly suspended sentence and provide a procedure to deal with breaches.

The bill will enable a court to place young offenders in a youth justice facility rather than an adult prison as the present law requires. The bill also ensures that when a person has been held in custody because they have breached a suspended sentence, the time the person spent in custody will be deducted from the total time of any restored full sentence that may subsequently be imposed. These amendments are a step on the way to the full removal of suspended sentences by 2009 when they will be replaced by a new range of sentencing orders.

These changes are not about sending more people to prison, but they will make sure that people who commit serious crimes receive appropriate punishment. Careful consultation shows that community and legal experts are reasonably concerned that suspended sentencing has been overused and inappropriately used, and that people convicted of serious offences such as manslaughter, murder and sexual offences will not receive appropriate sentences. This is timely and measured legislation, and I wish it a speedy passage.

Hon. RICHARD DALLA-RIVA (East Yarra) — I am pleased to make a brief contribution to debate on the bill. I am quite disappointed that it really does not go far enough. I understand the Honourable Chris Strong has indicated he will move an amendment or amendments during the committee stage, which I encourage the other side to actually support. The issuing of suspended sentences as a sentencing option for serious crimes should not exist. If a crime is so serious that a term of imprisonment should apply, then a term of imprisonment should be imposed, not the notion that a suspended sentence is equivalent to being incarcerated.

Having said that, though, we support the bill because the move is at least a partial move forward, but it smacks against the original rhetoric from the Attorney-General when it was announced by the media as per usual. Obviously we are concerned that the bill still permits suspended sentences for serious offences in exceptional circumstances.

The problem we have is that a serious offence by definition as outlined in section 3 of the Sentencing Act includes murder, manslaughter, rape, robbery, sexual offences involving children, and a range of other offences involving violence. If the offence is such that it fits the offender being sentenced to a term of imprisonment, then that should be the determination. There are many other options now available that courts can impose, such as community-based orders. We do not see those as appropriate in circumstances of serious offences. The government has brought in home detention for certain offences. I cannot see the rationale: that a court should not have the option of sending to jail someone who has committed and been found guilty of a serious crime.

The suggestion that the Sentencing Act should be amended with respect to suspended sentences would gravely disappoint the victims of crime who believe that this is now going to be the case. We do not see that a conviction of such a serious nature should be allowed to be suspended either wholly or partially. We see that this is not the appropriate way to deal with those types of offences. Hence I look forward to the debate in the committee stage.

Having said that, the bill contains minor changes elsewhere, which we support. It is my view that when you get a suspended sentence it ought to be for types of offences that are not at a serious level. This bill proves once again, as the house heard the Labor Party member say earlier, that it is all about the rights of the criminals over the rights of victims. I think this is a bit of spin-saying just to appease the victims into believing that the government is doing something about suspended sentences. The reality is it is not in any real sense dealing with it. Other than that, I support the bill but look forward to further debate in the committee stage.

Mr SOMYUREK (Eumemmerring) — I rise to speak in favour of the Sentencing (Suspended Sentences) Bill 2006. The objectives of this bill are threefold: first, the bill aims to give greater guidance to the courts in the use of suspended sentences and to restrict the use of suspended sentences in the cases of serious offences including murder, manslaughter, rape and armed robbery. Second, the bill allows young offenders aged between 18 and 20 who breach a suspended sentence to be ordered to serve the unexpired portion of that sentence in a youth justice centre rather than an adult prison. Third, the bill provides a more streamlined procedure for dealing with a breach of a suspended sentence and removes the need to treat the breach as a separate offence.

The first objective is a major point of differentiation between the government and the opposition parties, so I will confine my comments to it. The bill gives greater guidance to the courts for the use of suspended sentences and restricts the use of suspended sentences in the case of serious offences. Serious offences are defined in the Sentencing Act 1991 and include murder, manslaughter, rape, the sexual penetration of a child under 16, incest, intentionally causing serious injury, threats to kill and armed robbery. This first objective will be given expression when the recommendations in part 1 of the Sentencing Advisory Council final report on suspended sentences are enacted.

Consequently this bill gives guidance regarding the exercise of the court's discretion to suspend a term of imprisonment by requiring a court to consider the following: whether suspending whole or part of the sentence would fail to adequately denounce the offender's conduct or deter the offenders or others from committing similar offences; whether the offender has previously received a suspended sentence and, if so, whether the offender breached that sentence; whether the offence was committed while the offender was subject to a prior suspended sentence; and the risk of the offender committing another offence punishable by imprisonment while he or she is subject to the current suspended sentence.

This bill brings sentencing into line with community expectations so that serious offenders who have been sentenced to jail are not seen to be getting off with a slap on the wrist for their crimes. The Attorney-General in the other place, Mr Hulls, put this issue succinctly when he said, 'Under these reforms, jail means jail'. Unless there are exceptional circumstances, criminals sentenced to serve a jail sentence will go to jail.

The Sentencing Advisory Council is still formulating part 2 of its final report on suspended sentences. I do not wish to pre-empt this report, but I understand that it will recommend wholesale changes to the sentencing system. I hope one of its recommendations is to further tighten suspended sentences for serious crimes. I know victims of crime groups agree with me. Notwithstanding these comments, it should be acknowledged that the abolition of suspended sentencing is a major change to the sentencing system. This change will take time and significant resources to implement. This reform is not to be rushed. The least we can do is to wait for the recommendations in the final report of the Sentencing Advisory Council.

In the meantime, by ensuring that this bill passes, members can demonstrate to the public that the Parliament is serious about reforming suspended sentences. That is the reason I do not agree with the opposition's foreshadowed amendments. The community perceives suspended sentences to be concessions for criminals and not serious. Suspended sentences damage the community's confidence in sentencing. With those comments, I commend the bill to the house.

Ms HADDEN (Ballarat) — I rise to speak on the Sentencing (Suspended Sentences) Bill. I do not oppose the bill, but in my view it is half-baked. It is a pity that the government did not adopt the recommendations of the Sentencing Advisory Council in full, because the council has been investigating suspended sentences, including at community forums in this investigation, around the state for the last two years. I organised and was part of the council's community forum in Ballarat. One issue that was made loud and clear in the community was that it saw suspended sentences as a slap on the wrist. The community did not want suspended sentences included as a sentencing option that a court could consider when sentencing an offender — whether it be a serious offender or a light offender. The community forum in Ballarat was clear about that matter. The chairperson of the council is Professor Arie Freiberg. I have an enormous amount of regard for him, because he was my teacher of criminal law at Monash University. He and Richard Fox know criminal law very well.

In my comments I am addressing the bill and the amendments foreshadowed by the Liberal Party. I understand that these foreshadowed amendments propose to prevent the court from handing down a suspended sentence for a serious offence per se. That is exactly what the Sentencing Advisory Council recommended in part 1 of its report. Clause 1 of the bill states:

> The purpose of this Act is to amend the Sentencing Act 1991 so as —
>
> (a) to list factors to which a sentencing court must have regard in considering whether to suspend a sentence of imprisonment; and
>
> (b) to create a presumption against a wholly suspended sentence of imprisonment being imposed for a serious offence …

What this bill does is not what the spin doctors of the government media unit have said, courtesy of the Attorney-General. This bill does not remove suspended sentences at all, it just gives an added layer to a court to wholly suspend a sentence for a serious offender. I am not talking about someone who steals a lolly bar from a shop. A serious offender is defined in section 3 of the Sentencing Act. A serious offence includes murder,

manslaughter, rape, armed robbery, sex offences against children and a range of other offences involving violence. The bill also provides a new procedure to deal with breaches of suspended sentences. It gives courts extra power to order young offenders to serve a restored suspended sentence in a youth justice facility — formerly a youth training centre — and it enables time held in custody in relation to proceedings for the breach offence as well as the breach proceedings themselves to be deducted from a restored suspended sentence of imprisonment.

There have been some transitional arrangements, but the transitional arrangements do not coincide with what is said in the second-reading speech, which is that this bill is in transition for a period of three years and will be reviewed once the government has received and considered the second part of the Sentencing Advisory Council's report. That concerns me, because it means that a court can wholly suspend a prison sentence for a serious offence, such as murder, manslaughter, rape, armed robbery, a sex offence against a child and a range of other offences involving violence, if it finds that there are exceptional circumstances, that it is appropriate and that it is in the interests of justice. That is in accordance with proposed section 27(2B), but it still allows a partial suspended sentence as a right in accordance with the sentencing provisions in section 5 of the Sentencing Act.

The Sentencing Advisory Council in its interim report made 46 draft recommendations proposing a set of reforms of the sentencing law in this state. That was to address a range of concerns that it had received in its public forums and from its meetings with professionals and experts. In its 2005–06 annual report the council said:

> We proposed that the power to suspend a prison sentence should be removed as part of this broader exercise, and replaced with a new range of conditional sentencing orders that would exist as sentences in their own right.

Part 1 of the Sentencing Advisory Council's final report, which was released in May 2006, also recommended the phasing out of suspended sentences over a three-year period. That is not provided for in this bill before the house. It also recommended the phasing in of a set of intermediate sentencing options over that time, as well as the monitoring of how sentencing options are being used. I believe the government is not listening to the Sentencing Advisory Council, it is not listening to the community and it is not listening to the members of Parliament who have experience in this area of sentencing law.

The Sentencing Advisory Council tracked a year of suspended sentences across different courts. It found that around 36 per cent of offenders in the higher courts — that is, the Supreme Court and the County Court — breached their suspended sentence compared with around 31 per cent in the Magistrates Court. The council also found that the most common outcome for offenders who breached their suspended sentence was an order restoring all or part of the suspended prison term. This was the result in 76 per cent of cases in higher courts and 64 per cent of cases in the Magistrates Court. As I have said, we know from experience, from the community's concerns and from the concerns raised by the Sentencing Advisory Council and the print media that there are supporters of suspended sentences, but the majority — in fact, more than the majority; probably close to the entire community — say they do not want them at all, either wholly suspended or partly suspended. They just want them removed from the sentencing powers of the court.

The Sentencing Advisory Council produces for the public extremely helpful research and statistics, and I thank it for that. In its sentencing snapshot of suspended sentences in Victoria no. 2, which was released in April 2005, it went through the suspended sentences for both the Supreme Court and the County Court. In 2003–04 the higher court wholly suspended jail terms represented 24 per cent of sentencing outcomes, imprisonment terms were partially suspended for 7 per cent of the total number of defendants found guilty and a sentence of immediate imprisonment was the most common outcome for the defendants in the higher courts, which represented 46 per cent. It also found that in the period from 1999 to 2004 there was a 34 per cent increase in the number of suspended sentences compared with a 25 per cent increase in the number of defendants proved guilty.

The council also found that the prison terms imposed by the higher courts of up to three years can be held in suspense for up to three years. We know that is so from the act. The council found that in 2003–04 the average imprisonment term suspended in the higher courts was 13 months, while operational periods were two years on average. It also found that 20 offences accounted for 76 per cent of all suspended sentences in 2003–04. The most common suspended sentences handed down were for the crime of trafficking in a drug of dependence, 10 per cent, and aggravated burglary, 10 per cent. It also found that men accounted for 83 to 86 per cent of those who received suspended sentences in 2003–04, and that males between 20 and 29 years of age represented 38 per cent of suspended sentence recipients.

The average age for men was 34 years and the average age for women was 33 years. The issue of suspended sentencing is a difficult one. I do not like passing bills that restrict a court's ability to sentence a serious offender unless we are going to put in place appropriate measures that require an offender to be rehabilitated and to pay for their crime. On page 2 of its second-reading speech the government says, when referring to the Sentencing Advisory Council's recommendation that wholly suspended sentences be phased out by December 2009, which is not in the bill:

> … when resources are in place to support the new system.

The resources are there now. We know that the pokie revenue to the state government has increased by 8.4 per cent in the last year, totalling $1.4 billion over the last 12 months into state government coffers from pokie revenue alone. The government has the resources. It simply does not have the will to do what the people want, which is to remove suspended sentences from the sentencing powers of the court. Of course it also has the money to have the corrections officers paid to accompany Mr Robin Angas Fletcher to the *Stateline* offices last Friday night for his interview, which I think is absolutely disgraceful, and I want an explanation from the government as to why it used our taxes in this way. I also want to know why the government is not reprimanding Mr Baldy for having breached his extended supervision order on 6 August. There are a lot of reforms this government could and should be making in relation to serious sex offences and serious offences in this state, and it simply has fallen down on its job.

Hon. T. C. Theophanous — The biggest reform we make will be getting rid of you!

Ms HADDEN — I do not intend going anywhere and I intend keeping an eye on this government because I do not like serious sex offenders, and I do not like serious child sex offenders being dumped in my electorate nor being dumped in country Victoria, which is happening now. It is just not good enough. This government is simply clueless and does not know what it is doing most of the time. It certainly knows how to spend our money, but not on the right things, only on its self-promotion advertising.

This bill has not got the suspended sentencing regime right. It is not implementing what the Sentencing Advisory Council has recommended, and it is not in line with the community expectations in country Victoria and across this state.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Hon. C. A. STRONG (Higinbotham) — I move:

> Clause 1, line 7, omit "create a presumption against a wholly" and insert "prevent a".

This clause will test amendments 2 to 5 as well. In essence my amendments seek to make it quite clear that suspended sentences for serious offenders will not be possible. It is as simple as that. The point needs to be reiterated that that is what the Sentencing Advisory Council has recommended and that is what the community expects. What we have heard in the second-reading debate from members opposite has been extremely interesting because they have said that we are getting there. Government members say, 'Maybe some time in the future we might actually pick up the Liberal Party amendments; we might do it, but in the meantime' — and this is the key phrase — 'the resources are not available'.

In the meantime we have these conditions that still allow the court to issue suspended sentences. If we put those two things together it is quite worrying because suspended sentences for major crimes will continue. The government has said, 'We cannot do it yet because there are not the resources, so we are bringing in an act with a loophole so that the courts can keep doing it'. It is quite clear that the government intends suspended sentences to continue because its rhetoric is saying, 'We cannot outlaw them yet because the resources are not there', which is code for saying they will continue.

Therefore this whole business is a sham. That is what it says. Make no mistake about it. My amendments put the test to the government to say that if you really do want to get rid of suspended sentences for major crimes, let us do it. The government will find the resources if it needs to do it. The government is saying it cannot do it because there are not the resources. I suggest that is code for saying, 'Let it continue.' It is just trickery on the Victorian public and it is trickery on the victims of crime. My amendment makes it quite clear that we will implement the Sentencing Advisory Council's recommendations forthwith, which are to get rid of suspended sentences for major crimes. I seek the support of the chamber for this amendment and those I have foreshadowed.

Hon. P. R. HALL (Gippsland) — Mr Strong seeks the support of the chamber. He has the support of The Nationals, as I was pleased to indicate during my contribution to the second-reading debate. I also said that I thought the whole issue of suspended sentences was a handy tool to be applied to minor crimes or first offenders, but certainly not for serious offences, and I listed those when referring to section 3 of the Sentencing Act.

I agree wholeheartedly with Mr Strong — it is the long-term intention of the government to do what Mr Strong seeks to achieve, and to say that there are not the resources to do it is a very feeble excuse. I cannot understand what resources are needed to implement this. Maybe it will mean more incarcerations and therefore more imprisonments, but apart from that I do not think there is a resource issue to be considered in this.

I also agree entirely with Mr Strong that the community expectation is that those who commit serious offences in our community deserve to do the time. That is a community expectation and that is what we should be reflecting in legislation before the Parliament today. It is The Nationals strong view that these amendments are supportable because they do in fact do what our people whom we represent expect us to do.

Ms HADDEN (Ballarat) — I have just spoken on this bill and said that I support the Liberal Party's proposed amendments. They are certainly in line with the Sentencing Advisory Council's recommendations, which were based on the community's concerns and expectations that a serious offender serve the penalty to be imposed under the relevant legislation — that is, the Crimes Act. A serious offender is defined in the Sentencing Act as someone who commits such crimes as murder, manslaughter, rape, armed robbery, sex offences against children and offences involving violence. I can see no reason why this bill does not remove suspended sentences for serious offences per se.

There is absolutely no reason: the government has not given a reason in the second-reading speech, other than to mention a time when resources are in place to support the new system. The resources are there, and the government is awash with money from pokey revenue alone — $1.5 billion in the last 12 months. There is no excuse for the government not to implement the recommendations of the Sentencing Advisory Council, which have been two years in the making.

In the second-reading speech the Attorney-General said that the government does not propose to implement the Sentencing Advisory Council's recommendations for another three years, until December 2009, which means it will have taken the government five years to implement what the community and the council want — that is, remove suspended sentences for serious offenders. The bill allows the imposition of a wholly suspended sentence for someone who is found guilty of murder, rape, manslaughter, aggravated burglary, sexual offences against children and other crimes of violence. I would like an explanation from the Minister for Sport and Recreation of the thinking behind the government's decision to allow a wholly suspended sentence to be imposed for a serious offence.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — A number of comments have been made by members of the opposition about this matter, and I suspect this clause will be tested by a division. I am advised that the bill is consistent with the recommendations contained in part 1 of the Sentencing Advisory Council final report. The council spent many months developing and consulting on these proposals and concluded that suspended sentences should not be available for serious offences unless a case could be made for the application of exceptional circumstances. At page 67 the council's report says:

> This would allow courts to make a suspended sentence order in cases where ordering the offender to serve the prison sentence might result in some injustice, but would actively discourage courts from doing so in other cases.

Therefore the bill provides that a suspended sentence can only be imposed for a serious offence if a court is satisfied that such an order is appropriate because of the existence of exceptional circumstances and the interests of justice. Furthermore, the bill requires that an announcement must be made in open court on the reasons for making an order and that it cause such remarks to be noted in the court record.

I am informed that this will strike the right balance of strongly discouraging the use of suspended sentences for serious offences, whilst acknowledging that on occasions particular cases might fall outside this general presumption. The bill does not eradicate suspended sentences completely but narrows their use to acute circumstances, as I mentioned. If acute circumstances are to apply, the court must believe that the use of a suspended sentence is appropriate because of the existence of exceptional circumstances and is in the interests of justice.

An announcement must be made in open court for imposing a suspended sentence and reasons given for

doing so. Those remarks must then be noted on the court record. Whilst the use of suspended sentences is not completely eradicated, their use has been narrowed substantially to the point where they are almost eradicated, so only in the most extreme, acute and exceptional circumstances will they be able to be used. Hence the government believes they are in line with and consistent with the recommendations of the Sentencing Advisory Council.

Hon. C. A. STRONG (Higinbotham) — I thank the minister for his answer. Perhaps he could further explain this point, because I must admit that I am still a little confused. The minister made the point that suspended sentences will only be imposed in 'extreme, acute and exceptional circumstances', from which we would anticipate that theoretically very few people will get suspended sentences, and therefore there will be a greater level of real sentences.

Yet we have heard the argument again and again from speakers on the other side who say, 'We cannot do this at the moment because there are no resources'. I am trying to reconcile those two concepts in my mind. People have said there are no resources to wipe out suspended sentences, yet the bill will wipe out 99.9 per cent, to take up the minister's point. What are the resources? Is it possible for the minister to outline to the house the resources that are not yet ready?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Mr Strong is blurring together two issues, and I want to clarify them. The first one is that in the long-term suspended sentences will only be used in acute, exceptional and extreme circumstances. It is also worth appreciating that the changes will take place, I understand, in a phased manner. A 'phased manner' means that the imposition of suspended sentences cannot be implemented overnight. If we were to do it tonight, we would need another jail to deal with the capacity constraints. To deal with the issue we need to plan ahead — which we have done — to build that capacity. That has been undertaken. That is the first issue — about staging the introduction.

The second issue is what, when and under what circumstances suspended sentences will be used, if they are to be used in those circumstances. There is no doubt that that will be left to the discretion of the judge in those extreme, exceptional and acute circumstances and, as I mentioned earlier, that their imposition is in the interests of justice. I am not a judge. I do not necessarily know what judges think when they make their judgments from time to time, but I am sure that the court processes themselves will test this measure by its own processes, particularly if it is used, as I mentioned before, in the interests of justice.

I suspect there are two issues. Firstly, there is the matter of capacity in relation to the introduction; and, secondly, when that measure is completely introduced, when, if and how suspended sentences will be used. They will be used in extreme, exceptional and acute circumstances and at the discretion of a judge. I am not a judge; I cannot tell you how they will use them. If they are used inappropriately, no doubt they will be appealed and quashed accordingly if that is the case.

Hon. C. A. STRONG (Higinbotham) — I completely concur with the minister; I do not know what a judge would do either, and many of us have that difficulty.

I will just try to recap to see whether I have got it right. What the minister is really saying is that although the intent is — to use his words — for it to come into play in 'extreme, acute and exceptional circumstances', that will be overlaid by the fact that we do not have a new jail. What he is really saying is that these extreme, exceptional and acute circumstances provisions will not come into play simply because the resources do not exist at this point in time. I think that was the thrust of what the minister said — as there is nowhere to put these people we cannot wipe out suspended sentences at this stage, so we need this loophole which we can push lots of criminals into until such time as we have a new jail. I guess that is where I started. That seems to me to be a little bit like saying the revolving door will continue. With those comments I rest my case.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I think Mr Strong has the two issues confused. One involves the introduction of the legislation and one involves the implementation of the legislation. They are two quite different things. Is any piece of legislation introduced completely overnight or is it phased in with a staged introduction? This will be phased in, I understand. The result will involve those acute circumstances. There are two different issues. One is about the process of introduction, the other is about the end result once it has been introduced. Every piece of legislation that comes before this chamber provides clarity on the process of introduction, the dates and the manner in which the legislation will be introduced and implemented. This is no different. The end result relates to the issue of when, if and how. That is another issue which is separate from the staged introduction. One — the staged introduction — is driven by resources. The end result is about the full and thorough implementation of the bill. At the moment

Mr Strong seems to be rolling them all into one. That is not the case. I hope I have given some clarity on that.

Hon. C. A. STRONG (Higinbotham) — I would just like to point out that I am not rolling them all into one. I do understand where the minister is coming from, and I thank the minister for his help and elucidation.

The CHAIR — Order! In relation to Mr Strong's amendment 1, which is a test for his amendments 2 to 5, the question is that the words proposed to be omitted stand part of the clause.

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

Ayes, 21

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms (*Teller*)	Pullen, Mr
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, 19

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

Amendment negatived.

Clause agreed to; clauses 2 to 8 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

SERIOUS SEX OFFENDERS MONITORING (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).

JUSTICE LEGISLATION (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 3 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Justice Legislation (Further Amendment) Bill I signal that the opposition opposes this piece of legislation. This is an omnibus bill which amends some 19 acts. Most of the amendments are fairly procedural in nature, and the opposition has no particular problem with them, but there are certain areas with which we do have issues. There are those who, as it were, rant against the evils of omnibus bills, but I am not one of those. I happen to believe that omnibus bills are quite a sensible approach.

