PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 15 November 2005

(extract from Book 8)

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By authority of the Victorian Government Printer

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JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

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

Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
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Drum, Hon. Damian Kevin	North Western	Nats	Smith, Mr Robert Frederick	Chelsea	ALP
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Hirsh, Hon. Carolyn Dorothy	Silvan	Ind	Vogels, Hon. John Adrian	Western	LP

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TUESDAY, 15 NOVEMBER 2005

Tuesday, 15 November 2005

The PRESIDENT (Hon. M. M. Gould) took the chair at 2.03 p.m. and read the prayer.

BUSINESS OF THE HOUSE

Sound system

The PRESIDENT — Order! I need to advise the house of a couple of things. I have already advised party leaders that the sound system is playing up again, so members will be required to push the green button on their microphones to make them work.

Lapel badges

The PRESIDENT — Order! The other issue concerns members wearing badges on their lapels. I ask members to please remove them.

Hon. Bill Forwood — On a point of order, President, I wonder whether you require me to remove the WorkSafe ribbon I am wearing on my lapel and/or the Victoria badge that I am wearing today.

Hon. T. C. Theophanous — On the point of order, President, while all of us will of course take off our badges — the badges which signify 'Your rights at work', of which we are very proud — because the honourable member has also raised a point of order, I ask how we make a distinction between the Kennett Victoria badge being worn by the honourable member and other badges?

The PRESIDENT — Order! We are going to have a fun week if this is what is happening at 2.05 p.m. on Tuesday. I draw members' attention to the ruling I made previously that members are permitted to wear small badges but are not permitted to wear badges and clothing that contain advertising material. I thank members for adhering to my direction.

ROYAL ASSENT

Message read advising royal assent on 2 November to:

Congestion Levy Act
Defamation Act
Primary Industries Acts (Further Amendment) Act.

WATER (RESOURCE MANAGEMENT) BILL

Introduction and first reading

Received from Assembly.

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

QUESTIONS WITHOUT NOTICE

Commonwealth Games: athletes village

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for Commonwealth Games. What action has the government taken in relation to the report into the terrorism vulnerability of the 2006 Commonwealth Games village?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome all questions from the opposition in relation to the Commonwealth Games because the games are of such significance to this state and any attention given to them by the opposition reinforces their importance. We have made significant announcements in relation to security. In addition, the Chief Commissioner of Police, Christine Nixon, made statements in a press conference, alongside the federal Attorney-General in relation to the Commonwealth Games. They made a significant commitment in terms of numbers in relation to the police force and the availability of Australian Defence Force members in and around the games. They made a whole series of announcements.

It is not my intention to make any comment specifically on security matters but to make generic or broad comments on security. As we have said on many occasions, public comment on security matters is left to the security agencies themselves. Other than that, comments may be made by the Premier from time to time in consultation with those agencies or potentially by the federal Attorney-General, but it is not my intention to make any specific comments in relation to security.

I also suggest to the opposition that considerable work has been done at every government and agency level to incorporate the most comprehensive delivery of security for the Commonwealth Games. We have been very public in our comments that on advice from those agencies we will not be declaring the degree of investment in security for the games but that we will be announcing the expenditure on security after the games. We have made it quite clear that the advice to us from

Victoria Police is to not publicly declare expenditure because it might give an advantage to those people who may be considering the sort of action that we are trying to prevent through these Commonwealth Games security arrangements.

I welcome the question by the opposition, but I reinforce that those relevant agencies will speak specifically in relation to those matters. Recently we had Exercise Mercury, and the Commonwealth Games scenario and themes were factored into that. It was comprehensively delivered through all agencies. A lot has been learned, and I am pleased to report to this house that everything humanly possible is being done in relation to security matters for the Commonwealth Games.

Hon. Richard Dalla-Riva — On a point of order, President, I draw your attention to your earlier ruling relating to badges and to Ministers Theophanous and Thomson, who are clearly flouting your ruling by continuing to display material on their desks.

The PRESIDENT — Order! I have asked members to remove the badges and they have done so. Can we please leave it at that!

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — The minister in his response did not address the issue of the report. As recently as June this year the commonwealth Attorney-General described the report as a very good synopsis of what a committed terrorist could do to a facility like the games village. If the federal government is taking the report seriously, why is the minister apparently not doing so?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I suggest to the opposition that there is no point in scaremongering in any way in relation to security matters and the Commonwealth Games. I encourage opposition members if they have any specific concerns to raise them and we will be happy to have a briefing to the extent that is possible in relation to security matters. There is no point in scaremongering on this issue. We are doing everything that can be done. Can I just say that this is not a political issue in the sense that we have Victoria Police working with all the respective agencies — the Australian Federal Police, the Australian Defence Force and the Attorney-General's office. Every agency and level of government is working comprehensively on this matter. Any information that is part of that process will no doubt be considered by those respective agencies. We take advice from those agencies to ensure that the Commonwealth Games will be safe and secure.

WorkCover: government initiatives

Hon. C. D. HIRSH (Silvan) — I have a question for the Minister for WorkCover and the TAC. Can the minister advise the house how the Bracks government is protecting the interests of working Victorians and of any new initiatives that to assist injured workers?

Mr LENDERS (Minister for WorkCover and the TAC) — I thank Ms Hirsh for her question and note her 20-year commitment to this issue since she was first an advocate of this when she was elected to the Legislative Assembly in 1985. I am also delighted to note where she is sitting today in the chamber. I thank her for her question on what is one of the most important and serious issues we have in the state of Victoria.

Ms Hirsh asked what new initiatives and issues have been happening with WorkCover and worker benefits. Since the election of the Bracks government we have brought the WorkCover scheme into the black. We have brought it into the black from the $1 billion deficit we inherited from the Kennett government and during that time have prudently managed it with two objectives: objective 1 was to improve the benefits for injured workers, and objective 2 was to reduce the burden on those who pay for the WorkCover scheme.

I am delighted to say that during the period of the first of my predecessors, Mr Bob Cameron, in 1999–2001 we delivered on policy and restored common-law rights to injured workers. That was benefit no. 1. Benefit no. 2 was that in 2002–03, under the second of my predecessors, Mr Rob Hulls, there was a $35 million boost to benefits and return-to-work reforms, and a further boost at the start of 2004–05. During that time this government has frozen the premiums for small business and has had two 10 per cent cuts — last year and earlier this year. This government has delivered on reducing costs, reducing premiums and improving and restoring benefits.

Last week a very impressive package announced by the Premier in Derrimut was designed to restore benefits to workers and to improve the scheme. A range of things will be introduced through legislation and by regulation, including an increase in death benefits for families who have lost a loved one, improved counselling services, assistance for older injured workers who remain in the work force after 65 years of age, the establishment of a $10 million return-to-work fund to improve training and reskilling support for

injured workers and improved benefits for long-term injured workers.

The government also will establish a fund designed specifically to get workers back to work early. We do not want people on WorkCover benefits if they can get into the work force. We want to assist workers on that important step when they are ready to come back to work, and we need to assist employers to help those workers come back to work.

This is one of the largest challenges for the WorkCover scheme, and we are determined to get it right, to manage it effectively so the last place an injured worker wants to be is on benefits. They want to be at work and we want good case management, working with the stakeholders, whether they be the employer organisations, the employers or unions to get people back to work.

We have brought this scheme into the black and through prudent management have kept it in the black. I contrast that with a quote of Mr Bill Forwood in the press on the day the WorkCover balance sheet was announced. He said:

> Why should we have a system that makes a profit? What is the purpose of it making a profit?

I say to Mr Forwood that this government does not seek to make profits out of the WorkCover scheme, but this government seeks to keep the scheme in the black, to manage it well, so we do not get back to the shameful situation of the Kennett government where premiums went up and benefits went down because of bad management. We are determined to get that into place, and I refute Mr Forwood's comments that there are rivers of gold. There are no rivers of gold, but there is a workplace scheme that is being managed well; and we are very proud of the achievements.

Commonwealth Games: athletes village

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is again to the Minister for Commonwealth Games, and I note the minister's offer of a briefing to the opposition on security for the games and indicate that the opposition will take up that offer. I also note this is a matter of public interest and public importance, and is quite appropriately canvassed in this house.

The report on the terrorism vulnerability of the 2006 Commonwealth Games village states:

> The risks described appear to be so great that Australian athletes, officials and VIPs should be advised by the federal and Victorian governments not to stay at or visit the games village during the games unless there is a very substantial and visible upgrade of external security.

What assurance can the minister give the house that this statement in the report is incorrect?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I am very disappointed in the member opposite for trying to use this issue — —

Honourable members interjecting.

Hon. J. M. MADDEN — An enormous amount of money is being spent at these games on security — comprehensively so — and it is being done in consultation with the federal government. On this issue we are as one with the federal government. We are working harmoniously with the federal government, the federal Attorney-General's office and the federal police through our agencies. As opposed to the industrial relations issues where we are poles apart, on this issue we speak as one. Much of that good work is also because our chairman, Ron Walker, is working to make sure there is a harmonious relationship between the federal and state governments in relation to the Commonwealth Games. We do not determine where or how the agencies should establish security and the regime for security, but as a government we fund Victoria Police and work with the federal agencies to make sure that every t is crossed and every i is dotted when it comes to security.

The member opposite would also appreciate that the separation of powers does not allow us to direct the Victoria Police specifically as to how it should implement these things. These are matters which are being worked through with the respective agencies. We fund the agencies; they are delivering a comprehensive security overlay for the games to make sure that the safety and security of the Commonwealth Games is absolutely superb.

I again air my disappointment with the opposition for trying to gain kudos, notoriety or a headline on a matter which should not be canvassed in this way in this place. If the member opposite wants anything specific, we will work towards giving him anything we can on this matter, realising that of course he would need to seek comprehensive security clearance on these matters too.

I do not mean to harp on the subject, but I will. I will harp on it and harp on it. We are prepared to take criticism where criticism is due on the Commonwealth Games, although I note there is not much coming from the opposition because everybody is working comprehensively to deliver the best Commonwealth Games ever. On security matters the member should

appreciate this is being delivered by the security agencies and is being funded by both federal and state governments to make sure it is comprehensive. I would advise the opposition and the opposition leader to make sure that members of the opposition are very considered in the way they broach or raise issues about security, because we do not want to undermine the delivery of the games, we do not want to scare the public and we do not want the opposition advocating scare tactics in relation to the Commonwealth Games — which will be the best and biggest event ever delivered in Victoria's history!

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — The opposition takes no comfort from the answer given by the minister. The minister could have said he was aware of the report and has addressed its concerns, but he did not do that. This report is the work of a former defence science and technology organisation's senior scientist and has been confirmed by the commonwealth Attorney-General as a good synopsis of the scenario. If the government's security planning is adequate, as the minister has claimed, why has he not repudiated the substantial issues raised in this report?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — What is it that opposition members want us to do here? Do they want us to tell the whole world about our security arrangements? If that is what they want, then I think it would be counter to the federal government's position. I ask the Leader of the Opposition and the opposition spokesperson on the Commonwealth Games what their stance is on this. Is it, 'Let us advocate and tell the entire Victoria community and the entire world what our security arrangements are for the Commonwealth Games'? Is that what they are saying?

I am not going to speak on specific matters in relation to security because that would breach security in every sense of the word. If opposition members want the best games Victoria has ever seen, the best Commonwealth Games the world has ever seen, and the safest and most secure Commonwealth Games that can possibly be delivered, then I say to opposition members: do not scare the world by asking questions on security in that manner.

Mining: *Moving Forward*

Hon. R. G. MITCHELL (Central Highlands) — My question is to the Minister for Resources. Can the minister advise the house of any recent initiatives that the Bracks government has undertaken in the area of mineral exploration in Victoria as part of the *Moving Forward* statement for provincial Victoria?

Hon. T. C. THEOPHANOUS (Minister for Resources) — I thank the member for his question. Yesterday was one of those days when those of us who are members of the government were proud to be able to be a part of the delivery of one of the most comprehensive statements for provincial Victoria that has ever been delivered — a $502 million plan for growth in regional Victoria. As part of that plan the energy industries will receive a $27 million boost. This represents one of the largest ever boosts for the earth resources and energy industries, and is in recognition of the massive growth that has taken place in the resources sector and which is having a major impact on employment in regional communities.

The Bracks government plans to keep provincial Victoria a great place to work, to invest in and to raise a family. The earth resources sector and the energy industries package includes $9 million for the Developing Gold Undercover initiative to attract greater investment for gold exploration in Victoria and to open new exploration areas adjacent to the state's golden triangle. There is a further $200 000 for a gold and minerals industry work force development plan that aims to attract, train and retain skilled staff in this important area.

Both of these initiatives are very important for the future economic and social development of provincial Victoria. Developing Gold Undercover is an initiative that aims to attract greater exploration investment to Victoria by investing in new, pre-competitive geoscience data collected by the application of modern technologies. This is the bread and butter of exploration development in this state, and it is not just us who are saying so. The Minerals Council of Australia — —

Hon. Bill Forwood — Chris Fraser?

Hon. T. C. THEOPHANOUS — Yes, Mr Chris Fraser, who is well known to the opposition as well as to the government. In a media statement he also agreed with the points that I am making. He made the point that:

> The minerals industry is particularly encouraged by the government's strategically targeted investment of $9 million into pre-competitive geoscience data over three years in gold exploration undercover.

It is a fact that the development of this industry is taking place at an exponential rate, where we have seen a doubling of gold production in Victoria and we expect

a further doubling of gold production over the next year or two.

This is fantastic news for rural Victoria. Even today's Bendigo *Advertiser* hails the statement as a 'boon' for the city and highlights the gold undercover initiative. The only people who are out of step with this are members of the opposition. The Leader of the Opposition in another place, Mr Doyle, described this statement as 'bulldust'. Almost everyone in this state, and in this house, now thinks there is only one bullduster in this Parliament — and that is Robert Doyle.

Hazardous waste: Nowingi

Hon. B. W. BISHOP (North Western) — My question without notice is directed to the Minister for Major Projects. I refer to a recent letter from South Australia's Minister for Environment and Conservation, the Honourable John Hill, who responded to me on behalf of his Premier, in which he says:

> The South Australian government will vigorously oppose any development at Nowingi or anywhere else that poses any risk to the River Murray.

Given that the Bracks government has ignored the concerns of the communities of the north-west, will the minister now listen to his Labor colleagues and abandon the proposed Nowingi site for the toxic waste dump?

Mr LENDERS (Minister for Major Projects) — I thank Mr Bishop for his question. It is interesting to hear his question in this place without the editorials from the *Sunraysia Daily* as well, because it is interesting to contrast what he asks in this place and what he says he asks, and specifically what he asked me today. I suspect Mr Bishop already has his press release in his hand, which he will fax as soon as he hears my reply, regardless of my reply.

If the South Australian environment minister has views on the proposed long-term containment facility at Nowingi, then I suggest he, like everybody else, should look at the 24 technical studies, look at the environment effects statement process, take the opportunity to make a submission about any issues he has to that process, take the opportunity to go to the consultants panels and hear the views and advice that they have, take the opportunities that are provided to the Sunraysia community and others who are very interested in the proposed facility, and take the opportunity to make his presentation before an independent panel which will then advise the Victorian government after it has heard all those submissions, listen to the cross-examinations and then come to a considered view.

Supplementary question

Hon. B. W. BISHOP (North Western) — I thank the minister for his answer. Following it, where he has clearly said that the South Australians, our neighbours and his colleagues, will be able to make submissions to any of the panel hearings, I ask: has the minister briefed the various parties in South Australia and New South Wales on the proposal; and if so, what was the response from the respective states?

Mr LENDERS (Minister for Major Projects) — I am generally not in the business of confirming whether I have had discussions with people, because in a sense — —

Hon. Bill Forwood — What?

Mr LENDERS — If Mr Forwood has the courtesy to listen, I will complete my answer. I generally do not comment on these things, but I certainly have not discussed it with colleagues. It is unusual for me to actually say these things in this place, and that is the last time I will comment on that. I would imagine there have been discussions on the department's level — and I am speculating.

The important point is, and I take up Mr Forwood's interjection, that if in this place people are asked whether they have or have not had conversations with people on a periodic basis, it raises questions of whether confidential conversations can be had, but I have not discussed it with other ministers in the other states. I invite them all to participate in our environment effects statement process, which is open and robust.

Housing: Corio-Norlane

Ms CARBINES (Geelong) — My question is addressed to the Minister for Housing. Can the minister inform the house how the Moving Forward program is contributing towards improving housing in the Corio-Norlane area in provincial Victoria?

Ms BROAD (Minister for Housing) — I thank the member for her question and her interest in the important issue of housing infrastructure to support growing economies in provincial Victoria and in doing that, ensuring provincial Victoria keeps moving forward — in contrast to what happened to provincial Victoria the last time the Liberals were in government.

Cheaper homes have been a key factor in encouraging people to move to regional areas. However, while

housing in provincial Victoria remains affordable compared to housing in Melbourne, some communities face challenges in maintaining an adequate supply of affordable housing and providing diversity of housing to meet the changing needs of residents.

I am pleased to inform the house of the details of the recent announcement in *Moving Forward* to undertake a feasibility study for urban renewal in the Corio-Norlane area. An amount of $250 000 has been allocated for this purpose, as announced in yesterday's provincial statement *Moving Forward*.

The Bracks government believes that urban renewal will complement the neighbourhood renewal initiative that has been delivering improvements in Corio-Norlane since 2002. Since neighbourhood renewal commenced there have been many positive achievements, including employment programs, community enterprises, improvements to local parks and the engagement of local residents in planning for their own futures.

Norlane was developed by the then Housing Commission in the early 1950s and consists of mainly weatherboard houses on large blocks of land. In contrast, Corio's largest growth occurred in the late 1970s, and the majority of housing is brick veneer homes located in reasonable proximity to large industrial companies like Shell, Ford and Pilkington.

Together these two areas form the gateway to Geelong, one of our very important communities in provincial Victoria. However, it is the case that property prices in Norlane and Corio are significantly lower than the region's median, and the suburbs have not shown the growth in capital appreciation gained in other areas of the region. The fact is that there is good access to schools, services, facilities and transport, including rail, and the redevelopment area has the capacity to become a major commuter suburb.

The government believes that Corio and Norlane provide significant opportunities for the Bracks government and private developers to work together with the City of Greater Geelong, local residents and businesses to generate housing and other infrastructure improvements that would be of benefit to public housing residents and the Geelong economy.

That is why we are commencing the feasibility study and why the funding has been provided for this in *Moving Forward*, the provincial Victoria statement. I, together with Ms Carbines, would encourage the people of Geelong to have their say in the study to ensure that full advantage is taken of the very significant opportunities in the Corio-Norlane area for housing into the future.

Hon. Philip Davis — On a point of order, President, the tolerance of the house has been tried, in particular with the flouting of your clear ruling that members should not impose upon the house with public displays of promotional material. I notice that Mr Sang Nguyen has continued to promote some agenda of his by publicly flouting your ruling in regard to a sticker he has put on his laptop.

Hon. R. G. Mitchell — On the point of order, President, Mr Nguyen has a sticker stuck to his computer, but I see Mr Dalla-Riva sitting there with a book called *We Believe*, which I understand is a blank document of the Liberal Party.

The PRESIDENT — Order! The comments that I made were about the wearing of badges on lapels. The member has one stuck on his computer and he is entitled to have his computer in the house, but I would ask him if he could, after question time, attempt to remove it from the computer, without damaging the computer, which is the property of the Parliament.

Hon. Philip Davis — On the point of order, President, I am extremely reluctant to pursue this matter, but the ruling you have just given is an invitation to members to bring into the house things that publicly display promotional matters. I put it to you, President, that it is totally disorderly for the member to continue to display material in such a form. If you do not ask him to remove it, it is an invitation to any and all members to come into this place and do likewise.

The PRESIDENT — Order! I have already indicated that I want the member to remove it. It is question time; I am not going to ask him to get out of the house to remove it. I ask him to take his computer off his desk and leave it there until question time is over, then go out of the chamber and get the sticker off the computer, which is the property of the Parliament.

Commonwealth Games: athletes village

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for Commonwealth Games. Has the missing Commonwealth Games village master key been recovered?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's question. This is old news, very much like the other questions the opposition asks. The inspiration for many of its questions come directly from the newspaper, but this is not even from today's newspaper — it is from a

fortnight ago. I sometimes wonder who is on its questions committee.

As I said on the day this information was made available to the public and the press, my understanding is that a key had gone missing from the village. It is likely to be the key to 150 houses on the site. However, as I also said, this is the responsibility of the builder. If prior to the games the key is not found, or where it went discovered, all the locks will be changed. I understand that will be at the expense of the builder, because he is responsible for the site. Anybody who understands the building process will understand that the site needs to be handed back to the proprietor. The builder is currently in possession of the site. This question shows the ignorance of the opposition and the lengths to which it is prepared to go in relation to scaremongering. The member will appreciate that the federal police and the Australian Defence Force will be involved in a security sweep of the entire site after it has been locked down. The opposition displays its ignorance in relation to these matters time and again.

As recently as last week we met with the coordination commission, which is a group from the executive of the Commonwealth Games Federation — heavy hitters, in every sense of the word. These people have been involved in the coordination commission on the likes of the Athens Olympic Games, and they have been briefed on every area of the delivery of the games, from athlete amenities, traffic and transport to security. They have been briefed on every issue, and on every issue they gave us a tick in every specific area, much to the disappointment of the opposition. Mike Fennell, the president of the Commonwealth Games Federation, the international body, said he went away almost ecstatic because we are delivering the games. As well as that Bruce Robertson, the Canadian delegate and also chair of the coordination committee, again gave us a big tick in every area of the games delivery.

I know that as we get closer to the games, as the delivery gets better and better, as the enthusiasm for the games gets greater and greater, the identity of the opposition and its members' egos get smaller and smaller. Nothing would give the opposition greater delight than for something to go wrong with the Commonwealth Games. We know these will be the best games ever delivered, regardless of what the opposition says.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question for the minister is: how can ordinary Victorians have any confidence at all in the government's ability to provide security for the games village when the minister's only response to the issue of a missing master key, which opens 150 rooms in the village, is to blame the builder?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I believe in a number of instances I have answered in regard to the arrangements. Can I say that the ignorance opposition members continue to display only exemplifies why they are in opposition and why they will remain in opposition.

Information and communications technology: *Moving Forward*

Mr SMITH (Chelsea) — My question is for the Minister for Information and Communication Technology, the Honourable Marsha Thomson. Can the minister please outline to the house how the Bracks government's Moving Forward Victorian package will improve broadband services in provincial Victoria?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank Mr Smith for his question. In fact lack of access to broadband services is a very important and serious obstacle to economic growth in country Victoria. Last week the Australian Local Government Association released a state-of-the-regions report in which it estimated extending broadband access to regional areas could create 10 000 jobs and benefit Australia by $920 million a year. But despite this the Howard government continues to fail to make a real commitment to deliver telecommunications policy that is truly relevant to address the problems in regional and country Victoria.

The Bracks government is committed to growing all of Victoria. That is why as part of the $500 million Moving Forward blueprint for regional growth $6 million has been committed to driving investment in state-of-the-art technology in broadband services to two significant regions in Victoria. Let me make this clear: we are not talking about pork-barrelling a few key towns, like the Howard government did prior to the last federal election. This money will be made available to telecommunications companies that are prepared to invest in broadband infrastructure across those two regions to the small towns and to people who live between those towns. We are expecting the very best the technology has to offer for regional Victoria.

The Bracks government is already recognised as the leader in developing the smartest broadband policies that deliver the best results. The contracts and the

government's own telecommunications services are delivering almost $200 million in broadband infrastructure for Victoria. Last week Optus launched its commitment to regional Victoria; it is investing $60 million in infrastructure across the state. Telstra, which has been criticised for not investing nationally in broadband, is delivering more than $100 million in infrastructure to Victoria as a result of our contracts.

The $6 million of this program will initially be delivered to the Loddon and Grampians regions, with a view to extending it right across the state. If the Howard government is serious about committing to country Victoria and providing the latest in broadband technology, it should immediately provide $9 million to build on the funds we are supplying to this end right across Victoria.

I am proud to be part of a government that is committed to growing all of Victoria, not just one part, and which is not like the previous government which considered country Victoria to be the toenails of the state.

The PRESIDENT — Order! I remind Mrs Buckingham that when members enter the chamber and pass the Chair, they should acknowledge the Chair.

WorkCover: payments

Hon. BILL FORWOOD (Templestowe) — My question without notice is to the Minister for WorkCover and the TAC, Mr Lenders.

Hon. T. C. Theophanous — What about me?

Hon. BILL FORWOOD — You come later. In answer to a question from me on 6 October this year the minister said, and I quote:

> Tax-equivalent payments are not something the government seeks to get out of the Victorian WorkCover Authority …

Given that the government gouged nearly $300 million in tax-equivalent payments from the Victorian WorkCover Authority in the 2004–05 financial year, will the minister now advise the house how much the VWA has budgeted to pay to the government in tax-equivalent payments in the 2005–06 year?

Mr LENDERS (Minister for WorkCover and the TAC) — I always welcome discussions on the Victorian WorkCover Authority. I welcome discussions on the VWA's balance sheet at any time and I welcome discussions with Mr Forwood, and we will miss him when he goes out to pasture. However, I remind Mr Forwood that this government believes in sound financial management and prudently managing the scheme so we can — —

Hon. D. McL. Davis — And high tax.

Mr LENDERS — So we reduce premiums, Mr Davis. This government did reduce WorkCover premiums by 10 per cent on average in May this year.

I think it is worth Mr Forwood noting in talking about the tax-equivalent payments made by the VWA this year, the profit figures he talked about are more for the last financial year and do not take into account the flow-on effect of the 10 per cent premium cut that occurred in May and took effect from 1 July, which was in the order of $180 million. They do not take into account the benefit improvement package announced last week, which is a further $50 million per annum.

I suggest to Mr Forwood that this government is prudently managing the scheme. We are not seeking large tax-equivalent payments or dividends out of the WorkCover scheme. Undoubtedly the VWA has budgeted for some for this year. I do not have that figure at my fingertips but this government is seeking to have a sound prudential margin. The figures Mr Forwood referred to for the last financial year will be discounted by both the premium cut and the benefit improvements.

We believe in sound financial management. We believe in keeping the scheme in the black. We are not frivolous with taxpayers money — we do not recklessly cut premiums as the previous government did, only to then force them up again shortly afterwards. We will continue to soundly manage the scheme and in doing so will keep a sound prudential margin, while keeping an eye on the need to take pressure off business by bringing down premiums and take the pressure off injured workers by improving benefits and particularly focusing on early return-to-work processes and packages that will assist people in getting back into the work force.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I thank the minister for his answer and look forward to hearing what the budgeted figure is. In his answer the minister said he was looking for a prudent financial margin. Could the minister advise the house what prudent financial margin the government has set?

Mr LENDERS (Minister for WorkCover and the TAC) — These things are done collaboratively between the government and the Victorian WorkCover Authority. As a former chair of the Public Accounts

and Estimates Committee (PAEC) and an avid reader of tendencies and trends in international financial reporting standards, Mr Forwood knows a number of these things are fluid. I would not be speculating on a margin until a number of these important issues are resolved.

However, I can assure Mr Forwood that this government will not be seeking to go down a reckless path like the previous government did and leaving billion-dollar black holes in the Victorian WorkCover Authority scheme. We believe in prudent financial management. We believe in AAA credit ratings. We believe in balancing benefits and charges and we will manage it prudently. We will keep Mr Forwood posted, and I suggest he take the opportunity in the PAEC next year to grill somewhat further on this. Of course I remind him that under the previous government ministers did not turn up to the PAEC, but under the Bracks government we are present and accountable, on duty and ready to answer questions.

Home and community care program: rural and regional

Hon. KAYE DARVENIZA (Melbourne West) — My question is to the Minister for Aged Care, Mr Jennings. Can the minister advise the house of actions taken by the Bracks government to improve access to home and community care services for rural and regional Victorians from culturally and linguistically diverse backgrounds?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Ms Darveniza for her question because I know she has a comprehensive track record in caring about the wellbeing of Victorians from culturally and linguistically diverse backgrounds and has been a strident advocate on behalf of those communities on many occasions. She joined me at an event in Shepparton last week to mark a new instalment in the Bracks government's commitment to ensuring that home and community-based services right throughout the breadth of Victoria are delivered to people from those communities — people who have arrived on our shores, people for whom English may not be their first language and who may require some additional assistance. We are trying to ensure their language needs are met by those services and, most importantly, that their cultural needs and expectations are met by those services and they are delivered in a responsible way.

I am pleased to say that beyond the scope of the Moving Forward program announced by the Bracks government, and on which my colleagues have reported to the house during the course of question time today, there is a comprehensive program to ensure that we deliver services and new infrastructure right throughout provincial Victoria to service the needs of all members of our community, regardless of where they live, particularly those who live outside the metropolitan area. We will leave no stone unturned in providing the appropriate degree of respectful services to members of culturally and linguistically diverse communities, regardless of where they live in Victoria.

The kit was launched at the Goulburn Valley TAFE in Shepparton last week. I am pleased to say Ms Darveniza and the ministerial advisory council on the needs of culturally and linguistically diverse communities were present as part of the community-based launching of this tool kit, which was undertaken by the Goulburn Valley Primary Care Partnership in collaboration with the Ethnic Communities Council of Shepparton and District. It is a great network of service providers in the Goulburn Valley region, which, as most members of the community would recognise, is a melting pot of the rich diversity of Victorian life. In fact, the Goulburn Valley area has been settled by a number of people who have arrived on our shores as refugees from the African continent, from the former Yugoslavia, from Albania and a number of different countries.

Mr Smith interjected.

Mr GAVIN JENNINGS — England? Refugees from England? Perhaps a long time ago, Mr Smith. The communities we are most concerned about are those for whom English is not their first language or their fourth or fifth-generation language. We are concerned to ensure that home and community care services are provided in a respectful way and that all service providers are well aware of their obligations to provide a culturally aware and responsive service.

More importantly, they need to understand the way in which they can go about providing language and translation support services that may not have been provided in the past. We are not resting on our laurels; we are providing a training program through the home and community care program, which I am responsible for, to ensure that service providers right throughout the breadth of provincial Victoria undertake that work and provide that level of care. We are undertaking that training in such far-flung regions as Bendigo, Mildura, Traralgon, Ballarat, Geelong and Portland to ensure that the network of service providers are respectful and responsive to the needs of culturally and linguistically diverse communities right across the breadth of Victoria. I thank Ms Darveniza for her question; it is almost as good as being asked a question by Ms Hirsh.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 2038, 2040, 2533, 4050, 5035–37, 5040, 5048, 5051, 5074, 5076, 5333, 5334, 5337, 5413, 5440, 5668, 5680, 6255.

RULING BY THE CHAIR

Racing and Gambling Acts (Amendment) Bill: royal assent

The PRESIDENT — Order! Following concerns raised in both houses regarding the delay in granting royal assent to the Racing and Gambling Acts (Amendment) Bill, I wish to inform the house that the Speaker and I have written to the Premier seeking advice on why there has been a delay in granting the assent to this bill and when the bill is likely to receive royal assent. I will provide further information to the house when I have received a reply.

Hon. Bill Forwood — On a point of order, President, I thank the you for the notification on this issue. I wonder whether the letter written by the presiding officers to the Premier is private and confidential or whether it is a letter that can be made available to members?

The PRESIDENT — Order! At this time the letter has been sent by the presiding officers to the Premier, and I would rather leave it at that. I will advise the members on the reply as soon as we have received it.

MEMBERS STATEMENTS

Racing: spring carnival

Hon. DAVID KOCH (Western) — The Melbourne Cup carnival made for an extraordinary week of racing for nearly 400 000 racegoers and countless numbers of television viewers. This world-class carnival commenced with Derby Day, which drew a record day of 115 660, while 106 479 patrons watched a history-making Melbourne Cup. There were 100 263 on course for Oaks Day and an all-time high Emirate Stakes day crowd pushed the four-day Melbourne Cup carnival attendance to a record 383 784. The previous four-day attendance record was 376 767 in 2003.

The biggest drawcard for a Melbourne Cup in many years was the potential for the first horse in the cup's 144-year history to win this prestigious race for a third time in succession. Makybe Diva earned Australian racing immortality as she galloped home to join Australia's equine hall of fame by achieving this feat and by taking a hat-trick in winning the Melbourne Cup carnival trifecta. This was the crowning glory of a magnificent career and took Makybe Diva's race earnings to over $14.5 million. Arguably Australia's greatest horse in our time has won Australia's greatest race in a race that is unlikely to be forgotten by a generation of racing fans. My congratulations to owner Tony Santic, trainer Lee Freedman and jockey Glen Boss for producing one of the greatest moments in Australian and international racing history.

