PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 22 November 2005

(extract from Book 9)

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

By authority of the Victorian Government Printer

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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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Deputy Leader of the Opposition:
The Hon. ANDREA COOTE

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

Deputy Leader of The Nationals:
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Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
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Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
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Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy	Silvan	Ind	Vogels, Hon. John Adrian	Western	LP

CONTENTS

TUESDAY, 22 NOVEMBER 2005

DUTIES AND LAND TAX ACTS (AMENDMENT) BILL
Introduction and first reading 2103

SUPERANNUATION LEGISLATION (GOVERNANCE REFORM) BILL
Introduction and first reading 2103

HEALTH PROFESSIONS REGISTRATION BILL
Introduction and first reading 2103

ROAD SAFETY AND OTHER ACTS (VEHICLE IMPOUNDMENT AND OTHER AMENDMENTS) BILL
Introduction and first reading 2103
Second reading 2146, 2154
Third reading 2166
Remaining stages 2166

WORKPLACE RIGHTS ADVOCATE BILL
Introduction and first reading 2103

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE
Corporate governance in public sector 2103

PAPERS 2104

BUSINESS OF THE HOUSE
Program 2104
Orders of the day 2146

ENVIRONMENT EFFECTS (AMENDMENT) BILL
Second reading 2105
Third reading 2111
Remaining stages 2111

MINERAL RESOURCES DEVELOPMENT (BROWN COAL ROYALTIES) BILL and MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL
Concurrent debate 2111
Second reading 2112

MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL
Declared private 2112
Second reading 2125
Third reading 2125
Remaining stages 2125

DISTINGUISHED VISITOR 2124

MINERAL RESOURCES DEVELOPMENT (BROWN COAL ROYALTIES) BILL
Second reading 2124
Remaining stages 2125

INVESTIGATIVE, ENFORCEMENT AND POLICE POWERS ACTS (AMENDMENT) BILL
Second reading 2125, 2143
Remaining stages 2146

QUESTIONS WITHOUT NOTICE
Government: advertising 2130, 2132, 2136
Occupational health and safety: legislation 2131
Aged care: personal alerts 2133
Commonwealth Games: shooting venue 2134
Artistic Gymnastics World Championships 2135
East Timor: ministerial council status 2136
Commonwealth Games: athletes village 2137
Energy: government contract 2138

Supplementary questions
Government: advertising 2131, 2133, 2136
Commonwealth Games: shooting venue 2135
Commonwealth Games: athletes village 2138

QUESTIONS ON NOTICE
Answers 2139

MEMBERS STATEMENTS
Schools: music 2139
Barry Jones 2139
Australian Volunteer Coast Guard Association 2140
Melbourne Affordable Housing 2140
Calder Highway: duplication 2140
Tuong Van Nguyen 2140
BreastScreen Victoria: Geelong 2141
Golden Days Radio 2141
Local government: public entertainment permits 2141
Industrial relations: federal changes 2142
Government: financial management 2142
Victorian Immigrant and Refugee Women's Coalition: diversity forum 2142
Cath Henry 2143
Neighbourhood Watch: Maribyrnong 2143

COMMISSIONER FOR LAW ENFORCEMENT DATA SECURITY BILL
Second reading 2147
Third reading 2154
Remaining stages 2154

CHILD WELLBEING AND SAFETY BILL
Second reading 2166
Third reading 2177
Remaining stages 2177

CHILDREN, YOUTH AND FAMILIES BILL
Second reading 2177

ADJOURNMENT
Victorian Opera: artistic director 2190
BreastScreen Victoria: Geelong 2190
Timber industry: Sustainability Report 2191
Public transport: New Year's Eve 2191
Locusts: control 2192
Motor vehicles: government fleet 2192
Gas: Merbein supply 2192
Footscray: transit city project 2193
Western Port Highway: upgrade 2193
Monash Medical Centre: lost property 2194
Murray Valley Highway: speed zones 2194
Responses 2195

Tuesday, 22 November 2005

The PRESIDENT (Hon. M. M. Gould) took the chair at 9.34 a.m. and read the prayer.

Hon. Bill Forwood — On a point of order, President, last week you advised the house that, with the Speaker, you had written to the Premier seeking information on the government's decision to interfere in the royal assent process for the Racing and Gambling Acts (Amendment) Bill. I wonder if — —

The PRESIDENT — Order! Sit down, Mr Forwood. As Mr Forwood well knows — he has been here long enough — he can raise a point of order, but he cannot debate a point of order.

Hon. Bill Forwood — I wonder, President, if you could advise the house whether you have had a response as yet, given that the Parliament sits just this week.

The PRESIDENT — Order! When I advised the house that the Speaker and I had written to the Premier I indicated that I would inform the house when I had a response. I will do so. I do not have a response, and when I do I will advise the house.

Hon. Bill Forwood — On a further point of order, President, I wonder if in the interests of transparency you could invite the Leader of the Government to ascertain whether the Parliament will receive a response while it sits this week.

The PRESIDENT — Order! That is frivolous. I do not uphold the point of order. Mr Forwood knows better. He should stop using the house for his own purposes.

DUTIES AND LAND TAX ACTS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Finance).

SUPERANNUATION LEGISLATION (GOVERNANCE REFORM) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Finance).

HEALTH PROFESSIONS REGISTRATION BILL

Introduction and first reading

Received from Assembly.

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

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

Introduction and first reading

Received from Assembly.

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

WORKPLACE RIGHTS ADVOCATE BILL

Introduction and first reading

Received from Assembly.

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

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Corporate governance in public sector

The Clerk, pursuant to Parliamentary Committees Act, presented government response.

Hon. Bill Forwood — On a point of order, President, I want to alert the house to the fact that this report was circulated yesterday. It is very disappointing that if a report can be tabled in the Parliament, then by notification it is circulated to members prior to the house sitting.

The PRESIDENT — Order! That is in line with the act. The Clerk has a responsibility to fulfil his obligations in accordance with the act and have the report circulated. There is no point of order.

PAPERS

Laid on table by Clerk:

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

Alpine Planning Scheme — Amendment C14.

Cardinia Planning Scheme — Amendment C73.

Hume Planning Scheme — Amendment C67.

Indigo Planning Scheme — Amendment C 29.

Towong Planning Scheme — Amendment C9 Part 2.

Yarra Ranges Planning Scheme — Amendments C8 and C52.

Statutory Rules under the following Acts of Parliament:

Children and Young Persons Act 1989 — No. 139.

Melbourne City Link Act 1995 — No. 140.

Non-Emergency Patient Transport Act 2003 — No. 135.

Subordinate Legislation Act 1994 — No. 134.

Transport Act 1983 — Nos 136 to 138.

Subordinate Legislation Act 1994 — Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 139.

A proclamation of the Governor in Council fixing an operative date in respect of the following act was laid on the table by the Clerk:

Primary Industries Acts (Further Amendment) Act 2005 — sections 6, 8, 9(2), 21(6), 22, 24, and 29 — 1 December 2005 (*Gazette No. G46, 17 November 2005*).

BUSINESS OF THE HOUSE

Program

Mr LENDERS (Minister for Finance) — I move:

That, pursuant to sessional order 20, the following items of government business be considered and completed by 4:30 p.m. on Thursday, 24 November 2005:

(a) notice of motion relating to the ratification of six amendments to modify the urban growth boundary in relation to the Cardinia, Casey, Hume, Melton, Whittlesea and Wyndham planning schemes; and

(b) the orders of the day relating to the following bills:

Environment Effects (Amendment) Bill

Mineral Resources Development (Brown Coal Royalties) Bill

Mines (Aluminium Agreement) (Brown Coal Royalties) Bill

Investigative, Enforcement and Police Powers Acts (Amendment) Bill

Commissioner for Law Enforcement Data Security Bill

Child Wellbeing and Safety Bill

Children, Youth and Families Bill

Water (Resource Management) Bill

Veterans Bill

Superannuation Legislation (Governance Reform) Bill

Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill

Duties and Land Tax Acts (Amendment) Bill

Workplace Rights Advocate Bill

Health Professions Registration Bill.

It is the final week of the spring sitting. We have four sitting days and will sit longer hours than normal. These are all bills that are required to be passed by the end of the year. This motion certainly enables the house to deal with them over four days. I urge members to support the motion.

Hon. PHILIP DAVIS (Gippsland) — I indicate that the opposition opposes this motion. I will speak very briefly to the motion.

This motion reflects that the government cannot manage its legislative program and that it holds the Parliament in contempt by trying to ram through what I believe is a record number of matters before the house — 15 matters are now on the government business program. The opposition has cooperated with the government as much as it possibly can to maximise the time available for debate in the Parliament. The government's introduction of this program effectively means that matters will be guillotined, that debate will be abridged and that the community will not be heard in the Parliament as a result of the guillotine applying because of the government business program. Therefore the opposition absolutely opposes this motion.

Hon. P. R. HALL (Gippsland) — I briefly indicate that The Nationals will also oppose this government business program. It is a long week and there are 15 items listed for the Parliament to get through. It is our view that this will be best achieved by cooperation rather than by order. That has been our consistent view regarding government business programs. Consequently, we see no difference this week. We will

work with the government to achieve the objectives of what has been outlined in this motion, but our preference is that it be done by cooperation rather than by force.

House divided on motion:

Ayes, 20

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

Noes, 17

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

Motion agreed to.

ENVIRONMENT EFFECTS (AMENDMENT) BILL

Second reading

Debate resumed from 15 November; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. McL. DAVIS (East Yarra) — I seek to make a contribution on the Environment Effects (Amendment) Bill. This slim bill — a mere 12 pages — is a further grab for power by this government. It is a bill which in effect weakens the environment effects programs in this state.

The main provisions are aimed at tidying up things in the principal act. The proponent of a project can now ask the minister directly for a ruling. The minister may decide against an environment effects statement (EES) by imposing conditions to be met. That provides a whole new opening for ministerial power and the circumventing or short-changing of the environment effects processes in this state. The bill also provides a more explicit capacity for preparation of guidelines, which again increases ministerial power over these matters. In addition, there are a number of transition provisions.

I note that there is a background to this bill. An EES review report was completed in December 2002, and the government sat on it for year after year and only released it this year. The failure to release that report and to reform the environment effects process in Victoria was widely criticised. I do not think it is necessary for me to review all those criticisms but I make the point that several controversial projects will slip through under the old rules. If the government had acted more swiftly, more directly and with greater community involvement, those projects would have been subjected to a more comprehensive and satisfactory environment effects process.

A number of those projects are very controversial. The dredging of the bay is a process which is important to Victoria but it is a process where the environment effects processes need to be got right. All of the evidence is that the government has mismanaged those processes. It should have dealt with a proper review of the environment effects legislation in this state back in 2002 or shortly thereafter. We have heard the Minister for Energy Industries talk in this chamber about Hazelwood and some of the legal shenanigans that have gone on around it, but it is clear that the government has not well managed that process at Hazelwood. The wind farms which have been or are to be erected around the state got through under the old procedures. In addition, it is clear that the minister is not going to subject the toxic dump he plans to locate at Hattah-Nowingi to the full processes under this legislation. The Minister for Planning has the power to exempt or to alter the arrangements for particular projects, and it appears that that is the way it will operate in some of these cases.

The opposition has concerns about how this will apply. Because the bill increases the minister's power and allows the minister to avoid an EES by applying conditions, it is our view that there will in future be fewer EESs. We also believe the guideline powers will facilitate greater explicit control of the process by the government. I make the point that there are a number of smaller technical things here that could have been addressed quite straightforwardly if the government had been more open and sensible about some of these processes. This legislation will reduce council power, and I have no doubt my colleague the Honourable John Vogels will say something about that. The transparency of proponent-generated rulings is also an issue, and I have mentioned concerns with wind farms.

This bill has a very simple purpose: to amend the Environment Effects Act 1978 to improve its operation. In making my comments about the amendments to the act I pay tribute to the then Liberal government for its far-sighted moves to introduce a proper and robust environment effects process in the state in the 1970s. That process was ahead of its time and in many respects served the state well, but the review conducted in 2002 and other modern developments have meant it was time to look at aspects of the environment effects process and improve them.

I am not sure this bill has achieved its aim of improving the process. In fact I think it may well lead to a poorer outcome for the community with the minister again having a whole suite of new powers and a capacity to have a very direct impact on these things, which means fewer opportunities for community input and transparent and open processes. Those transparent and open processes are what generally lead to the best outcomes in terms of environment effects. That is where I think the government has not understood that it has a lot of work to do, and this bill certainly does not do that work.

I make the point that the toxic dump in Mildura, being under the old arrangements, will escape. If the government had acted earlier and introduced a proper new bill, that site would have been fully subjected to proper public process and we may well have seen a very different outcome with respect to the toxic dump. People in the state's north-west have every reason to be angry with this government for allowing the toxic dump to slip through before any of these changes were introduced. The ministerial power to decide some of these matters should frighten many communities. It is potentially a capricious power, a power that can be arbitrarily applied, a power that is open to abuse, and these are not the kinds of practices that we would like to see entrenched in legislation.

There has been a series of ministers for planning under this government. All of them have been part-time ministers who have got many of the planning processes wrong, and the shadow Minister for Planning, Mr Baillieu, has been very effective in exposing errors and problems with the government's 2030 proposals and other aspects of its planning processes. This failure of the government to get its processes right is leading to bad planning outcomes and bad results around the community, and the Environment Effects (Amendment) Bill will not assist with that. Country Victoria should be very concerned that there are no constraints on government powers regarding the toxic waste dump. The government will be able to exempt certain processes, and that will lead to an opening that developments may well get through without proper examination and scrutiny.

It is not my intention to recap all of this but I know that the Liberal Party spokesperson in the other place, the member for Hawthorn, referred at length to the Victorian Competition and Efficiency Commission report of January 2005 entitled *Regulation and Regional Victoria — Challenges and Opportunities*, and he made the point that it did not appear to have fully grappled with some of these points. In the report the commission said:

> … the Minister for Planning appears to have significant discretion in determining when an EES will be required.

I note that a number of these major projects, including the Hattah-Nowingi one, appear to have slipped through before the government was prepared to make any further changes. You would think there would be a central point for facilitating public scrutiny but this bill will lead to less public scrutiny, which concerns me greatly.

My colleague also referred to the document from the Planning Institute of Australia entitled *Victoria — A Planning Scorecard* and I quote a passage from that. It states that there was:

> Evidence of bypassing the EES/EIA process by conducting impact assessment through planning panels or via a planning permit process raises grave concern about an appropriate strategic input, technical expertise and due process. Long delays in completion of EES/EIA legislation review also causes grave concern to the planning community. No public account is given for delay in EES review, or shift in procedures for considering major impacts.

These are very fair points and the government appears not to have understood that transparency and process issues are very important. This government was elected in 1999, claiming that it would be open and transparent and accountable, but in the area of planning, nothing could be further from the truth. This is a secretive government with its agendas; it is prepared to do deals on the side and is not prepared to open key matters to proper public impact statements and allow proper public scrutiny. The report by the planning institute recommended:

> A total rewrite of environmental legislation to ensure comprehensive, open and accountable environmental impact studies.

If this bill is the government's attempt to do that, it is a joke. It is not what should have come to Parliament at this time; there should have been a proper review of the legislation, picking up the points from the earlier review which the government sat on for three years, picking up

the points made by planners and architects and those with proper interests in these processes. The government could have done much better in bringing these things forward.

I also want to comment about the report undertaken by the eminent lawyer Mark Dwyer, entitled *Review of Operation of Planning Panels in Victoria, Consultant's Report, April 2003.* That report, like the environmental assessment report, has lain on the shelf and has not been focused upon by the government. Mr Dwyer made a whole series of points that sought to improve planning operations in Victoria, but the government appears to have ignored many of these points.

I am concerned about that, and I am concerned about the planning process in this state. Whenever the government gets into trouble with a public planning process, it calls it in. Whenever the government gets into a public brawl, it finds a way to assert its power — separate from the community — without listening. I have experienced the government's approach to these planning matters at a local level with Kew Cottages and the processes surrounding the Camberwell railway station; they have been a disgrace. No Victorian can support this government's approach to these issues, and this bill — the Environment Effects (Amendment) Bill — is a travesty of process.

The government should have taken the opportunity to listen to the community; it should have rewritten properly the environment effects review legislation. The government should have been prepared to adopt many of the comprehensive recommendations from the community. It should have opened up the process and made it more open and transparent. We would have got better outcomes, better planning processes and a better assessment of environment effects. The environment in our state is an important tourist drawcard and an important aspect of Victoria, and we need to strongly protect it, but this government's delay in releasing those reports, its delay in coming forward with any movement and its total failure to properly reform these processes in Victoria is a very sad missed opportunity.

I also want to put on record that the government has let a number of big projects slip through the noose without proper assessment. The standout example is the toxic dump. The people of Mildura, Hattah-Nowingi and district should be very unhappy about the government's failure to have proper processes in place. Again and again we have heard Mr Lenders, the minister responsible for that so-called major project, speak to this house. All you can conclude from his comments is an arrogance, an out-of-touch attitude and a failure to listen to and heed the voice of the community. His visit to Mildura recently should have been a wake-up call for him, but he appears so out of touch that he is not prepared to listen to the community. I know people who were present at some of the public demonstrations up there at the time of his meetings. The point was made forcefully to him but he had very few answers when confronted by issues, and he has very few answers in this place.

I think this is the sign of a government that is tired, out of touch, arrogant and which has stopped listening to the community. This bill is similarly that sort of sign.

Hon. P. R. HALL (Gippsland) — I have always found the environment effects statement (EES) process to be cumbersome, complex and daunting to the extent that it actually deters ordinary people from participating in the process. That is a shame because for people not to be able to participate in a planning process that affects them denies them what should be their right to participate. Sometimes, because this EES process gets so complex and technical, people just have not got the ability or they are scared off from participating in the process.

I reckon the EES process is heavily weighted in favour of developers. It can be very costly, time-consuming and tortuous for a local community to participate in the EES process. I have been involved in some planning matters involving EES processes over the years, and I admire the people who make a commitment to participate because it takes a huge personal commitment — almost a crusade — to embark upon the EES process, to attempt to understand it and have a meaningful input into that process.

There is an urgent need for an overhaul of the EES process. I agree with the comments by the Honourable David Davis that this is a lost opportunity for the government in terms of reviewing the whole process. At the 1999 state election I actually applauded the Australian Labor Party for making a commitment to review the planning process involving environment effects statements. It offered some hope that the whole system would be improved and simplified and that would facilitate better participation in those processes.

Alas I have been left bitterly disappointed. I am disappointed first of all with in the time it has taken to get where we are today — from 1999 to now, November 2005, has been a long period of time. I am also disappointed in the outcome we have achieved, because this bill does nothing to improve the process whatsoever. In 1999 it was an election promise by the Labor Party, now the government, to review the environment effects statement process, and that was

welcomed. It started in the year 2000 when Minister Thwaites in the other place initiated the review. It languished until 2002, when the then planning minister Mary Delahunty in the other place appointed an advisory committee to consider various options. Now, in November 2005, we have the outcome of five years work, and it is a very miserable outcome: an amendment bill of just 10 pages and 10 clauses that I do not think improves the EES process in any way at all. The Nationals are bitterly disappointed, and that is why we will oppose this piece of legislation.

As I said before, I have been involved in some fairly complex planning processes for projects within my electorate, some of which involved an EES process and some of which involved simply a planning panel hearing in respect of planning permit applications, but there are common elements to both. I have spoken about the complex nature of some of the matters considered through a planning process and how difficult it is for people to participate. Some of the projects in my electorate — for example, Basslink — involved a tortuous planning process and it was a huge commitment for people to participate in it. There have been several wind farm planning processes. The Bald Hills wind farm required an EES, and then more recently there has been the Dollar wind farm application, where no EES was required. For the life of me I still cannot understand why in the eyes of the planning minister one required an EES and the other did not. The government has been very inconsistent with respect to those projects.

I have also been involved with the Hazelwood power station mine extension. Again there was a long and tortuous planning process to get where we are with that project. The Honourable David Davis has mentioned the Hattah-Nowingi toxic waste dump process. I am not going to say a lot about that, but I am going to highlight some of the difficulties with the planning process illustrated by the simple fact that there are 24 technical reports in relation to the toxic waste dump at Hattah-Nowingi. The Minister for Major Projects has frequently encouraged people to read those 24 technical reports and offer a view to the planning process. I say that is easier said than done. One just about has to be a scientist to understand those reports — and a multifaceted scientist at that. One needs to understand the chemistry of it, to be a civil engineer, and one probably needs to have qualifications in environmental science and be a social scientist as well.

The point I am making is that for ordinary people who want to participate in projects like this to get their minds around 24 technical reports is a huge task, and I say that it deters ordinary people from participating in the process. Even in terms of some of my personal contributions before a planning panel, I believe standing in front of a panel and being asked certain questions by some of the proponents is a fairly daunting experience for people, no matter who they are. Again I say that for ordinary people who wish to participate there is naturally some reluctance to appear before panels to comment on reports which are highly technical in nature.

My view has always been that local communities need some financial support to respond to these technical studies. I know that in the Hattah-Nowingi toxic waste dump example the government has made some money available to the local community to enable it to employ people to help it with its submission, but I understand it is in the order of $50 000, which does not go far. I can tell you that in the most recent example with the Dollar wind farm planning process the proponents flew in sound experts from London to help present their case. They had world-renowned experts coming in to support their arguments. What hope did the local community have of throwing up evidence against such experts?

The local community did a fantastic job, and I am sincerely optimistic that it will win its case, but it has been a jolly long, hard, tortuous battle for the people who put hours and hours of work, effort, and research into putting forward their views. In the case of a many of these private projects where an environment effects statement is required, no assistance at all is given to local communities so that they can participate fully in the EES process.

I hope you get my drift, Acting President. I believe the EES process is weighted heavily in favour of developers and against communities, so I think the EES process desperately warranted some major overhaul to enable better access for and participation by community members in that process. I do not think this bill achieves that in any regard whatsoever, and I am very disappointed with the outcome of the review process.

Let me say a couple of things about the bill itself. The substantial amendment occurs in clause 7, which substitutes a new section 8 into the act. There has been a fair bit of discussion about new section 8B. Without reading all the words, section 8B(3) provides that, on application, a minister may look at a project and deem whether it will require an EES process or will not require an EES process, but with conditions attached. Again, there is no community involvement in that decision by the minister, and if the minister were to say simply that no EES was required, the minister is not required to have any regard for a community whatsoever. That was the case with the Dollar wind

farm project; the minister said that no EES was required. Again, neither the community nor local government had a say in that; it was purely the minister who made that decision. I do not think new section 8B(3) will in any way improve access to or community participation in decision making at all.

Clause 9 of the bill enables the minister to set new ministerial guidelines. I have a personal problem with clauses like this where the Parliament is asked to give the minister power to establish new guidelines with no view or no overall presentation to the Parliament of what form those new guidelines may take. Essentially we are being asked to put our trust in the minister that those guidelines will be in accord with what community wishes may be. Whenever a minister is given the power to establish new guidelines or regulations, so important on an issue like this, at least there should be some exposure given to us as members of Parliament about the form and content of those guidelines. Yes, there is a broad description of what the guidelines can do, but I think we need to be more specific before we give approval for that to occur by way of legislation.

The last point I want to make in my contribution to this debate goes to the comment on the last page of the second-reading speech, which says:

> 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.

There is no substantiation of that statement, and it annoys me that I continue to read rhetoric like that with no substantiation to it. One only need go back and look at some of the planning processes that I spoke of earlier. With Basslink, for example, I do not think a sensible environmental outcome was achieved at all. At some additional cost that particular power transmission line could have been put underground, but it was not. The government bowed to pressure from the company involved and allowed it to construct 40-metre-high pylons which traverse the South Gippsland landscape. No good environmental outcome was achieved through that process, and I do not think an appropriate balance was achieved between the economic, social and environmental values of the project.

I still believe in respect of some of the other major planning items such as wind farms that a balance is not being struck. There is a one-sided view about what 'environment' is. According to most, including members of the government, it is about the lessening of the use of fossil fuel, but at the same time wind farms have an environmental impact in terms of the aesthetics of the region. They are a great imposition on a landscape, and landscape value must certainly count for something when you are considering all of the environmental aspects of projects like that. I do not think we get the balance right, and far too often outcomes are driven by politics rather than by a sensible balance between economic, social and environmental factors.

In summing up, I believe this is a missed opportunity for the government to do some really positive work with the planning processes in this state. It is disappointing that after five years the government has come up with a bill of 10 pages and 10 clauses and which limits rather than improves community participation. For those reasons The Nationals will be opposing the bill.

Ms CARBINES (Geelong) — I am pleased to speak this morning on behalf of the government in support of the Environment Effects (Amendment) Bill, which is before the house as a result of the Bracks government's commitment to review Victoria's environment assessment system.

The government made this commitment because although the current arrangements have performed well in assessing environmental impacts on many and varied projects they have been in place for over 30 years. The government has an obligation to make sure the arrangements in place to assess environmental impact are appropriate and current, are world best practice, are consistent and are constantly applied. It has an obligation to ensure that the best possible arrangements are in place to assess potential environmental impact. The bill before the house is a result of the government's commitment to undertake the review and results from the review itself.

The review of Victoria's environmental assessment procedures was undertaken by the Department of Infrastructure. Consultation with the Victorian community and with stakeholders has been extensive and responds to a discussion paper called the 'Environment Assessment Review Issues and Options 2002'. An advisory committee was put in place by a former planning minister, and over 70 submissions were received from groups and members of the public in response to its discussion paper; a number of public hearings were also held. So extensive consultation occurred in relation to how we should review our environmental assessment procedures in this state and in relation to the report's recommendations.

The summary on page 1 of the environment assessment review advisory committee report outlines the key

issues identified to the committee during its review. They include the need to ensure transparency, certainty and accountability in the environment assessment process, build greater confidence in the system, continue to incorporate public participation as a key element in the process, provide greater certainty of process and timing for all key stakeholders, and make a more effective contribution to ecologically sustainable development in Victoria.

The bill reflects the issues identified by the environment assessment review advisory committee. It seeks to modernise the act to strengthen the environmental impact assessment system in Victoria. It will make the system more workable and deliver improvements by creating greater certainty for all participants. I assure the house that the draft guidelines, a public document, were released in August this year and are out in the community for consultation at the moment. They are not secret, and the government is currently undertaking consultation in response to those draft guidelines. So Mr Hall should stand corrected in relation to that, and I am sure he will rush out and look them up on the Internet.

The bill is intended to improve the efficiency, transparency and accountability of existing procedures and to provide certainty for the proponent, the community and the agencies. Specifically the bill will enable a proponent to refer a proposal to the minister for a decision as to whether an EES should be prepared. This is a change from the existing arrangements because currently only the relevant decision-maker can refer a proposal. When this bill is passed the proponent will also be able to refer a proposal to the minister in relation to an EES, so that is a strengthening of the system.

The minister will require a decision-maker to refer a proposal — again an improvement on the current system. The bill will enable the minister to specify decisions that are to be put on hold until after the minister has determined the need for an EES — again a strengthening of the system — and where the minister has determined the need for an EES, until after the minister's assessment of the EES. This will ensure that projects that may need an EES will be put on hold until that need has been properly scrutinised — a further strengthening of the current system.

The bill will also enable the minister to attach conditions to a decision that an EES is not required. We expect to have two types of conditions under this system: firstly, to tie the no-EES decision to a specific description of the project — for example, the form, scale and location of the development with the specific mitigation measures which are to be implemented; and secondly, the specific assessment process, investigations or consultations which are to be carried out, which again is an improvement on the current system.

The bill will also enable the minister to provide advice as to what process, which would be set out in the guidelines, is to be followed. Those draft guidelines have been out for public comment since August. The bill will also enable the minister to require, if necessary, a supplementary statement to address outstanding issues in relation to any works already subject to an EES which the minister considers necessary for making an assessment, so the minister can require additional scrutiny during an EES — again improving the current system.

This legislation before us today will make the system much more workable and create greater certainty for local government, the community, business and, most importantly, it will protect our environment. The reforms present a balanced approach. They provide certainty to project proponents as to what is required of them right from the start, whilst affording strong environmental protection. With the passage of this bill our state will be at the forefront of environmental assessment in Australia, and that is very important position to be in. We are leading Australia in relation to environmental assessment and we make no apology for that. It is really important that our environment is properly and rigorously protected.

I listened carefully this morning to the contribution of Mr David Davis, which I must say was not up to his usual standard. He obviously had not put much time into its preparation. He made some disparaging comments about various planning ministers, which I thought was unnecessary, and indicated that he expected there would not be as many EESs in future under the bill before us today. That is absolute nonsense. I would expect there to be more EESs as a result of the legislation which we are passing today. Currently there are between 6 to 10 EESs being undertaken in this state at any one time. I cannot see how there will be fewer EESs in the future, because there will be more opportunities to have an EES take place.

I thought Mr Davis's comments about projects which are under way and which are going through the environmental assessment process were, on examination, political grandstanding, which bore no resemblance to the actual process which is taking place.

One only has to look at the channel deepening EES process which is taking place, where the minister, as a result of the initial EES process and the subsequent panel report which identified outstanding issues to the government and to the minister, required a supplementary EES to take place, and that is taking place at this very moment.

The government and the planning minister have demonstrated a commitment to rigorous environmental assessment of projects such as the channel deepening project. All of the EESs that are currently under way are rigorous and robust processes. It is an absolute nonsense for Mr David Davis to suggest that the government has somehow held off consideration of this bill while those EESs are taking place and that somehow those EESs therefore must be diminished EESs that are not as rigorous as they could be. That is arrant nonsense. Mr Davis knows that, and he has just come in here this morning in an attempt to get on the *Hansard* record his views about some of the political issues that have taken place in the state which bear no resemblance to the processes that are taking place. If anyone took any effort to scrutinise the processes that are taking place they would know that they are robust processes. I am disappointed in Mr Davis's contribution to the debate.

I thought his comments in relation to the Minister for Planning in the other place were unwarranted. Minister Hulls is a very fine planning minister. Yesterday I was pleased to chair a planning forum at Telstra Dome with nearly 200 participants from local government. Over 60 councils were represented at the planning forum, which demonstrates their preparedness to work with Minister Hulls to look at ways of improving the planning system. I was very impressed by the contributions made by local government. The planning minister has the support of local government across the state, and they came to his forum yesterday in droves to assist me and Minister Hulls in looking at ways to improve the planning system. This government does not rest on its laurels. We are not pretending that there are not issues that could be improved upon, but we are prepared to put in place reviews to critically look at legislation — or in this case the environmental assessment — and at the outcome of the review we are prepared to act and to ensure that the legislation reflects the outcome of the review.

With those few words I am pleased to speak in support of the Environment Effects (Amendment) Bill this morning. I commend Minister Hulls for introducing the bill in the other place, and I wish it a speedy passage.

House divided on motion:

Ayes, 19

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

Noes, 17

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

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

MINERAL RESOURCES DEVELOPMENT (BROWN COAL ROYALTIES) BILL and MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL

Concurrent debate

Order read for resumption of debate.

The PRESIDENT — Order! Having had the opportunity of examining the Mines (Aluminium

Agreement) (Brown Coal Royalties) Bill, it is my opinion that it is a private bill.

MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL

Declared private

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

> That the Mines (Aluminium Agreement) (Brown Coal Royalties) Bill be dealt with as a public bill.

Hon. BILL FORWOOD (Templestowe) — If this is the case perhaps the minister or someone on his behalf might care to explain to the chamber, firstly, why the bill before the house is regarded as a private bill, and secondly, why the government has decided it will pick up the costs. If it is a private bill — and as I understand it, the existing act is not shown amongst the acts on the table in the middle of this chamber and therefore it is private — then one wonders why it is before the house, except if it is at the request of Alcoa, and of course we know it is not.

So what I look forward to, now that the minister cannot speak any more, is someone on behalf of the government rising to explain to the house why it is that the government has decided in these circumstances to move the motion before this house, and it will use its numbers, I am sure, to ensure that the public purse pays for this piece of legislation we are going to debate, which as honourable members know will potentially add significant costs over time.

Hon. T. C. THEOPHANOUS (Minister for Resources) (*By leave*) — I thank the opposition for providing leave to allow me to explain the government's actions in this regard. The reason this is a private bill, as the member would appreciate, is that it amends a private act, which is the Mines (Aluminium Agreement) Act of 1961. It was a private act because it dealt with a particular issue which was of concern to the aluminium industry at that time.

This bill, although of a private nature, will result in changes that are of a public nature and will deliver public benefits. That is because, as Mr Forwood would understand, it potentially increases brown coal royalties that are collected from mines and returned to the people of Victoria, so there is a net benefit. That is a fairly strong reason why these proceedings should be paid for by the public as opposed to being paid for privately, which would be the case if it remained a private bill.

The collection of royalties reflects that Victoria's resources are owned by the state and an appropriate return should be provided where a company is gaining a benefit from their use. The government wanted to establish a standardised approach for the setting of brown coal royalties, and the bill applies that standardised approach. However, as is explained in the second-reading speech and as Mr Forwood understands, we do not intend to implement this legislation until there is agreement with Alcoa.

It is a somewhat sensitive and complicated process, but we want to provide a message to the rest of the industry that is subject to the coal royalty that we are not excluding Alcoa as a matter of principle and that we will pursue the application of the increase to Alcoa. In this instance it is merely a technical resolution that has been put before the house simply to allow the bill to be dealt with as a public bill, and therefore the costs of that will be borne by the state. We accept that because the potential benefits will also come to the state.

Motion agreed to.

MINERAL RESOURCES DEVELOPMENT (BROWN COAL ROYALTIES) BILL and MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL

Second reading

Debate resumed from 25 October; motions of Hon. T. C. THEOPHANOUS (Minister for Resources).

Hon. BILL FORWOOD (Templestowe) — As honourable members know, today we are concurrently debating the Mineral Resources Development (Brown Coal Royalties) Bill and the Mines (Aluminium Agreement) (Brown Coal Royalties) Bill. As the minister has just explained, we are doing that because he thinks it will bring into alignment the way royalties are calculated for brown coal in this state.

A few comments need to be made about this particular piece of legislation. The first is that honourable members in this place know that I have a high regard for the Minister for Resources, and if I had been awarding the points in the *Herald Sun* a week or so ago, he would definitely have been an 8½ out of 10, rather than the 3 out of 10 he was given.

Mr Viney — It was 3 out of 5.

Hon. BILL FORWOOD — Sorry, 3 out of 5 — but that was miles too low.

The genesis behind this particular piece of legislation is that the minister — —

Hon. T. C. Theophanous — I would have given you a similar high mark.

Hon. BILL FORWOOD — Thank you, minister.

The minister, in pursuing the rightful objective of ensuring that Latrobe Valley brown coal has a real future in the generation of electricity in this state, decided that he would come up with a technology fund. I know he worked well and hard to ensure that the Energy Technology Innovation Strategy (ETIS) fund was established — a fund of $100 million over time. He went to the economic review committee (ERC) and he successfully argued for this fund to be established so that there would be the capacity for the state to participate with industry and with the federal government in the development of brown coal technology which would lower greenhouse emissions, and we applaud him for that.

What we are grossly disappointed about is that having succeeded in getting the money out of ERC, the Treasurer's knife came out. He said, 'All right, we will give you your $100 million; but guess what? We are going to get it back with the other hand. This is not coming out of consolidated revenue; this is going to be screwed out of the coal users'. The very best intentions of the minister now leave him trying to justify another tax that this high-taxing government has brought before this chamber.

Minister, don't you dare leave!

Hon. T. C. Theophanous — No.

Hon. BILL FORWOOD — I do not need to list all the taxes this government has brought before this place. We dealt with a couple last week and there are a few more this week. Everybody knows that members of this government, which is awash with funds, still cannot help themselves; if they can see a quid, they are after it. And boy, are they after the coal industry!

I should say that I am significantly disappointed that the minister lost this particular battle, because it has sent a very bad signal to the Latrobe Valley generators. Everybody understands that the federal government's $500 million greenhouse fund is contingent upon a two-for-one contribution from industry and other sources.

Everybody expected that to make this technology fund work properly, we would get one-third from the federal government, one-third from the state government and one-third from industry. I think that is about right; that is what we needed to have. But what did we get? Hopefully we will get one-third from the federal government, but we have already got one-third from the generators because the state government's one-third is coming already. Then it will go back and say to the industry, 'Hang on, you had better give us more money'. Why should they? Because they are being screwed by this particular piece of legislation.

As the minister pointed out, the government does not have the capacity to require Alcoa to participate in this. I got a copy of the 1961 act — it is very hard to find and is not among the acts kept in the chamber — which I will refer to in more detail later in my contribution. That is camouflage because as everybody knows, and as the second-reading speech indicates, there is no capacity for the government to require Alcoa to submit to the government's new regime.