One of the downsides of omnibus bills is that while the opposition might agree with 80 or 90 per cent of a bill, if there are some items within the bill that are contentious and not agreed with, one may end up opposing the whole bill.

It is interesting to speculate about omnibus bills that will be debated in the chamber in its new form after the election. It is highly probable that there will be a certain number of Independents or third party people who will have their own opinions, and perhaps neither party will be able on an ongoing basis to maintain a majority in the house. That could mean that it might be difficult for them to push through omnibus bills, as I am sure the government will do in this case, and perhaps we will see fewer omnibus bills in the future so that the contentious is separated from the non-contentious, as it were. That would be a little bit of a disappointment because, as I said, I happen to believe that omnibus bills

are quite an effective device for getting through the business of this house.

With those general statements out of the way I turn to the particulars of the bill. As I said, it amends a whole series of acts: the Confiscation Act 1997, the Victorian Civil and Administrative Tribunal Act 1998, the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995, the Legal Profession Act 2004, the Professional Standards Act 2003, and the Equal Opportunity Act 1995, the Sex Offenders Registration Act 2004, the Corrections and Sentencing Acts (Home Detention) Act 2003, the Fair Trading Act 1999, the Council of Law Reporting in Victoria Act 1967, the Gambling Regulation Act 2003 and Casino Control Act 1991, the Infringements Act 2006, the Judicial College of Victoria Act 2001, the Juries Act 2000, the Magistrates' Court Act 1989, the Working with Children Act 2005, the Attorney-General and Solicitor-General Act 1972 and the Victorian Law Reform Commission Act 2000.

As I said, the opposition does not have any particular concerns with most of those amendments. Our concerns revolve around amendments to three acts: the Fair Trading Act 1999, the Corrections and Sentencing Acts (Home Detention) Act 2003, and the Equal Opportunity Act 1995.

Turning firstly to the Corrections and Sentencing Acts (Home Detention) Act, in the context of the debate we have just had on sentencing there is quite clearly a very strong community expectation that suspended sentences for serious offences are inappropriate and wrong and should be done away with. As we have heard from the minister, the government has partially responded to that concern only insofar as there are the jails to put the people, so suspended sentences will continue until they build more jails, whenever that day may dawn.

The other area with which the community has a lot of concerns is home detention. How effective is home detention? How realistic is it to put offenders on home detention? Do you strap some sort of electronic device around their ankle and launch them out into the community and trust that they stay home and do not walk out?

Hon. T. C. Theophanous — What would you do? What is your alternative?

Hon. C. A. STRONG — What would the minister do if he had one of those things around his ankle and wanted to go out? I'll bet he would go out. There is absolutely no doubt about that at all. Mr Theophanous would take very little notice of an electronic anklet around his ankle if it suited him to go out. I am sure a lot of other people a lot less honest than him would do the same, and there are some of those.

There is a great amount of community concern about the effectiveness of home detention. That is an absolute fact. The Corrections and Sentencing Acts (Home Detention) Act 2003 introduced home detention but sunsetted the clause. The home detention provisions, which are far reaching and different in the context of sentencing, were quite correctly made subject to a sunset clause. That sunset clause expires in January 2007. This is extremely important to think about because the amendment removes that sunset clause and applies from January 2007. While the government still has control of this house it is removing the sunset clause. Why is it not waiting until after the election? Why is it not waiting until there is a more representative, as it likes to term it, Legislative Council to deal with this issue? We all know why. It is because it has the numbers to do so. This is a cynical and shameful act. There is community concern. This is potentially an issue about which people will have concern during the election. It will certainly be an issue the Legislative Council will have concern about, so the government wants this off the agenda. It is the most cynical attempt at political manipulation we have seen in many years. The opposition will be opposing the bill, particularly these amendments.

That is the first thing we have a problem with. The next concern is about the amendments to the Fair Trading Act 1999, which in essence give a huge amount of unfettered power to inspectors from Consumer Affairs Victoria to go in and look at the activities of businesses to see that they are working within the law. Under normal law enforcement, if there is a suspicion that somebody is breaking the law and you want to get involved, then the police have to get a warrant to search. There are traditionally established legal processes where there is a belief that the law is being broken in some area. People have to go through a process so they can go into premises to inspect them, to take records and to interview people. There is a legal process where our rights as individuals are protected.

These amendments cover a huge swag of regulated businesses. Inspectors can now go in virtually unannounced, go through the records of a business, interview people, take away things that they think would be relevant and inspect them, and take computer disks or whatever. This is an unfettered power for people to go in on not even a supposition and say, 'We have come to have a look. We want to see if you are following the rules and we are going to go through your premises, your business and your records with a fine

tooth comb'. These are draconian powers to lay down on virtually all small businesses in Victoria. They will be extremely counterproductive to business in this state. They are extremely unjust and unfair. They fly in the face of the normal protection of the freedoms of citizens. They are totally unfair.

Everybody would accept that there is a need to ensure that businesses conduct themselves properly, that they are not dishonest and that they do not try to defraud the public, but in the case of builders warranty insurance Consumer Affairs Victoria does not worry about that. There is a case for judicious and careful regulation to ensure that these regulations are enforced when there is a breach. It is a little different from just going in on the say so that a business is not following the rules. Even the Australian Taxation Office does not have such powers. We think this is going too far.

The third area the opposition has concern with is the amendments to the Equal Opportunity Act 1995. The amendments insert a new definition to prohibit discrimination on the grounds of industrial activity and allow bodies with an interest in a complaint — read 'unions' — to lodge complaints to the equal opportunities division on the grounds of industrial activity discrimination, and then the Equal Opportunity Commission can investigate the whole thing at great length. We now have a situation where unions or other bodies representing workers can come in and commence activities against an employer, or anybody else for that matter, on the basis of so-called industrial activity. As we know, many of the cases brought in the equal opportunity court are marginally frivolous and vexatious and the cause of a significant amount of grief and an unnecessary waste of resources and activities in the defending of them. These amendments to allow a case to be brought to the Equal Opportunity Commission for discrimination on the grounds of industrial activity will give even greater scope for abuses. It is totally inappropriate.

On the basis of those three matters the opposition will be opposing the bill. The wiping out of the sunset clause on the important issue of home detention while the government still has control of this house is one of the most cynical and unfair abuses of power that I have seen in my time in this place. With those comments, I urge the house to reject this omnibus bill on the basis of three of 19 amendments.

Hon. W. R. BAXTER (North Eastern) — I join with Mr Strong in characterising this bill as a disgrace. I am not sure that Mr Strong used language as strong as that, but I certainly have no hesitation in doing so. I think it is disgraceful that this garrulous Attorney-General of Victoria would bring in, at the death knock of the 55th Parliament, an omnibus bill such as this. It reeks of hypocrisy of the highest order. We all remember during the course of the last government when, on occasions, omnibus bills were brought in that did a number of relatively minor things, the current Attorney-General in his then shadow responsibilities railed against the Kennett government for introducing omnibus bills. What do we get here? An omnibus bill covering about 19 different statutes in the state of Victoria.

I do not like omnibus bills, but I am not opposed to them if they go to minor matters of little consequence and no particular contest. You could not say that about this bill — it goes to some significant issues. It introduces some quite draconian new inspection and entry powers; it changes definitions in the Equal Opportunity Act for no other reason than to give the unions a leg up; and it surreptitiously attempts to abolish the sunset clause in the home detention legislation.

You could not say this is an omnibus bill containing matters of little importance. It actually contains matters of principle and it should never have come to the house in this form. It will be opposed by The Nationals on the same grounds that the opposition is opposing it, because while some of the amendments contained in the bill are fully supportable, there are some obnoxious and objectionable provisions, and we need to vote against the bill because of them.

I think the right of entry powers that are incorporated in the Fair Trading Act are very onerous indeed and are very dangerous. They are an extraordinary impost upon business in this state, particularly small businesses. It is again this ideological obsession that the Labor Party has that anyone in business is out to take the customer or the employee down; that that is their modus operandi, that this is the way they conduct their business. We know that is simply not true.

This government, at the request of whomever — I do not know — wants to give right of entry to consumer affairs officials on whatever pretext they like. They can turn up at the front door of a business, demand to see the books, trawl through its records, go on a fishing expedition and generally cause grief and cost to the business. Of course if the business had been conducting itself in an untoward manner, action should be taken. That could be taken under the existing law without providing these sorts of opportunities for officers to go in and see what they can dredge up. I do not think anyone has the right to go into a business without proper reason. It seems to me this legislation is giving

to consumer affairs officials the right to go into a business on the flimsiest of pretexts.

We have to acknowledge that some persons who work in the area of enforcement, whether it be in the police force, the Sheriff's office or as parking inspectors or consumer affairs inspectors, sometimes are people of that particular bent who like wielding their authority — they like wearing the badge and wielding the big stick. I think there has to be balance all the time. Yes, we need some enforcement; yes, we need inspectors in some areas of our day-to-day business activities, but we do not want to be giving them carte blanche to do what they like. That is, in my view, the tenor and effect of the amendments in this bill to the Fair Trading Act.

It smells rather like the extraordinary powers that were given in the Occupational Health and Safety Act to union officials to barge into businesses. There may on occasion be a greater justification in terms of occupational health and safety to have some draconian inspectorial powers, but I do not see any rationale for having those powers in the Fair Trading Act. For that reason alone, The Nationals will be opposing this bill.

Similarly, with the changes in the Equal Opportunity Act in terms of definitions of 'industrial action', 'industrial association' and the like: I did not come down in the last shower and there is no doubt this is yet another attempt by this government in its absolute hatred of the commonwealth WorkChoices legislation — that is, the commonwealth's desire to give employees the greatest flexibility in how they structure their workplace relationships between themselves and their employers.

This government opposes that concept. This government wants unions to have control. Not only have they brought in a raft of legislation over the last 12 months to try and undermine WorkChoices directly but they have obviously trawled through existing statutes in Victoria to find areas where they might be able to make amendments which will give the unions an opportunity to make mischief. This is clearly one they have found.

You have to say they employ some fairly smart cookies because who would have thought that somehow or other you could make the equal opportunity legislation a vehicle with which to attack WorkChoices? I would not have thought of it in a day's march. Someone did — and what have we got here today? An attempt by the back door, the side door, to get at WorkChoices by an entirely unexpected avenue. It ought to be resisted by Parliament, and The Nationals will certainly resist it because we do not see any grounds whatsoever for using the equal opportunity legislation as some sort of instrument for undermining WorkChoices, so we will oppose it on that ground as well.

The third ground, which I have already alluded to, is the almost surreptitious abandonment of the sunset clause in the home detention legislation. The Nationals opposed the home detention legislation when it was first introduced. We oppose it now and will continue to oppose it because we do not believe it is a suitable means of applying justice in this community. There are many victims of crime out there who see home detention as a cruel joke upon them that they have suffered at the hands of an offender; the offender has been convicted and basically given a slap on the wrist, then sent home wearing some electronic device which allegedly requires that person to remain within the confines of his residence.

We know what happens — there is a bit of evidence of it. I think Mr Strong probably hit the nail on the head with his reference to Mr Theophanous. We do not expect Mr Theophanous would have abided by it and there are many who are less honest than he is. It is clearly not a very satisfactory means of meting out appropriate justice to a convicted offender. We do not believe this bill should be the vehicle for that issue, that system to be permanently put in place in Victoria.

The Parliament passed an act which had a sunset clause. If the government wanted to remove the sunset clause, it should have brought in a bill to do that so the Parliament could make a considered decision on that and that alone. It should not have buried the issue in an omnibus bill that is amending 18 other pieces of legislation. It just makes one suspicious of the government's motives. We know this government is prepared to resort to underhanded manoeuvres on occasion if it suits it. This is one such underhanded manoeuvre. We did not fall for it, the opposition did not fall for it, and we will be opposing it.

Ms MIKAKOS (Jika Jika) — I am very pleased to rise to make a contribution in support of the Justice Legislation (Further Amendment) Bill. I want to indicate how disappointed I am that the Liberal Party and The Nationals are opposing this important piece of legislation.

I recall a number of occasions where we heard moans from Mr Strong about what he said were minor justice bills coming before this Parliament. He now has his wish — just as he is about to leave the Parliament we have an omnibus bill which amends 19 different acts of Parliament. While the matters covered by this bill are very diverse in nature, they are changes which are

generally about bringing about a more efficient, transparent, open and accountable justice system in this state. The amendments to the Confiscation Act have arisen from a recent court decision which requires the government to take legislative action to remedy the situation.

I want to focus my contribution on the three areas the speakers from the Liberal Party and The Nationals focused on in explaining their reasons for opposing this bill. In opposing the amendments the bill makes to the Equal Opportunity Act the opposition has shown once again that it stands firmly with its federal colleagues in their attack on Victorian workers and Victorian families. The amendments to the Equal Opportunity Act contained in this bill are the latest in a long line of Bracks government measures to protect Victorian workers from unfair treatment. In the wake of the federal government's draconian WorkChoices legislation, access to antidiscrimination bodies for people who have suffered illegal discrimination at work is more important than ever. It is important to emphasise that the amendments contained in the bill will assist in redressing the balance of power between staff and employers. It has always been a nonsense that all employees can negotiate on an equal standing with employers. This bill ensures that not only do employees have recourse to the Equal Opportunity Act in cases of discrimination but also that they may have an organisation represent them in their case.

One of the most important changes in this bill is the introduction of a representative complaints mechanism. This will mean that when a worker or a group of workers has been discriminated against but is reluctant to make a complaint, perhaps for fear of retribution, a union or other interested body will be able to complain to the Equal Opportunity Commission on their behalf. This mechanism includes safeguards against inappropriate unlimited representative complaints. Each person upon whose behalf a complaint is made must consent to the complaint being made and must be named in the complaint. The representative body must also have a sufficient interest in the complaint being brought before the commission.

While the opposition stands shoulder to shoulder with the Howard government in its attack on Victorian workers and Victorian families, the Bracks government is moving to put in place a very important reform which will benefit Victorian workers and all Victorians by giving them better access to the provisions of the Equal Opportunity Act to stamp out discriminatory practices in this state. I am very disappointed that the opposition and The Nationals are not supporting this reform.

In relation to the proposed amendments to the Fair Trading Act, the opposition has again revealed how out of touch it is. I read in *Hansard* the debate in the other place and I could not believe the shadow Attorney-General and member for Kew branded consumer affairs inspectors jackbooted. That was an extremely outrageous and offensive remark for the member to make. It really has no resemblance to reality. There is no limit to the scaremongering the opposition will engage in in an attempt to salvage some relevance in the lead-up to the state election.

It is important that members be aware that the inspection powers we are introducing into the Fair Trading Act existed prior to 1999 — when the Kennett government was in office — and the sky did not fall. While members opposite can claim, like Chicken Little, that the sky will fall as a result of these changes, clearly when these provisions were in place previously business was able to operate in this state without any unnecessary impediment. We are reinstating compliance monitoring powers to the Fair Trading Act but with additional, new safeguards — for example, the new power of entry will be linked to safeguards in the act to protect the rights of affected businesses. These include the privilege against self-incrimination, the requirement for an inspector to produce an identity card before exercising a power, and a statutory system for lodging complaints about the conduct of inspectors. The proposed monitoring powers will not allow entry to parts of premises that are used for residential purposes.

In his contribution Mr Baxter queried why these powers are necessary. The Fair Trading Act deals with things like dangerous or banned products. The Minister for Consumer Affairs has come into the Parliament on a number of occasions and talked about unsafe children's toys, for example. We have read about this in the newspapers a fair bit recently with stories about toys being imported into Australia from overseas not meeting the required safety standards. Mr Baxter was perhaps suggesting that Consumer Affairs Victoria inspectors should not have the ability to enter warehouses or importers' premises when they are bringing unsafe toys into Victoria and allowing them to be sold freely in discount stores and at weekend markets. I am sure the overwhelming majority of Victorians would support these compliance monitoring powers. I am sure the vast majority of businesspeople would also support these powers, because what we are seeking to do here is ensure we promote fair competition between businesses while preventing harm to consumers. I point out that in New South Wales, Queensland, South Australia, the Northern Territory and the Australian Capital Territory fair trading inspectors have powers similar to those being inserted

by this bill, including the power to enter premises without consent or warrant to check compliance with fair trading laws.

Victoria was the first jurisdiction in Australia to introduce a consumer protection act. The reinstatement of a monitoring entry power will enhance Victoria's reputation as a leader of consumer protection initiatives. We are in effect rolling back the destruction and the watering down of consumer protection laws that occurred during the dark years of the Kennett government. I understand that Consumer Affairs Victoria's published compliance and enforcement policy will also be updated to give transparent and accountable guidance on how powers will be used and will provide that the normal operation of businesses should not be unduly interrupted by the operation of these powers.

Consumer Affairs Victoria will be working together with organisations like the Victorian Employers Chamber of Commerce and Industry to ensure that businesses are informed about the amendments contained in this bill and that businesses understand Consumer Affairs Victoria's compliance and enforcement policy.

Moving on now to the issue of home detention, I remind members that home detention is a sensible addition to sentencing and correctional options for low-level, low-risk prisoners. Since it has been in place from 1 January 2004 it has brought Victoria into line with other states around Australia. The opposition's plan to abolish it despite the fact that it is a successful program shows that the opposition is always looking at simplistic answers to complex sentencing issues. It has not put forward any alternatives. It is only interested in chasing headline populism which we all know is a very poor excuse for policy.

Abolishing home detention, which is the policy of the opposition, would see more low-risk offenders going to prison, and in turn they would be more likely to go on to commit more serious crimes against the community. It is important to emphasise that only those who pose a low risk to the community and who have no history of violent offences, family abuse or sex offences are eligible for this program.

I remind members that when the government passed the home detention legislation it made a commitment to review the home detention pilot program after two years of operation. Two years have passed and the University of Melbourne was engaged to undertake an evaluation of the program, which was delivered to the government in May of this year. The evidence and data from the evaluation support the government's decision to continue with the sentencing option.

I am pleased to advise the house that from January 2004 to February 2006, some 138 offenders were sentenced to home detention orders and the degree of reoffending by those offenders was extremely low. In fact of the 138 offenders only 2 reoffended. The evaluation of the program also found that minimising the risk of family violence by offenders to family members was a central focus. With no incidents of family violence reported, I am very pleased about that result. I know that some of the organisations that support women in family violence situations were concerned about that aspect of the pilot program when it was first introduced.

The Adult Parole Board of Victoria already ensures that people on the victims register are informed and invited to make a submission when the adult parole board considers directing an offender to home detention. This process has been enhanced since March of this year to ensure that it is clear to the victims that a hearing is in relation to home detention. The adult parole board considers any submissions tendered by victims when considering a prisoner's suitability for home detention, and those on the victims register are notified in writing if the board makes an order for home detention.

Given the University of Melbourne evaluation which shows that home detention is working well, the government is repealing the current sunset clause which would see the pilot sunset on 1 January next year, to enable home detention to continue on an ongoing basis.

I reject Mr Baxter's assertion that this is a surreptitious extension of the home detention pilot. We clearly flagged at the commencement of the two-year pilot that it was in fact a pilot that was going to be subject to review; the review has now been undertaken. The results are very promising and show that the program has been working well. For that reason the sunset clause is being repealed, and the home detention is able to continue.

In conclusion, this is an omnibus bill that deals with amendments to 19 different acts of Parliament. Time has not enabled me to cover all of those changes but the amendments contained in the bill are essential to the proper running of the justice system in Victoria. We find ourselves approaching the end of a very busy, productive session at the end of the 55th Parliament; it is necessary that we put these changes into law before the coming election.

I believe that the legacy of the government to date and the changes contained in this bill and the various other reforms we have passed will stand this state in good stead in the future. I commend the bill to the house and urge members to support it.

House divided on motion:

Ayes, 22

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

Noes, 19

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

Motion agreed to.

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

Third reading

The PRESIDENT — Order! The question is:

That the bill be now read a third time and that the bill do pass.

House divided on question:

Ayes, 22

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

Noes, 19

Atkinson, Mr	Forwood, Mr
Baxter, Mr	Hadden, Ms
Bishop, Mr	Hall, Mr (*Teller*)
Bowden, Mr	Koch, 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
Drum, Mr	

Question agreed to.

Read third time.

Remaining stages

Passed remaining stages.

WATER (GOVERNANCE) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms **BROAD (Minister for Local Government).**

STATE TAXATION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 3 October; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — The State Taxation Legislation (Miscellaneous Amendments) Bill puts in place some relatively minor technical amendments that were foreshadowed in the Treasurer's budget speech back in May, and I do not intend to dwell on them to any great extent.

Part 2 of the bill amends the Duties Act, which is the principal act that imposes a range of duties on property in Victoria. It is worth noting that the financial report that was released yesterday by the Treasurer and the Minister for Finance indicated that for the 2005–06 financial year the collection of duties in the state was $2.7 billion. The revenue collected under the Duties Act is a substantial part of the state taxation base in Victoria. Stamp duty on the transfer of property is one of the state taxes that is at the forefront of the minds of Victorian taxpayers, particularly in areas such as mine where there are a lot of new housing developments, with young families buying first houses and being hit with a whacking great stamp duty. The total figure of $2.7 billion is a substantial contributor to state coffers in Victoria.

Clause 3 replaces section 36 of the act and inserts new sections 36A, 36B and 36C, which will alter the way certain exemptions from stamp duty on the transfer of property will apply. Basically these are existing exemptions from duty, and the intention of the legislation is to clarify their application. The new provisions clarify the position in the event of a transfer of property from a trust to the beneficiaries of that trust. There are duplicate sections for fixed trusts, discretionary trusts, superannuation trusts and unit trusts. The premise of this proposed section is that, where duty has been paid on the transfer of property into a trust, the subsequent transfer of that property, from the trust to beneficiaries of that trust, does not attract duty. There are a number of qualifications surrounding these particular exemptions, and the purpose of this clause is to clarify the operation of the exemptions. As a result of the introduction of these proposed sections into the principal legislation we have parliamentary drafting that is regrettably far more complex than the sections of the principal legislation that are replaced.

The exemptions operate such that somebody who is a beneficiary of a trust at the time the property is acquired by the trust, provided the duty has been paid by the trust, is eligible to receive property on a distribution from the trust. The bill prescribes in detail the applicable beneficiaries under the four different types of trust, and it appears there is an omission with regard to children who are born after the formation of the trust in the case of a family trust or similar structure.