Alex Baptist

Ms MIKAKOS (Jika Jika) — Last Wednesday, 9 November, I accepted a petition from Nigel and Martha Baptist on behalf of the Attorney-General in the other place. Unfortunately the petition does not meet the requirements for tabling in either house of Parliament, so I take this opportunity to draw member's attention to it.

The petition requests a coronial inquest be held into the tragic death last September of their son, Alex Baptist. Alex was four years old; he had been diagnosed with a peanut allergy at the age of two, and he died during attendance at his kindergarten. His death certificate states that his death appears to be consistent with anaphylactic shock — a severe allergic reaction. The petition submitted by Mr and Mrs Baptist reads:

> We, the undersigned, feel a full coronial inquest is required as a matter of public interest to look at what went wrong and what can be improved to make kindergartens safer for other children with life-threatening food allergies. We hope to prevent further loss of life and spare other families this heart-wrenching grief and despair.

The petition contains 4321 signatures from across Victoria.

I take this opportunity to express my sincere condolences to the Baptist family on behalf of all members of Parliament. It is the most tragic of circumstances for any parent to have to bury a child. I understand that last Friday the coroner advised Mr and Mrs Baptist that an inquest would be held into the circumstances of Alex's death. Whilst this cannot in any way ease the pain that they are experiencing, it is hoped that no other family will lose a young child in this way.

McClelland Gallery and Sculpture Park: awards

Hon. ANDREA COOTE (Monash) — The McClelland Gallery and Sculpture Park houses an excellent collection of fine art in a world-famous collection of major works by leading Australian sculptors. It is set in 8 hectares in Langwarrin, and I encourage members from this chamber to visit it. Last weekend the gallery held its contemporary sculpture and survey award which has become internationally renowned and is an excellent event. There were 35 participants and over 240 applications were received for this 2005 award. It was hotly contested and won by a contemporary sculptor who spends her time between Australia and Belgium. Her name is Lisa Roet and she made a sculpture of a gigantic polyurethane head of a Belgian white ape.

It is a strongly contested award and this year it was given by Rupert Murdoch. It was pleasing to see Dame Elisabeth Murdoch there; she has been a great patron of the McClelland Gallery for a considerable time and the gallery owes an enormous amount to Dame Elisabeth. Simon Ambrose, a director of the gallery and sculpture park, said that this year the standard was exceptionally high.

I put on the record my congratulations to Lisa Roet and all of those involved with this year's contemporary sculpture and survey award.

Industrial relations: federal changes

Mr SMITH (Chelsea) — I rise to congratulate the trade union leadership and all of my parliamentary colleagues who stood and marched today with union members and their families side by side through the streets of Melbourne. Today 175 000 of us showed our defiance of the industrial relations agenda of John Howard, the Prime Minister. This legislation will do nothing to improve the quality of production of goods in this country. It is misleading to suggest it will, and as we know, John Howard is an expert at misleading.

It will, however, have many working people cowering at their employers' excesses. John Howard, like his Treasurer, Peter Costello, clearly believes in the H. R. Nicholls Society's stated belief that the best way to gain productivity is to have workers fearing for their jobs. Who can believe that this great country has come to this?

John Howard will continue with his life's dream to Americanise the Australian industrial relations system. He will have a modicum of success, but I know the conservatives will bemoan their decision to support John Howard's dream of destroying workers' rights and the workers' unions.

President, as surely as night follows day, the Australian people will see through this legislation; it will see it is un-Australian and unfair, and it will not cop it. They will reject it and John Howard at the next election.

Housing: Shepparton

Hon. W. A. LOVELL (North Eastern) — I wish to draw to the attention of the Minister for Housing the very serious issue of vandalism on vacant Office of Housing homes in Shepparton.

Over the past two weeks two Office of Housing homes have been damaged by fire. Both homes were reported as having been vacant for quite some time — one for up to 12 months. Neighbours also reported that squatters had been living in one of the houses but that the Office of Housing had done nothing about that. Another home in Wright Avenue has been reported to me as having been vacant for five months and neighbours are concerned that it will also be targeted by vandals. I paid a visit to the property that is obviously vacant. It is a beautiful three-bedroom home in a very good neighbourhood that anyone would be happy to live in.

In Shepparton 367 families are on the housing waiting list and a further 134 families are on the early waiting list, yet the properties I refer to have been left vacant for months on end. I call on the Minister for Housing to investigate all the vacant Office of Housing properties in Shepparton and to ensure any maintenance needed is immediately carried out so that the homes can be immediately allocated to families on the waiting list, and additionally prevent any further vandalism that places neighbours' homes at risk.

Industrial relations: federal changes

Hon. J. G. HILTON (Western Port) — Today I participated in a march with tens of thousands of other concerned Victorians in relation to the federal government's proposed industrial relations changes. It is quite clear that the only purpose of these changes is to reduce real wages of ordinary Australians. The Prime Minister tells us that it is to make us more competitive. We can never compete with China and India on wage costs, and we should not try. Where we can compete is investing in skills and technology. These changes in no way aid that investment.

It should be the objective of all Australians to hand over to their children a society and environment which is in a

better condition then when they inherited that society and environment. If these changes are implemented, our Australian society will be taking a backward step. The proposed changes are an attack on the well-being of all Australians and should be resisted.

McClelland Gallery and Sculpture Park: awards

Hon. R. H. BOWDEN (South Eastern) — I join my colleague the Honourable Andrea Coote in extending congratulations to the chairman and directors of the McLelland Foundation and the director of the McClelland Gallery and Sculpture Park at Langwarrin. Last Sunday the McClelland Gallery and Sculpture Park held the Senini student art awards and inaugurated an invited program of visits by the public to the wonderful sculpture park in the grounds of the McClelland Gallery.

I urge honourable members to visit the gallery at any time they are able to do so because it is a wonderful place, it has an international reputation and is held in very high regard by the art community in Victoria and throughout Australia.

Last Sunday the awards and program were very well done, and I again congratulate the director, Simon Ambrose, and the staff and board for the high degree of professionalism in organising these awards. The McClelland Gallery is a notable gem in the arts community in this state, and I am particularly proud to have it in my electorate. Dame Elisabeth Murdoch and Mr Rupert Murdoch were present, and Mr Murdoch presented the awards. I thought it was an excellent day.

Lucknow Street Children's Services Centre: funding

Hon. H. E. BUCKINGHAM (Koonung) — Last Wednesday I was delighted to accompany the Minister for Children, the Honourable Sheryl Garbutt, and the member for Mitcham in the other place to what will be the redeveloped site of the children and family centre in Lucknow Street, Mitcham.

I am very pleased that the government will contribute funding of $250 000 for the City of Whitehorse to expand the current excellent council-run child-care centre and kindergarten in Lucknow Street. The new children and family centre will deliver a wider range of children services for families living in the area with a total project costing $570 000.

Construction of the new Mitcham children and family centre will commence in January and when completed will increase the number of day care places from 35 to 65, as well as providing a 30-place kindergarten program.

Hon. Richard Dalla-Riva — On a point of order, President, I draw your attention to your earlier rulings during question time when you indicated that a member, Mr Sang Nguyen, would exit the chamber. He still has that material on his computer. I draw that to your attention and ask that you have it removed from the chamber.

The PRESIDENT — Order! I have already sent a message to that effect.

Hon. H. E. BUCKINGHAM — The centre will also accommodate a council maternal and child health service and the coordination unit of the council's family day care service. Consulting rooms for specialist children's services such as speech and physiotherapy will be provided.

The centre will contain a children's activity room where equipment and facilities will be provided for the running of art, culture and leisure programs for children. A multipurpose room for group activities and playgroups will also be included.

The Mitcham centre is a great example of local communities and this government working together to give children the best start in life, and we will be establishing 60 of these centres across Victoria, proving that Victoria is a great place to raise a family.

Industrial relations: federal changes

Mr SCHEFFER (Monash) — I pay tribute to the people of Melbourne who turned out today in their hundreds of thousands to protest against the Howard government's attack on their working conditions.

The message to the Howard government cannot be clearer: even though the legislation will pass through the federal Parliament, its implementation will be resisted every step of the way and eventually it will be overturned. On this issue history is against the Howard government. It cannot succeed, and the presence of more than 200 000 solemn people packing Flinders, Swanston and Latrobe streets to the Carlton Gardens demonstrates the depth and strength of feeling. This was the biggest rally in Melbourne's history.

It is important to record that all members from this side of the house joined this morning's protest in solidarity with Victorian families who will be hit hard by the Howard government's workplace changes. I am proud to report that I participated in the march as a member

for Monash Province, representing the many residents who find the Howard government's changes unfair and repugnant.

Monash Province and its four lower house districts is an electorate where half the members of Parliament are Labor and half are Liberal, but it is fair to say that overwhelmingly my constituents are deeply concerned over the downright unfairness of the legislation. They ask: what is the benefit of the legislation to employees and their families? How will it help to improve the economy? What has happened to our sense of fairness and justice? How will the vulnerable and disadvantaged be looked after? The Howard government has nothing to say to them, which is why they joined this morning's protest in such huge numbers.

Police: Warragul station

Hon. P. R. HALL (Gippsland) — Last Thursday I attended the opening of the new Warragul police station. I say without any qualification that it is an excellent facility. The officers serving the local Warragul community and the greater Baw Baw district certainly deserve these new, long-awaited facilities which will enhance their policing functions. I congratulate all those who had a part in bringing about these new facilities. In particular I want to pay tribute to the architects, builders and planners within the Department of Justice, who all did an excellent job. I also wish to thank the local and district Victoria Police staff for the enthusiastic welcome they gave me on my arrival at the new facility, because I had to gatecrash the event.

I was not invited to the opening of the new police station in my electorate. The practice of not inviting local members of Parliament to such events is becoming the norm for the Bracks government. I remind the government that facilities like this and the many others that are provided through agencies such as these and through government departments are made possible by the appropriations made by the Parliament — appropriations are not made by the government. I think it does the government a great disservice for it to be playing political games by not inviting members of Parliament to these significant community events.

Industrial relations: federal changes

Hon. KAYE DARVENIZA (Melbourne West) — I join my parliamentary colleagues on this side of the house and congratulate the 175 000 Victorians who came out to the rally this morning to protest against the Howard government's industrial relations legislation. The peaceful rally was a demonstration against the Howard government's attack on the rights of every worker in this state — in fact, every worker in this country. Opposition members should take note that the people of Victoria are against the legislation — they oppose it and the attack on workers' rights it represents. The voters of Victoria know full well that members on the other side of the chamber support this legislation and the changes it will bring for working families, their lives and their livelihoods. Opposition members should not be mistaken — we will be coming after them at the next election and we will remind the people of Victoria that the opposition supports this legislation and supports these changes.

Industrial relations: federal changes

Hon. S. M. NGUYEN (Melbourne West) — I am delighted that today, 15 November, is the national day of community protest against the federal government's industrial relations changes that will affect all Australian workers and their families. A flyer issued by the Australian Council of Trade Unions says that these new industrial relations laws will:

> … strip away the basic employee rights, attack unions and collective bargaining, effectively abolish Australia's system of awards and minimum wages and introduce harsh new penalties for workers and unions.
>
> Contrary to the government's deceitful advertising campaign the rights of Australian workers will not be protected by the law. The facts of the government's law are:
>
> > Unfair dismissal — 3.6 million Australians not protected
> >
> > AWAs that cut take-home pay and remove public holidays, overtime and penalty rates — Australian workers not protected
> >
> > Your existing pay and employment conditions — not protected
> >
> > Award rights and conditions — not protected
> >
> > Cost of living increases to minimum wages — not protected
> >
> > Union rights — not protected
> >
> > Collective bargaining rights — not protected
>
> These laws are a direct attack on the rights of Australians and unions. They will hurt working families and put too much power into the hands of big businesses.
>
> They will undermine job security and increase the pressure on working people at a time when many working families are already struggling just to keep their heads above water.

I would like to congratulate — —

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

Police: Robinvale station

Hon. B. W. BISHOP (North Western) — During one of my regular visits to the thriving town of Robinvale I noticed that the site for the new police station was being prepared for the new building and I wondered whether I would get an invitation when it was opened. Some time ago I called for the new police station to have 24-hour operation but received only lukewarm interest from the government. That is a sad state of affairs. I note that the population of the Robinvale catchment is estimated at 8500 people. Given the expansion of irrigated agriculture it will not be long before that figure is a thing of the past, and we will need an increased police presence over an extended time to ensure law and order, and public safety.

The excitement and pressure generated in a rapidly expanding area is heightened by the multicultural mix of people who make Robinvale their home — a place to work and a place to raise their children. This exciting mix will see Robinvale grow and prosper. However, the Victorian government must recognise Robinvale's unique situation and follow the lead of Cr John Katis of the Swan Hill Rural City Council, who is from Robinvale; the Robinvale Health Service, ably led by Graem Kelly; and numerous other groups who do as I do and unashamedly promote Robinvale. The local paper, which is headed up by Marion Leslie and Sandra Kitt, is a great barometer of the vision and needs of Robinvale in education, health, community services and, last but not least, the real need for a 24-hour police presence. I again call on the Bracks government to ensure the new station is not only designed for 24-hour operation but — —

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

OFFICE OF THE PUBLIC ADVOCATE

Report 2004–05

For Hon. J. M. MADDEN (Minister for Sport and Recreation), Mr Lenders, by leave, presented report for 2004–05.

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 13

Ms ARGONDIZZO (Templestowe) presented *Alert Digest* No. 13 of 2005, including appendices and extract from proceedings.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

2007 World Swimming Championships Corporation — Report, 2004–05.

Accident Compensation Conciliation Service — Report, 2004–05.

Adult, Community and Further Education Board — Report, 2004–05.

Agriculture Victoria Services Pty Ltd — Report, 2004–05.

Australian Centre for the Moving Image — Report, 2004–05.

Australian Grand Prix Corporation — Report, 2004–05.

Barwon Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Budget Sector — Quarterly Financial Report No. 1 for the period ended 30 September 2005.

Calder Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Central Murray Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Commissioner for Environmental Sustainability — Minister's report of receipt of 2004–05 report.

Commissioner for Environmental Sustainability Act 2003 — Minister's request, 2 November 2005, pursuant to section 10(3).

Commonwealth Games Arrangements Act 2001 — Commonwealth Games Venue and Project Orders, pursuant to section 18 of the Act (three papers).

Corangamite Catchment Management Authority — Report, 2004–05.

Country Fire Authority — Report, 2004–05.

Crown Land (Reserves) Act 1978 — Minister's order of 31 October 2005 giving approval for the granting of a lease at Mordialloc and Mentone Beach Park (four papers).

Dandenong Development Board — Minister's report of receipt of 2004–05 report.

Desert Fringe Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

East Gippsland Catchment Management Authority — Report, 2004–05.

Eastern Regional Waste Management Group — Report, 2004–05.

Education and Training Department — Report, 2004–05.

Emerald Tourist Railway Board — Report, 2004–05.

Emergency Communications Victoria — Report, 2004–05.

Emergency Services Superannuation Scheme — Report, 2004–05.

Equal Opportunity Commission — Report, 2004–05.

Essential Services Commission — Report, 2004–05.

Film Victoria — Report, 2004–05.

Freedom of Information Act 1982 — Statement of reasons under section 65AB(2) of the Act.

Gambling Research Panel — Report for the period 1 July 2004 to 22 December 2004.

Geelong Performing Arts Centre Trust — Report, 2004–05.

Geoffrey Gardiner Dairy Foundation Ltd — Report, 2004–05 (two papers).

Gippsland Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Glenelg Hopkins Catchment Management Authority — Report, 2004–05 (two papers).

Goulburn Broken Catchment Management Authority — Report, 2004–05.

Goulburn Valley Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Government Superannuation Office — Report, 2004–05.

Grampians Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Heritage Council — Minister's report of receipt of 2004–05 report.

Highlands Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Intellectually Disabled Persons' Services Act 1986 — Report of Community Visitors for 2004–05.

Judicial College of Victoria — Report, 2004–05.

Legal Ombudsman's Office — Report, 2004–05.

Legal Practice Board — Report, 2004–05.

Legal Practitioners' Liability Committee — Report, 2004–05.

Library Board of Victoria — Report, 2004–05.

Mallee Catchment Management Authority — Report, 2004–05.

Melbourne and Olympic Parks Trust — Report, 2004–05.

Melbourne Cricket Ground Trust — Report for the year ended 31 March 2005.

Melbourne Convention and Exhibition Trust — Report, 2004–05.

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns, 30 September 2005.

Metropolitan Fire and Emergency Services Board — Report, 2004–05.

Mildura Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Mitcham–Frankston Project Act 2004 — Statement of Variation, pursuant to section 21(3).

Mornington Peninsula Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Murray Valley Citrus Board — Minister's report of receipt of 2004–05 report.

Museums Board of Victoria — Report, 2004–05.

National Gallery of Victoria — Report, 2004–05.

North Central Catchment Management Authority — Report, 2004–05.

North East Catchment Management Authority — Report, 2004–05 (three papers).

North East Victorian Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Northern Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

Northern Victorian Fresh Tomato Industry Development Committee — Minister's report of failure to submit 2004–05 report within the prescribed period.

Office of Police Integrity — Report, 16 November 2004–30 June 2005 (incorporating the Report of the Police Ombudsman, 1 July 2004–15 November 2004).

Parks Victoria — Report, 2004–05 (two papers).

Parliamentary Contributory Superannuation Fund — Report, 2004–05.

Phytogene Pty Ltd — Minister's report of receipt of 2004–05 report.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Bass Coast Planning Scheme — Amendment C32 part 1.

Cardinia Planning Scheme — Amendment C74.

Greater Geelong Planning Scheme — Amendment C106.

Greater Shepparton Planning Scheme — Amendment C53.

Hepburn Planning Scheme — Amendment C27.

Horsham Planning Scheme — Amendment C20.

Maroondah Planning Scheme — Amendment C41.

Melbourne Planning Scheme — Amendment C103.

Northern Grampians Planning Scheme — Amendment C13.

Whitehorse Planning Scheme — Amendment C65.

Yarra Planning Scheme — Amendment C92.

Yarra Ranges Planning Scheme — Amendment C51.

Police — Office of the Chief Commissioner — Report, 2004–05 (two papers).

Port Phillip and Westernport Catchment Management Authority — Report, 2004–05.

Premier and Cabinet Department — Report, 2004–05.

Primary Industries Department — Report, 2004–05.

Queen Victoria Women's Centre Trust — Report, 2004–05.

Residential Tenancies Bond Authority — Report, 2004–05.

Sentencing Advisory Council — Report, 2004–05.

Shrine of Remembrance Trustees — Report, 2004–05.

South Eastern Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

South Western Regional Waste Management Group — Minister's report of receipt of 2004–05 report.

State Electricity Commission of Victoria — Report, 2004–05.

State Services Authority — Report, 4 April 2005–30 June 2005 (incorporating the final Report of the Commissioner for Public Employment, 1 July 2004–4 April 2005).

State Sport Centres Trust — Report, 2004–05.

State Trustees Limited — Report, 2004–05 (including financial statements of the Common Funds) (two papers).

Statutory Rules under the following Acts of Parliament:

Adoption Act 1984 — No. 130.

Electricity Safety Act 1998 — No. 131.

Metropolitan Fire Brigades Act 1958 — No. 132.

Supreme Court Act 1986 — Adoption Act 1984 — No. 133.

Subordinate Legislation Act 1994 — Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 133.

Sustainability and Environment Department — Report, 2004–05.

Tourism Victoria — Report, 2004–05.

Transport Accident Commission — Report, 2004–05.

Tricontinental Holdings Limited — Report for the year ended 31 December 2004.

Trust for Nature — Minister's report of receipt of 2004–05 report.

VicForests — Report, 2004–05.

Victoria Grants Commission — Report for the year ended 31 August 2005.

Victoria Legal Aid — Report, 2004–05.

Victorian Arts Centre Trust — Report, 2004–05.

Victorian Catchment Management Council — Report, 2004–05.

Victorian Coastal Council — Report, 2004–05.

Victorian Curriculum and Assessment Authority — Report, 2004–05.

Victorian Electoral Commission — Report, 2004–05.

Victorian Energy Networks Corporation — Report, 2004–05.

Victorian Funds Management Corporation — Report, 2004–05.

Victorian Institute of Forensic Medicine — Report, 2004–05.

Victorian Institute of Sport — Report, 2004–05 (two papers).

Victorian Institute of Teaching — Report, 2004–05.

Victorian Law Reform Commission — Report, 2004–05.

Victorian Learning and Employment Skills Commission — Report, 2004–05.

Victorian Managed Insurance Authority — Report, 2004–05.

Victorian Privacy Commissioner's Office — Report, 2004–05.

Victorian Qualifications Authority — Report, 2004–05.

Victorian Relief Committee — Report, 2004–05.

Victorian Urban Development Authority — Report, 2004–05.

Victorian WorkCover Authority — Report, 2004–05.

West Gippsland Catchment Management Authority — Report, 2004–05 (two papers).

Western Regional Waste Management Group — Report, 2004–05.

Wimmera Catchment Management Authority — Report, 2004–05.

RULING BY THE CHAIR

Right of reply: personal explanation

The PRESIDENT — Order! On 4 October 2005, following the presentation of a right of reply, the Honourable Bill Forwood was given leave to make a personal explanation in which he said that he stood by the comments that were the subject of the right of reply.

Although leave was given for Mr Forwood to make the personal explanation, the Minister for Energy Industries indicated at the time that the government had reluctantly granted leave although it did not believe that the personal explanation was within the spirit of the standing order providing citizens with a right of reply. Later that evening, after Mr Matt Viney raised a point of order on the same matter, I undertook to consider the matter, talk to the party leaders and discuss it with the Standing Orders Committee in due course.

Members are permitted to make a personal explanation pursuant to standing order 9.07, which states that:

> When there is no question before the Chair and with the consent of the President, a member may explain a matter of a personal nature. A personal explanation will not be debated.

The house's longstanding practice is that a personal explanation is submitted to the President beforehand for approval and that leave is also sought for it to be made.

Although I have not yet had the opportunity to raise this issue at the Standing Orders Committee, I have discussed it with the party leaders and believe that it is necessary to give what could be termed an interim ruling on this matter now, as a further right of reply is to be tabled today.

I believe that the two key issues in this matter are, firstly, whether it is appropriate for a member to make a personal explanation at all, and secondly, if it is appropriate, should it be able to be made immediately following the presentation of the right of reply or at some later stage.

As a general principle I am concerned that allowing a member to make a personal explanation on a right of reply which has been tabled could become a mechanism for continuing debate between a member and the citizen concerned. I do not believe this would be within the spirit of the standing order. If a personal explanation can be made, I also believe there is a reasonable argument in favour of leave only being able to be sought once the house is fully acquainted with the content of the right of reply.

Until further notice I therefore rule that a member will not be permitted to make a personal explanation on the day of presentation of a right of reply. A member will still be permitted to make a personal explanation on a subsequent day, subject to the usual practice being followed whereby the personal explanation is submitted to the President beforehand and leave is sought for it to be made.

However, I will raise this matter at the Standing Orders Committee at the first available opportunity to consider what arrangements should apply in the longer term.

RIGHT OF REPLY

Frank Sculli

The PRESIDENT — Order! Pursuant to the standing orders of the Legislative Council I present a right of reply from Mr Frank Sculli, director of Sculli Nominees Pty Ltd, relating to statements made by the Honourable Bill Forwood, MLC, on 20 April 2005.

During my consideration of the application for the right of reply I gave notice of the submission in writing to Mr Forwood and also consulted with him prior to the right of reply being presented to the Council. I have omitted some expressions which I deemed not to be in accordance with the spirit of the standing order.

Having considered the application and determined that the right of reply should be incorporated into the parliamentary record, I remind the house that the standing order requires me when considering a submission under the order not to consider or judge the truth of any statements made in the Council or the submission.

In accordance with the standing orders the right of reply is hereby ordered to be printed and incorporated in *Hansard*.

Reply as follows:

> I wish to request a right of reply to two statement made by the Honourable Bill Forwood MLC for Templestowe Province. The statements were made in the Upper House on Wednesday 20th April 2005, and made under parliamentary privilege.
>
> I believe that the claims have:
>
> 1. adversely affected me in reputation or in respect of dealings or associations with others;
>
> 2. injured me in occupation, trade, office or financial credit; and
>
> 3. invaded my privacy due to the references made.

I therefore request the right and the opportunity to incorporate an appropriate response in the parliamentary record.

The Honourable Bill Forwood said in Parliament:

> 'In about 2001, Cr Colin Brooks, as Banyule mayor, was invited to perform a citizenship ceremony at the home of a well-known local Greensborough businessman (Bruno Sculli — owner of Sculli Bros fruit shop). A member of the businessman's family was wishing to become an Australian citizen but wanted a family gathering rather than attending a council citizenship ceremony — '
>
> 'Cr Brooks attended the home of the individual and performed a private citizenship ceremony in front of the businessman's family. It is unheard of that a mayor would attend a home to provide a citizenship ceremony — '
>
> 'and he paid. What happened?'
>
> 'For his "trouble" Cr Colin Brooks was paid just over $500 in cash by the businessman for performing the citizenship ceremony.'

It would certainly appear that the Honourable Bill Forwood, MLC, had not bothered to verify facts prior to his raising in the Legislative Council to cast and/or reiterate untrue aspersions which falsely attack the character and integrity of my family, and our conduct within the community.

The true facts are:

(a) Bruno Sculli is not the owner of Sculli Bros fruit shop, but certainly works for the company. This business is a family business, operated for some 45 years, by brothers Frank Sculli, Vito Sculli and Mario Sculli — through a family company. All three are well respected within the community, and have provided great assistance to many sectors of the community whilst also residing in that community.

(b) No member of this family has participated in any citizenship ceremony — either conducted by the suggested Cr Colin Brooks or at any public citizenship ceremony — during perhaps the last 20 years. Public records will substantiate this fact.

(c) There was no such suggested payment 'just over $500 — in cash' given to any party for conducting the apparently 'ghost' citizenship ceremony.

The Honourable Bill Forwood has blackened the character and integrity of honest people, as they relate to my family. It would appear befitting that he immediately then issue a retraction of those aspects, and suitably furnish details of retraction to the media — including the 'Diamond Valley Leader'.

The Honourable Bill Forwood MLC made further comments in the Legislative Council on 4 October 2005 where he stated:

> 'I therefore wish to apologise to Cr Brooks, his family and any other persons mentioned by me in relation to the allegations raised in this place, which as I said, I raised on the basis of information provided to me by Cr Peters'.
>
> Clearly this statement makes no specific reference to the names of our family, business, and certainly fails to 'right the wrong' information released by the Honourable Bill Forwood, MLC, through his initial statements raised in your Council, and then reiterated, throughout the media (press, radio and TV) and has resulted in my submission of this letter for a 'right of reply'.
>
> Yours faithfully,
>
> Frank Sculli
> Director

Laid on table.

Ordered to be printed.

Catherine King, MHR, and Cr Jenny Mulholland

The PRESIDENT — Order! On 12 September I received a submission from Ms Catherine King, MHR, seeking a right of reply in response to comments made by Ms Hadden on 7 September. On 26 October I received a further submission from Cr Jenny Mulholland of Banyule City Council seeking a right of reply to comments made by the Honourable Bill Forwood on 14 September 2005.

I now advise the house that pursuant to standing order 19.03 I have determined that no further action be taken in relation to either submission.

BUSINESS OF THE HOUSE

Sessional orders

Mr LENDERS (Minister for Finance) — By leave, I move:

> That sessional orders 2, 3 and 5 be suspended to the extent necessary to enable government business to take precedence of all other business following members statements, excluding questions, during the sitting of the Council on Wednesday, 16 November 2005.

In so doing, I thank the house for allowing leave, and I particularly thank the Leader of the Opposition for his cooperation, and advise the house that I will be seeking leave in the first week in February to have two blocks of general business, one in lieu for the one that this motion seeks to move forward.

Hon. PHILIP DAVIS (Gippsland) — I would like to speak briefly to the motion and acknowledge the generous remarks made by the Leader of the Government. It is important at this moment to put on record the reason the motion is necessary, which is to accommodate what I regard as, frankly, an unreasonable expectation of the Parliament to deal with

24 bills over what are scheduled to be effectively five sitting days, given that tomorrow is really a day out because of the sitting in country Victoria on Thursday.

The house will lose $5^1/_2$ hours of debate tomorrow, and as a consequence it is the view of the opposition that it would simply be completely impractical to deal with the legislative expectation of the government without making some accommodation.

While I am happy to acknowledge that the Leader of the Government has been generous in his remarks, I want to have on record the view of the opposition, which is that better planning of the parliamentary session would not have put us in this position where the house has ` to deal with in the remaining few days of these sittings.

Motion agreed to.

ENVIRONMENT EFFECTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Gavin Jennings.

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

That the bill be now read a second time.

Incorporated speech as follows:

Introduction

The growth of Victoria's population over the coming decades will require more infrastructure and development projects to support the growth of the economy and jobs that provide quality services and lifestyles for Victorians.

The clarity, efficiency and reliability of the planning system, and facilitating greater public scrutiny in the environmental impact assessment system will result in better planning decisions and better economic, social and environmental outcomes for Victoria.

At the time of its introduction the Environment Effects Act 1978 (the act) was significant, new environmental legislation. However, more than two decades on, the legislation and supporting guidelines are in need of updating to underpin Victoria's world-class, transparent and accountable environmental impact assessment system.

The act provides for the assessment of development projects that may have a significant effect on the environment. The act does this by enabling the minister to direct that an environment effects statement (EES) be prepared and assessed before decisions are made on the approval of a project. The environmental impact assessment system that is established by the act and ministerial guidelines made under section 10 of the act has a key advisory role in the context of relevant statutory approval processes. The system provides important environmental safeguards and a process for engaging with the community and interested stakeholders, who are able to submit views and information which must then be considered.

Improvements to the environmental impact assessment system are to be implemented as a result of this bill and new ministerial guidelines that establish the operational details of the system. These improvements will enshrine the best practice approaches currently being applied in Victoria and provide a clear foundation for the way the environment effects statement process will work into the future.

The reforms do not impact on current projects such as channel deepening. The environmental effects statement processes for these projects are already consistent with the best practice approaches proposed here. Clause 10 of the bill provides the relevant transitional arrangements.

The objectives of the reforms contained in the bill and proposed new ministerial guidelines are specifically to:

support ecologically sustainable development;

ensure transparency and accountability in the environmental impact assessment process in Victoria;

enable more timely assessment of environmentally significant projects; and

deliver process improvements without increasing the cost of the process.

The reforms will further clarify for all participants what is required, and ensure that adequate environmental studies are carried out and thoroughly examined, and meaningful consultation is undertaken

Key features of the bill

The act currently provides the minister with the power to require a supplementary statement. This has in the past been interpreted to apply to both public and private works proposals. Clause 6 of the bill will confirm this interpretation by clarifying proponent responsibilities, making it clear that this provision applies to all proposals, irrespective of whether or not they are public or private works.

Clause 7 of the bill replaces section 8 of the current act, substitutes a new section 8 and inserts new sections 8A to 8G. These make a number of amendments to improve the workability and efficiency of the EES process.

New section 8(1) clarifies the ability of the relevant decision-maker to seek the advice of the minister as to whether an EES is required if the proposed works could have a significant effect on the environment. New section 8(2) enables the relevant minister responsible for the statutory approval legislation to require a decision-maker to seek the advice of the minister as to whether an EES is required.

New section 8(3) will enable proponents to refer a proposal directly to the minister for a decision on the need for an EES. This will not only improve the timeliness of the EES process,

but will also encourage proponents to be more proactive in considering environmental impacts when planning their proposals.

At present only a relevant 'decision-maker', such as a council, can refer a proposal to the minister. Enabling direct referral of a proposal by a proponent will allow the proponent to decide when preliminary investigations have sufficiently progressed and so avoid the time lags implicit in the existing process.

New section 8(4) will enable the minister to direct a decision-maker to refer a proposal to the minister for advice as to whether an EES should be prepared for the works. This will provide an additional avenue for the minister to ensure that all proposals that may have the potential for significant effects are referred for a determination on the need for an EES.

New section 8A will empower the minister to specify statutory decisions that are to be put 'on hold' pending the minister's decision on whether an EES should be prepared.

New section 8B sets out the process when a matter comes to the minister for advice under section 8.

New section 8B(2) establishes the ability for the minister to require a decision-maker or proponent to provide information that the minister may require in order to decide whether an EES is required.