The major issue that these two pieces of legislation deal with is a sovereign risk issue. Section 12, which deals particularly with royalties, of the act in question — that is, the Mineral Resources Development Act — says:

> (1) The holder of a mining licence must pay royalties in accordance with the rate or method of assessment and at the times —
>
> (a) specified in the licence, after consultation by the Minister with the licensee; or
>
> (b) prescribed, if not specified in the licence.

As the minister and every member of this chamber know, all the Latrobe Valley generators have included in their licence what the royalty will be. That was done at the time of privatisation of the State Electricity Commission of Victoria 10 years ago — —

Hon. P. R. Hall — They have 20 years to run on their licence.

Hon. BILL FORWOOD — And they have a considerable period to run, as Mr Hall says. What happened was that in the course of selling the electricity system — for, I might add, a significant benefit to the state — we entered into binding, long-term agreements with the Latrobe Valley generators — but this government is ripping them up. It has not achieved a negotiated result with the Latrobe Valley generators — which perhaps it might have tried to do, but which was not possible to do. Despite the fact that — —

Hon. T. C. Theophanous — They have accepted it, Bill.

Hon. BILL FORWOOD — We will deal with that later. During debate on this bill in the other place one government member said that the Kennett government had conducted a fire sale of the Latrobe Valley assets. I suspect the minister got to him afterwards and suggested that his idea of a fire sale and the idea of the rest of us of a fire sale are not quite the same. As anybody who knows anything about this industry is aware, the people of Victoria got a very good price for its electricity assets. I know that opinion is shared by some members of the government.

I also put on the record that the Minister for Resources also negotiated well when he was the first person to sell off large lumps of the electricity industry, when he was the person who sold Mission Energy's share of Loy Yang B. I congratulate him on setting the path which was later followed by others and which led to such a remarkable benefit to the state.

The point about the bills before the house today is that there was a licence for each of the Latrobe Valley generators, and the purchase price that they paid for the assets that they bought was partly calculated on the amount of royalties they knew they were up for over the term of the licence.

From time to time honourable members opposite lecture us about sovereign risk. There can be no more obvious breach of sovereign risk than the nonsense that we have before the house today. Frankly I am surprised at the nerve of the government in bringing this shoddy piece of legislation before the house. This is above all a sovereign risk issue. No-one on our side of the house has any objection to the payment of royalties. We firmly believe the resources of the state are the state's and that the state has the capacity and the right to levy royalties on them.

What we do not believe the state government has the right to do is to use its muscle by coming into this place and ramming through legislation with the weight of its numbers, causing significant detriment to Victoria's commercial reputation and significant damage to particular firms. For example, I pluck out of the air the work that is being done by Monash Energy. Having taken over Australian Power and Energy Ltd's contract for the development of new brown coal technology in the Latrobe Valley, I suspect it has access to some hundreds of millions if not billions of tonnes of coal — —

Hon. T. C. Theophanous — There is a lot down there.

Hon. BILL FORWOOD — There is a lot down there, thank you. Everybody in this place hopes that Monash Energy is successful in developing its technology and building a large and viable industry in the valley. Everyone knows that Monash Energy is stumping up big licks. It must be up to $50 million, $80 million or even $100 million by now — I do not know. But it is putting its money on the line to develop its project. Did anybody discuss with the company what was going to happen to it? It would be interesting to hear from the minister about the detailed conversations which may or may not have taken place with Monash Energy. Perhaps the advisers might care to join us in the chamber and outline their involvement with Monash Energy.

Hon. T. C. Theophanous — Do not attack the advisers — the ministers, fine.

Hon. BILL FORWOOD — If I have offended the advisers, I sincerely apologise. Frankly my view is that the minister's advisers are big enough and ugly enough to look after themselves in any particular forum — —

Hon. Kaye Darveniza — They are very attractive advisers.

Hon. BILL FORWOOD — Okay, the minister's advisers are attractive enough to be able to look after themselves in any environment. However, the point I am making is that a decision has been made by a hungry government — a government hungry for money — that is to the detriment of the long-term interests of Victoria. I do not know whether the government has or has not had a conversation with Monash Energy about the future of its project and the effect that a doubling of coal royalties now might have on it.

Let us be clear about this: not only has the government decided that it will double the royalties, taking them from $17 million to $30 million a year, but it has reserved the right to do so again in four years time. Everybody knows that the Alcoa agreement from 1961 and the licence agreements with every single one of the Latrobe Valley generators all have consumer price index clauses, so the government is not losing out over time with the royalties it is getting from its negotiated agreements. You can see why Alcoa wanted its agreement in legislation, because you cannot trust the government to abide by a licence that lasts another 20 years. If it decides to crunch it through, then — bully! — it will crunch it through. Not only will it crunch it through once and double it, who is to say what it will do in four years time? If you know anything

about governments you know that if you give them the capacity, they will use it.

I say to everybody who is interested in this particular bill: do not hold your breath. In four years time the government will be back saying, 'We have the capacity to increase the royalties again, and who is to say we will not double it again? Maybe we will just increase it by 50 per cent'. The question the minister, or one of the people on the government side who may wish to participate, needs to answer is: why pick four years? What is so magical about four years?

Hon. T. C. Theophanous — They will have a bit of certainty for four years.

Hon. BILL FORWOOD — Let me pick up the interjection from the minister. He has just advised the Latrobe Valley generators, part of the biggest and most important of the industries in this state — because, let us face it, they keep the power and airconditioning going — that they have 'certainty' on their royalties for four years. The minister, better than anybody in this place except me, knows that this is a long-term industry that has a long-term investment cycle which certainly is not measured in what are virtually nanoseconds of four years but in terms of 20, 30 or 40 years. The minister, like everybody else in this place, knows that the Hazelwood power station, the life of which he has so successfully had extended, was built in, I think, 1964 — anyway, it is 40 years old — and it will go on for another 30 years, give or take 25 years. That investment in the Latrobe Valley is producing 20 per cent of the state's electric power. It will have done so for between 40 and 70 years and the minister says in relation to coal royalties that he is providing certainty for four years.

Hon. T. C. Theophanous — At their request.

Hon. BILL FORWOOD — Let us pick up the interjection of 'at their request'. The minister says that the proposed time line is being introduced at the request of the Latrobe Valley generators. What happens when you are banging someone's head against a table and saying, 'We are going to use our numbers to double the royalty', is that they will grab at any straw. I do not blame them for doing so. I will bet they said, 'Well, hang on. First, can we not have our licence period?'. Of course they did. Then they said, 'Well, if you cannot give us our licence period, give us half our licence period'. But, no, all that the money-hungry government, which decided it needed the extra money, said was, 'No, we will give you four years'. Now its members want to be congratulated for it. They want to say, 'We will provide certainty for four years'. That is not true.

If the minister is naive enough to believe that the Latrobe Valley generators are happy about the way they are being treated by the government and he is confident he has friends in the valley who are applauding him on this particular act of rapaciousness that will lead to the doubling of the coal royalty — and will ultimately flow through to the electricity prices of every single manufacturer and consumer in the state of Victoria — we should go down there together, just he and I.

Hon. P. R. Hall — Yes, hold a Christmas party.

Hon. BILL FORWOOD — Yes. We could pick up Mr Hall as we drive through Warragul.

Hon. T. C. Theophanous — Why don't we do it at the Hazelwood power station?

Hon. BILL FORWOOD — We could do that, because at least the people at Hazelwood would know that Mr Hall and I were supporting them from day one and that the minister's support, while ultimately successful, was somewhat lukewarm when push came to shove. Everybody in this chamber knows that when the environment effects statement was under question the government went down the rabbit burrow, so to speak, as fast as it could go. 'How can we hide?', the government asked — and it went down the burrow. That process took one extra year because of the inability of the best minister this government has, the Honourable Theo Theophanous — —

Honourable members interjecting.

Hon. BILL FORWOOD — As honourable members of this place know, I work hard in the area of resources and energy. I have been around the state and I know what is going on. I have yet to meet any people who do not understand that in the minister they have an advocate and warrior on their side. They realise that sometimes he cannot deliver but they know that he is in there fighting. Given the performance of some of the other — I was going to say cretins, but I probably should not — ministers in this place, at least there is a warrior fighting for them.

But the minister knows as well as everybody else in this place that in the case of Hazelwood the whole process was delayed by one year because he got rolled by the environmental lobby after, I might add — and I am not one to criticise public servants unnecessarily, as members would know — the Minister for Environment in the other place went down to Environment Victoria,

grabbed its climate change adviser and stuck him in the department. No wonder the minister had a battle on his hands, because what had they done?

Let us not be too naive about this: this government has a policy of triple bottom line. Every department is required to apply the triple bottom line — social, economic and environmental outcomes. There is one department in this government that does not do it. Guess which one! It is the environment department. It has one line — environment, environment, environment. Forget about the triple bottom line, the only thing it is interested in is the environment.

I say to the minister good on him for winning the Hazelwood battle, but it took him a year too long. He knows that. Mr Hall and I are happy to meet with the minister at Hazelwood and we will talk about the coal royalty when we get there.

Hon. T. C. Theophanous — The workers down there are very pleased with the outcome of Hazelwood, I can tell you.

Hon. BILL FORWOOD — They have got a job and we have power. People in Victoria do not know how close we came to the environmental lobby taking 20 per cent of the state's power away. Let us briefly consider what would happen in the state if we suddenly lost 20 per cent of our generation capacity. The first thing that would happen is manufacturing would flee the state as the price spiked. The second thing is that airconditioner sales throughout Victoria would drop dramatically — —

Ms Romanes — That would be a good thing.

Hon. BILL FORWOOD — I pick up the interjection from the Honourable Green Member from Moreland, the Socialist Republic! I am very fond of Ms Romanes. As some members know, in fear together we travelled to the top of the Eiffel Tower. I do not scare easily but — —

Ms Romanes — There's a confession.

Hon. BILL FORWOOD — There is a confession. I do not scare easily, but I was scared that day.

Hon. Andrea Coote — Of her?

Hon. BILL FORWOOD — No, not of her. She was the person who kept me sane. It is a long way up there.

For the member to suggest that it is sensible and appropriate for there to be less airconditioners in Victoria because that is a drain on power is naive in the extreme. I suspect the minister himself is about to bring in some sort of regulation that is going to force people to turn their airconditioners off, as the government did with water.

Hon. T. C. Theophanous — No.

Hon. BILL FORWOOD — He says no, but we will wait and hold our breath. When the blackouts occur over summer, for which we will be holding the minister to account because of his failure to ensure Basslink and Laverton were on time; when he comes in and says, 'Turn off the airconditioners. We will close down the big office buildings, including the government buildings, and send all the public servants home on full pay', then I will say to the minister, 'Thank heavens you have got Hazelwood'. That is important.

I should comment briefly on the bill.

Hon. Andrea Coote — That's a good idea.

Hon. BILL FORWOOD — Yes. I want to share with members some comments that have been made to me by the Minerals Council of Australia, Victorian division, an organisation for which I have considerable time. It is concerned with the quantum of the increase — that is, a doubling of the royalty. It is concerned about the lack of consultation with industry prior to the government announcing the new royalty rate in the budget papers. It is very concerned with the failure of the government to recognise the very low market value of the coal when delivered at the mine mouth — this, of course, relates to comparability with the black coal in New South Wales. It is concerned with the increase in sovereign risk to mining project investments in Victoria.

The council is particularly concerned as well that this is the funding mechanism for the ETIS program, which I mentioned at the beginning of my contribution. Its view is, 'If that is the case, ETIS only runs for four years; let us do this for four years and close it down'. Frankly, the council has a point. But more to the point, as honourable members in this place know, is that in four years time this government's members will not be doing away with the program.

An honourable member — They will not be here!

Hon. BILL FORWOOD — They will not be here. The government of the day will not be doing away with it. The government's members will be in for their chop, because I rather suspect that this government, like all

other governments, will take its opportunity to take the money if it possibly can.

Hon. T. C. Theophanous — Are you promising that if you get elected you will reverse this?

Hon. BILL FORWOOD — Let me make the point very explicitly that I will not be in this chamber in four years time, and the decisions made by others, including my leader, will depend upon the facts at the time. I rather suspect, given the way this government is beginning to falter, that we will be looking for other mechanisms to revitalise the state after this period of less-than-efficacious government, so I am not going to commit a future Doyle government to anything whatsoever. But I would refer to the position of Eddie Micallef. I remember when the Labor Party heavies went to Mr Micallef and said, 'Eddie, mate, we are just going to get some people in the branches out here so we can get Gareth Evans into Michael Duffy's seat in Holt This is not about you, Eddie; we are just after getting Gareth in'. They got Gareth in and then what happened?

Hon. T. C. Theophanous — On a point of order, Acting President, it is a very interesting rewrite of history by the honourable member, and I am very tempted to allow him to continue along this path because I find it more interesting than his comments on the bills. However, this debate is about the bills and he should be directing his comments in that way.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! The lead speaker obviously has some flexibility and autonomy in terms of the contribution he makes. However, I fail to see the relevance of his most recent remarks to the bill. I would ask him to bring those to a conclusion and address himself to the bills.

Hon. BILL FORWOOD — Certainly, Acting President. If anybody would like to hear the rest of the story I am available after the debate!

The point I was about to make is that if you have the capacity, you will use it. There is no doubt that in four years time, when the ETIS program is intended to expire, this government — or the government of the day — will not be doing away with the program. What it will be doing is increasing the royalty.

I want to turn in particular to the Alcoa piece of legislation. I could spend quite some time outlining the benefits to the state of Alcoa. I am a great supporter of the organisation. I know that at the moment the organisation is in delicate negotiations with the government over the future of a number of things. Firstly, there is the future of the price of electricity in this state. Honourable members know of the outrageous deal, described in the State Electricity Commission of Victoria's annual report as the onerous contracts, which was done by the much-lamented and totally inept Cain government and which has seen nearly $3 billion in Victorian funds paid by way of subsidy through the SECV for the price of electricity consumed by Alcoa. Honourable members know that in 2014 and 2016 those contracts expire, and we all hope very much that this government is bright enough and smart enough to negotiate a sensible and commercial outcome with Alcoa that will see its continuation as a viable presence in this state. The government should not give the farm away, but it should negotiate a sensible outcome. That is important.

What is equally as important, I think, is the proposal for an additional pipeline. Again, that would depend on the use of brown coal from the Latrobe Valley and from its existing mines at Anglesea, for which the 1961 agreement was brought into legislation. It is important for honourable members to know that at the moment the government is trying to negotiate both of these arrangements. As I said, on behalf of the state of Victoria and for the future of all Victorians, I wish it every success.

It is surprising that the government would bring in a piece of legislation which it knows can only be altered by agreement. As every member of this place knows, Alcoa absolutely defends its contractual obligations. There is no obligation for it to agree with the government for the doubling of the coal royalty that is protected under the agreement.

There is some detail in the schedule to the Mines (Aluminium Agreement) Act as to what it pays. In clause 10 of the schedule it says:

> (1) Subject to the succeeding provisions of this clause the Company shall during the term of this Agreement pay to the State in each year —
>
> (a) a rent calculated at the rate of two shillings and sixpence for each acre (and proportionally for part of an acre) of the leased area;
>
> (b) in respect of each ton of coal (not being unusable or unsaleable waste coal or rubbish) won from the leased area and used for the generation of electric power or in connexion with the industries referred to in Recital I. hereof, a basic royalty at the rate of —

> (i) four pence when the total quantity of such coal won in any year does not exceed one hundred thousand tons;
>
> (ii) three pence when such total quantity exceeds one hundred thousand tons;

The act then says that these amounts will be indexed, and they have been indexed since 1961, but the act makes it very clear, as does the second-reading speech, that the Alcoa agreement is standard and cannot be changed. I have some comments which were supplied to me by Alcoa itself, and I thank Mr Hall for his copy of the letter. It says, quoting the second-reading speech:

> It is important to note that as Alcoa has a legislated agreement with the state, the government is not proposing to pass this bill without first gaining Alcoa's agreement to these amendments. Therefore, a commencement date for this bill has not been set. Once Alcoa's agreement has been gained, steps will immediately be taken to proclaim this legislation.

The letter goes on to state:

> As you would be aware, Alcoa has a close working relationship … and as with all issues … we will work with the state government towards an agreement on this matter which meets the best interests of Alcoa and the state of Victoria.

This letter is very polite and to the point. There is absolutely nothing in the letter that indicates it is ever going to agree whatsoever to the proposal which would lead to the doubling of its coal royalty. If honourable members want to know how Alcoa negotiates, I suggest they have a look at the negotiations held between the Treasurer of the Kennett government, Alan Stockdale, and Alcoa about the excess capacity provided to it under the old contracts.

What is before the house is very disappointing legislation, and the opposition will oppose both bills. We oppose them primarily on the grounds of sovereign risk. The government has done a very silly thing.

We also oppose them because it is very disappointing that instead of there being a tripartite agreement between the state government, the federal government and the industry to chip in equally towards the development of brown coal technology, the government is abrogating its responsibilities and screwing the generators twice for their contributions at a time when every member of this place knows that all Victoria is greatly benefiting from low wholesale electricity prices. In those circumstance, therefore, we should not be trying to rip more money out of these organisations. All of them are investing in Victoria; all of them are investing in the Latrobe Valley and none of them should have been treated in the shoddy and shabby way that this government — not the minister — has treated them over time.

With those few words, I look forward to honourable members on the other side of the house in the interests of Victoria's sovereign reputation joining me in opposing the legislation before the house.

Hon. P. R. HALL (Gippsland) — I am happy to join in the concurrent debate on the Mineral Resources Development (Brown Coal Royalties) Bill and the Mines (Aluminium Agreement) (Brown Coal Royalties) Bill. It makes sense that we are debating these bills jointly. It saves a repetitive speeches from members who are participating in the debate, given that the principles involved in both bills are the same.

I begin by commending the Honourable Bill Forwood for his contribution to this debate. It was entertaining, but it was also very insightful. I agreed with 98 per cent of the content of his contribution, but I am not so sure I agree with Mr Forwood's assessment of the competence of the Minister for resources — and I mean no disrespect at all. It was certainly an extremely good contribution by Mr Forwood.

I can indicate that The Nationals will be joining the Liberal Party in opposing both of these bills, because they are simply classic Bracks government cash grabs. What we are seeing is a doubling of revenue from the royalties paid for brown coal for no good reason other than to prop up the consolidated revenue fund of the Victorian government.

I thought the government might at least have shown us the courtesy of an explanation as to why it has chosen to double the brown coal royalties. In the minister's second-reading speeches for these bills there was never a reason given. The only comment about that particular issue was:

> The payment of royalties recognises that minerals are owned by the state and, as such, that the state and the people of Victoria should share in a proportion of the benefits that flow from the extraction and use of minerals, including brown coal.

And so they should, and so they do. Royalties are already paid by brown coal miners in this state, and, as Mr Forwood says, that royalty has been indexed for a number of years, ever since the rate was first struck. So Victorians already benefit from the royalties paid on brown coal. Why has it been doubled? Why has there been an increase? Why not double, triple or even quadruple it? No explanation whatsoever has been given.

As Mr Forwood said also, we have seen a commitment given by the minister in the second-reading speech that there will not be a further increase until 2010, and then it will be done by regulation. If it is to be done by regulation in 2010, why not at least consider a regulatory process now for increasing, changing, varying or even lowering the brown coal royalty? It seems to me totally inconsistent that we are debating bills which simply mandate a doubling of the brown coal royalties, but the government is suggesting that in future years we do it by a regulatory process.

It is not that we are happy with the increase; as Mr Forwood said, it seems to be grossly unfair, irresponsible and puts at risk the credibility of this government, simply by changing mid-licence, or mid-legislative contract, the royalty rates payable by brown coal miners in this state.

I also comment about another aspect of the second-reading speech. The government considers it is timely to undertake these amendments. In what respect is it timely? I suppose it is timely in that we are 12 months away from an election and timely because it needs some extra cash in the lead-up to the election. That is the only reason I can think of why the description of it being 'timely' is used in the minister's second-reading speech.

As has been said, this bill will see the doubling of the royalties paid on brown coal in the state of Victoria. They will go from somewhere around $17 million per year to close to $34 million. I have to say it might have been at least partly more acceptable or a bit more palatable if the revenue were to be used for a specific purpose. Mr Forwood suggested that it might be being used to fund the government's energy technology innovation strategy, but there is absolutely no mention of that particular strategy in the second-reading speech of either of these bills. We are advised that there is absolutely no link between the increase in the brown coal levy and the funding for the energy technology innovation strategy.

Hon. Bill Forwood interjected.

Hon. P. R. HALL — Mr Forwood says, 'You don't believe that, do you?'. The answer is no, I do not believe it. I would suggest the government should be up-front enough to say, 'This is what the purposes of the increase in the brown coal levy are for'. At least it might be a little more palatable for The Nationals and the brown coal miners in Victoria if we knew that its increased levy was being put to a specific purpose.

I agree with Mr Forwood's comments about the energy technology innovation strategy. I am pleased to support the government making available state government funding for that particular strategy — it is so important. We have, and we will continue to have, a great reliance on the use of brown coal in this state for electricity production — and maybe for other uses, too — as an outcome of the brown coal exploration licences that are being investigated at the moment. We will rely on brown coal as a fossil fuel in this state, but we need to use it better so that it brings about a better environmental outcome. So it is that the energy technology innovation strategy is looking at how we can more efficiently use brown coal in a more environmentally friendly way.

I think the government understands the importance of the brown coal industry to Victoria, but, at the same time, I do not think it likes the brown coal industry very much. Perhaps it is more accurate to say that the government has problems in terms of its acceptance of the need for the brown coal industry. Using Hazelwood as an example, the government had to come dragging, kicking and struggling to the decision on the extension of the brown coal mine. We have seen the government adopt policies that deliberately favour wind farm developments, for example, over brown coal developments. There was the classic example regarding the power station rating arrangements in which brown coal generators are required now to pay many extra million dollars in local government rating arrangements, while the outcome for wind farms was that they certainly got some significant relief.

I note that this government has indicated through statements made in recent weeks that it is looking for further ways to assist and develop the wind industry in Victoria, and I suggest that will be to the detriment of the brown coal industry.

Hon. T. C. Theophanous — That is nonsense!

Hon. P. R. HALL — Everything you have done so far is biased against the brown coal industry. There were the power station rating agreements, and now a new tax is being imposed on the brown coal generators in this state that will cost at least an extra $17 million a year. In the cases of two of the generators, Loy Yang Power will probably face an increase of $8 million in taxes from the new brown coal levy, and Hazelwood power station will probably face more in the area of $5 million per year. As I said, it is not as if these royalties have not been increasing each year; they have increased by the consumer price index (CPI), and that mechanism is built into the licensing arrangements for

the power generators and for Alcoa's legislative contract. They have been increasing annually. It is interesting to know why we had to have two pieces of legislation.

Hon. T. C. Theophanous interjected.

Hon. P. R. HALL — They have gone up by CPI. Why did they have to go up in real terms? If you are saying that, give us a reason why they had to.

Hon. T. C. Theophanous — Because they have a licence.

Hon. P. R. HALL — I thought that in the past governments entered into a contract agreement by way of licence or a legislated contract and that set the base rate. Why did the royalties have to go up? Tell us! They have been going up by CPI every year since the time of their licence or contract. This government gave no valid reason as to why there was a need for an increase. The first comment I made in my speech was that the minister gave no reason in his second-reading speech as to the sudden need for an increase in brown coal royalties.

Hon. T. C. Theophanous interjected.

Hon. P. R. HALL — You said in the second-reading speech that they should get a fair deal. Tell me why they are not getting a fair deal now, and why did you not explain that in your second-reading speech?

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! Through the Chair.

Hon. P. R. HALL — Why did the minister not explain why he believes Victorians are not getting a fair deal now? I happen to think they are getting a very fair deal now and they are getting good service from our brown coal generators. This government seems to want to make it harder for the people of Victoria; it is imposing unfair potential price increases on them.

I want to recap the mechanism by which the brown coal miners in Victoria pay a levy. Our main coal miners are based in the Latrobe Valley, as Mr Forwood says. With Loy Yang Power we have International Power Hazelwood and we have now have TRU Energy, which has a power station and mine at Yallourn, and those royalties are currently set as part of their mining licence conditions. The Mineral Resources Development Act sets that in place, and it makes provision for annual consumer price increases to the royalties paid. The average royalty is 24 cents per tonne, depending on the quality of the coal which varies slightly from mine to mine. The mining licences are typically 30 or 40 years in length, and most current licences have around 20 years to run.

As Mr Forwood very adequately expressed in his contribution, there is an issue here about sovereign risk. These companies purchased generation facilities on the basis of the conditions set out in their licence, which set a base rate with a consumer price increase for the brown coal royalty paid. It is unfair that suddenly this government decides what was decided 10 or so years ago is now no longer appropriate and says, 'We are going to do it — not without any regulation, impact statement, input or comment from the brown coal miners; we are just going to do it'. It reflects very poorly on this government that it gave no reason at all for this increase.

With Alcoa there is a different set of circumstances. Again, as Mr Forwood says, the 1961 legislation set out the agreement between the Victorian state government and the company of Alcoa to mine aluminium. Part of that was a system of payment of brown coal royalties from the coal mined at Anglesea. Alcoa has a 50-year agreement which I think expires in about 2011, and I am advised, using a conversion from former currency to decimal currency, that the royalty paid by Alcoa is in the order of 29 cents per tonne. As I said, they come under two different processes; consequently we have a need for two different bills.

The Nationals consulted with each of the organisations representing both Alcoa and the other brown coal miners in this state. Mr Forwood has already put on the *Hansard* record the important comments from Alcoa in respect of this, so I will not repeat all the words contained in the letter dated 18 October to me from Paula Benson, the manager, corporate and community affairs, Alcoa, but we have to read between the lines of that letter. Clearly, Alcoa is most unhappy.

Hon. T. C. Theophanous — Tell us what is in the letter.

Hon. P. R. HALL — You want me to read it? The letter quotes from the second-reading speech:

> It is important to note that as Alcoa has a legislated agreement with the state, the government is not proposing to pass this bill without first gaining Alcoa's agreement to these amendments. Therefore, a commencement date for the bill has not been set. Once Alcoa's agreement has been gained, steps will be immediately taken to proclaim this legislation.

The letter then states:

> As you would be aware, Alcoa has a close working relationship with successive governments in Victoria and, as with all issues of this kind, we will work with the state government towards an agreement on this matter which meets the best interests of Alcoa and the state of Victoria.

Nowhere in the letter does Alcoa say it is happy that its bills — the brown coal royalty levy it will be paying — will suddenly double.

Mr Pullen — Read the letter again and listen.

Hon. P. R. HALL — I will read it to you again, I will give you a copy, Mr Pullen. Nowhere in this letter does Alcoa give any indication that it is happy with a doubling of the brown coal royalty levy it has to pay. When I consult people they tell me what they think. If they agree with something, they put it very clearly in black and white and say, 'We support this legislation, we think it is a good outcome.'. There is not one mention of such a sentiment in this letter from Alcoa. Clearly it is unhappy with the government suddenly imposing this doubling of the brown coal royalty levy it is required to pay. It will be interesting to see how, when and if the government reaches agreement with Alcoa; obviously there will be a bit of arm twisting before any such agreement is reached.

The views of the brown coal miners were expressed by the Victorian division of the Minerals Council of Australia, which represents each of the brown coal miners in Victoria. It has provided a couple of pages of commentary. Its summary position is headed 'MCA position on the Victorian coal royalty bill' and states:

> In reviewing the Victorian coal royalty bill the MCA is concerned with:
>
> > The quantum of the increase which is effectively a doubling of the royalty.
> >
> > The lack of consultation with industry prior to announcing the new royalty rate in the budget papers.
> >
> > The failure of government to recognise the very low market value of the coal when delivered at the mine mouth.
> >
> > The increase in perceived sovereign risk to mining project investments in Victoria.

It goes on to elaborate on that issue of sovereign risk, which was canvassed very extensively by Mr Forwood in his contribution to the debate.

I agree with some of the points Mr Forwood made in respect to the new brown coal opportunities currently being explored in the Latrobe Valley. As the Minister for Resources well knows, a number of companies which have been issued with brown coal exploration licences are now looking at technologies for the potential use of brown coal. I have to say that from the feedback I have received some of that work is very promising. I join Mr Forwood in hoping there will be some very positive outcomes from those exploration licences. However, investors will certainly look at this and think that if the government can change, midstream, royalties in respect of the current licences, what might it do to their licences. I do not think the actions which are being taken in the bills before us this morning would give investors any confidence at all. It is pretty disappointing.

Having personally spoken to at least two of the three major brown coal miners in the Latrobe Valley I can assure the house that they are far from happy with the imposition of this increase in the tax on the brown coal they mine. Further, they are annoyed that it seems the government has given no valid reason for arriving at increases of this magnitude. I go back to where I started: I think it is most remiss that the government has not given a clear explanation of its decision to double the royalties. The people of Victoria already benefit from a very cheap power source in terms of brown coal. We as a state have had that benefit for many years — since the coal resources in the Latrobe Valley were first developed in the early part of the last century — and it has served us well. However, there is now concern that this government seems to pay no regard to existing licences or existing legislated contracts. It does not set a pattern that would give any future investor in the brown coal industry any confidence at all.

I think these bills are appalling pieces of legislation. This is simply a cash grab by the Bracks government, which is, as Mr Forwood says, awash with money. There is really no reason whatsoever for this. For those reasons The Nationals will join the Liberals in vigorous opposition to each piece of legislation.

Ms ROMANES (Melbourne) — I am pleased to have the opportunity this morning to speak briefly in the cognate debate on the Mineral Resource Development (Brown Coal Royalties) Bill and the Mines (Aluminium Agreement) (Brown Coal Royalties) Bill. The latter bill, which relates to Alcoa, was the subject of earlier discussion. The minister has explained the reasons for dealing with that bill as a public bill rather than a private bill — because of the desire of the government to include Alcoa in any increase in royalties which may flow from the passing of these bills through the house today, and the public benefit that would mean.

It is important to look at the concept of royalties and, contrary to Mr Forwood and Mr Hall's views, to recognise that royalties are about the people of Victoria having a share in the benefits of extraction from and use of minerals in the ground in this state. It is a fair and reasonable proposition that the people of Victoria should share in a proportion of the benefits that flow to private companies which are involved in extracting minerals from the ground. It is important that Victoria's brown coal royalties, which we are dealing with today, reflect the value of the resources which are extracted. It is my view that the people of Victoria would expect a fair return to the state for the extraction of those valuable resources. The brown coal royalties we are discussing here today are presently low when compared to the value of the resource, which generates more than 85 per cent of Victoria's electricity. The cost of coal royalty payments currently represents only around 1 per cent of the wholesale cost of electricity, and only around 0.4 per cent of the value of retail electricity prices.

That is one way of measuring the value of the resources when looking for what might be a fair return, but another comparison that is important to make is that Victoria's royalties are low when compared with royalties in other Australian jurisdictions, such as New South Wales and Queensland. Coal royalties in these jurisdictions are around 11 cents per unit of energy compared with royalties in Victoria which equate to less than 3 cents per unit of energy. So the bills that we are debating which propose a new rate of 5.88 cents per unit of energy to be fixed in legislation in a sense bring Victoria into line with other states.

Hon. T. C. Theophanous — We would still be cheaper.

Ms ROMANES — We would still be cheaper than those other states. It is worth noting that the Howard government's Commonwealth Grants Commission is demanding that states like New South Wales raise their coal rates even higher than they are currently. The importance of a fair return for the people of Victoria from the resources extracted from the state should be an abiding principle when making decisions on royalties.

One of the other difficulties that the government has been faced with is that it has been difficult to review or assess brown coal royalties and to make changes to them as market dynamics change. The electricity industry is not static; it is a very dynamic industry, and it is important for the government to be able to review and adjust royalty settings over time. Part of the objectives of the bills is not just to set a new rate for royalties in the brown coal industry but also to put in place a fair and transparent mechanism similar to regulatory impact statement mechanisms used in other sectors for future reviews so that there is a way in which those reviews can take place in the future and include all companies in the brown coal industry.

The market is changing. The current market context includes an increasingly integrated and competitive national wholesale energy market. We have seen new brown coal release programs offered by the Bracks government, and we have pressures for cleaner and more efficient use of fossil fuels. It is interesting that the speakers on the other side this morning have not taken issue with the government in terms of the energy technology innovation strategy (ETIS) initiative. This is an important strategy that is looking to make better and cleaner use of brown coal through new technology.

We should remember that Victoria accounts for 22 per cent of Australia's greenhouse gas emissions and that 52 per cent of greenhouse gas emissions in Victoria come from coal power generation. So this is not an issue that we can just dismiss lightly, as members of the opposition have. The Minister for Energy Industries has taken a lead role in looking at and supporting companies researching and demonstrating cleaner technology innovation techniques for brown coal to maximise its use while dealing with the water levels currently in brown coal. If this technology succeeds, there will be considerable value added to the brown coal deposits in Victoria, and there will be significant gains made by those companies.

Hon. Bill Forwood — Did you say 'if'?

Ms ROMANES — We do expect it to succeed, Mr Forwood.

Hon. Bill Forwood — And when it does?

Ms ROMANES — The demonstrations are happening at this point in time, as Mr Forwood knows, and there is considerable investment being made in ETIS. I think he remarked that he hopes it will succeed. That will be of significant benefit to the whole state but in particular to the companies which have brown coal deposits.

Over the past months the government has attempted to gain the agreement of companies to vary coal royalties. We would have preferred a cooperative approach to coal royalty variations, but not all companies have been prepared to be involved in those changes, and so the government has decided within this context to introduce the legislation that we are dealing with today that will

increase coal royalties and apply a standard approach to varying royalties in the future. Those changes are important because currently we have inconsistent arrangements in place. Alcoa has a specific agreement with the state which is backed by legislation and specifies its royalty rate for its coalmine at Anglesea. In contrast, the three Latrobe Valley mines have a royalty rate set in each of their mining licences, and the coal royalty for Maddingley Brown Coal Company is established through a set of regulations.

Today the government proposes to introduce consistent arrangements for coal royalties as we go forward with this industry in the future and provide that any future variation to the new rate, with the exception of consumer price index changes, will be undertaken through a regulation-making process which will include public consultation and a detailed assessment of the impacts, benefits and costs of making any changes to the brown coal royalty rate. This, as we know with the regulatory impact statements, is a more transparent process, and it will be a uniform approach to coal royalties compared with the inconsistent situation we currently have.

The proposal is for the new arrangements to take effect from 1 January 2006 for all companies except Alcoa. As has been much discussed this morning, the government has made a commitment that it will not proclaim the changes to Alcoa unless it can get the agreement of Alcoa. The government is working to gain Alcoa's agreement to the proposed changes; this is not an unreasonable expectation because, of the total additional royalties payable by all operators under the proposal, Alcoa's share is only around 2 per cent. Mr Forwood engaged in a fair degree of flattery of our Minister for Energy Industries, but I think that highlights the fact that there is great confidence in the capacity of this minister to bring those discussions and negotiations to a conclusion and to gain Alcoa's agreement to be part of the changed context and circumstances in relation to brown coal royalties.

The impact of applying the new rate of 5.88 cents per unit of energy will be a better return to Victoria for the mining of its brown coal reserves, and the people of Victoria will see that as a fairer return in the circumstances of a dynamic and changing industry. As a result of the legislation, Victorians will receive an extra $16 million to $17 million per year from coal royalties and total revenue will increase to around to $32 million per year for use on a range of important initiatives through consolidated revenue to provide services to Victorians like schools, hospitals, police, transport, et cetera. Even with that increase, as I mentioned before, Victoria's brown coal royalty rate will continue to be lower than coal royalties in New South Wales and Queensland, so it is not expected to distort the competitive position of Victorian companies in the national electricity market or to materially impact on their overall commercial viability — neither is it expected to impact on the price of electricity. As we know, the Minister for Energy Industries negotiated an electricity price agreement with the generators so that the prices would be in place for the period leading up to 2007, and it is not expected that there would be an increase in electricity costs to consumers in Victoria.

The $16 million extra to be raised from an increase in brown coal royalties is equivalent to 0.85 per cent of the total value of electricity sold on the wholesale market in Victoria and South Australia in the last year, so it is a very small amount. It is an important initiative to keep pace with change in this industry, and it reflects a fair outcome and result for the people of Victoria. I commend the bill to the house.

Hon. T. C. THEOPHANOUS (Minister for Resources) — I just want to address a couple of issues that the opposition raised, and to put on the record the reasoning the government has in relation to this very important increase in coal royalty.

We very carefully considered this issue of sovereign risk. It was utmost in our considerations. We were firmly of the view that there is a sovereign risk issue in relation to the Alcoa legislation, which is why we have adopted the procedure of bringing in the legislation but also giving a commitment that we will not enact the legislation without Alcoa's agreement. However, the reasoning behind bringing the legislation forward was so that we were able to say to the other coal users of the state that our objective was to try to treat everybody the same, including Alcoa. I am confident that we will reach agreement at some point with Alcoa for it to pay the same amount in royalties as the other brown coal providers.