The legislation outlines in detail exemptions for beneficiaries — the spouse/partner beneficiaries, children of beneficiaries, stepchildren, adopted children and so on — but there appears to be no provision that would allow a subsequently born child to enjoy a similar exemption under this provision if they had not been born at the time the property was acquired by the trust that is subsequently disposing of the property. Therefore, although we seek to clarify these provisions, it would appear that there may well be an oversight in the way new section 36 of the principal act will operate.

In terms of the other two key provisions of this section of the bill, one is to clarify that transfers of property in the event of a marriage breakdown are exempt from duty when the property is transferred from a body corporate as a consequence of a marriage dissolution and settlement. That duty is not payable when the transfer is from a body corporate to an individual. The bill also allows a new exemption from duty for ambulance services, and clarifies the existing exemption for certain health centres that are enunciated in the principal act.

Part 3 of the bill makes amendment to the Land Tax Act, which is probably one of the more contentious state taxes in the Victorian taxation regime. The financial report released yesterday by the Minister for Finance and the Treasurer shows that collections from land tax for the 2005–06 financial year were $780 million, so again it is a substantial part of the state taxation revenue base. What the bill seeks to do with its amendment of part 3 is remove the existing indexation regime that applies to the valuation of properties that are assessed for land tax. However, it has the downside of clawing back some of this revenue by virtue of bringing forward the use of future valuations in the land tax regime. Therefore in some respects what is being given with the left hand is being taken away with the right hand, which of course is out of character for the Treasurer, Mr Brumby! In this instance we are seeing that approach here. Nonetheless the issue of indexation is one that has been particularly contentious with the Victorian electorate, and I am sure its removal will be welcomed.

Another area of concern that is picked up in the bill is the ability for land taxpayers to appeal land tax assessments at the time they receive the assessment. Of course the practice has been that people who are issued with land tax assessments only wish to appeal those assessments and appeal the valuation on which those assessments are based when they receive the assessment. The experience to date has been that by the time the land tax assessment is received by a taxpayer it is too late to appeal the valuation on which that assessment is based. The bill contains an amendment to the effect that land taxpayers will now be able to appeal their land tax assessment at the time the assessment is made rather than having to demonstrate the foresight of appealing a property valuation at the time the valuation is made with the intention of getting a subsequent variation on land tax. It will make it far simpler for land taxpayers that at the time they have the assessment in their hand they will be able to appeal the basis on which that assessment was made.

While we are talking about the Land Tax Act I would like to raise the issue of special land tax. Special land tax is in some respects one of the more offensive parts of the land tax regime. The application of special land tax is not widely recognised in the Victorian community until Victorian land-holders have the misfortune to be subject to it. Special land tax applies in relation to land that has previously been exempt from land tax because its usage is exempt under the act. A common example of that would be when land that is used for certain primary production purposes — primary production is an exempt purpose — is transferred to a new owner and that new owner ceases

to use that land for the exempt purpose. In that case special land tax is payable by the person who owned the land and had the exemption, and that land tax is levied at the rate of 5 per cent of the value of the land.

What we have seen in relation to farms on the fringes of Melbourne is a number of cases in which the vendor of a property has been hit with a special land tax assessment. In shires such as Cardinia and Yarra Ranges special land tax has been assessed unexpectedly on properties that have been farms and have subsequently been sold to people who do not farm those properties. This issue was raised with me by Edward O'Donohue, who is one of the Liberal Party's candidates in Eastern Victoria Region. He has been out meeting with would-be constituents in the lower house seat of Gembrook, and I know that following the November election he will make a significant contribution in this place. He has been meeting with land-holders in the seat of Gembrook, and the issue of special land tax has been raised as a major concern.

He cited an example to me of this very situation, where a property that had been used for grazing was subsequently sold and was no longer used in that way. The vendor was hit with a 5 per cent special land tax, which imposed a significant burden on him. That person was not expecting to pay out 5 per cent of the value of the property he had sold. When many of these properties are sold, they are sold so that the vendor, particularly if they have been in primary production, can retire, and they do not expect to be paying out 5 per cent of the value of that property to the State Revenue Office.

Following the representations I received from Mr O'Donohue on behalf of the resident in the Gembrook electorate with whom he had been dealing, I submitted a number of questions on notice to the Treasurer with respect to special land tax collections — as to the number of assessments that had been issued by the State Revenue Office and the value of taxation that was sought under those assessments.

I was surprised by the response from the Treasurer. The question related to assessments issued under the former Land Tax Act 1958, which was repealed, and the subsequent Land Tax Act 2005. The response from the Treasurer to the question which asked for the number of assessments each year from 1999 to date was that the number is relatively small. In 1999 there were only 30 assessments for special land tax, the following year there were 25 and the year after 35, peaking at 90 assessments in 2002 and dropping to 48 in 2003, 36 in 2004 and 19 in 2005. Those figures applied to the act which has been repealed. Under the current act there were three assessments in 2006 to 20 September, when the Treasurer signed off this question on notice.

A very small number of people are affected by special land tax; however, the impact on those individual taxpayers is significant. The revenue collected from special land tax in terms of what the state gained is insignificant. In 1999 special land tax contributed $615 000; the following year $500 000; the year after that $838 000; and even in 2002, when the number of assessments peaked at 90, the collection by the State Revenue Office from land tax was only $2.3 million. The revenue to the state is inconsequential; however, the impact of those special land tax assessments on individual taxpayers is significant. It is my belief that the government should review and reform special land tax. Obviously the fact that the revenue is not significant to the state and that so many people are affected by it on the fringes of Melbourne is cause for concern and will continue to be of concern as more land is relinquished from primary production.

I understand that the special land tax provisions were put in place to discourage developers purchasing land and then holding it on a speculative basis. Clearly the number of assessments that are issued on an annual basis suggests that that is not what is happening here. The small number of transactions are legitimate transfers, through which people in primary production and other exempt activities relinquish those activities and sell their land for retirement purposes. Given the small number of people who are assessed for special land tax and the relatively small revenue that goes to the state, it would be appropriate for the government to review the special land tax provisions and determine whether they are appropriate to continue in the current taxation regime, particularly given the impact they have on individual taxpayers.

Part 4 of the bill amends the Pay-roll Tax Act. In passing I note from yesterday's financial report that payroll tax contributed $3.3 billion to state coffers in 2005–06. The amendment to the payroll tax provisions is minor and confirms the exemption for health services, including ambulance services.

Part 5 of the bill is interesting. It relates to the Public Authorities (Dividends) Act. This piece of legislation lists a number of state entities and allows the Treasurer to strip dividends from public authorities. We have already seen this happen with the Transport Accident Commission year after year. Basically the Treasurer is required to consult with the authority or, from memory, its relevant minister, and he can set a dividend that he is going to take from each authority. I can only wonder what it would be like if shareholders in our public

companies were able to dictate to the management of those companies the level of dividends that would be taken out each year because it suited individual shareholders to take a particular dividend.

That legislation is in place, and the Treasurer has used it to good effect to take money from the TAC and other — —

Hon. W. R. Baxter — Water authorities.

Hon. G. K. RICH-PHILLIPS — Water authorities, Mr Baxter. In fact according to yesterday's financial report, $593 million was taken from state agencies as dividends in 2005–06. The bill extends that provision to the Melbourne Convention and Exhibition Trust. This trust will be responsible for the new 5000-seat convention centre when it is eventually built. In question time this afternoon the house heard details of how that project will work and the financial impact it will have on the state, so it is curious that the Treasurer thinks that at some point in time there will be an opportunity to take out a dividend stream. Nonetheless, that trust is being added to the list of authorities from which the Treasurer can take dividends.

The Liberal Party has decided not to oppose this bill. On the whole, the bill makes a number of fairly technical amendments to the state taxation regime, and probably all of them will benefit the state's taxpayers, but I have to say that if this is the government's idea of taxation relief, then it has a long way to go. These are minor technical amendments. They put in place a second raft of announcements made by the Treasurer in his budget speech this year, but once again they highlight the fact that enormous sums of money are being taken out of the Victorian economy by way of a state taxation regime and legislation. The amendments also highlight the need for further taxation reform in Victoria.

Hon. W. R. BAXTER (North Eastern) — I should start by observing that there is no doubt this is a high-taxing government. The government is collecting millions of dollars in taxes every day from the citizens of Victoria — day in, day out, 365 days a year. Some of those taxes are apparent, such as the horrendous imposts on persons buying homes. People know that the stamp duty imposts are the highest in the nation. I commend the opposition for the policy it has announced in recent days that will give relief to people paying stamp duty on home purchases. I note that The Nationals have a policy of giving stamp duty relief to first home buyers in country Victoria, which again is a worthy initiative and a welcome policy.

But some of the other taxes that this government imposes are hidden — for example, there is the secret tax on water. The environment levy is nothing but a hidden tax, because by legislation of this government water authorities are not able to show that tax on the water bills they send out. The government claims that somehow or other it is whiter than white in terms of tax relief, but the facts simply do not stack up. When that is added to the receipts the government is receiving from the GST courtesy of the federal government, where it is running well ahead of budget. We heard claims being made by interjection by Ms Romanes earlier today about which taxes have been abolished. Yes, a number of minor taxes were abolished, but those taxes pale into insignificance compared to the dollars that are flowing into the Treasury via the GST. The fact that the Treasurer gets a cheque every month for $800 million or $900 million, and the fact that it is growing month by month, simply indicates that this government is a high-taxing government in every respect.

It is just as well that revenue is running ahead of schedule, because if it were not, we would already be plunged into severe deficit of the Cain and Kirner governments ilk. If one looks at this government's record in the seven years it has been in office, it has now exceeded its budgets by $8 billion. The government is totally unable to manage money and its budget. The only reason we are still in surplus is because the government has miscalculated revenue to the tune of $10 billion.

That is the only thing that is keeping the government in the black. I do not think any Treasurer should take pride in the fact that he is running a surplus if the figures are as far out as those regarding the surplus for this year shown in the documents tabled yesterday. Only three months ago the government was forecasting it to be $370-odd million, and now it is more than $800 million. If private enterprise conducted itself in such a fashion that it forecast its financial results and three months later it was that far out, the shareholders would rightly be demanding the heads of the managing director and the chief financial officer. Yet somehow or other this Labor government takes pride in the fact that it is generating a surplus that is much more than it forecast. To me it is simply an indication of an inability to manage.

As Mr Rich-Phillips said, this bill is relatively innocuous, and The Nationals will not be opposing it for that very reason. It is largely of a technical nature and introduces one very welcome initiative, an initiative which the opposition and The Nationals attempted to achieve as recently as last May — that is, the ability to appeal against a valuation used in a land tax

assessment. We had in May a minister sitting at the table going on with a lot of blather about how the government could not accept the amendment that came before the house, but what do we find now? Lo and behold, it is incorporated in this legislation. I welcome that, but it just shows yet again the hypocrisy, if not the dishonesty, of this government. The government thinks all wisdom resides with it, and it was not prepared to accept an amendment proposed from this side of the house only a few months ago. It does indicate that the government had its ear to the ground, realised that this particular matter was beginning to get a bit of traction out in the marketplace and felt that it had to do something about it. As I said, I welcome it, but I do not like the way that it came about.

The bill also enables the use of more contemporary evaluations for land tax. That seems to me to have the potential for a one-off windfall gain for the government, possibly not to any great degree, bearing in mind that in the past indexation factors have been used to bring the valuation deployed up to a more current amount. I do not know whether there will be a windfall gain, but there is certainly the potential for it. Land tax is a very onerous tax for many businesses to bear because, unlike income tax and some other forms of tax, it bears absolutely no relationship to the financial return that the particular business might be generating; it is simply levied on an asset. This government has made an art form of it. We hear from Mr Eren and others how the government has reduced land tax by $1 billion. They are fictitious figures; a construction that you can shoot holes through, yet we hear that mantra repeated time and again.

The State Revenue Office (SRO) has a duty and a statutory responsibility to make sure that it collects land tax where it is due and properly payable. I acknowledge that the office needs to keep a good eye out to make sure that all parcels of land that are subject to land tax are caught in the net. I do not object to that, but I do object to some of the methods that the office uses. Right at this moment I know of a case involving a constituent who received a notice from the State Revenue Office headed 'Notice of potential land tax', which lists a number of holdings that this particular constituent has. Most of them are primary production land-holdings and so of course are exempt. One is listed as having a capital improved value of $220 000, just above the $200 000 threshold amount for land tax.

The notice asks the constituent to advise if that is not correct and gives a number of codes you can put in — if it is primary production land you mark it 'PPL'. This constituent did that and sent it back to the SRO, thinking it would be the end of the matter. In due course he got a letter from the State Revenue Office, which says that the municipality has advised that this land is a quarry and that a land tax assessment notice will be issued.

The constituent spoke to me about it and drew my attention to the fact that this particular parcel of land is 300 hectares in size, it has a capital improved value (CIV) of $220 000, and it has a disused quarry in one corner covering 1 hectare, which is currently being used for grazing. Clearly it would not be subject to land tax, firstly, because it is mainly primary production land, and secondly, even if the disused quarry were taken into account, the value of it would be well under the threshold amount anyway.

I telephoned the State Revenue Office on behalf of the constituent, and I was informed that the SRO had made a decision on this matter based on the information supplied by the municipality, that a land tax assessment would issue and that my constituent could object to it, which of course the constituent will when he gets the assessment. My complaint is: why was the municipality more believable than my constituent in the first instance; why did someone in the State Revenue Office not contemplate that if the site is 300 hectares, it is unlikely to be a 300-hectare quarry — if it were, it would be the biggest quarry in the state of Victoria — and did not the penny drop that if the CIV was only $220 000, it could not possibly be a 300-hectare quarry?

Why on earth is my constituent being put through all the trouble of having to lodge a formal objection simply because a statement he signed is disbelieved and a bit of cockeyed information supplied by the municipality is wrong yet is somehow or other taken to be gospel? No wonder the taxpayers of the state of Victoria think this government has got both hands around their necks and is throttling them. It is just stupid. It is costing money to sort out a problem when the constituent advised the State Revenue Office of the circumstance. If the office doubted it, why did it not ring him up and have a talk to him about it? In effect the State Revenue Office has called this constituent a liar. Why has it done that? That constituent is upset about it, and so am I.

The Parliament and the government have a duty to treat people in this state as being basically honest. If we want to disbelieve what they are saying, let us make due and proper inquiry rather than relying on a bit of erroneous information supplied by someone else. No wonder taxpayers think they are getting the rough end of the pineapple from this government when you have those sorts of examples.

The other matters in the bill go to relatively straightforward matters, such as the clarification of the exemption of certain health facilities from land tax and payroll tax. A second matter is the clarification of the duty that is payable by certain trusts and property held by the trusts. I had a good briefing by the department and the State Revenue Office on that matter; I found it to be quite complex, but I think I understand the provisions; it seems to me they are not introducing new concepts but rather clarifying what was always the intent of those sections of the Duties Act in the first instance. A third matter is the issue that Mr Rich-Phillips referred to in relation to the Melbourne convention centre and its liability to pay dividends.

Frankly I am impressed by the fact that someone thinks the Melbourne convention centre is going to make a profit. I hope they are right. We have seen the figures that have been bandied about in the papers in the last day or two on what it is going to cost. It is never going to make a profit if it is going to take into account the cost of capital.

The Treasurer has this quaint notion when he is stripping money out of these public authorities that somehow or other it is a dividend. So often it goes well beyond the concept of a dividend and is actually stripping out of those instrumentalities funds that they should and would properly use for maintenance and renewal of infrastructure and the like. What has happened to the water authorities is that this government has stripped $1.6 billion plus the secret environmental tax from them, and what have we got? Water shortages all over the place, partly due to the climate and the lack of rainfall, but would they be so serious if that $1.6 billion had not been ripped out of those water authorities and had they deployed those funds in stopping leaks, improving infrastructure, adding storages and the like? Talk about being counterproductive! It is just a crazy notion that this government has that you can use public authorities as some sort of milch cow to pull money out. It is another way of taxing the populace — by hiding it and making it look as if somehow or other it is a so-called dividend. It is not a dividend. Is the money the government gets out of the Transport Accident Commission a dividend? No, it is not.

Hon. Bill Forwood — No, it's a capital strip!

Hon. W. R. BAXTER — It is a capital strip, absolutely. Did the government put much capital into the Transport Accident Commission when it was formed? No. It is by and large funded entirely by contributions made by motorists. Yet this government strips this money out on the basis that somehow or other it is getting a return on an asset which it established. It did not establish it at all. The people of Victoria established it by paying the Transport Accident Commission premiums on motor registrations. Again we have dishonesty from the government, this spin, this dressing up to make it look as if it is all legitimate when clearly it is just another means of garnering revenue so that the government can waste it the way it has been wasting it over the last seven years, by exceeding its budgets and failing to live within its means. We should make that very clear to the people of Victoria on every possible occasion, because, if we do not, the spin that this government puts out will tend to be believed, and so often there is nothing more than spin. Members of The Nationals are not opposing this legislation, but they oppose very much the way this government goes about stripping revenue from the citizens of Victoria.

Hon. S. M. NGUYEN (Melbourne West) — I am surprised that the previous speaker does not appreciate the work we have done over the last seven years to make Victoria a healthy state to live and invest in. If someone who did not know the full story listened to Mr Baxter, they would be disappointed. We know how good the economy of Victoria has been in the last seven years. We have moved from strength to strength. We want the economy of Victoria to grow stronger and go ahead, and at the same time we want to deal with social issues by providing more services to people in the areas of health, education, police numbers, welfare, mental health, youth and many others. We do not want to look only at single issues. We do not want to look after simply the business sector only and ignore the rest of the community. We want to care for both ends. At the same time we are making savings and making Victoria an attractive place to invest.

In our last two budgets we have provided funding for first home buyers, which helps the economy. The construction sector has been in decline in the last few years because high interest rates have made people too scared to borrow money. But we want to keep people investing in property. We want to attract more first home buyers and subsidise them to help the economy and keep it healthy. These things help the economy of Victoria. We have listened to the people regarding land tax. Some business people said they have suffered because of high land tax, and we listened and did something about it. We reduced their costs.

With regard to water saving, we are not introducing a new tax. We are trying to encourage people to be more responsible and use water more carefully. It is not like it was 20 or 30 years ago. We cannot afford to let everyone use water freely. They have to think twice

before they have a shower, water the garden, wash the car or use water in other ways. The public is required to be responsible when using water. We are committed to saving more water every year. It will be good for the future of Australia, and especially for Victoria.

The opposition tried to say that this is a high-taxing government, but it has tried to do everything to look after Victoria. With the gambling legislation the government does not want to promote and encourage people to play poker machines or go to the casino. People should think carefully before they take on extra risk. The government has tried to control people's spending.

The legislation is straightforward. The bill amends the Land Tax Act 2004, the Payroll Tax Act 1971, the Public Authorities (Dividends) Act 1983, the Taxation Administration Act 1997, and the Valuation of Land Act 1960. The government is trying to do the right thing by everybody.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That the bill be now read a third time.

In so doing I thank members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

SERIOUS SEX OFFENDERS MONITORING (AMENDMENT) BILL

Second reading

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

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill amends the Serious Sex Offenders Monitoring Act 2005 ('the act') to clarify the Adult Parole Board's powers under that act following the recent Supreme Court decision in the matter of *Fletcher v. Secretary to the Department of Justice and Anor*.

As members will be aware, the act establishes a scheme for the extended post-sentence supervision of high-risk child-sex offenders in the community. That scheme allows a court, on application of the Secretary to the Department of Justice, to make an extended supervision order for a period of up to 15 years. If the court makes an extended supervision order, the offender remains under the strict supervision of the Secretary to the Department of Justice and the Adult Parole Board.

The Adult Parole Board has a broad power under section 16 of the act to give an offender subject to an extended supervision order instructions and directions that are necessary to achieve the purposes of the order. These purposes are to protect the community and promote the offender's rehabilitation, care and treatment.

The powers vested in the Adult Parole Board include a specific power in section 16(3)(A) of the act to direct an offender who is subject to an extended supervision order where to reside.

The exercise of that power was the subject of a recent court challenge in the case of *Fletcher v. Secretary to the Department of Justice and Anor*. The applicant in that case, Mr Robin Fletcher, challenged a direction from the Adult Parole Board that he reside at the extended supervision order temporary accommodation centre situated in the grounds of Ararat Prison under his extended supervision order. The Supreme Court found that it was not lawful to direct Mr Fletcher to reside at the centre facilities that were behind the wall of the Ararat prison, as they were not 'in the community' as contemplated by the act.

In response to the ruling, the bill amends the act to clarify that the Adult Parole Board may impose residence requirements under an extended supervision order to direct an offender to reside at a place that is located within the perimeter of a prison, whether inside or outside the prison wall, but does not form part of the prison. This will enable persons subject to extended supervision orders to be accommodated within facilities such as the extended supervision order temporary accommodation centre in the grounds of Ararat prison.

The purpose of that centre is to provide safe, temporary accommodation for offenders subject to extended supervision orders where it has not been possible to find other suitable accommodation.

Offenders who are accommodated at a location within a prison perimeter in accordance with such a direction have completed their sentence of imprisonment and do not have the status of a prisoner. Rather, these offenders are managed in accordance with the requirements of the act. This enables strict supervision requirements to be placed on the offender, including electronic monitoring, curfews and prohibitions on contact with children.

The bill makes it clear that a direction that an offender resides within a prison perimeter is to be considered as living in the community for the purposes of the act.

The amendments to the act made by the bill will ensure that safe and appropriate accommodation arrangements can continue to be put in place into the future in relation to offenders subject to extended supervision orders. As such, the bill will further strengthen the significant monitoring powers that are in place under the act to protect the community from serious child sex offenders.

I commend the bill to the house.

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

Debate adjourned until later this day.

HUMAN SERVICES (COMPLEX NEEDS) (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution to the Human Services (Complex Needs)(Amendment) Bill. In doing so, I indicate that the opposition will support this important bill that flows from changes made in September 2003 with the establishment of the multiple and complex needs panel that was designed to provide individual and coordinated client management for complex needs' clients.

The initial trial provided the panel with 50 clients each year. The bill makes two minor changes. The first and key change extends the operation of the act because it is seen to have worked and to have provided a relatively good outcome for those patients.

The second change is to increase the size of the panel from 7 to 14 members. The size of the panel is an issue because that increase in its size will enable greater operational flexibility. The smaller panel has held up things from time to time because of the need to get a quorum or a sufficient group of people with expert knowledge, so the larger panel will be able to adopt a better and more functional approach.

At the same time the issues that were present when the Human Services (Complex Needs) Bill was first introduced in this place in 2003 are as relevant today as they ever were. Complex human services patients present with a series of problems such as mental illness, certain intellectual disabilities, in some cases acquired brain injury, and in other cases a mixture of those with significant substance abuse.