New sections 8B(3) and 8B(4) of the act will enable the minister to apply conditions to a decision that an EES is not required for a particular proposal. This provision establishes further practical alternatives and additional safeguards when an EES has not been required. This provision will enable the minister to direct a proponent to meet certain conditions. For example, the conditions might relate to a particular form, scale and location of development with specific impact mitigation measures. Another form of condition could be to require that a particular process or specific investigations and/or consultations be carried out before a project is able to commence.

New section 8B(5) enables the minister to specify the procedures and requirements under ministerial guidelines, currently made under section 10 of the act, that are to apply to EES processes for both individual projects and different categories or types of projects. This will enable the minister to specify procedures and requirements that are commensurate with the nature and magnitude of the project and environmental risks or issues involved. The procedures and requirements could include matters to be addressed in the EES, consultation to be undertaken, exhibition time frames and inquiry procedures. It will improve upon the current one-size-fits-all EES process by providing flexibility, allowing for the EES process to match the specific environmental risks involved in a project. The requirement for the minister to specify the procedures and requirements that are to apply will provide greater certainty for proponents and transparency for the wider community. The effect of clause 4 of the bill makes a similar change in relation to public works.

In order to strengthen the coordination of decision making, new section 8C(1) will clarify that statutory decisions must be put 'on hold' until after the decision-maker has considered the minister's assessment of the environmental effects of a proposal.

New section 8D specifies the time frames for decisions on works to be made by decision-makers in circumstances both where an EES is required and where an EES is not required, and reflects section 8(3) of the current act.

In situations when the minister has advised that a statement is not required for works if specified conditions are met, new section 8E enables the minister to reconsider the requirement for an EES if the specified conditions are not met.

New section 8F specifies that the requirements of new sections 8 to 8E do not apply to decisions under the Planning and Environment Act 1987, except in specified circumstances. This section reflects and updates section 8(6) of the current act.

New section 8G explains that the secretary must give advice, if requested by a proponent, to assist in the preparation of an EES. This section reflects and updates section 8(4) of the current act.

New ministerial guidelines

Clause 9 of the bill expands the power for the minister to set out procedures and requirements under ministerial guidelines. This will provide scope for topic-specific and general guidelines to be issued by the minister. It also provides a power for the minister to adopt or incorporate any matter in any document or standard published by an authority or body, for example, the International Standards Organisation (ISO).

While the amended act will provide operational improvements to the environmental impact assessment system, the new guidelines will provide more detailed procedural guidance. For example, the guidelines will provide guidance on the nature of consultation that should be conducted by the proponent in preparing their EES and formal consultation processes within the general framework of the act.

The package of reforms to be implemented through the proposed new guidelines under section 10 of the act will incorporate public hearing options to facilitate the EES process being tailored to the circumstances and environmental risks of individual projects.

Draft new guidelines for assessing environmental effects have been the subject of consultations with stakeholders and subsequent to the proclamation of the bill will be finalised to give effect to the reform package.

The new guidelines will confirm that assessment is to occur in the context of applicable legislation and policy as well as the principles and objectives of ecologically sustainable development. Victoria endorsed these principles and objectives in 1992 as a signatory to the national strategy for ecologically sustainable development. These principles and objectives, and related principles and objectives under Victorian legislation, will be relevant considerations in both the scoping of EES studies and the final assessment of proposed works.

The implications of proposed works for sustainable development will also be examined within the environmental impact assessment in a way that complements other environmental goals. For example, the new guidelines will clearly require referral of proposals with potential greenhouse gas emissions exceeding 200 000 tonnes of carbon dioxide

equivalent per annum, directly attributable to the operation of the facility.

The government also endorses the long established approach under the 1992 intergovernmental agreement on the environment in relation to environmental impact assessment. This recognises an inclusive definition of the environment that includes environmental, cultural, economic, social and health factors.

Conclusion

Finally, I want to comment on the role that these reforms, introduced by means of both this amending bill and the new ministerial guidelines to be made under the amended act, will play in the system for assessment and approval of major projects in Victoria.

The EES process will remain focused on those projects that have the potential for environmental effects of regional or state significance. The overall system of approvals legislation in Victoria, including for example the Planning and Environment Act 1987, the Environment Protection Act 1970, and the Minerals Resources Development Act 1990, provides a robust framework for decision making on such proposals. The reformed EES process can be applied in combination with these core statutory procedures to effectively address the environmental implications of strategically significant development proposals.

In many ways the Victorian system is clearer and more robust than that in other Australian States. Other States have been trying to 'catch up' with Victoria in recent years by tackling a patchwork of multiple approvals that apply to major projects. The reforms introduced by this bill and the new guidelines put Victoria further ahead when it comes to striking the right balance between economic, social and environmental goals. In doing so we are protecting the environment for future generations.

The effect of the reforms to the environmental impact assessment system now being introduced will modernise and improve the workability and effectiveness of the system. In developing these reforms the government has listened closely to the views of all stakeholders. The government will continue to listen to both the community and industry as the reformed process is implemented, to ensure that continuous improvement in the administration of the environment assessment process is achieved.

Finally, these reforms confirm the government's commitment both to facilitate major development in this state whilst at the same time advancing the essential priority of achieving an environmentally sustainable state.

I commend the bill to the house.

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

Debate adjourned until next day.

CHILDREN, YOUTH AND FAMILIES BILL

Second reading

Ordered that second-reading speech, except for statement under section 85(5) of the Constitution Act, 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:

Since being elected, the government has worked in partnership with community service organisations to provide the most vulnerable children and young people in Victoria with the best possible start in life. Our reforms are about putting children and young people first. Our goal is to ensure that vulnerable children and young people thrive, learn and grow and are respected and valued to become effective adults.

Significant reforms to child, youth and family services in Victoria are already under way to promote earlier intervention, prevention and more effective responses to children and young people who are in need of protection. These reforms are underpinned by a commitment to best practice. They have been informed by national and international learnings and innovative approaches to strengthening vulnerable families, protecting children and young people and promoting vulnerable children's healthy development — learnings that have been carefully tailored to Victorian circumstances and needs.

The Children, Youth and Families Bill is a critical foundation to take these reforms forward. With this bill, we have a once-in-a-generation opportunity for comprehensive legislative change — changes that are critical to implement new policies and ways of delivering services to make a sustainable difference in the lives of vulnerable children and young people. Over the past two years I have been consulting with families, young people, experts and those working with children, young people and families — from earlier intervention through to the Children's Court — to make sure that we provide a legislative framework that will support communities, professionals and the courts to meet the changing needs of today's families. The resulting bill draws on a wealth of experience and expertise to provide a consistent framework for decision making and service delivery in the best interests of children and young people.

Our white paper, *Protecting Children — The Next Steps*, spells out our policy framework for vulnerable children, young people and families that underpins the Children, Youth and Families Bill. Our approach recognises that all children need capable, nurturing parents and a caring child and family friendly community. Parents are a child's first teachers, their strongest supporters — the guardians of their wellbeing. Our reforms emphasise the importance of supporting parents to play this role. Where parents experience stresses that impact on their care of children, our first goal is always to work supportively with them to keep families together. If children cannot live safely at home, we will continue to work intensively with their parents to address problems, build

resilience and enable a child to return home safely as quickly as possible. Where this is not possible, our goal is to ensure that children experience stable and high-quality alternative care.

We have recognised that the protection of children cannot be separated from policies and programs to improve children's lives as a whole. The protection of children, and the support of families to enable them to do the best for their children, is not just a matter for community services, not just a matter for governments or for the courts. It is a much wider community responsibility.

Under our policy framework the next steps in reforms of child, youth and family services involve:

> enshrining children and young people's best interests at the heart of all decision making and service delivery;
>
> encouraging the participation of children, young people and their families in the decision-making processes that affect their lives;
>
> building a more integrated service system across the universal, secondary and tertiary tiers of child, youth and family services — a service system that is localised, better coordinated and that is responsive to family needs;
>
> boosting earlier intervention and prevention though the use of community-based intake, assessment and referral when families first show signs of difficulty, and targeting family support services at the most vulnerable groups and communities;
>
> improving children's stability, especially in critical early childhood years;
>
> strengthening the cultural responsiveness of services so that community services are inclusive of children and young people from Aboriginal and other cultural backgrounds;
>
> keeping Aboriginal children and young people better connected to their culture and community when in care;
>
> ensuring that all child, youth and family services are accountable and of high quality;
>
> giving greater emphasis and focus to the needs of adolescents; and
>
> modernising the terminology of the juvenile justice system and expanding the use of group conferencing as a presentence diversion for suitable young offenders, consistent with restorative justice principles.

Into the future, family support services will have a more targeted role to assist the most vulnerable children, young people and families. Child protection will retain its specialist function — to respond when children and young people are in need of protection. Child protection will also have a community partnership role — providing expert advice and assistance to community services to support earlier intervention. In this way, secondary and tertiary sectors will work together to provide a graduated range of services and respond effectively to changes in family needs and risks. The Children's Court will remain central to the statutory system of child protection — especially when children and young people cannot live safely at home and decisions need to be made about their custody and guardianship.

The Children, Youth and Families Bill combines and updates the existing Children and Young Persons Act 1989 and the Community Services Act 1970. The bill provides the legal authority necessary to enable changes in practice — for example, to enable community services and child protection services to work together more effectively. It also provides clear guidance on some significant shifts in practice. For example:

> A growing number of children and young people are repeatedly notified to child protection. Whilst individual reports may not meet the threshold for protective intervention, we know that harm can accumulate over time — having long-term damaging effects on a child. Rather than considering needs and risk on an episodic basis, we want the new legislation to direct community service organisations and child protection to focus on cumulative harm.
>
> We also know that Aboriginal children and young people continue to be overrepresented in child protection and out-of-home-care services. This is unacceptable. We want to establish a legislative framework that promotes a new approach to maintaining children's connection to their family and culture, rather than breaking this connection.
>
> We want a legislative framework that establishes stronger levers to monitor the impact of decision making on a child's development. In particular, we want to encourage changes in practice to prevent harm to children associated with years of drifting between home and multiple out-of-home-care placements.

I note that transitional arrangements for the bill and consequential amendments to other legislation will be brought forward in autumn next year, well in advance of the commencement of the act in October 2006.

I would also reiterate that the bill is only one element of the government's reforms. Significant system and practice changes are also involved in implementing the government's policy framework. We will work with our partners in the sector to make these changes so that we make a positive difference in the lives of vulnerable children, young people and families.

Enshrining children's best interests at the heart of all decision making

The first of the major themes of the Children, Youth and Families Bill is to ensure that child, youth and family services are focused on the needs of children and young people. The bill recognises that strengthening families is a critical responsibility of child, youth and family services. For the first time, the bill emphasises that services also need to take action to ensure that vulnerable children and young people meet developmental milestones.

This is an important shift in approach. The Children and Young Persons Act had a narrow focus on the role of the state in protecting children from immediate risks of harm. The Children, Youth and Families Bill goes further to build a shared responsibility for protecting children and young people, but also to proactively promote their development and longer term wellbeing. Harm needs to be better understood so

as to encompass accumulated harm, as well as acute crises, or a single serious incident.

Achieving this shift depends on a shared understanding between workers and services, from earlier intervention and prevention, right through to the Children's Court, about the issues that matter most in the life of a child. The new best interests principle provides that common framework for everyone working under this act.

The best interests principle spells out that consideration must always be given to protecting children from harm, promoting their development and protecting their rights. More detailed factors are listed for consideration as relevant depending on the child's circumstances and type of service response being offered. For example, these detailed factors address the importance of preserving children's positive relationships with their family and the desirability of a child living at home. The importance of stable, continuous care for a child's healthy development, and the importance of taking account of children's wishes and their cultural identity.

If there are other people's interests to be considered, then the bill provides that the child or young person's interests are the most important.

These principles will apply to child, youth and family services.

Decision-making principles

As well as providing a consistent basis for decision making, the Children, Youth and Families Bill also establishes consistent principles about the decision-making processes that will apply to community and departmental services. The case-planning principles in the Children and Young Persons Act have been updated, and will be extended to community service organisations.

These decision-making principles promote the active involvement of children, young people and families in the decisions about them. The principles will help to guide the use of dispute resolution processes, such as family group conferencing.

The bill also spells out a new framework for appropriate dispute resolution within the Children's Court. The Children and Young Persons Act only supports pre-hearing conferences. The very name of pre-hearing conferences suggests that they are a precursor to a contested hearing.

The Children, Youth and Families Bill renames pre-hearing conferences as 'dispute resolution conferences', so as to refocus proceedings on the finding of common ground and agreeing a way forward to protect a child and promote their healthy development. The bill provides a framework to redevelop these conferences, so that they can occur earlier in the court process. This new framework provides greater flexibility to develop conferences utilising facilitative approaches and advisory models of dispute resolution. Once again, strong emphasis will be given to supporting participation, including by providing guidance that children and young people should be given opportunities to involve somebody to support them in appropriate dispute resolution meetings.

Building an integrated service system that is more localised, better coordinated and is responsive to family needs

The problems facing vulnerable families have become more complex since the introduction of the Children and Young Persons Act in 1989. Substance abuse and family violence have become the most common characteristics of families in contact with child protection. Where children and young people are at risk of harm, their families are often grappling with one or more issues from amongst long-term poverty, social exclusion, relationship breakdown, family violence, substance abuse, mental illness or disability.

A one-size-fits-all approach will not work. Our services need to be tailored to local conditions and needs. A service model that works in Bairnsdale, for example, may not be the best fit in Darebin. Importantly, services need to be able to respond to changes in family circumstances over time.

There is no evidence from anywhere in the world that relying on child protection as the primary service to protect vulnerable children and families makes a sufficient lasting difference. Our approach is based on building a flexible and graduated range of service responses. It involves major system reform to bring the earlier intervention sector and child protection sector together, and link them to early childhood services to form a more coordinated system. Together with community agencies, we have sought to ensure that this service system is built in such a way to enable it to adapt to local needs, and able to respond to changing circumstances within a family.

The Children, Youth and Family Services Bill restates the primary role of families in caring for their children, and reinforces the responsibilities of families, communities, community services and government for children's safety, development and future wellbeing. It provides a critical foundation for progressing this system reform.

Boosting earlier intervention

The existing family support innovation projects have demonstrated a new model of earlier intervention, prevention, and service coordination. Rather than over-relying on child protection to provide a gateway into services for children and their families, we have been working with support services to establish highly visible community-based intake, assessment and referral services as entry points into voluntary community services. These intake, assessment and referral services have started to be rolled out on a subregional basis through the family support innovation projects. An important goal of these projects has been to develop a local network of services that work together and share responsibility for protecting children and young people, promoting their development and supporting families.

Clarifying the purpose of family support services

The Children, Youth and Family Services Bill will support further development of a more systematic approach to earlier intervention by describing the role and functions of community-based intake and referral services and by clarifying the legal framework for the collection, use and disclosure of information.

The bill emphasises that family support services should be targeted at the most vulnerable children and families. It clarifies the relationship between community-based intake,

assessment and referral services and child protection intake services, namely that:

> Child protection will continue to be targeted at children and young people who are in need of protection, based on concerns they may be at risk of significant harm.
>
> Community-based intake, assessment and referral services will provide a central point within a local community for professionals and other community members to raise significant concerns about the wellbeing of a child or young person. Professionals and any member of the public will have somewhere to go for help, if they have concerns that a family is under stress and would benefit from support. This is before problems escalate to the point that the children are placed at risk of significant harm.

Collection, use and disclosure of information to support earlier intervention

In order to operate a community-based intake, assessment and referral service, agencies will need to be registered with the Secretary to the Department of Human Services. Registration will be provided on the basis of compliance with service standards, including their demonstrated competence in needs and risk assessment and appropriate handling of sensitive information.

Once registered, agencies will be authorised to receive referrals. The bill empowers registered agencies to consult with other health and community services in order to assess risks to a child and to determine which service is best placed to contact the family. Other local agencies are similarly authorised to provide advice to the registered community service for these purposes. Importantly, the ongoing coordination of services will require the family's consent. The family's participation in family support services will continue to be voluntary.

The bill also promotes stronger relationships between family support and child protection services. Recognising that family circumstances change, consultations are permitted while a family is involved with a family support service. This will enable child protection to provide support, advice and referrals between services as necessary. If a family support agency forms a belief that a child may be at risk of significant harm, they will be required to inform child protection.

These provisions signal that the family support innovation projects are here to stay. The bill is only part of implementing a more robust and systematic approach to earlier intervention and prevention. Common needs and risk assessment tools will be developed to provide a common language and assessment framework for both family support and child protection services.

Another important earlier intervention and prevention reform involves empowering community services and child protection to receive referrals where someone is concerned that an unborn child may be at risk after their birth. This will enable services to work supportively with vulnerable mothers and to better plan the services that she will need after the child's birth. Child protection will not be able to make any protective interventions or bring any applications to the Children's Court until after the birth of the child.

Keeping children safe — the role of child protection

Child protection retains its specialist role, focusing on children and young people who are in need of protection.

The Children and Young Persons Act provides that child protection should intervene in family life, where a child is in need of protection because any of the following has or is likely to occur:

> the child has been abandoned by his or her parents;
>
> the child's parents are dead or incapacitated;
>
> the child has suffered physical abuse;
>
> the child has suffered sexual abuse;
>
> the child has suffered emotional or psychological abuse;
>
> the child has been neglected.

The existing act provides strong guidance that intervention by child protection should be to the minimum extent necessary to the secure the protection of the child. The grounds for child protection have been interpreted on an episodic basis, with greatest emphasis on resolving immediate risks of harm.

Consistent with the emphasis of the Children, Youth and Families Bill on protecting children from harm, and promoting children's healthy development, the best interests principle provides guidance to protective workers that their intervention should be limited to that extent necessary to secure the safety and wellbeing of children.

The bill responds to community demands for child protection to respond earlier to cases of cumulative harm. The grounds for child protection intervention are retained, but the bill provides more explicit guidance about child protection's role in responding earlier to repeated notifications revealing cumulative harm and in working with families over a longer period to address more entrenched problems.

Strengthening investigations

In recent years the Ombudsman has been critical about the inadequacy of child protection's investigation powers — even noting that the RSPCA has greater powers to protect animals than we have to protect children. The bill empowers the Children's Court to direct parents to allow child protection access to a child or young person, or to authorise child protection to access relevant information (such as the child or young person's medical records).

Collection, use and disclosure of information when a child is in need of protection

The Secretary to the Department of Human Services has a fundamental responsibility to protect and care for children and young people who are in need of protection. In order to acquit this legal duty of care, it is critical that the secretary has access to the information necessary to enable effective planning and decision making.

The Children, Youth and Families bill clarifies when such information can be shared. In particular, the bill spells out that:

child protection can provide advice to community services and other professionals about the care and protection of children;

professionals can provide information to child protection beyond initial investigations, to support ongoing case planning;

where a child has been found by the Children's Court to be in need of protection, it is essential that the Secretary to the Department of Human Services has a full picture about a child's family circumstances, to inform decision making about the child's best interests. The bill therefore authorises the secretary to direct certain professionals to provide the information needed to make the most appropriate plans in order to keep children safe and provide appropriate care. The department's first aim will be to develop a sense of shared responsibility and build stronger relationships with professionals so that they are willing to share such information voluntarily;

the Children's Court can publish the reasons for its decisions on its web site, as long as this does not identify a child or another party;

the presumption will be that Children's Court clinic reports should be made available to the department to inform planning and decision making, unless the Children's Court determines that the release of a report may cause significant psychological harm to a child.

Importantly, the bill also spells out the safeguards that will apply to all sharing of information. These will include:

principles about the handling of sensitive information;

standards for information management will be part of the registration for child, youth and family community services;

clear statements about what information can be shared by whom, and for what purpose — to limit inappropriate disclosures of personal information;

protection for individuals making referrals or reports to community-based intake, assessment and referral services or to child protection;

clear rules about the confidentiality of child protection investigations and court-based appropriate dispute resolution proceedings;

a penalty for the misuse of information;

that a family's consent will be required for ongoing coordination of services.

The Information Privacy Act 2000 and Health Services Act 1988 will continue to provide the overarching framework for information management by child, youth and family services. For example, this means that the privacy complaints mechanisms and principles about access to personal information set out under those acts will apply.

The bill is only one part of the government's initiatives in this area. The Department of Justice and Department of Human Services will jointly develop guidelines about collection, use and disclosure of information under the bill.

A new response to children aged 10–14 exhibiting sexually abusive behaviour

As well as strengthening and clarifying the existing functions of child protection, the bill provides a new basis for intervening earlier with young people who exhibit sexually abusive behaviour to help prevent ongoing and more serious sexual offences. For children aged 10–14, the criminal justice system does not provide a reliable pathway into treatment. For this age group, it is often difficult to prove the necessary mental intent to secure a conviction.

The bill therefore provides two new Children's Court orders for children aged 10–14 years old who are exhibiting sexually abusive behaviour. The court will be able to order a child into therapeutic treatment and, where necessary for that treatment, place the child in out-of-home care. This is an important early intervention if we are to stop these children from becoming adult offenders. This reform is intended to supplement, not replace, voluntary access to treatment. It will always be preferable for parents to connect a child exhibiting sexually abusive behaviour to treatment voluntarily and avoid exposing them to any court process.

Children in out-of-home care — improving children's stability

An absolutely critical theme of the bill is to improve vulnerable children and young people's stability of care. We now know more about the lasting impact of early experiences on the development of young children's brains. Children who do not experience stable relationships in early childhood are at greater risk of significant developmental delay, learning difficulties, behavioural problems and difficulties in forming meaningful relationships throughout their lives.

Case planning with a child or young person commences when child protection becomes involved with a child and family. From the outset, planning will address where a child or young person should live. It is in most children's best interests to grow up with their families, and families have the primary responsibility to care for their children. That is why we are placing such strong emphasis on working with families when problems first emerge, to keep families together. Where children cannot live safely at home the emphasis will be on working with families to enable children to return home quickly and safely. Service models will continue to be developed, based on strong partnerships with community services and adult services like mental health, drug and alcohol and disability services, to improve the level of access to services and to maximise the likelihood of reunification.

While work may continue for reunification where the likelihood of successful reunification is diminishing, child protection will be expected to develop a component of the case plan (a stability plan) which provides for stable out-of-home care arrangements for the child or young person. The stability plan will therefore address how a child will receive continuous, stable care away from home.

The Children, Youth and Families Bill establishes maximum time frames at which point child protection must have assessed parental capacity and the likelihood of reunification and prepared this stability plan (unless this is not in the best interests of the child or young person). These time frames are differentiated according to the age of a child and the length of time they have spent away from home.

If it is not in the best interests of the child or young person to seek a longer term stable placement away from home at this point, child protection will continue the parallel process of planning for reunification and managing the child's placement. In these circumstances a stability plan would not be developed.

Child protection will be accountable to the Children's Court to explain why it is not in the best interests of the child or young person to work towards a stable, longer term out-of-home care placement even though they have been in out-of-home care for a significant period of time relative to their age.

Time frames for the preparation of stability plans will therefore create a lever to ensure that child protection assesses whether continued attempts at reunification are in the best interests of the child. Our reforms will therefore help to prevent the additional harm that is caused by multiple failed attempts at reunification. They will provide children and young people with the stable relationships that they need to grow up healthier, happier and better able to fulfil their potential.

Stable, out-of-home care placements can be supported by a range of Children's Court orders. In order to give the Children's Court greater flexibility to determine the appropriate order to support a stable out-of-home care placement, the orders available to the court have been updated.

In addition, the minimum time frames for permanent care orders are reduced to prevent the potential for long periods of uncertainty between the making of a stability plan and seeking a permanent care order. A new longer term guardianship order will support stable placements for young people over 12 until their 18th birthday, without the need to return to court each year to extend the guardianship arrangements. This order will only be made with the young person's consent.

The role of the Children's Court

The Children's Court will remain central to the statutory system of child protection.

As is the case now, the court will hear a range of applications and be empowered to make a variety of orders in relation to the protection and care of any person under the age of 17 years. In particular the court will continue to make decisions about the custody and guardianship of a child who cannot live safely at home.

The bill creates new powers for the Children's Court:

> The bill provides greater authority for the court to manage adjournments in family division proceedings. The court will be able to refuse to grant an adjournment unless it is of the opinion that the adjournment is in the best interests of the child or young person, or there is some other cogent or substantial reason to do so.
>
> A new power to subpoena witnesses will enable the court to inquire into matters relevant to decision making concerning the child or young person, and family.
>
> The Children's Court will be authorised to publish its decisions on its web site, provided that the decision does not identify a child or any other party.

Legal representation of children

In addition, the bill makes an important change to the model of legal representation of children within the Children's Court. As is the case now, children who are sufficiently mature to provide instructions will be entitled to separate legal representation, in order to have their views and wishes communicated to the court. For children who are not sufficiently mature to provide instructions, the bill now empowers the court — in exceptional circumstances — to appoint a lawyer to represent the child's best interests. This legal representative will also have a responsibility to communicate the child's views and wishes to the extent possible.

Supporting young people involved in child protection and out-of-home care services

The Children and Young Persons Act has been criticised for focusing on the protection of young children, without sufficient emphasis on protective responses to adolescents.

The Children, Youth and Families Bill places greater emphasis on the needs of young people, as well as young children. In considering children's development, decision makers must take account of the stage of development of the child. They must take account of children and young people's wishes and support children and young people's participation in the decision-making processes about them. Importantly, the bill states that a child or young person's best interests include being supported to participate in education and health services, and access to social opportunities and appropriate accommodation.

For the first time, the bill creates a responsibility for the secretary to promote the implementation of a charter for children in out-of-home care across government and non-government services. This charter will provide a framework of principles to promote the wellbeing of children in out-of-home care.

Abuse and neglect can have lifelong effects on a child. Disrupted relationships, risk-taking behaviour, higher rates of involvement in the criminal justice system and poor care of their own children have all been linked to abuse and neglect. The new bill places stronger emphasis on intervening early when children and young people first enter out-of-home care, placing a responsibility on the secretary to consider the child's treatment needs.

In order to better respond to adolescents at risk of harm, to support therapeutic responses and to promote a more effective process of stepping down from secure welfare facilities, the bill builds on existing provisions in the current act about the placement of children in secure welfare facilities, to:

> enable placement of a child in secure welfare if the secretary is satisfied that there is a substantial and immediate risk of harm on the basis of a single incident or of accumulated risk;
>
> provide that the secretary must have regard to planning and supporting the reintegration of the child into an out-of-home care or other suitable placement.

Supporting young people leaving care

Most parents support their children in the early years of their adulthood. For the first time, the Children, Youth and

Families Bill spells out the responsibilities of the secretary for children and young people in their care. One of the secretary's key responsibilities will be to assist young people up until the age of 21 to make the transition from out-of-home care to independent living. The bill spells out the types of assistance that may be provided to support a young person's transition to independent living.

Improvements to juvenile justice

In spring 2004 this government introduced legislation to increase the age jurisdiction of the Children's Court to include 17-year-olds. In autumn 2005 the government introduced further legislation that contained a raft of changes that has improved the operation of the criminal justice system as it applies to children and young people. Both pieces of legislation were passed by Parliament and have come into effect on 1 July 2005.

The Children, Youth and Families Bill builds on these reforms to modernise the terminology of juvenile justice and provide for group conferencing as a presentence option for suitable young offenders.

The use of the word 'juvenile' has become negative and stigmatised due to its association with the label 'juvenile delinquent', so the term 'juvenile justice' will be replaced with the more modern 'youth justice'.

Group conferencing has been operating without express legislative provision in metropolitan Melbourne and parts of the Gippsland and Hume regions. Its potential to redirect young offenders away from the criminal justice system and prevent recidivism will be boosted by the incorporation of group conferencing into the bill as a presentence diversionary option for suitable young people who are facing a probation or youth supervision order. Group conferencing aims to bring the young offenders, police, victims and the families of young offenders together to raise the young person's understanding of the impact of their actions and reduce the likelihood that they will reoffend. The participants will work together to agree on an outcome plan, assisting the young person to take responsibility for their actions with the support of their family.

Group conferencing is founded on restorative justice principles. The intention of the group conference is that the young person participates in the conference on a consenting basis and agrees to the outcome plan.

Aboriginal children and young people

The Children, Youth and Families Bill also contains new provisions to more effectively support Aboriginal families, so that we reduce the very high overrepresentation of Aboriginal and Torres Strait Islander children and young people in the child protection system.

New approaches to earlier intervention will be tailored to meet the needs of Aboriginal children and families. This depends on all levels of government working with communities and community-controlled organisations to strengthen their capacity to help families earlier and prevent crises. Our reforms emphasise the importance of building robust, viable and skilled Aboriginal agencies, so that Aboriginal families and communities have access to services that are managed and delivered by Aboriginal people. We need to work with these agencies to increase community understanding about where families can go for help and the roles, responsibilities and decision-making processes of community-based services and child protection services alike.

A consistent theme of the reforms is to empower Aboriginal families and communities to make decisions about how best to strengthen their families, protect their children and promote their healthy development. The bill promotes the use of Aboriginal family decision making, whereby an Aboriginal convenor facilitates a meeting of family members to plan how to assure children's safety and better promote their healthy development. We want to explore opportunities to use family decision-making processes as early as possible. Extended family, community members and professionals working with the family will be involved, as appropriate.

Our reforms also recognise the need for mainstream services to support Aboriginal children and families. All child, youth and family services need to be culturally inclusive and culturally responsive. Under the bill, all community services — Aboriginal and non-Aboriginal alike — will be required to build cultural competence and to demonstrate compliance with new cultural standards. These standards will be developed in consultation with Aboriginal communities and community-controlled organisations.

Where children cannot live safely at home, we want new legislation to help keep children connected to their family and culture. Where an Aboriginal child or young person cannot live safely at home, the bill therefore requires community services and child protection to take account of the Aboriginal child placement principle in making decisions about the placement of the child. This principle emphasises that the highest priority should be given to placing a child within their extended family and then within their community. For children placed in non-Aboriginal placements, the bill provides for the making of cultural plans, which will detail how cultural connection will be maintained. On a case-by-case basis, cultural plans will be developed in consultation with families and community-controlled agencies. The Children's Court will have the authority to make cultural plans a condition of various orders.

Consistent with our aim of empowering community decision making, a longer term reform is to transfer the responsibility for making decisions about Aboriginal children to Aboriginal communities. The Children, Youth and Families Bill enables the Secretary of the Department of Human Services to assign responsibility for managing a court order to the head of an approved Aboriginal organisation.

The government will work with Aboriginal organisations to build their capacity to assume greater case planning and case management responsibilities for Aboriginal children involved in child protection.

The effect of the reforms will be that Aboriginal children, young people and families will receive more effective early intervention and prevention services, so that we keep Aboriginal families together. Where Aboriginal children cannot live safely with their parents, they will be more likely to reside with their extended families in kinship care arrangements. If this is not possible and children cannot be placed with extended family, more will be done to ensure that they maintain greater links to their community and culture. Aboriginal families and communities will have more say in the protection of children from earlier intervention through to the Children's Court.

Children and young people from other cultural groups

The bill also recognises the particular needs of children and families from other cultural backgrounds. All decision-makers will be guided to take account of children's cultural identity and to promote the inclusion of children and families from culturally and linguistically diverse backgrounds. Emphasis is given to placing all children with their extended family, and where this is not possible, to maintaining their cultural connection. The bill also spells out the responsibility of the department, community services and the court to support full participation in decision-making processes. Where necessary, this will involve the use of interpreters, and enabling children and families to involve somebody to assist in their understanding and participation in case planning, family group conferencing, and any court-based appropriate dispute-resolution processes.

High quality and accountable services

The final theme of the reforms relates to ensuring that all service delivery — whether by departmental or community services — is accountable and of a high quality.

The Children and Young Persons Act created a strong framework of accountability and quality assurance for the care and protection of children. The Children, Youth and Families Bill retains the current safeguards on state intrusion into family life and further strengthens the legal framework for promoting high quality and safe environments for children.

Administrative oversight of voluntary placements

The Community Services Act 1970 currently provides for parents to enter agreements with the Department of Human Services or a community service organisation to place their child away from home. Voluntary agreements are used to provide respite placements and longer term placements, both in a protective context and also for children with a disability.

In order to better monitor the appropriate use of voluntary placements, the Children, Youth and Families Bill places a stronger onus on the Secretary of the Department of Human Services to review any placement. Whereas currently reviews are often undertaken by agencies, into the future the secretary will be required to review the appropriateness of a placement after six months, and then on an annual basis. It is also proposed that agencies report to the secretary, on an annual basis, on the number and duration of voluntary placements and that the secretary publish this information on the departmental web site.