In relation to the other bill we also considered the question of sovereign risk in relation to licence agreements. We do not believe there is a sovereign risk there because within the act there is a capacity to change the licence agreement. It was envisaged that this issue could be and would be dealt with through those processes.

I am trying to answer each of the questions. We did not discuss it with the generators prior to the decision being made because it was after all a revenue decision of the budget which made it difficult to have those

discussions. We had a large number of discussions after that occurred, and I can tell the honourable member that in the course of those discussions I think we would have been able to get agreement from all the generators to voluntarily increase to the level that we proposed except for a last-minute glitch. The glitch was that some of the generators — one in particular — were concerned that the nature of the agreements for flow-on they had were such that if it appeared they voluntarily agreed to an increase in the royalty, they might have some legal issues in passing it on in the normal way.

We understood that and therefore took the view that doing it via a legislative proposal was a cleaner way of dealing with it which would create no uncertainty and would not result in unfortunate legal processes. We could have done it by regulation also, but there were some legal issues associated with that course as well. Ultimately we decided that this was the cleanest approach. Whilst I recognise that, of course, the generators did not want an increase of royalties, they preferred that we did it in this way rather than do it through an arrangement because of these other technical issues of pass-through. That is the course we have taken and now we have a very good process.

The other issue raised was in relation to the four years, but, as was mentioned by my colleague in the debate, the truth is that after that four years any future increase would require a full regulatory statement and process. Therefore there would be a lot of opportunity for consideration of the views of the generators. It will also make the point that we have had the lowest royalties in the land and really this is about just bringing the royalties into line — or not even bringing them into line; we still have the lowest royalties on coal in the land. But we think that is appropriate because we want to maintain the competitiveness of the Victorian industry.

But we do not want to have it so that they are absurdly low. We will be extracting about $30 million in royalties, and when you compare that to the hundreds of millions of dollars that are extracted by our northern neighbours for royalties that is not a huge amount of money. On balance we think this decision is worth supporting. I know that despite what the opposition has said, the member for Box Hill in the other place, Robert Clark, will not — in his financial statement for the future when he releases it for the election — take this $30 million out of the equation because I think he might need it to pay for some of the promises being made by the opposition. I am sure that support by the opposition will not occur.

I also want to just to set the record straight regarding the Hazelwood negotiation on which the Honourable Bill Forwood made comment in relation to the delay. If there was a delay in the Hazelwood negotiation I can tell Mr Forwood it was primarily as a result of there being very tough negotiations with the company. It was not simply a matter of saying to the company, 'Yes, we will agree with everything that you want'. We could have got an early agreement if we had done that. That is not what we wanted. We wanted some environmental outcomes as well. That is why they were tough negotiations and, as the member knows, tough negotiations always go to the wire. But we got the outcome in the end that is good that Victoria, good for business and good for the environment. With those few words I commend the bills to the house.

Debate interrupted.

DISTINGUISHED VISITOR

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! I interrupt to acknowledge the presence of Mr Neil Lucas, a previous member of this house, and who, at least until Saturday, is the mayor of the City of Casey.

MINERAL RESOURCES DEVELOPMENT (BROWN COAL ROYALTIES) BILL

Second reading

Debate resumed.

House divided on motion:

Ayes, 20

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

Noes, 18

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

Forwood, Mr	Vogels, Mr (*Teller*)

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL

Second reading

House divided on motion:

Ayes, 20

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

Noes, 18

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

Motion agreed to.

Read second time.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Resources) — By leave, I move:

That the bill be now read a third time.

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

INVESTIGATIVE, ENFORCEMENT AND POLICE POWERS ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 17 November; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Investigative, Enforcement and Police Powers Acts (Amendment) Bill, I would like to put on the record at the outset that the opposition will be supporting this particular piece of legislation, although I must say that it supports it somewhat tongue in cheek, because to a large extent the bill is fundamentally another fix up of the whole muddled, ineffective and inappropriate approach that this government has taken to policing, law enforcement and police powers in Victoria.

We have a quite remarkable situation where, for the sake of doing the job properly and setting up a royal commission in its place, this government has put in place an Office of Police Integrity. The privacy commissioner is also looking at this issue, as are the police ethical standards department and the special investigations monitor, and in a moment we will have yet another new body — that is, a commissioner for law enforcement data security. This is simply a muddled and inappropriate mess. It is a way of trying to avoid doing the job properly; it is just kowtowing to various members of the police force who are afraid to get in there, to have a royal commission and to root out corruption.

Opposition members support the bill only because it somewhat advances what is a fairly chaotic and inefficient system; therefore, it deserves our support. However, in truth the whole system is fundamentally a mess.

Members may recall that in 2004 we passed a series of crimes bills — the Crimes Assumed Identities Bill, the Crimes (Controlled Operations) Bill and the Surveillance Devices (Amendment) Bill. Those three pieces of legislation were introduced across Australia with the support of all police ministers, and also with the support of the commonwealth government, to get some consistency in the areas of assumed identities, controlled operations and surveillance devices.

We also dealt with the Major Crime Legislation (Office of Police Integrity) Bill, the Major Crime (Investigative Powers) Bill and some other bills dealing with the

setting up of this phoney body called the Office of Police Integrity, which is theoretically to root out police corruption but in fact is a way of going soft on police corruption. The Office of Police Integrity is led by a director, police integrity, who is, of course, the same person as the Ombudsman. For whatever reason, this government refused to put in place a proper separate entity to get tough on crime. It just simply put in place the Ombudsman, and we all know that the skill set an ombudsman has is basically to adjudicate and try to find a way through problems that exist in the bureaucracy and the administration of various acts. It is not a body which has investigative powers; it is not an office that has the forensic and investigative skills required to root out corruption in the police force. Nevertheless, this government appointed the Ombudsman to be the director, police integrity, which caused very significant problems with the three pieces of legislation brought in by the government in 2004.

To go back a step, the Crimes (Assumed Identities) Act allows the police to adopt an assumed identity in order to attack organised crime, drugs and so on. It gives the police power to obtain false birth certificates, drivers licences, passports et cetera, so that an investigating officer can assume an identity for the purpose of carrying out an operation against crime. The Crimes (Controlled Operations) Act allows for a whole series of activities, as does the Surveillance Devices (Amendment) Act, which covers phone tapping and so on.

These are all fairly significant powers that could easily be abused by the police, and for that reason at a national level it was decided to have these powers overseen by an independent body to ensure that the very significant powers delivered under those three acts were not abused. In all Australian jurisdictions that power was given to the Ombudsman, and it was given to the Ombudsman here in Victoria. But we then had the ridiculous situation where the Ombudsman in Victoria was also in charge of the Office of Police Integrity, which has the power to assume identities, to tap phones and to conduct controlled operations to try to get to the bottom of organised crime.

We had the ludicrous situation where the Ombudsman could ensure that these powers were not abused when they were carried out by the police, but then when he moved up the corridor from office 101 — where he was the Ombudsman — to office 203 — where he was the director of the Office of Police Integrity, if he wanted to use those powers who was going to oversee him to ensure he was not abusing his powers in his new role? That was a very significant question. There had to be somebody to do that because of the stupidity we had with the Ombudsman being in charge of the Office of Police Integrity.

We ended up with a new person called the special investigations monitor, who took on the role of the Ombudsman in overseeing the Ombudsman when he was the director, police integrity — what an absolute joke! It became very difficult for the Office of Police Integrity to carry out its functions, specifically in the case of surveillance devices. Surveillance devices are regulated by the federal government, and the federal government simply, and quite rightly, would not give the power to the Ombudsman to carry out surveillance operations without any supervision. It wanted to be sure that there was independent oversight of those activities. We had the ludicrous situation where the Office of Police Integrity was set up to get to the bottom of police corruption, but because the director, police integrity, was exactly the same person as the Ombudsman, the federal government said it would not allow him to have the bugging powers because of the double standard. The Office of Police Integrity could have been using the same potentially corrupt police to bug corrupt police to try to get to the bottom of the crime of corruption.

So we had this ridiculous situation which had to be worked through. An arrangement has been made with the federal government that the special investigations monitor will be able to oversight the activities of the Ombudsman when he is sitting in the chair at the Office of Police Integrity. The monitor will be able to oversight him and be that independent person to see that those powers are not abused. Therefore it means that when this bill comes into place with the agreement that the special investigations monitor can oversight the commissioner of police integrity and his phone-tapping operations, that means at last, 12 to 18 months later, the Office of Police Integrity can now get on and do some phone tapping properly to try and get to the bottom of organised crime and police corruption.

One of the first things this bill does is provide the power to the special investigations monitor to oversight how the powers of the Crimes (Assumed Identities) Act, the Crimes (Controlled Operations) Act and the Surveillance Devices (Amendment) Act are used by both the police and the Office of Police Integrity. Within the context of the convoluted system the government has arranged that is probably not a bad outcome. At least things can now start to move forward.

Next, the bill amends the Crimes (Assumed Identities) Act to allow federal officers to avail themselves of the law to assume identities for the purpose of attacking organised crime, terrorists and so on. The bill allows people like Australian Security Intelligence

Organisation (ASIO) and Australian Secret Intelligence Service operatives in Victoria to assume identities and to be provided with false driving licences, passports, birth certificates et cetera. This is something the federal government was very keen to do. It is an agreement between the two governments that runs across other states as well and it seems to be a very sensible thing that such commonwealth operatives can now avail themselves of assumed identities in Victoria or ultimately in any other state.

As I said, the bill allows the special investigations monitor to oversight those three acts which were introduced in 2004 and particularly the work related to surveillance devices carried out under the Major Crime Legislation (Office of Police Integrity) Act by the Office of Police Integrity and the police. The bill also makes amendments to the Police Regulation Act to allow for new provisions regarding the appointment of special constables. Special constables are generally law enforcement officers from other jurisdictions — they might be federal or interstate jurisdictions — who come to Victoria for any reason and are sworn as special constables. They are then covered by Victorian law to go about their particular work. The bill allows for the retrospective swearing of those officers from other jurisdictions. In other words, as the law currently stands, if an ASIO operative wants to become a special constable and do some anti-terrorist work or the like in Victoria, they have to be sworn as a special constable first before they can carry out that activity. Now, if the need arises, they can do whatever they need to do first and be sworn subsequently after which they will have the protection of Victorian law in carrying out their activities.

In the context of the world we live in, with issues of security and terrorism, this is not an unreasonable situation, although the point needs to be made that theoretically these officers can come into Victoria, create mayhem conducting raids on places which may or may not go right or wrong, and then be subsequently protected by Victorian law by being sworn subsequent to their activities. It begs the question, if they are coming to Victoria on the assumption that they will be sworn subsequently, of what would happen if for any reason Victoria Police decides not to swear them as special constables. However, I think that is a fairly esoteric event.

The bill also amends the Magistrates' Court Act to allow the payment of PERIN — penalty enforcement by registration of infringement notice — fines by instalments. The system now operates so that somebody caught speeding, or caught under some other particular infraction of the law, receives a fine under the PERIN system, and if they are unable to pay that for any reason, then the issue goes before the Magistrates Court. They can plead all sorts of hardship before the Magistrates Court and get an instalment payment system to ease their load. However, the system is such that that cannot be done until there is basically a default and the issue goes before the Magistrates Court. The amendment will allow for that step of going to the Magistrates Court to be cut out — in other words, an instalment plan can be part of the penalty that is applied as part of the original enforcement notice without the necessity to default and go before the Magistrates Court.

The government in its second-reading speech and at the departmental briefings indicated that the tracking of this whole system of what instalment payments are being made by PERIN offenders over the various departments and agencies that avail themselves of that system could be difficult and could potentially set up duplicate ledgers and systems to manage the whole process. The government will be setting up a centralised agency to record and manage the progress payments of PERIN fines, although the point is made that if a department wants to set up its own system, it can. However, we have been informed this centralised agency will be contracted out to Tenix, the very same people whose track record of speed cameras is far from exemplary. We hope for the sake of the PERIN offenders that Tenix will be able to keep track of their payments somewhat more efficiently. Hopefully, with the magic of computers and so on, Tenix will be able to do that.

The most important aspects of the bill will allow for the swearing in of interstate and federal officers as special constables in Victoria, which will allow the overviewing of the three pieces of legislation that I referred to — the Crimes (Assumed Identities) Act, the Crimes (Controlled Operations) Act and the Surveillance Devices (Amendment) Act — by the special investigations monitor and will cut out the Ombudsman or Office of Police Integrity from that system. It will also allow for commonwealth operatives to be aided in assuming identities in Victoria for the tackling of organised crime and terrorism, which is an issue that we as a society will be fighting for quite some time to come. With those few comments, I urge the house to support the bill.

Hon. P. R. HALL (Gippsland) — It is my duty today to speak on the behalf of The Nationals on the Investigative, Enforcement and Police Powers Acts (Amendment) Bill, which is not a long bill but it amends seven acts of Parliament, so it goes to a number of issues.

I am afraid to say that it is another chapter in the sorry saga of the government's clumsy attempt to address police corruption in this state. While we are not going to oppose the bill, we are certainly no fan of the complex structure that we now have in place in Victoria to deal with issues like police corruption and related matters.

The Honourable Chris Strong in his contribution tried to outline some of that structure, and I challenge people who may have been sitting in the gallery or reading *Hansard* to try to get a grip on the complex structure that we now have. We have at the head of that chain the position of Ombudsman; underneath that we have the director, police integrity; and to make matters more complex, both of those positions are filled by the same person. As the Honourable Chris Strong also said, we now have a position called the special investigations monitor. Indeed, with legislation to be passed later in the week, we will have a further commissioner position created to monitor and watch access to police information. We have a very complex structure.

Before I go to the details of the bill, I was reminded of a commentary that I read in the *Age* of Wednesday, 10 August, written by Colleen Lewis, who is an associate professor of criminal justice and criminology at Monash University. This article, under the heading 'A calamity caused by bad policy', states:

> The Ombudsman and OPI —

Office of Police Integrity —

> head cannot sensibly be the same person. It's a ridiculous situation.
>
> When the Office of Police Integrity sends more than 400 confidential police files to a member of the public it cannot be depicted as a 'regrettable incident' as suggested by the police minister, or as a 'clerical error' as described by the director of the office. It is a calamity of monumental proportions, and one that has permanently damaged the credibility of the Office of Police Integrity (OPI).

The article goes on to say:

> But the difficulties that attach to the OPI go much deeper than this highly damaging incident. They relate to the model itself, for it exemplifies the problems that attach to an acute case of 'policy on the run'.

I know the Liberals and The Nationals have consistently said throughout the last year or two as the government set up a response to police corruption in this state that the model being employed by the Bracks government is far from appropriate.

In the article Colleen Lewis talks about the structure. She gives a bit of history about where we are today and how we got there. She mentions, and I am paraphrasing her words, that in April last year the government assigned an extra $1 million to the Ombudsman, gave the Ombudsman extra powers and basically said that would fix the problem. She mentioned that the government quickly realised it was wrong and two months later announced that the Ombudsman's office would receive an additional $10 million and even more powers, including the power to tap phones. She says, as is also said in the second-reading speech, that no-one had told the commonwealth government about this and that there needed to be a commonwealth government agreement for the tapping of telephones in pursuit of police corruption.

We then saw some changes in August last year, when it was out with the police ombudsman, a position that had been created 12 weeks earlier, and in with the director, police integrity, and the Office of Police Integrity. That is when that office was created. As the Honourable Chris Strong mentioned in his contribution to the debate, we now have the special investigations monitor in place. It is a very complex system and difficult to understand. One wonders how it functions properly when the situation is so complex. The risk of confusion is obvious when two of the important people in the system, the Ombudsman and the director, police integrity, are the same person. One can only imagine how ineffective that is.

As Colleen Lewis said in her article, with them being one and the same person what happens when the Ombudsman has an idea that he or she wants to discuss with the director, police integrity. The Honourable Chris Strong said they probably run from one office to another talking to themselves, because that is in effect what they want to do. We may get the farcical situation that I know has existed in some other areas where people have to write letters to themselves to have issues resolved. In many country municipalities the old town clerk and the secretary of the water board were one and the same person. They would write letters to themselves and respond to letters from themselves. It does seem incongruous and ineffective to have the same person fulfilling both positions.

The article finally talks about the process that should lead to resolution. I could not help but notice that several mentions were made of the establishment of the Corruption and Crime Commission of Western Australia and similar organisations in other states. I know from the very outset that The Nationals, I think supported by the Liberals, thought that was the way to go and that a corruption and crime commission should

be established in Victoria to address these matters. But no, the government insisted on a piecemeal approach to this problem, and we now have a very complex structure to address these matters.

That having been said by way of general comment about the system and structure we have in Victoria, I turn to three of the pieces of legislation that are amended by this bill. As I said, the bill amends seven acts of Parliament, but I will mention just three. The first one I want to talk about is the amendment to the Major Crime Legislation (Office of Police Integrity) Act 2004, particularly in respect of the interception of telecommunications. This was an important issue last year when the Office of Police Integrity bill was being debated and, as Colleen Lewis mentioned in the article to which I have just referred, there was an issue in respect of the commonwealth government giving approval for the Office of Police Integrity to tap telecommunication devices.

This bill, by amending the Major Crime Legislation (Office of Police Integrity) Act, will transfer responsibility for monitoring police use of telephone interception powers from the Ombudsman to the special investigations monitor. As the Honourable Chris Strong explained, now you have the Ombudsman having oversight of a different person who has been given responsibility for that act. That has the agreement of the commonwealth government, and I understand it has enacted legislation to reflect this change in Victorian law and enable the special investigations monitor to proceed with that responsibility. It is a solution to the problem, and we are pleased that finally the commonwealth government and the state government have got together to resolve the issue. As I said before, it is still a very clumsy structure.

I want to quickly mention the amendments to the Police Regulation Act 1958. In respect of that act the major change is to appoint special constables as appropriately sworn in members of the Victoria Police or of other state police forces as and when the time or need may arise. By way of example, it is said that with the Commonwealth Games being staged in Victoria next year there may well be the need to co-opt extra trained police from other states to assist the Victoria Police in their functions associated with the Commonwealth Games, and in those cases special constables can be sworn in and appointed and have the full protection of the Victoria Police in carrying out their duties.

I understand all those changes are contained in clause 16, which inserts a new part VC and sections 102L to 102U into the Police Regulation Act. The conditions under which the appointment can be made and held are set out. Without going through all of them, The Nationals agree with the Liberals that this is a sensible change that will hopefully help policing throughout Victoria and enable additional resources to be put in place as and when required.

The last act I want to refer to is the Magistrates' Court Act 1989, and the changes to it are included in clauses 30 to 33 of the bill, where new procedures are put in place in relation to the payment of fines by instalments. This is a very sensible measure.

It is something that I have asked the Attorney-General to look at in the past. I have had cases where constituents have come to me and said they have not been able to pay a traffic infringement fine in one hit and wished to do so by instalment. The sad case is that in a couple of the cases I have had to deal with people have had to let the time for paying that fine expire and let it run to the PERIN court; and it was only by going through the PERIN court and getting a judgment of that court that they were able to pay their fine by instalment. Of course that incurred an interest penalty that those people had to pay. It is fair that people who may be holders of commonwealth health cards or who are on pensions should be given the opportunity where a demonstrated need exists to be able to pay a fine by instalment. My understanding is that the changes to the Magistrates' Court Act will now require agencies to establish a system whereby people who incur infringement notices can pay by instalment.

I just want to ask one question in relation to this, which perhaps one of the government members might respond to — that is, whether paying by instalment will incur any extra interest component of a fine or charge now. As I said, if your case goes to the PERIN court you immediately incur an interest payment before that goes to court, but I would hope the establishment of payment by instalment of the original fine would not incur an interest payment. I think that would be much fairer.

With those few words I will not prolong debate on this bill. As I said, we will not oppose it, but that does not mean we think the system we have in Victoria to address issues like police corruption is the best. Indeed we think it is a very clumsy structure that we have in place now, but if this helps in any way we are happy not to oppose it.

Ms MIKAKOS (Jika Jika) — I am very pleased to be able to speak in support of the Investigative, Enforcement and Police Powers Acts (Amendment) Bill and indicate the government's appreciation that the opposition and The Nationals are also supporting it.

The Bracks government has always taken the view that in order to be effective in protecting the community the public needs to have confidence in the integrity of Victoria Police members. This is an absolutely critical issue. The government has taken a number of measures in the past to address this issue, in particular the establishment in 2004 of the Office of Police Integrity (OPI). I note at that time the office was given a range of powers relating to the use of covert surveillance devices, assumed identities and controlled operations as well as a boost to its resources. As part of that it was also envisaged that the director, police integrity, and his officers would have telephone interception powers amongst other powers to assist in the fight against organised crime and police corruption.

Unfortunately the commonwealth Attorney-General, Philip Ruddock, chose to obstruct the ability of the Office of Police Integrity to fight major crime and police corruption in Victoria. This was due to unwarranted and ill-considered concerns over which office would perform the oversight function of the new powers. I know that members of the opposition and The Nationals have also carried on about this issue today, true to their form in previous debates. I remind them that it was during the Kennett government years that the deputy ombudsman (police complaints) had responsibility for investigating police complaints and that that position was in fact contained within the Ombudsman's office. So what we are looking at here is the Office of Police Integrity (OPI) finally being able to receive vital crime-fighting powers from the commonwealth. I am pleased that the commonwealth has in fact introduced legislation in the federal Parliament that hopefully will be passed before the end of the year to enable that to occur.

The Bracks government is pleased that the commonwealth Attorney-General has finally announced that the commonwealth will give powers to the OPI to enable it to use material obtained by telecommunications interception. We have always taken the view that the federal Attorney-General should never have stalled the introduction of those powers at the time we gave the other powers to the director, police integrity, as we have always believed we need to arm that office-holder with the full powers needed by him to tackle alleged police corruption.

In relation to the structure of the monitoring of telephone interception, I emphasise that this has not varied since the Victorian legislation first envisaged telephone interception powers being provided to the director, police integrity. That legislation always provided that any use of telephone interception powers by the director, police integrity, would be the subject of monitoring and oversight by the special investigations monitor, an office that was also established in 2004, when the position of director, police integrity, was established.

The change introduced in this bill is a transfer of the monitoring and oversight of the use of telephone interception powers by Victoria Police from the Ombudsman to the special investigations monitor. This change provides for a consistent oversight regime in the use of telecommunications interception powers by Victorian agencies. The transfer of the oversight function was an essential ingredient in securing the commonwealth's agreement, notwithstanding that the Bracks government has never agreed with the commonwealth's view that there was a conflict in the Ombudsman's role of monitoring Victoria Police's use of intercept powers. The changes in this bill will help deter corruption and remove any unwanted suspicion that such conduct casts over the vast majority of honest and hardworking women and men, and for that reason these changes are very, very important.

The bill also contains new provisions relating to the streamlining of the appointment of special constables — that is, interstate or federal police exercising police powers in Victoria after taking an oath or affirmation. In relation to the timing of the appointment of special constables the provisions are contained in two parts. Division 1 of new part VC of the Police Regulation Act provides for the appointment of special constables for nominated periods of time. However, the appointment can be terminated at any time by the chief commissioner, and this is consistent with the appointment of police constables in Victoria. Special constables are sworn and remain police members until they resign, retire or are terminated in their home force or as special constables. This will enable special constables to be appointed to assist Victoria Police, if necessary.

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

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Government: advertising

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Finance. In answer to a question in this place last year, the minister stated that responsibility for:

> … the overall reporting of how policy is going has been given to me as Minister for Finance by the Premier.

I note, however, that there has been no disclosure of any sort of the $9 million spent on media contracts and tenders in the latest taxpayer-funded election ads, including the dishonest Building a World Class Victoria campaign. I therefore ask the minister: when will full details of all these media contracts be made available to the public who paid for them?

Mr LENDERS (Minister for Finance) — I am certainly happy at any time to answer questions regarding my own portfolios.

Hon. Bill Forwood interjected.

Mr LENDERS — Mr Forwood laughs; indeed, he scoffs. He scoffs again and again. This government has Parliament sitting for 50 days a year — that is the number of days the Legislative Council will be sitting. This government has ministers appearing before the Public Accounts and Estimates Committee. This government has restored freedom of information legislation and empowered the Auditor-General. There are more FOIs now than under the dark and shameful years of the Kennett government.

We will be accountable. I will speak and be accountable in my portfolio. I will speak on the issue of advertisements that deal with my portfolio. Building One Victoria is an issue I would be happy to talk about. On other areas I suggest that Mr Davis talk to the responsible ministers.

This is a great state to live, do business in and raise a family in — a great state to do all those things. What this state also has are businesspeople and investors coming into the state. We also have our own community, in which we wish to engender a sense of confidence that it is a good place to invest, to live, to work and to raise a family. Unlike the opposition, which spends all its time talking down this state and affecting business confidence, and unlike the federal government, which throws grenades and makes people not want to work, upsetting industrial relations and bringing uncertainty, this government wants to instil a sense of confidence and pride in our state.

For those reasons the government is investing money in promoting Victoria, to Victorians and particularly to external investors. It is doing it in a modest manner — far less excessive than the commonwealth government is and than our predecessor the Kennett government was. We have targeted campaigns to instil investor confidence and to make Victoria an even better place to live, work and raise a family.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his answer, and I note that there has been a change since the Auditor-General last reported on the government's advertising contracts in 2003, when he found media spending had risen sharply in the run-up to the 2002 state election.

The same thing is happening now, but instead of starting two months before the election, the propaganda campaign is starting 12 months out from election day. Therefore I ask the minister: what other publicly funded election campaign ads are scheduled by his government between now and 25 November 2006 and whether full details of them will be publicly released?

Mr LENDERS (Minister for Finance) — There are a number of matters in Mr Davis's supplementary question. Firstly, I can tell him that in the WorkCover portfolio we have ads going on at the moment about the whole issue of consultation in the work force and the implementation of the 1 January changes to the Occupational Health and Safety Act. They will continue. They will go forward to help inform the public, employers and employees of the important changes to the act.

I can also let him know that in the Transport Accident Commission part of my portfolio we have two lots of ads running at the moment. One of them deals with the issue that 46 people are injured on the road every day in Victoria and that we want that number to come down. We also have ads that deal with what we call our haunted campaign, which reminds people of the consequences for the rest of a person's life if they cause injury. Those advertisements will continue for the next few months. We will continue to advertise when there is a purpose for it to be done, whether the ads be targeted advertisements, as in these portfolios, or whether they be general ones showing that Victoria is a good place to invest. Those things will be reported in the normal manner.

Occupational health and safety: legislation

Mr PULLEN (Higinbotham) — My question is also addressed to the Minister for WorkCover and the TAC. The Bracks government has proudly taken steps to protect the interests of working Victorians to ensure that Victorian workplaces are safe. Can the minister advise the house of current measures being undertaken to assist employers and employees to implement our new health and safety laws?

Mr LENDERS (Minister for WorkCover and the TAC) — I thank Mr Pullen for his question. Yesterday morning I had the privilege of speaking in Mulgrave in my electorate to a gathering of 300 people. Mr Brideson, the other member for Waverley Province, would appreciate that 300 people coming out to a meeting in our electorate is an unusual occurrence — unless it was to the Forest Hill branch of the Liberal Party! The 300 people came because WorkSafe held an information session on changes to the Occupational Health and Safety Act that will take effect on 1 January next year.

These changes are primarily about the obligation of an employer to consult. I recall vividly when this bill was being debated in this place about 11 months ago interchanges with Mr Forwood and others about how the world as we know it was about to end, how the sky was going to fall down. Exactly the same arguments that the British Tories used when the first chimney sweep legislation went through in 1788 were the arguments being used by Mr Forwood and others when this legislation came in.

What WorkSafe is doing to outline these measures is holding information sessions across the state. We have had information sessions already in Wangaratta, Wodonga, Shepparton, Traralgon, Ballarat, Geelong, Horsham, Warrnambool and Mulgrave, which I mentioned. We have them coming up in a number of other places — in the city, Preston, Sunshine and Mildura. The important thing is that people be informed of the changes to the law.

What I can say with great pride is that the Occupational Health and Safety Act is having its desired effect. What we are seeing now is injuries in Victoria coming down. We are seeing deaths in Victorian workplaces coming down.

Hon. J. A. Vogels interjected.

Mr LENDERS — I take up Mr Vogels's interjection about being a dairy farmer. Mr Vogels and I can be jointly proud that yesterday it was one year since there had been a death as a result of work-related injury on a farm in Victoria. That is probably the best safety news we have seen in a traditionally dangerous industry in a long time. Yesterday was that anniversary, and it is great news. This does not happen just through market forces. This happens because this government has brought in targeted, even-handed legislation based on education and, when education and information are not working, on compliance. We are working on sharing between stakeholders, whether they be employers or employees or their representatives. What we are seeing through this is that injuries are coming down.

In Colac — and Mr Viney alluded to this on Thursday — Mr Viney and I went to Regal Cream, a great Colac factory employing 400 people. This is a classic case where consultation is working. In this place people are talking — —

Hon. D. McL. Davis — You were only there for about 40 minutes. You were in and out. It was a photo opportunity.

Mr LENDERS — I take up Mr David Davis's interjection about a photo opportunity. This is the third occasion now on which I have had dialogue with this company. It is a model of what can work. It is a great private company. It is organised by a great union, the National Union of Workers. There is a great safety committee which people take seriously and which works. What we are seeing is a safe workplace. In fact the management of Regal Cream — and Mr Viney can probably help me — said objective no. 1 was safety, objective no. 2 was quality and objective no. 3 was productivity. So we are talking of a company that makes safety work and makes workplaces safer. We are seeing a great outcome in Victoria. We are seeing injuries down, deaths down, workplaces safer and productivity up — making Victoria a great place to live, work and raise a family.

Government: advertising

Hon. PHILIP DAVIS (Gippsland) — I direct my question without notice to the Minister for Finance. As the minister responsible for — and I quote his web site — 'purchasing and procurement arrangements for the Victorian government' he is accountable for the proper reporting of government tenders and contracts valued at over $100 000 on the Victorian government tender web site. On that web site I can find references to government media contracts, problem gambling, safety at sea, nurse recruitment, student use of alcohol et cetera. However, there is no mention of any contract or tender for the latest misinformation campaign, Building a World Class Victoria. Therefore I ask: why has this contract not been posted on the government tender web site?

Mr LENDERS (Minister for Finance) — How the leopard does not change its spots! I suggest to the Leader of the Opposition as bedside reading the report of Professor Bill Russell, who was commissioned by Premier Bracks in 1999 after we were elected to government. He should actually read Professor Russell's report on procurement.

If he did the Leader of the Opposition would blush that he had actually asked this question. He would discover from the Russell review and report that this government has opened up government and made it transparent by the fact that we report those things. What he would find is that in all these areas we report contracts. If contracts are not reported because they are current, because they are confidential or for other reasons, there is a mechanism for them to be reported when it is appropriate for them to be reported. It is far from the days of Leeds Media, those shameful, dark, murky days of the Kennett government, when there was no transparency — vast amounts of money and no transparency.

I will take on notice the Leader of the Opposition's question about whether all the formal requirements of the act have been complied with, and certainly as a vigilant minister in a transparent government I will make sure that is done.

But we need to go right back here to the core of openness and transparency. Figures I have seen recently show that freedom of information requests have gone up by, I believe, 60 per cent under this government. Why is that? It is because this government has made it easier for the public to get access to information. We publish our annual reports, we turn up to the Public Accounts and Estimates Committee's hearings and we convene the Parliament. We do all that, and we even make it easier to table reports when Parliament is out of session. As I have advised this house before, members should read the *Australian Financial Review* of 16 January 2003 which, in commenting on this government's multiple reporting, said that we were too transparent!

I will take up the specifics of the Leader of the Opposition's comments to make sure that those requirements are met, but I assure him — until he actually reads Professor Russell's report, and I suggest he has a read of it — that things are looking a lot better in the state of Victoria than they were during his party's time in office. But if we can make them better still, we will pay attention to it.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his extensive answer and for his commitment that those details will be disclosed. Therefore I ask: when will he properly disclose the full details of the propaganda contracts?

Mr LENDERS (Minister for Finance) — The Leader of the Opposition has mentioned propaganda contracts. He criticised the state of Victoria for encouraging investment and having individual Victorians, unscripted, talk up the state of Victoria — unlike the commonwealth, which deceived actors into thinking they were working for a WorkCover ad and to say things for the WorkChoices legislation. These are Victorians speaking from the heart about the state that they are proud of. I see that Mr Forwood has not got his Victoria badge on today. Talking up the state of Victoria is something that we would encourage. Certainly I will take on notice any of the issues Mr Davis has to make sure we are following correct procedure.

Aged care: personal alerts

Hon. C. D. HIRSH (Silvan) — My question without notice is to the Minister for Aged Care. Can the minister advise the house how the Bracks government is growing all of Victoria and of any recent actions taken to improve the personal security of older and disabled Victorians?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Ms Hirsh for her question, but, more importantly, her overriding commitment to the wellbeing of older members of our community. She shares the concern of many members of the government benches to ensure that older members of our community feel secure and safe within their own homes. We are dedicated to trying to improve the quality of life for members of that community, in part through a significant undertaking that we made through the A Fairer Victoria package as part of this year's budget, which saw over $50 million allocated to improving services for and care of older Victorians. Within that $50 million was an allocation to increase the number of personal alerts that are available free of charge to older members of the community.

Hon. Andrea Coote interjected.

Mr GAVIN JENNINGS — I am pleased to hear that the shadow minister recognises — —

Hon. Andrea Coote interjected.

Mr GAVIN JENNINGS — No, you have not heard all of it before. In fact an interesting thing for the opposition to hear is that I have something that I share with the opposition. I have a great deal of difficulty remembering that there was a government in Victoria prior to the Bracks government. I have difficulty remembering that, but what I can say is that when the Bracks government came to office a bit over 8000 personal alert alarms were provided to older

members of our community and people with disabilities. I am very pleased to say that an initiative taken in the budget — at budget time there were 17 000 — has culminated in today's announcement that there will be 19 000 of those personal alerts. During the course of the first five years of the Bracks government we have doubled the number of personal alerts that are available.

We are rolling out an additional 2000 units as of today through two very important services that provide linkages and connections to older members of the community when they are vulnerable. When they press their personal alert alarms, which may be attached to a necklace or worn as a wristband, they automatically trigger a service which is run out of two fantastic organisations covering the eastern and western parts of Victoria. In the west — —

An honourable member — You've forgotten!

Mr GAVIN JENNINGS — It happens to all of us. I think my track record might be a little bit better than most, but what can I say?

Safety Link is the Ballarat organisation that will provide the rollout of new units throughout the western parts of Victoria, including the western and northern parts of metropolitan Melbourne. The eastern part of Victoria will be serviced by Peninsula Health's Mount Eliza Personal Assistance Call Service, which provides a great quality service to members of our community at times when they need it most — when they may have fallen over in their homes, front yards or neighbourhoods. When the button is pressed the automatic service makes sure that family, friends and emergency services are contacted, and that provides security and confidence to older members of our community.

The Bracks government recognises that this is a very important undertaking — that all members of our community, regardless of where they live and their degree of frailty or disability, deserve that degree of support and attention, whether we provide it through home and community care services or emergency services such as Personal Alert Victoria. I am very pleased that the Bracks government is rolling out an additional 2000 units as of today.

Commonwealth Games: shooting venue

Hon. P. R. HALL (Gippsland) — My question without notice is directed to the Minister for Commonwealth Games. Last Friday, in company with a number of my parliamentary colleagues, I visited the Melbourne Gun Club at Lilydale, the venue for the Commonwealth Games clay target and skeet shooting events. Tickets to those events were the first to be fully subscribed — they are very popular. While the club's shooting fields are excellent, the ancillary amenities are very much below the standard expected of a games venue. The clubrooms need painting, the toilets need a major upgrade and concreting around the buildings is in urgent need of repair. I ask the minister as a matter of urgency: will he provide the Melbourne Gun Club with the funds necessary to upgrade these facilities?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's question. I particularly welcome questions in relation to the Commonwealth Games from anyone in the Parliament. I have been briefed by a number of my parliamentary colleagues in the Labor Party, who commented on the success of the day at the gun club. I think some of the Labor members actually did pretty well, much to the shock and horror of The Nationals. I always thought The Nationals stood for hunting, fishing and shooting, but they can take one of those off the list, given that they did not perform particularly well in that competition.

It is worth appreciating that, come the time of the Commonwealth Games, a significant overlay will be applied to all the venues across the state. Sometimes this overlay is referred to as the bump-in and bump-out of temporary facilities. In doing that a consistent look will be applied to those venues so that they will all be themed towards the Commonwealth Games. I suspect that if venues need minor works or upgrades — like painting them or bringing them up to a certain standard — that will be considered in the light of the overlay requirements for those facilities. Without having information on the exact detail of those overlay requirements in front of me, I am very confident — having visited that facility — about its amenity given the improvements that will go into facilities regarding the overlay requirements.