Those clients in many cases have challenging behaviours that require a complex and thoughtful coordinated approach. Much better results have been achieved by bringing together a team of knowledgeable experts — people who are able to contribute in a constructive way to manage and follow through a regime, to coordinate and to measure the outcomes.

I do not want to say a lot about the bill, except to indicate that the opposition supports it. We believe it has provided an outcome of which the community can be proud, and we were pleased to support it in its early stages. We are pleased again to support an extension of the operation of the act.

Hon. D. K. DRUM (North Western) — It is great to be able to address you, Acting President, for the last time because you have been a great mentor and a great person with whom I shared an office in my first term in Parliament. I wish you, Acting President, all the best.

The Human Services (Complex Needs)(Amendment) Bill will build on the act that was put in place two years ago to deal with a small group of Victorians who take up an enormous amount of resources in dealing with people with complex needs. I remember talking to the initial bill and how we were amazed at the effort and the energy that is provided by the department in caring for these groups prior to this servicing model being instigated.

While it was always targeted at approximately 200 people who had complex needs, there was a much smaller group of about 10 or 20 people in the state who were causing enormous grief with the respective departments. When you drill right down to it, there were certain individuals who were costing the state in the vicinity of $400 000 per annum by simply trying to look after the clients. Such individuals were causing damage to the residences they were living in and to ambulances that transported them; also, they were causing damage in hospitals.

Obviously we are talking about people with severe problems. Some of the data we have on this group indicates that about 78 per cent have a mental disorder, 60 per cent have substance abuse issues, 39 per cent appear to have an intellectual impairment and 34 per cent appear to have an acquired brain injury. It is an area that is predominately represented by males, with the ratio of males to females being about two to one. It has proven to be the case that while it was always somewhat of an experiment — the approach was, 'Let us put this in place and see if we can find a better way of dealing with people with complex needs' — it has had very positive outcomes. We note that there has

been improved stabilisation in accommodation arrangements, which has been a real bonus in settling people down and not having them be homeless, which so often happens to people suffering from multiple needs. There has been a decrease in accident emergency department admissions. It is good that those people have had their needs cared for in ways other than their having to present to accident emergency departments in this state. The health care requirements of this group have been better identified.

The multiple and complex needs service response comprises four structural components. This is what the principal act is built around. The first is the regional gateway, so we are providing a single point of access in each region. The second is the multiple and complex needs panel, which is being amended in this bill so that the number of panel members will increase from 7 to 14. As Mr David Davis said earlier, it will be difficult to find the additional people with specific skills, but hopefully we can find the right people and fill the positions. The third component is the multidisciplinary assessment and care planning service to make sure we get the right care and planning for each individual. The fourth component is an intensive case management service to make sure that once the plan is designed it is implemented and the ongoing case management is kept under control. It is worth noting that the participation in the multiple and complex needs program is voluntary. We have not had any cases where people have refused to participate in the program. If we take a good look at this there are strict criteria for eligibility so that the people who qualify have serious problems and will hopefully welcome the opportunity to have a more robust program for their particular needs.

The two main purposes of the bill are the extension of its operation for a further two years, and we expect the program to grow within that time, and an increase in the number of members of the panel from 7 to 14. While only a small number of members of our community have these complex and special needs, they have such significant problems that we need to put in place a special program for them, which is what the panel has been able to do. We hope more and more people will be accommodated under the plan. We know that the number of consultations is up to 335 to mid-September, and to date 51 of those matters have gone on to be referred to the panel, with 29 care plans having been determined and 39 care plans having been undertaken and reviewed. That shows how many people have been interviewed by the group. We are getting there, but it is a slow and complex process dealing with these people.

This is an extremely important issue, and if we can put in place an improved model to care for people with complex needs, we should do so. We seem to have a model that is creating some good outcomes so we should be supporting that with all our might. We need to give it every opportunity to grow and capture more people who need special care. With those comments I advise the house that The Nationals support these minor amendments and wish the bill a speedy passage. We hope we can care for these people in the best way we can.

Hon. KAYE DARVENIZA (Melbourne West) — I think almost everything that can be said about this small bill has been said, but I will put on the record the importance of the bill. All members who have spoken on it, including me, feel strongly about this matter and can talk about their experiences at some length. My experience in dealing with people with special and complex needs goes back to the time before I became involved in politics when I was a nurse working in psychiatry. In those days it would often be the situation that someone would present with a psychiatric problem and be diagnosed. They would then be treated, but there would be other problems, such as substance abuse problems, intellectual disability and the like. Often these individuals would fall through the gaps in the system and be shunted from one service to another. There was not a comprehensive way of looking at their complex needs to make sure they received the best possible treatment for their range of problems and the complex diagnosis that they required.

In 2003 the principal bill was introduced, and all three speakers who have spoken in this debate also spoke on the debate then and supported the need for the bill. They are all now supporting the amendments. One of the amendments will extend the sunset provisions, which are due to expire in May 2007, for a further two years to mid-2009. That will enable the Department of Human Services to establish more robust evidence based on an assessment of this initiative both in terms of the way the service operates and its coordination, but more importantly based on the impact this initiative is having on the lifestyle of most of these vulnerable individuals who are part of the plan. The other amendment in the bill goes to the number of members on the multiple and complex needs panel. Currently the panel has 7 members and the amendment will extend that to up to 14 members. Increasing the number of people on the panel will better enable the cases that come before it to be dealt with. It is really about scheduling and timing and making sure we have individuals who have the necessary expertise and background to deal in a timely way with these individuals.

We have seen some very good results. Mr Drum has talked about those. There have been improvements and some stabilisation in accommodation arrangements as a result of this initiative. There has been a decrease in the accident and emergency department presentations that these individuals make, better identification of their health care requirements and improved coordination and goodwill between the service providers.

There are many indications that this initiative is working well, that individuals are being assessed and are having programs put in place that suit their complex needs. All sides of the chamber agree that these amendments will improve the outcomes for individuals who have these complex needs. It is a good bill. I commend the bill to the house and wish it a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

WATER (GOVERNANCE) BILL

Second reading

For Ms **BROAD** (Minister for Local Government), Mr Lenders (Minister for Finance) — I move:

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

The Water (Governance) Bill was amended in the Assembly. There were minor technical amendments, the most significant of them being the capacity for the 200 largest companies to be listed. This change has been 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:

Released in June 2004, the landmark white paper — *Our Water Our Future* — provided for an extensive legislative program, which is being carried out in stages. Significant progress in regard to the government's water reform agenda has already been achieved, with the enactment of the Water Industry (Environmental Contributions) Act in September 2004 and the Water (Resource Management) Act 2005 in December 2005.

I have great pleasure in introducing the next phase of the Bracks government's water reform legislative program, namely, the Water (Governance) Bill, into the house today. The bill will introduce new governance arrangements for water authorities and bring all water authorities (other than the metropolitan licensees) under the Water Act 1989. New governance arrangements for catchment management authorities under the Catchment and Land Protection Act 1994 are also proposed. Improved governance arrangements are critical to the performance of institutions and achieving the government's objectives for sustainably managing water resources and delivering water services in the long-term interests of the community.

The bill also introduces 'on-the-spot' fines for breaches of the restrictions and prohibitions on water use provided for in permanent water savings plans and drought response plans or water restriction by-laws. This will encourage Victorians to comply with these water-saving rules and restrictions that are vital to the sustainable management of water.

Specifically, this bill will amend the Water Act 1989 and related legislation:

to require water authorities to have regard to principles of sustainable management;

to provide a stronger governance framework for water authorities;

to bring Melbourne Water under the Water Act 1989;

to establish the role of storage manager and to set out the functions of this role;

to provide consultative processes for the decommissioning of dams;

to introduce 'on-the-spot fines' for permanent water saving plans and drought response plans or water restriction by-laws; and

to provide for the protection of public land by making it clear that water authorities are exempt from adverse possession claims.

This bill will also amend the Catchment and Land Protection Act 1994 as foreshadowed in the white paper. Since the introduction of this act, the responsibilities of the 10 catchment management authorities have progressively increased. Initially responsible for the strategic coordination of land and water management in each region, most are now also the caretakers of river health. Except in the Port Phillip and Western Port region, the catchment management authorities regulate and support the management of waterways, drainage and floodplains. To these responsibilities has recently been added the management of the environmental water reserve. These changes are to be matched by strengthened governance arrangements, improved resourcing and clearer accountabilities to the government and all Victorians.

Current legislative arrangements for catchment management authorities are complex. Catchment management authorities operate under two acts — the Catchment and Land Protection Act 1994 and the Water Act 1989. The governance arrangements under these two acts are in places inconsistent, making the responsibilities and accountabilities of the catchment management authorities unclear in some aspects.

The amendments in the bill address this. The amendments also apply the provisions of the Public Administration Act 2004 to catchment management authorities.

The catchment management authorities will be established under the Catchment and Land Protection Act 1994 and their governance arrangements will be clearly outlined in that act. However, in relation to their specific waterway management functions, they will continue to have specific waterway management functions under the Water Act 1989.

The bill also amends the Werribee South Land Act 1991. That act provided for the revocation of permanent and temporary reserves at Werribee South, the reservation of those lands and neighbouring lands for tourism and recreation and the granting of leases for a maximum term of 50 years. The bill provides for amendments to that act that will facilitate proposals for development of a marina at Werribee South by redefining the area of Crown land to be leased and extending the maximum term over which leases may be granted.

I turn now to the bill before the house.

Principles of sustainable management

In the white paper, the government acknowledges that its goal of sustainable management of water will mean everyone changing their behaviour. The Victorian community, organisations and individuals increasingly recognise that we need to change the way we use and value water to protect our precious water supplies for future generations. The government considers that water authorities have a leading role to play, and a responsibility to manage Victoria's water resources sustainably. Under current legislation, water authorities do not always have a clear mandate to take a whole water cycle approach to the management of water services. To address this, it is now proposed that water authorities have regard to 'sustainable management principles' in the exercise of their powers and performance of their functions. These sustainable management principles incorporate internationally recognised environmental concepts.

The bill will also establish a business objective for water authorities that will require a water authority to perform its functions as efficiently as possible consistent with commercial practice. This is fundamental for any well-run business and will support the water authorities in their aim to operate efficiently and effectively. The Bracks government is committed to retaining water authorities in public ownership.

Stronger governance framework for water authorities

Current legislative arrangements are complex as different governance, regulatory and operational arrangements apply to providers of water services. To standardise the current disparate arrangements, the bill provides for a single corporate form for water authorities with substantially uniform governance provisions. As companies established under the commonwealth Corporations Act 2001, the metropolitan licensees are unaffected by these amendments.

The Public Administration Act 2004 will apply to water corporations. Where the Water Act 1989 imposes more stringent arrangements, such as the pecuniary interest provisions, these will apply.

Melbourne Water Corporation

The Melbourne and Metropolitan Board of Works Act 1958 and the Melbourne Water Corporation Act 1992 provide a complicated legislative scheme for the Melbourne Water Corporation that is highly prescriptive and includes many provisions that are outmoded. The Melbourne Water Corporation Act was introduced to facilitate the corporatisation of the Melbourne and Metropolitan Board of Works.

The Melbourne and Metropolitan Board of Works Act 1958 reflects the many previous roles and responsibilities of Melbourne Water prior to the Melbourne metropolitan water industry reforms. Accordingly, it contains many redundant sections.

The primary legislation governing Melbourne Water does not clearly spell out the functions of Melbourne Water. The case for simplifying is strong. The repeal of the framework legislation for Melbourne Water will rationalise legislative arrangements and bring Melbourne Water into the general legislative framework for water authorities.

Melbourne Water's statutory functions and powers under the Water Act 1989 will be consistent with its role as a wholesaler. This approach will not have any impact on Melbourne Water's current activities.

Storage management

Current legislation does not clearly provide for the role and functions of storage operators. The white paper identifies that water storages and the surrounding land can provide for a range of community benefits, including recreational benefits, in addition to supplying water for consumptive use. These benefits include environmental health, and recreational and aesthetic amenity.

The bill clarifies existing legislation by providing storage managers with explicit functions. In performing its functions, storage managers will be required to consider the ecological values of water systems.

The bill also provides for areas owned or controlled by authorities to be declared as environmental or recreational areas. Explicit functions have been set out for those authorities that have the management and control of such areas.

Consultative processes for the decommissioning of major dams

In the policy document *A Fairer Victoria*, the Victorian government recognises that it is important to give people a greater say on issues affecting the local community. Water authorities are not currently required by legislation to seek any input from the community on a proposal to decommission a major dam. Whilst water authorities have in the past conducted a public consultation process, it is considered important that a consistent approach is required and adopted across the state. Given the impact that such a proposal to decommission a dam can have, the bill establishes a mandatory consultative process for the decommissioning of major dams that is transparent and equitable. It will require water authorities to advertise the proposed dam decommissioning and consider any public submissions. This will give stakeholders an opportunity to put forward their

views on the dam decommissioning and engage the community in the decision-making process.

'On-the-spot' fines for permanent water saving plans and drought response plans

The Victorian government is committed to reducing demand for water and ensuring the efficient use of water at all times. Commonsense rules to avoid water wastage on an ongoing basis have been embodied in water authorities' permanent water savings plans. Restrictions to achieve additional short-term savings to conserve supplies in drought times are provided for in drought response plans and water restriction by-laws. Currently, individuals who breach these restrictions and prohibitions under the plans or by-laws may be prosecuted in court.

It is now proposed that penalty infringement notices or 'on-the-spot' fines may be issued for breaches of the restrictions and prohibitions on water use provided for in permanent water saving plans and drought response plans or water restriction by-laws. 'On-the-spot' fines are an extra enforcement tool that water authorities can use to encourage people to comply with water-saving rules and restrictions. The penalties are tailored to the severity of the offence, with the penalties for breaches of the permanent water saving rules being lower than for breaches of restrictions and prohibitions under drought response plans or by-laws. In the case of breaches of restrictions and prohibitions under drought response plans or by-laws, a clear and consistent four-staged approach with tailored penalties of increasing severity as restriction stage increases will apply across the state.

The drought response plans currently provide that restrictions and prohibitions may be made in two or more stages. The bill allows for a more tailored approach that will provide for four stages of restrictions and prohibitions with tailored penalties for each stage of increasing severity. This will provide clarity and transparency to both users, the general community and to the judiciary. It is intended that the water restriction by-laws will mirror this arrangement so that there is consistency across the state.

The provision for 'on-the-spot' fines will send a message to the community about the importance of restrictions and prohibitions on water use provided for in permanent water saving plans and drought response plans or water restriction by-laws in the sustainable management of water.

Protection of public land

Melbourne Water and the regional and rural water authorities hold large tracts of land on behalf of the public, much of which is unfenced and which individuals can easily encroach upon. Such encroachment may not be detected or may only be detected at significant cost. Although, water authorities under the Water Act 1989 may currently be protected from such claims as representatives of the Crown, to put the matter beyond doubt and to provide protection to all publicly owned water entities, it is proposed that all publicly owned water entities be protected from claims of adverse possession in respect to land held in their name. The rationale for this is to safeguard community interests by preventing the unintended loss of public land to individual claimants.

Information on water use

The bill also provides for the supply of information by the water corporations and licensees on water use by non-natural persons, such as corporations. This will include information on the volume of water being used identified in volumetric range, and whether the user is a participant in any water conservation program. The information is to be supplied on an annual basis by water corporations under the Water Act 1989 as part of their reports under the Financial Management Act 1994, which are tabled in Parliament each year, and by licensees under the Water Industry Act 1994, which information is to be tabled by the minister within 7 sitting days of receipt. The information is intended to allow information on water use to be provided in a fair and balanced way, and to permit the public to assess the progress of industrial water conservation measures.

Generally improving the operation of the Water Act

The Water (Resource Management) Act 2005 instituted complex and innovative reforms to Victoria's water planning, entitlement and allocation frameworks. The bill makes a number of technical amendments to the provisions introduced by this legislation, as a result of the ongoing implementation processes to clarify those aspects which may be considered ambiguous or have unintended consequences.

Valuations

The unbundling of water rights will have an impact on local government rates because the legal tie between land and water will end and consequently the value of water will not be included in future property valuations. To allow time for the rating impacts to be properly assessed and managed, section 73 of the Water (Resource Management) Act 2005 amended the Valuation of Land Act 1960 to provide for the value of water to be included in land valuations until 1 July 2008. Section 73 provides that until 1 July 2008, where a water share has been determined to be associated with land, 'that fact is deemed to be relevant when determining the value of that land'.

Once unbundling occurs from 1 July 2007, some people may sell their water shares — either to someone who wishes to use the water to irrigate a different piece of land, or to an investor not associated with land. Moreover, even if not selling their water share, some people may ask for their share to be disassociated from their land.

The government is concerned that people may seek to disassociate their water share from land as a way of reducing their rate bill in the 2007–08 financial year. Therefore, clause 164 of the bill amends the Valuation of Land Act 1960 to stop people from simply disassociating their water share or selling it to a related party for the purpose of reducing their rate bill. Clause 164 provides that until 1 July 2008, supplementary valuations will be allowed when a genuine trade occurs (that is, when a water share is sold to a person who is not a related party whether or not it is to be associated with land, or to a related party if that person associates it with land). However, a supplementary valuation will not be allowed where a water share is disassociated under other circumstances.

Amendments to the Catchment and Land Protection Act 1994

The bill amends the Catchment and Land Protection Act 1994 to provide for stronger governance and accountability arrangements for catchment management authorities.

The bill ensures that the functions of these authorities and the operation of their boards are clearly defined. The requirements for corporate planning have been strengthened and the accountabilities of the authorities have been improved.

The structure of catchment management authority boards will be improved by reducing the maximum number of members from 15 to 9 and all appointments will be based on skills and experience rather than organisational representation. The required skills of board members will now include strategic, business and financial management.

At the same time the requirement for more than half the members of the boards to be involved in primary production is being retained. This recognises that primary producers represent the major land and water users in most catchments, and that strong regional leadership will facilitate beneficial changes in land and water management practices. The one exception to this requirement for a majority of primary producers will be in the Port Phillip and Western Port region, which includes metropolitan Melbourne.

Other specific provisions of the bill to enhance the governance of catchment management authorities include the potential for the minister to issue formal statements of obligations, as for water authorities. The statements of obligations will allow government to specify obligations relating to the performance of catchment management authorities functions and the exercise of their powers. Specific obligations could include standards of performance, community engagement and corporate and business planning.

The bill also includes other amendments to improve the operation of the Catchment and Land Protection Act 1994. These relate to the incorporation of documents, lodgment of regional maps and submission of annual reports.

Amendments to other acts

The bill includes a number of technical amendments to other acts. These amendments are required as a consequence of the amendments to the Water Act 1989, and the repeal of the Melbourne Water Corporation Act 1992 and the Melbourne and Metropolitan Board of Works Act 1958, contained in the bill.

Amendments to the Werribee South Land Act 1991

The Victorian Coastal Strategy 2002 identifies Werribee South as a potential safe harbour and major regional boating destination that is suitable for a protected harbour, marina, waterfront activities and provision of marina services.

Wyndham Cove Marina Pty Ltd has responded to this need and proposes to develop an integrated residential, commercial and marina complex at Werribee South. The marina component (on Crown land) comprises a marina and safe harbour of up to 1000 wet berths, dry boat storage, berthing facilities for the aquaculture industry and a marine servicing area. The residential component (not on Crown land) comprises 164 houses and 60 apartments.

The site development proposal has recently been subject to an environment effects statement process. The Minister for Planning has supported the recommendations of the independent panel under the Environment Effects Act 1978 and Planning and Environment Act 1987 in relation to the development. As a result, planning scheme amendment C71 of the Wyndham Planning Scheme will be brought to Parliament to be ratified. The bill before the house will formalise the area under development and allow consideration of the appropriate lease term.

The Department of Sustainability and Environment has advice that capital-intensive projects such as hotels, marinas and alpine resort accommodation require lease terms of at least 50 years in order to encourage development and provide viable economic returns on investment.

Development of the site may be jeopardised by a failure to provide the option of a lease greater than 50 years. This bill extends the maximum term over which leases may be granted to 99 years.

The proposed amendment is of an enabling nature only and will allow consideration of an appropriate lease term which may or may not exceed 50 years. It will provide the flexibility required to meet the investment requirements of any significant development of the site.

Any lease over the site can be subject to any terms and conditions the government seeks to impose. The government is able to terminate any lease over the site if conditions are breached.

The Werribee South Land Act 1991 also provides for the revocation of permanent and temporary reserves at Werribee South and the reservation of those reserves and neighbouring lands for recreation and tourism purposes. The proposed amendment varies the plan shown in schedule 2 of that act to change the extent of the land proposed for reservation and lease under the development proposal. The reservation of the lands will protect public access to the foreshore, which will undergo significant rehabilitation as part of the project development.

Conclusion

In conclusion, the bill represents a critical step towards achieving the government's objective of a water sector which is capable, innovative and accountable to the Victorian community. It establishes the foundations of good governance for the water industry. The bill also makes timely and important reforms to the governance arrangements for the catchment management authorities that will provide a sound basis for their future responsibilities and facilitate the development of a marina at Werribee South.

I commend the bill to the house.

Debate adjourned for Hon. E. G. STONEY (Central Highlands) on motion of Hon. Andrea Coote.

Debate adjourned until later this day.

SERIOUS SEX OFFENDERS MONITORING (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).

Hon. C. A. STRONG (Higinbotham) — This being my last week in Parliament, I am having a bit of fun. I must say I am looking forward to the next Parliament when I will not be doing justice bills — they will be somebody else's problem.

This is a particularly important piece of legislation. It has come through with the agreement of both parties. In fact, it was rushed through the lower house today and has come straight in here, by agreement, to be passed. It deals with a very important issue which has come to the surface as a result of a recent court case concerning a Mr Robin Fletcher, who has quite some form in the area of sex offending. Many of us would have seen Mr Fletcher interviewed on television recently and would know a little bit about the problem that has arisen.

Basically the Serious Sex Offenders Monitoring Act 2005, which this bill amends, provides special powers to monitor serious sex offenders whom the court feels are likely to reoffend. It gives certain powers to the Adult Parole Board of Victoria to make various orders and to supervise these serious sex offenders.
Mr Fletcher brought an action against the Secretary of the Department of Justice questioning the ability of the adult parole board to give instructions as to how he is to behave, where he is to live and so on. These issues revolved around the fairly simple fact that the adult parole board can only give these instructions to somebody who is in the community. It does not have jurisdiction over a person who is on prison property or any other property where people are detained at the Governor's pleasure.