Quality assurance

The bill also provides for a new process of registering community service organisations, based on compliance with service standards. Standards will be set by the Minister for Children and decisions about registration will be made by the Secretary of the Department of Human Services. Registration will last for three years. Agencies will be subject to an independent, external review prior to each registration process. Where child, youth and family services do not meet service standards, the focus will be on working supportively with agencies to make the necessary improvements.

Under the bill, children will only be able to be placed with registered out-of-home care agencies, or carers approved by the secretary or a registered agency. New regulations will spell out the criteria for approving kith, kin, foster and permanent carers and employees of out-of-home care agencies responsible for caring for children. While agencies will retain responsibility for approving foster carers and employees, the secretary must establish a list of approved foster carers and employees of out-of-home care agencies.

The bill spells out a new process for responding to allegations of physical and sexual abuse by foster carers and employees of out-of-home care agencies which involves independent investigations and a hearing by an independent suitability panel. Investigations will not commence while there is a criminal investigation in progress. Where an allegation is substantiated on the balance of probabilities and a panel (which will be chaired by a legal practitioner) finds that an individual poses an unacceptable risk to children, they will be disqualified from volunteering as a foster carer or being employed to undertake a child-related function by an out-of-home care agency.

Extending the Ombudsman's jurisdiction

The bill will empower the Ombudsman to inquire into or investigate any administrative action of non-government agencies related to functions spelt out in the Children, Youth and Families Bill. For example, this would allow the Ombudsman to receive and investigate complaints about community-based intake, the conduct of independent investigations in professional disciplinary proceedings, and the provision of out-of-home care services.

Section 85 of the Constitution Act 1975

Mr GAVIN JENNINGS — Finally, I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section in this bill.

Clause 599 of the bill provides that it is the intention of clauses 328 and 424 of the bill to alter or vary section 85 of the Constitution Act.

Clause 328 provides for rights of appeal to the County Court and in some circumstances the trial division of the Supreme Court against various decisions of the Children's Court in relation to child protection matters. Clause 328(5) of the bill provides that if a person appeals to the Supreme Court under the bill on a question of law the person is deemed to have abandoned any right under that clause to appeal to the trial division of the Supreme Court.

Clause 424 makes similar provision in relation to appeals against sentencing orders by the Children's Court.

These sections re-enact sections 116 and 197 of the Children and Young Persons Act 1989.

The reason for limiting the jurisdiction of the Supreme Court is to prevent a proliferation of lengthy proceedings in relation to decisions of the Children's

Court under the act. The act provides for a clear process for appeals and it is clearly to the benefit of a child to have matters relating to them dealt with expeditiously.

Incorporated speech continues:

Conclusion

In Victoria, we are fortunate to be building our system reforms from a position of strength. Our reforms are not driven by a crisis. They have been built from the ground up, based on strong partnerships with community service organisations. They are based on a long-term strategy that is already under way — a strategy that has been informed by experts and underpinned by a strong evidence base and commitment to best practice.

This means that our services can continue to change — to better meet the needs of today's families. The Children, Youth and Families Bill provides the legal authority and impetus to support positive changes in policy and service delivery difference. It allows for greater flexibility and responsiveness, so that services can adapt to the changing needs of today's families — while at the same time maintaining appropriate checks and balances on the actions of government and community services.

I commend the bill to the house.

Debate adjourned for Hon. W. A. LOVELL (North Eastern) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

CHILD WELLBEING AND SAFETY 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:

Our government's vision is for children and young people to thrive, learn and grow, to be respected and valued, and to become strong adult members of the community. A shared commitment among communities, professionals and the different levels of government is required to give children and young people the best possible start in life, and to provide families and communities with the help they need to achieve this.

Our policy recognises that children have particular capacities, strengths and problems and that their needs do not neatly fall into single categories. Health, learning, development, wellbeing and safety are all essential, overlapping areas of importance in achieving positive outcomes for all children and young people, including the most vulnerable.

Child development includes their physical development and the opportunities needed for growth, maturation and greater complexity in behaviour and interactions with others, all of which change as children grow and mature.

Child health includes not just the absence of disease — since some ill-health is part of life — but protection from damage or danger as a result of disease, whether physical or psychological.

Child learning includes opportunities for interactions with others and discovery of the world, the acquisition of skills and understanding.

Child wellbeing includes resilience, social confidence, secure cultural identity and protection from prolonged isolation, emotional trauma or exclusion.

Child safety implies protection from unreasonable risk of injury, accident, harm, abuse or exploitation; and that the places and the people involved in their care do not increase these risks. We want to provide safe environments for children and young people — in their homes and in their broader communities.

The Child Wellbeing and Safety Bill provides a legislative framework to encourage and support a shared commitment toward children and young people. It provides overarching principles to guide the delivery of child, youth and family services within Victoria, which will apply to universal, secondary and tertiary child, youth and family services. It provides mechanisms for whole-of-government collaboration to promote children's wellbeing and safety.

More specific pieces of legislation will provide detailed guidance on the responsibilities and functions of specific child, youth and family services. The existing Children's Services Act will continue to provide the legislative framework for licensing and regulation of universal children's services. The Adoption Act will continue to guide adoption processes in Victoria. The Children, Youth and Families Bill, which will be considered separately by the Parliament, more specifically addresses family support, child protection and out-of-home care services. That bill provides detailed guidance on the particular functions and responsibilities of the secondary support and tertiary sector that comprise the child, youth and families service system.

Guiding principles to promote a child-focused and integrated child, youth and family service system

A critical focus of our reforms is to build a more integrated service system — a service system in which the universal, secondary and tertiary services work together to provide a graduated range of responses that adapt over time to the changing needs of families. While each tier of the service system will have a particular focus, all services should share a common set of goals and values. The Child Wellbeing and Safety Bill spells out that common set of guiding principles.

These principles recognise that all children need capable, nurturing parents and a caring community that is child and family friendly. Parents are a child's first teachers, and their strongest supporters — the guardians of their wellbeing. But just as children need supportive parents, parents in turn need support from the broader community to help them to succeed as parents.

Parents can gain strength from informal supports and social networks — just as children benefit from wider opportunities and safer environments. The Child Wellbeing and Safety Bill acknowledges and encourages the important partnership between parents, professionals and services, and their local community to protect children and young people and to guide their healthy development.

In order to support a more integrated service system, the bill provides guidance on the importance of:

> services working together to form an accessible and responsive support system that is oriented to common goals and integrated through local and regional partnerships and planning;
>
> services based on the best available knowledge of what children and young people need and how they develop;
>
> targeting assistance to the most vulnerable groups in Victoria;
>
> providing culturally appropriate and inclusive services;
>
> maximising families' awareness of the available services and their opportunities to benefit by services, especially for those families who are most in need.

The guiding principles in the bill also emphasise the importance of empowering children and families to participate in decision making, and to ensure that all decision making is timely and respectful of a child's individual and cultural identity.

These principles therefore provide high-level guidance on the roles and responsibilities of child, youth and family services. Family support, child protection and out-of-home care services that are subject to the Children, Youth and Families Bill will also be subject to more detailed principles about the key factors to take into account when making a decision and the required good practice in working with vulnerable children and family. The principles set out in the Child Wellbeing and Safety Bill and the Children, Youth and Families Bill are complementary.

Promoting children and young people's health, learning, development and wellbeing

Importantly, the bill places a responsibility on the Minister for Children to develop and promote a charter of wellbeing and safety for Aboriginal children and young people. In recognition that Aboriginal children and young people continue to experience significantly worse outcomes in life than the non-indigenous community, this charter will spell out the key actions and measures of progress in improving their health, learning, wellbeing, development and safety.

The bill establishes two key structures to being a whole-of-government responsibility to planning, enhancing and improving outcomes for children and young people.

The Victorian Children's Council will support the Minister for Children by providing expert independent advice about policy for Victorian children and young people. The bill provides legislative guidance on the operation of this council, whose members will have expertise in child health, learning, wellbeing, development and safety. The council will provide expert advice to the Premier and the Minister for Children on the policies and services that will enhance children's life outcomes.

Cross-government collaboration will also be supported by a Children's Coordination Board. The bill spells out that the board will comprise the secretaries of the departments of Premier and Cabinet, Treasury and Finance, Human Services, Education and Training, Victorian Communities, Justice, and the Chief Commissioner of Police. Its role will be to monitor the effectiveness of government programs in supporting positive outcomes for children, particularly the most vulnerable, and to monitor that new administrative arrangements are effective in coordinating at the local and regional levels the state's actions relating to children.

Promoting safe environments for children — the role of the child safety commissioner

The child safety commissioner will promote the safety and wellbeing of children and young people. He will represent the interests of all Victorian children, with a special emphasis on vulnerable children, including those in out-of-home care. He will address child safety matters in several ways, including through community education campaigns to promote child-friendly and safe environments in the community.

The commissioner will conduct an annual independent review of the working-with-children check. The working-with-children check will assist to protect children by preventing people who have a criminal record indicating that they may be a risk to children from working or volunteering in children's activities. The Department of Justice will conduct the checks. The child safety commissioner will review the administration of the check process. His oversight will assist to ensure that checks are effective and carried out in accordance with appropriate procedure.

The commissioner will, in consultation with the Secretary of the Department of Justice, work with employers, volunteer groups, community groups and government agencies to promote how the working-with-children check relates to their activities.

Most children already have adults to look after them and protect them from harm — principally their parents and guardians. However, some children, those in out-of-home care services — who have experienced abuse and neglect or whose families are unable to look after them — are a particularly vulnerable group and require an extra voice on their behalf.

The child safety commissioner will carry on the work of advocating for children in care, monitoring the out-of-home care system, and recommending improvements to better meet the needs of children and young people. He will also promote a service system that actively encourages children to participate in the decisions that affect their lives.

The commissioner will be responsible for conducting inquiries into the deaths of children who were known to child protection. This function has hitherto been conducted within the Department of Human Services' Office for Children.

Child death inquiries examine the effectiveness of the services and practices of those services involved in the lives of deceased children. Whether children in the care of the state die from illness, accidents, or as a result of criminal acts, we should always learn from their lives and from their deaths. Child death inquiries are part of this learning process,

identifying service system practice issues, which help government and services to better protect and care for children.

The bill provides for the minister to establish advisory committees in relation to functions under the act. The Victorian Child Death Review Committee was established as such an advisory committee in 1995. This committee will continue to provide expert monitoring and advice on the child death inquiry process, identifying ways in which policies and practices can improve the health and welfare of children and families at risk. No one part of the service system is solely responsible for a successful outcome, and all services must cooperate together if we are to protect and nurture vulnerable children and young people. In reflecting upon the inquiries conducted by the child safety commissioner, the committee will continue to provide a multidisciplinary focus on child deaths.

Consolidating the Minister for Children's responsibilities

Finally, the bill will provide a vehicle to consolidate the Minister for Children's responsibilities — now and into the future. For example, responsibilities in relation to recording the births of all children in order to link families to maternal and child health services are currently set out in the Health Act. These provisions will now be imported into the Child Wellbeing and Safety Bill.

Conclusion

All children and young people deserve the best possible start in life. The Child Wellbeing and Safety Bill provides a critical legislative foundation for government and non-government services to work together to better support families and to promote children's health, development, learning, wellbeing and safety. The bill embeds this commitment across both the state and local governments and amongst the entire child, youth and family service system.

For the first time, professionals working across the universal, secondary and tertiary service sectors will be subject to a consistent set of principles that prioritise a child-focused approach to service delivery and provide guidance on critical factors in helping all children reach their full potential and participate in society, irrespective of their family circumstances and background. Importantly, strong attention is given to the most vulnerable children, young people and families, so that they receive the assistance they need, at the time when it will be the most helpful.

The bill provides a framework for collaboration across the universal, secondary and tertiary tiers of the service system and will support better coordination of effort across government.

It establishes critical mechanisms to monitor how children are faring and involves experts in building a strong evidence base that informs future policy, planning and program development. The child safety commissioner will provide a vehicle to promote safe and nurturing environments for children.

I commend this bill to the house.

Debate adjourned for Hon. W. A. LOVELL (North Eastern) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

PRISONERS (INTERSTATE TRANSFER) (AMENDMENT) BILL

Second reading

Debate resumed from 20 October; motion of Mr THEOPHANOUS (Minister for Energy Industries).

Hon. P. R. HALL (Gippsland) — It is my pleasure this afternoon to lead the debate on the Prisoners (Interstate Transfer) (Amendment) Bill. I can indicate to the house that The Nationals will be supporting the passage of this bill.

This bill amends two acts — the Prisoners (Interstate Transfer) Act 1983 and the Corrections Act 1986. I want to make some comments about both of those principal acts which this bill amends. The first of those is the Prisoners (Interstate Transfer) Act of 1983. The amendments to that act are essentially contained in clauses 3 to 5 of this amendment bill.

Interstate prisoner transfers is a sensible arrangement. At times I think there are valid cases in which prisoners who are incarcerated in other states wish to move to a state to bring them closer to their families or other important support groups, which will assist them during their incarceration. It is sensible that that takes place. I note that it can only be done with the agreement of both respective ministers in each state.

I also make the observation that there are not an awful lot of interstate prisoner transfers. Advice The Nationals have received resulting from our briefing on this bill is that in the last two years only four prisoners have been transferred out of Victorian prisons, and two prisoners have been moved into Victorian prisons from an interstate prison, so there is not a great deal of interstate transfers of prisoners. There are in fact far more people on parole who have moved interstate. I understand that in the last two years 118 people on parole have moved out of Victoria and 172 people on parole have moved into Victoria. Certainly there is a significant amount of people movement when it comes to the issue of parole, but not a great many of those people who are incarcerated actually move in and out of Victorian prisons.

I am also told, as a result of questions asked at our briefing, that in the case of people who may be classified as sex offenders, in the last three years only five have moved into Victoria and eight have moved out of Victoria. I presume they are all people who are

on parole, because that exceeds the number of incarcerated people moving in or out. I know that this has been a public issue in recent times — that is, sex offenders who are on parole moving into Victoria. Some of the views that have been expressed publicly about this warrant the need for concern and the close monitoring of people in that particular category. But there have not been a great deal of them, so it should not be an onerous task for the Victorian government to ensure that they are monitored correctly. I do not wish to embark upon extensive comments about that public issue apart from what I have just said.

I want to turn to exactly what is amended by this legislation in respect of the Prisoner (Interstate Transfer) Act 1983. As I said, principally those amendments are contained in clauses 3 to 5 of this amending bill. Essentially these amendments spell out more clearly what the minister can consider upon the request of a transfer. Those items are listed under clause 3 on page 3 of the bill, where it lists the things the minister may take into consideration. I refer to new section 10A which states that the minister can take into account:

(a) the welfare of the prisoner concerned;

(b) the administration of justice in this or any other State;

(c) the security and good order of any prison in this or any other State;

(d) the safe custody of the prisoner;

(e) the protection of the community in this or any other State;

(f) any other matter the Minister considers relevant.

It is pretty much all-encompassing, particularly that last criterion. I would think that all of those are very sensible issues that should be taken into account when a request for an interstate transfer has been made. As I have said, we in The Nationals have no objections to that particular component of this bill.

Part 3 of the bill relates to amendments to the Corrections Act 1986. Essentially they occur in two areas. First of all, there are some changes to the responsibilities or the role of the Adult Parole Board. They are principally contained in clauses 6, 7 and 8 of the bill. There are some amendments to provisions relating to monitored serious sex offenders, and they are contained in clause 9 of the bill.

Firstly, I will turn to the amendments to the Adult Parole Board, which are best described in the explanatory memorandum to clause 6 of the bill. Here we are looking at some amendments to the statutory immunity of the Adult Parole Board and its members. The explanatory memorandum describes them as:

> The immunity in new section 69(3) is restricted to members of the Adult Parole Board only. An immunity for members of the Adult Parole Board is necessary to ensure they can exercise their functions independently, without fear of vexatious legal actions. However, it is no longer considered appropriate for the Adult Parole Board to have an immunity from liability, as this would preclude any legal recourse for liability arising from the exercise of the Adult Parole Board's functions.

Immunity is being offered to individual members of the Adult Parole Board, but the board itself is not immune from legal action if that is deemed to be necessary. It strikes a sensible balance between the rights of people to have issues they wish to raise heard in the appropriate forums, and the protection of those on the Adult Parole Board, who I am sure exercise their functions with all due diligence and care. I believe they should be protected from any legal action taken against them as individuals.

Clause 7 makes amendments in relation to the cancellation of parole and the time served on parole being counted towards a prison sentence. As is mentioned in the second-reading speech by the minister, this would give the parole board greater flexibility. That is a commonsense provision and is one that we certainly do not have any problems with.

Clause 9 amends the Serious Sex Offenders Monitoring Act. The best explanation of this is on page 8 of the minister's second-reading speech:

> The bill will amend the Corrections Act 1986 to confer on community corrections staff a number of additional powers and obligations for the management of persons subject to extended supervision orders.

It goes on to list those powers. I will not read all of them, but they include:

> an obligation for the officer in charge of a community corrections centre to take reasonable steps for the security and safety of a monitored person at the centre;
>
> a requirement for a monitored person to comply with directions from officers at a community corrections centre that are necessary for the management, good order or security of the centre. The penalty for non-compliance with such directions is 5 penalty units;
>
> a power for community corrections officers and regional managers to use reasonable force at a community corrections centre to compel a monitored person to comply with a direction;

A few other powers are listed, including:

> a power to photograph a monitored person at a community corrections centre for identification and record-keeping purposes.

I might add that we are talking about people who are serious sex offenders and have been put on monitoring orders. It is the view of The Nationals that we need to be thorough in the surveillance and monitoring of these people. The powers now being extended to those in charge of monitoring those offenders are in order and appropriate so that they can do their job properly. These provisions attract no opposition from The Nationals.

This is an important bill. The Nationals have had chats with the Victoria Police Association, the Crime Victims Support Association and Victoria Police about these amendments. On balance, we believe they are appropriate and will improve the operations of both the Prisoners (Interstate Transfer) Act and the Corrections Act, so we are happy to lend our support to the bill's passage through Parliament.

Hon. RICHARD DALLA-RIVA (East Yarra) — The opposition supports this bill, and in doing so wishes to go into a number of issues surrounding it. The bill makes minor amendments to two acts in particular — that is, the Prisoners (Interstate Transfer) Act and the Corrections Act. It is a small bill, of only 11 pages; however, the explanatory memorandum has 9 pages.

It is fair to say that members who have gone to an explanatory memorandum to try to garner some understanding of particular clauses of a bill have often found that the clause is repeated in the explanatory memorandum. I put on the record that this is one of the rare occasions where the department or the bureaucrat or bureaucrats involved have done a wonderful job of providing a detailed explanation for those in the broader community who wish to understand why the bill's various clauses have been brought before the house. I say that happens very rarely, but it has happened on this occasion. The briefing was thorough, although we were subject to occasional interjections from the minister's adviser, and the memorandum is thorough. I applaud those who prepared the bill.

The bill is in two principal parts. Part 2 contains amendments to the Prisoners (Interstate Transfer) Act to clarify and expand the grounds to be considered by the minister in assessing requests by prisoners to be transferred to or from Victoria. I know there is much conjecture in the newspapers in respect of those on parole. It is clear that the bill does not apply on the whole to parolees but to sentenced prisoners who are in custody.

It is interesting that about two months ago at a joint meeting in Victoria of all the shadow corrections ministers, or the variations thereof, a common theme was the concern expressed about parolees who are considered to be serious offenders — sex offenders and the like — being put on parole and dumped on other states. The New South Wales shadow justice minister was concerned about a parolee from Western Australia being placed in New South Wales. We had the recent case in Victoria of a serious paedophile coming from Western Australia and being lumbered on the suburb of Sunbury. There were major concerns about the need for checks and balances in regard to parolees who are placed into communities outside the jurisdiction of their respective adult parole boards.

I was very pleased that the meeting proposed we should be looking at a more restrictive regime of ministerial accountability — the same sort of accountability that is outlined in the bill. We are now seeing provision made for greater consideration and responsibility by ministers when a sentenced prisoner who is in custody is to be transferred. As we heard from the Honourable Peter Hall, this is not a common occurrence, and it is important to understand where it came from. I am pleased to say — whether it is a good result or not — that this is an example of the courts having determined in favour of commonsense over political outcomes. I refer to the matter of the *Attorney-General for the Australian Capital Territory v. Heiss.* The court considered the administrative law issue and, as I understand it, accepted that as well as taking into account the interests and welfare of the prisoner it needed to also take into account the welfare, security and good order of the state and other matters.

The review that arose from that Federal Court decision of 2002 was considered in the discussions of the Standing Committee of Attorneys-General (SCAG) of November 2004. The committee considered that the prisoner interstate transfer scheme — the PITS, as I have called it — needed to be more elaborate than what is currently in the legislation across all the states and territories and agreed to a model code to be applied uniformly in all states and territories. The court determined that it needed to consider the welfare of the prisoner, as is currently the case under PITS, but also other matters. Those other matters, as I said, were determined by the SCAG meeting in November 2004, where it was agreed to establish a model bill following that case law. That is essentially what we see in clauses 3, 4 and 5 in part 2 of this bill before the house today. I know those matters were outlined earlier, but I

will outline them as well. They are referred to in clause 3, and this applies equally in clause 5. Clause 3 inserts new section 10A, which refers to:

> (a) the welfare of the prisoner concerned —

and as I said, that is already established under PITS —

> (b) the administration of justice in this or any other State;
>
> (c) the security and good order of any prison in this or any other State;
>
> (d) the safe custody of the prisoner;
>
> (e) the protection of the community in this or any other State;
>
> (f) any other matter the Minister considers relevant.

This is important because it sets out a framework under which respective ministers across other states and territories must apply the relevant legislation before the house when considering whether a prisoner should be transferred under that framework.

It is also important to note that there needs to be a reciprocal arrangement so that the relevant ministers in both states agree to that. I thought it was important at the briefing on the bill to ask about the use of the term 'minister', because various ministers in the different states have different titles. They may be corrections ministers, justice ministers or police ministers who have control of corrections. It was decided to specify just 'minister', but on the whole it does relate to the minister responsible for the administration of the corrections system in a respective state. Whilst essentially part 2 moves towards codifying more solidly under a model bill rules applying to sentenced prisoners in custody under the PITS program, it is important to put on the record that in my view this should have been done a lot earlier.

It is also important to note that New South Wales and Tasmania implemented the amendments specified by SCAG 12 months ago. I think it demonstrates the depth of the experience of this government that the Attorney-General is lumbered with additional roles, portfolios and responsibilities because the previous ministers could not cut it. To me that is just another example of this government lacking depth. This prisoner transfer issue was discussed a year ago and yet the government has only now put this legislation before the house. Compared to the other states that have moved forward and have already adopted it, this is just another example of the Attorney-General in the other place, Honourable Rob Hulls, really struggling to come to grips with taking on a number of portfolios. For example, the Attorney-General has lumbered with the planning portfolio because of the incompetence of the previous minister. That means he now has to not only pick up the pieces that have been left behind but also continue to move forward in fulfilling his real portfolio responsibilities as Attorney-General of this state. It is important to place that on the record. It is yet another example of the depth of the government being really about as shallow as a dried-up creek bed. It is important to get going on part 2.

Part 3 contains a range of amendments to the Corrections Act. Clause 6 talks about revised immunity, and the Honourable Peter Hall spoke briefly about that. Fundamentally I believe the changes result from a policy decision of the government, and it is important to outline why they have been put forward. The revised immunity provision is being applied to the Adult Parole Board as a board in the sense of a board operating as one, so that while individual board members will not be personally liable for omissions or criminal acts the board as such will bear the liability for such omissions or acts.

That means we can have a board operating with immunity in the exercise of its powers within the Corrections Act, as required. The clause also sets out that the provision does not therefore extend to the individual member of that board if that individual member relates, or their action or omission of an action relates, to a criminal activity. I think it is fair to say the legislation would allow for other board members if one or two other board members were conducting their functions. I would find that highly unlikely, but in the climate of today's world, that can never be taken as granted.

I also put on the record that at times I have attended the Adult Parole Board at the board's invitation to see the way it operates, and I have to say it operates in a very professional manner. I think this provision is a good revision of policy on immunity, and I have nothing more to add to that.

Although it is brief, clause 7 is about the cancellation of parole. I understand it is about the enhancement of the operational capacity of the Adult Parole Board, on its recommendation, to deal with those who breach parole. We already know that this government is inherently soft on crime and that despite the trend in every other state in Australia, Victoria has a decreasing number of people in prison. Yet, the number of people on community-based orders has ballooned out exponentially over the last six years.

We know that fact. It has been taken for granted, so I guess theoretically the workload of the Adult Parole Board should be reduced because there are now less prisoners in the prison system. Many would say that is good, but we need to be circumspect about saying that given the range of offenders now in our correctional facilities — that is, those who have mental illnesses, drug and alcohol dependencies, and the like — so the Adult Parole Board is really now having to look at how it can improve its operation. Therefore clause 7, while brief, is dramatic.

I understand from our briefing that subclause 1 of that clause is about closing the loophole that allows aggregate sentences not to be taken into consideration by the courts, which means that 'one offence' is substituted with 'two or more offences'. That is specified in the bill.

Clause 7(2) and (3) concern allowing the board to exercise discretion. The example that I can come up with from our discussions is of a prisoner on two years parole but who breaches that parole after 20 months — in other words, he would have four months of his parole to serve. As the law now stands the offender has two options: that they be returned to jail to recommence the two-year sentence they breached; or that the board would not enforce the order. In other words, the prisoner who still has four months of parole to serve would not be sent back to prison and would be told, 'Okay, you have served out most of your term and we will release you as though you have completed your sentence'.

The Adult Parole Board is not allowed that discretion, and I agree with it in this instance. I hope the result of this amendment will be that in the example I gave, if the offender breaches a two-year parole period after 20 months, the Adult Parole Board would have the power to impose a discretionary period for either of the two options that I outlined earlier or impose a period in jail that can offer some incentive not to breach again.

For example, in the case of the two-year period it might say that the board might return the prisoner to jail for 12 months with parole on release for a further 12 months, or any variation thereof. That is important given, as I said, the range of offenders who are now being placed on parole. Of those with a mental illness, probably about one-third are entering our prison system — the institutionalised mental health system is being replaced by the criminal justice system. I have a strong view on that, I think it is wrong, but the reality is this is where it is at. This amendment, albeit minor in appearance, will have a profound effect in allowing the Adult Parole Board significant discretion in its approach to dealing with this. I know some in the community will say this is giving the board a too-soft option. As I said before, having seen the board in operation, it is anything but soft in its approach to offenders who breach parole. It is important that we have that comfort that the board members are reasonable and will review this in a very solid manner and will be respectful of the community's expectations in that regard.

Clause 8 stands out a bit but it is simply a clarification of the power of the regional manager, who can now do the same things as others under section 90(7) of the Corrections Act. It appears to be a tidy up. Section 90(7) of the Corrections Act states:

> A community corrections officer may use reasonable force to compel an offender to obey a direction, if the officer believes on reasonable grounds that the use of force is necessary —
>
> (a) to prevent the offender or another person being killed or seriously injured; or
>
> (b) to prevent serious damage to property.

This amendment inserts the words 'regional manager or' before 'community corrections officer'. There must have been occasions where the boss of a community corrections centre has come out to assist his or her officers in the execution of their duties and this just clarifies the position of the regional manager and affords him or her a greater level of protection.

Clause 9 raised some concern in the opposition and, I believe, in the media. It was put to us that this was just to establish a framework of greater enforcement around those on extended supervision orders (ESOs). We need to go back and look at what the extended supervision orders mean. On 24 February this year we debated in this house the Serious Sex Offenders Monitoring Bill. That bill was introduced earlier that week and we had agreement in both houses that it would be completed quickly. We know, for the record, that it was designed to deal with the imminent release of Mr Baldy. He was about to complete his second term of imprisonment and be released into the community. We already had the Sex Offenders Registration Act, which in my view is more voluntary as the offender has to report as required and if they do not they are subject to a fine. The Serious Sex Offenders Monitoring Bill extended well beyond the period of a person's term of incarceration. It was seen as a fairly hard-edged approach to dealing with significant offenders such as Mr Baldy and ensuring that they are monitored effectively well past their terms of imprisonment. We moved that bill through on 24 February and I understand it was subsequently passed — the government still dragged its feet.

Mr Baldy and others are now on extended supervision orders.

It is therefore interesting that clause 9 inserts proposed part 9B which is headed 'Provisions concerning monitored serious sex offenders'. It is broken into various divisions. Division 1 is headed 'Preliminary matters', division 2 is 'Monitored people at community corrections centres', division 3 is 'Provisions applying to monitored people receiving visits from officers', and division 4 is headed 'Obligations of regional managers'. When you review the proposed sections outlined in this bill and the four divisions, it appears, on balance, that one or two issues may have come to the fore. It seems quite unusual that these amendments have been placed in this bill — they should have been put into the principal legislation when it was first debated in February of this year.

Mr Baldy is on an extended supervision order and, I assume, is going to a community corrections centre. Thankfully we know there are a limited number of people on these ESOs but some things here stand out. I read out before section 90(7) of the Corrections Act and the use of reasonable force. That provision also applies in proposed division 2. For the record, there are 50 community corrections centres throughout Victoria. It appears that certain individuals on ESOs have gone to these community corrections centres, as they are required to under the terms of their ESOs. However, it is quite interesting to note that the government has included in these amendments proposed section 104H which is headed 'Monitored person must comply with certain directions'. It states:

> While at the community corrections centre, the monitored person must comply with any direction given by an officer that is necessary for the management, good order or security of the centre.
>
> Penalty: 5 penalty units

Proposed section 104I is headed 'Officers may use force to enforce directions in certain circumstances'. The amendment being made to section 90(7) of the Corrections Act is replicated there as proposed section 104I(1). The use of force is further provided for by proposed subsections (2) and (3).

Proposed section 104J says that officers are to give reports if required. It talks about the obligation to report any incident concerning the monitored person to the Adult Parole Board. Further proposed section 104K specifically talks about photographing. I went through section 99 of the principal act regarding fingerprinting, and it is the same extract. Proposed section 104K says:

> (1) While the monitored person is at a community corrections centre, an officer may at any time take photographs of the person for the purposes of identifying the person, or of completing records concerning the person.
>
> (2) An officer may give to the person all necessary directions to ensure the taking of accurate photographs.
>
> (3) Any direction given under sub-section (2) is deemed to be, for the purposes of section 15(3) of the Serious Sex Offenders Monitoring Act 2005, a lawful direction of the secretary under section 16(1) of that act.

When you look at this and read it, you ask, 'What has happened? Why do we have this provision brought into this amendment here? Were there circumstances relating to a child-sex offender who had attended a community corrections centre and did not take directions as required?'. We know that there was an incident upon the release of Mr Baldy regarding his photograph. We have a piece of legislation before the house that talks about granting additional powers for the purposes set out in the Serious Sex Offenders Monitoring Act. As I said, as I understand it not many offenders would be subject to an extended supervision order. This raises the question in my mind that perhaps there has been an incident. I hope I am wrong. It also raised the question in the mind of journalist Rachel Kleinman, as she says in an article in the *Age* on 7 October, after she had examined the bill, that there may have been some particular issues which had not been considered in terms of their being monitored under an ESO.

If there has been a situation where a person subject to an ESO has not complied with the directions outlined, then my view is that this provision needs to be stronger. If we have, for example, a serious child-sex offender who is under an extended supervision order and who is failing to comply with directions, then that is an indication of that person's capacity to avoid doing other things as well. It was on the record and well known in the community from reports from the office of corrections that there was a grave risk of Mr Baldy reoffending and not complying if he were released into the community. I hope that this bill is not related specifically to him, although I have a gut feeling that it is. The full weight of the law needs to be applied if that is the case.

I support the bill because it will reinforce the capacity for community corrections officers and regional managers and others to do what they need to do to maintain supervision under ESOs, but I doubt the effectiveness of action in the field. We already know that the community corrections officers are under the pump when monitoring prisoners. We already know

that there has been a 30 per cent increase in offenders on community-based orders since this government took over in 1999. There is now on average an additional 1800 offenders per day on community-based orders than were on such orders when this government gained control in 1999. That is a huge increase — a 30 per cent growth — and whilst the powers may be there, it really worries me that we do not have the perceived capacity of monitoring not only offenders on community-based orders for other crimes but somebody like Mr Baldy, who is out in the community. We have to rely on community corrections offices to maintain the monitoring. The fact that with this amendment there is seen to be a need to have additional provisions placed into law does not augur well for the protection of our community.