Competitors from around the commonwealth can be in no doubt that they will have fantastic facilities in fantastic locations for a world-class event, a world-class performance in every sense — like that of my colleagues from the Labor Party the other day. This will be the best Commonwealth Games. The fact that events will be held in the regions means that Melbourne and Victoria will be showcased to the rest of the world in the best possible light.

Supplementary question

Hon. P. R. HALL (Gippsland) — While I welcome the minister's response to the question, I am not as confident as he is that those issues will be addressed in time for the Commonwealth Games. With less than three months before the games start, the Melbourne Gun Club requires work that will involve more than a lick of paint. I ask the minister: can he give the club an assurance that those infrastructure needs will be properly addressed at no expense to the club prior to the games commencing?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the supplementary question. It is worth appreciating that we have spent and will spend enormous amounts of money to make sure that we have world-class facilities, so we can expect world-class performances in those facilities.

It is also worth appreciating that these facilities — whether they are the likes of the Melbourne Cricket Ground, the Melbourne Sports and Aquatic Centre, the new basketball facilities at Traralgon, the upgrades at Bendigo or Ballarat or the shooting centres — will also be used, week in and week out, by the broader community. We are very confident that these facilities will be second to none going into the games and post-games. I am happy to have my officers look further into the issues, but I am confident that at every one of these venues we will see world-class performances at world-class venues.

Artistic Gymnastics World Championships

Hon. H. E. BUCKINGHAM (Koonung) — My question is directed to the Minister for Sport and Recreation. Will the minister outline to the house how the 2005 Artistic Gymnastics World Championships will benefit Victorian tourism and the sport of gymnastics in the lead-up to the 2006 Commonwealth Games?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the member's question in relation to the impending Artistic Gymnastics World Championships. We all know that Victoria is renowned for world-class performances, in particular when it comes to international sporting events and celebrations.

Last night I had the great good fortune to be at the start of one of the most spectacular and prestigious events of them all — the 2005 Artistic Gymnastics World Championships. At a function at Government House the Premier, the Governor and I were pleased to formally welcome to Melbourne the competitors and officials for the 2005 Artistic Gymnastics World Championships, which will run from today until 27 November. This prestigious event will the first international gymnastics championship — other than the Liberal Party preselections, of course — staged in Melbourne.

According to an analysis of previous events both overseas and in Australia, the event is expected to generate an economic impact in excess of $8 million. With 275 entries from 53 nations, including the traditional superpowers of gymnastics — China, Russia, Romania, the United States of America, the United Kingdom, Canada and Japan — the world championships will be the biggest and best gymnastics competition ever seen in Victoria. There is a tremendous buzz around the state, particularly if you are a gymnastics aficionado. I had the great good fortune to meet with some gymnasts only a few weekends ago, when 2402 Victorian gymnasts set out to break the world record for simultaneous handstands. I was very pleased to join them in that world record attempt. It shows that as well as fantastic events and facilities we have fantastic grassroots participation at all levels of the community when it comes to the likes of gymnastics.

I also met with Ms Slava Corn, the vice-president of the Fédération Internationale de Gymnastique, on her recent visit to this state. She inspected the facilities, was particularly impressed with the venue and commented that the Rod Laver Arena would provide spectators with an intimate view of the competition. We can take great pride in the spectacular facilities we have. It will be an ideal test event for the Commonwealth Games. A number of Commonwealth Games athletes have come out now seeking competition experience in the venue prior to the games. As well as that, I am informed that Channel 7 will provide domestic and international TV feed and live broadcasts on the final four days. That will give us a great chance to showcase to the world the spectacular nature of Victoria and our sporting facilities. I am informed that so far 30 000 tickets have been sold for the six days of competition.

When you bear in mind that this event complements the Australian Open tennis, the Volvo Ocean Race, the World Lifesaving Championships and the Commonwealth Games, there can be no doubt that our world-class performances make sure that Victoria is a great place to live, work and raise a family.

Government: advertising

Hon. PHILIP DAVIS (Gippsland) — I direct a further question without notice to the Minister for Finance, who is also the Minister for Major Projects. I refer again to the latest $9 million government misinformation campaign, Building a World Class Victoria, featuring a number of the projects for which he is directly responsible as Minister for Major Projects. Was the minister consulted on these election campaign ads?

Mr LENDERS (Minister for Major Projects) — I will take the question as Minister for Major Projects, to be of assistance to the house, given that it relates to that portfolio, not the finance portfolio. It must go with the name Davis, but at least Mr Philip Davis is trying to link his question to my portfolio, unlike his colleague Mr David Davis, who sometimes draws a very long bow in his aspiration to be the member for Caulfield in the Assembly.

Honourable members interjecting.

Mr LENDERS — Firstly, as a minister of the Crown, of course I would not be involved in any party election campaign ads, so that is outside my portfolio area. For those opposite who are puzzled, we all know that Mr David Davis seeks to be the shadow Minister for Health and is now seeking to be a member for the Southern Metropolitan Region that positions him perfectly to run in Caulfield.

On the issue of Mr Philip Davis talking about a misinformation campaign, I would have thought that Victorians speaking to camera about what a great state Victoria is, what a great place it is to do business, what a great thing it is to have confidence to work in Victoria — —

Honourable members interjecting.

Mr LENDERS — I am gobsmacked that the Leader of the Opposition would so talk down this great state of Victoria that he says that a campaign to boost business confidence, to highlight why this is a great place to invest in, is misinformation. I am actually bewildered as to what the Leader of the Opposition could possibly be saying. All I can say is that presumably the ads he is referring to are those promoting Victoria as a great place to do business, promoting Victoria as a great place to work, promoting Victoria as a great place to raise a family, ones which are designed to keep our growth rate ahead of the country, to keep our population rate up, to make our cities a better place, to make our country a better place and to encourage investment to give our young people jobs. If they are the ones he is referring to, I take great pride in them and urge him to take a leaf out of them, to learn the lesson and actually talk up this great state for a change.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — In the context of his response, I ask the minister why he has included the Spencer Street station redevelopment in the publicly funded election campaign ads in Building a World Class Victoria, when bits of it have dropped off never to be seen again, it has run millions of dollars over budget, according to the Auditor-General it is subject to $54 million in claims for compensation and it will be completed at least one year late and will not be ready for the Commonwealth Games?

Mr LENDERS (Minister for Major Projects) — When the Leader of the Opposition is not reading the Russell report, I suggest he read the Auditor-General's report on Federation Square, the great financial child of the Kennett government.

Honourable members interjecting.

Mr LENDERS — I will answer very happily on my portfolio — I will answer very happily on why we are promoting this great state. As the Leader of the Opposition well knows, the Spencer Street project is the responsibility of my colleague the Minister for Transport, so I will not answer on the details of Spencer Street, because Mr Davis knows the rules of this place and Parliament. What I would say to the Leader of the Opposition is: if he is not talking about a great interchange, where the trains from regional Victoria interlock with the metropolitan area, if he is not talking about a state-of-the-art building with great architectural pride for Melbourne, then he is talking about a different Spencer Street from the one I am aware of.

This government will continue to manage contracts and promote the state of Victoria. Our objective with this advertising campaign is to bring in investment and make Victoria a better place to live, work and raise a family.

East Timor: ministerial council status

Ms ARGONDIZZO (Templestowe) — My question is to the Minister for Resources. Can the minister inform the house of the progress of the granting of observer status to East Timor as part of the Ministerial Council on Minerals and Petroleum Resources and what is the government's position on East Timor being given observer status?

Hon. T. C. THEOPHANOUS (Minister for Resources) — I thank the member for her question and her interest in East Timor. As most of us are aware, East Timor is working very hard to build itself into an independent and viable democratic society. Victoria and the Victorian government have been active in assisting East Timor to get onto its feet and become such a country. However, East Timor needs resources of its own to build a nation. In order to build the nation a major area of concern is the reconstruction and expansion of East Timor's energy sector. That will provide the funds for the reconstruction of that country.

On 16 June Mr Mari Alkatiri, the Prime Minister of East Timor, met with the Premier of Victoria and me. In those meetings Mr Alkatiri expressed interest in establishing closer ties with the energy and resources sector in Australia and Victoria. The Victorian government believes it is time for East Timor to be granted observer status on the Ministerial Council for Mining and Petroleum Resources, which will be meeting this Friday. As such, at the meeting on Friday I will again be seeking for East Timor to be granted observer status. I believe such a move will be for the good of Australia and East Timor. Papua New Guinea and New Zealand already have observer status at the ministerial council, and it is merely an extension of the neighbourly type of arrangements we have with these countries for us to extend it to East Timor.

At the last meeting I sought to have East Timor included, only to have my motion vetoed by the federal government, which refused to allow East Timor observer status until it agreed to the federal government's proposition on the Timor Sea fields. This is nothing more than bullyboy tactics against a very small country — —

Hon. Bill Forwood — On a point of order, President, I would like the minister to relate this to state administration.

Hon. T. C. THEOPHANOUS — I am very happy to speak to the point of order, President,. and quite obviously it is related to my responsibilities, since I am attending the ministerial council on Friday and, as the minister from Victoria, I will be moving the motion for East Timor to be granted observer status. It is certainly in the interests of Victoria for the issues in the Timor Sea to be resolved, because it will allow for the development of that resource, which has the potential to also benefit Victoria.

The PRESIDENT — Order! I do not uphold the point of order because the minister was referring to the ministerial council meeting that is about to take place, to a motion he has put up previously and to one he proposes to put up. However, I ask the minister to come back to that rather than running a commentary on the federal government.

Hon. T. C. THEOPHANOUS — I am happy to come back to what I will be proposing at the ministerial conference. I will be proposing that we allow this small country, which obviously is struggling to become a viable democracy, to come to the ministerial conference, not as a full conference member but simply so its representatives can see, with observer status, how such conferences operate for the sake of their own democracy and its development.

We believe the presence at that conference of East Timor representatives would help the negotiations in the Timor Sea, not hinder them. The federal government is being very defensive in not being prepared to allow East Timor's presence, bearing in mind that only the federal government is saying no to this proposition. Every other state is happy to have East Timor as a part of the ministerial conference and will, I am sure, support Victoria's motion.

I call on the federal government, and particularly the federal Minister for Industry, Tourism and Resources, Mr Macfarlane, to do the right thing and support Victoria's motion to allow East Timor to be a part of the conference.

Commonwealth Games: athletes village

Hon. D. McL. DAVIS (East Yarra) — I direct my question without notice to the Minister for Commonwealth Games, the Honourable Justin Madden. Is the minister aware of the risks to vaccine supplies, especially flu vaccine supplies produced by CSL Ltd in Parkville, from any terrorist action in or near the Commonwealth Games village, and what specific action has he taken to ensure that such an incident during the games will not impact on other key facilities and vaccine supplies?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome questions from the opposition on the Commonwealth Games wholeheartedly. Sometimes, however, I must express my disappointment in opposition members when it comes to scaremongering at all costs just to enable them to get a question up in this chamber.

I have said on a number of occasions that Mr Davis draws a very long bow to get out a question in here. Last week it was on sports psychologists, and obviously he has not gone away and got some motivational

psychology because unfortunately he, like some of his colleagues, likes to scare as many people away from Victoria as possible. We have seen that today with some opposition members' questions in relation to world-class performances. They want to talk down the state; they want to criticise people for talking up the state. This shows, again, that they are prepared to talk down the state and to talk down the biggest event in Victoria's history all for the sake of a little bit of kudos and potentially a headline in the newspaper.

Let me repeat what I have said on a number of occasions in this chamber: I will not specifically talk about security arrangements in relation to the Commonwealth Games. As I have said on a number of occasions, that is for the Chief Commissioner of Police, Christine Nixon, or the Premier or the Australian Defence Force or the federal Attorney-General to speak about. Opposition members will talk down the state and the Commonwealth Games at any cost, and this is just another clear example of the depths to which they will go in order to get themselves a headline.

Supplementary question

Hon. D. McL. DAVIS (East Yarra) — We have just heard an extraordinary diatribe from the minister who is clearly out of touch with his portfolio and has not considered some of the major security issues surrounding the games. It is clear there could be a risk to the games village, and there is a significant facility — CSL — adjacent to that site. The question I have asked is a very reasonable question, and I ask the minister now, as a supplementary question, to look carefully at this issue and come back to the chamber with some response as to what he has done to ensure the safety of vaccine supplies.

An honourable member — That's not a question!

Hon. D. McL. DAVIS — I have asked him to tell us something about what his — —

Honourable members interjecting.

The PRESIDENT — Order! The question asked by the member does not meet the criteria. It does not even ask a specific question of the minister within his portfolio.

Hon. D. McL. Davis interjected.

The PRESIDENT — Order! I beg your pardon?

Hon. D. McL. DAVIS — I have asked him to come back to the chamber with a response.

The PRESIDENT — Order! The member has 14 seconds left for his supplementary question, so instead of my ruling the question out of order, I will give him 14 seconds to ask the minister a question which is supplementary to his first question.

Honourable members interjecting.

The PRESIDENT — Order!

An honourable member — Chuck them out!

The PRESIDENT — Order! Mr Forwood will be the first one out if he speaks again while I am on my feet. Otherwise I will rule the question out of order.

Hon. D. McL. DAVIS — The minister is clearly unaware of the issue, so what action will he now take?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I believe I have responded to that comprehensively, but let me just say that in relation to all matters of security, comprehensive and outstanding work has been done and continues to be done in relation to every security issue. Mr Davis might see something in a little storybook somewhere, but we have considered the matter comprehensively and thoroughly, and it is being dealt with by Victoria Police, the Australian Federal Police, the Australian Defence Force and the Attorney General's office. That is so for every matter and every permutation Mr Davis could try to imagine with his tiny little mind. Let me just say we are dealing with it comprehensively. I suggest that Mr Davis steer away from the scaremongering tactics he and his colleagues try to use when they talk down this state and the Commonwealth Games.

Energy: government contract

Hon. KAYE DARVENIZA (Melbourne West) — My question is to the Minister for Finance, Mr Lenders. Can the minister outline to the house how the Bracks government is growing all Victoria and explain the benefits of the state government's energy contract?

Mr LENDERS (Minister for Finance) — I welcome Ms Darveniza's question and would at any time be happy to share with the house and the Victorian community advances in procurement policy in my finance portfolio which give value for money to the Victorian taxpayer.

One of the things we have been working on is a new state purchasing contract policy. The Minister for Energy Industries and I share a passion for Victoria having a AAA credit rating, share a passion for Victoria

being efficiently governed and share a passion for stamping down on waste so we can spend that money on services like police, education and health, delivering to regional Victoria, building infrastructure and slashing taxes. You name it, we believe we can deliver well by managing well.

Recently I had the pleasure of announcing one of the state purchasing contracts that Ms Darveniza asked about. It was a contract for $68.8 million over three years for the aggregate buy of energy by the state of Victoria. What is exciting about it is that it is $11.5 million less. We have a saving of $11.5 million on our energy purchase through strategic purchasing and getting all of government together — hundreds of agencies and departments. We have been able to get a strategic purchase from Origin Energy and deliver value. It pales in comparison to the saving under the telecommunications purchasing and management strategy, known as TPAMS, my colleague the Minister for Information and Communication Technology achieved recently, but it is but an example of how this government, by working well, by using best business practice, by looking for and getting leveraging and purchasing power, can actually get real value for the Victorian community.

Not only is there the $11.5 million in savings, there are other benefits of the contract such as flexibility and the ability to add new government buildings as they come on stream, the potential to sell excess load during summer and the opportunity to audit when potential energy saving opportunities are identified. In addition to this, we have also met our environmental commitments by purchasing 10 per cent of our energy needs from green sources.

This is a good procurement policy. It gives this government a leading edge, savings of $11.5 million and greater flexibility so that this money, which is Victorian taxpayers money, can be used for the delivery of services, for the construction of infrastructure and to reduce the taxes and charges burdening our community. This is how this government governs so that we can make Victoria a good place to live, work and raise a family.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 4058, 4999, 5006, 5391, 5395, 5398, 5405, 5407, 5442, 5909, 5911, 6082, 6085, 6087, 6088, 6091, 6162, 6388, 6392, 6395, 6550.

MEMBERS STATEMENTS

Schools: music

Hon. ANDREA COOTE (Monash) — A damning federal government report has found that students are not getting enough exposure to music. The report found that 10 per cent of schools have no music education at all; one-third of schools have great difficulty finding teachers who are well educated in music and properly trained; and two-thirds of schools described the quality of music education as variable to poor. The report found a shortage of music facilities and equipment. The inquiry received over 1500 submissions, indicating how strongly people felt about music education.

After having held an arts forum in the city of Knox earlier this year, I was personally shocked to hear many local teachers tell of how students are simply not getting a music education at all during their schooling. Many secondary school teachers mentioned how they were teaching 14 to 15-year-olds who had never held a musical instrument before. In addition, the Victorian government recently announced it will no longer support the Victorian Music Library. This library is commonly used by schools to access sheet music at affordable costs. The Bracks government has decided to pull any financial support for the library. This decision leads to questions about how the library will be funded, whether staff will be able to retain their jobs and whether the library can continue to exist at all. All of these factors prove how the Bracks government is placing no importance on music education for students across the state. This is a scandal. It should be addressed, it should be looked at, and it is absolutely inadequate.

Barry Jones

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — It is with sadness that I wish to inform the house of the passing of Barry Jones. Barry Jones, whom I saw only a matter of months ago, was well known in the energy industry. He was the former executive director of the Australian Petroleum Production and Exploration Association, the peak association representing Australia's upstream oil and gas industry, from which he retired a mere four months ago.

Barry Jones had a distinguished career in the commonwealth public service, particularly in the

resource and energy department, where he was at the forefront of issues such as petroleum resource rent tax, deregulation of the crude oil market, native title and greenhouse issues. He believed in the importance of the industry. I enjoyed the conversations I had with him and remember talking to him about his retirement and how he was looking forward to it. It is with great sadness that I bring this to the attention of the house, and I wish to express my condolences to his wife and two sons.

Australian Volunteer Coast Guard Association

Hon. R. H. BOWDEN (South Eastern) — Last Sunday I had the pleasure of attending an annual church service at St Paul's Anglican Church in Frankston as part of the blessing of the fleet of the Australian Volunteer Coast Guard Association. I have the honour and pleasure of being the state patron for the Australian Volunteer Coast Guard Association and would like to again commend to honourable members the fine community service that the many hundreds of people in that organisation bring to the state of Victoria. The annual blessing of the fleet service is a reminder of the approach of the peak boating season and the responsibilities that go with the enjoyment of boating and recreation on the water.

I would like to commend and praise the members of the Australian Volunteer Coast Guard Association. There were representatives from Hastings-Westernport, Frankston, Carrum, Patterson River, Safety Beach, Queenscliff, Werribee, Geelong and also inland waters. I am advised that in the past year more than 2500 individual rescues were undertaken by the Australian volunteer coast guard. I think they deserve full support and recognition for the fine service they provide.

Melbourne Affordable Housing

Ms ROMANES (Melbourne) — Melbourne Affordable Housing (MAH) is one of the newly registered housing associations delivering social housing for low-income and disadvantaged Victorians. The importance of its work was highlighted at its annual general meeting last night by a resident's testimonial in its annual report, and I quote:

> My name is Brett, and I have been living in a Melbourne Affordable Housing property for the last six months. Prior to living at this residence I was living out of my car and occasionally staying with friends. I was released from prison in February 2004. Having this residence as a place to call home has meant the difference between getting my life back on track and reoffending.
>
> I have a three-year old son who I have been able to see because of my ability to put a roof over his head.
>
> I have managed to secure full-time employment as promotional staff, and this has been due to my having a stable place of residence. This is all due to having a house I can call mine …
>
> I feel I have broken free of such a cycle of [crime and institution], and it is solely due to me having somewhere I can call home, somewhere I can slowly reconstruct my life.
>
> To the team at MAH I wish to say thank you for all their efforts and understanding during my stay, as without this service I may well be sitting with my friends in jail contemplating what might have been.

Congratulations to Melbourne Affordable Housing for considerable achievements over the past year.

Calder Highway: duplication

Hon. W. A. LOVELL (North Eastern) — I rise to praise the federal government for its foresight in bringing forward the previously committed $82 million in federal funding for the duplication of the Faraday–Ravenswood section of the Calder Highway that will complete the duplication of the Calder Highway between Melbourne and Bendigo.

The duplication of the Calder Highway is vital to the continued growth of Bendigo and district, and it is now up to the state government to ensure the project is delivered on time and on budget. The people of Bendigo do not want to see this important project go down the same path as the fast rail project, on which the budget has blown out from $80 million to more than $750 million and has still not been completed. Mr Bachelor, the Minister for Transport in the other place, was interviewed on ABC regional radio last Friday and said that the Faraday–Ravenswood section of the Calder Highway was a two-year to two-and-a-half-year project. I call on the state government to ensure it sticks to its time line so that the people of Bendigo can look forward to travelling on the completed Calder Highway by mid-2008.

For the past four years the Premier, the Minister for Transport in the other place and the two Bendigo members — the Honourable Bob Cameron and Ms Allen in the other place — have used the Calder as a political point-scoring tool. It is now time for them to get on with the job and build the road.

Tuong Van Nguyen

Hon. J. G. HILTON (Western Port) — In all likelihood Van Nguyen will be executed in Singapore on Friday week. He was convicted of a crime which in Singapore carries the death penalty. Singapore as a

sovereign state is entitled to make its own laws and impose its own penalties, but the death penalty has no place in a civilised society. Life is sacred and the taking of life is never justified unless it is the last resort to protect freedom and liberty, which includes personal freedom and liberty.

Van Nguyen is not a criminal. What he did was done from, in his own mind, an honourable motive — to help his brother. That does not excuse what he did but it does put it in some sort of context. He made a mistake. We have all done things which in hindsight we wish we had not done. In Van Nguyen's case he will pay for that mistake with his life. The spontaneous outpouring of sympathy for his family from many thousands of Australians has been very moving, and I would like to associate myself with that sympathy.

Finally, the media circus which jostled Van Nguyen's mother and brother at Melbourne Airport yesterday was disgraceful, and the reporter who shouted out to Van Nguyen's mother, 'What will you say to your son?' should be ashamed. It was a disgusting question to ask and indicates the quality of so-called journalism in this country.

BreastScreen Victoria: Geelong

Hon. D. McL. DAVIS (East Yarra) — I am concerned about what is occurring in Geelong with the BreastScreen situation. It is clear that a situation has developed in Geelong where the Minister for Health in the other place and the Bracks government have not managed that service properly. BreastScreen, for those in the chamber who are not aware of it, is a government-funded service that provides free breast screening mammograms and follow-up testing for women over 40 years of age.

This is a very important public health program and public health measure that began back in the late 1990s. What is clear now from the *Geelong Advertiser* series of stories over the last two days is that the Geelong screening program is in doubt because St John of God Hospital has indicated that it will not continue running the clinic beyond the end of the year. It is now operating on a month-to-month arrangement and the government has not yet found a new provider. There has been plenty of warning for the Bracks government to find a new provider in Geelong. This means that the 12 000 women who are screened in Geelong each year and the other 4000 in the south-west of the state from Colac all the way down to Portland will not be able to get breast screening in Geelong and will have to come to Melbourne. This is disgraceful. It is cruel.

The Bracks government needs to fix this as early as possible. The Minister for Health in another place must personally intervene and fix this problem this week.

Golden Days Radio

Mr PULLEN (Higinbotham) — I am relaxed. I am relaxed because it takes me an hour to drive in here and I listen to Golden Days Radio on 95.7 FM on the way in. This morning's program was hosted by Ralph Blake with his wife, Nola, in charge of the telephone. Besides the usual beautiful blend of music from classical, country, big bands and so on, we had the news and a little chat from Ralph about his 19-year-old granddaughter. It was great. Last week I had the pleasure of attending a pre-Christmas evening reception at the Elms at the Caulfield racecourse hosted by Golden Days Radio, where it is based. The function was organised by Loretta Simmons, who incidentally hosts a program from 11.00 a.m. to 2.00 p.m. on Saturdays. I urge all racehorse punters to listen at 11.00 a.m. because Loretta is an outstanding tipster. Heather Swift was also involved in organising the function which was for groups that have an impact on senior services. The guest speaker was the outstanding Minister for Aged Care, Mr Jennings, who, as expected, gave a great speech.

I had the pleasure of meeting many of the station's presenters at the evening. I knew who they were as soon as they spoke because my radio never moves off this class community station. I congratulate president and station manager, Alex Hehr, deputy president, John Clarke, secretary, Ron Abel, and treasurer, John Amor, plus all the other committee members, together with founder Col Williams, who is an ex officio member of the committee, for their outstanding work. I urge all members, particularly those aged over 50, to join this great station. The annual membership fee is $25, and for those under 50 it is $20.

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

Local government: public entertainment permits

Hon. B. W. BISHOP (North Western) — Today I wish to highlight the imposition of red tape right across our communities. The latest issue raised with me is POPE — place of public entertainment occupancy — permits. I understand that such a permit is required in accordance with the Building Act 1993 and the Building (Interim) Regulations 2005 where public entertainment is being conducted and a fee is being charged. As a substantial amount of work is required in

preparing the additional information needed to apply for and obtain an occupancy permit, this is seen by local sporting clubs and event organisers as an additional onerous task.

Volunteers who run local sporting clubs and organise community events have expressed concern to the Mildura Rural City Council in relation to the additional workload imposed. It is clear that local clubs are not in a position to comply with these requirements. The Mildura Rural City Council is concerned that community events will be discontinued over time because of the many conditions imposed on volunteer organisations. They have sought my assistance in requesting a review of this legislation in the future, with a view to lessening the stringent terms and conditions applied to clubs wishing to provide community entertainment. I call on the government to immediately have a review so we can remove some of the red tape that overloads our communities, particularly our volunteers.

Industrial relations: federal changes

Hon. H. E. BUCKINGHAM (Koonung) — On Tuesday of last week I was very pleased to have the opportunity, along with my caucus colleagues, to join over 150 000 other Victorians marching in Melbourne in protest at the federal government's proposed industrial relations changes. Prime Minister John Howard's legislation will destroy a century of progress in protecting the rights of working people in Australia. Under this legislation workers will be pushed from awards and collective agreements and on to individual contracts. It effectively dismantles the system of industrial awards that has underpinned the living standards of Australians for the past 100 years. The annual national wage case will be scrapped.

The new wage-setting process under the so-called Fair Pay Commission will mean smaller wage rises less often. The federal Minister for Employment and Workplace Relations, Kevin Andrews, says he wants to give people more freedom to determine their own work arrangements, yet this legislation gives him the power to intervene in every single workplace agreement in Australia by declaring anything he does not like as 'prohibited content'. Already he has said that he will ban clauses that give employees unfair dismissal rights and clauses that require unions to be involved in dispute resolution.

Both Victorian and federal Labor will stand with working families against the Howard government's plans to remove unfair dismissal rights, penalty rates, regular working hours, holidays and rights to bargain collectively. Victorian workers sent a clear message of outrage and disapproval to Mr Howard last week, of which I was proud to be a part. Today's *Age* poll shows that many more were not conned by the $55 million publicity campaign for this abhorrent legislation.

Government: financial management

Hon. C. A. STRONG (Higinbotham) — The issue I would like to raise today is the 2004–05 government surplus — some $3.92 billion for the last financial year — which is gouging something like $2263 from each Victorian family every year. This comes hard on the heels of the 2003–04 whole-of-government surplus, which was $3.7 billion, or $2000 extra gouged out of every Victorian family.

The cry from the government is that this whole-of-government surplus is an inappropriate measure because it does not have control over all the input, such as that from the share market. But I would ask those opposite to reflect on how they have controlled the massive increase in property values which has given them windfall increases in land tax and stamp duty and whether that is under their control. Quite clearly it is not, so it seems to me they need to reflect on that. Members opposite also need to reflect on their control over the record levels of employment produced by the Howard government which have resulted in very significant increases in taxes on employment. Clearly there are many issues over which they do not have control — —

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

Victorian Immigrant and Refugee Women's Coalition: diversity forum

Hon. KAYE DARVENIZA (Melbourne West) — I want to inform the house how delighted I was to open the recently held Victorian Immigrant and Refugee Women's Coalition (VIRWC) diversity forum. The conference was held in Springvale and was well attended, with representatives from key women's multicultural organisations, local councillors from Kensington, Whitehorse and Casey along with a number of service providers and members of the public. VIRWC works towards improving the quality of life for migrant and refugee women and advocates on their behalf. It organises regular activities for women including consultations on issues that have most impact on women and provides mentoring and training. I want to congratulate VIRWC for holding this important conference, particularly Ms Melba Marginson,

chairperson, and Ms Samar Mougharbel, the community resources and training officer.

Cath Henry

Ms ARGONDIZZO (Templestowe) — I would like to recognise a very dedicated teacher in my electorate who has recently completed 50 years of teaching. Cath Henry is currently a teacher at St Gregory the Great Primary School in Doncaster and has been teaching at this school for the past 23 of her 50 years of teaching. Cath has taught with the Sisters of Charity in Sydney, the Sisters of Mercy in Western Australia and the Sisters of the Good Samaritan in Sydney, and was principal of Holy Eucharist School in Chadstone for six years. Cath has had a wide range of roles at her current school and presently teaches year 3 students. She says she always wanted to be a teacher, and in fact at the age of four practised for the future by teaching the fence posts in her garden. Cath said:

> The past 50 years have passed very quickly, and I have seen lots of changes. When I started, the children used slates and there was just one reader for the whole year.

She went on to say:

> My class would say I'm strict and have old-fashioned rules, but I expect a lot from them and also from myself.

I am sure teaching has given Cath Henry much satisfaction, and I take this opportunity to congratulate her on her achievement and wish her all the very best in the years ahead.

Neighbourhood Watch: Maribyrnong

Hon. S. M. NGUYEN (Melbourne West) — I was delighted to attend the launch of the Neighbourhood Watch Maribyrnong area 18 program called Building Multicultural Families on 18 November. It was held at the Quang Minh Temple in North Braybrook. This program was organised by Victoria Police in conjunction with Neighbourhood Watch program and the temple, and it was well attended by well over 300 people. Those present were Mr Bill Horman, president of Neighbourhood Watch program, Victoria; Senior Constable Craig Spicer, the community liaison officer for Maribyrnong; Leigh Gassner, acting deputy commissioner, Victoria Police; and many other important guests from the police force. Also there were George Lekakis, chairperson of the Victorian Multicultural Commission, and many other community leaders.

This program aims to raise awareness of the crime prevention and improvement of community safety in the western region in Victorian ethnic communities. The program tries to promote — —

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

INVESTIGATIVE, ENFORCEMENT AND POLICE POWERS ACTS (AMENDMENT) BILL

Second reading

Debate resumed.

Ms MIKAKOS (Jika Jika) — Before lunch I was speaking in support of the bill and in particular explaining the provisions that relate to the appointment of special constables. Those appointments would be necessary to assist Victoria Police with ongoing situations, particularly where there are towns along the Victorian border where special constables may be able to provide assistance — for example, in relation to the service of warrants or the transfer of prisoners.

The bill also allows for special constables to be used in emergency situations, in response to major incidents or in joint task force operations. I know in particular that division 2 of part 7 of the bill provides for the Chief Commissioner of Police to make a declaration that an incident requires urgent cross-border assistance. That could allow extra police members, for example, of a specific operational skill such as the equivalent of our special operations group to be engaged in Victoria and exercise police powers without first being sworn in as special constables.

The second category can only exercise these powers for a maximum period of 14 days with a 14-day extension. These powers are intended to be used in the event of major incidents or incidents requiring the need for urgent cross-border assistance. The provisions are intended to ensure that Victoria is able to quickly obtain cross-border assistance in the event of an urgent situation and will add to Victoria's security capacity and safety. The special constables will also be used to escort the Queen's baton on its journey around Australia as part of the 2006 Commonwealth Games.

The final aspect of the bill that I want to quickly touch upon relates to the changes in Victoria's infringement system, and I am very pleased that the Bracks government is seeking to add greater flexibility and fairness to the system by enabling people in financial difficulty to pay their fines in instalments when they first receive a fine rather than having to wait until the matter has defaulted to the PERIN court. Payment plans

are the beginning of a range of improvements being introduced into Victoria's infringement system, and I understand that the Attorney-General in the other place has indicated that there is an intention to introduce further legislation into Parliament next year.

On the whole, the vast majority of Victorians who receive penalty infringement notices pay their fines within the required time. However, for very many families, particularly those who are on social security benefits or are holders of health-care cards, the payment of a fine can make a huge dent in the household budget.

I understand that a report commissioned jointly by the Department of Justice and Monash University entitled *On- the-Spot Fines in Civic Compliance* was handed down in 2003. They conducted a survey of 2500 members of the general community. They found in that study that 6 per cent of the general survey group cited financial difficulty in paying a fine. The survey also studied 500 people who had gone through the PERIN system in the 12 months prior to the study and found that of those people who let their fines default, 28 per cent cited financial difficulty in paying the fine within the requisite period. Clearly a significant number of members of our community do struggle to pay their fines on time.

In the course of his contribution the Honourable Peter Hall queried whether there would be interest payable on a fine by instalment. I am pleased to advise him that no, there will not be any interest payable. We are seeking to introduce fairness and flexibility into the system and, of course, that necessitates that no further costs be incurred. The intention here is to do away with the additional cost incurred by people whose inability to pay means that they end up before the PERIN court and who then incur additional administrative costs. We are seeking to make it much easier for people who are experiencing financial hardship to comply with their obligations in paying their fines.

In conclusion this is an important bill that seeks to do a number of different things, essentially boosting our capacity to tackle organised crime and police corruption to make Victoria a safer place to live by enabling special constables to be appointed and to assist Victorians facing genuine hardship to access our justice system. I commend the bill to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — I am pleased on behalf of the state opposition to make my contribution on the bill before the house. The Investigative, Enforcement and Police Powers Acts (Amendment) Bill is interesting in that there are a variety of amendments to various acts. There are 10 parts to the bill.

I will initially go through the points raised by the previous speaker, Ms Mikakos, in respect of some of the throwaway comments she made about the federal government and the federal Attorney-General. The difference between the Attorney-General in the federal sphere and this government is that the federal sphere has a clear and unwavering commitment to ensuring that the proper processes of law are applied.

In this bill we see the continued piecing together of legislation to try and deal with corruption of police in our state. I want to put on the record some of the amendments that have been introduced over the past 18 months or so by this government. Many bills have been brought in. There was legislation introducing the police ombudsman, which position was later removed. We had the establishment of the Office of Police Integrity and then we had changes to a variety of acts. I will just read out the names of those pieces of legislation: the Major Crime (Investigative Powers) Act; the Crimes (Controlled Operations) Act; the Crimes (Assumed Identities) Act; the Surveillance Devices (Amendment) Act; the Major Crime Legislation (Office of Police Integrity) Act; and the Major Crime (Special Investigations Monitor) Act.

I cannot but repeat some of the issues raised by Ms Mikakos. The Major Crime (Investigative Powers) Bill was the principal piece of legislation that was first debated in the Assembly on 3 November 2004; it then came into this house and was debated on 11 November 2004. On 8 December 2004 we were debating the Corrections and Major Crime (Investigative Powers) Acts (Amendment) Bill. We were actually amending a bill that had only just been passed — in other words, the government could not get that right. Now we are down the track 12 months later with further amendments to that array of bills.

The opposition has always made it clear that there should be an independent crime commission. As a member of the Law Reform Committee I have visited Queensland, New South Wales and Western Australia as part of the committee inquiries into various references, and it is quite clear from what I have seen in those states that where there is a single piece of statute law to deal with issues of corruption — not only in the police but in my view across all boundaries of public office — you then have a very solid foundation to deal with corruption. What we have here is again another amendment to the legislation and to the various acts that I have outlined. The oversight of telecommunications intercepts will be shifted away

from the Ombudsman to a special investigations monitor through the amendments brought in by this bill.

I support the bill as it stands. It is important in the context of what has been going on over the last 18 months, which I think has been the introduction of a mishmash of legislation that would be, on its own, quite a substantial array, but which does not auger well for dealing with the real issues of corruption in this state. I put that on the record given that I have 10 minutes left.

In other amendments to the legislation, part 7 of the bill amends the Police Regulation Act. After listening to the debate about this, it would appear that we have never had special constables. Some of the references from government speakers would indicate this was unique. The reality is that I was a special constable back in 1985 when I was working in the near-border town of Portland. I was a sworn in as a special constable for South Australia; conversely, the members of the police force in Mount Gambier were special constables for Victoria Police. There is nothing new about this but the way it reads is as though it is all new and special. It has been around for ages; all that has been done is to enforce it so that if there are issues that require immediate action, the special constables approach can be retrospective. There are some minor variations about how the oath is administered, termination and a few other things, but it is not ground breaking. There have always been special constables as far back as I can recall. This legislation just makes minor alterations to accommodate, as stated in division 2 under proposed section 102Q, which is headed 'Declaration of incident':

> … an incident requiring urgent cross-border assistance …

It is important to note where that sits in the overall context of special constables across Victoria and indeed every other state.