Mr Fletcher was living within the grounds of Ararat prison — that is what his extended supervision order requires him to do. The court said the parole board did not have control over somebody who was living in a prison. This put the issue of whether Mr Fletcher is able to be controlled by a supervision order while on prison property in some doubt. What were the options? If he had been released into the community, the community would have been at very considerable risk. There is clearly a desire to keep him contained, under supervision, within the premises of the Ararat prison.

In essence this piece of legislation allows the adult parole board to, under the Serious Sex Offenders Monitoring Act, to direct that somebody be contained and supervised on prison premises. As we understand it, this will allow Mr Fletcher to stay at Ararat prison and remain under the supervision of the parole board — in other words, it restores the situation the government and all of the community want to see exist.

This bill clearly has the support of everybody in this house. It allows somebody who has a record of serious sex offences to be contained when his sentence is over and to be supervised by the parole board while within the grounds of Ararat prison, where he is somewhat more contained than if he were out in the community. With that very brief explanation of the bill, I commend the bill to the house.

Hon. P. R. HALL (Gippsland) — This is a bill which has, as Mr Strong said — I might add with the agreement of the three parties — been pushed through the Parliament, in the Assembly earlier today and now in the Council this afternoon. I have to say this legislation has not been considered by The Nationals at a party meeting. We did not have time to do that, and in fact I have not even spoken to my colleagues in the Legislative Assembly about this bill, but I do not think I am taking any real risk by suggesting that we strongly support this legislation, because I am sure all my colleagues in the party would agree with my personal views on it. We believe that, particularly in the case of Robin Fletcher, the law needs to be as strong as possible. The actions that have been precipitated by this legislation are appropriate in the circumstances.

As Mr Strong said, this bill amends the Serious Sex Offenders Monitoring Act 2005. I think it has been amended a couple of times since it was first introduced a little over 12 months ago. It introduced some elaborate schemes for the extended post-sentence supervision of people who were convicted of child sex offences and were deemed to pose a risk to the community on their release from prison. The act put in place controls and conditions by which those sorts of people could be monitored by the adult parole board, which has the power to stipulate the place of residence of serious sex offenders as part of their monitoring mechanisms.

I think, as the minister stated in the second-reading speech, the board made the right decision in the case of Robin Fletcher. One of his monitoring conditions was that he live within the walls of Ararat prison. I think the community would have thought that appropriate — certainly I do, and I am sure my colleagues in The Nationals also do. However, Mr Fletcher challenged

that, and it was deemed that this direction of the adult parole board — that he be required to occupy a residence within the walls of Ararat prison — was not lawful. This legislation makes the direction lawful by changing a definition to deem a residence inside a prison as living in the community for the purposes of the act. I think that is appropriate.

The bill is small, with only four clauses. One would have to consider proposed section 50, which is inserted by clause 4, to be retrospective, because it says:

> … The amendments made to this Act by section 3 of the Serious Sex Offenders Monitoring (Amendment) Act 2006 apply with respect to an extended supervision order, irrespective of whether that order is made before, on or after the commencement of that section.".

Normally I do not like retrospective legislation, but because of the serious nature of this case and the community view that Mr Fletcher should be kept behind bars and away from the community for as long as possible, I have no hesitation in supporting retrospective legislation to ensure that the original decision of the adult parole board is made lawful. It is the right decision, and the community will support it.

The Nationals believe this is an important principle. We do not want to ever see Mr Fletcher out of prison; he is not the sort of person who should be living in the community. It is appropriate that once he has finished his sentence, his supervision order will continue to require him to live in a prison environment. Therefore we are prepared to support this legislation.

Ms MIKAKOS (Jika Jika) — It is my great pleasure to speak in support of the Serious Sex Offenders Monitoring (Amendment) Bill. At the outset I indicate the government's appreciation of the Liberal Party and The Nationals for supporting the bill and for assisting the government in expediting the passage of this bill through both houses of Parliament this week.

The bill amends the Serious Sex Offenders Monitoring Act 2005 to clarify the powers of the Adult Parole Board of Victoria to direct an offender subject to an extended supervision order to reside at a facility on prison land and follows the recent Supreme Court decision in the Fletcher case.

By way of background, the Serious Sex Offenders Monitoring Act was enacted last year to establish a regime for the enhanced post-sentence monitoring of high-risk child sex offenders in the community. These powers provide a significant new tool for reducing the risk to community safety posed by serious child sex offenders. The act recognised that some serious sex offenders continue to pose a substantial risk to the community following their release from prison.

Under the act the court can make an extended supervision order on application by the Secretary of the Department of Justice if the court is satisfied that the offender is likely to reoffend. An extended supervision order can be made for a period of up to 15 years. During that time the offender is subject to close supervision by the secretary and the adult parole board. As part of its supervisory functions, the board has broad powers to give an offender subject to an extended supervision order directions to achieve the purposes of that order; the purposes are the protection of the community and the promotion of the offender's rehabilitation and treatment. The board has the specific power to direct the offender as to where he or she must reside.

Recently Robin Fletcher, who is subject to an extended supervision order, initiated Supreme Court proceedings to challenge the direction by the adult parole board that he reside at the extended supervision order temporary accommodation centre in the grounds of Ararat prison. The court found that Mr Fletcher could not be considered to be living in the community if he were living on the grounds of Ararat prison. The effect of this decision is to preclude offenders subject to extended supervision orders from being accommodated within a prison's perimeter.

The government has been extremely concerned by the potential ramifications of this Supreme Court decision and the potential implications it has for community safety. That is why it has moved very quickly this week, since the decision was handed down last week, to introduce this bill into the Parliament to amend the Sex Offenders Monitoring Act and to clarify the adult parole board's powers.

The bill makes it clear that the adult parole board can direct an extended supervision order offender to reside at a place which is within the perimeter of a prison, whether inside or outside the prison walls, but which does not form part of the area of the prison. This will enable the offenders subject to extended supervision orders to be accommodated at facilities that are located within the grounds of a prison but which do not form a part of the formal gazetted of area of the prison.

The bill also clarifies that where the adult parole board gives an extended supervision order offender such a direction, the offender must be taken to be residing within the community for the purposes of the act. The amendments give effect to the government's intention that offenders subject to these orders be provided with

temporary accommodation within the perimeter of Ararat prison, thereby ensuring appropriate safe accommodation is available where it has not been possible to find suitable housing for those persons at other locations in the community. Of course our primary concern is also to ensure that the community remains safe from these perpetrators.

The changes in this bill are a reaffirmation of the Bracks government's commitment to ensuring the highest levels of safety for Victorians while minimising the risk of recidivism by serious sex offenders. It will ensure that offenders who are subject to extended supervision orders can be properly rehabilitated and receive the treatment and supervision they require to allow them someday to re-enter society.

By way of conclusion, because this is probably the last speech I will make in the 55th Parliament and as Parliamentary Secretary for Justice, I want to thank the staff of Department of Justice for the support they have provided to me over the last four years. I have always found them to be very professional and dedicated in the work they do. It certainly has been a pleasure to work with the four different ministers in the justice portfolio.

The Honourable Chris Strong mentioned earlier that it has been a very busy week — I think this is the seventh bill I have spoken on this week — and I want to thank the him and the Honourable Bill Baxter for being my sparring partners. The three of us have been regular sparring partners on justice bills over the last few years.

Hon. Andrea Coote — Aren't you going to do the public sector bill?

Ms MIKAKOS — I might decide to do that, but at this stage I think I will have a rest and give somebody else a go.

I just want to thank Mr Strong and Mr Baxter for being prepared to assist the government to expedite the passage of legislation through this house. I take this opportunity to wish them and all the other members who are retiring at the conclusion of the 55th Parliament, including you, President, all the best for the future. I am sure you will enjoy life post-Parliament. I wish those members every success in the future, and I certainly hope that my colleagues who are contesting the election will be back in the next Parliament. I commend the bill to the house.

Ms HADDEN (Ballarat) — I rise to speak on this bill. I support it, as I would support any bill designed to protect the community from convicted child sex offenders, especially those that are dumped into my electorate of Ballarat Province. It is a pity that the government and the Attorney-General had not got their act together a lot earlier than this and placed a bill before the house 12 months ago to cover all the loopholes that the Supreme Court and Court of Appeal picked up.

I do not want to give a free leg-up up to Mr Fletcher, because he is studying for a law degree at the courtesy of taxpayer whilst in prison and under a very long extended supervision order granted by the court back in May, which he consented to. He is also a bit of a celebrity. He has appeared on the ABC *Stateline* program last Friday night. He was escorted down to the ABC studios in South Melbourne, I understand. Pursuant to his extended supervision order he had to be accompanied by a corrections officer. Thank you, Mr Hulls! I really like to see my taxes spent in this outlandish, extravagant and disgraceful way to allow Mr Fletcher to appear on *Stateline*. But I hope Mr Hulls watched the program, because it was a lesson to all of us, especially those who are not skilled in the law.

The Serious Sex Offenders Monitoring (Amendment) Bill does not go all the way. If members in this Parliament, particularly government members, including the Attorney-General in the other place, Minister Hulls, took the time to read the judgment of Justice Gillard in the Supreme Court that was handed down on 27 September 2006 in the case of Robin Angas Fletcher and the Court of Appeal decision handed down on 26 September 2006 in the case of *TSL v. Secretary of the Department of Justice* — there is a suppression order in relation to TSL, who is a convicted sex offender — they would see the flaws in the legislation, because they jump out at you and just about bite you. It is pretty obvious, but the government is not bright enough or really cannot be bothered. I think that is the gist of it — it cannot be bothered. It is a case of out of sight, out of mind. Ararat prison is not in Melbourne. Langi Kal-Kal is not in Melbourne. They are in my electorate of Ballarat Province. We do not want these people in country communities.

The Court of Appeal picked up some of the flaws in the legislation, but they have not been addressed in this bill. The major one is in relation to the appeal provisions for section 39. In paragraph 23 of a judgment in the matter of *TSL v. Secretary of the Department of Justice*, which was a case before the Court of Appeal of the Supreme Court, Justices Callaway, Buchanan and Coldrey said:

> It will be observed that the Court of Appeal has no power to vary the terms of an extended supervision order: paragraphs (a) and (b) give us a choice between revocation and confirmation and paragraph (d) permits an order to be revived but not varied.

That would have been enough to let the Attorney-General know that he should have had a bill with a wider scope before the house today. But no, he has not. As I have said, this issue does not affect his electorate so he does not care.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Ms HADDEN — Before the dinner break I was speaking on the Court of Appeal's decision handed down on 26 September 2006 in the case of *TSL v. Secretary of the Department of Justice* and the observation by Justices Callaway, Buchanan and Coldrey that the Serious Sex Offenders Monitoring Act had some deficiencies, especially in relation to the Court of Appeal's powers under section 39(1) of the act. The court said:

> If Parliament had intended the Court of Appeal to be able to remit an order for the purpose of its being varied, paragraphs (b) and (c) would have been combined. Finally, under paragraph (c), the order must be quashed.

The extended supervision order handed down in June by the County Court against TSL was quashed by the Court of Appeal on 26 September. The observations by the Court of Appeal in its decision should be ringing alarm bells to this government.

The other issue is Justice Gillard's decision of 27 September in the Supreme Court case of *Robin Angas Fletcher v. Secretary of the Department of Justice and the Adult Parole Board of Victoria*. That resulted in this bill. However, this bill is deficient, as I have said, because it does not cover all the issues that His Honour raised in his judgment on that case, and it certainly does not cover issues raised by the Court of Appeal. It looks like the Serious Sex Offenders Monitoring Act will need even further amendment in the 56th Parliament, whenever that sits, to bring it up to speed, as was suggested by the court.

In relation to the Fletcher case, when referring to the provisions in the act about residing in the community and the conditions of the extended supervision order granted by the court in May against Mr Fletcher, His Honour Justice Gillard found that the Adult Parole Board of Victoria did not have the power to direct that Mr Fletcher reside within the prison compound in what is known as the Wimmera unit, because that was not 'residing within the community', in accordance with the act. His Honour said in paragraph 69:

> What residing in the community is, is an interesting question, and one that is unnecessary for me to decide, save to say that Mr Fletcher's present location within the prison walls cannot be considered residing in the community.

This bill does not provide any definition of 'community'. I would have thought the judgment, from which I have just read out three lines, should have alerted the government, the Attorney-General and his department to the fact that this bill should include a definition of what 'community' is, in accordance with His Honour's opinions.

His Honour also went on to say that the Wimmera unit, which was described as the extended supervision order temporary accommodation unit within the walls of the Ararat prison, was made without power, and:

> … it is not a proper and lawful exercise of the power which is given to the board —

that is, the adult parole board. His Honour also went on to say in paragraph 73:

> It appears to be recognised by the board that the present residential facilities within the Ararat prison walls are not appropriate, and the department is looking at other options. To that extent, the board's hands are tied, but nevertheless, that does not provide an excuse for an instruction which is not the product of the lawful exercise of the power.

What I say to that is: just where is the Department of Justice looking to place these convicted child sex offenders and convicted sex offenders who are subject to extended supervision orders? I hope it does not think it is going to revive its pursuit of the Trawalla district, because I can tell members that will not happen.

The other issue is that His Honour made it clear also, in paragraph 75, that it is the obligation of the Secretary of the Department of Justice, and that is inherent in the act, to provide appropriate residential accommodation for persons who are subject to extended supervision orders. His Honour said in paragraph 76:

> Whilst the adult parole board can only work with the facilities, resources and assistance that it has, nevertheless, it is bound to lawfully exercise its power under the act … the facilities presently provided do not answer the description of residence in the community.

I will shortly get on to the adult parole board's resources, because that is an issue and is certainly one that His Honour raised. His Honour then concluded that:

> … condition (n) —

that is, the one directing Mr Fletcher to reside in the Wimmera unit within the Ararat prison walls —

> is ultra vires the powers of the board.

Therefore, this bill is, as I said earlier, going only part of the way to solving the problems raised by the Supreme Court and the Court of Appeal.

The purpose of this amending bill is to empower the adult parole board to give an instruction or direction under section 16(2) of the principal act requiring an offender to reside at premises on land that is within the perimeter of a prison but does not form part of the prison. The area that the extended supervision order recipients will be placed in is outside the main prison walls — it is what is called the outer compound — in a number of houses which used to house prison officers who used to live outside the main prison walls.

Clause 3 of the explanatory memorandum to the bill says:

> … where an offender may reside may require the offender to reside at premises that are situated on land that is within the perimeter of a prison (whether within or outside any walls erected on prison land) but that does not form part of the prison.

Where Mr Fletcher will be placed — or, I suspect, has been placed — will probably be next door to Mr Baldy, because he, too, is in one of the houses in the outer compound of Crown land owned by the state which forms part of HM Prison Ararat. The house, being outside the main prison walls, therefore satisfies His Honour's question about Mr Fletcher residing in the community. Again, the bill does not have a definition of 'residing in the community'.

The adult parole board's annual report 2005–06, under the heading 'Serious Sex Offenders Monitoring Act 2005 and Extended Supervision Orders' says:

> The issue of accommodation has become a matter of great concern because it is almost impossible to find any accommodation in the community for such persons.

The board's president, His Honour Justice Kellam, also says in the annual report he:

> … referred to the statements made by the former chairperson of the board, the Honourable Justice Frank Vincent, during the 1980s when he called for the establishment of 'halfway houses'… it remains necessary that careful consideration be given to providing appropriate accommodation arrangements to create a bridge between institutional detention of high-need sex offenders and their supervision in the community …

He went on to say:

> Such accommodation would provide appropriate safety for the community, and appropriate supervision and rehabilitation programs and services for sex offenders.

I bring the house back to the main purpose of the Serious Sex Offenders Monitoring Act 2005, which is 'to enhance the protection of the community'. There are no ifs or buts about it; the protection of the community is of paramount importance and requires that offenders who have served custodial sentences for certain sexual offences and who are a serious danger to the community, such as Mr Fletcher and Mr Baldy, be subject to ongoing supervision while in the community.

Will the government now ensure that Mr Baldy is charged with breaching the conditions of his extended supervision order by being outside his residence during curfew hours on or about 6 August?

Hon. P. R. Hall interjected.

Ms HADDEN — I know they are not listening, Mr Hall, but I can tell you that my constituents are listening, and they are not happy with this government and the lackadaisical way in which it releases convicted sex offenders and convicted child sex offenders into country Victoria. I will keep battering away at it, because it is a very important issue. The protection of the community is absolutely paramount. This government really has no idea.

As I said, this bill does not go all the way that was suggested by the Supreme Court in the case of *re Fletcher* by His Honour Justice Gillard. It does not go all the way on the recommendations made by the Court of Appeal last week.

This is another knee-jerk, half-baked bill, and it does not go all the way to protecting the community, which is the primary purpose of the Serious Sex Offenders Monitoring Act.

Motion agreed to.

Read second time.

Third reading

Mr LENDERS (Minister for Finance) — By leave, I move:

> That the bill be now read a third time.

In doing so I would like to thank the chamber for its cooperation in expediting the passage of this bill. I note that Mr Hall in particular was probably at a disadvantage in getting information in the sense of where it had come from. The bill was introduced to this chamber very speedily, and it was an issue that the Parliament needed to — —

Honourable members interjecting.

Mr LENDERS — The Assembly is coming back to join us! We needed to deal with the issue, so we thank the house generally for expediting in such a speedy manner the resolution of what has become an important issue for the state.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

PUBLIC SECTOR ACTS (FURTHER WORKPLACE PROTECTION AND OTHER MATTERS) BILL

Second reading

Debate resumed from earlier this day; motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Hon. C. A. STRONG (Higinbotham) — It is a great pleasure to be here. In my valedictory speech I will be paying respect to a lot of people, but I must thank the opposition whip for getting me here on time!

As someone who is only one day away from the end of his parliamentary career I have to say that I have seen in this place many things over the years. I have seen things that were inspirational, certainly during the period of the Kennett government when we reformed the mess that had been left by the Labor Party after 10 years of Cain and Kirner governments. I have had the pleasure of seeing a great many things here, but I must say that this particular piece of legislation is a bit of a joke. It does quite a few things. I will go through and explain some of them and then return to why I think it is one of the most ridiculous pieces of legislation I have seen in my 14 years in this place.

To start my contribution to the Public Sector Acts (Further Workplace Protection and Other Matters) Bill, I inform the house officially that the Liberal opposition will be opposing this piece of legislation, and I will run through some of the reasons why. This is an omnibus bill, but it is not like the omnibus bills we debated earlier today which deal with a whole lot of issues. This bill deals with several issues which I will run through. I will then concentrate on the main issues which the opposition has problems with.

An honourable member interjected.

Mr Lenders — Do not let him distract you, Chris.

Hon. C. A. STRONG — I am not; I am just waiting for the peanut gallery to relax! It is an omnibus bill which makes various amendments. It amends the Public Administration Act and the Public Sector Employment (Award Entitlements) Act; it introduces new unfair dismissal provisions relating to the Victorian public sector employment area, which I will deal with in some detail; and it makes amendments to the Commonwealth Games Arrangements Act, the Audit Act, the Freedom of Information Act and the Ombudsman Act.

I will deal with some of the areas about which we find ourselves in no disagreement. Firstly, I turn to the amendments to the Commonwealth Games Arrangements Act. We all know that the Commonwealth Games Corporation is due to wind up on 31 December 2006. Therefore there is clearly a necessity to deal with the residual activities, the residual assets et cetera of the Commonwealth Games Corporation. This bill amends the Commonwealth Games Arrangements Act to transfer the assets, liabilities et cetera of the Commonwealth Games Corporation to the state on 31 December.

It also amends the Ombudsman Act to clarify the extent to which the duties of the Ombudsman can be delegated under statute. The Ombudsman has various functions which he is obliged to undertake. I will quickly divert and go to the farce that the current government has set up with regard to the Ombudsman and the Office of Police Integrity, which is gradually decaying and falling apart. It has set up a structure for the Ombudsman and the Office of Police Integrity which, as we have seen over the last six months, encourages confusion, and out of that confusion grows the opportunity for people to be corrupt and abuse the system.

Because of the convoluted structure that the government has set up with the Ombudsman and the Office of Police Integrity there is total confusion; nobody knows what is going on. Out of that situation we have done nothing at all to deal with the issues of police corruption, abuse of powers by the police, protecting ordinary citizens from abuse by police. We only have to look at the whole issue of the law enforcement assistance program (LEAP) where probably most of us knowingly or unknowingly have information held on us.

Because of the total failure of the system that the government has put in place, everyone is subject to having that information made public, happily searched by anybody who may have an interest, who may want some sort of light entertainment on a Friday afternoon who does a search on any of us that they like to do. It is a sad situation so far as this government has not put in place an appropriate mechanism to deal with police corruption and the abuse of police power.

That comes back to the arrangement the government has set up with the Ombudsman. The bill gives the Ombudsman the powers to delegate even more of his very significant powers. He will be able to delegate his powers under the Freedom of Information Act and the Whistleblowers Protection Act. We can only hope that he delegates those powers properly. The bill further amends the Audit Act in two ways — —

Mr Viney interjected.

Hon. C. A. STRONG — Mr Viney was mumbling in the background, I did not catch what he said. He was supporting the unsupportable insofar as the Ombudsman was concerned and, presumably, criticising the opposition.

The amendments to the Audit Act allow the Auditor-General, when he brings forward a report, to rather than report direct to Parliament to publish his report straight away. When that report is completed, it is transmitted to the Clerks; as soon as it is transmitted to the Clerks, it then becomes public. There are two important issues here: on the one hand it is a pity that the importance of Parliament is diminished by virtue of the fact that the Auditor-General can bypass Parliament in his reports and simply report, as it were, straight to the public; but on the other hand recognise the reality that Parliament sits not every day of the year, that these Auditor-General reports are topical and that there is a case for making the information available as soon as possible.

On balance some people would say the Auditor-General should report to the Parliament. I am of the view that when the Auditor-General has produced his report, it should be available to the public immediately, and therefore I would have no problem with that amendment. The amendments also require the Auditor-General to be mindful of the new audit standards that are available through the commonwealth Corporations Act. That helps to put all the jurisdictions in Australia on the same basis, and we strongly support that position.

There are amendments to the Freedom of Information Act. This bill gives a significantly enhanced status and responsibility to the State Services Authority, and I will deal with that in some detail. It allows the Freedom of Information Act to apply retrospectively to the State Services Authority, which is a positive move. The bill makes amendments to require the Financial Management Act to apply to the State Services Authority and, given the new status of that body, that is absolutely appropriate as well. In essence that deals with many of the amendments that are, as it were, not core to what this bill is about.

This bill is fundamentally about trying to set up a structure within Victoria which seeks to undermine for the state public service all the reforms brought about by the WorkChoices legislation. Therefore I will turn to what this bill is all about. This bill is anti-WorkChoices.

Mr Viney — What a dastardly position to take!