In summary, the opposition supports the bill. We consider it important in the broader scheme of things. I put on the record that we debated the extension of the definition of those serious offenders to be monitored in this house on 7 September 2005. We talked about extending it to include not only child-sex offenders but also those who have been convicted of other serious offences such as rape, kidnapping and murder. As we know, the government did not support our private members bill of a month and a half ago — —

Ms Mikakos — I am amazed that you are even raising this.

Hon. RICHARD DALLA-RIVA — I am putting it on the record, because it is about the protection of the community. As I said at the time, we in the opposition are concerned about protection of the community. We are not into political point scoring, as is Ms Mikakos. We take this very seriously and do not see it as appropriate that the government lets out into the community literally hundreds of extra prisoners each day. We believe that the government's approach to law and order in this state is ad hoc — and you only have to look at the way it is dealing with its legislation.

As I said, the opposition supports the bill and looks forward to it passing this place. The government has dragged its feet, as usual, on this with its typical way of approaching legislation and managing the process. Let us get moving and give protection and support to those who are monitoring serious child-sex offenders. Let us get it out there and in the statute books as quickly as possible. The opposition supports the bill.

Ms MIKAKOS (Jika Jika) — I am pleased to rise today to make some brief comments in support of the Prisoners (Interstate Transfer) (Amendment) Bill, which makes some amendments to the Prisoners (Interstate Transfer) Act 1983 and the Corrections Act 1996.

At the outset I place on record the government's appreciation that the opposition and The Nationals are supporting this bill, which is part of a national cooperative scheme that facilitates the transfer of prisoners to or from one state or territory to another. At present the act enables prisoners in interstate correctional facilities to be transferred to another state or territory to stand trial or for welfare purposes.

The proposed amendments will implement a model bill which was developed by the Standing Committee of Attorneys-General at their meeting in November 2004. The amendments will clarify the ministerial discretions relating to welfare transfers on a national basis. I note that a number of other jurisdictions have already introduced the model bill into their parliaments or have plans to do so in the near future.

The current terms of the Prisoners (Interstate Transfer) Act allow the minister to consider welfare transfers in only a fairly narrow manner. This bill broadens the minister's discretion to consider a broader range of relevant matters such as the general administration of justice as well as other important matters such as the prisoner's safety and the safety of the community in general.

A recent Federal Court of Australia case highlighted the need for the current provisions to be clarified, and the purpose of the bill is in some part to respond to the Federal Court decision in *Attorney-General for the Australian Capital Territory v. Heiss.* In brief, the Federal Court overruled a decision of the Attorney-General of the Australian Capital Territory to refuse the transfer of a prisoner, holding that the fact that the Australian Capital Territory did not have a prison facility for that prisoner to be transferred to was not a relevant consideration in making a decision to refuse to accept the transfer.

The reasons why a prisoner may request the transfer to another state or territory are varied, but most often they relate to the prisoner wishing to be closer to their families, partners or support networks. For example, if a prisoner is incarcerated in another state, he or she may be separated from their children, may not be able to afford long-distance telephone calls or may lose the opportunity to maintain links with previous employers. There may be a range of reasons why they make such a request.

Research conducted by the Australian Institute of Family Studies notes that prisoners who maintain

contact with their families are less likely to reoffend after release. Research also suggests that many prisoners are prepared to use their time in prison to reflect on and renew their relationships with family members. Therefore for many prisoners the opportunity to be close to family is a powerful rehabilitation tool.

This bill makes a number of amendments to the Corrections Act 1986 which will: enable the effectiveness of the powers of the Adult Parole Board relating to the cancellation of parole; rectify a gap in the statutory immunity of the Adult Parole Board and update that immunity in a number of respects; and give corrections staff powers to supervise offenders on extended supervision orders under the Serious Sex Offenders Monitoring Act 2005 similar to their existing powers to supervise other offenders.

In relation to the Adult Parole Board's parole cancellation powers, I note the amendments to the powers are minor in nature and are intended to improve the operation of these powers. The bill amends the existing power of the board to cancel a prisoner's parole after the parole period has expired where the prisoner has reoffended whilst on parole. If the prisoner's parole is cancelled, the prisoner may have to serve in prison the time spent on the cancelled parole order. This existing power is only available where a prisoner receives a sentence of more than three months for a single offence committed on parole. It cannot be used in cases where a prisoner receives an aggregate sentence for several offences in the Magistrates Court.

The bill will correct an anomaly to ensure that a person who reoffends while on parole cannot escape parole cancellation only due to the fact that he or she has received an aggregate sentence for several offences committed during parole. It is believed this amendment will give the board a much broader power to cancel parole in cases where a prisoner has engaged in further criminal activity while on parole.

The bill also amends the board's power to credit time served on the cancelled parole order towards the prisoner's sentence. If this time is not credited, the period spent on parole must be served again in prison. Currently the board can only grant time served on the cancelled parole order towards the prisoner's sentence on an all-or-nothing basis. The bill will amend this power to give the board discretion to grant part of the time served on a parole order that has been cancelled towards the prison sentence. This will enable the board to deal with prisoners who have not complied with their parole requirements in a fairer and more flexible way.

The proposed improvements to the board's powers will ensure that the board can administer prisoners' parole as effectively as possible. Parole plays a key role in facilitating the reintegration of prisoners into our society, which in turn provides benefits to the broader community by reducing the risk that prisoners will reoffend after they are released.

The other aspect of the bill that I want to touch on relates to the Adult Parole Board immunity. The bill addresses a gap in the statutory immunity of the Adult Parole Board which protects the board and its members from civil and criminal liability during the exercising of its functions under the Corrections Act. As the board also carries out functions under various legislation — for example, the Serious Sex Offenders Monitoring Act — the bill will provide a new immunity which will apply to all the statutory functions of the Adult Parole Board. This is a positive step forward as it will ensure that members of the board can carry out their functions with independence and without fear of unwarranted litigation.

This immunity will apply only to board members in their personal capacity and transfers liability from individual members to the board. Reflecting on current policies of the Bracks government, it is important to ensure that people who may suffer loss due to the actions of board members still have a legal recourse against the board rather than against individual members. I note that this amendment protects board members against civil liability but does not provide immunity against criminal liability.

The final aspect of the bill I want to touch upon relates to the powers of the bill on extended supervision orders. The Serious Sex Offenders Monitoring Act 2005 currently contains broad powers for the supervision of an offender on extended supervision orders under that legislation. The Secretary to the Department of Justice has a wide power under section 16(1) of the act to give an offender who is subject to an extended supervision order any instruction or direction that is considered necessary to ensure the effective and efficient administration of the order. In practice, the day-to-day supervision of offenders on extended supervision orders is undertaken by community corrections staff on the secretary's behalf.

These community corrections staff have the same broad powers as the secretary to give offenders on extended supervision orders such directions as are necessary for the effective administration of the orders.

The amendments provide community corrections staff with a number of additional powers and obligations for

the management of persons subject to extended supervision orders. These new powers and obligations to manage monitored persons are similar to existing powers and obligations of community corrections staff under the Corrections Act when supervising offenders on parole and community-based sentences. The amendments will mean that community corrections staff have access to a similar range of powers when supervising persons at community corrections centres, regardless of the nature of the person's order.

In conclusion, this is a straightforward bill which will allow for a more effective corrections system in these particular circumstances. I take this opportunity to note the fine work undertaken by community corrections staff of the Department of Justice and by members of the Adult Parole Board.

Also by way of conclusion, I was quite taken aback when the Honourable Richard Dalla-Riva, towards the end of his contribution, sought to make reference to a private member's bill which he was involved in introducing to this house previously and which sought to make a number of amendments to the Serious Sex Offenders Monitoring Act. I would have thought Mr Dalla-Riva would have wanted to completely forget about that private member's bill given that it was a complete debacle.

Members will recall that it was a completely flawed bill. Members opposite were extremely embarrassed during the course of debate on that private member's bill because of its very poor drafting. It became quite apparent that the bill was riddled with drafting errors and did not achieve the purpose for which it was intended. I am surprised that Mr Dalla-Riva sought to remind us of that private member's bill; I know it was not actually his bill but was introduced by the shadow Attorney-General in the other place, but it fell upon Mr Dalla-Riva to introduce it in this house and try to argue its merits. But, as I said, it was a debacle and had been very poorly thought out. I think Mr Dalla-Riva should have allowed it to be thrown into the dustbin of history and forgotten about as quickly as possible.

By contrast, this bill seeks to make improvements to our corrections system and builds upon a number of measures this government has proudly put forward in terms of protecting the community, in particular as it relates to child sex offenders under the Serious Sex Offenders Monitoring Act and the registration provisions that apply. I assure the house that Victoria will continue to apply close watch on people who transfer under the reciprocal arrangements, to ensure that there is good reason for the transfer and that people concerned are not serious offenders of the sort to whom the Serious Sex Offenders Monitoring Act would have applied. All of these applications are carefully assessed by corrections staff and are applied against very rigorous criteria to determine that the risk of a parolee or a prisoner reoffending is minimised. With those words, I commend the bill to the house.

Hon. B. W. BISHOP (North Western) — I rise on behalf of The Nationals to make a very short contribution to the Prisoners (Interstate Transfer) (Amendment) Bill. Whilst it is not a lengthy bill, it certainly will have an effect on a number of families. I want to speak about a family in my electorate which I believe would have been helped considerably had this bill been in place when they were going through the difficulties they experienced. I will talk about that case later.

I note that this is a model bill, and I have had some difficulties in the past with model bills because I do not think they have the discipline that a template bill has — that is, a truly national approach to the issues being addressed. However, the Standing Committee of Attorneys-General is quite a good structure to put in place rules and regulations on the transfer of prisoners around Australia and that structure, I would hope, would be maintained in the future so that we can ensure the right systems are in place. Again I make the point that I am always a bit nervous about using model bills rather than template bills, because I believe template bills perform a better national overview of the whole process.

As I said before, the family of a constituent resides in Sunraysia. They had a son imprisoned in Queensland for some time and have had some difficulties in generating his transfer to Victoria. I think they would have had a much better go if the intentions behind this bill had been in place when they started the transfer application process in January. They have had a real struggle, but I will not go into detail. I raised their concerns in the adjournment debate in this house one night, and I hope that had some effect in meeting their arrangements.

I know the family and my office have had a number of phone calls and emails, and we experienced part of the agony and frustration of the family's fight to get their son out of Queensland to Victoria so that he would be closer to his family and home. I also know that my electorate officer, Adele Mayes, did a great job. She stuck to the task quite diligently and the good news two or three weeks ago was that the young man would be returned to Victoria to be closer to his family.

It is fitting that this bill is being debated today, because today is the day he is moving from Queensland back to Victoria. Of course his family is delighted, and we too are delighted that quite a long and difficult process has now ended. I understand, and my office understood, that we needed to go through the process. We need to ensure that the requirements of dotting the i's and crossing the t's is done properly, and of course we understand that the people in charge of this process need to be very careful.

I welcome this bill's insertion of a new section 10A into the act. It provides a non-exhaustive list of matters the minister can consider when deciding whether a prisoner should be transferred to or received from another jurisdiction at the prisoner's request. There is a series of dot points early in the second-reading speech, and I would like to comment on them very briefly.

The first dot point talks about the welfare of the prisoner concerned. It is important to note that it should be the prisoner and the family of the prisoner. From our experience, I know that the prisoner was suffering but, by Jove, so was the family.

The second dot point talks about the administration of justice in the minister's state or any other state. That picks up the point I was making about needing national rules and regulations in bills such as this, and in many other areas, so that we have a seamless process with no differences between the states.

The third dot point is about the security and good order of any prison in the minister's state and any other state. I guess that is a fair provision to be considered in relation to the transfer of a prisoner. I only have to think of prisons in other parts of the world to which I have travelled. We see pictures of those prisons in the media, and we in Australia are fortunate that our prisons are of a high standard in comparison to what we see in other parts of the world.

The fourth dot point is about the safe custody of the prisoner. I suspect that means not only the transfer of the prisoner, but holding the prisoner prior to the transfer and ensuring they settle well in their new home.

The fifth dot point is about the protection of the community in the minister's state or any other state. Again we think that is a fair provision, because it certainly needs consideration of prisoner transfers and what type of prisoners they will be. That is a fair and reasonable provision.

The final dot point is the sweeper:

> Any other matter the minister considers relevant.

I think that is good too, because it injects a bit of flexibility into the system, which was not there in the past, and it could provide the crispness of decisions that are required in what are often emotional circumstances.

I give my support and the support of my party to the practical and sensible approach in relation to the transfer of prisoners that is discussed in this particular bill. I say again that I believe if these changes had been in place for the family to which I referred when they were getting their son home from Queensland, it would have helped them substantially and would have been a much more practical way to go about it. As I said, it was a real battle. I commend the bill to the house as I think it will help many families in that situation.

Mr SCHEFFER (Monash) — The purpose of this bill is to amend the Prisoners (Interstate Transfer) Act 1983 to modify the factors that the minister can take into account when considering whether or not to agree to a request by a prisoner to be transferred to or from Victoria. The bill also makes some changes to the Corrections Act 1986 regarding the operation of the Adult Parole Board.

The Prisoners (Interstate Transfer) Act is part of a national scheme in which the states cooperate through their own legislation to assist each other in transferring prisoners from one state to another. The present act enables prisoners to be transferred if it is in the interests of their welfare, or if they need to be in another state to face trial.

The amendments of the present bill clarify and extend the minister's discretion to transfer prisoners for welfare reasons. The amendments make it clear that the minister can take into consideration not only the welfare of the prisoner but also other matters, such as how the request for transfer affects the administration of justice and the impact the decision will have on protecting the community.

The amendments in this bill represent a further development in the ongoing legislative changes that improve the capacity of the penal system to administer justice to offenders and enable the rehabilitation of prisoners who are ready to improve their situation and to go straight. It stands to reason that a prisoner has a better chance of making positive changes if he or she is in a positive and constructively supportive environment. This can involve contact and communication with family and friends, and an opportunity to learn new skills and develop broader and deeper insights through vocational and academic education. It is not good enough for our society to allow a situation where upon release prisoners have little

opportunity other than to slip back into the very networks that were in part the cause of their offending in the first place.

The bill also amends the Corrections Act. Parole is an important tool to assist prisoners reintegrate into society, and this benefits the community because such prisoners are less likely to reoffend and be a risk to their neighbours. Under the act as it presently stands the Adult Parole Board has the power to cancel a prisoner's parole after the parole period has expired where the prisoner has reoffended while on parole. The prisoner may have to serve in prison the time spent on the cancelled parole order. At present this power can be exercised only where a prisoner has received a sentence of more than three months for a single offence committed while on parole. It cannot be used where a prisoner receives an aggregate sentence for several offences in the Magistrates Court.

This bill makes sure that a prisoner who reoffends while on parole cannot escape parole cancellation merely because he or she is serving an aggregate sentence for several offences committed during parole. The amendment gives the parole board the power to cancel parole in appropriate circumstances where a prisoner is involved in criminal activity while on parole.

The bill also provides a new immunity that will ensure that board members can exercise their functions independently, without fear of being the subject of vexatious legal action. The new immunity in this bill applies only to board members as individuals, and not to the board in its entirety. This makes sure that the board members who suffer loss due to their actions as board members will have legal recourse against the board.

The bill also amends the Corrections Act so that people who are under extended supervision orders under the Serious Sex Offenders Monitoring Act 2005 can be more closely supervised and monitored and given access to ongoing treatment. The amendments to the Corrections Act in this bill will give corrections staff additional powers to manage monitored persons who are required to attend corrections centres.

The improvements to interstate prisoner transfer contained in the legislation, as well as the improvements to the parole system and the additional powers given to corrections staff to manage individuals under extended supervision orders, will be of great benefit to the community. I commend the bill to the house.

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 thank all members for their contributions to the debate and the expeditious way in which this bill has been dealt with.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

FIREARMS (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 27 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. RICHARD DALLA-RIVA (East Yarra) — The opposition supports the legislation. The bill makes a number of relevant and timely amendments to the Firearms Act. It also makes minor amendments to the Control of Weapons Act and the Magistrates' Court Act, but principally the bill has been introduced to amend the Firearms Act.

The requirements of the bill largely result from consultation with stakeholders, particularly members of the Firearms Consultative Committee, including a range of issues outlined in the firearm discussion paper issued by the Department of Justice in July 2005.

The document, of which I have a copy, refers to how the legislation came about, and at page 2 the introduction states:

> The Firearms Act 1996 … regulates the possession, carriage and use of firearms in Victoria. Victoria Police is responsible for the administration of the act.

The holding of a firearm is considered to be a unique thing to do. Drawing on my former life in the police force, even back in the 1980s and into the early 1990s it was considered of the utmost importance that anyone, including police officers, who held a firearm would do so with the strictest respect for the gun. We know there

have been issues over a period that have related to enforcement, as it were, and increasing the requirements upon those who wished to hold firearms to a stronger and higher level.

There is a view in the community about firearms in general with regard to the potential loss of life, injury or threat. I apply that not only to the use of firearms but in the general day-to-day activities where we as legislators are introducing laws, hopefully not too many, that ensure the broader community is protected.

There are occasions where the legislative requirements of the Parliament, which is reflective of the people that it represents, can extend beyond what people consider to be reasonable and proper. There is always the emotional component attached to the death of or injury to members of our community through the actions of others. This bill is a classic example relating to firearms. However, a number of years have elapsed, and the discussion paper talks about the 2002 National Handgun Control Agreement. The NHCA was implemented in Victoria in 2003 by the Firearms (Trafficking and Handgun Control) Act 2003. Handgun collectors, sporting shooters in particular, were affected by the changes. The introduction states:

> Some two years has elapsed since the introduction of these amendments. During this period a vigorous debate has continued amongst firearm users and other stakeholders concerning the nature of the changes and their perceived effectiveness, or otherwise, in ensuring appropriate regulation of handguns and combating firearm-related crime.

I know from communications with a variety of stakeholders that there has been a heavy leaning in some circumstances, or some unexpected consequence, as a result of trying to overregulate the matters in hand. The first point that comes to mind results from my direct experience of neighbours who visited my home and who were concerned about their holding of antique and historical arms.

I recall in 2003 being invited, as a new member of Parliament, by the Antique and Historical Arms Collectors Guild of Victoria to attend a collectors guild function at a hall where members of that guild proudly displayed antique firearms that had been not only handed down but were considered as part of a way of preserving some historical perspective for Australia and for other parts of the world.

It was a large meeting that was attended by other members of Parliament. When I left that meeting I had the sense that they were not gun fanatics. Many would be loathe to have discharged any of the firearms for fear of them falling apart. My view was that although the legislation had been put in place to restrict the capacity of those who had antique handguns, on reflection, together with a discussion paper, the legislative requirements imposed by the state were slightly too tough.

It is pleasing therefore that the legislation will now create a new category of licence for antique handgun collectors and will only apply to those who own and collect pre-1900 percussion handguns. I recall the debate in this house when I was concerned that pre-1900 percussion handguns had been used in the killing a police officer, but I corrected the record because it was not true. The reality is that there is no evidence of that.

The bill now limits antique handgun collectors to holding firearms that are perceived to be not of high capacity. It treats those collectors, as they should be treated, as collectors of items that are considered to be part of an important component of our history in Australia and also as part of a collectors process, although many do not see themselves as profiting from those collections. Many feel a strong and longstanding connection with firearms for a range of reasons, such as their being handed down or that they have a general love of antique firearms.

The legislation will not require fingerprinting of antique handgun collectors, and collectors will only have to install an effective alarm — in other words, a back-to-base monitoring alarm — if they store more than 15 antique handguns in any single storage location.

I seem to recall there were some quite stringent requirements for those handgun collectors, which resulted in them almost holding a facility that would make a diamond jeweller blush. The security required was far in excess of what was legitimately necessary for holding these types of handguns.

Importantly the bill will also recognise the investment value of antique handguns as a legitimate reason for issuing a category 1 firearm collectors licence. For the record, I have met people who absolutely believe that there are some people who see antique handguns as some would see shares or investments in other areas and as an appropriate way of investing their money — instead of investing it in shares they are investing it in antique handguns. From my limited understanding of that industry, I know it is quite comprehensive in terms of its capacity to make money from overseas or interstate transactions.

Another part of the bill clarifies the minimum participation requirements for handgun target shooters. I again refer to the discussion paper, which talks about

the implementation of the National Handgun Control Agreement in terms of subsequent handgun control amendments having been applied without due consideration of how they would be applied in the real world. The requirements placed onerous responsibilities on those who were undertaking minimum participation, and people who were in competitive, club-organised shoots found it difficult to comply with the requirements of the legislation post the 2003 NHCA amendments.

This legislation will result in persons using such firearms not having to be so disciplined. I know there are people in the community who see this as a slackening of the law or its requirements. It is not; it is about using commonsense in providing a legislative framework that does not place such onerous requirements on those who wish to continue to use handguns for the purpose of target shooting and making it almost impossible for them to undertake that type of sporting activity — to the point where they leave the sporting organisation or the industry. It is not the role of government to restrict something to the point where it becomes impossible to comply with the legislation. In my view that was not the intention; it is about ensuring there is a legitimate process that can be applied with commonsense and reason. That part of the bill which clarifies the minimum participation requirement for handgun target shooters should be supported.

I am sure there are many in the industry who would like to see the provisions lightened. It is incumbent on the industry itself to prove that the provisions are working and that there is no opportunity for matters to arise, as we know have arisen in the past, and come to the attention of the police. The ball really is back in the hands of the handgun target shooters. As I know many of them, I am sure they will be responsible and comply with the amendments in a very effective and proper manner.

The third part of the amendment bill relates to paintball games. As indicated earlier, it is interesting that the legislative framework, which is intended to control a certain activity, in turn promotes and provides an opportunity for some to utilise the law to engage in other activities. This a case in point. My understanding is that amendments were made which provided that those who wished to use a paintball gun could only do so if they possessed a firearm licence. That meant that those people who wanted to undertake paintball exercises — which involves the use of a gun that shoots paintball markers — previously required a category A or B longarm licence. That meant that people who just wanted to undertake this for recreation — and there are some people who do, and as a community we need to understand that — would then say, 'I now have a category A or B longarm licence; I was not intending to go and buy a .22 or a .22 magnum', or whatever else they decided on, 'but I can do that now'. That was never the intention of the legislation.

There is no doubt that paintball games can be dangerous. I have certainly been a participant in paintball activities in my — —

Ms Mikakos interjected.

Hon. RICHARD DALLA-RIVA — Not for my preselection; no, Ms Mikakos. But I undertook an extensive firearm training program before I left the police force, and recently with the Law Reform Committee I attended what we used to call the raids course, which was where officers would go into a house in a controlled environment carrying what were essentially altered police service revolvers designed to shoot paintball markers. That would be undertaken in a controlled environment. I can tell you from first-hand experience that being peppered with a paintball as the offender in these exercises is not something I took lightly. That is probably the reason why I have not taken it up since. As I said, the games are used as a bit of rest and recreation, mainly for guys who want to go out there and have a bit of a fun day. But I do not think we need to be issuing longarm category A and B licences for the purpose of having a fun day. In my view the amendment is applicable, appropriate and responsive in that by trying to establish some form of framework it does not allow for another outcome which was not intended.

My understanding from the briefing note is that there are currently five paintball operators in Victoria. It is important to note that with this amendment there is the potential for another 10 new entrants — and I support this amendment. Anyone, irrespective of their personal views about this particular activity, would support such opportunities for tourism and the like, and they should be encouraged. I know that paintball game operators are responsible and understand that it is a sport that meets the needs of a certain niche market in the broader community, and they should be supported in their endeavours.

The third part of the amendment bill also relates to restrictions on firearms used by private security guards. I must say that as a former policeman it used always to fascinate me when I went to an incident at which there was a security guard — and I know this is the old days — that the security guard would have a walloping great firearm on the side of his belt. I would think, 'Why on earth am I holding this little .38 when the

security guard' who was significantly less well trained back then 'is holding weaponry that would make the police blush?'. That is not to say that the security industry is not responsive to those needs. It is fair to say that over the years it has been responsive in terms of using firearms that are capable of offering protection to the community and security officers but not to the Dirty Harry level, where you would need at least a .44 magnum.

Police are well trained to operate .38 calibre weapons. The Police Association has talked about varying that, and I understand that is why the security industry provisions restrict semiautomatic handguns to a calibre of more than .40 inch, as is the case in other states. I also note the provision that the restriction will come into effect in July 2008, which gives a good time frame for the security industry to make the required changes.

One of the major recommendations which I support is that all firearms used in the security industry in all states should be owned by or registered to employers. Whilst police are users of firearms, they never own the firearms. They are always held in police stations. Police never take them home except under certain circumstances, such as if they are working under cover or need them for self-protection. Very stringent requirements must be met for a police officer to do that — from memory, I think the Chief Commissioner of Police or their delegate are the only people who can approve that. Even then, the firearm would not be owned by the police officer concerned; it is held and owned by the state. This bill puts the security industry in a similar position to the police force by having gun ownership controlled and regulated by the industry. That amendment is supported by the opposition.

The last part relates to new regulations restricting firearms with high-capacity detachable magazines. I understand this is due to concerns about the importation of a particular Remington rifle, model 7615, with a detachable magazine with the capacity of 20. The new provisions will limit the capacity of such longarms to 10 shots or 15 shots. The concerns are based on reports of such rifles being developed to have magazines with a capacity of 50 shots. The reality is that people who are able to use a welding machine can put as many shots as they want into a magazine and make it as long as they want. These provisions will restrict those who want to place a 50-shot cartridge into their firearm.

These regulations are a step in the right direction. We understand that shooters organisations are quite strong. The government, through the Department of Justice, has taken the right course, understanding that while in the early stage we had to have significant restrictions, we have now moved towards a more cooperative approach of looking at how much overregulating those who use firearms in their sport, profession or recreation has benefited the community.

The amendments move us in the right direction. Some shooters groups will see this bill as not going far enough in releasing them from the restrictions, or what they see as shackles around their necks. I think it is incumbent upon them in positively affecting those they represent — be they stakeholders or members — to continue to demonstrate that they are responsible people who have special needs. Let us see where it ends up, but at this stage the opposition supports the bill before the house.

Hon. P. R. HALL (Gippsland) — It is my pleasure to indicate that The Nationals will not be opposing the Firearms (Further Amendment) Bill. We acknowledge it makes some improvements to the Firearms Act. Although many in the industry or with an interest in firearms believe it does not go far enough and there are still plenty of unresolved issues — which I believe there are, and I will come to them later in my contribution — we acknowledge that it contains significant improvements to a number of areas, and we will not oppose the bill.

The Nationals spokesperson on this issue, the member for Benalla in the other place, moved an amendment that was subsequently withdrawn before it could be put to a vote. He did this because our amendment was superseded by an amendment moved by another member. We had sought to move an amendment to add another genuine reason for owning a firearm — that is, membership in an approved shooting club. However, another member had already moved an amendment to that effect so in a sensible compromise Dr Sykes withdrew our amendment and allowed the other to proceed, given that it did exactly the same thing. That was a sensible outcome.

That having been said, organisations with an interest in firearms — clubs and associations — and firearm users and dealers have concerns with the current firearm legislation, and some of those concerns are yet to be dealt with. We saw some major reforms in firearm legislation with the 1996 act and the 2003 amendments, being responses to two significant events in which firearms were used in the taking of lives. Legislation constructed in response to both of these events sought to achieve a balance between community safety and the ability of those who were licensed to do so to use firearms in a professional or recreational capacity. So that balance was sought, and I think we are going somewhere towards achieving that balance, although it

is not quite right yet. Today will see some finetuning to the Firearms Act, but I dare say in the future we will continue to see its further finetuning as some of those issues are addressed.

Basically the amendments in the bill are being made in response to a firearm discussion paper which sought to review effectiveness of firearm legislation. I want to say just one thing about that before I comment in particular on the amendments in the bill.

No legislation will ever stop the extremists in our society doing what they want to do. It is terrible that society has people like Martin Bryant and the inane madman who took the lives of students at Monash University some years ago now. We will never, ever stop those people, no matter what legislation we have. Let us acknowledge that, but let us ensure that firearm legislation regulates the use of firearms as best it can in a fair and responsible way in our communities, so that whatever we change in legislation will prevent some of those extreme events. That having been said, let me now move to the amendments in the bill.

As I said before, we acknowledge that the measures do address some of the matters raised by those with an interest in firearms, and we will not be obstructing the passage of the legislation through the Parliament. Essentially the amendments fall in about five different areas. There are a number of amendments relating to the participation requirements for handgun target shooting. There are amendments relating to the collection of antique handguns. There are also amendments relating to the paintball gaming industry. There are some amendments regarding firearms in the security industry. And there are also amendments relating to the high-capacity detachable magazines. Upon reviewing each of those amendments, we do not have any major concerns with them. I will make a couple of comments about each of those areas.

Essentially the amendments relating to handgun target shooting clarify the participation requirements for those who own a handgun. I understand, by way of example, that the current requirement of a minimum six competitive shoots per year that people are required to attend, or four for each handgun if multiple licences are held, does not change, but there are a few amendments which will mean, for example, that if there is a three-day event, that will now count as three rather than one single participation requirement. I should say that the minimum participation requirements do not apply to those who do not own a handgun, and I think quite a few people who do not own their own handgun do participate at some club events with club-owned handguns or indeed are out there to try out a handgun for the first time.

In the area of antique handguns, essentially the amendments alter the conditions relating to collectors of pre-1900 percussion handguns. There will now be a special licence for pre-1900 handgun collectors. They will not have to submit fingerprints for this category of licence, and they will not have to install an alarm system if the collection is less than 15 pre-1900 handguns. That makes sense because with today's technology and in today's society, pre-1900 handguns pose a very minimal risk, if any at all; so I think it is perfectly reasonable to relax the requirements on those who collect pre-1900 percussion handguns.

In the paintball gaming industry there will be a new class of licence if you want to purchase a paintball marker; and to participate you will no longer need to have a firearm licence. This was a particular point of concern for those involved in the paintball industry when legislation was enacted that required all participants in a game of paintball to actually be firearm licence-holders. That certainly limited the number of people could participate in that form of recreation, so the amendments in this bill are very sensible ones that have been worked through with the paintball industry.

I note also that the paintball operators will be subject to new licensing conditions developed by regulations, and again I am assured that the paintball industry itself will be involved in the development of those regulations.

In terms of the security industry, handguns that are used in this industry will now need to be owned by or registered in the name of the employer rather than the employee, and there will be restrictions on the calibre of handguns used in the security industry. There are also some amendments in the area of high-capacity detachable magazines. There will be a general restriction on magazine capacity to 10 or 15 rounds, depending on the type and the action of the firearm. I think this particular issue has been worked through and a sensible solution has been found. When I say 'worked through', I am talking in particular about the work of the Firearms Consultative Committee.

At this point I want to give the government credit for re-establishing that committee, as I believe it is a necessary organisation before which legitimate people can air and work through some of the concerns they have with firearm legislation. My understanding from talking to people who have been involved with the Firearms Consultative Committee is that that forum is working, and it is appropriate that changes to firearm legislation are discussed by members of the Firearms

Consultative Committee so that we get a consensus view on these issues. I think that is a very practical measure and I am pleased to endorse that.

I suppose it is one of the reasons why, when amendments to firearm legislation are considered by opposition parties — and certainly my colleague the Honourable Barry Bishop has suggested we could look towards further amendments to the firearm legislation — I do think it is important that any proposed amendments are at least flagged with members of the consultative committee; and it is best if a consensus view can be reached with them. I will come back to that issue because I want to talk in particular about some of the issues raised with my colleague the Honourable Barry Bishop and also some issues that have been raised by the Combined Firearms Council of Victoria in a memo to members of Parliament earlier this year.

In response to the current legislation, we in The Nationals, as we always do, went out and spoke to a number of different organisations and asked for their feedback on the proposed legislation, and we certainly got some good feedback. One of the organisations we consulted was the Australian Deer Association, and it expressed some views about this bill. One of the views it expressed was that a genuine reason for owning a category A or B firearm should be membership of an approved shooting organisation. We agree to this extent: that it should be an additional criterion, not a sole criterion, to the reason for owning a category A or B firearm licence.

There are a couple of other issues not related to this bill but which relate to firearms that need to be addressed. One is the permission to hunt on public land which is leased to other people or other organisations. The Australian Deer Association has raised with The Nationals the dilemma associated with, for example, mountain cattle grazing leases, where the licence for the grazing of those cattle is for only a limited period of the year, and yet the way the law stands at the moment the person who wants to hunt on licensed land has to get the permission of the licensee in those circumstances, even if the licensee is not using the land for that period of time.