Part 10 amends section 140 of the Magistrates' Court Act. As Ms Mikakos indicated, this relates to delivering an opportunity for those who receive a PERIN — penalty enforcement by registration of infringement notice — fine to undertake a payment plan. I support that and I think it is an appropriate mechanism. To add weight to Ms Mikakos' argument, the Law Reform Committee has just concluded its inquiries into warrant powers and procedures. The committee's final report was tabled last week. A whole section, chapter 9, was dedicated to penalty enforcement warrants.

Leading into it was quite a substantial review of some of the hardships. We undertook a lot of public hearings, and many submissions were sent to the committee from organisations who spoke about the effects of PERIN fines and the subsequent processes.

Page 379 of the Law Reform Committee's report on its inquiry into warrant powers and procedures outlines some of the processing costs that are added to the original penalty at various stages in the process. I think it is important to have a look at where those costs fit in. The cost of a courtesy letter that follows a fine is $18.82, and it is imposed on top of the original fine. The cost of PERIN court registration, the next stage in the process, is $40.91. The cost of issuing an enforcement order is $22.03, and the cost of issuing a penalty enforcement warrant is $46.16. Some people may ask why they are such odd numbers, but they should not forget that every year, thanks to Mr Brumby, the Treasurer, fees and fines are automatically increased without going through this Parliament. I put on record that at every stage this government gets its grubby fingers into people's pockets, and this is just another example of that.

However, the bottom line in terms of the debate on this bill is that the total cost by the time it gets to the stage of issuing a penalty enforcement warrant is $127.92 on top of the original fine. This bill sensibly avoids the continuation of increases in processing costs where the simple reason for non-payment is — and we heard this in evidence from a variety of organisations representing those who were least able to pay fines — that there is some incapacity to enter into a payment process. If that is the case, then those processes need not be continued.

To put it in perspective, the last figures for the number of notices issued are for 2003–04. In that year 3 200 000 penalty notices were issued. The interesting thing is that the notices registered at the PERIN court — in other words, where the system went down and was starting to cost extra money — were costing nearly three-quarters of a million dollars, $768 061. I think it would be good if we could actually reduce the number of those types of fines being put through the court system when all it really takes is some capacity for the agencies to enter into some arrangement for part payment.

Whilst I support the bill in that regard, the Law Reform Committee did make a substantial number of recommendations, and I am glad to see that this bill actually follows — or probably preceded — recommendation 96, which is:

> That legislation be amended to require issuing agencies or, if an enforcement order has been issued, the PERIN court, to reduce penalty infringement amounts on application by individuals experiencing financial hardship …

We also looked at another recommendation about trying to enter into some arrangement for payment, which is now covered by recommendations 98 and 99. We are only part way to implementing the other 140-odd recommendations of this quite detailed report. It just goes to show that the Law Reform Committee — indeed parliamentary committees generally — can work cooperatively to come up with some viable solutions. Hopefully I will be supporting these solutions in legislation that will pass through this Parliament in years to come.

Opposition members support the bill, but I repeat that it is disappointing that there will be further legislation and we will wait for the next amendments to the amendments to the amendments to the amendments.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

BUSINESS OF THE HOUSE

Orders of the day

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

> That the order of the Council appointing the next day of meeting for the second reading of the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill be read and rescinded, and that the second reading of the said bill be made an order of the day for later this day.

Motion agreed to.

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

Second reading

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

Mr LENDERS (Minister for Finance) — I move:

> That the bill be now read a second time.

Incorporated speech as follows:

> This bill delivers on the government's commitment to introduce a vehicle impoundment and forfeiture regime to deal with the menace of 'hoon' driving which is of considerable concern to the community.
>
> In doing so, it represents an important further step towards realising the government's goal of reducing deaths and serious injuries on Victoria's roads by 20 per cent between 2002 and 2007, as outlined in the Arrive Alive! road safety strategy.
>
> It is disappointing that a small minority of drivers habitually engage in dangerous behaviour such as illegal drag racing, 'doughnuts', 'burnouts' and high level speeding that needlessly places themselves, their passengers, and innocent community members at risk of life and limb. These offenders are apparently undeterred by conventional licence sanctions and fines, and fail to grasp that the community considers unacceptable their selfish and antisocial behaviour. This bill will provide a potent, additional deterrent against 'hoon' driving by targeting what is nearest and dearest to the hoons' hearts — their vehicles. It will also deprive recidivist disqualified drivers of the instrument of their offending, and in removing their temptation, make our streets and roads safer for all.
>
> The bill allows police members to seize and impound or immobilise vehicles 'on-the-spot' for a period of 48 hours, if they believe on reasonable grounds that a relevant offence is being, or has been committed. The vehicle may be recovered upon the expiry of this period or, if the period ends outside normal business hours, at 9.00 a.m. on the next business day. The person recovering the vehicle is also required to pay the costs incurred in seizing, impounding or immobilising and releasing the vehicle. Courts are also empowered to deal with repeat offenders by ordering impoundment or immobilisation for a period of up to three months or, for the hopeless or truly recalcitrant, permanent forfeiture of the vehicle.
>
> The bill creates a new offence of improper use of a motor vehicle which directly targets a type of 'hoon' behaviour that is all too familiar for many Victorians whose Friday and Saturday evenings have been interrupted by the screech of tyres or the stench of burning rubber — and by this I mean deliberate loss of traction such as the performance of 'doughnuts' and 'burnouts'.
>
> Improper use of a motor vehicle is a relevant offence capable of triggering vehicle impoundment. Other relevant offences include exceeding the speed limit by 45 km/h or more, engaging in an illegal race or speed trial, and repeat driving whilst disqualified. The definition of 'relevant offence' has been carefully framed to target clear-cut cases of 'hoon' driving, characterised by deliberately dangerous or antisocial behaviour. The regime will not adversely impact upon law-abiding citizens or car enthusiasts.
>
> It is important to note that the commission of these relevant offences poses a real road safety risk and significantly diminishes public amenity. During one police operation in a Melbourne suburb in 2004, targeting illegal street racing and 'burnouts', in excess of 450 serious road safety charges were laid. The Victoria Police major collision investigation reports that 41 casualty crashes investigated over a 23-month period spanning 2003–04 involved antisocial driving such as drag racing, high-level speeding and other 'hoon' behaviour. These

crashes resulted in 28 deaths, and many more serious, debilitating injuries. Furthermore, the majority of the deceased were passengers in the vehicles, young Victorians senselessly robbed of their lives by such aberrant behaviour.

Research recently published by the Australian Transport Safety Bureau also notes the growing body of evidence linking disqualified driving to a range of other high-risk behaviours such as speeding and drink-driving, the biggest killers on our roads.

The government recognises the seriousness of depriving offenders of their vehicles and that impoundment, immobilisation or forfeiture may adversely impact on persons other than the offender. As such I do not present this bill to the house lightly but do so knowing that it is a necessary and proportionate response to a significant problem. I do so confident that this bill will have the desired deterrent effect. I do so comfortable in the knowledge that it will save lives.

Available evidence from interstate and overseas suggests that vehicle impoundment reduces recidivist behaviour. In Queensland, where the vehicle impoundment regime has now been operating for over two years, in excess of 1700 vehicles have been impounded from first offenders, whilst less than 40 recidivists have been picked up. This low recidivism rate is replicated in both Western Australia and Tasmania. Furthermore, overseas experience suggests that impoundment is an effective countermeasure against serious road safety offending, including driving whilst disqualified.

The bill also includes a number of safeguards to ensure that offenders and other interested parties are, as far as possible, treated fairly. For example, impoundment or immobilisation may only be administratively imposed for 48 hours, after which time, and upon payment of relevant costs, the vehicle will be released. Notices must be served on relevant parties variously advising them of their legal rights and liabilities under the regime. Senior police officers must review any impoundment or immobilisation and may release a vehicle or waive costs, if this is considered reasonable or necessary in the circumstances. Any person may apply to the Magistrates Court seeking the release of a vehicle or variation of an impoundment, immobilisation or forfeiture order on grounds of hardship. The government has worked hard to ensure the legislation is balanced, that it is tough but fair.

I am heartened by recently published Organisation for Economic Cooperation and Development data indicating that Victoria is amongst the top five safest places to drive in the world, as measured by deaths per 100 000 population. However, neither the government nor community is content to rest on its laurels. We can and we are doing better. With initiatives such as this bill, the world-first random roadside drug testing program and significant investment in our road infrastructure, the Bracks government is working hard to ensure that Victoria's streets and roads remain the safest place to be.

The bill also makes some minor amendments to the Commonwealth Games Arrangements Act 2001 to allow authorised officers, in addition to Victoria Police members, to move unauthorised or obstructive vehicles, or cause them to be moved, from Commonwealth Games areas and their immediate surrounds, and to allow some further offences to be enforced by infringement notice. These amendments will facilitate the optimal allocation of Victoria Police resources towards its primary role of ensuring the safety and security of Commonwealth Games participants, officials, spectators and the public.

The bill also includes amendments intended to reflect changes recently enacted in commonwealth drug laws. Under the recently enacted Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005, the commonwealth has moved the drug importation/exportation offences from the Customs Act 1901 to the Criminal Code Act 1995, and created a number of offences targeting drug cultivation, manufacture, possession and trafficking.

The new commonwealth offences apply the provisions set out in chapter 6 of the nationally developed model criminal code. The commonwealth laws will operate concurrently with corresponding state and territory laws.

The explanatory memorandum to the commonwealth bill acknowledges the work that Victoria, Tasmania and the ACT have already done to implement chapter 6 of the model criminal code. The Victorian government has responded promptly to ensure that the transition leaves no legal loopholes for defendants charged with the new commonwealth importation/exportation drug offences in Victoria's bail and sentencing regime.

I commend the bill to the house.

Debate adjourned for Hon. R. H. BOWDEN (South Eastern) on motion of Hon. Andrea Coote.

Debate adjourned until later this day.

COMMISSIONER FOR LAW ENFORCEMENT DATA SECURITY BILL

Second reading

Debate resumed from 17 November; motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Commissioner for Law Enforcement Data Security Bill I put on record that the opposition will not be opposing this legislation, but point out that that is quite different from our supporting it. We cannot support the bill; we find it to be a particularly muddled, inefficient and inappropriate way to supervise the operation of the police force, to tackle police corruption and so forth.

It is worth reflecting on why we are debating this legislation today. We have all heard of the so-called law enforcement assistance program (LEAP) system, the police crime statistics and information database which carries information about all the crimes that have been committed and the people who committed them. In other words, the database contains the information any police force needs to operate effectively, because information about what has happened, what offences

have taken place, who are habitual offenders in particular cases, where they live, where they operate and all such information is absolutely essential in the fight against crime and terrorism. You cannot have effective policing without a very effective database which carries all this information. The two are absolutely interlinked.

The fact of the matter is that if you are to have effective use of that database, it has to be properly maintained and accessible by the police force as it goes about its work. Time is a critical factor in the force being able to access the database. If you have a suspicion of some terrorist event and need to access the LEAP database urgently to find out what is going on, it is useless if you have to go through a whole lot of checks and balances and be given approval before you can access the data. If you have data which is going to help in the fight against crime and terrorism, it has to be accessible rapidly, accessible everywhere and accessible by the police who are carrying out the particular investigation or checking out a suspicion.

This brings with it the necessity for the people who have access to this database to do it properly because quite clearly there is an enormous amount of sensitive information held on such databases. By its very nature it must have a great deal of sensitive information, and people who access, handle and process it must do so with great care and sensitivity. If they do not, they need to be disciplined and be made to understand that the information has to be dealt with in a sensitive way. You simply cannot keep that information away from the law enforcement agencies, otherwise they will be working with one hand tied behind their backs and one eye blinkered.

Hon. R. G. Mitchell — One eye tied behind their back?

Hon. C. A. STRONG — Sorry, I mean one arm tied behind their back, and one eye poked out, if you like. There is a very important issue at stake here: the information must be used properly. This is where the opposition has a very significant reservation. From what we know of the recent history of the use, or abuse, of this database, evidence has come to our attention that under the previous police minister the database was accessed to look at the credentials of members and candidates of the Liberal Party. If that can be done — and it was clearly proven to be the case — one wonders about the extent to which members of the police force have been accessing this database over the years, and whether it was done out of curiosity, which was one of the excuses given for some of the inappropriate access that was discovered. One hears, but does not know whether it is true, of the database being accessed to provide debt collectors or people who are about to give loans to certain people information about their financial credentials. Such inappropriate access was probably being done in exchange for money. Quite clearly there has been access of this database by police for interest and probably for reward or profit.

Of course cases have also come to light of gross inefficiency and incompetent use of the system. We have the case where more than 440 files of Victorians were incorrectly provided to a woman in country Victoria, and I think we saw that case again coming to the fore on *Stateline*. I think it was only last Friday that *Stateline* showed how this woman, who was trying to get some form of justice in this case, was given the run-around by the Office of Police Integrity, the privacy commissioner and everybody else. Clearly there was totally inappropriate accessing of the data there.

Recently we had the situation where some 7000 pages of LEAP database information on over 1000 Victorians was emailed to a corrections officer. We had the most incredible situation where some time after that was done there was an attempt to hack into that corrections officer's email to wipe out or retract that information. We also had the classic case where LEAP database records that had been printed out were on the counter of the Frankston police station being used as scrap paper and available for anybody to pick up, read and take away, whether they were a police officer or a visitor to the police station for whatever reason.

Clearly the manner in which this LEAP database was being accessed and the data in it was being used, husbanded and looked after was totally inappropriate. What is the response of the government and the police force to that? Did they find the people who inappropriately accessed the information and discipline or sack them? No, they did not do that. They know who was responsible for the major leak where over 450 files went to country Victoria. Has that person been sacked? No, that person has not been sacked. Has the person in the Office of Police Integrity, the department that is responsible for the 7000 pages of LEAP data, the office that is supposed to look after all this and overview it to see that it is done correctly, been sacked? No, they have not been sacked. Nobody has been effectively disciplined. What a disincentive that is to anybody doing the job better and what messages are being sent by the police force and the Office of Police Integrity as to the important nature of this information and that those who have access to it should not abuse it? Totally the wrong signals are being sent.

The government had to do something, and this bill is the something. A new body called the commissioner for law enforcement data security is being set up, a new man who will theoretically overview all this data and who will theoretically somehow stand between the data and the police who might inappropriately or incorrectly access the data. As I said in my preliminary remarks, the database is of no use at all if the law enforcement agencies cannot get to it in a timely manner. You cannot have it both ways — you cannot have this commissioner for law enforcement data security standing between the police and the data, otherwise policing will be severely jeopardised and put at risk.

The government then says that not only is it going to have this new commissioner for law enforcement data security, it is going to create a new computer program at a cost of about $50 million. Anybody who knows anything about databases and computer security knows that if you have thousands of people — there are thousands of police officers who have access to this database — no matter what form the database takes, creating a new database will not enhance security at all, because the security is dependent on the trustworthiness and honesty of those who access it. They have to access it regardless, so putting in a new computer system will have zero effect on how the information is abused or misused and the honesty and integrity of the police officers who access it.

The whole thing is a joke in every way. Again, it is a muddled and ineffective response to take the heat off the government; and to take the heat off the Office of Police Integrity, which was one of the key culprits in inappropriately releasing this information. It is designed to take the heat off the police and the Chief Commissioner of Police whose officers had inappropriately used the data and left the data lying around as scrap paper to be scribbled on. God only knows if the scrap paper was used at the front desk of the Frankston police station, how much had been taken home by police for their children to use at kindergarten, school or whatever. Where is this stuff?

Hon. P. R. Hall — To write shopping lists!

Hon. C. A. STRONG — Yes, to write shopping lists. God only knows! It depends on the honesty, integrity and trustworthiness of the officers who use the system. Unless you send a very clear messages to those officers by disciplining them, sacking them, demoting them or in some other way making it quite clear that this offence is being treated seriously, it will not be taken seriously and any commissioner for data security or computer programs will make no difference. The government fully knows this, but this government is all about finding an excuse rather than a solution.

What does the bill seek to do? It allows for the appointment of the commissioner for law enforcement data security, and it allows for that position to be either full time or part time. The commissioner must consult with the Chief Commissioner of Police in the establishment of appropriate standards of protocol. As I go through the summary of clauses, you see how the commissioner for law enforcement data security has a somewhat limited role. As a result of monitoring audit activities the commissioner may refer matters to the director, police integrity, or to the privacy commissioner for further action.

You only had to watch the *Stateline* program last week to see how effective that referral of matters to the Office of Police Integrity and the privacy commissioner is likely to be. The *Stateline* program clearly indicated that the privacy commissioner has no powers to do anything about it and this bill does not enhance his powers to do anything about it. The commissioner told the program that he has no powers and it was the Office of Police Integrity that was one of the major culprits in transmitting the thousands of pages of information.

The Chief Commissioner of Police must give access to data to the commissioner for law enforcement data security at all times. That is no big deal. However, the chief commissioner may refuse access to the commissioner for law enforcement data security if such data access would prejudice investigations or court proceedings. That puts a very significant limit around how effective the commissioner will be. The chief commissioner is expected to provide assistance and staff to help the commissioner for law enforcement data security. Given that the staff of the Chief Commissioner of Police have tended to abuse the system, one wonders how effective that will be.

We have the situation where we have yet another layer built on top of the already muddled system we have to effectively manage police and police corruption in this state. We have the Ombudsman who is also the director, police integrity, running up and down the hall from one office to another to talk to himself. He will be running up and down saying, 'Now I am going to have an investigation. Now I will be the Ombudsman and review how I am doing the investigation when I am down the other end of the hall in my office as director, police integrity'.

As we discussed this morning, the role of the special investigations monitor was put in place simply because this government gave the office of the director, police

integrity, to the same person who is the Ombudsman. The simple action of making the Ombudsman and the director the same person therefore required another person to oversee those roles. The Victoria Police ethical standards department (ESD) actually continued to do a lot of these investigations, and now we have the establishment of the commissioner of law enforcement data security. Fifty million dollars will be spent on a new LEAP system. How long will that take to put in place? We all know there is many a slip between cup and lip, and the introduction of a computer system is no exception. If we are looking at $50 million for a computer system, we can almost guarantee it will take $100 million, and it will still not be ready in five years time. Yet all that was needed to secure the system was some discipline and some effective action against those who had abused the system.

We will have a system in place which frankly will be an absolute muddled nightmare. This commissioner of law enforcement data security will be simply overruled every time there is an operational issue, because there cannot be any other way of doing it. The police must have first priority over this, so the data security commissioner will inevitably be overruled when there is a need to access the data for some police operation on terrorist activity and so on.

The government is simply putting more impediments in the way of effective policing, when all that is really needed is a bit of courage and a bit of proper management by police command to clamp down, kick out and otherwise deal with those people who had improperly accessed the system. But if you cannot do that, then the abuse of the system will continue, and all this other stuff will make no difference. This will simply be a waste of money and an impediment to the effective operation of law enforcement in this state. This is the most cynical example of this government's attempt to simply make an issue go away from the attention of the media rather than solve the problem.

The government's objective is simply to be able to say, 'We have this issue in hand'. The next time something goes wrong or when this matter is brought up, the government will simply say, 'We have solved the problem. We are going to appoint this commissioner for law enforcement data security and introduce a new computer system', but we all know that will not make any difference if there is not proper discipline and proper management within the police service. That is what is needed, but this government and the current police minister are not interested in that. They are just trying to pretend the problem has gone away. The net result of that is that Victoria's security will suffer.

With those few words on behalf of the opposition I express our great disappointment in this particular piece of legislation. It is a totally ineffective way of dealing with the problem.

Hon. P. R. HALL (Gippsland) — The Nationals are not opposing the Commissioner for Law Enforcement Data Security Bill, but that does not mean we are madly in favour of it either. We believe there has been a lot of government incompetence in dealing with this issue of inappropriate access to personal files and how that may in some way relate to police corruption in this state. As I commented earlier today during the debate on another bill, we think this government's handling of those particular matters has been totally inappropriate.

This bill goes to the issue of access, in particular to people's private records. The holding of private records of individuals is a matter of great sensitivity. We all expect our privacy to be observed, and the importance of this issue was highlighted with the establishment through legislation in recent years of the position of Victorian privacy commissioner. The commissioner's role was seen as an important one in the community.

History tells us that access to personal records, whether they be police records or any other records, is a very delicate issue. We have had debates on a whole range of privacy issues such as identification cards and so on, over a period of time. This whole issue has been well and truly canvassed; if one thing has come out of it, it is the agreement that it is a sensitive issue and needs to be dealt with carefully.

What we have seen are some terrible examples of mistakes or slip-ups by people within the Department of Justice or people who have been employed by the Department of Justice in the inappropriate disclosure of private information. In his contribution the Honourable Chris Strong listed at least three of those examples, as I recall; there may have been another one — a former police minister may have also had inappropriate access to personal information on police files some years ago, which became the subject of great debate.

In my contribution to the debate this morning, in part, I mentioned this issue when I spoke about an article in the *Age* of 10 August 2005, written by Colleen Lewis. The opening comment in that article was:

> When the Office of Police Integrity (OPI) sends more than 400 confidential police files to a member of the public it cannot be depicted as a 'regrettable incident', as suggested by the police minister, or as a 'clerical error', as described by the director of the office. It is a calamity of monumental proportions, and one that has permanently damaged the credibility of the Office of Police Integrity.

That is quite true.

As the Honourable Chris Strong said, something needed to be done. The government has been very tardy in responding to what have been some very serious issues of inappropriate access and disclosure of private records in Victoria. Its response has been to introduce this bill to establish a commissioner for law enforcement data security. This is another Bracks government initiative to establish a new position in the extensive bureaucracy we now have oversighting the operations of Victoria Police. I understand this position could well be extended to oversee the access of private data, not only data held by Victoria Police but data held by other departments as well.

We now have a plethora of people created, seemingly in response to situations. We have had the Ombudsman — we have always had him — and he has done a fine job. We now also have the director, police integrity, and the special investigations monitor. Through this bill we will have the commissioner for law enforcement data security. It seems the policy with the Bracks government is simple: where there is a problem you invent another bureaucrat to resolve it, and that is the case today.

Ms Mikakos — Give us a flow chart.

Hon. P. R. HALL — I wish somebody would provide me with the flow chart so that I could link all of these positions and define their responsibilities, because it is not an easy task.

This legislation establishes a commissioner for law enforcement data security. It sets out the functions of the position and how the person in that position will operate. Before I make some quick comments about of those functions, it seems that the approach of the Bracks government is, 'We will create the job; you create the solution' as this bill puts in place the position but then gives the new commissioner for law enforcement data security the responsibility of coming up with all the solutions. One would have thought that the issue of inappropriate access to private records has been around for some time now. One would have thought the government would have been more advanced in finding a solution and putting in place measures to address inappropriate access to private records.

One of the first functions of the new commissioner for law enforcement data security is to establish appropriate standards for the security and integrity of law enforcement data systems and to establish appropriate standards and protocols for access to and the release of law-enforcement data. That is commendable. As I said, there is nothing wrong with that objective, and it is important that that be achieved. But the government has been tardy in getting to that point, and I do not feel it was necessary to wait for the creation of this bureaucratic position before at least beginning to put in place measures to achieve those objectives.

The second-reading speech also describes a further function of the commissioner's role as to establish:

> … the standards and protocols that will govern access to Victoria Police law enforcement data and systems, such as the law enforcement assistance program database … by other agencies.

It will not only be for access by Victoria Police; if other agencies wish for some good reason to have access to that information, the protocols will also be established by the commissioner.

The bill also points out that the commissioner will be required to consult with the Chief Commissioner of Police in the establishment of such protocols and standards. I believe that is important. I would hope there is some further consultation than just with the Chief Commissioner of Police. It would be appropriate to have further consultation in the development of those protocols, especially when it comes to access by other government agencies. The commissioner is also charged with the responsibility of the monitoring activities and audits of the processes that he or she puts in place with respect to access to those private records.

One of the other features of the bill I note is that the commissioner for law enforcement data security must make a report available to the minister each year on the performance of the commissioner's functions and how those powers of the commissioner have been employed. That report is required to be laid before each house of Parliament by 30 October of the year concerned. Again I believe that is an important accountability mechanism, that the public of Victoria has an annual report in which it can see what activities have been conducted by the commissioner for law enforcement data security.

This is an important issue, as I said. It is a simple bill setting up the commissioner position and outlining the functions and how that position will operate. The bill in itself is a fairly simple one, but the issue is very serious. As I said at the start, access to personal records is a very sensitive one. There has been too much inappropriate access and disclosure of personal data. The government should have moved quicker, but it has moved now and this is the response to the inappropriate release of some of that personal data. I sincerely hope it is effective and

the people of Victoria come to have confidence in the new oversight of the access and release of personal data that will be put in place by this new position of commissioner. We will not oppose the bill, but we look forward to the operation of the new commissioner, particularly the annual reports to be tabled in this Parliament, and judge for ourselves how effective this new position will be.

Ms MIKAKOS (Jika Jika) — I rise to make a brief contribution in support of the Commissioner for Law Enforcement Data Security Bill, a bill which establishes a commissioner for law enforcement data security and a new statutory body which will ensure that information held by police for the purpose of law enforcement is held securely and managed appropriately. This new body will give the Victorian community greater confidence in the way information is stored, accessed and used. I would concede that there have been unacceptable instances of releases of confidential information over the years, and the Bracks government takes the view that these breaches are completely unacceptable and that we must do everything that is possible to ensure that we can prevent any further breaches of personal privacy.

It is important, however, to reflect on how things were during the early days of the law enforcement assistance program — the LEAP database as it is known — when it was introduced by the Kennett government in 1993. At that time there were very few restrictions on the circumstances in which police could access confidential police files. Whilst disclosing confidential information was an offence under the Police Regulation Act, there were no other legislative restrictions on accessing the database until the Bracks government introduced the information privacy legislation.

Victoria Police first conducted an internal review of the law enforcement assistance program database in 2003, which resulted in a renewed focus on education and cultural change, especially in relation to inappropriate access of LEAP data. The director, police integrity (DPI), reported on the LEAP database in 2005 and made a number of recommendations which the government has accepted in principle, including the replacement of the system; amending Victoria Police instructions regarding unauthorised access to and use or release of information; a review of information security standards of applications with LEAP database interface; and incorporating information security principles in all systems development undertaken by Victoria Police.

The Bracks government indicated in response to the report of the DPI that it would seek further advice on the information technology problems which had been identified, and at that time it committed $5 million to provide for additional audit mechanisms to be put in place on the LEAP database. Subsequently a decision was made that the LEAP system would be completely replaced, and the government has announced $50 million for that purpose.

Clearly we have taken a number of steps to ensure that the public is able to maintain confidence in the use of law enforcement data. I note that 'law enforcement data' is defined in the bill in a quite expansive way to include all data held by Victoria Police for law enforcement functions and activities, the confiscation of the proceeds of crime, the conduct of court proceedings or community policing functions. It includes any information collected by Victoria Police or provided to it by other agencies or members of the public with respect to law enforcement activities or functions.

In relation to the core function I have already mentioned, the commissioner will be responsible for establishing protocols and standards for access to and release of confidential law enforcement data. These protocols and standards will be developed in consultation with the Chief Commissioner of Police so as to ensure that the protocols and standards are consistent with the law enforcement functions of Victoria Police.

It is important to acknowledge that the LEAP database is an extremely important policing tool that is utilised by Victoria Police, and we need to ensure that any standards and protocols that are put in place do not necessarily inhibit the ability of Victoria Police to undertake its policing functions. It is important to note that the commissioner will not serve as a complaints mechanism and that any breaches or unauthorised release of information will be referred to either the Office of Police Integrity or the privacy commissioner.

By way of conclusion I will say that the LEAP database is a complex system. It is used approximately 1.7 million times a month. It consolidates a wide range of hard copy or paper-based systems into one database which contains more than 5 million names, 1 million vehicle records and 5 million property item records. It also contains records of more than 70 000 offenders. It can be accessed by more than 10 000 sworn and unsworn officers, who can retrieve and enter data 24 hours a day, 7 days a week. There are also a number of users Australia-wide with access to the LEAP database, including the Australian Crime Commission, the Australian Customs Service and the Australian Federal Police. LEAP is an extremely important and useful crime fighting tool, and the Bracks government is committed to maintaining its integrity and security.

For that reason I am sure that all members of the Victorian community would welcome the passage of this legislation, which will give greater confidence to the Victorian public in the role and function of Victoria Police members and the integrity of the database which they use in solving crime. I commend the bill to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — I would like to speak on behalf of the state opposition on the Commissioner for Law Enforcement Data Security Bill. The opposition does not oppose this bill. As was rightly pointed out, it is interesting that we will have yet another commissioner, another government agency and another organisation to cover the mismanagement of a raft of police ministers

Hon. B. N. Atkinson — Another bandaid.

Hon. RICHARD DALLA-RIVA — Indeed, Mr Atkinson — yet another bandaid.

The reason I am speaking on this bill is the close relationship I had and still have with a prison officer whistleblower. This relates to an issue that arose previously. As members know, on 16 August it was widely reported that this prison officer had received up to 20 000 pages of confidential police files. The amazing thing is that rather than deal with the matter and take control, the government has put into place another bureaucrat, another level of bureaucracy — its purpose being to protect the incompetence of the relevant ministers. Rather than grabbing the bull by the horns and moving forward, it has put more impediments in place to further protect this ongoing incompetence. I will read from clause 10 of the bill and let the house decide who it ought to be applied to:

> (1) The Governor in Council may suspend —
>
> a certain person —
>
> … from office on any of the following grounds —
>
> (a) misconduct;
>
> (b) neglect of duty;
>
> (c) disability;
>
> (d) any other ground on which the Governor in Council is satisfied that —
>
> that person —
>
> … is unfit to hold office.

I thought when reading it that that should be the police minister. There are provisions for the suspension and removal from office of the commissioner for law enforcement data security on any of the grounds listed, but what about the Minister for Police and Emergency Services? What if the misconduct, neglect of duty or any other grounds applies to the police minister? What if a minister of the Crown uses confidential data to expose a candidate for his or her seat? Would they be grounds for the removal of the minister? What if a minister, let us say, received a memo from a secretary of some department and did not read past the first paragraph? Would that be neglect of duty? The reality is that it is.

Hon. B. N. Atkinson — It is hard to imagine that happening.

Hon. RICHARD DALLA-RIVA — You cannot imagine that happening? But it did happen. The two examples occurred in this state under this administration. I referred to those examples because they concern the actions of two separate police ministers. It was not only that one minister brought up confidential information in the chamber but also that a second minister could not read past the first paragraph of a memo in relation to a prison officer whistleblower with whom I had been dealing. It had been known for 18 months that issues had been raised not only in this chamber but also in the press. I find it amazing that a meeting that I held about a month earlier would not have raised some level of concern regarding the memo when it came to him. It is just amazing! Maybe he would be better off spending less time worrying in front of the mirror and more time worrying about the state of the police and the law enforcement assistance program (LEAP) system.

This bill is designed to cover up the incompetence of the government. Unfortunately the opposition will have to provide limited support for the bill — we are not opposing the bill. Coming to some of the micro elements, how much money is proposed to be spent, where is the outline of how the money will be spent, what will be done if there is a breakdown in the relationship between the commissioner and the police, and what will be done about the relationship between the director, police integrity, and the privacy commissioner? The list just goes on and on.

I am sure that whoever takes on the role will do a very effective job in the circumstances. I wish them well. The bill is very loose as to detail and is a bill designed to cover up the government's incompetence. That is all I need to say on it.

Motion agreed to.

Read second time.

Third reading

For **Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) Hon. J. M. Madden (Minister for Sport and Recreation) — By leave, I move:

That the bill be now read a third time.

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

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

Second reading

Debate resumed from earlier this day; motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).

Hon. P. R. HALL (Gippsland) — I want to say just a couple of words on the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill. First I indicate that The Nationals are not opposing the bill. The concept behind it is supportable as something needs to be done to address the inappropriate behaviour of some fools who are a public nuisance when they travel in their motor vehicles on the roads.

The interesting thing is that the legislation introduces a new concept — that is, the seizing, impoundment and immobilisation of vehicles for actions which probably could be described as more of a nuisance than criminal activity. In that regard the legislation sets a bit of a precedent. I am well aware that for certain criminal activities property can be confiscated and if convicted the owner can forfeit that property. For example, the Parliament has introduced measures in abalone poaching that can lead to the forfeiture of certain properties if people have been involved in criminal activity related to that industry.

Parliament has also passed legislation which provides that the profits of crime can be confiscated and surrendered to the Crown. We have plenty of precedents where for more criminally related activities property has been seized and ultimately forfeited. To my knowledge, and I stand to be corrected, this is the first time certain property will be able to be seized, impounded, immobilised or ultimately forfeited for what we can describe more as nuisance activity. The word used in the second-reading speech is 'hoon' behaviour.

I also suggest there are other types of hoon behaviour in our community that need addressing. I cite, for instance, an issue related to domestic noise. I have been involved for the last couple of months with a constituent in Traralgon who has the unfortunate predicament of living next door to a person who seems infatuated with his stereo. He is giving his neighbours hell with repeated turning up and turning down of its volume at all hours of the day and night.

This young family in Traralgon, who have just had a baby, have been at their wit's end in dealing with this for some time now. They have actually approached the local council, the Environment Protection Authority and Victoria Police on the matter. It seems that Victoria Police is hamstrung in dealing with this problem because it does not have the powers to address it. Local council can levy a fine, but if that person is of a mind to ignore those fines and accumulate a debt, that can only be accrued against the property. Consequently my constituents continue to suffer from a neighbour living next door to them exhibiting what I would say is hoon-type behaviour and playing the stereo at all hours of the day and night.

I raise this because we have a precedent being set in this legislation — that is, the impounding of property. The government should consider extending that principle across other inappropriate behaviours in our community. I particularly cite as an example someone who is creating a nuisance of themselves by the inappropriate volume at which they set their stereo. The principle being adopted by this legislation is interesting, and I simply want to use the opportunity in the debate on this bill to bring to the government's attention the fact that I support the principle being espoused here of being able to impound, immobilise or seize property. It could well also be employed in other situations as I have described in this debate today.

I will leave it to the lead speakers to detail the contents of the bill. I have used this opportunity to express my view on an issue which is certainly important to my constituents and relates to the principle being used in the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill.

Hon. R. H. BOWDEN (South Eastern) — The opposition supports this bill because it has several aspects that are in tune with community expectations

and which will lead to Victoria Police being able to better assist the road safety profile in Victoria. Initiatives in the bill will assist in addressing certain unacceptable road behaviour. It has been demonstrated over time that such behaviour has caused a substantial loss of life and injury, and has imposed a high emotional and monetary cost to the community in general.

The prime feature of the bill is to create and insert in the Road Safety Act 1986 a new offence to be known as 'improper use of a motor vehicle'. Another feature of the bill is that recidivists who drive while disqualified will receive further attention through the court process. It is important for honourable members to understand as they consider this legislation that at times certain behaviour not only borders on being reckless but indeed is regarded as reckless — that is, the practice in some parts of the state of using cars for what are known as burnouts or doughnuts, when the drivers use excessive or unwarranted skidding or spinning, or even straight out racing, in unauthorised areas; they drive at speeds certainly in excess of 45 kilometres an hour above the posted limit.

It is often described as street racing, where that racing is certainly not authorised. There are documented circumstances and historical situations where there is no question that such vehicle use and those practices have indeed resulted in death and injury. This bill will go a substantial way towards minimising those and allowing a more orderly use of our road system, which is increasingly used by the community at large and in which there is no place for irresponsible behaviour.

The bill also provides for the police to retain discretion. Vehicle seizure, impoundment or immobilisation is authorised in the bill, but under reasonable circumstances the police can exercise discretion, and they are authorised to exercise that discretion as detailed in the bill. It is not automatic that on every occasion, at every time and with every police officer you want the provisions of the bill to be fully extended and applied. The police have the power, as detailed in the bill, to make sure that where seizure or impoundment or immobilisation is necessary it can be carried out.

Another aspect of the bill that I think is helpful in maintaining a more orderly pattern on our roads is that the towing and storage charges will be established by regulation. Those regulations will detail the cost of removal, the cost of storage and the administrative costs of supervision by the police, and those costs can be recovered before the vehicle is returned to the owner. The owner of the vehicle or those with a substantial interest in it have recourse to the courts, and where there is an interest in the vehicle there is a capacity for the matter to be taken to a Magistrates Court for independent adjudication.

I think it would be worthwhile and helpful to bring to the attention of the government some points about the application of the bill that have been made during our consideration of it. Whilst we support the bill, its intent and the way it is to be applied, we think there are several points it could be helpful to consider that could improve the legislation at some appropriate time in the future.