Hon. C. A. STRONG — I pick up Mr Viney's interjection. A freeing up of the acts and regulations that deal with how employers and employees conduct their affairs so that they can work together to their mutual advantage in Mr Viney's characterisation is a dastardly outcome, whereas we on this side of the house believe that parties which are prepared to work together for their mutual advantage should be encouraged to do so. We should not concentrate on our differences. We should not try to set up an adversarial win-lose situation. We should try to set up a win-win situation between employers and employees.

It is very sad that the government has taken the view that to try to create a situation where employees and employers can work together to their mutual benefit and the mutual benefit of Australia is contrary to what it believes in. History will prove government members to be fools and idiots. Mr Viney is one of those people who 20 years ago was probably out there saying that Stalin was a wonderful person, that he was working for the benefit of the workers and that socialism was the way of the future. But now he walks away with his tail between his legs, because he knows that is false.

He and those opposite try to maintain the myth that in the progression of the human race we will do so much better by fighting each other rather than working together. It is unfortunate that the government tries to undermine and denigrate moves that are made to allow people to advance together. We all have to admit that when we try to advance together there are problems. There are people on both sides of the fence, whether they be employees or employers, who will try to take advantage of the situation and who will try to bend the rules to their short-term benefit.

But we cannot manage society for the rule breakers. We have to try to manage society so that we all advance together to a better situation, and that is what the WorkChoices legislation strives to do. Who is to say there will not be people who will abuse the freedom that is given to them by the WorkChoices legislation?

Mr Viney interjected.

Hon. C. A. STRONG — Mr Viney, there will always be people who try to abuse the freedoms that are given to them. The challenge for society, and the challenge for us as lawmakers, is to get the balance right so we can encourage people to do good rather than bad. The WorkChoices legislation sets out to do that. I will be the first to admit that in the course of the next few years there will be significant amendments to the WorkChoices legislation to try to block abuses, but there is no question in my mind that the intent of the that legislation is to allow people, both employers and employees, to advance together to a better lifestyle — and 'together' is the key word.

Mr Viney — How about the Huon workers?

Hon. C. A. STRONG — Mr Viney said, 'How about the Huon workers?'. I think there are two things to consider. The Huon workers are a small number of people who, as I understand it, have been looked after retrospectively. The failings of the system with regard to the Huon workers have to a large extent been ameliorated, and those people who may have been disadvantaged have managed to do okay.

Mr Viney — Not without one hell of a fight!

Hon. C. A. STRONG — Mr Viney said, 'Not without one hell of a fight!', and I accept that. There was one hell of a fight, but the truth of the matter is that as they stand today those people are not disadvantaged. The system has worked to produce a good outcome for those workers, and that is now part of the system that will go forward for workers in the future. I think the them-and-us situation which Mr Viney is trying to create is contrary to how Australia has progressed — it is prosperous, successful and different from any other culture.

I am the first to admit that the WorkChoices legislation as it exists today will not have the answers to every situation, but it needs to be given a chance to evolve and improve and provide the answers to those situations, because we will all do better as a result. But that is not the view of this government. The next election is coming up and the government is taking a philosophical position of being anti-WorkChoices, so this legislation tries to set up an anti-WorkChoices environment.

This is about how the government relates to the public sector. We need to remember that this legislation is about how the government manages its employees. The government is the employer and the legislation deals with government employees. It does not apply beyond that environment, it only deals with the public sector. It seeks to set up a whole new structure of how public sector employees will work. Interestingly the first thing the bill says is that Australian workplace agreements (AWAs) will cease to exist in the public sector.

The Labor government is trying to support the untenable position of the Labor opposition in Canberra which says that it does not believe in AWAs. The bill says that in the state public service there cannot be AWAs. Mr Viney, the Attorney-General and all the other good Labor people have kowtowed to the federal opposition leader, Mr Beazley, and said, 'If you want to outlaw AWAs, then Victoria will pass legislation that says that it will employ people in the public service but they will not be able to have AWAs'.

That is fine if the state as the employer wants to outlaw AWAs; and if that is the case, more fool it. The bill says it is illegal for the government to offer an AWA to a state employee if that AWA gives that employee benefits over and above what he or she is able to get from an award. All I can say is, 'Fantastic!'. If that is the way the government wants to manage its workers, then it will not attract good people to work for it. It is saying that if it wants to give an advantage to somebody who has skills and experience, which means they are deserving of more than the award, the government cannot offer an AWA nor would the employee be allowed to accept that. That is a recipe for employing the dregs of the work force.

If the government wants to do that, that is fine, but the net loser will be the public sector, which will tend to slowly drift down in the skills, experience and knowledge of those who work in it.

The other issue, which is a fascinating one, is in the area of unfair dismissal. As we know, WorkChoices says that if you are a corporation, body or company that employs less than 100 people, the normal unfair dismissal provisions do not apply. This bill refers to bodies within the state public service that employ less than 100 people and are not trading bodies — I must admit, apart from the Parliament of Victoria — but it is hard to find many organisations that employ less than 100 people and which are not trading organisations. It is hard to figure out who will fall into that category. Those people are not subject to the unfair dismissal provisions of WorkChoices.

Once again, this is the government employing its people. It can do whatever it likes. I say, 'That is terrific. You can do whatever you like. You can set the rules'. What WorkChoices does is to allow freedom, beyond certain core provisions, to an employer and an employee in their dealings with each other. Beyond that

small number of core provisions employees and employers can arrive at any particular arrangement that suits them. There is no reason why the Labor government of Victoria in respect of its public sector could not say, 'These are the arrangements under which we will employ people who work in the public sector. These are our guidelines on how we will do it'. After all, the government is the employer, so it can do whatever it likes under WorkChoices, as long as it does not contravene this small number of core provisions. There is actually no need for legislation to put all this in place. Nevertheless we have a bill before the house today to do that.

One of the interesting things about the unfair dismissal provisions for these non-trading corporations that employ less than 100 people — and apart from the Parliament of Victoria I cannot think of many — is that WorkChoices provisions will not apply. Perhaps I should divert momentarily to give some history. In 1996 this Parliament passed the Commonwealth Powers (Industrial Relations) Act. That act refers all the industrial relations powers of the state to the federal government. Insofar as WorkChoices and the Australian workplace agreements (AWAs) issue are concerned, they are dealt with in clause 23 of the bill. This bill says in essence that we will revoke that delegation of powers to the federal jurisdiction which took place in the 1996 Commonwealth Industrial Relations Powers Act as far as AWAs are concerned.

When we look at the whole issue of unfair dismissals which is covered by WorkChoices in the commonwealth legislation, there is no provision similar to clause 23 that revokes that delegation of powers to the federal government. Although this bill purports to set up a whole new regime for unfair dismissal, it is a joke because it does not revoke the delegation of powers to the commonwealth in respect of unfair dismissals and so the commonwealth law still stands. If there is any dispute as to unfair dismissals, quite clearly the commonwealth act will overrule this particular bill. What is the use of it all?

While this government is in power and it wants to, as it were, follow the rules set up in this legislation, it will do so, and that is fair enough. This government is the employer, so it can do whatever it likes, but a new government or a new employer that seeks to overrule a condition set out in the bill so far as unfair dismissal is concerned can do so, because the commonwealth act rules. It is a joke.

The Liberal Party says the bill is a joke. This is posturing to support the unsupportable and the federal Leader of the Opposition. This is a way of trying to spin to the public servants of Victoria that this government will look after them. Members should think about it: in the two key areas of AWAs which allow an employer to offer an employee better conditions than an award or collective agreement, this bill revamps that delegation — —

Hon. Kaye Darveniza interjected.

Hon. C. A. STRONG — They do not have to accept it. It revokes that delegation to Canberra. In the area where an employee of the state can do better under an AWA, it takes that right away legislatively and makes it illegal. Where it deals with unfair dismissal with this class of God knows how many people — and I do not think there are many trading organisations that employ less than 100 people — it purports to give them protection for unfair dismissal but it does not revoke the delegation to Canberra as it does for AWAs.

There is no protection; it is a farce and a joke. It is nothing more than smoke and mirrors. It is a typical spin job of the government, and the opposition totally rejects it as nothing more than a political stunt to support the unsupportable position advocated by its colleagues in Canberra. If they want to deal with their employees in the public sector, they are able to deal with them any way they like. They will tell them that the bill protects them, but they are being lied to by the government. We on this side of the house know that the citizens of Victoria are being lied to by the government all the time, and this is yet another example of how they are being lied to. For those reasons, we totally oppose the legislation and urge the house to reject it.

Hon. W. R. BAXTER (North Eastern) — I congratulate Mr Strong on his contribution, which may turn out to be his last contribution on legislation in this house. He has really summed up this bill appropriately and accurately. It is nothing but a stunt. It is totally unnecessary; it is posturing, to use Mr Strong's term, and it is lying to the people of Victoria.

It is clear that the government of Victoria can offer whatever conditions it likes to its employees, providing those conditions equal or exceed the minima in the WorkChoices legislation. It is totally unnecessary for the government to bring in this sort of legislation which is nothing but an attempt to defraud its own employees; to send out a message that somehow or other it is protecting them from the alleged sins of the WorkChoices legislation.

Is it not peculiar that in this country at this time we have the lowest unemployment levels we have had for decades? The fact is that employees are leaving

Victoria to work in Queensland and Western Australia — and they are almost invariably on Australian workplace agreements and individually negotiated contracts. People are voting with their feet. They are acknowledging that individual choice and the tailoring of conditions to suit particular circumstances is a far better way to go than the one-size-fits-all approach of collective bargaining with an employer by a union on behalf of employees to come up with some sort of coverage which everyone has to be hammered into whether they fit or not. It is an absurd situation.

This government's scaremongering is dismal to say the least. It is very unfortunate that the government has with so many pieces of legislation, mainly brought in by the Minister for Industrial Relations in the other place, taken it upon itself to attempt to undermine WorkChoices or send a message to employees in Victoria that somehow or other the Victorian government is standing up for them. Nothing could be further from the truth. The government is putting employees in Victoria in an invidious situation. It should acknowledge that and stop trying to hide behind an altruistic position, because that is not what it is achieving at all.

Why has this legislation come from the Premier when all the other bills came from the Minister for Industrial Relations? It seems to me it is for no other reason than that the Premier happens to be the minister administering the public sector employment legislation in this state. He has been drawn into this, no doubt at the behest of the Minister for Industrial Relations. Will this crazy bit of legislation before us tonight affect many state government employees? No, of course it will not. Most state government employees are in the public service and are working for instrumentalities — public entities — that have more than 100 employees, so they are covered by the unfair dismissal provisions of the WorkChoices legislation in any event.

At the bill briefing I inquired of the government representative from the Department of Premier and Cabinet whether she could give me some examples of state government employees who might be covered by this legislation because they work for an organisation in the public service that has fewer than 100 employees. After much messing about she came up with the idea that perhaps a gravedigger who works for a cemetery trust might be covered by the legislation. I invited the young lady to advise me of some other examples by 5 o'clock on Monday. To her credit she sent me an email, but it was not very helpful. It suggested that maybe the legislation would apply to some water authorities. I would have liked her to specify a water authority with fewer than 100 employees, because I do not know of any. It was a totally unsatisfactory answer to say the least.

This legislation was brought in with a great deal of fanfare as if somehow it would protect Victorian public service employees from some undefined threat they are labouring under. However, I cannot find anyone who will be affected by it, because by and large state government authorities come under the WorkChoices legislation in respect of unfair dismissal because they all cross the threshold of having 100 employees.

In any case we have this legislation, so we have to deal with it. What will it do? Will it do anything to help employees who happen to find themselves working for an instrumentality with fewer than 100 employees, so that this bill's unfair dismissal mechanisms will come into effect, and in the unlikely event that they are dismissed and believe they can mount an unfair dismissal claim? I thought, 'If that is the case, we are probably going to have some provisions in the bill that are distinctly different from WorkChoices'. We have heard from the Minister for Industrial Relations in another place, Mr Hulls, all about how terrible the WorkChoices legislation is — lock, stock and barrel if you listen to him. What has the government done in this bill? It has lifted the provisions in it out of the commonwealth Workplace Relations Act word for word — there is no difference at all. The government has even gone to the extent of including in proposed section 70E(4):

> An application must not be made under sub-section (1) if the public sector employee's employment was terminated for genuine operational reasons …

We have heard from Mr Hulls all about sacking people on the excuse of operational reasons and how terrible it is — it is shocking — and he has it in his own legislation. It shows that this is just a total sham.

This is just window dressing. This is just spinning a yarn. The government know this will never be operational. It knows it will never be applied, yet here it is, at the death knell of the 55th Parliament, introducing divisive legislation. The government is trying to reinforce the ideological bent it has of creating a divide, an antagonism, between employers and employees.

I say employees are sick to death of it. Employees want to get on with the job. They want the opportunity to work with their employers in a convivial atmosphere. They want to be able to come to agreements which suit them both. They want to do a fair day's work. They do not want to be hogtied by all these rules and regulations. They do not want a union thug, a union official, a union heavy, coming in to tell them what to

do. Why? Because only 17 per cent of them are union members. If they wanted that, union membership would be much higher than it is. They are voting with their feet. They are demonstrating to all of us what they want — they want freedom of association. They want the freedom to come up with individual arrangements, they do not want this sort of one-size-fits-all arrangement. They do not want to be pressed down by this overregulation.

This bill is nothing but a sham. It is posturing. It is a window-dressing exercise. It has been brought in for no other reason than to somehow or other drive a wedge between workers and bosses in this community, to somehow or other attempt to embarrass the Victorian opposition and The Nationals because of our support for the WorkChoices legislation. I say it will not work. It will not wash. It will be seen for what it is — a total sham. On that basis, The Nationals will be opposing this legislation most strenuously.

Mr VINEY (Chelsea) — This is possibly the last speech I will make on a bill in this Parliament — I do not imagine I will be speaking on any legislation tomorrow. It is fitting and appropriate that tonight, in the final stages of the sitting of this Parliament, we are debating a bill which deals with the fundamental differences between us and that lot over there.

The fundamental difference is this side of politics stands for fairness and particularly stands for fairness, integrity and justice in the workplace. In their defence of the Howard government's workplace changes members on the other side have launched a range of vitriolic attacks, including calling me a Stalinist. Twenty years ago I had just finished setting up a migrant resource centre in Alice Springs. I do not think that was a particularly Stalinist activity. In fact I had just returned to Victoria from the Northern Territory about 20 years ago and I was appointed the manager of human services in the former Shire of Hastings. I can assure members opposite that was not a Stalinist appointment.

Be that as it may, I think members on the other side forget that with the changes in politics, as the Leader of the Government reminded me, Winston Churchill was actually on the side of Joe Stalin at one stage. In Australia during the Second World War people had to stand at the cinema for the image of Winston Churchill, Franklin Roosevelt, Joe Stalin and John Curtin. Their image was put on screen while the Australian national anthem, *God Save the Queen*, was played and everyone stood for the image of those great fighters against Nazi Germany. It is interesting that with the changes in politics, the great Conservative hero, Winston Churchill, was once a Stalinist himself apparently. I can assure members of the house that I was never a Stalinist in my youth. I may have been accused of a lot of things, but I do not think in my youth I was accused of being a Stalinist.

Be that as it may, I want in my opening remarks, which have gone a little longer than I expected, to acknowledge that in the debate I follow Mr Baxter, who of course is the father of this house. I have had the opportunity in these debates of following Mr Baxter on a number of occasions. It is always entertaining to be here and listen to his contributions. I think Mr Baxter and I would disagree very strongly on a lot of fundamental policy issues about running the state of Victoria, but I respect the passion with which he has articulated his case on many occasions. I pay tribute to him for that.

Having said that, I pick up on some of the points he made because his remarks were suggesting that this legislation is, in his view, meaningless. But the legislation is actually fundamental; it is about protecting some fundamentals of what we as a government and on our side of politics see as important in the workplace. In fact the government has taken a view that we support a unitary industrial relations system for this country, but we believe the unitary system needs to be fair and just. The position the Howard government has put in place does not meet those fundamental tests of fairness and justice.

Mr Forwood is making a lot of noise on the other side, and he will have an opportunity in a minute to make plenty more because just as I have enjoyed following Mr Baxter, I think Mr Forwood and I have on many occasions followed one another. He will have his opportunity in a moment.

Let us put on the record what we on this side of the house stand for — that is, an industrial relations system that has a comprehensive safety net particularly in relation to wages and conditions. We do not believe that Australian workplace agreements (AWAs) offer that opportunity. We stand for a system that includes restoring the Australian Industrial Relations Commission as an appropriate independent umpire in workplace disputes. We believe in collective bargaining and in the right of people to take industrial action because collective bargaining and establishing enterprise agreements have actually proven to be the fundamental key to achieving improvements in productivity in the workplace.

It is not the system that the Howard government has put in place of driving down wages and conditions. We do

not believe that driving down wages and conditions in the workplace as the Howard government has undertaken to do will enable this country to compete with the rising economies of China and India. That is not the path to meeting the challenges that we need to meet globally. We believe in improving productivity and innovation and harnessing the creativity and capacity of our work force. That is not achieved by the kind of crunching down that is already occurring under the industrial relations system put in place by the Howard government. We believe in the right of freedom of association, the right of freedom to join a trade union or not to join a trade union and the right to be properly represented in the workplace. We believe that workers representatives ought to have appropriate access to the workplace and not have to suffer the ridiculous restrictions that have been put on union representatives and workers representatives when meeting in workplaces with the people they represent.

We believe — this gets to the heart of the legislation — that workers have a right to be protected from unfair dismissal. In our a view that is a fundamental right. We do not support the concept that unfair dismissal rights exist for some workers and not for others. That is a fundamentally unjust and inappropriate system. It is a significant departure from the great Australian ethos of egalitarianism. It is a fundamentally flawed notion that some workers should have access to unfair dismissal provisions, so that when they have been dismissed and believe they have been unfairly treated they can take action in some instances, but other workers who happen to work for an organisation of fewer than 100 employees do not have that right. That is an anti-fair go provision which the Howard government has put in place in this country and which we will not support in any circumstances. This legislation is making sure that workers in the public sector who work for organisations that have 100 employees or less — —

Hon. Bill Forwood — Name them!

Mr VINEY — That those workers have the same access to unfair dismissal provisions as employees in larger public sector agencies.

Hon. C. A. Strong — Name one!

Mr VINEY — I can tell Mr Forwood and Mr Strong that there are over 100 public sector agencies that employ fewer than 100 workers in Victoria, including smaller hospitals and health services, cemeteries, water authorities and catchment management authorities. There are circumstances in the public sector where those provisions are necessary. We believe in the principle of equal pay for work of equal value. That is not covered in the new WorkChoices provisions under which Australian workplace agreements can be put in place. We also believe in protecting the balance of work and family. These are principles that we have advocated strongly for in our criticism of the Howard government's changes and for which we will continue to advocate. As I said at the outset, there is not a debate in this place that defines the difference between this side of the house and the other side more than a debate on industrial relations. We believe that our opportunities in this country need to be maximised by harnessing the capacity, creativity and strength of the Australian work force. We strongly reject the attempt by the Howard government to make this country more competitive by driving down wages and conditions.

I want to pick up one point from Mr Strong's contribution, where he said that the legislation would not allow for an AWA if it exceeds an award. We will not support AWAs in the public sector. We do not support the principle and we will not allow AWAs to be brought into the public sector workplace to divide and conquer workers and drive down wages in the public sector in this state. That stands in contrast with the position of those on the other side of politics in this place. I point out to Mr Strong provision 15D in the bill, which provides:

> Nothing in this Part prevents a public sector employer from providing in an employee's contract of employment a term or condition of employment that is more beneficial to the employee than that to which he or she is entitled under any collective agreement or that would apply to the employee under the terms of a relevant award or a designated preserved award.

That is clearly indicated in the provisions of the bill.

Hon. Bill Forwood — On a point of order, President, just as a matter of notification, I think the honourable member said clause 15D. Clause 15 in my copy of the bill does not have a D. I wonder if he could identify which page he is on?

Mr VINEY — Page 68. I conclude by saying that what comes out of — —

Hon. Bill Forwood — I make the point that this is clause 22 of the bill, which inserts section 15D.

The PRESIDENT — Order! Mr Forwood is correct.

Mr VINEY — I want to conclude by pointing out the difference on these matters between this government and the opposition. Including this bill,

members of the opposition have now opposed no fewer than 10 pieces of legislation designed to protect workers in this state: the Federal Awards (Uniform System) Act 2003, the outworkers act in 2005, the Child Employment Act 2003, the owner-driver legislation in 2005, the Occupational Health and Safety Act 2004, the Long Service Leave (Amendment) Act 2003, the Construction Industry Long Service Leave (Amendment) Act 2004, the Workplace Rights Advocate Act 2005, and the Public Sector Employment (Awards Entitlement) Act 2006.

It is an impressive list, because, as I said at the outset, what defines the difference between us and them is where we stand on these issues of industrial relations and standing up for workers in the state. That is what the people of Victoria will remember on 25 November: they have a party in the Labor Party and a government in the Bracks Labor government that will stand up for their rights in the workplace and they have a mob on the other side who will just obey Mr Howard's beck and call and try to drive down wages and conditions in this state.

Hon. BILL FORWOOD (Templestowe) — It is a privilege to rise to speak in this debate tonight. Just before the suspension of the sitting for dinner, I listened to the contribution of the member for Preston in the other house. He said that he was proud to join the Assembly as a member of the trade union movement. I am sure that tomorrow *Hansard* will verify the gist of what I am saying. He said that the trade union movement and the Labor Party are two different aspects of the one labour movement.

So I am not surprised that Mr Viney can come in here today and produce a list of bills that he says have been opposed, because he is not speaking on behalf of the people of Victoria; he is speaking on behalf of the trade union movement. He is speaking not from a position of having the best interests of Victoria at heart but of doing the bidding of the people who provided him with access to this place.

I am pleased to follow Mr Strong and Mr Baxter in this debate. Both of them have passionately and articulately stated their cases in relation to this piece of legislation. I have had many pleasant exchanges with Mr Viney in the years he has been in this house. I value him, and hope I do not do him a disservice as a friend, but he started his contribution to this debate tonight by saying that this particular piece of legislation highlighted the fundamental differences between us and them. Then there was a very apposite interjection from Mr Strong, who said, 'Yes, honesty or spin?'. Let me address what Mr Strong said. We received some honesty from Mr Baxter and Mr Strong and we received the spin from my friend Mr Viney.