I think there is a real issue there. I have raised it in this chamber before and I think there is an acknowledgement by the government that this needs to be worked through. Today I simply ask that there be some action on that particular matter, and I look forward to hearing back from the government. I raised this on the adjournment earlier this year and still have not had a response but I look forward to getting one in the very near future. I hope that is forthcoming.

The Australian Deer Association also raised the issue of having a trial balloted hunt for hog deer on Snake Island. This is not part of the bill; indeed, it is not part of the firearm legislation. However, it is part of a policy issue relating to recreational hunting which needs to be considered by the government. I think it is time that issue was looked at again.

We also had some feedback from the Victorian Deer Association, which is different from the Australian Deer Association — they are two different organisations. It supported the membership of an approved shooting club as a genuine reason for owning a firearm for hunting. I repeat: we support that being an additional criteria for a firearm licence but not it being the sole criterion by any means at all.

We also had some contact with the Victorian Amateur Pistol Association. It is generally happy with the bill but still says there is a fair bit of work to be done in simplifying in particular some of the reporting requirements for handgun clubs. I think there is an acknowledgment of that. My discussion with members of the Firearms Consultative Committee suggests that that is on the agenda. I hope there can be some simplification of those reporting procedures in the near future.

We have also had some discussions with the Victorian Field and Game Association and in particular its chief executive, Rod Drew. Again, they endorse the sense in having membership of an approved shooting organisation as an additional criterion for having a category A or B firearm licence. My previous comments are relative to that. They also express some concern about the reporting requirements for attendance at club shoots; I have mentioned that. Further, they make comment about the difficulties faced by members of their organisation who wish to hunt on licensed land in preference to lease land. That is an issue I spoke about in relation to the Australian Deer Association and which needs to be resolved.

The Sporting Shooters Association of Australia (SSAA) has had a fair bit to say about this legislation. I can report that the feedback we have received is that generally they are in favour of the way the legislation is framed. However, they make the point that a large number of unaddressed issues need to be considered, particularly the issue of intervention orders. This is a complex issue, and I will not go into it in any great detail in this contribution. However, the fact is that you can become a prohibited person if you have an

intervention order against you for some reason, and it need not be related in any way to firearm use. This is an issue that needs to be addressed. Having raised this at the briefings we have had on the bill, I know it is acknowledged that this issue needs to be worked through. I suggest again that this should probably be done through the Firearms Consultative Committee and hopefully some sort of resolution to that complex issue can be arrived at.

The SSAA also made some comments about the reporting requirements for the participation of handgun users. The informal feedback I have is that the government is prepared to work on that and see if there are ways to streamline those reporting requirements. The SSAA was happy to support an additional criterion for a reason to have a category A or B firearm licence being membership of an approved shooting organisation.

We also had some contact with the SSAA Arms and Militaria Collectors Guild in Mildura. My colleague the Honourable Barry Bishop will make some comments about the particular situation up there. They have pointed out some border anomalies in respect to the collection and display of firearms. We have also had some contact with the Ballarat Arms and Militaria Collectors Society, which pointed out some similar concerns its members have about the onerous requirements being placed on antique collectors. These concerns are being addressed in part with the amendments to the collectors section of the legislation but they also have some concerns about the display of firearms.

We have had contact with the police about this legislation. They agree that it is an improvement. We believe they still have some resourcing problems in terms of administering the Firearms Act — renewing licences and getting licence applications dealt with expeditiously. I think the government should be looking at putting more resources into that area so licence renewals and initial applications can be dealt with more expeditiously. We have also heard from a number of individuals on this particular matter. I will not go through all the concerns expressed by them.

There are a number of issues which have not been addressed. I have mentioned some of them in passing. Earlier this year members of Parliament may have received a 'parliamentary briefing note' dated autumn 2005 from the Combined Firearms Council of Victoria. I want to commend the Combined Firearms Council of Victoria because its members have put their heads together. A number of organisations with an interest in firearms have gotten together and become a lobby group for the rights of people to use their firearms in a responsible manner. In their briefing note they raised the issue of difficulties with people meeting the handgun attendance requirements. These are partly addressed in this bill but the council raised the issue of hospitalisation — if a member is in hospital for a period of time, they may not be able to satisfy the attendance requirements. One of the individuals we spoke to about this bill was a young lady who said you can get a 12-month exemption only once. A lady who is a keen handgun shooter might seek a 12-month exemption a number of times while she is having children and we are not sure if that is possible under the current law. These are issues which can be appropriately dealt with through the Firearms Consultative Council and should be looked at and worked through.

One of the unresolved issues in relation to firearm legislation is the compensation for gun dealers from the handgun buyback. Dominique and Phillip Spry from near Warragul in my electorate are handgun dealers and they have not been compensated for the loss incurred by their business as a result of the handgun reforms introduced in 2003. I have had significant contact with them over a period of years now and they remain frustrated with their inability to receive any compensation for their loss of business opportunities because of the legislation that went through Parliament. Interestingly, when restrictions were placed on the use of longarms, dealers received compensation through the national agreement. However, there was no agreement to compensate handgun dealers. I think that is an anomaly which needs to be addressed.

A number of other issues were raised in that autumn parliamentary briefing note from the Combined Firearms Council of Victoria. These issues related to visitors and the limits being placed on visitors who come and try out sports in shooting. They make the comment that there is a limit of three visits on the number of times a person can come and try out handgun shooting and there is no sunset provision in that so one could read it as three times in a lifetime or three times in a year — we are not sure because there is no specified time frame. They also talk about the two-yearly inspections required of private pistol storage facilities. They think there should certainly be initial inspection but there does not need to be one every two years thereafter. Compensation for gun dealers — I have spoken about that. They had some concerns about the development of shooting facilities for the 2006 Commonwealth Games. I am not sure how they are developing now but it would be interesting if a member of the government wanted to comment about the readiness of the firearm facilities for the 2006 Commonwealth Games. They also made mention of the

condition for a genuine reason for use when applying for a licence being membership of an approved shooting organisation.

The last point I want to make is about the border issues, which I know will be spoken of by my colleague the Honourable Barry Bishop. No matter what subject you look at when you are living on the border in Mildura there are always anomalies in licence conditions and other arrangements between the states that affect the way you can do things. The use of firearms is no different, and I know Mr Bishop has been approached by people in his electorate who have pointed out some of the border anomalies in respect of firearms use. There are anomalies in respect of practice events — the ability to practise for events in both Victoria and New South Wales. Those people believe there are restrictions imposed upon Victorian licence-holders who wish to practise in New South Wales and vice versa. There are also issues about instructors, which means that if you are a licensed Victorian instructor you cannot instruct in New South Wales and vice versa. There are also border anomaly issues relating to collectors — the inability to display collections in New South Wales if you hold a Victorian collectors licence and vice versa.

There are a number of issues associated with this. Mr Bishop has raised them with the government. Today we have received some detailed responses back from the government, which I appreciate and which will help us to respond to those people. The way I read those responses — and I have only had a chance to quickly read through them — is that practice is allowed. I am not sure whether it is allowed by legislation or through policies adopted by Victoria Police. Feedback from the government is that people who wish to participate in a target shooting event in Victoria may come and practise for that event. There were some concerns about the legality of people from interstate and overseas coming to Melbourne and practising before their Commonwealth Games shooting events. The advice I have received — and I need to read it in more detail — is that Victorian and New South Wales police do not stop people from interstate practising for a forthcoming event, but we will look at those answers in more detail.

The answers in respect to instructors say that the Victorian government does not recognise a New South Wales instructors licence and vice versa. My understanding is that if you hold an instructors licence in Victoria you cannot go and instruct in firearm safety or other firearm matters in New South Wales. If we are truly serious about national competition policy and reducing border anomalies, this area needs to be looked at closely. It is the same with collectors. The answers from government today verify that if you hold a Victorian collectors licence that does not enable you to display in New South Wales and vice versa. That seems to me to not be the best arrangement and some more practical arrangements should be possible. That is potted summary of the answers provided by government today. As I said, I am grateful that they have at least been tabled for us. We certainly have not had the time to pursue those issues by way of proposing amendments, but we have a great deal of sympathy for the views expressed by the people who came to see Mr Bishop. I can say to them — and he will reiterate this — that they have our full support in trying to get some of those issues resolved.

Having said all that, let me finish by saying that we are not opposing this bill. We acknowledge that it brings about some improvements to existing firearm legislation, but we also say there are still of lot of issues that need to be addressed. I again welcome the fact that the Firearms Consultative Committee has been established and is working through some of these issues. I think it has a fair bit of work ahead of it to address some of the many issues that are still being raised with members of The Nationals.

Finally, I would like to add — and maybe I should have said this at the start — that as to shooting organisations, I am a member of the Victorian Field and Game Association, although I do not actively shoot. I do not hold a firearm licence, but I support what the members do. That being said, on Friday of this week I will happily go out to Lilydale to the Melbourne Gun Club and participate. I will accept the invitation extended by the organisation for politicians to try out their skills at trap shooting. I am looking forward to that. I went last year and disgraced myself. I intend to do better this time around — —

An honourable member — Is Don Nardella going to be there?

Hon. P. R. HALL — No, Don Nardella, the member for Melton in the other place, is going to be banned. He was the champion last year. I am looking forward to that. Most of all, however, I am looking forward to catching up with a number of people — —

An honourable member interjected.

Hon. P. R. HALL — Yes, you are allowed to practice shoot with a visitors permit. There were more people from the Labor Party than from any other party out there last year. Most of all, as I said, I am looking forward to catching up with a number of people who

are connected with shooting organisations and who I consider to be friends of mine.

Ms MIKAKOS (Jika Jika) — I am very pleased to rise and speak in support of the Firearms (Further Amendment) Bill. At the outset I indicate the government's appreciation of the support of the opposition and The Nationals for this bill. By way of background it is important to note that the Firearms Act regulates the possession, carriage and use of firearms in Victoria through a number of mechanisms relating to the establishment of a firearm register, the creation of a system of licensing of firearm owners and uses and the setting of conditions for the secure carriage and storage of firearms. A lot of these conditions and requirements have been put in place through the auspices of the Council of Australian Governments to try to achieve as much national uniformity as possible.

It is through national agreements such as the National Handgun Control Agreement 2002 that state and territory governments have adopted a broadly consistent national approach to the regulation of firearms; that is highly desirable when we are talking about firearms. Members may recall the tragic case in October 2002 of a gunman opening fire on students at Monash University; he killed two and injured a number of other students. Those shootings were perpetrated by an individual who was licensed to possess handguns.

It is important that we acknowledge, even though the licensing and regulation of handguns does not necessarily prevent such tragedies from taking place, that as a result of this particular tragedy there was a greater call by members of the community to tighten up the controls on the possession and use of handguns to minimise the potential risk of such tragedies occurring in the future. That led to the National Handgun Control Agreement that I mentioned earlier and to the implementation of a range of legislative changes in Victoria through the Firearms (Trafficking and Handgun Control) Act 2003; it made extensive changes to the legislative requirements imposed on both handgun collectors and sporting shooters.

It is in that context and in giving that background that we now have this bill, two years down the track and following considerable debate among various stakeholders, including firearm users, and following the operation of the legislation for approximately two years.

The Bracks government is committed to a regulatory approach to firearms consistent with the national agreement on firearms as an essential means of ensuring community safety. It has liaised extensively with various stakeholders such as firearm users, firearm collectors and many other stakeholders, including Victoria Police. These groups, together with the Department of Justice, identified a range of issues concerning the operation of the legislation.

The Department of Justice prepared a detailed discussion paper in June 2005 on these issues and sought submissions from a range of stakeholders and the public on proposed changes to the legislation. Submissions were received by members of the recently established Victorian Firearms Consultative Committee. Members of the committee include Field and Game Australia, Victorian Amateur Pistol Association, Firearms Traders Association of Victoria, Shooting Sports Council of Victoria, Sporting Shooters Association of Australia (Victoria), Victorian Clay Target Association, Target Rifle Victoria, Victorian Farmers Federation, Law Institute of Victoria, the Police Association, Royal Australasian College of Surgeons, Australian Security Industry Associated, and the University of Melbourne criminology department. That is a broad range of stakeholders involved on the consultative committee. The bill being debated today is a result of the close collaboration between the government, the Victorian Firearms Consultative Committee, Victoria Police and other firearm stakeholders.

I place on record the government's thanks to members of the consultative committee for the work they put into developing the proposals in the bill and acknowledge the work that has been done by the staff of the Department of Justice in preparing the detailed discussion paper that was circulated in the community.

I note at this point that I do not believe The Nationals put in a submission during the consultation process about their concerns, although I stand to be corrected by Mr Bishop when he makes his contribution. However, stakeholders did make broad-ranging submissions and had input during the extensive consultation that occurred when the discussion paper was publicly available.

The bill contains a number of practical amendments to make Victoria's firearm laws work more effectively. They enshrine the principles of maximising community safety and ensuring we have a workable and effective firearm regime in this state. Most of the proposed amendments are technical in nature but it is important to stress that the bill does not in any way dilute the existing laws as they relate to a firm regulatory approach to firearms and their availability in our state. I also point out that the changes being made are compliant with the National Handgun Control

Agreement, because as I said at the outset, it is absolutely vital that we seek to achieve national uniformity as much as is possible in the course of adopting a national approach to firearm regulation.

The bill makes a number of changes so that paintball gaming participants who do not wish to acquire a paintball marker no longer need to obtain a category A firearm licence so as to play paintball. The existing requirement that was implemented during the Kennett years resulted in more people having gun licences in the community than would otherwise be the case. The proposed amendments will align Victoria's industry to those operating in other jurisdictions. It will ensure that Victorian paintball operators can compete on a level playing field with interstate operators who, to date, have been unfairly advantaged by the requirement for all Victorian paintball participants to obtain a firearm licence to play a match.

The creation of a separate category of licence for paintball players who wish to acquire their own paintball markers will also ensure that paintball players cannot, under any circumstances, gain access to real firearms by obtaining a firearm licence to participate only in paintball games.

In relation to the provisions relating to antique handgun collectors, I note the bill creates a new category of collectors licence for collectors of antique — that is, pre-1900 — handguns. Under the National Handgun Control Act, most antique handguns are required to be registered. For many collectors these requirements can be onerous. The new licence provisions are less onerous in line with a lower risk posed to the community from antique firearms. Collectors will not need to install monitored alarms for greater than five antique handguns as currently provided for in the act. Collectors will now need to have effective alarms installed if they hold more than 15 guns. Display conditions will be relaxed so that collectors will not need a display permit from the chief commissioner but will need to take the appropriate security precautions that I have outlined.

The bill makes a number changes to the regulation of firearms in the private security industry. These amendments implement most of the June 2004 resolutions of the Australasian Police Ministers Council with the exception of those resolutions on the storage of firearms in the security industry. The police ministers council's resolution represented a national approach to the use and possession of firearms by the private security industry and was prompted, in part, by a number of recent thefts of firearms from private security firms in New South Wales. The council is currently reviewing the storage requirements for all firearm owners and the Bracks government will consider the remaining resolution on this issue once the review has been completed.

The effect of these changes is that guns used in the private security industry cannot be bigger and better than those used by police, and the ammunition used by the security industry will have to be mass produced and commercially available.

The bill also makes some changes or clarifications to the minimum participation requirements for handgun target shooters. At the moment all handgun target shooter licensees are required to compete in at least six matches as a competitor. The substantive change in this area is to exempt handgun target shooting licensees who do not own handguns from the minimum participation requirements. This change recognises that if you do not own a handgun, and therefore cannot take a gun away from a range, you represent less of a community risk. The change benefits older shooters in particular who no longer wish to compete or own handguns but who wish to retain their licences so that they can officiate in club competitions. This again is consistent with the national handgun control agreement and also is the same as the provisions in Queensland.

Currently an individual can undergo three club-supervised tryouts over the space of a lifetime without taking out a firearm licence. The bill seeks to lift the number of times an individual can undertake a club-supervised tryout by recognising that three is an artificial restriction that serves no obvious purpose. The bill seeks to impose a new limit of 10 trial shoots that will ensure that individuals are not able to continue trial shooting indefinitely without obtaining a firearm licence.

The final amendment I want to refer to relates to changes to high-capacity detachable magazines. The bill makes changes to the regulation of the use, possession and carriage of high-capacity detachable magazines in combination with certain longarm firearms. The bill will implement a recent national agreement on the regulation of centre-fire rifles designed to accept high-capacity detachable magazines. This represents an important response to recent developments in firearm technology that have resulted in certain centre-fire rifles designed to function with high-capacity detachable magazines becoming widely available to sporting shooters and recreational hunters. High capacity is regarded as generally being of 20 or more rounds. These firearms, when used in combination with high-capacity detachable magazines, are designed as a tactical police weapon capable of

delivering a very high rate of accurate, sustained fire with current military ammunition used by the North Atlantic Treaty Organisation.

It is highly inappropriate that such firearms, in combination with high-capacity detachable magazines, are available to sporting shooters and recreational hunters here in our state, and I think it highly desirable that this amendment be made to the legislation. Of course the use of these firearms will remain open to any licensee who can demonstrate to the satisfaction of the Chief Commissioner of Police that he or she requires that firearm for participation in target shooting competition approved by the chief commissioner, and this is to ensure that legitimate sporting shooters who can demonstrate a genuine need are not disadvantaged by this change.

In relation to the comments that have been raised by The Nationals, as I indicated my understanding is that they did not make a submission when the discussion paper was publicly circulated. The Nationals have sought to raise a number of issues during the course of this debate and time does not permit me to go through those issues in great detail. But Mr Hall made a number of comments in relation to shooting competitions and cross-border anomalies. I understand it is possible for the holder of an interstate category licence to participate in a shooting competition in this state. In addition Victoria Police allow interstate handgun target shooters to practise on Victorian shooting ranges if they hold a valid current handgun target shooting licence issued in another jurisdiction. Interstate shooters are specifically authorised to compete in competitions in Victoria if they hold a current licence, and this is a policy that has been undertaken by Victoria Police.

In relation to coaching participants, again Victoria Police does allow interstate licensees seeking to coach in Victoria for competition purposes to be treated in the same manner as interstate licensees seeking to practise in Victoria for sport target shooting purposes. It is important for The Nationals to appreciate that some of these cross-border anomalies are in fact able to be addressed through the practices and policies of Victoria Police. It is important that we have national uniformity as much as is possible. The changes that The Nationals would be suggesting could possibly put the national handgun agreement in jeopardy. We need to have provisions that are mutually recognised across jurisdictions to address these cross-border anomalies that The Nationals are referring to.

In conclusion, I commend the bill to the house. It is an important set of amendments —

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

Hon. R. H. BOWDEN (South Eastern) — I rise to make my contribution to the debate on the Firearms (Further Amendment) Bill. This bill is welcomed because its amendments to the current legislation are helpful in many ways to thousands of individuals in clubs throughout Victoria who come under the different categories that are referred to in this bill. The bill contains sensible amendments and logical and helpful provisions for the various categories of users and the organisations which are connected with the responsible use of firearms in this state. I believe and understand that honourable members will support the principles of responsible gun ownership that are contained in this legislation. The pendulum effect of the legislation over a long period of time is quite interesting to observe.

In recent years in Tasmania and Victoria there have been some very sad and tragic incidents which have given rise — and justifiably so — to the need to examine and put in place strong legislation to control firearms. The community was rightly concerned that that legislation was put in place at the time and maintained through a careful register and process to ensure that the principle of responsible gun ownership is kept in a good mode.

Not long after legislative machinery was developed there were unfortunate circumstances from the reaction to those sad events when one of the well-known RSL clubs was in danger of being prosecuted for having an anti-aircraft gun on display, but which could not be fired because there was no ammunition. Some bureaucratic person was making life very uncomfortable for that particular RSL club, but I could not imagine it would have adopted any unacceptable use of an antique and wartime anti-aircraft gun in the forecourt of its premises; it was meant to be part of an honourable memorial to our service men and women.

Also, I subscribe to the not-happy expectation that criminals will have their guns but certainly will not be taking out licences. I work on the premise that licences are held in the overwhelming number of circumstances by honest people. No amount of licensing, no tough regime and no overregulation will take guns off criminals who will not take out licences for their guns, and often those guns are the ones we certainly do not want to be used in the community.

It is a naive expectation of those in the community who want to ban all guns all the time everywhere, and there are people who vocally push that case, and in some

instances never stop their pushing. They are always ready to make noisy and loud complaints about any incident involving a gun. Those people are naive, because it is not possible to legislate firearms out of this community. I believe it is important that the bureaucracy understands that responsible gun ownership is a sensible and viable proposal for our community, and that to overregulate and unnecessarily complicate regulations is not supportable.

Having said that, I believe it is a very good thing indeed that the Firearms Consultative Committee has been reconstituted and is in place, because over a considerable time that committee will give good advice to the administration, to the community and the government; and it will be helpful with the myriad issues that are contained in the administration of firearms and their control.

I am concerned and have had complaints made at my electorate office over recent years by responsible constituents about the high cost of and difficulty in making applications and the complexity of the application process. Apparently the application form for an ordinary shooters licence is not a simple one; it is complex and is getting more so. I suggest that the government and the people in its supporting bureaucracy try to simplify its form. I also suggest that we need to be mindful of the costs to the community of regulation, to look at the inspection costs and the costs of applying these regulations.

About five or six years ago I visited Orlando, Florida in the United States of America. I went to a part of the city where there was a gun range. The public could go in, and for a very small fee once you had provided your identification you could try out any number of guns; they were all there under the counter. There were some high-powered guns and machine guns, and I found that to be most interesting. I am not proposing that situation should apply in Victoria, but it is interesting that in Florida at that time, and it is probably still the case, you could look at and, under the right circumstances and controlled circumstances, could actually operate different firearms.

I think our system is sensible and conservative and, under our present circumstances, is quite supportable. However, I would like clarification in the future about the fingerprinting process that goes with applications for firearms. It is my understanding that when one applies for a firearm licence in Victoria, fingerprinting is part of that process. That is not a problem — it is a sensible provision — but I believe that once the licence is no longer required and has been surrendered, those fingerprints should be destroyed.

I have been advised — and I do not have confirmation of this — that copies of fingerprints taken in Victoria are held in a registry in New South Wales. Whilst those fingerprints may be destroyed in Victoria, they are not destroyed in New South Wales. I would like confirmation of that, because it becomes quite a concern if New South Wales is holding a set of fingerprints of Victorian licence-holders whose licences are no longer valid. I would rather not have to raise that matter in Parliament formally, so I would appreciate someone from the department advising me whether sets of Victorian fingerprints are retained or held in New South Wales.

The prohibition on non-lethal is an interesting category that the Firearms Consultative Committee could look at. They are known in one trade name as tazers or electrical stun-guns. In some circumstances it may be helpful for the authorities to take a cautious, conservative and studied approach to the use of non-lethal weapons in the security industry, and perhaps under certain circumstances by Victoria Police. I believe they are under evaluation by Victoria Police. I think that category is potentially helpful and useful in relation to firearms. If the use of non-lethal weapons can be justified and is sensible, then in principle it could be helpful to our community.

The bill is quite diverse and covers several classifications. It helps to remove an unnecessary restriction on handgun target shooters and their clubs. The requirement that licences be held by all members of a club has been a bit onerous. That will now change so that non-owners of handguns will be exempt and will no longer have to comply with the minimum participation requirements. This will assist the clubs in maintaining their membership and structure, and it will give a degree of flexibility.

Also it will be good and helpful to free up the definition of what constitutes a shooting day so that a shoot with multiple days involved will be a multiple credit situation to the minimum participation requirement. It certainly will make it easier for the well-regarded target shooters community to be able to carry out their legitimate activities with less onerous regulation.

The provision in the bill about paintball gaming is a good move. With the passage of this legislation it will no longer be necessary for participants in paintball games to be licensed and be licence-holders. It makes us competitive with other jurisdictions, but the original reason for bringing that in was overregulation. It is quite ironic that at the same time that original legislation came in, huge posters with policemen

pointing radar guns at the public were on display. The objection is that guns should not be aimed at people.

I am pleased to see the introduction of the paintball section of the legislation. It is constructive and helpful, and it brings a sense of balance back to the exercise. Casual unlicensed players will have to undertake the necessary training and safety precautions. Paintball markers will require registration and those wishing to own them will have to be licensed, which is reasonable given the nature of the equipment. The encouragement that will give to broadening the recreational activities carried out in paintball enterprises is supportable. Paintball is no longer the fearsome thing that people had in their minds, say, 10 years ago.

The other aspects of the bill that are interesting relate to the private security industry. The calibre of firearms that security guards can carry must be no more than the calibre of those the police carry. I am puzzled by this. I can understand it, and it sounds all right, but the question that arises is why. I cannot imagine why the police would be nervous about a security guard having a bigger calibre weapon. Are police expecting shootouts with security guards? I do not think that is a sensible provision, but I have no objection to it. I wonder whether that provision is out of kilter with other jurisdictions because it raises the question of why. It will be unfortunate if from time to time security guards are accosted by criminals and there are weapons stolen, so maybe that is the logic. I do not feel strongly about the provision, which is supportable.

The use of high-capacity detachable magazines is an important inclusion in the bill, and it is supportable. New technologies and designs are coming forward, and we must ensure that the legislation is in sync with the needs for and the uses of those weapons. This is supportable legislation, but it by no means covers the issues that need to be covered. With those words I indicate my support for the bill.

Sitting suspended 6.25 p.m. until 8.02 p.m.

Hon. B. W. BISHOP (North Western) — I will speak briefly on the Firearms (Further Amendment) Bill on behalf of The Nationals. I will not speak on the areas other members have spoken on but will bring up issues that have been brought to my attention in the Sunraysia area. Ms Mikakos raised the issue of why The Nationals did not make a submission. I remind Ms Mikakos that one of the reasons The Nationals work so well is that we have a consultative process, particularly in the firearm area. In this case we are responding to our constituents, which we think is the way we should operate.

The constituents in this area are practical people. They are sporting shooters and collectors who are interested in guns and their good management. What they touched on particularly in the views they put to The Nationals was the issue of interstate movement — as the Commonwealth Games are coming up they also touched on international movement — of people and guns for sporting and collecting activities and for instruction. I congratulate those groups on the work they have done in putting the process together. They spent a lot of time and effort in doing that, and I would like to put on the public record my appreciation of their efforts.

We took these views to the firearm area of the Department of Justice. I would like to thank the department, particularly Marisa De Cicco, who provided a response which I will deal with later in my contribution. The department said it would work through the issues that we raised on behalf of our constituents.

We then discussed the matter at our party meeting. We wanted to make the point that we required a more national approach to Victorian and Australian gun laws. We have always had the view that these laws should be national. We find that they are not national; they do not work across borders as well as we would like. We have protocols that we adhere to when working through complex issues such as this, particularly with people such as those on the Firearms Consultative Committee — and we in The Nationals are delighted to see it reinstated and back on deck again. We will be working with them on some of the outstanding issues we have in this particular area.

The other issue, of course, is simply that we were a bit rushed and did not have the time to put forward any amendments to the bill. But we would not have done that anyway because we would have wanted to consult with the people in the industry, such as those on the Firearms Consultative Committee and many others. We made a decision to raise the issue here today. Just a few minutes before my colleague the Honourable Peter Hall got up to speak, the department paper came back to us. That has not given us a lot of time to respond to it, as the house would appreciate, particularly with the rules of speaking in this place now where the second speaker gets only 15 minutes. That does not give us an opportunity to do justice to the good work by the people in the Sunraysia area and also the department, and that is unfortunate. In fact, I think one of the issues the Standing Orders Committee will look at in its discussions is ensuring that this house gets the opportunity to fully debate issues.

However, with the limited time available let me go to the paper which was sent back to us from the department. Again I put on the record our appreciation for its work in that regard. I would dearly love to read onto the record the work the group in Sunraysia did, because it did a lot of work. In fact, it presented 15 suggestions to make the system work better than it does now. I will go through them as well as I can in the time I have at my disposal.

The first thing the group suggested was that there be a recognition of an interstate permit as well as an interstate licence.

The response to that from the government, or the department, was that:

> The National Firearms Agreement only allows for mutual recognition of interstate licences — recognition of permits would be inconsistent with that agreement.

I must say I find that rather strange, because we do have mutual recognition and we have the same things on each side of the river — in this case — in New South Wales and Victoria. I just wonder how it gets those sorts of inconsistencies. However, that is something we will need to pick up again. We would again suggest a much more national approach to this issue.

Another suggestion the group put forward was that we need to recognise the holder of an interstate category licence to allow participation in a shooting competition which is conducted by an approved club or organisation. The response back from the department was that:

> This is already authorised by the legislation.

Quite clearly that has tidied up the issue for the people we represent.

Another suggestion the group brought forward was for the recognition of an interstate licence to allow for handguns to be used in a practice shoot for the purposes of preparation for participation in an approved handgun target shooting match. I am now talking about the issue of practising, of course. I might say that The Nationals think there are four major issues. One of them is practising, another is coaching, another is instructing and the other is collecting. In relation to the practising issue, the response states that:

> Victoria Police advises that it allows handgun target shooters to practise on Victorian shooting ranges if they hold a valid, current handgun target shooting licence issued in another jurisdiction.

Without going through and reading it all, that suggests that it is allowed.

Another suggestion put forward is that there be a recognition of an interstate licence to allow that sort of action in relation to longarms as well. The response from the department and the government is that longarms are treated the same and that is allowable.

Another issue, and suggestion the group put forward, is that we recognise an interstate licence to coach participants preparing for or competing in recognised longarm or approved handgun target shooting matches. That is the coaching bit. The response was that:

> … this activity is permitted under the mutual recognition provision relating to participation by interstate sport-target shooting licensees in shooting competitions in Victoria.

Mutual recognition allows that, but it does not allow the recognition of permits.

Then we come to the instructor bit, which is a real pain in the neck for people who live on the borders. The group suggested that we recognise an interstate licence to allow the licence-holders to conduct an approved recreational firearm safety course as an instructor authorised by the Chief Commissioner of Police. The response to that was that:

> It is not appropriate to allow interstate instructors who may not meet the requisite Victorian training standards to instruct in Victoria on the basis of their interstate qualifications alone.

Again, why do we not have some decent national rules that we can all live within? A lot of words are given by the department in answer to this particular issue, but the basis is that it is not allowed.

A further suggestion by the group was that people be allowed to take part, as an instructor, in an approved security industry firearm course. That is brought to my attention many times by people who live along the border. Again, the same answer is applied. The department says that:

> The comments in paragraph 6 above in relation to interstate licensees conducting Victorian safety training courses for recreational firearm use apply equally to the conduct of security guard training.

Again there is a lack of national recognition in relation to our gun rules.

I will skip through a number of them and refer to the twelfth suggestion by the group, which was to introduce a scheme for the recognition of interstate firearm collectors and cartridge ammunition collectors licences for the purpose of participating in displays in Victoria. That is the collectors side of the business. The response to that was pretty disappointing. The department said that:

> Victoria Police does not recognise display permits issued in other jurisdictions.
>
> The Victoria Police licensing services division has informally advised the department that, to its knowledge, it is also the case that display permits issued in Victoria are not recognised in other jurisdictions.
>
> It is therefore not appropriate to make the suggested change to the act.

That is a pretty head-in-the-sand attitude, I would have thought, and I suspect that the group I am representing will certainly want to come back on and debate that issue. Hopefully that might also be picked up by our Firearms Consultative Committee to ensure that that gets decent debate.

Another issue the group was concerned about is overseas persons. I suspect it was really considering the Commonwealth Games. It suggested that there be exemptions to the calibre, barrel length and magazine size restrictions set out in section 7A of the act available for overseas licensees visiting Victoria. The response to that was that:

> It is inappropriate to allow overseas competitors a full exemption from the restrictions on the use and availability of certain handguns agreed on in the National Handgun Control Agreement when domestic shooters must abide by these restrictions. The act allows shooters to apply to the chief commissioner for an authorisation to use a prohibited handgun. The calibre size, barrel length and magazine size restrictions do not apply to metallic silhouette or western single action events.

The last suggestion — for the creation of a new category of collectors licences for juniors aged 12 to 18 — was not accepted by the department. Its response says:

> The act enables the issue of junior licences for category A or B longarms or handguns for the specific purposes only of:
>
> > receiving instruction in the use of such firearms; or
> >
> > engaging in sport or target shooting.

It goes on to further discuss that issue. I am sure the group will wish to pick up that issue with the department, as well as looking to the Firearms Consultative Committee to act on its behalf.

To conclude the brief contribution I have been able to make tonight, I thank the department for its prompt action. It had to work quite hard to provide a response document; I do not agree with all its responses, but I thank it for its work. I also thank the group in Sunraysia for the effort it has put in; it has done quite a professional job in raising the issues.