It is often the case, particularly for younger people, that guarantors provide substantial access to acquisition of the vehicles — which leads to the term 'parental guarantors'. It could very well be that the people whose vehicles are seized or impounded or immobilised do not live at home with their parents, and that the parents, whilst they are the guarantors for the financial aspects of the vehicle, are exposed to loss if the vehicle operator is truly irresponsible and the vehicle has been seized and forfeited under the bill's provisions. There could need to be some consideration as to the financial impact that could have and the hardship that could be incurred by the parents, who would be totally innocent in that circumstance.

We note that the bill puts the responsibility for good driving and for avoiding transgressing the bill's provisions on the operator of the vehicle. Also, it could easily be — and it is a fact of the legislation — that there is no obligation on either the police or the courts to notify other parties that have an interest in the vehicle. The impression that one gets from a study of the legislation is that it totally focuses on the operator of the vehicle. That is not always the case. As I just mentioned a moment ago, it is quite common for there to be parental guarantors, and there could also be a financial services company or lender — maybe a bank, financial institution, hire-purchase company or some other responsible financial services organisation — involved. There is no obligation on the police or the courts, particularly where the impoundment is of a lengthy period or where there is confiscation or forfeiture involved, to let them know. The guarantors or the financial institution can take a concern to the courts and have that addressed so that the proceeds of the forfeiture classification vehicle can be paid to the parents or the institution involved, but that involves a great deal of administrative time, police and court administrative costs and facilities.

I suggest that a consideration of the mechanisms needs to be undertaken in the future to try to make them as

efficient as possible, so that when multiple persons have access rights to a vehicle, those rights are more completely protected.

We understand the thrust of the bill is to send a clear message to those regretful few — but there are several — in the community who just do not care. They do not respect the road laws, they do not respect the rights of others and they do not respect their own health and wellbeing. They are just irresponsible. We understand and support the thrust of this legislation. We have been able to follow and support the legislation as it relates to the behaviour that causes that concern. From the government information provided to us, we understand that there could be between 1000 to 2000 vehicles impounded per annum. Fortunately, even though that behaviour is certainly not welcome and not to be encouraged, it is expected that in the vast majority of cases in the first 12 months, the 1000 to 2000 vehicles which can be impounded, seized or immobilised for up to 48 hours will be first offences.

From what has been related to the people drafting the bill, the government and the opposition, the overseas and interstate experience indicates that it is a real shock to a driver when they lose their vehicle. There is a psychological impact of some note, and that is the intention of the bill. It is helpful. It will only be a very small percentage of cases in that estimated range of 1000 to 2000 vehicles where the second and third tier of penalty phases that are addressed in the bill will be reached. It is expected that the actual seizure and forfeiture of the vehicle will not be a common occurrence. Indeed I am sure honourable members will hope that is the case, because if there are very few forfeitures it will mean the actual irresponsible and unwelcome road behaviour is being reduced. We are looking forward to that.

This is probably a good time to suggest to the government that it take a good, hard look at the availability of police resources for traffic monitoring and control. The old saying that you can never find a policeman when you want one has never been so true in terms of traffic management. I believe one of the most successful, productive and useful services that Victoria Police provides is that of patrolling officers on the roads in marked vehicles, actually monitoring and supervising traffic.

Whilst the opposition is supporting this legislation, it would like to suggest quite strongly that reports its members have received of the apparent inadequacy in the numbers of police officers on our roads are cause for concern. We are concerned about the fact that there do not appear to be adequate numbers available. On many occasions there will be a requirement for a substantial use of police resources to implement this legislation. We are saying to the government that it should be aware there is already a very strong belief in the community that there are not enough police officers assigned to traffic control, assistance and supervision. Therefore the provisions of the legislation with regard to the detection and administration of offences, the determination of whether action takes place, the supervision of the towing and impoundment process and the police work involved in the necessary paperwork in making sure that the administrative requirements for both legal and insurance purposes are taken care of will be significant in terms of police resources and resource allocation.

It would appear that the government could help us all by taking note of the community's concern about the present poor state of the number of traffic enforcement officers in Victoria Police and look at providing some more. A significant number are needed. Marked cars patrolling the roads is certainly what is needed and what is supported by the majority of the community.

The other issue in respect of police numbers on the road is that there will need to be a substantial focus on consideration of and planning for the detection of a lot of these offences. There are well-known areas of the city and regional areas outside the city where this type of inappropriate and dangerous behaviour regularly takes place. It will mean that Victoria Police will be able to allocate resources to a program of detection of these offences. That will be good, if it is done. From time to time large numbers of police will be required when vehicles are intercepted and the commission of different offences is detected.

At times substantial numbers of officers will need to be present at the one location. It is not impossible that late at night there will be large numbers of unruly people in places where this behaviour is taking place. It is risky for 1, 2 or 3 officers to go into an area where a large number of unruly people are behaving badly and there is substantial evidence of intoxication. It is quite dangerous for police to go into an area where inappropriate road behaviour is taking place.

Members of the opposition are well aware of situations where considerable numbers of police will need to be present in many locations to properly enforce this, purely out of consideration for the occupational health and safety of the police officers. That is not to say that there is a fault in the legislation. We are just signalling a caution. We are suggesting to the government that this legislation requires a further important and welcome investment in and provision of more traffic police and

more trained officers who specialise in road supervision and road and traffic management.

We are supportive of the bill. We welcome its provisions and we understand its intent. We are, however, apprehensive about whether sufficient resources will be available to give the community the full benefit of the legislation. We do not say the legislation is no good. We are saying that it has two areas that could be further improved. Firstly, it is essential to have more trained traffic management unit officers on the road as quickly as possible in marked vehicles and having the widest possible exposure. Secondly, there needs to be more thought given to financial provisions and more consideration given to the impacts on persons other than the user of the vehicle who may be the person who commits the offence or offences that the police detect.

With those comments, the opposition supports the bill. We think it is timely and helpful as we come to the time of year when a lot more holiday traffic is on our roads and highways. Even though many of the future offenders against this legislation may not be travelling on those roads so much as carrying out these undesirable and unwelcome vehicle performances in quieter parts of the city, we think the application of the legislation will improve the safety on the roads, and from that point of view it is welcome.

Ms MIKAKOS (Jika Jika) — I rise to speak in support of the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill. I do so, indicating at the outset that I do not normally give strong support for legislation that on the face of it has such draconian implications for people's liberties — in this case the compulsory impounding of motor vehicles — but I think this bill responds to community concern in the right proportion and will ultimately save lives.

I am sure many members of Parliament have over the years been contacted by exasperated constituents looking for assistance in dealing with young men in high-powered vehicles doing burnouts and doughnuts and being involved in drag racing in their local neighbourhood. Certainly I have been contacted by constituents in the past about such young drivers engaging in unsafe behaviour in industrial areas and shopping centre car parks in the northern suburbs I represent. I know that members of the community are not only annoyed by the noise associated with such behaviour, but are also concerned with the danger that such driving poses to the drivers themselves and to innocent members of the community.

The legislation is about addressing such hoon behaviour, unsafe driving behaviour and those other hoons on the roads: those who continue to speed and those who drive while disqualified. I am very pleased that this is a further step in the Bracks government's approach to making our roads safer. It builds on the government's objective of reducing the Victorian road toll by 20 per cent by 2007, as set out in it's Arrive Alive road safety strategy.

The bill is a reflection of the concern about the risks of hoon driving to drivers, to passengers who might be in the vehicle and to all other road users. I note that in the second-reading speech there is a reference to the Victoria Police major collision investigation group having identified 41 serious crashes between January 2003 and November 2004 which involved an element of hoon driving. In this case hoon driving was defined as including any antisocial behaviour by a driver that involved an audience either inside or outside the vehicle. I note that in the *Macquarie Dictionary*, third edition, hoon is defined initially as 'a loutish, aggressive or surly youth' but it goes on to talk about 'a foolish or silly person, especially one who is a show-off'. That is the key part of the definition of hoon driving.

We all know that hoon drivers engage in that kind of driving behaviour in order to show off to their friends. We also know that motor vehicles are probably the most important asset for many young male drivers, and it is particularly young male drivers who engage in such unsafe driving behaviour. Clearly the conventional sanctions of fines or even loss of licence are just not working when it comes to these young male drivers. Perhaps the most effective means of getting their attention and trying to change their behaviour is to take away the assets they value the most — that is, their vehicles.

Vehicle impoundment provides an additional deterrent against hoon driving by allowing the police to seize and impound or immobilise vehicles for 48 hours upon detection of a relevant offence. The courts will be empowered to deal with second offenders by ordering impoundment or immobilisation for up to three months, or for third-time offenders by ordering permanent forfeiture of the vehicle.

I note that the legislation makes reference to the commission of a relevant offence. There is a quite extensive list of relevant offences to which this will apply. For example, it applies to the improper use of a motor vehicle which could include behaviour such as burnouts and doughnuts, which I mentioned before. The bill refers to other improper use offences such as

the failure to have proper control of a motor vehicle, causing a vehicle to make unnecessary noise or smoke, careless driving and dangerous driving. It also extends to behaviour relating to excessive speeding by driving at 45 kilometres an hour or more above the speed limit or driving at over 145 kilometres an hour in a 110 kilometre-an-hour zone. In addition, anyone caught driving while disqualified on a second occasion can face having their car impounded or forfeited.

There is an extensive list of different relevant offences to which this legislation will apply. As I said, these draconian steps of impounding vehicles can be applied in order to get the message across to our young drivers, in particular, that dangerous driving and speeding can cause tragic loss of life.

Earlier I referred to crashes. The major collision investigation group found that the crashes they reported on resulted in 28 deaths and over 50 persons suffering serious injuries. It is an absolute tragedy for our community that we continue to see so many young people cut down in the prime of life because of excessive speed or dangerous driving. It is important that we continue to strive to get the message across to all drivers that speed kills and that a car is a lethal weapon when not used properly.

I recall when I first started driving in my early 20s a number of cases where people I knew were either seriously injured or killed in motor vehicle accidents. I had hoped the community had moved beyond that, but sadly the road toll continues to show that many members of the community are just not getting the message. That was most clearly evident to me earlier this year when the son of a family friend, George David Gogas, Jr, was killed on 27 February in Miller Street, North Fitzroy. Young George was doing an estimated 140 kilometres an hour in a 50-kilometre speed limit zone. He was 19 years of age and was in a car with his friends. His family acknowledged that speed was clearly a factor in his tragic loss.

At the time his family commented publicly that young George had on a number of occasions been fined by the police for driving at excessive speed, and they did not think the imposition of fines was getting the message across to George and his friends. In particular his father, John, commented in the media that perhaps the only solution for young drivers was to confiscate and crush the cars. We have not gone that far in this legislation, but we have responded to the concerns of members of the community such as John Gogas by putting in place a regime that hopefully will get the message across to young drivers. In memory of the late George David Gogas, Jr, I commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I have a great deal of pleasure in speaking on this bill for a number of reasons but mainly because it will impact on my electorate. I have been calling for such measures for some time, as indeed has the Liberal Party. As the Honourable Ron Bowden said, we as a party support this. The reality is that the purpose of this bill is to facilitate the seizure, impounding or immobilisation of motor vehicles used by hoons.

The main provisions will: create a new offence of improper use of a motor vehicle under the Road Safety Act; target recidivist drivers whilst disqualified; allow seizure, impounding and immobilisation of motor vehicles; allow forfeiture and sale of a motor vehicle when a third or subsequent offence is committed; and give police a discretion to charge or not charge, as offences involve a 'mental element'. Towing and storage charges are to be established by regulation, and there is recourse to the courts for people, other than the offender, with an interest in a vehicle to be compensated from its sale proceeds.

I would like to detail what happens in Chapel Street, which is in my electorate. Every Friday or Saturday night local traders, the council and local residents become most concerned when you get people in hotted-up cars with darkened windows and that shocking doof-doof music. It is terribly disturbing. The drivers then travel in convoy either from Toorak Road or High Street into Chapel Street bumper to bumper all the way down. They do not allow any other vehicles to come through. They are intimidating. You have this shocking music — it is the intimidating nature of the music that is the problem — darkened windows and hotted-up cars. The cars also have strange blue lights everywhere, and I am not sure what they are for.

However, the local traders are extremely upset and worried about this. The most concerning aspect of the behaviour is that these cars that have been travelling bumper to bumper will then stop, leaving a 10 to 15-metre space between one car and the next and then zoom up at a considerable rate to the bumper bar of the car in front. If there were a pedestrian — a young person or older person in front of the cars — there could be a significant accident. This is causing a great deal of concern. Apart from the hideous music, the cars themselves and this antisocial behaviour, they do not actually travel fast.

However, recently there was a safety blitz organised by the local council and the police. It was on a Thursday and Friday night in May and took place in Chapel Street, between Cato Street and Dandenong Road; it caught 50 drink-drivers and 67 speeding drivers and

detected 90 unroadworthy cars. The 67 speeding drivers are a concern on Chapel Street. That is a big issue because it is not a large area; it is an inner suburban street. I am pleased to see that this bill deals with the issues.

The Liberal Party through the member for Kew in the other place, Andrew McIntosh, put out a press statement in July which states:

> In April this year we proposed legislation for confiscating vehicles from hoon drivers and committed to introducing a 'hoon hotline'. Three days later, Labor's police minister, Tim Holding, released an almost identical statement, adopting our position.
>
> So-called hoon drivers are a scourge on our roads — endangering lives and compromising the safety of all Victorians. A hotline, operated by Victoria Police, would help identify and apprehend offending and dangerous drivers who persistently disregard road rules.
>
> A Liberal government will legislate for a range of penalties including fines, confiscation of vehicles and the cancellation of drivers licences.

As I said at the outset of my contribution, these are the major provisions of this bill. This legislation will deal with these hoons and their antisocial behaviour, and I think the people of Victoria and certainly the people of Monash Province and the traders, retailers and residents in and around Chapel Street, South Yarra and Prahran will be very pleased to see this legislation put into place. I have to say that this Labor government has pinched the policy from the Liberal Party. I remind the chamber that the opposition put out an elder abuse policy in January this year in my portfolio area of aged care, which was also picked up and pinched by the Labor Party. It was responsible for the Minister for Aged Care receiving a $2^1/_2$-star rating and, as he admitted, if he had not brought in that elder abuse policy he would have only had a 1-star rating.

The Liberal Party is out there and listening to what the people are saying and to what is happening in our local areas. We are coming up with sound and sustainable policies which this government is too lazy to go out and find for itself. I would like to know if the Minister for Police and Emergency Services in the other place, Tim Holding, has been down to Chapel Street to listen to this doof-doof music; I encourage him to do so. Once this bill is implemented I hope we will see some major changes, and hopefully Chapel Street can be reinstated as the tourist and entertainment precinct it deserves to be without these intimidating hoon drivers. I commend this bill and I am very pleased to do it.

Hon. B. W. BISHOP (North Western) — I rise on behalf of The Nationals to speak on the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill. The purposes of this bill are relatively straightforward: to amend the Road Safety Act 1986 to enable the seizure, impoundment, immobilisation and forfeiture of motor vehicles in certain circumstances; to create a new offence relating to the improper use of a motor vehicle; and to introduce a regime to deal with the menace of the well-known term 'hoon driving' to reduce deaths and serious injuries on Victorian roads.

The bill allows police members to seize, impound or immobilise vehicles on the spot for a period of 48 hours if they believe a relevant offence is being or has been committed. We will talk about the relevant offence later on. The person recovering a car has to pay all costs. The court may impound repeat offenders' cars for up to three months or even permanently if the offender is recalcitrant or hopeless or, in other words, does not get the message. The bill creates a new offence of improper use of a motor vehicle which directly targets what we know as hoon behaviour. Some of the issues in relation to a relevant offence include loss of traction of one or two wheels of a motor vehicle, exceeding the speed limit by over 45 kilometres an hour, or street racing — which, of course, is illegal — or speed trials in the streets.

The Leader of The Nationals in this house, the Honourable Peter Hall, said it should also include super stereos. I know they are very loud. I think Mr Hall was referring to stereos in houses, but I have heard them in cars, and I suggest the car must have been almost bulging from the decibels emanating from the stereos. It is little wonder that some of our young people will have hearing problems in the future.

This is quite a tough bill, with the third offence or the third strike meaning that a car can be forfeited. It is interesting to look at what appeal processes are in place. They include hardship appeals where the applicant or another person can make an appeal in relation to hardship. I suspect a good example of that would be with the family car. I expect that if young Johnny has borrowed the family car and done a few burnouts in the street and he gets caught, he might not get the car so readily next time around. I am sure that is the way that will work.

The other issue is if a person cannot pay the cost of retrieving the car after it is impounded. There are mechanisms within the bill whereby people can appeal and it may be the Magistrates Court, for example, that orders the person wanting the car back to pay all or part of those costs we are referring to. When we went through the bill with officers of the department it was

mentioned that someone might try to get in to where a car is impounded or interfere with the things that are making the car immovable. I suspect that might be wheel clamps. But if you do that there is as a substantial fine — 60 penalty points. I am sure that will put people off from those sorts of actions.

As the bill is quite a tough bill, The Nationals were concerned that there be some accountability in the legislation, and there is. Senior police officers will review each of the cases and at times, as we understand it, they will also have the power to waive costs of getting a car back. This bill has community support and I suppose in some cases that support may be driven out of frustration.

The other Saturday night in Mildura I attended the drag racing There is an absolutely fantastic club up there, and it has taken a tremendous community effort to get the track into the condition it is in now. The viewing facilities are very good. I was impressed with the enthusiasm of the committee whose members collectively and cooperatively worked to get the power connected to the track. One of the concerns is that the road leading off the bitumen road to get to the drag racing track is very dusty, and the committee is working hard to raise the money to alleviate that dust problem.

When the committee spoke to me it said one of the issues it wanted to address was when young people want to do a bit of street racing, or whatever one may call it, it would be great to have them do it out on the drag strip, to let them have a go under controlled conditions, which might then get that sort of behaviour out of their systems. Again I congratulate the club committee, which was very keen to do its part for the young people by giving them a go out on the track under those controlled conditions and also by giving them a bit of advice.

I know there are some favourite spots for street racing in every town. In Mildura it is Deakin Avenue and also where you can drive alongside the river. I know that annoys people not only because of the safety aspect but also for the noise and sheer inconvenience. I also noted from the briefing on the bill that in Queensland, where similar rules have been in place for some time and where over a couple of years I understand a substantial number of cars have been impounded, the good news is that there are markedly less infringements the second time around — in other words, it has made quite a dramatic difference.

That means this legislation will work. As I understand it, Western Australia, Queensland, Tasmania and some overseas countries have this particular rule in place, and it is working well in those areas.

One area where it might work well is in relation to recidivist disqualified drivers. They have been a real problem because they really do not care; they just get into their cars and drive; they might get a slap on the wrist from the courts or cop a fine which certainly does not deter them, but if you go to the core of the issue — which is the vehicle itself — the impounding of that vehicle may have a strong deterrent effect on their actions.

I have also noted the commonwealth drug laws where provisions will operate concurrently with state laws. I was quite interested in that aspect, because those who live along the border are often concerned about the overlap in the application of laws. Some new commonwealth offences will be put in place. If I remember correctly from the briefing, the federal government is responsible for enforcement on the importation of drugs whereas the possession, cultivation, manufacture and trafficking is more in the states' area of responsibility. However, page 5 of the second-reading speech states, in part:

> The new commonwealth offences apply the provisions set out in chapter 6 of the nationally developed model criminal code. The commonwealth laws will operate concurrently with corresponding state and territory laws.

I urge the government to have a close look at that because I get concerned about commonwealth and state laws that overlap. We have enough confusion now, so I urge the government to look at that as the bill is implemented.

The bill also allows, during the Commonwealth Games period, authorised officers to move vehicles that may be obstructing whatever it might be or which may be in an unauthorised position. I suspect with the crowds that will be in the city of Melbourne during the Commonwealth Games it could be a common occurrence as parking will be at a premium. All of those are quite practical legislative arrangements and certainly in relation to what we call 'hoon behaviour' we believe it will have a strong and dramatic effect and make our streets safer and certainly less noisy. The Nationals do not oppose the bill.

Mr VINEY (Chelsea) — I rise to support the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill. In doing so I acknowledge the support that has come from all sides of this chamber in relation to this bill. I think it is fair to say that all members in the chamber are indicating that, like me, they regard dangerous driving behaviour as completely

unacceptable. Burnouts, drag racing, fishtailing, drifting and all the other sorts of dangerous driving conduct are completely unacceptable on the grounds of safety and nuisance. People driving in such a manner are menaces on the road. They put at risk other drivers, passengers in other vehicles, pedestrians and property.

When this legislation was first being discussed I remember listening on one occasion to a discussion on talkback radio. I heard one caller say, 'When I was young I did a lot of this sort of driving. I went on to be in the army and had a successful career in management, so it did not do me any harm'. That person was very lucky. Driving like this is not a rite of passage. It is not a rite of passage for young people to drive on the roads in such a dangerous manner that is so offensive to other road users and to local residents.

I am sure all members of the house have observed this kind of driving behaviour, and I think this debate has indicated that there is generally bipartisan support in Victoria for a range of road safety measures. This is a further part of the road safety message for Victorians. As a result of many of the government's initiatives in this area — things like the Arrive Alive and Wipe Off 5 campaigns, the introduction of 50-kilometre-an-hour residential speed limits, random drug testing, improved detection and enforcement and record levels of black spot funding — we have been able to see the number of road deaths and injuries driven down, and this legislation adds further to those initiatives.

In my very brief contribution to the debate on this legislation I want to comment in particular on some of the great work done by the City of Casey. About 12 months ago — in fact I think it was 12 months ago yesterday — the City of Casey launched what was certainly Victoria's first hotline in relation to hoon driving, and I understand it may well have been Australia's first hotline in this area. The number it has been using is 1800 18 HOON, which is 1800 184 666. Over the last 12 months it has received more than 1100 calls. I understand 25 per cent of those calls have clearly identified the driver or vehicle registration, and the balance certainly has assisted the City of Casey and local police in identifying hoon-driving hot spots in the municipality.

Earlier this month the City of Frankston also launched a hotline — 1800 NO HOON, which is 1800 664 666. Because it is a recent initiative there are no results as yet, but my understanding is that the City of Frankston is working on this issue in collaboration with the City of Casey and local police.

This is an important piece of legislation and an initiative that I think all of us in this chamber can proudly support. It will crack down on this behaviour by ensuring that people who participate in it will lose their vehicle for anything from 48 hours for a first offence to three months for a second offence and have their motor vehicle permanently forfeited for third or subsequent offence. I welcome the legislation and commend it to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to add my support to this important bill, which goes a long way towards providing a level of protection to people in our community. I think it is important to put on record that the legislation refers to street racing, which is not drag racing in the sense that people would like to think it to be the case.

Many people will know that my view is that drag racing is a responsible sport that should be associated with professional drag racers who operate in controlled environments and have the necessary protections, whereas street racers are hoons and idiots who use our streets for ego-driven, testosterone-driven pleasure, and there needs to be that clear distinction drawn between the two.

I certainly support the fact that this bill will go some way towards controlling and limiting the capacity of street hoons to use our streets for their own satisfaction. I have said it before, and I will say it again: if these idiots think they have a fast enough car they should go to a local drag-racing strip on a Friday or Saturday night, or whenever it is being held. If they do they will find out what lemons of cars they really have, and on that basis they should then not speed around the streets. The reality is that if they were confined in a proper drag-racing environment like Calder Park, or hopefully a new drag-racing strip that we are proposing — —

Hon. R. G. Mitchell — Or Heathcote!

Hon. RICHARD DALLA-RIVA — Indeed, at Heathcote and a few others, but I am talking about some of the more renowned strips.

Hon. David Koch — What about Casterton?

Hon. RICHARD DALLA-RIVA — Casterton — there is a variety of drag-racing environments. The sports minister is in the chamber. Before he leaves I say to him that every other state has a new purpose-built drag-racing strip. Victoria is now lagging behind, and this is a great opportunity for us to demonstrate, not only through this bill but also through the establishment of a purpose-built drag-racing strip, that we are serious about professional drag racing and would like to see a

new strip. It is not much to ask. I encourage the minister to visit the Western Sydney International Dragway. Perhaps we should have a chat about it after the Commonwealth Games because I believe there would be bipartisan support on this particular issue.

This is a serious issue. Having talked about the necessity of having a purpose-built drag strip in Victoria, it is also important to record that this legislation was first proposed by the Liberal Party, and I am glad the Labor Party has taken it up and brought it to the house so that it can now be debated and moved forward.

Getting back to my old police days, I recall while pursuing somebody or attending a particular location that as you rolled along in the divvy van you would see a range of hoons spinning their wheels excessively. From memory the only charge I could place was careless driving or dangerous driving, or excessive noise or some other minor offence.

Hon. J. H. Eren — Was it the police divvy van?

Hon. RICHARD DALLA-RIVA — Certainly not the divvy van! I am glad that this will become a defined offence within new section 65A of the Road Safety Act, which is headed 'Improper use of motor vehicle'. Proposed subsection (1) states:

> A person must not drive a motor vehicle in a manner which causes the motor vehicle to undergo loss of traction by one or more of the motor vehicle's wheels.

It is not about the penalty. That offence it will only incur 5 penalty units. The application of that provision will allow for the subsequent approaches under new part 6A of the Road Safety Act 1986. I think that is the real issue.

When I was working at Broadmeadows it used to astound me that the Mole factory, as it was then known — I do not know if it is still operating — —

Hon. R. G. Mitchell — It is still there.

Hon. RICHARD DALLA-RIVA — The illegal drag strips are still there! I recall that we would roll up there and the street would be covered with tyre marks the whole way down and about 200 people would just scamper away. We were very limited back then, and even today — until this legislation goes through — the police are very limited in their capacity to stop repeat offenders. They could apprehend them and give them a canary — ask for a roadworthy certificate. That was often the way we got around it. That would mean the car could be put off the road, but it had a very short-term application. If in those days a car had had the blue lights underneath that they have these days, you could take that car off the road as roadworthy.

This piece of legislation will enable the police to be more proactive in preventing repeat offenders from using their motor vehicles for street racing, and I think that is the right approach. We have heard from the Honourable Andrea Coote about her area, and I think it is important to understand that this legislation will be used in certain places in Victoria more than in others.

Hon. R. G. Mitchell — What about the blue lights on Range Rovers?

Hon. RICHARD DALLA-RIVA — I cannot quite recall Range Rovers being used in street racing, but I do not know where you have been. The strips I have seen have not had Range Rovers.

This is a serious matter. Recently there was some street racing in which a car was split in two and the occupants were killed. Our community roads are not for drag racing or street racing, they are for the ordinary passage of vehicles travelling at designated speeds. I have said before that if these idiots wish to go out and demonstrate the capacity or power of their motor vehicle they should go to properly confined and controlled drag-racing strip and have it demonstrated what lemons of cars they have. That is where the true professionals are.

This is good legislation. I am glad the government has followed the Liberal Party's policy. I commend it for following us yet again. Obviously the Liberal Party will be rolling out more policies towards the next election and we look forward to the Labor Party stealing them yet again and implementing them in legislation. I commend the bill to the house.

Hon. R. G. MITCHELL (Central Highlands) — I rise to speak on the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill. It is a pleasure to see the bill in the chamber, hopefully to be passed in a very timely manner. I know some of my colleagues will be very surprised to see me speaking in support of this bill, given that I am very passionate about my cars and I am — —

Hon. Andrea Coote — Have you got blue lights?

Hon. R. G. MITCHELL — No, I have not. Mine is a proper car, not a fast and furious car.

Hon. Andrea Coote — Do you have music?

Hon. R. G. MITCHELL — Not doof-doof, no! I only have an 8-track player. I am very passionate also

about my drag racing, and I agree with Mr Dalla-Riva about the mix-up between street racing and drag racing. They should always be separated because street racing is just a mug's game and drag racing is a legitimate professional sport. Neither the car enthusiasts nor those who love their drag racing will be affected by this bill.

This bill is not about penalising those of us who enjoy our cars, it is about penalising those who abuse their licences and the public space they drive in. There is no necessity to be out on a public road performing a doughnut or a burnout or the latest craze that they follow — this drifting stuff that I still cannot grasp. No Victorian should be subjected to people who are driving dangerously or in a careless manner, especially if they are driving without a licence. Hoons, as they are termed, are a statewide concern to the Victoria Police and the broader community. They pose a significant road safety risk and are generally a blight on our community. Many a time you can drive around certain areas where this sort of driving is done and you will see the tyre marks left all over the road. They really are an eyesore.

People who get out on a Friday and Saturday night and head to the industrial estates and do these things are generally not deterred by fines, so removing their vehicles for a period of time will have a greater impact on them than their coughing up a little bit of cash. As Ms Mikakos said, available evidence suggests that hoon driving presents a high risk to other road users and is generally a safety risk to pedestrians and other bystanders. There have been times, such as the one mentioned before at the Mole factory, when a car has gone out of control and hit a few people in the crowd causing serious injury, and in some cases in the early 1980s, even deaths.

The major collision investigation group identified some 41 crashes between January 2003 and November 2004 that involved hoon driving or antisocial behaviour by a driver. These crashes resulted in 28 unnecessary deaths and over 50 persons suffering serious injury. These deaths and injuries are unnecessary and cause great hurt to the community and the families and friends of those involved, and that is why I look forward to seeing this bill deter those who stupidly risk their lives and the lives of others around them. I hope they realise that there are appropriate venues and events where you can enjoy your car safely. You can do the things you might like to do but you do it in an appropriate manner at an appropriate venue. I commend the bill to the house.

Hon. J. H. EREN (Geelong) — I am pleased to be speaking in support of the bill. As a member of the parliamentary Road Safety Committee this is a subject that I, along with my colleagues on this very important committee, spend a lot of our time working on, trying to make our roads safer for all. Only last week I was emailed photographs of a motorcycle which collided with a passenger vehicle. The email says:

> The Honda rider was travelling at such a very high speed his reaction time was not sufficient to avoid this accident. Swedish police estimate a speed of 250 kilometres an hour before the bike hit the slow-moving car side on at an intersection. At that speed they predicted that the rider's reaction time, once the vehicle came into view, was not sufficient enough for him to even apply the brakes. The car had two passengers and the bike rider was found inside the car with them. The Volkswagen actually flipped over from the force of impact and landed 10 feet from where the collision took place.
>
> All three involved (two in car and rider) were killed instantly. This graphic demonstration was placed at the Stockholm Motorcycle Fair by the Swedish police and the road safety department. The sign above the display also noted that the rider had only recently obtained his licence.
>
> At 250 kilometres an hour the operator is travelling at 227 feet per second. With normal reaction time to see-decide-react of 1.6 seconds the above operator would have travelled over 363 feet while making a decision on what actions to take. In this incident the Swedish police indicate that no actions were taken.

This happened in a country like Sweden that has invested an enormous amount of time, energy and money in reducing deaths on its roads. Needless to say, the motorcyclist, the driver and the passenger in the car were killed instantly. Within the blink of an eye three lives were lost, all because the motorcyclist was hooning along thinking he was invincible. This kind of selfish behaviour must be stopped. We must make a stand and say no to hoon drivers. Hopefully this bill will help in achieving a change in that kind of behaviour. This bill takes a further step towards the government's goal of cutting deaths and serious injuries on the state's roads by 20 per cent between 2002 and 2007.

The bill creates a new offence of improper use of a motor vehicle which directly targets a type of hoon behaviour that is all too familiar to many Victorians. The bill will give police the power to seize and impound or immobilise vehicles on the spot for a period of 48 hours if they believe on reasonable grounds that a relevant offence is being or has been committed. The vehicle may be recovered upon the expiry of this period or, if the period ends outside normal business hours, at 9.00 a.m. on the next business day.

These laws will obviously have an impact on hoons. There was a campaign in Geelong some time ago with the suggestion that drivers found guilty in the courts of

acting like a hoon while driving should have a H-plate on their vehicle to indicate to the public that the person had been driving like a hoon. A lot of discussion took place and while the idea was well intentioned, it was not realistic. That is to say the least.

As we all know this red H-plate would have become a badge of honour for street racers or any young rebellious person in a high-powered vehicle. I do not mean to be ageist, because I am sure there are older hoons out there, but predominately it is the younger new drivers who seem to behave like hoons. The H-plate would not have had the desired effect of embarrassing them or making them feel ashamed for putting themselves and the public at risk. I spoke to a number of young drivers about this, and they agreed that the H-plate would not work. The proposition of losing their cars was a scary thought. They did not want their cherished vehicles confiscated and said they would be more willing to comply with the law in that case.

I refer to an article in the *Geelong Independent* of 21 July that involved a discussion about this issue. The article referred to the argument about H-plates being used and whether it would be more effective to have cars confiscated. In reporting an interview with me the article states:

> But Mr Eren said the local calls to 'name and shame' hoon drivers with H-plates were ill conceived.
>
> 'It's not realistic,' Mr Eren said.
>
> 'They (hoons) will believe it's a badge of honour and a fashion accessory for their car'.

The article also reports that television host Rove McManus echoed my view on national television that week. I thank Rove McManus for agreeing with me.

This legislation is commonsense legislation that needs to be put into practice as soon as possible. If we can save one life, it will be worthwhile. Some of the indicators from states that have similar laws, such as Queensland, are that only 22 of the 1739 drivers caught in the first two years of Queensland's law were picked up for a second offence. Only three people have notched up a third offence. It is certainly working in other states. This is good legislation; hoons will think twice about burnouts and driving dangerously if they think it will mean they will lose their cars. I support the bill before the house and wish it a speedy passage.

Ms HADDEN (Ballarat) — I support the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill. In my view it should have been brought into this place a couple of years ago. The problem of hoon driving and the inappropriate and improper use of motor vehicles has been around for a long time.

The main purpose of the bill is to amend the Road Safety Act 1986 to enable Victoria Police to seize and impound or immobilise motor vehicles in certain circumstances; to allow a court to order the empowerment, immobilisation or forfeiture of motor vehicles in certain circumstances; to create a new offence relating to the improper use of a motor vehicle, which is what we have heard described in the second-reading speech as hoon driving; and to make other consequential amendments to various acts set out in the preamble to the bill.

Importantly, proposed subsection 84G(1) to be inserted by clause 4 into the Road Safety Act sets the parameters for the seizure of a motor vehicle by police officers. It says that a motor vehicle may be seized from a public place or from a private place, with the owner's or occupier's consent or with a warrant — that is, a search and seizure warrant — issued under division 4.

Importantly, a motor vehicle may be seized up to 48 hours after the alleged commission of the relevant offence or within 10 days after a notice has been served under proposed section 84H or in accordance with a warrant issued under division 4. Also, if more than 48 hours has elapsed since the commission of the relevant offence — and the relevant offence is described in the bill as an offence involving improper use of a motor vehicle — a police member may serve a notice on the registered operator of the motor vehicle requiring the surrender of the motor vehicle. That notice must be served within 10 days of the commission of the relevant offence. The time specified for surrender of the motor vehicle must be at least seven days after service. A fair bit of leeway is allowed for the operation of this act so that all parties' interests and rights are acknowledged and preserved.

The bill inserts proposed section 84I into the Road Safety Act. It confers powers on police members to physically effect the impoundment or immobilisation of seized or surrendered motor vehicles. There is also a new section 84J, which outlines what a police member can and cannot do and essentially describes the police members' powers in relation to physically effecting the seizure, impoundment, immobilisation or release of motor vehicles. Proposed section 84K requires a notice to be served on the registered operator of the vehicle if that person is not the sole owner of the motor vehicle and requires the police to take reasonable steps to provide a copy of such a notice to any owner of the motor vehicle.

Importantly proposed section 84M also provides for the prompt and automatic review of any decision to impound or immobilise a motor vehicle by a senior police officer, who must be of the rank of inspector or above. That certainly adds a layer of accountability and transparency to the exercise by police members of this very significant power, which this Parliament envisages will certainly have some impact on curbing this irresponsible hoon behaviour on our roads.

Also proposed subsection 84Z(1) provides that anyone who is served with a notice has a right to be heard at an application to show cause why an order should not be made. The relevant court may at its discretion allow any person to be heard if satisfied that the order may substantially affect that person's interests. It allows for people's rights to be preserved and affected people to be heard. Especially when a parent or relative may be the registered operator or owner of a motor vehicle which another person has used in the commission of a relevant offence, that parent or relative may seek to prove to the court that he or she neither consented to nor knew of the offending behaviour.

The bill contains exceptional hardship provisions: proposed subsection 84Z(3) provides that the court may decline to make such an order for impoundment, immobilisation or forfeiture if it is satisfied that to do so would cause exceptional hardship to any person. The bill also allows the Chief Commissioner of Police to sell or otherwise dispose of a motor vehicle. It requires that certain procedures be followed by the chief commissioner, and that power may not be exercised unless all proceedings relating to the relevant offence have been finalised and any appeal period has expired. That is set out in division 5 of the bill.