I will deal briefly with the spin. Mr Viney continually said, 'Driving down wages and conditions'. Let me make a point: employment in Australia is higher than it has ever been. Let me make another point: unemployment in Australia at the moment is lower, by such a long way, than it has been in our generation. Let me make one further point: any way you want to measure it and any way you want to cut the cake, we have higher wages than ever before. My friend Mr Viney should not come into this chamber and say to me, 'Driving down wages and conditions', because it is just not true. Let me deal with a second point raised by my friend Mr Viney: he said, 'We believe in the unitary system. It just needs — —

The President interjected.

Hon. BILL FORWOOD — I heard an interjection from the Chair. It just needs to be fair. Mr Viney said, 'We just need the unitary system to be fair'. If the government had one ounce of gumption, it would have used — —

Mr Gavin Jennings — On a point of order, President, I was just wondering how Hansard is dealing with Mr Forwood's contribution because he is leaving his place and wandering around. I wonder whether there will be gaps inserted into his contribution.

The PRESIDENT — Order! I do not uphold the point of order. I ask the member to continue his contribution to the debate on the bill before the house.

Hon. BILL FORWOOD — I hope that members can remind me where I was in my contribution.

Hon. W. R. Baxter — You were on the President's interjection!

Hon. BILL FORWOOD — Mr Viney made the point that the government believes in the unitary system and that it wanted the system to be fair. My point to Mr Viney is: if this government is so opposed to the legislation that the Howard government has introduced, then it can come into this place — the government has the numbers in both houses — and take back the industrial relations power any time it wants to. But no, it will not do that, will it? Is there a little honesty? No way, there is just a lot of spin.

I have only one small reason for standing tonight and making this brief contribution. Mr Viney asserted that there are 100 organisations at least that he thinks are covered by this legislation. The actual situation is that

no-one knows who is covered by this legislation. I am inviting Mr Jennings, the minister at the table, to provide members with the list of the 100 organisations. I hope that the list will be made available to us.

Hon. W. R. Baxter interjected.

Hon. BILL FORWOOD — Let me make the point very clear, Mr Baxter, that if the government is unable to provide us with this list, we will go into the committee stage where we will ask the question of each and every single cemetery trust, every single catchment authority or every single small hospital until we get to the list. Let me make the point: what no-one on this side or on the government benches or anywhere else knows is whether this legislation actually applies to those organisations which are part of the Crown.

I suspect that the only way we will ever know is if it is tested in the High Court. Let us have another bonanza for the lawyers, but I make the point that this piece of legislation is, as Mr Strong said, spin and con. This legislation has nothing to do with the work place. This legislation is another example of the Bracks government thinking, 'This is something nice for us to put up, this is something that we think will get traction with people who are scared about their job security'. It is a con and it is an abuse of the Parliament to bring in this sort of legislation. This legislation is nonsense.

Anyway, to sum up, will the government provide me with a list of the people it thinks may be covered by this legislation — those organisations in the public sector that have less than 100 employees — but at the same time I would be grateful if it could put an asterisk alongside all those about which there exists some modicum of doubt? What we will discover is that for all the hoo-ha and all the grandstanding, this legislation covers virtually no-one in Victoria.

Hon. KAYE DARVENIZA (Melbourne West) — I am delighted to make a contribution to debate on the Public Sector Act (Further Workplace Protection and Other Matters) Bill. Apart from setting out the amendments and the changes that it will make to the legislation, this bill offers us an opportunity at the end of the 55th Parliament to compare and contrast just what we stand for and what the Liberals and The Nationals stand for.

It is also an opportunity to take a look at the way we as a government behave in protecting workers and looking out for workers. It has not just been about public sector workers, although this bill is about that, but we have got a long history over our seven years in government of putting legislation in place to protect the work force and particularly to protect the workers in this state against a conservative federal government and the changes it has made to legislation and laws around workers rights. We can see those aspects in the WorkChoices legislation that the federal government most recently passed.

I take the opportunity to talk about public sector workers in this state. I remember very well those who stood up and made a contribution from the other side when the Kennett government was in power. Mr Forwood was the Parliamentary Secretary to the Premier at that time and Mr Baxter was a minister in the previous Kennett government. What did we see them do to public sector workers?

We saw them destroy their conditions of employment, we saw them take away their pay and conditions of employment, we saw them take away their industrial tribunal overnight — and what replaced it? Nothing much at all in terms of providing pay and conditions and an opportunity for workers to be able to take disputes to an independent tribunal for conciliation or arbitration.

We saw the former government bring in the Employee Relations Act in 1992 and then the Public Sector Management and Employment Act in 1998. I remember the minister at the time, Phil Gude, introducing that piece of legislation that took away workers rights and pay. He had the audacity to actually brag about the fact that he cared so little and put so little effort into ensuring that public sector workers in this state were going to be properly dealt with that he put the legislation together one night over a bottle of Scotch.

What did we see happen in the public sector back then? We saw not only pay and conditions go and industrial tribunals go, but we saw public servants sacked and public sector workers being forced to go on to Australian workplace agreements. I remember very well being out at a hospital because I was a nurse prior to being involved in politics.

Hon. Bill Forwood — You were always a unionist!

The PRESIDENT — Order! Mr Forwood is not in his place. He will be quiet or he will get out.

Hon. KAYE DARVENIZA — Mr Baxter talked about union officials; that is me. I am the union thug he was talking about — what a joke! What sort of cloud cuckoo land does Mr Baxter live in? He has no understanding of the modern union movement and no understanding of the work that they do to represent and advocate for workers.

As I was saying, I remember being out at a hospital when departmental people were sent out by the Kennett government to badger nurses, cleaners and laundry and kitchen workers from the hospital.

Hon. C. A. Strong interjected.

Hon. KAYE DARVENIZA — I remember it, Mr Strong, and you should too. If you were out there listening to what they had to say to those workers, you would not forget it either. What were they trying to do? They were trying to get them to sign up to AWAs. What were those AWAs going to give them? They were going to take away penalty rates, they were going to take away allowances, they were going to take away their rights to leave and holiday entitlements, further education entitlements and overtime entitlements — and they were going to cut their pay.

We only have to look now at where AWAs are being introduced. It is in areas where workers have very little capacity to be able to argue and fight on their own behalf with their employers. We look around at some of those workplaces that come under the new WorkChoices legislation, and we look at shop assistants, for instance. I have a daughter who from time to time works as a shop assistant. Gone are penalty rates, gone are the rights to determine which days of the week they work and gone are the entitlements for pay rises unless they are able to negotiate it.

Young people, or even older women and men who work in the retail sector, are not in a position to be able to negotiate their rosters, their overtime or their leave entitlements with an employer or with a human resources unit within a big company. They have no capacity to be able to do it. What happens to them is that they are offered an AWA and they are offered a rate of pay. They are told that they will work these days and these are the breaks they can have. And it is, 'If you don't want it, sweetheart, then go find a job someplace else'. That is what happens.

What we stand for is a fair go for workers. We do not want to see AWAs because we recognise that the majority of people do not have the capacity to be able to negotiate their terms and conditions of employment on an individual basis. I am not saying that it cannot happen at all. Some employees have skills or certain qualifications that are in high demand or there are only a few of them within the country or the state and they are highly sought after. They have strength on their side and they are able to negotiate an individual contract.

I recognise that some workers have the capacity to be able to do it; but by far and away the majority certainly do not have the capacity to do it. They need to be able to bargain collectively. The Bracks Labor government recognises that. We know that that is the case. We know that they need to be able to bargain collectively. We know that as individuals they do not have the capacity to be able to negotiate with their employees. In the same way as we are seeing in this legislation, we want to see every worker have the right to be treated in the same way when it comes to unfair dismissal.

We do not think it is fair that if you are employed as 1 of under 100 employees and your employer does not like you on a particular day, gets particularly upset if you come 5 minutes late or is just in a bad mood and things are going wrong, and you happen to get in the way, your employment can be terminated. We do not think you should be denied an opportunity to redress that and have the capacity to fight an unfair dismissal claim against that employer.

Sure, by far and away the majority of employers are reasonable people who treat their employees in a reasonable way, but members on both sides of this chamber know there are very bad employers out there. On this side of the house we know that workers have to be, and should be, protected against those employers. We know that public sector workers need to be protected, and they will be protected by this piece of legislation. Who are those public sector workers?

We hear members opposite stand up and talk about what fantastic work those workers do. They are workers who are employed in health, policing or in emergency services. They are the public servants — the public sector workers of this state — yet while members opposite can come in here one day and espouse the fantastic job they do and congratulate them on the contribution they make to this community, they can come in here the next day and say, 'No, you have no capacity to be able to bargain as an individual, but we are going to make you bargain as an individual. We know that will mean you will have less generous conditions of employment. We know that will put you in a situation where you will not have the strength of collective bargaining. And not only that, we think if you work in a smaller workplace, that is just a bit tough — you have the right to be unfairly dismissed and have no recourse'.

The bill gives us on this side of the chamber an opportunity to point out the differences between our beliefs as members of the Bracks Labor government that workers should be treated fairly, and the beliefs of members opposite that workers should not be treated equally and should not be treated fairly. You do not have to look only at the position members opposite are

taking on this piece of legislation, you should take a look at the way they behaved when they were in government and at the way they treated public sector workers.

You do not have to look any further than the way they treated their own work force — the way they treated nurses, doctors, cleaners, cooks and food and domestic workers; the way they treated laundry workers in hospitals; the way they treated teachers. We have not forgotten. I will never ever forget, and I know that people who worked in the public sector in this state when the opposition was in government will not forget. They have not forgotten the way public sector workers were treated, and they will not forget because today they are again standing up. I think this is the 10th or 11th piece of legislation that has come into this chamber where we are looking to protect workers in this state. And what is the opposition doing? It is voting it down again.

The opposition is showing its true colours again. It is stapling them to the mast and flying them up the flagpole yet again. I am glad that it is. I am glad that we have an opportunity to once again compare and contrast the way we treat workers, particularly public sector workers. I know the opposition is going out there trying to woo them, trying to say it has changed its colours. It is not going to work.

Hon. J. A. Vogels interjected.

Hon. KAYE DARVENIZA — Well you might say that. The opposition's fearless leader in the other place Ted Baillieu, is out there trying to woo public sector unions. He is trying to meet with those bosses — those union thugs that Mr Baxter talked about. I have never met one of these union thugs, but Mr Baxter rubs shoulders with them all the time. Ted Baillieu is out there meeting with them, trying to explain to them that he is different, that he is not like Kennett, but all opposition members are like him.

This is a good bill. It is about protecting workers rights. It is about protecting those people who work in the public sector and who do great work for our community. This bill deserves to be supported by all the members of this chamber. It is a terrific bill. I wish it a speedy passage, and I commend it to the house.

Mr GAVIN JENNINGS (Minister for Aged Care) — I am very grateful that there has been a return to the chamber of the members of the Legislative Council so that I can discuss the very important nature of the Public Sector Acts (Further Workplace Protection and Other Matters) Bill, which is currently before the house and which completes a range of undertakings that the Bracks government has made during its seven-year life. In fact over the last four years it has put in place a significant suite of legislative measures which give some hope and encouragement to workers in Victoria who may otherwise be subject to the lack of protections afforded them through ongoing reforms undertaken by the federal government in its Workplace Relations Act over the course of that time. Indeed members of the government have said during the course of their contributions to this debate that this has been a key litmus test in relation to the division between Labor and the non-Labor parties in this Parliament and in Victoria — and there is absolutely no doubt that is true.

In fact I am very pleased to say that in the second term of the Bracks government we have a much better track record of getting through our legislative reforms in relation to industrial relations matters than we had in the first term. Indeed we can be eternally grateful that the people of Victoria had the good sense to return a Labor majority in the Legislative Council at the 2002 election to enable us to enact a range of legislation that will provide protections to workers in this state. As you well and truly know, President, one of the most distressing elements of the first term of the Bracks government was the opposition parties defeating the Fair Employment Bill. The Victorian government was determined during its first term to try to provide safety provisions for hundreds of thousands of Victorian workers who were actually not provided protections beyond the five minimum standards that were available in the commonwealth Workplace Relations Act.

Honourable members interjecting.

Mr GAVIN JENNINGS — Mr Forwood knows of the unswerving commitment of the Bracks government through every piece of legislative reform to try to reinforce the unitary system of industrial relations that applies within this country and within this state and of the difficulty we have had in exercising our commitment to a unitary system in circumstances where there has been a continual erosion of the employment standards of working people as applied by the ongoing reform agenda of the federal government.

That has been extremely difficult for us. The irony of the debate that has occurred within this chamber is that some of the criticisms that have been levelled by the opposition at the current bill before the Parliament are because it mirrors some of the provisions of the Workplace Relations Act. What a profound — —

Hon. Bill Forwood — I didn't say that!

Mr GAVIN JENNINGS — What a profound irony that was. Other people who joined your argument, Mr Forwood, clearly said that. The Bracks government clearly understands that we are bound by statute at the federal jurisdiction and are bound by constitutional arrangements to try to find ways to remedy the blind spots or the disadvantageous aspects of the federal legislation, but to do it in a way which is consistent so that the same rule applies to people regardless of their circumstances.

In this regard when the commonwealth government has been determined to try to erode the unfair dismissal protections for employees who work within small workplaces, we in Victoria have said that we will stand up for employees who work within small workplaces, and in that context we will provide protections within entities that are associated with the public sector, which is the only scope and jurisdiction we clearly have. They build on the remedies that we have provided for disadvantaged workers, whether they be outworkers and other disadvantaged workers in Victoria. They build on the reforms we have made through the Fair Employment Bill for a unitary system, and they provide a way in which we can build on our protections for long service leave provisions, the other safety net provisions that apply to public sector employee conditions and the protections we provide to enable the ongoing preservation of collective bargaining. They create a suite of protections that are available to us.

The issue that has been raised today about the definition of public sector entities that fall within the scope of this bill has had a degree of contest during the debate. It is important to understand that the government believes that on the last count there were approximately 117 bodies that we believe fall within the prism of this piece of legislation.

Hon. J. A. Vogels — Name one.

Mr GAVIN JENNINGS — I will name a number.

Hon. Bill Forwood — You have 117 of them.

Mr GAVIN JENNINGS — I have the capacity to perhaps name 117, but I will choose not to, by preference. I will give an undertaking to members of the chamber that the government will furnish a list and make it available.

Hon. Bill Forwood — On a point of order, President, I am grateful for the offer by the Deputy Leader of the Government to furnish a list. I wonder if the list could identify — —

An honourable member — That is not a point of order.

Hon. Bill Forwood — We are trying to avoid going into committee, right?

The PRESIDENT — What is the point of order, Mr Forwood?

Hon. Bill Forwood — Could the minister identify those which are definitely in and those which are subject to a question mark.

The PRESIDENT — Order! The minister, to continue.

Mr GAVIN JENNINGS — It was my intention to cover this point and to attempt to substantially cover the issue that Mr Forwood has raised. The government attests that the 117 entities it has identified, under its understanding of the nature of their structure and relationship to public sector legislation, would in fact fall within the scope of the bill. Clearly the view of the government is that all the ones that we would identify would fall within that category. The question Mr Forwood raised in his contribution was, 'Where will this be tested?'. That is a reasonable question, because it may well be that Mr Forwood's assumption is that this may end up being tested in the High Court. I would say in practice the answer to that question would be definitely no, it would not.

The reason is that the remedy for and the clarification of that issue would be determined in a much speedier fashion. Let us take a case of whether the entity falls within the scope or does not fall within the scope: if entities fall outside the scope, they are bodies associated with the Crown, and under those circumstances they have a critical mass and would go to the Australian Industrial Relations Commission. If an employee who believed they had been unfairly dismissed from one of those organisations went to the public sector standards commissioner, the employer may choose to say, 'No, we are part of the Crown'. In those circumstances it is clearly on the public record that the jurisdiction covering them would be the AIRC, which would deal with the matter and we would not be jumping from one jurisdiction to the other.

Hon. Bill Forwood interjected.

Mr GAVIN JENNINGS — In practice, Mr Forwood, this issue would not be a real issue because the government contests that none of these entities would actually challenge such a process. The available remedy would be either through the public sector standards commissioner, which, as the

government would attest, would apply to the 117 that are on the list. If by some obscure circumstance the employer challenged that decision, the matter would end up at the AIRC — it could go no further — and the AIRC would determine that that is the appropriate jurisdiction to deal with the matter. No further questions need be entered into.

The government is confident on the basis of legal advice and the work that has been done by parliamentary counsel that there is a solid standing of the circumstances covered by this.

Hon. Bill Forwood interjected.

Mr GAVIN JENNINGS — That is a very good question, Mr Forwood. In practice, to how many cases do we think this bill would apply? In reality, very few.

Hon. Bill Forwood — None!

Mr GAVIN JENNINGS — Very few, because the government of Victoria is giving a very clear message to public sector authorities that it expects the highest standards of employment relations and that employers who operate within the public sector would be exemplary employers and would not allow the circumstances to be such that there would be a proliferation of unfair dismissal cases. On our past record, on our record in government and on the record of public sector entities under the life of the Bracks government there would be a handful of cases, and that would be the expectation of the government going forward. The government believes that not only does the statute apply as black-letter law — —

Honourable members interjecting.

Mr GAVIN JENNINGS — I am not going to take any notice of any interjections, so you are wasting your time. The government is confident, on the basis of black-letter law and the confidence and rigour of the legal advice it has obtained, that this scheme will work. It will work in practice and be an avenue that is available to ensure that there are proper employment practices in the state of Victoria being entered into by public sector entities.

We are confident that it is consistent with the framework to ensure that harmonious workplaces are created within the public sector in Victoria and maintained by public sector entities. We are confident that the remedies that may be available to people will be easily attained, easy to manage and will form a culture of respect and harmony in Victorian workplaces, which is an important underpinning and commitment of the Bracks government. This will be a hallmark of the government and a clear mark of differentiation between the Labor and non-Labor parties in this Parliament and in the community now and into the future.

House divided on motion:

Ayes, 22

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

Noes, 19

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

Motion agreed to.

Read second time.

Third reading

Mr GAVIN JENNINGS (Minister for Aged Care) — By leave, I move:

That the bill be now read a third time.

In so doing I would like to thank the members for their very reasonable and passionate contributions to the debate.

The PRESIDENT — Order! The question is:

That the bill be now read a third time and that the bill do pass.

House divided on question:

Ayes, 22

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

McQuilten, Mr
Madden, Mr
Thomson, Ms
Viney, Mr

Noes, 19

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

Question agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Electricity: safety

Hon. PHILIP DAVIS (Gippsland) — I direct my matter to the attention of the Minister for Energy Industries, who I am delighted to see is in the chamber for the first time in a long time. This matter concerns Energy Safe Victoria (ESV), the technical regulator responsible for electricity and gas safety in this state. Its responsibilities are achieved by auditing the design, construction and maintenance of all electricity and gas networks and installations and by ensuring that appliances meet stringent safety and energy efficiency standards before they are sold. ESV was formed after the extensive review of Victoria's main energy regulators and resulted from the amalgamation of the Office of the Chief Electrical Inspector and the Office of Gas Safety.

The issue I raise is the matter of safety or, in particular, the matter of fatalities. I note in respect of electrical fatalities through electrocution that in the financial reporting year ending 2002 there were zero fatalities, in the year ending 2003 there were zero fatalities, in 2004 there was one fatality and in 2005 there was one fatality. However, I note from the annual report to 30 June 2006, which was tabled in this place this day, that in the period between 10 August 2005 to 30 June 2006 there were six fatalities.

Hon. Bill Forwood interjected.

Hon. PHILIP DAVIS — Mr Forwood asked by way of interjection, 'Were there really?'. I say yes, there were six fatalities. I ask that Mr Theophanous not leave the chamber, as this matter is directed at him. Six fatalities were reported in the annual report tabled today. Not only were 6 fatalities reported, but I am separately advised that in addition there were 3 suicides caused by electrocution and 1 electrocution of a young train surfer. If you add those statistics together, that is a total of 10 fatalities due to electrocution in the last year.

I suspect that the minister would respond that that is a statistical aberration, but I would say to the minister that he should advise me so that I can advise those constituents of mine who are concerned about this matter why we have had this — —

Hon. T. C. Theophanous — Did you read the annual report?

Hon. PHILIP DAVIS — I am quoting from the annual report, you fool!

The DEPUTY PRESIDENT — Order! The minister is out of his place.

Hon. PHILIP DAVIS — The reality of this issue is that the minister needs to advise me what action he will take to deal with the fact there have been 10 electrocutions in this state, which is a significant increase compared with the status — —

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

Housing: affordability and sustainability

Hon. KAYE DARVENIZA (Melbourne West) — I raise a matter for the attention of the Minister for Major Projects, Mr Lenders.

Hon. Bill Forwood — That is the shopping list!

Hon. KAYE DARVENIZA — The matter I wish to raise — —

Hon. Bill Forwood — If you can ever find it!

Hon. KAYE DARVENIZA — It is a bit like that.

The DEPUTY PRESIDENT — Order! The yelling by Mr Forwood across the chamber makes it very hard for me as Chair and I am sure for Hansard to hear what is going on in the chamber. I ask him to desist from yelling and allow the member to raise her matter for the attention of the minister.

Hon. KAYE DARVENIZA — The matter I wish to raise for the attention of the Minister for Major Projects concerns the development of environmentally sustainable housing estates. I understand that VicUrban, the government's sustainable development authority, falls under the minister's responsibilities and that it has responsibility for the development of sustainable housing. Examples of sustainable development in housing include 6-star energy efficiency, waste water treatment and recycling, and stormwater treatment.

I note that a VicUrban fact sheet regarding the Tower Hill development in Swan Hill explains that Tower Hill is located some minutes away from Swan Hill; that it is a new estate that provides a choice of different kinds of housing — houses, apartments and townhouses; and that it is located in close proximity to parkland as well as indigenous botanical gardens, wetlands and playgrounds. It sounds pretty good, really.

Mr Lenders — It makes you want to go to northern Victoria!

Hon. KAYE DARVENIZA — It does make you want to go to northern Victoria to live in Tower Hill. The brochure talks about all these different facilities, and it talks about blending urban dwellings with sustainable living and about the positioning of the streets to maximise the sun's warmth in winter as well as shade in summer. Tower Hill will be offering 1200 homes.

Specifically I would like to know what action the minister is taking or what action his department is planning to take to expand affordable and environmentally sustainable housing, particularly in regional areas of Victoria like the development at Tower Hill, which, if the brochure is correct, will provide environmentally sustainable housing.

I ask the minister what action he is taking, particularly in rural and regional Victoria and also in urban growth corridors around Melbourne, to ensure that we have affordable and environmentally sustainable housing.

Hon. B. N. Atkinson — On a point of order, Deputy President, I would ask you to rule that adjournment item out because the action sought was to ask the minister what action he is taking — in other words, there was no effort to ask the minister to take any particular action or to take any initiative, it was simply a matter of the member asking for information on what the minister was already doing. On that basis the member has not sought that the minister take any action, and I would ask you to rule that matter out.