The Nationals know this is a complex issue, and it is made doubly complex by the issue of living and working across state borders. We see this time and again with cross-border anomalies. This was an honest attempt to put suggestions to the department by a group of practical people who understand and care for firearms. They want to look after their firearms and the people in the industry. As I said, they are rank-and-file people. They come from various backgrounds — be they sporting shooters, collectors or instructors. They were simply trying to put forward a practical way to ensure that their sport — the collecting and practising — could be done without too much red tape. I am sure that their efforts will be recognised, and not only as they have been put on record in the Parliament.

As I said earlier, I would have dearly loved to have put on the record all that the group did, but I do not have that opportunity due to the time restraints imposed now. The work it has done is now in the department's hands and will be picked up by other groups. I am sure the issues on which it still has some concerns can be addressed in the future through cooperation. Again I commend the department and the group that brought these issues to the attention of The Nationals for the work they have done. We do not oppose the bill.

Hon. KAYE DARVENIZA (Melbourne West) — I speak in support of the Firearms (Further Amendment) Bill. My parliamentary colleague Ms Mikakos has already gone through the bill in some detail, and a number of speakers on the opposition side have already covered many aspects of the bill in some detail, so I will be brief.

This bill is very much based on the principles of maximising community safety and ensuring a commonsense approach to firearm regulation. Many members from the country or who grew up in the country have used firearms or have family members who use firearms, so we know that by far and away the majority of people involved with firearms are sensible and well aware of the safety requirements for handling firearms. However, it is important that we have appropriate safeguards — that is, appropriate laws and regulations — to govern the use and handling of what can be very dangerous and lethal weapons. That is what this bill goes to.

Members would all be aware that after the shootings at Monash University, Victoria became the first state to introduce legislation that would comply with the national handgun control agreement**.** Since its implementation stakeholders, including the police, have identified areas of the Firearms Act that need to be clarified or modified.

A review of the Firearms Act has taken place, with a great deal of community participation and consultation with stakeholders. A discussion paper was developed and a Firearms Consultative Committee was established, comprising stakeholders with an interest in firearm regulation, to examine the potential changes. In fact the bill that we have before us today is a result of the outcomes of the work done by that consultative committee and the various discussions it had with and submissions it took from interested parties. Most of the changes in this bill are technical in nature. I will briefly run through some of the key aspects. The bill changes the regulation of paintball gaming so that it is no longer necessary to obtain a firearm licence to play. Victoria is the only mainland state where paintball is heavily regulated.

Hon. Richard Dalla-Riva — Acting President, I draw your attention to the state of the house.

Quorum formed.

Hon. KAYE DARVENIZA — I was talking about paintball and the changes that this bill makes in that regard. Paintball field operators will need a gun dealers licence that will have to be approved by the Chief Commissioner of Police. Paintball players will have to be aged 18 years or over.

The other area I will touch on is the creation of a new category of firearm licence for antique handgun collectors. This was one of the areas about which there was considerable discussion and, particularly through the consultative process, it was recognised as one of the areas that needed some modification. Under the national handgun control agreement most antique handguns are required to be registered. Current requirements are quite onerous. The new licence is less onerous and in line with the low risk that is posed to the community from antique firearms. Collectors will now need to have an effective alarm installed if they have more than 15 guns. Collectors will no longer need to be fingerprinted. Display conditions for antique guns have also been considerably relaxed. It is very important to note that the collectors of antique handguns support this bill and the changes it brings about.

The bill implements the resolution of the Australian Police Ministers Council on regulating firearms in the private security industry. Mr Dalla-Riva spoke at length on this issue from first-hand experience when he was working as a police officer. The effect of these changes is that guns used in the security industry cannot be bigger and better than those that are used by the police, and the ammunition used by the security industry will have to be mass produced and commercially available.

The next area I want to deal with is the clarification of the minimum participation requirements for handgun target shooters. Those of us who were brought up in the country or who live in the country know that target field and game shooters were very keen to be involved in the consultative process and to have a say about what sorts of changes could and should be made. Presently all handgun target shooter licensees are required to complete at least six matches of competition. The substantive change in this area is to exempt handgun target shooting licensees who do not own handguns from the minimum participation requirements. This change recognises that if you do not own a gun and therefore cannot take a gun away from the range you represent a much lower risk to the community. I think these changes clearly benefit older shooters who no longer wish to compete or own handguns but who wish to retain their licences so that they are able to officiate at shooting events and are able to be involved in club competitions.

The bill allows people to try out handgun target shooting 10 times over a lifetime without obtaining a firearm licence. Currently an individual can undergo three club supervised tryouts over the space of a lifetime without taking out a firearm licence. A limit of 10 trial shoots will ensure that individuals will not be able to continue trial shooting indefinitely, so it will take that concern out of the equation. If a person has more than 10 trial shoots they will need to obtain a firearm licence.

As to the change to controls on the use of high-capacity detachable magazines, most licensees will not be able to possess, use or carry a detachable magazine with a shot capacity of greater than either 10 or 15 rounds, depending on the type of rifle. The chief commissioner has the discretion to allow licensees to use high-capacity detachable magazines in combination with certain types of rifles for competitions.

This bill has come about after wide-ranging consultation with those who are interested — stakeholders and the police — who are very supportive of these changes because they were recommended during that consultative process. I believe it is a good bill that deserves the support of all members of this chamber. I commend the bill to the house.

Hon. DAVID KOCH (Western) — In my contribution to the debate on the Firearms (Further Amendment) Bill this evening I again indicate that the Liberal Party will be supporting the amendments we have before us and that it has undertaken wide consultation on the matters being discussed.

The five main purposes of the bill are to clarify the minimum participation requirements for handgun target shooters, to make new provisions in relation to the collection of antique handguns, to amend the regulations in relation to paintball games, to impose restrictions on firearms used by the private security industry and to make new regulations restricting rifles with high-capacity detachable magazines.

These main provisions — I will briefly speak to each of them — clarify what constitutes a competition handgun shoot to meet the minimum participation requirements for handgun target shooters as implemented by the 2003 national handgun control agreement and the subsequent handgun control amendments to the Firearms Act. The minimum requirement under the national handgun control agreement is six competitive shoots per annum or a minimum of four club-organised shoots for each different type of handgun owned each year.

It is important to note that due to the need for flexibility and the continual change in the format of competitive shoots, recognised events will now be government gazetted, which can occur within a week, instead of being prescribed in regulation, which can take a month or more to enact. The government had previously underestimated the changes required to match these disciplines.

The new provisions lift the limit on the number of different handgun categories a target shooter can try in a lifetime from 3 to 10. They allow a person to be licensed to possess, carry or use a general-category handgun for reasons of carriage and use by the holder of a junior licence. The bill also allows parents to be licensed to possess and carry handguns on behalf of their children.

The provisions in relation to the collection of antique handguns introduce less stringent provisions relating to the collection and storage of antique percussion handguns manufactured prior to 1900. They effectively remove single-shot antique handguns from the more stringent provisions applicable to other categories of handguns. Antique handgun collectors will not be required to be fingerprinted and will only have to install an effective alarm such as a back-to-base monitored alarm if they store more than 15 antique handguns in any single storage location. The amendments recognise the investment value of antique handguns as a legitimate reason for issuing a category 1 firearm collectors licence.

We recognise that there are still concerns within collecting circles in relation to any collectables made after 1900. There are many of these weapons in collectors' hands in our community. They are there for collection and preservation reasons. Unfortunately that has not been picked up in the review and there are some concerns in relation to that. There is little doubt that collectors of these weapons see themselves as scapegoats on some occasions. They enjoy their collections and the weapons, and the weapons are rarely used. Hopefully that will be picked up in the next review process. I have had many representations in my office from those people who are collectors of these valuable handguns which are sought by many in that fraternity. I support their concerns that further consideration was not given to them from that point of view.

The provisions relating to paintball will allow people to participate in paintball games without having to possess a firearm licence. This will allow greater player participation rates in the industry. I have never participated in this activity but I know that some members of our community enjoy it. The removal of this limitation has opened the industry up for those who regularly enjoy these sorts of activities. We also note that paintball operators will be subject to new licence conditions. They will effectively hold gun dealer licences and as such will be stringently monitored by our police.

From the point of view of firearms used within the security industry, the major recommendation was that all firearms used in the security industry in all states should be owned by or registered to employers. This is a new provision. I certainly support having an industry standard and some uniformity in relation to this and that these firearms be registered to employers of those in the security industry. We note that handguns must be owned or registered by those people and not by individual security guards. It is very important to note that security guards have some industry standards. I do not think this is about the size of weapon, I think it is more about the effectiveness of those weapons. From that point of view they should have an industry standard which is maintained across the board. This industry will now be further regulated to see that this takes place. These new provisions will limit the calibre of a security industry handgun to no more than .40 inch for a semiautomatic handgun, as used in other states, or a revolver or single-shot handgun of no more than .38 inch, as used in Victoria.

Lastly I want to indicate that in the provisions relating to the new regulations restricting rifles with high-capacity detachable magazines, due to concerns about the importation of a particular Remington rifle — model 7615 — with a detachable magazine having a

capacity of 20 shots, new provisions will effectively limit the capacity of such longarms and detachable magazines to 10 or 15 shots depending on whether it is a pump-action, lever-action or bolt-action centre design. Rim-fire rifles are also captured by the new provisions, in anticipation of the possible development of rim-fire rifles with high-capacity, detachable magazines.

I do not think there is any doubt whatsoever that we have little need for large magazines. I think that across the board magazines with a capacity of 10 shots are quite adequate for general use. We should recognise that if there is a need for magazines of greater than 10 shots, multiple magazines with a greater capacity than 10 shots may be carried. I personally say that anyone who requires a magazine of more than 10 shots could only be termed a rotten shot and they should not have access — —

Hon. Bill Forwood — To a gun in the first place.

Hon. DAVID KOCH — That is dead right. As Mr Forwood said, they should not be hanging onto a gun in the first place if they do not have the capacity to do the job at hand with less than 10 shots in a single magazine.

I would like to bring to the attention of the house something I believe was missed in the review. This has been reflected in correspondence my colleague the member for South-West Coast in another place received from David Pitt, the secretary of the South Western District Rifle Association, which is based in Warrnambool. The concerns of his association refer to the wording of clause 8(1)(ii) of the bill. The South Western District Rifle Association is concerned from the point of view that it believes clause 8(1)(ii) is too definitive and too restrictive in that it states:

> the applicant must engage in sport or target shooting only at a place which is authorised by or under this Act as a place at which sport or target shooting using category A or B longarms may take place …

The membership of the South Western District Rifle Association has no concerns with the licensing provisions or the requirement that an applicant must be a member of a shooting club or shooting organisation which has been approved by the Chief Commissioner of Police, as outlined in clause 8(2). However, they are concerned about clause 8(1)(ii) in relation to target practice.

The correspondence from Mr Pitt goes on to say that the association would see it as very restrictive from the point of view of target shooters on the running in of barrels or the sighting of their rifles et cetera if this practice could only take place at approved ranges. The letter goes on to say:

> Could consideration be given to the target shooter who may need to fire the rifle other than in an organised competition, who may have access to an appropriate location?

We speak here especially of those in regional Victoria who participate in club associations under full licence and who want to run their rifles and pistols in and want to sight their rifles correctly before going to competitions but who at the same time live a long way from some of the registered or authorised venues where these activities may take place. I put it on the record that certainly the South Western District Rifle Association has those concerns and at a later review of the legislation it would like to see some consideration given to those people who enjoy being involved, like sporting club members who are licensed but do not have the opportunity to get to those centres regularly. They see this as a drawback to their competitive edge within their own associations and clubs and at competitions run across regional Victoria where there are quite suitable places they could go and undertake running in or sighting of a rifle prior to going to those recognised grounds. With those few comments, I reiterate that this side of house supports the legislation and wishes it a speedy passage.

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.

I thank all members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CRIMES (HOMICIDE) BILL

Second reading

Debate resumed from 27 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. RICHARD DALLA-RIVA (East Yarra) — The opposition will not be opposing the Crimes (Homicide) Bill 2005. The bill deals with emotional issues that will be understood by those who have had some involvement and been associated with investigating a homicide. As a former detective I indicate that one of the principal roles of a police detective is to investigate serious crime, and one of the most serious crimes is of course murder. Murder is not what you read about in the paper or watch on the television. Murder is the most violent offence that one sees. I can never, ever forget seeing a murder victim. It is something that will be with me forever.

The notion of murder as observed within the confines of the lounge room has no connection to the reality of seeing a murder victim. It is important to understand that when we talk about homicide, we talk about the most vicious of crimes that people can commit. It is never clean; it involves an enormous amount of violence that cannot be imagined, and I do not propose to raise in this house the level of what I have seen; I cannot ever articulate what is really seen.

What I can say, however, is that this is a bill designed to deal with the realities of murder, and I will refer the house to some of our statistics. When I was in the crime sections it was often said by the homicide squad, as dedicated as it was in its investigations of very serious crimes and the complexities attributed to homicide, that the reality was that a lot of these crimes relate to family violence. In terms of this debate I think it is important to put on the record some of these statistics.

I refer to a Law Reform Commission media release dated November 2004 which notes that each year in Australia there are about 129 family homicides. The commission's study of Victorian homicides between 1997 and June 2001 found that one-third of murders involved intimate partners, making it the most common category; violence used to settle a dispute accounted for 16.8 per cent of homicides; spontaneous killings — an example of one recently involving a well-known identity — usually as a result of a fight, accounted for 11.09 per cent; the majority, 75 per cent, of intimate partner homicides in Australia involved men killing women, and the commission study found that 81 per cent of such homicides had been committed by men. The 1994 Polk's study found that female victims were most likely to be killed by an intimate partner, and male victims by friends or acquaintances, and so it goes on. I do not wish to belabour the point but it is fairly clear that when it comes to murder or homicide, there is a close correlation between the murder victim and the offender being associated in some way or another. As I have said previously, the homicide squad was seen as the pinnacle in terms of investigative police officers, but there is still a component in their investigations to explain why they used to be called the domestic squad — the reality is that a lot of murders involve a partner, an intimate partner or some close associate of the family member who committed the murder.

In setting the framework it is important to note, while this bill is being debated, that the legislation came from the Victorian Law Reform Commission report on defences to homicide. All too often the issues relating to provocation of one who commits murder allow for the jury not to acquit the person of murder but to apply the lesser offence of manslaughter. The legislation has a provision for those charged with murder to be convicted of manslaughter without the offence of manslaughter being laid.

In my view a lot of juries cannot believe that a person could have committed a crime as heinous as what they have seen in the photographs, video evidence and evidence given in court. A lot of juries find it difficult to believe that a person can murder a person in such violent circumstances, so conclude there must have been some reason for it to occur. There is not a common acceptance for juries to come up with the rationale why a person has been violently killed so they can say it was premeditated.

Often juries will make two choices: they will find the person guilty of manslaughter or find the person not guilty. Time and time again people are found not guilty. In the Walsh Street murders — where two police officers were gunned down in the course of their duties in the 1980s — the perpetrators were found not guilty. The police had brought those people to justice but they were found not guilty. There were no other suspects. Subsequently, through other sources, those people were found to be party to that crime.

My view is that this legislation allows for some of those considerations by juries. For those who watch American television dramas, reading the legislation is akin to what I would call second-degree murder. We are not talking about the crime of murder, but we are looking at the alternative offence of defensive homicide. In other words, we are about to bring in to Victoria the offence of second-degree murder. That

may be a good thing because it may mean that a jury that finds it difficult to convict someone of murder, but equally difficult to find someone guilty of manslaughter, will have the option of defensive homicide.

I did not attend the department's briefing, and I seek guidance from the government about the term of imprisonment as specified in clause 4. New section 4, to be inserted by clause 4, says, in part:

> … the jury may acquit the accused of murder and find him or her guilty of defensive homicide and —

this is the point I raised —

> he or she is liable to punishment accordingly.

I do not know what is meant by 'punishment accordingly', whether the legislators have established a period of time and that they intend the courts to determine the period. Murder carries a maximum sentence of 25 years to life; manslaughter has a set period, and I am curious whether there is a set period of imprisonment for the alternative charge of defensive homicide. I would like to know the answer.

Hon. C. A. Strong — We won't get one.

Hon. RICHARD DALLA-RIVA — I hope we do, but if we do not, we are expecting people to fly blind. As I said, I did not attend the briefing but I would like clarification of that.

I note in terms of other parts of the bill that there are exceptions to murder such as self-defence, duress and sudden or extraordinary emergency. I hope the bill does not allow Pandora's box to be opened in the sense that those who are charged with murder will use every capacity available to them to escape a more serious charge. I can see this being applied — and it may not occur — where the exceptions to homicide may open the door to gangland figures claiming various self-defences if they murder another gangland identity. It is important to consider whether that is good or bad in the future.

I do not intend to go on much further. I know there are variations in terms of changes to a range of different acts. In talking about defensive homicide, there are legislative changes to take in the new definition of 'defensive homicide'. I do not intend to talk about amendments to the Children and Young Persons Act and the Sentencing Act, as outlined.

However, I am curious about the intoxication provisions. Often a person who has a level of intoxication is involved in an offence. Earlier I referred to a spontaneous killing, where a person in a fight with another intoxicated person could be involved in, as the Victorian Law Reform Commission calls it, a spontaneous killing, which accounts for about 11.9 per cent of homicides each year. I am curious about how the application of 'intoxication' would diminish the charge of murder.

It again raises the very issue I raised earlier: that people may see that as a legitimate defence, whereas on balance it may raise the possibility of the use of related but less serious levels of homicide. It is important that we put that in the legislation to give some guidance to judges and juries. This has to be tested. Those who are charged with murder always will test to the full extent every component of the law. I hope those drafting such legislation will understand fully that juries and judges in all courts, including the Court of Appeal, and persons charged with murder will use every avenue available.

This is not like the case of a Sunday burglary. Murder is a serious crime, and all involved will use to the full the capacity they have to test almost every word within the legislation. I hope in its consideration that the government, sloppy as it often is with its legislative program, will ensure there is very little opportunity for loopholes or legal let-outs. We do not want to have a situation where, for example, as I raised earlier, those who are charged with gangland killings use the opportunity that we have now before this court — before this chamber — —

Mr Lenders — You wish you were in court!

Hon. RICHARD DALLA-RIVA — Do I wish I was in court? No, but I was thinking about court. I was hoping the legislation before this chamber would protect those in courts who will determine that there are legitimate outcomes people may be able to apply should they be charged with murder down the track.

Having said that, I can say that the opposition does not oppose the bill. We look forward to seeing how it will apply in the real world. We wish there were no murders to which we could apply it, but the reality is that that will occur. On that basis we wish the bill a speedy passage.

Hon. W. R. BAXTER (North Eastern) — The Nationals are pretty much satisfied with this piece of legislation. We think it has a great deal of merit. It arises out of a very extensive investigation by the Victorian Law Reform Commission. The report — a very weighty tome of some 400 pages, which I have in front of me — makes very interesting reading indeed, and I am satisfied that the arguments the commission

has advanced, which the government has largely adopted, are meritorious.

I noted Mr Dalla-Riva's warning when he said he hoped the government has actually got the wording correct. So do I! He was right in saying that every word will be tested in the courts, and so they should be. We are not dealing, as he said, with a Sunday burglary. This is the most serious offence on the statute book in my view. Murder was once a capital offence, and you cannot get more serious than that. It can still in certain circumstances lead to incarceration for life. It is right that every word be tested in the courts. It may well be that the legislation is found wanting in its drafting. I hope that is not the case. If it is, I implore the government to bring it back to the house and rectify any deficiencies that may be discovered in the course of its testing in the courts, because it is fair to say that with murder it is our most competent counsel who are engaged to both prosecute and defend the cases, and that is as it should be. Clearly we have got the best legal brains in the state examining this legislation with a very fine-tooth comb.

The part of the legislation that has had media coverage is the abolition of the partial defence of provocation. There are some other equally important aspects of the legislation which have not gained much if any currency in the public arena at all. To an extent that is disappointing, because they are also important. I have formed a view from reading the commission's report and watching the proceedings of some recent cases, particularly the Ramage case, that the partial defence of provocation is an outdated concept. It seems to me it is a hangover from days past, and I mean centuries past, when attitudes were very different to those of today. It was very much employed in cases of so-called breaches of honour, when two males of roughly equal strength were perhaps engaged in some sort of contest or retribution over some perceived breach of honour either in relation to marital infidelity or some sort of sexual advance and in a time when women were much more to be considered a male's property and chattel rather than an equal in the community.

One of the precedent rulings was made by a judge in 1707. I find it quite extraordinary that we are still going back that far for a legal precedent. That indicates to me that it is well and truly time we had another look at it. I congratulate the Victorian Law Reform Commission and the government for acting on this issue. It seems to me that we should in our civilised society now not be providing any sort of partial excuse to anyone who took some horrendous action or an action that had horrendous consequences because they were angry or unable to control their anger.

Surely we can expect in today's society that, whilst people may well have reason to be angry, they do not allow anger to consume them to such an extent that they commit a crime as horrendous as murder and then expect that in some way or another the fact that they alleged they were provoked should be a partial defence to that grievous action. I think there are varying degrees of culpability in cases of murder — I do not think there is any doubt about that — but that culpability and the degree thereof ought to be reflected in the sentence that is meted out after the verdict is brought down. It ought not be part of the actual defence to the charge itself. It is not a defence in any other criminal charge so far as I am aware. It is simply applied in cases of murder, and I fail to see where the logic is in that.

I think the Victorian Law Reform Commission summed it up pretty well in the executive summary of its report entitled *Defences to Homicide*, page xxi of which states:

> As provocation is not a partial defence to any other offence, it results in a person who loses self-control and kills the person who provoked him or her being partially excused, while the same actions resulting in, for example, a minor assault, do not provide a partial excuse. From a common sense perspective, most people would find it easier to understand how someone might, in an emotional state, hit another person because they did something to upset them, rather than how an ordinary person, even faced with the gravest provocation, might intentionally kill.

They are very salient sentences indeed. If one goes to the body of the report, on page 56, the same arguments are perhaps advanced a little more fully and in different words, but at paragraph 2.95 the commission said:

> We are also concerned that the moral basis of provocation is inconsistent with contemporary community values and views on what is excusable behaviour. One of the recognised roles of the criminal law is to set appropriate standards of behaviour and to punish those who breach them. The continued existence of provocation as a separate partial defence to murder partly legitimates killings committed in anger. It suggests there are circumstances in which we, as a community, do not expect a person to control their impulses to kill or to seriously injure a person. This is of particular concern when this behaviour is in response to a person who is exercising his or her personal rights, for instance to leave a relationship or to start a new relationship with another person. In our view, anger and loss of self-control, regardless of whether such anger may be understandable, is no longer a legitimate excuse for the use of lethal violence. People should be expected to control their behaviour — even when provoked. The historical justification for retaining a separate partial defence on the grounds of compassion — a 'concession to human frailty' — is, we believe, difficult to sustain.

And so do I. But I also say that in terms of the context of the community in which we live and where, on a much lesser scale, we seem to be having outbreaks of

anger in our community, such as road rage. I am not equating road rage to murder for one moment, although on one or two unfortunate occasions road rage has led to death.

It seems we have a real dichotomy here. On the one hand we are expecting people to be able to control their anger, and in this legislation we are saying that anger and provocation cannot be used as excuses for committing heinous crimes, yet on the other hand we see outbreaks of anger in our community from people who are totally ill disciplined. We have just seen an example of that behaviour by a schoolboy in the gallery not more than half an hour ago. I think this is something that the community has to come to grips with.

I might be accused of drawing a long low, but in a sense what we are doing in this legislation is sending a message to a much wider area of actions and responsibilities that uncontrolled anger — the ill discipline of losing our temper — is not acceptable in our community, and in this very serious instance but with spill overs into other areas, we are moving to say that as a community we are not going to wear this any longer. We are saying, 'You need to have sufficient self-discipline to control the way in which you behave'.

I think the government is right in moving to abolish this partial defence of provocation. Let the defence run arguments if it wishes that a person undertook these actions which resulted in a murder because there was some provocation, but we should not let it be an excuse for the action. All those facts will be taken into account by a judge when imposing an appropriate sentence in exactly the same way as we do with every other offence that comes before the courts.

It has been extremely difficult for the families of victims where the defence of provocation has been run. Although I am not a practitioner in the courts, I understand that often what has been run in the courts is the reading out of a statement, word for word, to the court and in front of a jury. Often such a statement has been taken from the accused, and the accused has been able to make all sorts of accusations about the deceased and about the deceased's behaviour, reputation or fidelity, and there has been no opportunity for those allegations to be contested. We should bear in mind that the person who is alleged to have committed those particular acts is not there to defend themselves, and there is no opportunity for their family to put the record straight.

It seems to me that in this legislation we are not only taking away an outdated defence; we are also protecting families from this sort of angst that we saw in the case of Phil Cleary's sister, for example, about 20 years ago, and again in the Julie Ramage case in only the last year or two, though I believe the government is right in moving in this direction.

I support the bill's insertion into the Crimes Act of a new offence of defensive homicide, although I think it is going to take — as I suppose every new law does — some time for it to work its way through the courts and for the courts to actually come up with a consistent application of principles in terms of defensive homicide. However, it seems to me that a good and sound case can be made out that some homicides are executed in situations where it can be alleged that people have acted in self-defence.

Of course that then leads on to the issues of domestic violence and whether some homicides which are committed in the name of self-defence, but where the actual danger was not then imminent or present, opens the door — I think, fairly widely — to some circumstances that are difficult to prove — or, perhaps to put it the other way, are difficult to disprove. Yet, on the other hand, we have an alarming incidence of domestic violence in our community.

I do not know whether it has increased from what it has always been or whether we are more aware of it now because it gets more publicity in the courts and because it is now easier for people to get apprehended violence orders. The number of orders issued is, frankly, quite staggering and frightening. If that number is an indication of the level of domestic violence in our community, then it has increased dramatically in my lifetime.

On the one hand I do not have any sympathy for any bullyboy, husband, boyfriend, de facto partner or whatever you might like to call somebody who hits a woman regardless of the circumstances, but on the other hand I can say that I have seen in the course of my career some instances where mainly women, and I do not think I have an example of a man, have used allegations of domestic violence to get back at someone on an unrelated issue, and it has been very difficult to prove otherwise.

The Parliament and the courts have to be very careful in the way this law is to be applied in our attempts to make sure that we do justice to people who are subjected, as some women have been and as we have seen, to years and years of physical and psychological abuse until finally they crack. On the one hand they are the victims, or the accused in this case because they are the ones being charged, and I want to see them get a fair go and be able to employ this defence; but on the

other hand we have to be very careful indeed that we are not opening the floodgates to malicious allegations.

I agree that the malicious allegations are usually going to be on a much lower level. We will not be dealing with cases where death has occurred, so perhaps my fears are a little unfounded or exaggerated, but, as I said, I have had some unfortunate experiences in the past, and I am wary of this. I simply make that point to the house tonight. I am sure the government is well aware of it, and I am sure through their experiences the courts are well aware of it as well.

I have looked at the issues around intoxication. Like Mr Dalla-Riva, I have some concerns about those, but I have studied them closely. It gets down to a situation again of comparing an act of an intoxicated person with what would be a reasonable action in the circumstances of a person who was not intoxicated. Again we should employ the well-established concept of reasonableness in our legal system, and I am therefore comfortable with it. There are safeguards in the legislation where the intoxication is forced, not voluntary. The provision has been well thought through, frankly. As I read through the bill I felt that someone had spent a lot of time thinking up circumstances where there could be a case where the intoxication was not self-induced.

I agree with parts of the bill extending the time within which a woman may be charged with infanticide for killing her child from one year to two years, but on the other hand — and I do not have a ready answer to this — there is not much logic in it either. It seems to me that a person who is suffering because of the birth of a child could well suffer beyond the period of two years. It seems to me a little difficult to say it is not murder if you do it within two years but it is murder if you do it in two years and one month. I have some sympathy for the view that the existing law, which talks about lactation and so on, smacks of a past age, so I agree with getting rid of that, but it seems to me that it might have been desirable to go to a time beyond two years to give a clear period to recover from whatever mental disturbance might be generated by the birth of a child.

I can still see that we will get some cases where even with the two-year expansion we will still think that an injustice has been done, but time will tell. As I say, I do not think there is logic in what is being done, but I do not have a better solution to offer to the house, so therefore I cannot be too critical.

The Nationals have had a good look at this legislation. We endorse the very thorough Law Reform Commission report. The community is ready to get rid of the partial defence of provocation, and the other aspects of the bill are worthy. I share Mr Dalla-Riva's apprehension as to how they will operate in one or two aspects. I am not taking it on trust; I am saying that we will have to give this a go, and if it needs some finetuning, then surely Parliament will look at it again.

Ms MIKAKOS (Jika Jika) — It is with great pleasure that I speak in support of the Crimes (Homicide) Bill, which is historic in achieving reforms of an extremely significant nature. I would hazard to say that they are the most wide-sweeping reforms to Victoria's homicide laws since the abolition in 1975 of the death penalty for murder.

The law surrounding defences to homicide have not kept up with the pace of social change and changes to social values. In particular this bill is about eradicating entrenched and outdated bias from the law. The Bracks government has an ongoing commitment to modernising the law in line with the Attorney-General's vision set out in the justice statement he handed down last year and to ensuring that Victorian law is relevant to all Victorians.

The Crimes (Homicide) Bill seeks to make a number of key reforms based on the recommendations made by the Victorian Law Reform Commission in its final report on its inquiry into defence to homicide. That report followed an approximately three-year process of extensive consultation and research by the Law Reform Commission following a reference to it by the Attorney-General in September 2001. The commission undertook its consultation through a series of published papers and extensive consultation with a range of stakeholders. Members might recall that the report, tabled in November 2004, makes 56 recommendations, including the major recommendation that the law of provocation be abolished.

The commission was concerned that there was community concern about the inherent gender bias in the way the current defences to homicide, in particular those related to provocation and self-defence, operate and that it was appropriate we look at making Victorian law fairer in dealing with cases where murder occurs after a history of family violence.

Members are aware that the law of provocation was developed as a partial defence to murder at a time when murder carried a mandatory death penalty, so it was intended to put in place a penalty that would not involve the death penalty in circumstances that we would regard as mitigating at that time.

However, the law of provocation is now outdated; it does not reflect contemporary social values in that it seeks to promote a culture of blaming the victim. In particular, social values today would regard as completely unacceptable a situation where a loss of self-control by an individual could reduce a conviction from murder to manslaughter, where gender or cultural or other factors might be taken into consideration. The partial defence of provocation was developed at a time when it was acceptable for men to have a violent response to jealousy, anger or a perceived breach of honour. In a similar way the law of self-defence has traditionally failed to acknowledge the experience of women who have killed in response to severe and long-term family abuse.

As I have said, the Victorian Law Reform Commission undertook extensive consultation. It consulted with key stakeholders, including the Supreme Court, Victoria Police, the Office of Public Prosecutions, the Federation of Community Legal Centres, Women's Legal Services, the Domestic Violence and Incest Resource Centre, the Victorian Bar Council, the Criminal Bar Association and Victoria Legal Aid. I want to place on record my thanks to the representatives of a number of women's organisations, including the Domestic Violence and Incest Resource Centre, who came along and spoke to me and other members of Parliament about why these reforms were needed. In particular I was very touched by the fact that Jane Ashton also participated in those discussions. Members might be aware that Jane Ashton is the twin sister of Julie Ramage, who was murdered by her husband, James Ramage, after she allegedly told him that their marriage was over. Jane Ashton has been a very keen advocate for these reforms and has publicly welcomed the legislation and the changes the government is seeking to pass through the Parliament today.

My thanks go to those individuals, particularly to Jane, for having the courage to speak out publicly about their tragic family circumstances as they relate to many other women in this state and in this country. As I said, these are quite historic reforms. They seek to bring Victorian law into the 21st century and reflect contemporary values. I think it is important that our law change over time and reflect the values of contemporary society. I also acknowledge the important work which the Victorian Law Reform Commission has done in producing its report and which it continues to do in many other areas and other reports it produces.

The key recommendation of the report related to the law of provocation. Provocation condones male aggression towards women and is often used by defence counsel in circumstances where men have killed their partners or ex-partners in jealousy or anger, alleging a loss of self-control due to circumstances provoking the killing, such as the termination of a relationship or finding out that their partner had been unfaithful. I think the vast majority of people in our society would regard those circumstances as completely unacceptable and as not providing a mitigating defence to the charge of murder. The abolition of the law of provocation will mean that a person who kills when provoked will now face a maximum penalty of life imprisonment rather than imprisonment for 20 years. If provocation is determined to be relevant to the facts of any particular case, provocation will be dealt with as a sentencing issue, in the same way as it is currently dealt with for offences other than murder. I think it is appropriate that the court ultimately has that discretion.