I was interested to find through my research that most other states have already enacted anti-hoon laws. The Victorian Minister for Police and Emergency Services in the other place referred to Queensland in his press release of 8 April this year, noting that Queensland police had impounded more than 1700 cars since that state's anti-hoon laws were introduced two years ago.

The recidivism rate — the repeat offenders rate — according to the minister's second-reading speech was less than 40. That is a pretty good strike rate for that legislation in another state. This measure would require, in my view, a huge boost in police numbers, because they would need to be on the road a lot more than they are now. The minister certainly needs to follow through on his government's promise to put 1400 police back on the streets. Its 1999 election promise was 800 and the 2002 election promise was 600, but those numbers simply have not been put back on the streets. We need a police presence on our streets to prevent crime and to prevent this hoon behaviour.

The number of road fatalities in Victoria as a percentage of the Australian total is also quite alarming. Victoria's rate was 21.2 per cent of the total of Australian road fatalities in September this year, but in January and March this year, which are probably the hoon months of the year because it is nice warm or hot weather, Victoria's rate was over 30 per cent of the Australian total of road fatalities. I think Victoria is in trouble, and its young people need to take a long, hard look at the way they behave.

South Australia introduced its anti-hoon laws back in May, and it has had a huge success rate. I urge people to check the South Australian government's web site, because that state has done very well. In a media release on that site the South Australian Premier is reported as saying:

> The Rann government's new hoon driving laws are putting the brakes on drag racing, burnouts, doughnuts and wheelies, with 61 cars impounded for 48 hours each in its first two months of full operation.

He went on to say that the laws were phased in from February this year, and as at the end of June this year police had reported hoons on 259 occasions. He went on further to say that, of the 61 cars impounded in two months, 38 were impounded in June of this year. The anti-hoon laws in South Australia are having a big impact.

The Royal Automobile Club of Victoria (RACV) opposed this key area of the bill in a media release dated 27 October 2005. Its main criticism is that this is the thin end of the wedge. It is worried that this legislation means that the state government will extend this very tough power into other areas and to other offences. The RACV says that its concern is not imaginary and that the government is telegraphing that it may adopt the same response to drivers accused of road rage. It supported moves to crack down on bad driving behaviour and encouraged the government and the Victoria Police to enforce existing laws that prohibit such behaviour. As I said, if we had more of them on the streets the police might be able to enforce the laws we do have.

The Ballarat *Courier* conducted an opinion poll on its web site in October. The question was, 'Should persistent hoon drivers have their cars confiscated?'. Of the respondents 55 per cent said, 'Yes, for a temporary period' and 40 per cent said, 'Yes, permanently'. Ballarat *Courier* editor, Peter Dwyer, ran some editorials on giving police the power to confiscate cars

driven by hoons. He referred to the Tasmanian police, who have the power to confiscate vehicles for 48 hours for a first offence, three months for a second offence and indefinitely for a third offence. The editor said that those laws are having a positive effect and have received a good community response in Tasmania.

The police in Ballarat support this initiative. They were surprised that 94 per cent of people polled supported new anti-hoon legislation. Of course what we all want to see is these idiots taken off the road. It is not just in the streets of Frankston or Cranbourne or St Kilda that we have hoon drivers, they are also prolific in country Victoria in small country towns. They usually drive around on a summer's night just on dusk. The problem is that most of their vehicles are unregistered and uninsured, and they will be worth very little when they are confiscated under this legislation.

Usually a team of people pile into the front and back seats and off they go. You can hear them do about a 10-kilometre circuit in Creswick, for instance. We have a new, very efficient senior sergeant of police who has spoken to these prospective hoon drivers and also spoken to their parents. He has made a big effort to introduce himself to most in the community. But some of the parents really do not see it as an issue and think it is a bit of skylarking, and that these kids are just having fun, thinking we should leave them alone and stop picking on them. But those drivers are creating a dangerous situation for themselves and for other road users, especially for the under-age passengers they often have in the car, and of course there is the criminal damage they do to the road surface, which is a problem in my electorate.

I was travelling east in Sturt Street, Ballarat, very late last Saturday afternoon. I pulled up at the lights in Lydiard Street, which is a main intersection. I was in the right-hand lane because I was going to turn right further down at the bottom of the hill, and next to me was a car full of young guys revving the car and beeping the horn. They wound down the window and said, 'Come on, love, give us a burn'. I said, 'Come on, guys, I'm old enough to be your mother!'. Those they upset do not have to be young. It was not road rage; it was just a group of young guys. They tore off down the hill and did a two-wheel left turn at the bottom of Sturt Street. There were no police around, of course, to stop them from behaving stupidly, and that is the issue. But certainly they were keen to have a race with anyone who was keen to participate, so it is an issue. The bigger issue is that we need police on the streets to stop this behaviour. Unless we do have police on the streets, this legislation will be filed into the bill books.

It is important that the minister looks at this issue. I know the Minister for Transport in the other place, Mr Batchelor, was given a $2^1/_2$-star rating in the *Herald Sun* last week. I cannot recall what the Minister for Police and Emergency Services in the other place, Mr Holding, was given, but I do not think he was given a particularly higher rating than that. In relation to road safety Mr Batchelor should be commended for this legislation. It is tough legislation. I would like to see it reviewed and published so that it can be transparent and accountable and we can see exactly the impact it will have.

The only other matter I take issue with is the fact that this anti-hoon driving regime will not come into effect before 1 July next year. Once the hoons know that, they will be hooning even harder and faster over the summer period. I would like to see this anti-hooning legislation in the Road Safety Act implemented a lot sooner than 1 July 2006 if we are really serious about stopping the carnage and accidents on our roads. I support the bill.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In so doing I thank honourable members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CHILD WELLBEING AND SAFETY BILL

Second reading

Debate resumed from 15 November; motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Hon. W. A. LOVELL (North Eastern) — In rising to speak on the Child Wellbeing and Safety Bill I wish to move a reasoned amendment. I move:

That all the words after 'That' be omitted with the view of inserting in place thereof 'this house refuses to read this bill a second time until consultation has been undertaken with the

community in relation to the need to appoint an independent commissioner for children and youth, and the need for a report on the deaths of children in state care to be tabled in Parliament each year'.

The purpose of this bill is to establish the principles for the wellbeing of children, to establish the Victorian Children's Council and the Children's Services Coordination Board. The bill will also provides for the appointment of a child safety commissioner, for the conferring of functions and powers on the child safety commissioner in relation to the safety of children and for the notification of births to municipal councils. One of the main concerns about this bill that has been raised with the Liberal Party is that there has been no exposure draft of the bill. Given the major changes in the Children, Youth and Families Bill, which we will debate tonight in this house, stakeholders have expressed a concern that they would have liked to have been able to consider the contents of this bill together with the Children, Youth and Families Bill, and they would have appreciated the opportunity for an exposure draft of this bill to have also been released.

Part 2 of the bill develops a set of principles upon which the development and provision of services for children and families should be based. The principles give guidance and set out a basic framework for the development and provision of services for children and families, the way in which services for children should be designed and developed and the role of providers of services to children and families. Many of these provisions reflect what was included in the old Community Services Act, and some of them cut across the principles included in the Children, Youth and Families Bill. But unfortunately the government has not included anything in these principles that deals with volunteers and the role they play in children's services, nor has the government acknowledged the enormous contribution volunteers make within the community sector. Two other elements missing from the principles that were covered in the old Community Services Act are the provision of support to those caught up in the juvenile justice system and the government providing services in cooperation with local government and non-government organisations.

Part 3 provides for the role of the Minister for Children in promoting the coordination of government programs that affect the safety and wellbeing of children. It also states that the secretary must work to establish a Victorian Aboriginal child wellbeing charter. The Liberal Party has concerns that there is nothing in this part that talks about the minister exercising her powers and duties or about taking steps to carry out the objects of the bill. The Liberal Party also believes the minister's role should have been defined in this bill as it is in the Community Services Act.

Part 4 provides for the establishment of the Victorian Children's Council, which will consist of the child safety commissioner and at least eight other members. The function of the council will be to provide the Premier and minister with independent and expert advice relating to policies and services that enhance the health, wellbeing, development and safety of children.

Part 5 will establish a Children's Services Coordination Board, which will comprise six department secretaries — the Secretary of the Department of Human Services, the Secretary of the Department of Premier and Cabinet, the Secretary of the Department of Treasury and Finance, the Secretary of the Department of Education and Training, the Secretary of the Department for Victorian Communities and the Secretary of the Department of Justice. It will also include the Chief Commissioner of Police. This board will review the outcomes of the government's actions in relation to children and report to the minister. The board will conduct an annual review and report to the minister on the outcomes of government actions in relation to children.

Part 6 provides that there is to be a child safety commissioner, whose key functions will include: the provision of advice and recommendations to the minister; the monitoring and review of systems relating to those working with children, including an annual review of the administration of the Working with Children Act; functions relating to the promotion of child-safe practices in the community; and functions relating to out-of-home care and child deaths.

Part 6, which sets out the role of the child safety commissioner, is the part of the bill that has led the Liberal Party to move this reasoned amendment. We do not oppose the bill but instead move this reasoned amendment, because we believe there should have been more consultation with the community in relation to establishing an independent commissioner for children and young people.

I congratulate the shadow Minister for Community Services, the member for Caulfield in another place, who in September 2003 released a Liberal Party policy statement on this issue which has been on our web site since then. It called for the appointment of a commissioner for children and young persons and committed the Liberal Party to having an independent commissioner for children and young persons when we return to government — hopefully in 2006. That policy has been out there for two years.

One of the reasons we sometimes release policies early is that we realise that these things are needed in the community, and it is a way of prompting the government to pick them up along the way — policies that cannot wait until we return to government. Unfortunately the government did not pick up the idea of an independent commissioner for children; instead it chose to have a child safety commissioner who reports to the minister. We would have preferred to see an independent commissioner who reports to the Parliament.

Members of the Liberal Party are not the only people who have been calling for an independent commissioner for children. I quote from an editorial in the *Age* of Thursday, 1 April 2004, headed 'Half-measures fail voiceless children' and subheaded 'Why won't the state accept the need for an independent advocate for all children at risk?':

> Spot the odd one out: Australians Against Child Abuse, Berry Street Victoria, Foster Care Association of Victoria, Kids First Foundation, heads of the children's and family courts, Monash University's child abuse and family violence research unit, Anglicare Victoria, Centre for Child and Family Welfare, Australian Childhood Foundation, Children's Welfare Association, Law Institute of Victoria, Queensland, NSW, Tasmanian and Victorian Labor governments, federal Labor Opposition, state Liberal Opposition and the *Age*. In this by-no-means-exhaustive list, all but one have called for or appointed independent children's commissioners.
>
> The exception is the Bracks Labor government, so it is no surprise its announcement of the new advocate for children in care has drawn more criticism than praise as a limited reform of the child protection system. It is a step forward, but falls short of what is needed.

The article goes on to say:

> Last September, when criticisms of the new position were raised, community services Minister Sherryl Garbutt stated, apparently by way of defence, that adopting the NSW model of a children's commissioner would cost $7 million a year.

It finishes by saying:

> … the Bracks government seems focused on limiting its political exposure, responsibilities and spending (and potential civil liabilities for children in care). The government alone pretends the child protection system is not dysfunctional, and it alone has an unhealthy interest in refusing to appoint a truly independent officer dedicated exclusively to acting as an advocate for all children to the whole of government. Its attitude is a disgrace.

That article sums up the way a lot of the community sector feels about an independent commissioner for children.

The child safety commissioner will have wide-ranging powers to access information from service providers, health professionals and other relevant people in investigating child deaths. This is another area where the Liberal Party has concerns, as it is unclear whether the commissioner will be required to report child deaths to Parliament, as has been done in the past with the tabling of a child deaths report each year.

Part 7 of the bill contains provisions currently contained in part IX of the Health Act 1958 regarding the reporting of births to councils or to the Secretary of the Department of Human Services. These provisions are now included in part 8 of the bill, which repeals part IX of the Health Act. That will be in order to consolidate the responsibilities of the Minister for Children.

As we all know, children are vital to our state's future. They are our most important asset and legislation dealing with the protection and safety of children should have a bipartisan approach. Issues regarding the safety of children and children generally are too important to not fully consult with the community on. The area is too important a responsibility for the government not to take on board the concerns of the experts in the field. Therefore I urge members to support the reasoned amendment and the government to consult with the community before rushing this legislation through.

Hon. D. K. DRUM (North Western) — The Nationals will not oppose the legislation, although we will support the reasoned amendment.

The Child Wellbeing and Safety Bill provides the government with an opportunity to make what it calls generational change so that it can lay out a wide range of principles for not only the Department of Human Services but also those providing out-of-home care and the general bringing up and treatment of children in home, out of home and in a sense through the Department of Education and Training. Many generic or motherhood statements are associated with the bill which clearly attempts to spell out where the responsibilities for the wellbeing and safety of children lie.

Members of The Nationals, no different from members of the other parties, are called in to help in some of the cases where people have effectively gone off the rails, such as when children have been forced out of home or have left home without the express wishes of their parent or parents. Obviously when we move down the track of trying to help we rely heavily on advice of people in the agencies involved.

I thank the people from the minister's office and the department who have been able to help me with this bill

and the bill members will debate either later tonight or tomorrow. They are very, very sensitive pieces of legislation and members need to be across the issues as best we possibly can be. We understand also that the cases that will come before both the agencies and the department will be from such a wide group that it is quite difficult for us to be too specific about the responsibilities and the types of action that can be taken.

The most important aspect of the bill is the appointment of the child safety commissioner. Although we are not supposed to acknowledge people in the gallery, Mr Bernie Geary, who is present with us, will have that role into the future. The bill clearly states his functions, including his reporting procedures and his monitoring of children and youth who are put into out-of-home care. Whilst The Nationals support the opposition in its call for a more independent child safety commissioner, we also look forward to seeing Mr Geary in his new role.

The appointment has been made within the portfolio area of one of the existing ministers. We thought it would have been a good move for the government to have a minister for children. If it were truly serious about putting in place additional ministerial resources aimed at helping children, then it may have gone to a new minister or one who was not already so heavily hamstrung with a workload such as the Honourable Sherryl Garbutt has in the community services portfolio and with the Department of Human Services in her domain.

The child safety commissioner will have his issues mapped out in the latter stages of the bill. The functions of the child safety commissioner are effectively in part 6 of the bill; some of his responsibilities include the provision of advice and recommendations to the minister. That will be interesting. One thing we heard from speaking to the agencies which deal with this as a day-to-day function is that their biggest concern is simply the lack of resources. We understand the government has today announced some $75 million over four and a half years, and that is certainly going to be very well received by the sector. Everywhere that we spoke to the agencies and to people within the department we heard about people in the education system who are forced to handle these issues because children cannot get into proper agencies and get the correct assistance they need, so they are forced to try to handle them in the education department and system.

The message kept coming through loud and clear that it does not matter what parameters or what type of legislation and regulation you have around this sector, if you do not provide the resources to enable the people in the business of looking after children to offer some genuine chances for the incumbent regime to be successful. As I said, the allocation of $75 million was announced just today. I would like to think the swift response was because The Nationals member for Rodney in another place, Noel Maughan, demanded it in Parliament two weeks ago.

Hon. Kaye Darveniza — It is a long bow.

Hon. D. K. DRUM — It is a long bow to draw, but we can only hope we have some influence in this place. That is going to be very important.

The principles that have been laid out very clearly in the bill are wide ranging. We support them wholeheartedly. They are in fact a whole group of motherhood statements like:

> (a) society as a whole shares responsibility for …children;
>
> (b) all children should be given full opportunity to reach their full potential …
>
> (c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing;
>
> (d) parents are the primary nurturers of a child and government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing …

We have to then look at whose responsibility it is to make the judgment as to when a child's safety and wellbeing are effectively at risk. I suppose we would all expect it lies with the Department of Human Services at the minute. Are there people working in the industry who may be better qualified to make that assessment?

That is a good question, and maybe the child safety commissioner could in fact look into that, because it is a key element of the principles that are laid out in the bill. The principles also talk about how services for children and families should be designed and developed in conjunction with the community to identify the harm and damage to children — that is very important — and how the services should be based on the actual needs the children have. The principles talk about giving the highest priority to making appropriate and sufficient levels of assistance available to children and families. I suppose that is the principle whose achievement at the minute — certainly up until now — has been questioned, and we would certainly like to see how that goes.

Through this bill special roles will pertain to Aboriginal communities, which are especially mentioned and are going to be given special consideration via the duties of the Victorian Aboriginal child wellbeing charter.

We now need to make sure that the $75 million put forward is going to be adequate. As I said earlier, the whole series of principles which have been laid out and the series of responsibilities that are going to be put in place just have not been working satisfactorily to date. I think the government would acknowledge that. Some changes really do need to be made, but we also need to make sure that whatever changes we put in place are adequately resourced so that we can truly determine whether or not we are getting across all the issues.

The appointment of not only the child safety commissioner but the advisory council is going to be a very important part of this — —

An honourable member — Blatant bureaucracy, Mr Drum.

Hon. D. K. DRUM — It could be further bureaucracy, but we would like to think that the Victorian Children's Council, chaired by Lynne Wannon, is going to play a crucial role in trying to highlight some of the issues that are continually being brought to the fore in child wellbeing. There are going to be 11 members on the Victorian Children's Council, and Mr Bernie Geary is going to be one of them, as is Robert Spence, the chief executive officer of the Municipal Association of Victoria. I think it is outstanding that that Maria Aposotlopoulos, who is a parent of a child with a disability, will be on that advisory council, because we tend to make so many mainstream decisions without giving a second thought to needs of and hardships faced by children who have disabilities. It is interesting that Muriel Bamblett will also play a role on that advisory council as a respected elder of the Aboriginal community.

The appointment procedures for and the responsibilities of the council are laid out — who it will be responding to and who it will be advising. I suppose in some respects it is a little disappointing that 8 members of that 11-person panel will be appointed by the minister. I believe strongly that if we are truly concerned about the welfare of children, the performance of our agencies and the performance of our departments, we would have a much better chance of getting to the bottom of any issues that need to be addressed if we were to get truly independent advisory councils.

The Nationals will not be opposing this legislation. In closing, what I would like to say is that this bill effectively heads towards the pointy end of the problem. We are talking about when kids are already in trouble. We are talking about kids who have not been able to continue to reside at home for one reason or another. We are talking about what we are going to do once the problem has already arisen, but we have to look at the bigger picture seriously. We seriously have to look at whether we are adequately supplying youth workers to the broader community. The answer is clearly no. This is a responsibility that falls on local government. Many youth workers are employed by local government. There are youth groups like Les Twentyman's Open Family Australia. We have a whole range of other people who use philanthropic money to provide youth workers in our community.

I believe the government is not doing anywhere near enough in providing youth workers who can actually infiltrate communities and the education system. Are we putting enough child-welfare coordinators and welfare councillors into our primary schools? It is in primary schools where our youth start to show initial traits of errant behaviour, and we need to invest in that issue as well. We are certainly being deficient in the way we are trying to address problems before they actually become more serious problems. Some preventive measures certainly are not being put in place.

Are we doing enough to try to combat truancy in schools? We are continually contacted by schools — Catholic schools, other non-government schools and government schools. They talk about how they have a full range of kids who are not only exhibiting truancy problems all the time but also simply refuse school. We have two categories of parents. The members of one group of parents try as hard as they can to get their kids to go to school, stay within the system and stay within the parameters of welfare coordinators who exist in the school system. The members of the other group of parents could not care less when their kids do not go to school, and the kids face no disciplinary action at home. There is the whole issue of school refusal. Is the government doing enough in this area so that we can address the issue before they become problem children who can no longer live at home because they have developed a whole range of behaviours which effectively lead to the situation we have at the moment?

Are we looking hard enough at the education system to actually develop different streams of education? We have left it up to the commonwealth government to come up with Australian technical colleges. Are we truly looking at enough different forms or streams of education so that kids can stay within the mainstream education system for a bit longer — perhaps two or

three years longer? I spoke to people of the Diocese of Sandhurst about Catholic education and how they are going to start up a separate stream of education for 11 to 17-year-olds. They are actually going to take those children away and give them an intensive tuition which will not be 1 on 1, but 1 on 8 or 1 on 10 tuition over a six to nine-month period. Hopefully those children can then be weaned back into the mainstream system, because they have been certainly identified as being in danger of slipping out of the education system altogether.

The government must ask: is it doing enough in this area to try and keep our youth involved in education? As we know, the mainstream education system has so many other benefits associated with keeping our youth on the straight and narrow and letting them get through by various ways.

Are we also doing enough with parenting seminars and teaching positive parenting habits? Again, we are not. Last week I visited Mildura, and the Acting President was also present. In my whole electorate of North Western Province, and in the whole of the Loddon-Mallee region, with the exception of Mildura, there was not one parenting seminar. There was depth to the seminar and it addressed a number of issues, but people from Bendigo, Swan Hill and right around north-west Victoria were forced to travel to Mildura to attend a privately funded positive parenting seminar.

Michael Grose, who delivered that seminar, was brilliant. He had an audience of 200 people, all of whom paid $10 to see him, acknowledging that he can help many parents. He can help them in their endeavours to avoid conflict with their teenage children and to avoid conflict or bad habits with their younger children. We need to be looking at these types of issues to help stop those problems from becoming the major ones we are talking about.

We simply need some resources put into the front end of the whole issue. Hopefully we will then have fewer situations where kids are effectively being forced out of their homes, either through their own inability to stay at home or because their home life has deteriorated through no fault of their own. I call on the government to look at some of those issues, and hopefully we can have a bit less at the pointy end of the problem when it becomes too hard for everyone to handle.

Hon. KAYE DARVENIZA (Melbourne West) — I am pleased to make a contribution in speaking against the reasoned amendment and in support of the bill. I want to take up a number of issues that are raised in the reasoned amendment. The first one is consultation. This government has a long track record of consulting with stakeholders, industry professionals and human services and providing valuable programs and services to children. The consultation goes right back to the ministerial advisory committee, which has many leading senior members of the sector and has been closely involved right across the reform process. The reform process goes right back to a ministerial statement that was made in 2003 and built on the even earlier Integrated Strategy for Child Protection and Placement Services, which was released the previous year. We go back a long way in taking up the issue of child protection and child wellbeing.

In September 2003 the Allen Consulting Group report *Protecting Children — The Child Protection Outcomes Project* was released. In March 2004 the Kirby panel response, the report of the panel to oversee the consultation on protecting children, the child protection outcomes project, was released. In September 2004 the government launched the discussion paper entitled *Protecting Children — Ten Priorities for Children's Wellbeing and Safety in Victoria*. In December 2004, the Department of Human Services conducted around 300 consultations and received over 70 written submissions about the options for reform. The Department of Human Services has set up six expert groups to develop and consult on the different parts of the reform package. The government released Putting Children First, the next steps to respond to the Premier's Children's Advisory Committee, and that was done in December last year.

For the opposition to say that there has not been enough consultation and that people have not had an opportunity to respond and have input into the various reforms that our government has made, including the bill before us today, is simply not correct. Therefore, we cannot possibly support the reasoned amendment, and we discount the argument put forward regarding consultation.

In relation to the independent commission for children and young people and about it having an independent commissioner, the child safety commissioner reports directly to the Minister for Children in the other place and reports to the Parliament through that minister. The office of the commissioner is a separate administrative office. It is independent of the government agencies responsible for undertaking and working with children's checks, child protection, supervising children in out-of-home care or providing other children's services. It is at arm's length from government, and it is independent of all the services which the government is responsible for providing or funding.

The government considers that the case for a broad-ranging Victorian independent commissioner for children and youth has not been established. The Victorian Ombudsman provides independent mechanisms for dealing with individuals' complaints on human rights and equal opportunity and undertakes an advocacy role as well, so on those grounds we certainly do not support the reasoned amendment.

The legislation does not include direct reporting by the Victorian Child Death Review Committee: that committee will continue to table its annual report through the Minister for Children in the other place, as it does now, so nothing has changed. This practice does not require legislation. In addition, the child safety commissioner will table through the Minister for Children an annual report on all the commissioner's functions, including child death inquiries. The child safety commissioner reports under clause 41 on all the matters that are set out in part 6 of the bill, which is the part relating to the child safety commissioner. The commissioner reports to the minister, and the minister must table the report in Parliament annually. As I said, the report will include child deaths. Once again and on that basis, we do not support the reasoned amendment.

This legislation builds on the things that we as a government have already put in place to protect children. In December 2004 the Premier established the position of child safety commissioner, and the bill will enshrine in legislation the functions that were then given to the commissioner by the Premier. It will also set out and enshrine the responsibilities of the child safety commissioner with regard to reporting. The children's council is an expert panel, as is the children's services coordination board, and the bill will enshrine in legislation the powers as well as the responsibilities of those bodies.

The legislation also signals very strongly the government's commitment to children's wellbeing and to their safety. It is about ensuring that future governments cannot simply disband these important boards and councils.

The bill guides operations. We see a whole range of service providers out there such as kindergartens, child protection, maternal and child health services, family support, counselling for families and so on. The bill ensures that these many service provisions form part of a whole system that provides the best possible protection and ensures the wellbeing of all of our children, not just those who are in protective services or those who are no longer in their homes and need to have residential care and supervision through other avenues. It is about ensuring that our children have the opportunity to reach their full potential and that they feel safe and secure.

Finally, this bill builds on the work we have been doing since 1999 when we were elected to government. The bill is a good one, and it deserves the support of every member of this chamber. I do not support the reasoned amendment, and I wish the bill a speedy passage.

Sitting suspended 6.29 p.m. until 8.02 p.m.

Ms HADDEN (Ballarat) — I rise to speak on the Child Wellbeing and Safety Bill and the reasoned amendment moved by the Honourable Wendy Lovell. I support the reasoned amendment and I do not support the bill. I say this for a number of reasons but primarily because this is a nothing bill — it will do nothing to protect the vulnerable children and families in this state who are the responsibility of the Department of Human Services and the child protection service. What concerns me with this bill is it does not commence until 1 October 2007. I wonder what the department and the Minister for Children in another place propose to do about child safety in the meantime; I refer to the Scrutiny of Acts and Regulations Committee's *Alert Digest* no. 12 and the concerns the committee raised in relation to the commencement date of the bill being no later than 1 October 2007.

This Child Wellbeing and Safety Bill was first announced by the government in December 2004. There was a media release, as I have come to expect, with all of the nice, fluffy words about what the government proposes to do and what it will do. That was released on 10 May 2005 when the minister announced that she was appointing the first child safety commissioner. What the minister and the Bracks Labor government should have announced was the setting up and appointment of an independent, at-arms-length commissioner for children; I refer to the Tasmanian model. Unfortunately this bill does not do that.

I personally have made representations to the state Attorney-General and the state Minister for Children in another place, Sherryl Garbutt, on this for some years — probably going back to 2000 — suggesting that this government needs to establish an independent, at-arms-length commissioner for children. I am supported in that view by the many learned lawyers in this state, but this government is not listening. Unfortunately for the children and vulnerable families of this state it is not listening,.

The appointment of a child safety commissioner with this bill will do nothing but add yet another layer of bureaucracy in the form of the commissioner, who

works within the Department of Human Services. We found out in a 10 May 2005 media release that the government has allocated $3.9 million over four years for the child safety commissioner's endeavours under the bill. That money could be better spent in supporting early intervention services for the vulnerable families and children in this state and especially in rural and regional Victoria. But the government simply does not get it and does not care.

The commissioner's responsibilities are outlined in the legislation, but the minister said in that press release that the commissioner for child safety will report to the Parliament through the minister. He will have his wings clipped there. It states:

> The commissioner will have the authority to investigate complaints … as directed by the minister.

He will also have his wings clipped there. It also states:

> … the commissioner will provide advice and recommendations … to better protect vulnerable children in the community —

to the minister. It then states:

> The commissioner will work closely with the new Office for Children within the Department of Human Services and with other key government agencies.

Again, he will have his wings clipped there. The unfortunate thing is that the minister and the Department of Human Services should already be providing services to protect the vulnerable families and children in this state and to prevent them from dying whilst under the care of the department, but they are not. They have failed vulnerable families and children in this state and will continue to fail them until they learn that they need to establish an independent commissioner for children based on the Tasmanian model and until they learn that they need to fund and resource the Department of Human Services and the child protection service so that vulnerable families and children do not fall through the cracks and die.

The Auditor-General's report, *Our Children are our Future — Improving Outcomes for Children and Young People in Out of Home Care*, in relation to out-of-home care, tabled in this Parliament in June, raised some alarming information and really pointed to the fact that this department is severely stretched and underfunded and needs a huge improvement. The Auditor-General outlined that Victoria has the highest number of children and young people in out-of-home care — 3.7 per 1000 children aged 0 to 17 years. The Auditor-General also pointed out that whilst Aboriginal children and young people are overrepresented in out-of-home care across all states and territories, in Victoria it is very high. In Victoria, as at 30 June 2004, out-of-home care for Aboriginal children was 41.4 per 1000 children compared with 3.3 per 1000 for all other children.

The Auditor-General told us just what this government does not fund the department for. He said that total recurrent expenditure on child protection and out-of-home care services was $223.9 million in 2003–04, an increase of 14.7 per cent from 1999–2000. That barely covers the consumer price index rise. This government has failed and continues to fail vulnerable families and children in this state — people who very much need the services of the Department of Human Services but are not getting them.

The Victorian Child Death Review Committee tabled its 10th annual report, a very good report, in May this year. It spelt out some amazing statistics of deaths of children and young people whilst in the care of the department. There were 160 deaths between 1996 and 2004, and these were children known to the child protection service within the Department of Human Services of this state. In 2001 there were 12 deaths; in 2002, 32 deaths; in 2003, 12 deaths; and in 2004, 16 deaths — nothing for the government to be proud of, nothing for Premier Steve Bracks to be proud of and nothing for the Minister for Children to be proud of! They ought to hang their heads in shame. None of them really has any idea. I practised in the area of child protection for a number of years in Ballarat and surrounding districts and in Melbourne. I understand the need for the department to be properly resourced, and it is not. I call on the government to properly resource and fund this department so it can do its work for vulnerable families and children.

Victoria needs an independent commissioner for children who is at arm's length from the Department of Human Services and the government. I refer to the first children's commissioner for Tasmania who is in fact a Victorian, Mrs Patmalar Ambikapathy from Ballarat; she was the national children's lawyer of the year 1999, the first commissioner for children in Tasmania, a position she held for four years, and she is now a barrister for Tasmania and Victoria. She has been writing ad nauseam to the government and the minister asking them to appoint an independent commissioner for children. It has fallen on deaf ears.

The Victorian law institute's requests have also fallen on deaf ears. John Cain, Jr, has said that the government needs to appoint an independent commissioner for children and young people to ensure that the rights of children are protected. A press release

issued by the law institute dated 9 September 2005 quotes Mr Cain. It states:

> … the existing child safety commissioner was not an independent monitor. 'I think there's a real risk in this structure that the department's priorities and objectives are going to overwhelm those who they're really meant to be serving, which is the children …

But the government is not listening to Mr Cain; it is not listening to the law institute; it is not listening to all the lawyers, including Mrs Patmalar Ambikapathy, who have been informing and advising the government and the relevant ministers of the need for this state to have an independent commissioner for children along the lines of the Tasmanian model, whose object is to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential.

The Tasmanian act is based on the United Nations Convention on the Rights of the Child, and it also complies with the Paris principles for the protection and promotion of human rights. But this government is not interested in that. All it is interested in is creating another layer of bureaucracy, spending $4 million over four years with more boards, more councils, more advisory committees — and what is happening? Children are still dying whilst in the care of the Department of Human Services. Do we see the minister bat an eyelid? No. Do we see Mr Bracks bat an eyelid? No. It is not good enough and I condemn the government for its inaction in this crucial area.

In relation to the first child safety commissioner, who has already been appointed by the government, I do not doubt his qualities and attributes as spelt out in the 2005 press release. He has a wealth of experience and a genuine understanding of issues. He was awarded an Order of Australia medal in 2000 for his services to young people. What I say, however, to this child safety commissioner Mr Bernie Geary is that he will need the patience and perseverance of Job to cope with this government and its department.

The Department of Human Services and child protection services were fraught with problems and ever-reducing budgets allocated under the Kennett coalition government between 1992 and 1999, which has continued under the Bracks government since 1999. Nothing much changes — it is the same body recloaked as a new review committee or a new advisory committee. It is just another bureaucratic layer with a further allocation of $3.9 million over four years, but this money is not going to go to the children of the vulnerable families who really need it.

We get more media releases, more glossy brochures, more reviews and more committees. Has Victoria, the responsible minister, the Department of Human Services and the Bracks Labor government cabinet learned anything from the tragic and avoidable deaths of children within the care of the department? That is the question I ask. I know the answer, but I would like them to answer that question and really look very long and hard inside their heads and hearts at what they have actually done. I say they have done nothing.

Two of the most publicised and well-known cases were, firstly, of Jed Britton, who was killed by his stepfather, Gary Kesic, in July 1999. Young Jed Britton was just two years and eight months old. It took the state coroner five years to investigate. He published his report into Jed Britton's death in June 2004. As Associate Professor Chris Goddard of Monash University and Joe Tucci, chief executive officer of Australian Childhood Foundation, wrote in the *Sunday Age* of 11 July 2004 under the headline 'The short life and long death of Jed Britton — The Department of Human Services has blood on its hands':

> Any child's death should surely merit a timely, independent inquiry.

Secondly we had the death of Daniel Valerio, who was killed by his stepfather, Paul Aiton, in September 1990. Daniel was just two years and four months old. Poor Daniel's death resulted in mandatory reporting being legislated in 1993. It did not save Daniel and it has not saved all the other young people who have died whilst in the care of the department since then.

Jaidyn Leskie disappeared in January 1997 and his body was found in the Blue Rock Dam in July 1997. Young Daniel Thomas from Myrtleford, who was aged two, has been missing since October 2003. He has never been found. His family — his mother and his father and his grandparents — were devastated.

There have been a number of other young teenagers whose deaths whilst they were under the care of Department of Human Services have been highlighted and exposed in the newspapers. Julie Kerr's daughter Alannah died of a heroin overdose in a residential care home under the supervision of the Department of Human Services in 1993. Shauna Adams's daughter Vanessa died after hanging herself in a residential home whilst under the supervision of the department. Both those mothers called for the overhaul of the child protection system in this state and said that their daughters' deaths were not isolated incidents as the minister claimed in the media. Both those mothers said the department had failed its duty of care absolutely, and I agree with them.

The child protection system was described as in deep crisis in 1990, in 1999, and again in 2002 and 2003. There have been exposure opinions in the newspapers written by Canon Ray Cleary, the former Family Court judge John Fogarty, and the Carney report on the failure and despair at the failure of the Department of Human Services to protect vulnerable families and young children in the state.

To be fair to the department's child protection workers, there is a huge turnover of staff. It is a hard job. They are overworked. They suffer from high stress levels and high levels of fatigue. Each day is full of crises for them. There are high dangers and risks associated with being a child protection worker. In effect being a child protection worker employed by the Department of Human Services means suffering systemic abuse by the department, and I deplore the department's actions.

Mandatory reporting is not being followed through by the Department of Human Services. Less than 50 per cent of cases are investigated and of those fewer than half are substantiated. Still there is no proper resourcing and funding of the department by this government for the protection of vulnerable families and children's safety in this state. I despair, and this bill will do nothing about the wellbeing and safety of children who come within the purview of the Department of Human Services under this government because this government has failed.

Mr GAVIN JENNINGS (Minister for Aged Care) — I hope all members of this Parliament and of the Victorian community can unite in our absolute, unswerving determination to ensure that children in this community are protected and that we mobilise our resources and commitment to ensure they have a high quality of life and live in safety and security. Hopefully that is something we can focus on and commit ourselves to together, rather than adopt a position where we sit back and heap criticism on those who are charged with the statutory responsibility under the laws of Victoria to care for those most vulnerable children at a time when they are at their most vulnerable.

That is the subject matter we are dealing with today in this piece of legislation. We are talking about the ways in which the performance of child protection agencies that provide child welfare services in Victoria will be monitored, regulated and reported to the Parliament. There is no dispute that the mechanisms within this bill are designed to do just that. There may be some argument about the most effective way to do it — —

Ms Hadden — Do something that you can be proud of — report their deaths. It is shameful.

Mr GAVIN JENNINGS — I think it is disappointing if any member of this house uses tragic circumstances and — —

Ms Hadden — They are facts. You cannot cope with them.

Mr GAVIN JENNINGS — I can cope with facts. I can cope with the situation that we are here to deal with and that it is indeed to prevent them. Ms Hadden might be correct there; she might be correct when she says that our — —

Ms Hadden interjected.

The ACTING PRESIDENT (Hon. Andrew Brideson) — Order! Ms Hadden should direct her remarks through the Chair.