Hon. KAYE DARVENIZA — On the point of order, Deputy President, I may have worded my issue around what action the minister is taking, but certainly I want the minister to take action. He may in fact be taking some action.

The DEPUTY PRESIDENT — Order! I have notes on what the member asked the minister. She said words to the following effect, 'Specifically what action will the department and the minister take to expand affordable housing and environmentally sustainable housing, especially in regional areas?'. I consider that — —

Hon. Bill Forwood — On the point of order, Deputy President, the member cannot ask what action will the minister take. She must ask for an action.

The DEPUTY PRESIDENT — Order! Mr Forwood will sit down. That is my ruling on the point of order.

Hon. B. N. Atkinson — On a further point of order, Deputy President, the rules on the adjournment debate are quite explicit: a member has to ask the minister to take a particular action. Members bring an issue to the adjournment debate and they ask the minister to resolve that issue. They do not ask what the department is already doing or what the minister might already be doing. They do not ask what action might be taken. They ask for the specific addressing of a problem. The member did not do that, and it ought to be ruled out.

The DEPUTY PRESIDENT — Order! I have made my ruling. The member has asked what action is going to be taken to expand affordable housing and environmentally sustainable development — —

Hon. B. N. Atkinson — She should not have asked it like that; she has not done it correctly.

The DEPUTY PRESIDENT — Order! I have notes of what the member asked, and I am not going to enter into a debate with Mr Atkinson about it.

Bushfires: fuel reduction

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the Minister for Environment in the other place. The state government has lost a valuable opportunity to carry out fuel reduction burning on a large scale this spring. It is acknowledged that the conditions last autumn were not conducive to large-scale burning — they were difficult, and a lot of the areas that were scheduled to be burnt were not burnt. However, the planning was done and the dry winter signalled that many areas could have been burnt

early in the spring. Many other opportunities presented themselves over the winter.

Today in the media the government has claimed that it has carried out all the fuel reduction burning programs it could have done this spring. I do not believe that is correct. It is just more government spin. Most of the opportunities have been squandered. It is now too late because the weather is too dry, we are too far into spring and we are in drought.

It was really obvious that there would be a window of opportunity this spring because of the dry season, but what happened? All the key Department of Sustainability and Environment (DSE) people went overseas fighting fires in the USA. The government has dropped the ball, because we should have been taking advantage of the unusual season and should have jumped in when a window of opportunity appeared. Instead we saw the government wringing its hands about the danger of the upcoming summer to cover its failure to capitalise on the opportunity to do something positive about the situation we are facing. Normally it is too wet in Gippsland and the north-east ranges to carry out fuel reduction burning in spring, but that was not the case this year. The government was caught short and missed a golden opportunity.

I comment in passing that it is very obvious the government must be a lot braver with its burning programs. It must instil a different culture at the DSE and be prepared to support the department if issues develop. The public must be made aware that fuel reduction burns can give trouble because that is the way of nature. The DSE should be given the comfort that if there is an incident the government will give more total support, or the department will become even more cautious.

Can I suggest that the DSE and the government re-evaluate the vast and successful fuel reduction programs and the experience accumulated by the original Forests Commission? The Forests Commission was capable of burning large amounts of bush in short amounts of time with very few incidents and with almost no resources compared with today. Now only small amounts of bush are burnt each year using vast planning and huge on-ground resources, and the programs do not go near what experts all agree must be done. I ask the minister to create a new culture in the DSE that allows much more flexibility and aggression in fuel reduction programs and to support the DSE if subsequent incidents occur.

Marine Discovery Centre: funding

Ms CARBINES (Geelong) — I wish to raise a matter with the Minister for Environment in the other place, John Thwaites. It concerns the Marine Discovery Centre in my electorate of Geelong Province. The Marine Discovery Centre is an outstanding educational facility located in the state-of-the-art, $20 million Primary Industries Research Victoria centre built by the Bracks government at the Narrows at Queenscliff. It offers highly innovative interactive marine education programs to students, teachers and the general public. It is a very popular centre with some 64 000 visitors making the most of the programs each year. It has excellent staff supported by an enthusiastic team of volunteers, the Friends of the Marine Discovery Centre, who generously donate their time to assist with the programs.

I can certainly attest to the quality of the programs offered at the Marine Discovery Centre. I have very fond memories of going out in a boat on Port Phillip Bay with the Marine Discovery Centre staff and a class of students and marvelling with them at the creatures that were found on the seabed of Port Phillip Bay. When I visited the Marine Discovery Centre at another time I accompanied children who were on a visit to Victoria from Russia. They were victims of the Chernobyl disaster and had never seen sea creatures, but they were able to touch and feel the marine creatures at the Marine Discovery Centre.

Unfortunately concerns have been raised with me recently about the recurrent funding provided to the Marine Discovery Centre, in particular that some programs have had to be curtailed due to the insecurity of the recurrent funding. The Marine Discovery Centre is an invaluable asset to the Victorian community, to our children and to the health of our marine environment. I therefore seek an assurance from Minister Thwaites that the recurrent funding to the Marine Discovery Centre will be maintained.

Drought: government assistance

Hon. W. A. LOVELL (North Eastern) — My adjournment debate issue is for the attention of the Premier regarding the desperate plight of primary producers in northern Victoria and the need for state government assistance. Northern Victoria has suffered below average rainfall for at least eight years and is in the midst of the worst drought in living memory.

In 2002 the Goulburn irrigation district failed for the first time in history, and irrigators only received 57 per cent of their water allocations. This year Goulburn

irrigators have been allocated only 21 per cent of their entitlements. Irrigators on the Campaspe system are in an even worse situation, having received only 39 per cent and 32 per cent of their entitlements respectively over the past two seasons. This year they are faced with a zero allocation. In fact they are not even guaranteed stock and domestic water for the entire season.

In addition to the low water allocations, early last week the Goulburn Valley and the King Valley were hit by severe black frosts that wiped out around 50 per cent of the fruit crops in the Goulburn Valley and caused devastating losses to crops in the King Valley, with some growers reporting up to 80 per cent of their crops lost. Farmers in the west of the state, in the Mallee and Northern Wimmera, are watching their crops die before their eyes due to lack of rainfall. This week's *Weekly Times* carried the headline 'Bloody horrible', describing the worst season in memory.

Primary producers and indeed entire communities in northern Victoria are in crisis, and yet the state government has chosen to ignore their plight. Fortunately we have a supportive federal government which for the past four years has provided support to many farming families through the exceptional circumstances (EC) funding and which last week gave the assurance that Goulburn Valley fruit growers would be granted a prima facie EC application.

Unfortunately the state government has failed over the past four years to provide any support to primary producers in northern Victoria and has instead abrogated its responsibility to the federal government. Some of the ways the state government could support primary producers in northern Victoria would be to reinstate the farm business support grants that were offered prior to the 2002 state election, to provide assistance through low-interest loans, to provide subsidies for stockfeed or to waive the fixed costs for the undelivered portion of irrigators entitlements. There are many options for the state government to assist country communities to survive this devastating drought if it chooses to do so.

Unfortunately, the Bracks government fails to recognise the importance of country Victoria, and all too often ignores the need to support country communities. Last week the state government announced $4.9 million for assistance to fruit growers in the Goulburn Valley, but $4.3 million of that money went towards funding the pumping of water from Waranga Basin, leaving only $600 000 to provide some social services assistance to the growers. There is a strong prospect that without state government assistance many farmers will just walk off their land and perhaps that land will never be used for farming again.

The action I seek from the Premier is to provide some real state-funded drought assistance to all primary producers in northern Victoria.

Vietnamese community: parliamentary democracy

Hon. S. M. NGUYEN (Melbourne West) — I want to raise a matter for the attention of the Minister Assisting the Premier on Multicultural Affairs in the other place. The matter relates to Mr Phong Nguyen, president of the Vietnamese Community in Australia, Victorian chapter, who wrote to the Premier on 14 August — —

Hon. B. N. Atkinson interjected.

The DEPUTY PRESIDENT — Order!
Mr Atkinson should desist from interjecting. It is very difficult for Hansard to hear and for the Chair to hear!

Hon. S. M. NGUYEN — The reason I want to raise this matter is because my name was mentioned in a Vietnamese community forum and in a Vietnamese newspaper, the *Viet Luan*. I am proud to be a member of this Parliament because it has had a strong democratic record for the past 150 years. In this job I have met many visitors from schools, community organisations, as well as individuals and guests from overseas. I have nothing to hide nor to be afraid of when visitors from Vietnam want to meet us. We have invited many delegations from Vietnam and other places to Victoria and to this Parliament. This is a part of building our diplomatic links with the rest of the world.

When I meet any delegations from Vietnam I always introduce them to the important role of being a member of Parliament in an open society. We live in an open and accountable society whose strength is built on democracy. We are one of the best in the world. But some people do not enjoy these values. Some of them are still living in a closed society and in the past. They always criticise me when I meet or discuss this with delegations from Vietnam when they visit Victoria.

We need to encourage Vietnam to follow Western countries like Australia, Canada, the United States of America and the European countries to have a multiparty democratic system and be like other international communities. I ask the minister to take action and explain to the Vietnamese community and to our neighbouring countries the role of a member of Parliament and the Victorian Parliament.

Drought: government assistance

Hon. W. R. BAXTER (North Eastern) — I wish to raise a matter for the attention of the Premier that goes to the issue of the drought that is afflicting most of Victoria, particularly northern Victoria. Today's hot weather in northern Victoria — I understand the temperature has been more than 30 degrees in most of the northern areas — is putting the sealer on the failed season that regrettably we are experiencing. I do not think there is any doubt that we will see widespread crop failures now not only in the Mallee but also in the Wimmera and the northern central grain belt. We know that in the irrigation areas there is a shortage of water, particularly from the Eildon system where there is only a 21 per cent allocation, and the Campaspe, nil. Many farmers are facing their worst-ever season since European settlement.

I am particularly concerned for the small businesses in our country towns that rely on farmer expenditure for their prosperity, and especially for the persons they employ. We are going to see, as farmers of necessity have to tighten their belts, that those small businesses will need to put people off unless some assistance can be given to them. I make an appeal to the Premier that he at least reinstitute the $20 000 cash grant that was given in the 2002 drought. That will at least put some cash flow into country towns and enable those small businesses to maintain their complement of employees.

There is no doubt we are facing an unprecedented circumstance. We have never had this combination of circumstances before, and we are going to see extraordinary stress imposed not only on farming families but on others in country towns and regional communities. They are looking for some sympathy from the government and some tangible support in terms of dollars.

I request, perhaps during the last adjournment debate of this Parliament, that the Premier take that on board and act expeditiously. Even if it started raining tomorrow, we are now not going to get a decent grain harvest in this state, nor are we going to cut sufficient hay to feed what stock will remain. We are in a diabolical situation and the government needs to act. I call on the Premier to do so.

Greyhound Racing Victoria: probity checks

Hon. DAVID KOCH (Western) — My matter for the Minister for Racing in the other place concerns a lack of probity checks and integrity by Greyhound Racing Victoria in employing and offering further employment to a compulsive gambler.

John Galletta, while employed by GRV, was recently sentenced for a minimum three-year term over the embezzlement of $237 303 from his previous employer, Drouin Concrete Pipes and Products Pty Ltd. Correspondence received by me in early September states that GRV had no knowledge of Galletta's addiction until he admitted to senior management that he was required to appear in Sale's County Court on 28 August 2006 to answer embezzlement charges. While this may very well be the case, it begs the question of who was responsible for employing Galletta and what inquiries and probity checks were made of his previous employment. Indeed, were any reference checks undertaken at all?

In jailing Galletta, a perennial embezzler who during nine years stole from his previous employer to feed his gambling addiction, Judge Duckett stated on 14 September:

> This was a very, very serious matter and a longstanding breach of trust that has brought havoc to a small family business.

Despite having a gambling addiction, Galletta was employed by GRV in a responsible position of trust as a part-time form analyst where he had the potential to mislead punters on dog performance and betting odds, possibly for his own gain.

Although Galletta pleaded guilty to the embezzlement offences, on 2 September GRV again was prepared to support his future employment subject to Galletta reforming his gambling addiction. This comment concerned Judge Duckett, who correctly responded by asserting that employment in the greyhound racing industry was likely lead to Galletta offending again. Giving a gambling addict a job in the gambling industry is like giving an alcoholic the keys to a brewery.

The County Court transcript of 14 September 2006 gives the reasons for sentence, and it includes the astounding testimony of Mr John Stephens, the chief executive officer of Greyhound Racing Victoria. Not deterred, Mr Stephens praised Galletta's excellent work in analysing the form of racing greyhounds and went on to say that if Galletta was 'employed full time, a strict condition would be imposed that Galletta would not gamble any more'.

Not surprisingly, GRV has remained silent over this matter. Likewise, the Minister for Racing remains silent and fails to ensure a confidence that probity procedures are in place to guarantee that statutory bodies do not employ gambling addicts in responsible positions involving punters funds. The action I seek is that the

minister correct this bizarre behaviour of Greyhound Racing Victoria and attempt to salvage some integrity within GRV's administration.

Western Port Highway, Lyndhurst: upgrade

Hon. R. H. BOWDEN (South Eastern) — My adjournment issue tonight is for the Minister for Transport in the other place. Since this will be my final adjournment debate I drew up a long list of different issues, but then I realised I did not want to disappoint my many fans on the government side so I decided to talk about a roads issue.

The Western Port Highway is extremely important to the future development of Victoria and specifically to the employment prospects and the good living standards we have in the South Eastern Province. I know that the government shares my concern that we want to keep it that way and have efficient roads. I have been known to talk about this issue before, and although the government has not taken any action on many of those items, it professes to have some concern.

The Western Port Highway is a major artery for tourism, commuter traffic, freight, commerce and a whole variety of transportation requirements that we need for safety and efficiency in moving people, goods and services to and from this area. Thompsons Road crosses the Western Port Highway. I have been known to talk about this subject in the past, and I remind members that traffic congestion at the intersection of Thompsons Road and the Western Port Highway is a matter of real concern. It holds people up, there are long delays and there have been accidents. However, nothing seems to happen. But there is a solution. The government will be anxious to know what that solution is, and I will come to it in a moment.

Recently a set of traffic lights was installed at Moreton Bay Drive, Lyndhurst. If honourable members are not aware of that, I would be happy to talk to them about it later. These traffic lights are a real worry because they have the effect of stopping many lanes of traffic, often to let only one vehicle on and off that road. I think that is a disgrace and there are potential problems with safety. If we consider the efficiency of the Western Port Highway and then look at these disastrous traffic lights, we can see that we are really compromising safety.

I ask the minister to take urgent action to build the much-needed Thompsons Road and Western Port Highway overpass and to urgently remove, for safety reasons, the dangerous traffic lights at Moreton Bay Drive, Lyndhurst.

Parliament: 55 St Andrews Place

Hon. BILL FORWOOD (Templestowe) — I seek decisive action from the Leader of the Government in relation to his ministerial responsibility as the person responsible for Victoria's property portfolio.

Honourable members in this place know that I have for quite some time been seriously concerned by the One Parliament fiasco being visited on the staff of this place, primarily by the head of the Department of Parliamentary Services, Dr Stephen O'Kane. I am aware that Dr O'Kane's four-year contract expires in the middle of next year, and I am quite prepared to offer my services voluntarily to come back and sit on the selection committee and give him a free character assessment in the process, because I believe the Parliament can be better served by a change at the top of the Department of Parliamentary Services.

I wish to put on the record my understanding that the Parliament has decided we will move to 55 St Andrew's Place. I am aware, and I am sure the minister is as well, that the guidelines for the occupation of space in government buildings are contained in a document I have here entitled *Office Accommodation Guidelines*, which has a foreword by the Minister for Finance. Page 15 of the accommodation guide states that ministers of the Crown are entitled to a fully enclosed workpoint — an office — of a maximum area allocation of 47 square metres, including an ensuite of 7 square metres, while agency heads are only entitled to 30 square metres, without a bathroom.

I do not believe Dr O'Kane is an agency head, but the point of my issue with the minister tonight is that Dr O'Kane has allocated to himself in 55 St Andrews Place the former office of the Attorney-General. He has no right to that office, as the guidelines demonstrate. I think it is time that decisive action was taken to put Dr O'Kane into an office commensurate with his abilities and not one where he believes he is a minister. I ask the minister to take decisive action by telling Dr O'Kane he cannot have a ministerial office and putting him in the broom closet.

Housing: Ballarat

Ms HADDEN (Ballarat) — The matter I raise on the adjournment debate this evening is for the Minister for Housing. It refers to public housing residents at 505 Latrobe St, Ballarat. The residents of this public housing block have suffered from frequent and severe criminal damage to their property and vehicles. They are required to park their vehicles in the open in the

streetfront car park provided by the housing unit. The sustained criminal activity they have endured over many months includes vehicle theft, scratched panels, broken windows and windscreens, theft of property from their vehicles, stolen parts, slashed tyres, bent and broken antennas and arson. These incidents have been reported to the local department of housing office but to date no positive action has been taken to remedy the situation.

As a result of this apparent lack of action by the local department in Ballarat some of the residents have attempted to protect their property by being proactive and parking their vehicles on the grassed area outside their units on weekends, when most of the criminal activity occurs. The local department's response to this has been to threaten the residents with a breach notice.

The tenants of these public housing units in Latrobe Street cannot afford to pay for insurance or frequent repair bills and cannot afford expensive security systems. They are vulnerable because of the design of this public housing complex and their inability to take preventive steps on the basis of the department's interpretation of the housing contract. There are a variety of measures available to the department which could remedy the situation and ensure their safety and welfare as public housing tenants. They certainly have no affordable methods available to address the problem themselves unless the department changes its position on parking on the so-called common areas outside their units.

The property and safety of the residents is currently at risk and has been at risk for some months. They believe the department has an obligation to take appropriate steps to protect them as public housing tenants. The action I seek is for the minister to take immediate and all necessary action to ensure the safety and welfare of the public housing tenants at 505 Latrobe St, Ballarat.

Responses

Mr LENDERS (Minister for Finance) — All I can say is that after the adjournment debate tonight the government may be tempted to have the Parliament dissolved earlier than it had contemplated. Nevertheless a number of issues were raised.

The Leader of the Opposition raised an issue for the Minister for Energy Industries regarding Energy Safe Victoria and electrical deaths. I will pass that on to the minister for his attention.

Ms Darveniza raised an issue for me in my capacity as Minister for Major Projects. She was speaking about a number of housing estates, such as Tower Hill in Swan Hill, which is obviously one she has a great interest in. She asked me what action we will take to make sure there are further expansions of sustainable and affordable housing in the VicUrban estates around parts of Victoria. Tower Hill, near Swan Hill, has been opened up to nearly 1100 new houses over a period of time to assist that city in its urban development.

A development near and dear to my heart is the Aurora site in the northern suburbs of Melbourne. About 8000 lots are being opened up in Epping North. These are quite sustainable. Yarra Valley Water has a pumping station for recycled water, a triple-pipe system and all those sorts of things that are in the public mind and imagination as we deal with climate change and water shortages.

Regarding the affordability of housing in these areas, we are trying to make the great Australian dream of housing more affordable. I assure Ms Darveniza that we are seeking to make this housing available, and do it more quickly by having open days and the like. In fact I think it is this weekend or next weekend that VicUrban will be spending in the order of $300 000 in marketing the Aurora site, because we want people to see the sustainable and affordable housing there. It is a big investment to get people there, because if people are aware of the great treasures in the north of Melbourne and at Tower Hill they are more likely to come to them.

Mr Stoney raised an issue for the Minister for Environment in the other place regarding fuel reduction burns and the culture within the Department of Sustainability and Environment, and I will pass that matter on to the minister for his attention.

Ms Carbines also raised a matter for the Minister for Environment in the other place regarding the Marine Discovery Centre in Geelong Province. She has certainly got my interest in the centre with all the hard work of volunteers. I will ask the minister to follow the issue through, and the next time I am in the area I may ask Ms Carbines to show me the centre. She is certainly a very powerful advocate for it.

Ms Lovell raised a matter for the Premier regarding drought assistance, as did Mr Baxter. I will certainly refer those matters to the Premier for his urgent attention, but I can assure both members that drought and drought assistance are at the forefront of the Premier's mind.

Mr Nguyen asked me to raise a matter for the Minister Assisting the Premier on Multicultural Affairs in the other place regarding the Vietnamese Community in

Australia, Victorian chapter, and the importance of educating the Vietnamese community about the role of members of Parliament. I will take those matters to the minister for his attention.

Mr Koch raised an issue for the Minister for Racing in the other place regarding a greyhound racing employee and issues around that. I will pass that matter on to the minister for his attention.

Mr Bowden, in fine form, raised a matter for the attention of the Minister for Transport in the other place regarding the Western Port Highway. He gave details about traffic lights, overpasses, safety and a range of other matters. I will pass that on to the Minister for Transport, who would have wondered what was happening if Mr Bowden had not raised an issue regarding the highway. He will be reassured that the champion of the Western Port Highway is still well and truly on the job.

Ms Hadden raised a matter with the Minister for Housing regarding public housing tenants and some related issues. I will pass that on to the minister.

Mr Forwood raised an issue for me in my role as Minister for Finance — and it is in some ways a bizarre issue — regarding office space at 55 St Andrews Place. On a light note, if anyone is allocated a broom closet it will probably be Harry Potter, and to my knowledge he is not a public servant in Victoria!

On the serious issue of space, we clearly have guidelines as to what office accommodation people get. Mr Forwood has tempted me to get a bigger ensuite in my office, because I am sure mine is not that size — it is quite small. But on the serious issue, the Department of Parliamentary Services is moving into the old Department of Justice office building. Clearly you would have the most appropriate use of space in the building. There are three suites there, presumably the former offices of the Minister for Police and Emergency Services, the Attorney-General and the departmental secretary. I will look closely at whether the allocation meets the guidelines on space. While I understand Mr Forwood's concern about people using space that they should not be using, given the guidelines we have, the converse is that we do not want to spend taxpayers money to brick off toilet doors so that someone cannot use them — but I am sure that is not what Mr Forwood is suggesting.

In the first instance, while in a sense the project is one on which the executive government would take the advice of the House Committee and the Speaker rather than intervene in parliamentary affairs to the extent of who uses what rooms and those allocations — as a member of the executive I would be very reluctant to stick my nose into that issue — I understand that if there are guidelines, we need to harmonise those. I would work in consultation with the Speaker and the President to decide whether they were being dealt with appropriately.

The DEPUTY PRESIDENT — Order! The house stands adjourned.

House adjourned 10.39 p.m.