The bill also makes key changes to the way self-defence operates in relation to murder. The commission expressed concerns that the law of self-defence evolved to deal with violent confrontations between two or more men of equal strength and did not reflect the needs of our modern society. It did not reflect the many circumstances involved in cases of family violence and the fact that there may well be reasons why a woman might have genuinely and reasonably considered it was necessary to kill, even though she was not facing an immediate attack — for example, in circumstances where her partner may have been asleep. Self-defence will be available as a defence only if the person believes that his or her conduct was necessary to defend himself, herself or another person, such as a child, from death or really serious injury. These reforms are intended to dispel misconceptions that might exist about what self-defence is really about and to ensure that courts and juries have a proper understanding of the predicament that some people who are victims of family violence may find themselves in.

There have been some claims by members of the opposition that our changes to the law of self-defence may mean that gangland killers could avoid conviction on charges of murder. This is not the case. The bill does not alter the current legal position — that is, that the immediacy of the threat that the accused person was facing and the proportionality of his or her response to that threat are the two key tests that the court will apply. In terms of how that test is applied it is necessary for an accused person to believe that it was necessary to do what he or she did and that there were reasonable grounds for that belief. So in the situation of a person who is involved in any criminal activity believing it was inevitable that a rival would kill him or her unless that person killed the rival first, the accused would not

be able to rely on the principle of self-defence. It would simply be a case of murder.

It is important to note that New South Wales introduced comparable legislation in 2002 and it has not resulted in a huge surge in the number of people being able to rely on this defence. In fact in the two years preceding the introduction of the legislation in New South Wales — that is, in 2000–01 — the number of murder convictions was 78. In the two years following the legislation — in 2003–04 — the number of murder convictions was 80. It appears that only 8 cases have resulted in a plea of guilty or a finding of guilt for manslaughter by excessive self-defence, which is the equivalent provision in New South Wales.

The bill also makes changes with the introduction of the offence of defensive homicide, which is again reflective of our acknowledgement of the pervasiveness of family violence in our society. There are other changes, which I will not go into this evening. I am very proud of the government's record on family violence generally. We have done a great deal in that area, and I have talked about our achievements and initiatives in the area of family violence on a number of occasions. We have introduced a range of measures on family violence that have been responsive to changing community values and expectations, particularly in relation to addressing women's experience of violence. This bill is another such initiative.

I strongly support the legislation; it is much needed and long overdue. I commend the bill to the house.

Hon. C. D. HIRSH (Silvan) — I only want — —

Hon. Bill Forwood — In your place!

Hon. C. D. HIRSH — This is my place.

Hon. Kaye Darveniza — And a beautiful place it is, too.

Hon. C. D. HIRSH — It is a very good place; I like sitting up here.

I wish to make a very brief contribution to debate on the Crimes (Homicide) Bill, which is one of the reasons why I am so pleased to be back in the Labor Party. It is very good to see the government responding to such important issues as family violence — more often than not violence by males against females — which has been endemic for many years.

It is an excellent piece of legislation that sees the defence of provocation going from the law and sees self-defence coming in as something a woman, in particular, can plead when she kills to save herself or her children — more often her children than herself. Over many years I have seen marriages — I guess from earlier generations — where there has been endemic violence and the women have just worn it. The progressive nature of this legislation, in terms of removing provocation and adding self-defence, is one of the things the Labor Party is all about. I take great pleasure in supporting this bill.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

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

Second reading

Debate resumed from 27 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I shall make a brief contribution to debate on the Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill, and point out that the Liberal Party will be supporting this legislation, as it did the two principal acts. I see the look of horror on the face of my colleague the Honourable Bill Forwood, but we did support those acts and will support the amending legislation.

The bill before the house this evening is relatively minor in its content. One of its key purposes is to extend the operation of the principal legislation, the Major Events (Crowd Management) Act 2003, to cover the Bob Jane Stadium. The Parliament passed this legislation in 2003 to put in place a crowd control regime for patrons attending events at Victoria's major sporting venues. It also provided for coverage of other major sporting events that were not necessarily held at the key venues.

The bill before the house tonight primarily amends that act of Parliament rather than the Commonwealth Games Arrangements Act, to which the bill makes only

a minor amendment. The purpose of the key provision of the bill is to extend that act to cover the Bob Jane Stadium, which is one of Melbourne's major soccer venues. Members of the house who have seen reports of some of the disturbances at soccer matches in recent months would appreciate why this crowd control regime is being extended to the Bob Jane Stadium.

The second major change in the bill gives the minister power to declare venues in the *Government Gazette*. In future the minister will not need to come back to Parliament to make an amendment such as the one extending this legislation to the Bob Jane Stadium. The minister will have the power to publish a notice in the *Government Gazette* that he is extending the coverage of this legislation to other venues. We would expect that such a change done by ministerial order would also be done by agreement with the venue operators.

One of the other key provisions of this bill is that it picks up many of the changes that were made to the Commonwealth Games Arrangements Act earlier this year and strengthens the control regime for venues covered under the legislation. I should point out at this stage that under the Commonwealth Games legislation, Commonwealth Games events and venues are exempt from the Major Events (Crowd Management) Act. That was done for the purpose of ensuring that the organisation of the Commonwealth Games was done under a single piece of legislation. There is one common framework that will expire after the completion of the games. The Commonwealth Games are exempt from the Major Events (Crowd Management) Act and have their own crowd control regime within the dedicated Commonwealth Games Arrangements Act.

That regime was put in place by this Parliament earlier this year and includes a number of provisions that were not in the then existing major events legislation, such as creating commonsense offences of blocking exits, climbing on fences, damaging venues, throwing projectiles et cetera. Those are things that were not covered in the major events legislation when it was passed in 2003 but were picked up in the Commonwealth Games Arrangements Act earlier this year. The bill before the house tonight duplicates many of those provisions from the Commonwealth Games Arrangements Act and inserts them into the Major Events (Crowd Management) Act so that they will have ongoing effect after the expiry of the Commonwealth Games legislation.

Another aspect of this legislation is that it makes some minor amendments to the Commonwealth Games Arrangements Act. One of the powers that was given to authorised officers under that act with respect to the crowd control regime was the power to inspect the bags and/or possessions of patrons who were entering Commonwealth Games venues. This bill clarifies that provision in that it allows authorised officers to physically inspect the contents of patrons' bags rather than simply make a visual inspection. It is my view and the view of my party that that is not an unreasonable amendment to make. That is the only amendment this legislation makes to the Commonwealth Games Arrangements Act.

Having said that and having said that the Liberal Party supports this legislation, I must say that we are disappointed about that change that needs to be made to the Commonwealth Games Arrangements Act. When the legislation putting in place the crowd control regime was passed by this Parliament earlier this year the advice I received as Commonwealth Games spokesman from the Office of Commonwealth Games Coordination was that the legislative change earlier this year would be the last change to the Commonwealth Games Arrangements Act because the government had fully considered the crowd control regime that was required for the games, was satisfied that it had got it right and would not need to make further amendments to that legislation. Members should bear in mind that that was the third or fourth change that had been made to the Commonwealth Games legislative framework. So despite having receiving an assurance from the government earlier this year that that would be the last change, we now have a further change, albeit minor, to the crowd control regime which we were assured in the first half of this year had been drawn up correctly.

Another criticism I make of the bill is that in a number of respects it is poorly considered. For example, it clarifies the offence of possessing prohibited items in a declared venue and prescribes a penalty for a patron found possessing a prohibited item but does not give Victoria Police, or an authorised officer where that applies, the power to actually confiscate that prohibited item. The police have the power to impose a penalty on someone possessing a prohibited item, whether it be dangerous goods as described or another specifically listed prohibited item. They also have the power to request that the patron with the prohibited item surrender it, but they do not have the power to seize that item. It just seems to me that is inconsistent with the intent of this legislation, and it reflects fairly poorly on the way it has been put together by the department that we have those inconsistencies.

Those are the only two major concerns that I wish to express with respect to this legislation. However, I do wish to raise the point — given that this legislation touches on the issue of the crowd control regime for the Commonwealth Games and, allied to that, on Commonwealth Games security — that the Liberal Party was very disappointed today in question time to hear the minister's glib responses to questions about the security regime for the games. Nobody expects the Minister for Commonwealth Games to get up in this Parliament and detail ad nauseam specifics of the security arrangements for the Commonwealth Games, but it is not an unreasonable expectation from the people of Victoria and from this Parliament for the minister to at least be across his brief.

We see in Canberra the federal Attorney-General, Philip Ruddock, and the federal justice minister, Chris Ellison, give detailed responses to Parliament and to the media on issues of national security, which is obviously a very topical issue at the moment. Those senior ministers with responsibility for that area give comprehensive answers that demonstrate that they have a grasp of the subject matter. No-one who was in this house today and who listened to the answers of the Minister for Commonwealth Games could believe he has any grasp at all of the issue of Commonwealth Games security. A number of issues have been raised in the public domain by various groups with respect to this issue. The minister's answers today did nothing to reassure Victorians that he has addressed those issues and did nothing to reassure Victorians that he has any idea of the security arrangements that are in place for the games. In fact it was a ridiculously glib and superficial performance on the part of the minister in answering those basic questions seeking assurances about the security framework for the Commonwealth Games.

I note that the Liberal Party will certainly be taking up the minister's offer of a briefing on the security arrangements. We hope, and as spokesman I hope, that that goes a long way to addressing our concerns as to the adequacy of the arrangements that have been put in place, because the minister was certainly unable to do that today in his response to the house. With those few comments, I note again that the Liberal Party supports this legislation, notwithstanding the shortcomings that I have mentioned, and I look forward to its speedy passage through the house.

Hon. D. K. DRUM (North Western) — I rise on behalf of The Nationals to inform the house that we will be supporting this legislation. We have been consistent in trying to support the Commonwealth Games in any way we possibly can over the past few years because we understand that this is an enormous event for Victoria. We believe the economic, social and sporting benefits to the community will be quite significant for the state.

The Major Events (Crowd Management) and Commonwealth Games Arrangements Acts (Crowd Safety Amendment) Bill sets in place a whole range of provisions which will not only enable the Commonwealth Games to go by a little bit more smoothly but will bring a few venues into line with managed venue status. The main one there is the Bob Jane Stadium in South Melbourne. It will be brought into line and managed venue status will now apply to it. This has been brought about because of an increase in unruly behaviour at Bob Jane Stadium. State league soccer has organised quite a few events where we have seen behaviour which is unruly and at the extreme dangerous.

A range of goods will now be banned, including things like flares, which are regularly taken in to be let off, and fireworks, which are thrown into the opposition supporter base. This is dangerous and creates a genuine risk to crowd welfare. We support the government in moving to ban the taking of those dangerous objects into Bob Jane Stadium by bringing the venue into line with the existing provisions for managed venues. We have spoken about managed venues quite often in this chamber in relation to the Melbourne Cricket Ground and other major stadiums. It is only right that Bob Jane Stadium, which hosts most of our top-grade soccer games, will be part of that.

This bill will put in place definitions for a range of prohibited items which will no longer be able to be taken into managed venues. These items were not so clearly defined previously. Things such as laser pointers, whistles and loudhailers will be prohibited. All sorts of weapons will be prohibited, as will things like bicycles, skateboards, rollerskates and fireworks. It has been indicated that animals other than seeing-eye dogs will be prohibited under this bill, which is interesting.

The legislation will make the taking in of such objects an offence. Previously if you tried to bring any items determined by the authorised officers or the gate staff to be prohibited you were simply refused entry or were made to leave the items outside the managed venue. If you smuggle these items into a venue, it will an offence and you will be charged under the principal act. This will be an offence under the legal system and the police will be able to issue penalty infringement notices.

Hopefully the penalty infringement notices will stop offenders who deliberately get themselves caught and thrown out.

Especially at the cricket some of the louts get a few drinks under their belts and think it is a bit of fun to get themselves thrown out and then pay the admission fee again and get themselves back into the stadium. This bill will stop that from happening. Unruly behaviour will be an offence. It will be an offence to bring any of these items into managed venues. If you are thrown out, you will be charged under the act. That will be a serious deterrent for any of these idiots who think it is a bit of fun to get thrown out after having taken up a collection to pay for their re-entry to the venue.

Mr Rich-Phillips mentioned that the search powers will be strengthened by this bill. The authorised officers who will be checking the bags of the supporters and spectators coming into managed venues will now be able to look inside and physically search bags, and, if necessary, empty bags so they can do a thorough job of searching for prohibited items which have been left in bags either on purpose or inadvertently.

The Nationals are concerned that more careful thought needs to be given to some of these issues. The taking of video cameras into arenas will now be prohibited at many of our more high-profile sports. A carry bag which could have been used at a family picnic one day could quite easily be packed up for the family to spend the day at a managed venue without being emptied properly. It will be prohibited to have professional video equipment at the Commonwealth Games so if you had a high-class video camera you would not be allowed entry into a Commonwealth Games event with that camera in your bag. You might have a blanket, some jackets for wet weather, a few snacks and other family things, maybe a pair of binoculars, and all of a sudden you realise you have a high-class movie camera. What are you going to do with that camera at a managed venue? This bill does not allow for that, there are no cloaking provisions. You may not be able to say to somebody that you have brought this item along to a managed venue by accident and you would like them to cloak it in a room which is under supervision. Under this legislation that is at the discretion of the venue.

We imagine a lot of incidental items will be brought along to our major events and people will not be allowed to take them into venues. They might have been brought along without any idea of causing harm. If you are on public transport you cannot take the items back to your car, so what are you going to do with this equipment? It could be a pocketknife which is generations old that you used to put a tent up the previous day. These are some of the more basic things which will be a problem under this bill. It is a small issue, but we think that if you are going to have a managed venue, part of being a managed venue should be having cloaking arrangements for when people inadvertently bring prohibited items to venues. Venues should have cloaking arrangements and hang on to those items until the end of the day.

Offensive behaviour that was previously prohibited under the general prohibited behaviour category has now been identified. Behaviour such as damaging flora, which quite often happens when people want to climb trees to get a better vantage point, storing items at managed venues, throwing out lights and flares and even obstructing the view of seated persons, will now be seen as offences. This is an area that is going to be quite hard to police — —

Business interrupted pursuant to sessional orders.

TRANSPORT LEGISLATION (FURTHER MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Assembly.

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

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Australian Centre for the Moving Image: report

Hon. ANDREA COOTE (Monash) — I read with interest the report of the Australian Centre for the Moving Image (ACMI), which was tabled in Parliament today.

The PRESIDENT — Order!

Hon. ANDREA COOTE — I am sorry, President. My adjournment matter is directed to the Minister for the Arts in another place. The report is a disappointment. It is an indictment of the organisation and testimony to the fact that it has absolutely no idea what it is about. It has no idea about what its intentions should be, and despite the fact that it has been given almost $700 000 in grants, it will still make a considerable loss this year. It is predicted in this report

that there will be a loss of $3 898 852. That is totally and utterly unacceptable. The rhetoric in the report is breathtaking. For example, the director's statement says:

> In its third year of operation at Federation Square, ACMI enhanced the quality, diversity and appeal of its programs, and continued to build a passionate community of interest around its activities.

Nowhere in this report can you find where on earth that passion is reflected. As I have noted in this chamber before, the terminology under the accountability heading has changed. We now no longer get the number of attendees, we get the number of visitations. What does the term 'visitation' actually mean? Is that someone returning a book? Is it a film? Is it someone passing a door where they have been given $4 million to make a new door? Who is it who actually comes to these public programs? We have no idea who they are or how many there are. I want to know what a visitation is. Where is the accountability for the money that this government has put in? There has been an increase in state grants from $17.791 million to $18.488 million. This is not good enough.

I ask the minister for better accountability. ACMI is facing yet more lost millions, and I ask the minister to explain and give the Victorian community a better understanding of the frequency of the visitations, who the visitors are, what are the statistics and who are these people that all this money is being spent on, because we have absolutely no idea.

WorkSafe: correspondence

Hon. BILL FORWOOD (Templestowe) — I wish to raise an issue with the Minister for WorkCover and the TAC, and I am very sorry he is not here. I seek action in relation to a WorkSafe letter that has been sent to a constituent of mine. I applaud WorkSafe for the work it does in this state, particularly in trying — —

Mr Smith — No, you do not.

Hon. BILL FORWOOD — I do, particularly in its effort to get the level of workplace injury down. A letter dated 18 October is headed 'Workplace consultation and helping injured people back to work — What you need to know'. It goes on about the information system sessions and the new Occupational Health and Safety Act and says that an important part of the act is the duty of employers to consult, which becomes law on 1 January 2006. It continues:

> To help you understand what you need to do, we will be running information sessions …

On the back it gives a list of all the information sessions that are available. It further states:

> Consultation is not just a legal requirement, it's a valuable way of improving an employer's decision making about health and safety matters.

The constituent who brought this to me said that whilst she was fully in favour of occupational health and safety, she is a single-person firm and is going to find it hard to consult unless she goes to the mirror and has a conversation backwards and forwards with herself about these issues.

Mr Smith — Does she work from home?

Hon. BILL FORWOOD — No, this person has a workplace and goes to work, but she is a single person who operates a single-person business. The point she made to me was that people in her situation pay a minimum amount of premium and that the Victorian WorkCover Authority would know every person who pays the $148 in premium each year. Perhaps rather than sending letters to single-person firms asking them to consult with their employees, the authority might just program the computer so that the letters do not go to them at all. If the letters do go to them, it might point out that there is information available rather than pointing out that there is a duty on this person and many others like her to consult with herself about the matters contained in this correspondence.

Small business: daylight saving

Mr PULLEN (Higinbotham) — The issue I raise tonight is for the Minister for Small Business in the other place. I was proud to march with the minister, Mr Haermeyer, and thousands of other Victorians, estimated at over 200 000 people, in protest against the Howard government's disgraceful changes to industrial relations laws. My mind flashed back to the 1960s when I demonstrated against the then Liberal government that was telling lies about the Vietnam war — that the Chinese were coming to get us. As usual, the federal Liberal Party said nothing about this issue in the federal election, other than to mislead the Australian public with lies such as that unfair dismissal laws would be abolished for workplaces with less than 20 employees when they secretly planned to apply them to places with less than 100 employees.

Of course, they have form on previous lies such as the children overboard issue and the invasion of Iraq — —

Hon. E. G. Stoney — On a point of order, President, as we know, adjournment debates are about state administration and so far Mr Pullen has not indicated an

issue of state administration, yet he is well into the issue he is raising.

The PRESIDENT — Order! With respect to adjournment matters, my rulings are clear in that the matter raised has to be asked of a particular minister, to be within the purview of the minister's responsibility and to relate to Victorian government administration. I have been listening to the member's adjournment matter and will take note of the point of order raised by Mr Stoney. I will ensure that the adjournment matter meets the guidelines. For my clarification, because I did not hear it due to the noise at this end of the chamber, to which minister did Mr Pullen direct his matter?

Mr PULLEN — The Minister for Small Business. I thought that would upset the opposition, but I am raising a state issue — so hold your horses! We know about the lies regarding the invasion of Iraq — —

Hon. D. McL. Davis — Iraq is not a state issue.

Hon. Bill Forwood — On a point of order, President, I request the member relate the issue of Iraq to state administration.

The PRESIDENT — Order! I do not uphold the point of order. The member will continue.

Mr PULLEN — They are upset about Iraq. We also had the Medibank safety net issue and now the Australian Wheat Board issue. Is it Pig-Iron Bob all over again?

Hon. Bill Forwood — On a point of order, President, again I raise the issue of state administration and also the issue of a set speech. I invite you, President, to get the member to state the issue on which he wants action.

The PRESIDENT — Order! On the point of order, I ask the member to bring his comments about the matter of small business to a conclusion. The member has 1 minute to go in his allocated time, and the issue he raises should relate to small business. The member knows that he is required to seek specific action of the minister.

Mr PULLEN — I am aware of that, President. Because I have upset the opposition I shall go straight to the issue that I raise. For the first time in my life — I will have to wash my mouth out — I agree with the Prime Minister in relation to the issue of daylight saving. Daylight saving is great, despite what The Nationals originally said about all the cows ending belly up. Daylight saving is great for small business, particularly restaurants. The early commencement of daylight saving was initially introduced for the 2000 Olympic Games, but it is also great for cricket training.

The action I seek from the minister is that he consider introducing daylight saving from the last Saturday in September rather than in October, in line with what happens in Tasmania, and that he consult with New South Wales so there is a standard time for the eastern seaboard. Unfortunately Queensland may be the odd state out, but having the same time would greatly assist small business.

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

Bendigo Exhibition Centre: funding

Hon. W. A. LOVELL (North Eastern) — I wish to raise a matter for the Minister for State and Regional Development in the other place about the $1.1 million in state funding that is still owed to the City of Greater Bendigo as part of the government's contribution towards the Bendigo exhibition centre. The exhibition centre has now been completed for more than four months. The minister was very happy to perform the official opening on 15 July, but he has not been as quick to finalise the government's funding commitment as he was to accept the invitation to open the building.

The final funding contribution from the state government, which I am informed should have been paid on completion of the building, has not been forthcoming, leaving the City of Greater Bendigo $1.1 million out of pocket. I am informed that the cost of financing this outstanding debt is costing the City of Greater Bendigo around $1000 per week and has so far cost it nearly $20 000. That $20 000 could have been spent on community projects or services within Bendigo. In fact every week that passes without the government finalising the debt means that the City of Greater Bendigo has $1000 less to provide services within its community.

As this expense has been caused by the Bracks government's failure to finalise a funding commitment on time, the minister should reimburse the City of Greater Bendigo for the expenses caused by the delay in payment, allowing the council to put that money towards the delivery of services within the community.

It is also disappointing to the Bendigo district that the two local members, the ministers for Agriculture and Education Services in the other place, have shown no interest in ensuring that the Bracks government is forthcoming with the final payment. In fact, even though the Minister for Agriculture spent a very rare

day in his electorate of Bendigo West on the day of the opening of the centre, he did not bother to attend the opening, sparking rumours that there may be some friction between the Minister for Agriculture and the Minister for State and Regional Development.

I ask the Minister for State and Regional Development to ensure that all outstanding money is paid immediately to the City of Greater Bendigo.

Firearms: border anomaly

Hon. B. W. BISHOP (North Western) — My adjournment matter is directed to the Minister for Police and Emergency Services in the other place. The action I require is for him to contact the relevant minister in New South Wales to solve a particular cross-border anomaly.

One of my constituents is a security industry firearm instructor who lives in Merbein, which is close to Mildura, and who used to instruct people in both Victoria and New South Wales. My constituent holds an instructors licence in Victoria and also held a New South Wales instructors licence until October this year. He has been advised by the New South Wales firearm registry that if he wishes to remain an instructor in New South Wales, he must obtain a security firm's licence, register his pistols, and store his pistols — but all in New South Wales.

The problem is that he cannot register pistols in both states as that is unlawful in both Victoria and New South Wales and is against the spirit of the Firearms Act 1996 that intended a national approach to firearm registration. He cannot store and register pistols in New South Wales as he cannot bring them back into Victoria for the purpose of training people in their use. The Firearms Act in Victoria only recognises target pistol shooting as a lawful reason to bring pistols into Victoria. In fact I have been advised it is illegal under Victorian legislation for New South Wales police officers to bring their pistols into Victoria.

Quite rightly the constituent informed me it would not be cost effective to have two storages, one in each state, and he has already spent in excess of $3000 to upgrade his storage in Victoria. In effect these rules have put him out of business in New South Wales by restricting trade, which is bad enough as he has lost business, but now his New South Wales clients have been forced to seek training and instruction some 700 kilometres away.

The action I require from the Minister for Police and Emergency Services is to contact the relevant minister in New South Wales to solve this border anomaly which is restricting trade in an impractical and bureaucratic way.

Health: practitioner registration

Hon. D. McL. DAVIS (East Yarra) — My matter is for the attention of the Minister for Health in the other place, and I am pleased that the Minister for Health has provided to my office today 'The Health Professions Registration Bill 2005 cost estimates formal hearings'. This skimpy document was provided at 12.30 p.m. today — the day that the bill is to be debated in the lower house of the Parliament. It is a document — —

Ms Hadden — Shame!

Hon. D. McL. DAVIS — Absolutely, it is a shame — and that is a very unsatisfactory state of things when one considers that this government promised to be open, transparent and accountable. This is a government that sought to not provide proper, full and complete information to the community about the Health Professions Registration Bill — an important bill that abolishes 12 registration acts and by bringing them together in a single bill creates a complex and difficult structure.

Ms Hadden — It is a dumbing down!

Hon. D. McL. DAVIS — It is a dumbing down, as Ms Hadden points out, of a number of issues about registration, but there are cost implications to this change. The cost implications come in two ways. The first is through the complex and arcane legal changes that will be introduced and the processes that will apply to formal or informal hearings, the ability of notifiers to impact on that legal process and create additional legal costs and difficulties.

The second way it will create costs for the system of health practitioners relates to the services practitioners provide to Victorians through the medical and health indemnity insurance issues. The government has provided no details, despite my request to the Minister for Finance some weeks ago to provide details of government estimates — —

Ms Broad — On a point of order, President, the member has been going for some time on a bill which is before the Legislative Assembly, which will come into the Legislative Council for debate; and there will be ample opportunity for this bill to be debated in the Council. The adjournment debate is not an opportunity to debate a bill. President, I ask that the member's attention be drawn to the rules that apply to the

adjournment debate in terms of raising a matter for the minister's attention.

Hon. D. McL. DAVIS — On the point of order, President, anticipation does not apply because the bill may never be passed in the Legislative Assembly and that would be prejudging the decision of the Legislative Assembly. On the broader matters that the minister raises, I do not think the minister has understood that I am yet to get to my question of action on government administration for the Minister for Health in the other place, and I will get there. I know that the minister and the government are very sensitive on this matter — —

The PRESIDENT — Order!

Hon. Bill Forwood — The member is not allowed to debate — —

The PRESIDENT — Order!

Hon. Bill Forwood — I am telling the member.

The PRESIDENT — Order! Mr Forwood will be quiet when the Chair is on her feet. With respect to the point of order raised by the minister, I do not believe the minister made any comment or raised any questions about anticipation, so the Honourable David Davis's response to the point of order was inaccurate in that sense, but the member should be cognisant of the fact that he should not be making a set speech in the adjournment debate because that is highly inappropriate. The member is also required to seek specific action from the Minister for Health in the other place with whom he is raising the matter. The member has 52 seconds remaining and should not make a set speech but should seek specific action.

Hon. D. McL. DAVIS — Thank you, President, I will seek a specific action from the Minister for Health in the other place. As I have indicated, the Minister for Health has not provided to the opposition, as requested, matters relating to the financial impacts of the Health Professions Registration Bill, and I am concerned about that. What I seek from the minister very specifically are full estimates that relate to more than the formal hearings issue and include matters that relate to medical indemnity impacts of the bill. I seek from the minister very specifically a full costing, and I seek it prior to the bill's debate in the lower house.

Police: Somerville

Hon. R. H. BOWDEN (South Eastern) — Last night at about 6.00 p.m. I went to a meeting in Somerville that was well attended by the Somerville traders organisation. It was a meeting at which — —

The PRESIDENT — Order! Could Mr Bowden indicate to the house with which minister he is raising his matter.

Hon. R. H. BOWDEN — Thank you, President, I am sorry I missed saying that. I seek the assistance of the Minister for Police and Emergency Services in the other place. The meeting last night was attended by another local MP and me in response to community concern about crime in the Somerville area and was well attended by the Somerville traders.

At that meeting details were given about recent vandalism, burglaries, robberies, domestic violence and all sorts of unfortunate circumstances that need the attendance of Victoria Police to one extent or the other. It is interesting that it has been estimated that in this area the population is approximately double what it was 20 years ago, yet at the nearby Hastings police station the authorised strength is believed to be approximately 33 officers, which number has not changed in a long time.

There is very real concern in the Somerville area about the fact that there is no police station there. The police command has made it very clear over a long period of time that the combined forces of Frankston, Mornington and Hastings should be able to cover the situation.

I would like to emphasise that the community does not in the slightest criticise the senior officers at Frankston or in any way criticise the service from the Hastings police station. The officers at Frankston and Hastings do an excellent job; they are well respected and are held in very high regard. My contribution tonight is definitely not in any way to be taken as a criticism of those officers. However, what is lacking is the general belief that the resources provided through the command chain are completely inadequate for effective policing in this area. It is cause for concern, and real damage is being done. People are concerned about their safety, and despite hard work, genuine effort and very sincere concern from all the local police, it is not getting better. It is getting worse.

I ask the Minister for Police and Emergency Services to become aware of this localised community dissatisfaction and to be very aware that more resources are needed.

Liquor: licences

Hon. D. K. DRUM (North Western) — I ask the Minister for Housing to pass on my adjournment matter

to the Minister for Consumer Affairs, the Honourable Marsha Thomson.

My adjournment issue surrounds the sale and purchase of licensed venues. Currently anybody purchasing a licensed venue is not allowed to apply for a transfer of a licence to trade in liquor until they have settled the purchase of the business. That may seem to be a totally normal way of doing things — that is, you actually buy the business and then apply for the transfer of the liquor licence — but what is happening is that this 30 or 40-minute electronic transaction has now blown out, resulting in a delay of between five and seven working days in processing by the Liquor Control Board. This delay is causing a dramatic turn of events in how purchasers of licensed venues are then operating, or attempting to operate, immediately upon purchasing a licensed venue.

Right across Victoria we have situations where purchasers of licensed venues lodge applications to have liquor licences transferred into their name immediately upon settlement, which take five to seven working days to be processed, even though it is only a 30 to 40-minute electronic process. During that period their options are to trade illegally, to close the businesses while the transfer of their liquor licences is processed or trade as agents of the vendors. Obviously there are implications in relation to any purchaser of a new venue trading as an agent of the previous owners. Any breach will go back onto the previous owner.

I call on the minister to create a new system of transferring licences to trade liquor from vendors to purchasers in a time frame that enables the purchasers of licensed venues to trade legally from the very moment or within 30 minutes of the time they purchase a licensed venue, and to do away with the delay of five to seven working days that exists at the moment.

The PRESIDENT — Order! Before I call the Minister for Local Government to respond, the adjournment matter raised by the Honourable Ron Bowden does not meet the guidelines I have set out for raising adjournment matters. To ask the minister to become aware or more aware of something is not seeking specific action, so I will give the member the opportunity to rephrase the matter he has raised. If he meets the test, then it is in. If he does not, then I will have no option but to rule it out.

Police: Somerville

Hon. R. H. BOWDEN (South Eastern) — Thank you, President. I appreciate that. I ask the Minister for Police and Emergency Services in the other place to become more aware of the situation, but also to consider providing extra funds to Victoria Police in order that resources can be allocated to the appropriate division so that this area within the Victoria Police geographic responsibility can be better served with resources.

Responses

Ms BROAD (Minister for Local Government) — The Honourable Andrea Coote raised certain matters for the attention of the Minister for the Arts in the other place concerning a request for further information regarding visitations to the Australian Centre for the Moving Image. I will refer that request to the minister.

The Honourable Bill Forwood requested the Minister for WorkCover and the TAC consider certain administrative efficiencies for WorkCover. I will refer that request to the minister.

Mr Pullen raised a matter for the attention of the Minister for Small Business in the other place. He requested the earlier introduction of daylight saving in line with Tasmania. I will refer that request to the minister.

The Honourable Wendy Lovell raised a matter for the attention of the Minister for State and Regional Development in the other place concerning funds for the City of Greater Bendigo. I will refer that request to the minister.

The Honourable Barry Bishop raised a matter for the attention of the Minister for Police and Emergency Services in the other place. He requested that the minister contact the relevant New South Wales minister to resolve a cross-border anomaly in relation to pistols. I will refer that request to the minister.

The Honourable David Davis raised a matter for the attention of the Minister for Health in the other place, which concerns information he is seeking in relation to the medical registration bill that is currently before the Legislative Assembly. I will refer that request to the minister.

The Honourable Ron Bowden raised a matter for the attention of the Minister for Police and Emergency Services in the other place and sought the minister's awareness of and additional funding for police resources in the Somerville, Hastings and Frankston area. I will refer that request to the minister.

The Honourable Damian Drum raised a matter for the attention of the Minister for Consumer Affairs concerning the procedures and time involved in the

matter of the transfer of liquor licences following the purchase of businesses. I will refer that request to the minister.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 10.32 p.m.