Mr GAVIN JENNINGS — Our position must be to mobilise our wherewithal to prevent deaths in care or any deaths of any child in the Victorian community. One death is one death too many, and we should agree on that premise. We should agree on that and recognise the way in which we can work together as a community to prevent these instances occurring in the future. I think it is very disappointing if in the discussion of this piece of legislation we forget the next item listed on the notice paper, which I am not at liberty to discuss. The next bill to be debated is the Children, Youth and Families Bill, which we will be debating for the rest of the sitting today and which includes the major reform of the child protection system and the reform of the Children and Young Persons Act — the first time in the last 20 years that that has occurred. It is a substantive realignment of the roles and responsibilities of agencies and government in carrying out those statutory responsibilities.

It also comes on the day when my colleague, the Minister for Children in the other place and the Premier have announced a new package of measures to support child protection services in Victoria. Indeed, the Premier and the Minister for Children identified a package of $75 million to support these pieces of legislation and the initiative that is embedded within them. This legislation and the legislation we will be discussing later concern a package involving $25 million to recruit 60 new child protection workers; $5 million for more training of child protection workers; $16 million to improve the quality and safety of foster care agencies, including stronger internal procedures to investigate and record abuse allegations; a central register and regular reviews of all foster care agencies; and a range of other initiatives in which the Bracks government has recognised our obligation to

children in the community to provide legislative cover or legislative authority for intervention in providing child welfare for all young people in our community. The government has recognised the need to provide financial support to ensure that we have a greater capacity, greater wherewithal and greater determination within the community to protect all young people.

The bill that we are dealing with today establishes a common set of guidelines and expectations for the field, which applies to statutory obligations of departmental officers and sets the standard of care that we would expect of any agency that is providing child welfare, child support and child protection in this community. It provides the wherewithal for scrutiny by establishing through legislation the authority of the child safety commissioner. Indeed, the child safety commissioner, as has already been discussed in the debate today, was established in May; all members in their contributions to this debate have recognised the calibre of that appointment. No-one in this debate has challenged the experience, expertise and commitment to this community that Bernie Geary brings to this role. Nobody has questioned that, nobody has questioned the integrity of the officer who has been appointed to this important position which now has legislative standing within the statute of Victoria.

Ms Hadden interjected.

Mr GAVIN JENNINGS — No-one has disputed the fact and no-one can dispute the fact that ultimately the commissioner will report to Parliament; members may dispute the way in which that occurs but they cannot dispute the fact that this man of integrity, commitment and experience will report to Parliament on the basis of the investigations that have been undertaken and indeed, will be able to provide advocacy for best practice and best principles to be accepted and adopted within child-care practices and child protection within Victoria. They are the fundamental elements of the bill. They are at the heart of the commitment of this government to leave no stone unturned in facing up to its obligations to all children or all families in the community and saying, 'We will not accept — —

Ms Hadden interjected.

Mr Smith — On a point of order, Acting President, all members of this house know that interjections are disruptive. This constant barrage of interjections from Ms Hadden is extraordinarily disruptive, and I suggest that you do something about it.

The ACTING PRESIDENT (Hon. Andrew Brideson) — Order! That is not a point of order. I ask the minister to continue and to ignore the interjections. I also advise Ms Hadden that I have been relatively lenient so far, and I ask her to desist.

Mr GAVIN JENNINGS — The government will oppose the reasoned amendment for the reasons I have outlined. This government has frontfooted the question of scrutiny by appointing the commissioner in May, by providing the legislative basis on which the commissioner will undertake that work and by providing an integrated model, in concert with the piece of legislation that is on the notice paper and the resource allocation that I have indicated to the house. It is a comprehensive package. It has not been done in the superficial and glib way in which critics of this piece of legislation and critics of these initiatives have entered into the debate this evening. It has not been done in the glib, self-satisfying way some people may choose to enter this debate.

Our real challenge is to look at the substance of the reforms that have been introduced by our government, and we have an intention of ensuring that children are well protected in years to come and that there is an appropriate degree of scrutiny. It is for the comprehensive set of arrangements that are in place that the government supports this bill and will continue to support this bill and reject the reasoned amendment. The government has great confidence that we will rise up and meet the challenge so that children in this community will be safe in years to come. We should all renew our commitment to ensure that they are the circumstances in which this community can be united in years to come.

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

Ayes, 22

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

Noes, 20

Atkinson, Mr	Forwood, Mr
Baxter, Mr	Hadden, Ms
Bishop, Mr	Hall, Mr
Bowden, Mr	Koch, Mr
Brideson, Mr	Lovell, Ms

Coote, Mrs	Olexander, Mr
Dalla-Riva, Mr	Rich-Phillips, Mr
Davis, Mr D. McL. (*Teller*)	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Drum, Mr (*Teller*)	Vogels, Mr

Amendment negatived.

The PRESIDENT — Order! The question is:

That the bill be now read a second time.

Those of that opinion say aye, to the contrary no.

Honourable members — Aye.

Ms Hadden — No.

The PRESIDENT — Order! I think the ayes have it.

Ms Hadden — The noes have it.

The PRESIDENT — Order! Is a division called for?

Ms Hadden — Yes.

The PRESIDENT — Order! Ring the bells for 1 minute.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! Ayes to the right, noes to the left. As the honourable member is the only person opposing the second reading, under standing orders she has the right to have her dissent recorded or to have a division.

Ms HADDEN (Ballarat) — I would like my dissent recorded.

The PRESIDENT — Order! The member would like her dissent recorded, and therefore a division is not required.

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 who have a commitment to the wellbeing of Victorian children.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CHILDREN, YOUTH AND FAMILIES BILL

Second reading

Debate resumed from 15 November; motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Hon. W. A. LOVELL (North Eastern) — It is a pleasure tonight to stand and speak on the Children, Youth and Families Bill. This bill represents one of the most extensive rewrites of the legislation dealing with children and young persons since 1989. In standing to speak on this bill I declare that the Liberal Party does not oppose the legislation. However, the Liberal Party will be moving amendments to the bill to improve the operation of the legislation, to improve the standard of care afforded to Victorian families and to ensure the safety of Victorian children.

The Liberal Party is disappointed that the government did not allow more time for consultation on the bill. We accept that there was an exposure draft, but the bill that was brought into the house was substantially different to the exposure draft. I have here a document that was prepared by the office of the shadow minister, the member for Caulfield in the other place, Helen Shardey. It tracks the changes between the exposure draft and the bill. Some 80 changes have come in with the introduction of the bill that were not part of the exposure draft.

The bill itself is almost like a brick. We could build something out of these! The explanatory memorandum has 117 pages, the table of provisions 23 pages and the bill 543 pages, so we have 683 pages of a bill that people are expected to get through with only three weeks of consultation. Many of the organisations which made submissions may still not be aware of the many changes that have been made to the final legislation that we have before us tonight, including the reduction in the time frame for the application for a child to be placed in permanent care from two years to six months.

As I said during debate on the previous bill, legislation of this type should be bipartisan. Members on both sides of the house would naturally want to see the best possible services provided to ensure the safety of vulnerable young people and to support families in the

prevention of a situation where a child is not safe within the family home.

The current system has a few inadequacies, and a document supplied to the Liberal Party by Dr Suzanne Dean, a consulting clinical psychologist and psychotherapist, on behalf of about 20 psychologists and psychotherapists, lists some of the inadequacies of the current system. It says:

> Serious inadequacies remain evident in the system of protection in Victoria. Most outstanding is the inadequacy of resourcing of protective services themselves.

That is a theme that came through in a lot of submissions — that there are not enough resources available to give the level of care and protection that is required to those vulnerable young people. The document goes on to say:

> It is well known in the justice, health and welfare fields in Victoria that individual case workers and their supervisors are woefully overloaded, with scant time to attend appropriately to each of these extremely distressing, complex and needy cases …
>
> Also outstanding is the inadequate funding of agencies upon which protective services must rely to work directly and intensively with children and the families involved …

The document also states:

> Furthermore, needy birth families are rarely receiving the assistance ordered by the Children's Court magistrate.
>
> All of these issues need to be addressed by the Victorian government in its attempt to protect children. The proposed children bill 2005 attempts to grapple with some of the consequences of these inadequacies of services. However, not only can it not directly address the actual underlying funding issues, but it also has several major flaws, which will result in further harm to children in the present context, rather than the opposite. The most grave of these flaws are the subject of the four points in the petition to which the background summary is attached.

Throughout my contribution to this debate I will use some of the points listed in the petition. One of the hardest areas that I have had to deal with since becoming an MP is of family violence. When you grow up in a loving environment where you are loved, educated and nurtured and only ever touched to be told how much you are loved, you hope that other people are afforded the same opportunities in life as you were in that safe and loving home. Unfortunately, as an MP I find that is not the case for many people and therefore, the government needs to step in to protect those children.

I shall quote from the Centre for Excellence in Child and Family Welfare's manifesto, which says:

> One in every five children born in Victoria in 2003 will be the subject of a notification of suspected child abuse or neglect during childhood or adolescence. This sobering statistic is an indicator of the increasing complexity of our society and the urgent need to ensure that families receive the help they need, when they need it, in caring for their children.
>
> Over the past two decades there has been a steady increase in the numbers of children who, due to abuse and/or neglect, cannot live with their families. When these children reach adulthood, their life opportunities and circumstances are significantly poorer than those of their peers.
>
> Families coming into contact with child protection and family support services increasingly have a combination of problems, including long-term poverty, substance abuse, mental health and family violence issues. In the last five years alone the proportion of parents presenting with two or more of these problems grew from 9 per cent to 44 per cent.

That is a very sobering statement by the Centre for Excellence in Child and Family Welfare, which also provides some very good statistics in this document. Some of the statistics are that there were 39 956 notifications of suspected child abuse and neglect in Victoria in 2003–04, and of these around 5 per cent or 7412 were substantiated. The number of substantiated cases of child abuse in 2003–04 increased by 2 per cent from the previous year — from 3 per cent to 5 per cent. It is sad to think it is on the rise.

The number of young people who required out-of-home or temporary care grew by 27 per cent between 1995 and 2004. The centre goes on to say there were 4309 children in out-of-home care in Victoria as at 30 June 2004. The number of children in care has been increasing each year. Five years ago there were 3581. Of these children in care, 54 per cent were in foster care, 31 per cent were in kinship care, 5 per cent were in other home-based care, 9 per cent were in residential care and 1 per cent were living independently. One thousand one hundred and eighty-nine of the children in care in 2004 had been in out-of-home care for two to five years and 1006 had been in care for five years or more. It goes on to say that 61 per cent of children and young people aged 0 to 17 who were entering care for the first time met criteria for a major mental health diagnosis and 75 per cent had conditions requiring medical and allied health follow-up.

It contains some information about Aboriginal children in the care system and says that at 30 June 2004 Victorian Aboriginal children were 11 times more likely than non-Aboriginal children to be on child protection orders and that 531 Aboriginal children were in out-of-home care in Victoria as at 30 June 2004 — an increase of 4.5 per cent from the previous year. Victoria had the highest rate in Australia of indigenous

children on care and protection orders at 44.7 per 1000 children. Currently 62 per cent of Aboriginal children and young people are placed in care with Aboriginal families.

On family support and reunification rates it said a study tracking the progress over five years of 1802 children in out-of-home care until 2002 found that 38 per cent of attempted family reunifications break down and 30 per cent of children and young people were successfully restored with their parents. Trends in the provision of care services showed that 63 per cent of children and young people in foster care had four or more case managers over a 30-month period. Those are very sobering statistics, and we would hope those numbers will start to decline rather than keep on increasing.

The purpose of the bill is to update the Children and Young Persons Act 1989, incorporating parts of the Community Services Act 1970; to provide for community services to support children and families and for the protection of children; to make provision in relation to children who have been charged with or have been found guilty of offences; and to continue the Children's Court of Victoria as a specialist court dealing with matters relating to children. The bill will not be proclaimed until 1 October 2007, when the Children and Young Persons Act will be repealed and much of the Community Services Act will also be repealed with sections of that act being incorporated into the new bill.

The bill sets out that the Children's Court, the department secretary and community services as decision-makers in relation to children must be guided by the best-interests-of-child principles, which are also intended to guide the administration of the bill.

Chapter 1 sets out the best-interests principles, followed by the decision-making principles and the additional decision-making principles for Aboriginal children. Many of the principles are drawn from sections 87 and 119 of the Children and Young Persons Act. The bill also stipulates that the best-interest principles are paramount and that consideration must be given to the family as a fundamental group.

Part 3.3 of the bill outlines provisions for community services, which have been strengthened. They include that community services are to be registered by the secretary for the provision of services to children for a three-year period, which can be reviewed on application; that a public register of community services is to be kept by the secretary; that the minister may determine performance standards and publish them in the *Government Gazette*; that the secretary can appoint an assessor to review performance of community services; and that the minister can appoint an administrator for a community service if satisfied that it is incompetently managed.

The new provision is being brought in as part of this bill. Certainly concerns have been raised with the Liberal Party over the appointment of an administrator and as to who decides whether or not a community service is incompetent.

Under the new provisions in chapter 3, part 3.31, community-based child and family services are to provide a point of entry into an integrated local service network, firstly, to provide early intervention and support; secondly, to undertake assessment of the needs of and risk to children and families and report to the secretary if the child is considered at risk; thirdly, to make referrals of vulnerable children and families to other agencies; and fourthly, to promote and facilitate integrated local service networks.

Some organisations are really concerned that as well as having the responsibility for providing support to families they will be required to be watchdogs, and this may impact on their relationship with the family in that families will not completely open up to these organisations because they will be scared that that information may be passed on and used against them. The Victoria Legal Aid (VLA) submission has some points on information sharing; it says:

> … the provisions allow DHS and CSOs —

that is, the Department of Human Services and community service organisations —

> to do a number of things. These include provide advice to the person who made the report, provide advice and assistance to the child or refer the matter to a CSO.
>
> VLA appreciates the policy intent of better integrating service delivery based on timely information about a child's wellbeing. The current provisions however are too broad and do not afford sufficient privacy protection to affected families. A person's subjective significant concern for the wellbeing of a child in effect removes the normal operation of the Information Privacy Act, replacing it with provisions that are quite general and do not establish a clear enough purpose for the use of the information gathered. There are actually multiple purposes for the use of the information under the current formulation. VLA submits that private information held by CSOs and DHS should only be disclosed in limited and explicit circumstances and for limited purposes.

So VLA is also concerned about the information-sharing provisions in this bill.

Part 3.2, which is headed 'Concern about wellbeing of child', enables confidential reporting to be made about

the child, including unborn children, to the secretary or a community-based child and family service if there is a significant concern for their wellbeing. Concern has also been raised with the Liberal Party about the reporting of unborn children as this may prevent a pregnant woman from accessing the critical services that she may need for fear that the department will remove her baby when it is born. Whilst we recognise the importance of protecting the unborn child, we need to have a certain safety net that ensures these vulnerable young women will access services and not be scared away from these services for fear of losing their babies.

The secretary has new powers to require information on a child from relevant persons, and there are some exemptions, although doctors will not be exempt. The system of pretrial hearings in the Children's Court is being replaced by a new hearing known as a group conference. Victoria Legal Aid also had some comments to make on the secretary's power of compulsion to share information. Its submission says:

> Whilst the power will not be able to be used in other civil or criminal proceedings, it will override medical professional privilege.

It goes on to say:

> DHS should be required to apply to the Children's Court for an order requiring the release of any information it seeks under this provision.

That is to ensure people's privacy but also to ensure that people are prepared to talk to these services without fear that that information will be used against them.

Dr Suzanne Dean also provided the Liberal Party with a document called 'The children bill: abandoning vulnerable children', which is in the form of a petition signed by a number of psychologists and psychiatrists.

Point 4 of the petition says:

> The legislation will significantly distort the function of the Children's Court clinic as an agency solely assisting the Children's Court magistrates with independent advice regarding highly complex situations. It does this by stating that the clinician's report will be released outright to protective services as a matter of course unless otherwise specified. Families will no longer be able to be assured by the clinician or their lawyers that the court clinic works exclusively for the magistrates. It is one of the great strengths of the present system that even families in the most desperate situations can feel an added confidence and hope that their problems will be carefully and sensitively addressed by the magistrate where an independent assessment and opinion can extend the clinical material before the magistrate. For obvious reasons families repose no such confidence in the material provided by protective services, the agency bringing the case to court. The bill obliges lawyers to advise their clients, who are being prosecuted, to object to their case being referred to the court clinic or to refuse to talk freely to the court clinic in order to protect their privacy in the most sensitive of matters from ending up in protective services files. In such circumstances, information useful to the magistrate will simply not be forthcoming and the Children's Court clinic will cease to be a service relevant to children's best interests.

There again it is saying that the legal representatives will actually advise people not to share information. That certainly cannot be in the best interests of the children of Victoria.

In relation to assessment orders, interim accommodation orders are retained from the old act and a new order is added. That is the temporary assessment order. The court may grant a temporary assessment order where there is a reasonable suspicion that a child is in need of protection but those with custody of the child refuse to grant access to the child. The secretary may apply for a temporary assessment order with or without notice to the parents. Temporary assessment orders authorise the secretary to enter the premises where a child is living and to interview the child or to remove it to a place where an interview can take place. A temporary assessment order may also authorise a medical examination to be performed. But if the child has sufficient understanding to be able to give or refuse consent, they may refuse to consent to a medical examination. A temporary assessment order may also give any other direction or impose any condition that the court considers to be in the best interests of the child. The secretary has the power to apply for a warrant to allow police to enter the premises in order to execute a temporary assessment order.

In relation to child-care agreements, which is an area that has attracted quite a lot of concern, the bill incorporates sections of the Community Services Act 1970 which allow parents to enter into child-care agreements with service providers. These are either short term — up to six months, with one extension of six months — or long term, up to two years. Long-term agreements include a category called 'suitable person agreements' in which the secretary agrees to let the service provider enter into an agreement with a suitable person to care for a child. Suitable person agreements expire when the child turns 18.

The area of voluntary agreements is one that has attracted a lot of concern, and the Liberal Party will be moving an amendment that causes changes to be made to this area, particularly to allow for the participants to be given legal advice and for the agreements to be registered with the Children's Court.

In the petition that was provided to us by Dr Suzanne Dean point 1 says:

> The legislation aims to ensure stability planning in the care of children at risk by speeding up the process of placing a child under the guardianship of the state, as a preliminary to permanently removing the child from the care of the birth parent/s (known colloquially as 'fast-tracking'). However, it does not require that efforts must first be made by the state to provide appropriate remediation, education or therapy to the birth parents concerning their parenting, which, in our experience, in many even complex and difficult cases does away with the need for removal of the child. Because ongoing attachment to the birth family is pivotal to the child's mental health, permanent removal from that family has very serious effects upon the child's healthy psychological development. Therefore it is an intervention to be made only when serious therapeutic work with the birth family, which is necessary for safe reunification, has failed.

In every circumstance there really should be the chance to reunify that family unit, but with the fast tracking and allowing of these orders to be made within six months, it may be that that reunification cannot be achieved within that six-month period and we may find some children being taken from their families for quite long periods of time, even permanently, in a very short time frame.

In relation to protection orders, the bill retains all the categories of a protection order in the old act, but adds one and radically alters another — that is, long-term guardianship to the secretary. This is the same as a guardianship order, but rather than expiring at the end of two years it remains in place until the child reaches 18 or marries. These can be made only with the consent of the child, and the secretary must review and inform the court annually of the suitability of continuing the order.

Permanent care orders are the subject of major changes under this bill. In the old act these could only be made after a child had been out of home for two years or at least two of the previous three years. In the new bill they can be made after the child has been out of home for only six months. This is what I was talking about before in relation to children being removed from their home after only six months. They can be made after they have been out of the home for 6 months, or 6 of the previous 12 months. Time spent out of home under a voluntary child-care agreement cannot be counted for the purposes of making a permanent care order.

The new provisions allow for greater extension and supervision orders and for supervised custody orders. Finally, the same magistrate can deal with a child throughout their interaction with the judicial system in order to develop a more individualised approach. As I said, permanent care orders have created mixed feelings amongst stakeholders and there is real concern that children can be removed after only six months. One of the cases that many people have raised with us is of a mother suffering from postnatal depression that could go on for far longer than six months and, because of her illness, she may end up losing her child. That is quite a serious matter that the government really should be looking at. I do not think six months is an appropriate time frame.

The secretary is charged with preparing case and stability plans for children on protection orders. Case plans contain all of the decisions concerning a child that the secretary considers significant and relate to the present and future care and wellbeing of that child. Stability plans are a subset of case plans and they must be prepared for every child in out-of-home care, except where the secretary considers it is not in the best interests of the child. Stability plans must include details of how to provide long-term, stable care for the child, and again Victoria Legal Aid had some comments on stability plans. It said:

> VLA is concerned about the short time lines introduced in the bill for the completion of a stability plan and permanent care orders. Reunification may be significantly affected by the availability of support services to parents as and when they are needed. Stability planning should be accompanied by sufficient support services so that reunification with the family is given every opportunity to succeed.
>
> VLA submits that if the time frames for stability planning are to be included in the bill, further obligations should be placed on DHS when seeking the relevant protection order. DHS must demonstrate that it has made every effort to reunite the family. DHS must show that the required services were made available at the appropriate time and that reunification still failed.

Therapeutic treatment orders are new orders under this act. They concern those children between the ages of 10 and 14 years who display sexually abusive behaviours and empower the court to order that a child undertake a therapeutic treatment program. The court may also grant custody to the secretary of a child for the purposes of therapeutic treatment. It is envisaged that these therapeutic treatments or placement orders will mostly be used where it is necessary to remove a child who is displaying sexually abusive behaviours within a family to allow their placement in out-of-home care. Anyone may make a report to the secretary that a child is displaying sexually abusive behaviours.

The bill creates a therapeutic treatment board appointed by the Governor in Council and comprised of members nominated by the Chief Commissioner of Police, the Director of Public Prosecutions, the secretary and one or more health services that the minister considers appropriate. The board is to offer advice to the minister

on services available for the therapeutic treatment of children.

The therapeutic treatment board will also, upon referral from the secretary, provide advice to the secretary on whether it is appropriate to seek a therapeutic treatment order for particular children. While a therapeutic treatment order is in place, all proceedings in the criminal division are adjourned, and information gathered during a therapeutic treatment order is inadmissible in criminal proceedings.

The bill makes provision for the approval and registration of out-of-home carers, and this includes foster carers. It creates a process to be followed in dealing with allegations of abuse against foster carers involving the appointment of outside investigators. It mandates that all allegations of sexual or physical abuse against out-of-home carers are to be reported to the police, and it will establish a suitability panel to determine whether carers should be deregistered following findings against them of abuse. There is no indication as to how these measures will help to attract carers, and this is of concern to the opposition. It is also of concern that if the number of children in protective care is to rise, these provisions really do nothing to attract additional carers into the system.

In relation to children and the criminal law, weekend detention is no longer an option in the juvenile justice system. A child is now someone under the age of 18 for the purpose of criminal offences, and the child must be below the age of 19 at the time the offence is prosecuted. That legislation was passed during the autumn sittings earlier this year. The legislation also states that the cases of persons who are 19 years old or older and who were children when proceedings commenced must still be heard unless there are exceptional circumstances. The Liberal Party supported these changes when the legislation was passed earlier this year. However, it is concerned about the number of older teenagers in the juvenile justice system, particularly as many of them have exhibited particularly violent behaviour.

The range of proceedings in which a child is required to be legally represented has been expanded to include applications for therapeutic treatment orders, applications for temporary assessment orders and applications for variation or revocation of these and other types of orders. In exceptional circumstances the court may now appoint legal representation where a child is not mature enough to give instructions and, to the extent that it is practicable, they must attempt to convey to the court the wishes of their clients. This is an area of concern to many senior people within the legal system, who believe all children should be given legal representation. The number of reports which a court must take into consideration has also been expanded.

I refer to the Aboriginal community. The bill is full of principles which are to be followed in the case of indigenous children — namely, that the secretary is to take care to preserve the culture of the Aboriginal child and seek to maintain kinship links and so forth. None of these provisions is binding and each should perhaps be regarded merely as a guideline. Whilst this legislation places greater emphasis on the preservation of culture for an Aboriginal child, legitimate concern has been raised that unless additional resources are put into this area, this will not occur.

I would like to raise a few concerns on behalf of the Liberal Party. Firstly, although the general direction of the bill, which expands the role of the non-governmental sector and brings greater focus on family support and early intervention, is generally supported, there is a concern that there will not be an integration of mental health, drug and alcohol and other services with family support.

The second concern is that while there is support for the notion of ‘best practice’ as outlined in the principles of the bill, the test will be how much additional money is spent and how the system is run. In other words, the level of additional resources put in will be the test of how successful this legislation will be.

The third concern is the watering down of the requirement to work towards family reunification. While that principle was at the centre of the old act, in this bill it is replaced by the best-interests-of-the child test. Given the new emphasis on stability planning and the greatly shortened time before a child can be permanently removed from their parents, there is a chance that families will be broken up prematurely, some of which might have been saved with access to the appropriate intensive care services.

The fourth concern is about voluntary agreements, which is an area of major concern for the Liberal Party. We will be moving an amendment because we have a number of concerns about this. The lack of legal representation will lead to clients making uninformed decisions. The period of out-of-home care is concerning because the Department of Human Services will not be scrutinised, given that there is no court accountability. The legislation should have provided safeguards for vulnerable groups like the intellectually disabled, non-English speaking people and minors. DHS is aware of situations where these people have been exploited

and acknowledges that most parents do not get legal advice. Parents may be coerced into signing these agreements due to DHS encouraging negative perceptions of the court system.

The Law Institute of Victoria has sought details on the number of voluntary agreements used, but DHS has refused to supply this information. The fact that information is being withheld from the law institute is of real concern. We will be moving an amendment to ensure that all parents who are entering into a voluntary agreement for the care of their child have access to independent legal advice.

Another major concern regards the role that the Victorian Civil and Administrative Tribunal will play in the hearing of access cases. Under this legislation VCAT is the appeal body for administrative decisions, the recording of information by community service organisations, case planning and access. The Liberal Party does not believe VCAT is the suitable body to hear these cases, as it lacks the necessary expertise, is not user friendly and is document driven, and there is no legal aid guideline for funding.

Our sixth area of concern is about information disclosure. The concept is contrary to the idea of minimising risk to the child while providing access to services. Parents will be reluctant to use services due to a fear of disclosure, and lawyers may also counsel clients against utilising these services. This goes against a preventive and supportive approach to child protection. The bill should include safeguards as to what information can be obtained. Although DHS claims it will only access relevant information, the intent appears to be to allow it to build cases.

Another area of concern is the Children's' Court clinic. Its capacity to elicit full and frank disclosures will be compromised. This will be detrimental to the independence of the clinic and the role of the court in utilising it. Another strong concern regards the ability of DHS caseworkers to accurately interpret these records. We also have concerns that community service organisations will be able to discuss families with other organisations, which could be detrimental to parents' willingness to access these services.

In summary the Liberal Party does not oppose the legislation. However, we will move amendments to improve it so that it better serves the needs of vulnerable children and families in Victoria, providing them with greater safety and security.

Hon. D. K. DRUM (North Western) — The Nationals do not oppose this legislation. With the help of the member for Rodney in the other house, we have extensively consulted on this bill. The issue cuts across many of the towns and cities that we represent, as I am sure is true of the other parties.

The bulk of the correspondence that The Nationals received from the agencies that we asked about how the bill will affect service delivery on the ground for foster children was mixed. The responses from the agencies were along the same lines in that they were quite curious and suspicious about some of the motives but in general they were supportive of the bill in totality. That is effectively the line that The Nationals as a group have taken. We have looked at the outcomes that can be achieved under the proposed changes. We hope that the cynicism associated with sharing responsibilities does not arise, although we have concerns about matters.

The groups that The Nationals consulted were: Anglicare Victoria, the Children's Welfare Association of Victoria, Mallee Family Care, OzChild, Upper Murray Family Care, YouthLaw, and the Good Shepherd Youth and Family Service. I congratulate each of those groups in being very thorough. They took the time to read through the bill in its entirety and had their people go over it and apply the proposed legislation to the day-to-day treatment of children in need of care. They have been able to give a very thorough precis of how it will affect their organisations.

When the current Children and Young Persons Act was enacted in 1989 it introduced some major changes to provide for the welfare and protection of children and to establish a court dealing specifically with children and young people. That act has worked reasonably well but now there is a need to make some amendments to it. Community standards and expectations have obviously changed in that time. Now there is much greater pressure on families, there seem to be greater risks to children and we have a much better understanding of some of the consequences when some of the indicators are not dealt with and children in welfare do not get the earliest possible treatment.

The bill follows the appointment by the government of a Minister for Children. As I mentioned in the debate on the previous bill, The Nationals were a bit disappointed that the government did not appoint a stand-alone minister, with more energy to put into this portfolio. Adding responsibility for children to a portfolio that is already extremely busy with large and time-consuming responsibilities will provide minimal benefit to the community. We would have liked perhaps a new minister to have been given the opportunity to run this portfolio. As is referred to in the second-reading speech, we have a once-in-a-generation

opportunity to restructure the organisations and their procedures — the whole system and the way it works, including the relationships between government departments and the service delivery organisations. The main thrust of the bill, as we see it, is to promote earlier intervention, prevention and more effective responses to children's needs and to create a greater sense of responsibility in both government and non-government organisations. We need to create greater protection for our children and we need to closely monitor the performances of children living in out-of-home care.

The emphasis is on supporting parents and keeping the child in the family as much as possible. If we can maintain our energies and efforts in that area, hopefully we will achieve some significant gains. There will be an emphasis on keeping Aboriginal children connected with their culture, and wherever possible that effectively means placing Aboriginal children in other Aboriginal families. When that is not possible it means placing Aboriginal children in families that have a connection to Aboriginal culture and who would possibly give an undertaking to endeavour to maintain that link with Aboriginal culture, so when the children are growing up in a predominantly white family with predominantly white customs and cultures, that link will hopefully not be lost. That step has been put in place with this legislation.

The bill combines and updates the Children and Young Persons Act 1989 and the Community Services Act 1970. There will be a shift in emphasis from just dealing with crisis incidents that happen one at a time to the concept of cumulative harm. We support that thrust. The major theme is to ensure that children, youth and family services are focused on the needs of children and young people, and that families are strengthened. We certainly hope that is borne out.

The bill proposes to establish community-based intake and assessment referral services. Two new children's court orders are provided for children between the ages of 10 and 14 years. We will talk about the therapeutic treatment orders later. Effectively we have to look very closely at how this is going to work on the ground. Some of the aspects we were asked to mention are in fact quite hard to debate. The relationship that exists between families and the agencies that deliver out-of-home services is a very unique and special one.

The agencies are quite united in the way they have responded to us. They say that for them to work well with the families, which then gives them the greatest chance of keeping children in the home, there needs to be a separation of responsibilities. In a sense you might call it good cop, bad cop. In a sense they rely on the department playing the part of the bad cop. They rely on the government agencies making tough decisions for better outcomes. This is an argument the government has not embraced, but it is certainly an argument that comes through time and time again when dealing with the agencies.

Looking at it from the government's point of view, I can understand what it is saying — it thinks it is only fair that the agencies given the responsibility to care for children in out-of-home care be given a responsibility they have to live up to, a set of standards they have to reach. That is where the government is coming from. I would like to put on the record that there needs to be a lot of understanding in this. Whilst the cynics will say this is simply the government making sure it is reported on the front page of the *Herald Sun* because it shares these responsibilities, we have to look carefully at what is going to give us the best result in looking after children.

I am not expert enough on this issue to know what the right answer is in this. I am simply relaying to the chamber the amount of concern that has been expressed to The Nationals. When they contribute to the debate members on both sides of the chamber will need to be aware that whilst this is a very hard point to debate — and it is hardly a scientific fact — there is a very strong practice of non-government agencies coming in seemingly as white knights or saviours in the whole scenario and being able on that basis to build very strong, close and trusting relationships with families. From those trusting relationships, positive relationships are reached.

We need to be aware that if we are going to damage the basis on which those positive relationships are built, in turn we will be damaging the outcomes. If there is genuine truth to that claim, then we need to be very careful about what we are doing with this legislation. If it is an unfounded concern, then so be it, but certainly that is an area — —

Hon. B. N. Atkinson — Acting President, I draw your attention to the state of the house, and particularly the fact that the government again cannot keep its numbers here.

Quorum formed.

Hon. D. K. DRUM — I would like to move to the principles of this bill. It should be noted that the objects set out at the start of the exposure draft of the bill were not replicated in the final version of the bill. There have been significant changes to the bill now before the house. The children's bill exposure draft put out to all

of the agencies from which we received submissions was considerably different to the bill now before members. Therefore it can rightfully and accurately be argued that the agencies that have commented on this legislation did not actually get a chance to comment on the final bill. They were able to comment on the draft children's bill, but there have been some significant changes. This bill has been pushed through very quickly, and again it can be asked: why the rush when it is not planned for this bill to come into operation until 2007?

Under this bill the Children's Court, the departmental secretary and community services — as decision-makers in relation to children — must be guided by the best interests of the child. This bill has a very strong emphasis on the best interests of the child. Division 2 of part 1, on page 22 of the bill, sets out the best-interest principles. This is followed by decision-making principles and additional decision-making principles for Aboriginal children. I spoke previously about a special provision for Aboriginal children. In fact Aboriginal children will be treated in a way which enables them to have their identity, culture and history maintained.

It is also worth noting some organisations which have responsibilities for offering support to families have concerns that they will also have to act as watchdogs. This role may interfere with the relationship we spoke about earlier. Whilst they are both offering services and acting as watchdogs to monitor families, those families think that those organisations are judging whether or not they will report what they should or what they think they should. Perhaps those families have serious concerns about having their children taken away from them.

Therapeutic treatment orders can be put on children in the age bracket of 10 to 14 years. Usually these orders will be given to children who are displaying sexually abusive behaviours. These therapeutic treatment orders will offer such children a chance to avoid the current court system. Under these treatment orders hopefully they will be able to avoid going through the juvenile justice system.

This bill has a lot to do with the agencies of out-of-home carers. We certainly hope that some of their fears will not come to fruition. I would like to quote from a submission we received from the Centre for Excellence in Child and Family Welfare. The organisation spoke about the lack of opportunity it had to comment on the legislation. It said:

> The centre and the sector are extremely concerned about the haste with which major reforms are being processed and legislated without allowing sufficient time for consideration of consequences.
>
> …
>
> The centre also notes the lack of discussion around collaboration with local government and the federal government, two vital players in a whole of government approach …

It certainly had some concerns about that. In relation to shared responsibility for services, it said:

> The options proposed for discussion have a very strong emphasis on regulating the community sector which is contrary to the rhetoric about collaboration and partnership throughout the paper and the recommendations by the Kirby panel for a common regulated space where regulation applies to all major players including families and government itself.
>
> The purpose of the review is to develop a service system for children, young people and families where major players have a shared responsibility for ensuring the safety and wellbeing for children, and not to create an uneven relationship where all responsibility is on community service organisations, including consequences for decisions which are outside their control.

The association believes that if you are talking about shared responsibility, that means one-in, all-in. It does not mean that government departments can abdicate responsibility and put it on to non-government organisations. Some of this has worked as shown by the statements by Anglicare Victoria. Anglicare groups right around Victoria do an enormous amount of work not just in the area of child welfare but in a whole range of other areas as well. The group states:

> This is a draconian measure that provides government with an extraordinary level of power to intervene and determine the future of an agency.

They believe monitoring is going to be absolutely crucial; however, it cannot be done without well-resourced strategies. We keep coming back to the agencies saying that they are simply not sufficiently resourced. We know the government has made some announcements today; I certainly hope the allocation of funding announced today hits the mark.

In talking about the authority, Anglicare Victoria is concerned that the proposed legislation represents an attempt by the government to regulate community service organisations. Anglicare Victoria is concerned that any liability will be shouldered by the community service organisations alone, instead of being shared with the government — it is very similar to the Children's Welfare Association of Victoria. They are talking along the lines of joint responsibility in legislation; there must be joint accountability arrangements as well.

The documents make excellent reading because all the submissions that we received were from people in the field and on the ground, who are working hard to deliver these services. In a lot of their opinions, this legislation will make it harder. Again that is something the departments and the government have had to balance up so as to protect children. It is sometimes going to make it harder to find welfare out-of-home care. Obviously we cannot compromise the safety of children, but we also need to be realistic about this: we need to understand that we have to somehow work with the agencies and the families that are providing foster care help so as to find ways that we can create greater opportunities for more and more children who need this help.

Only a couple of years ago the Auditor-General prepared a report for the Department of Human Services on this very issue. His report listed several recommendations that should have been picked up by DHS. Their response to that was in effect that they believed things were going okay. I would like to put on record the response that the DHS gave to the Auditor-General's report:

> DHS believes that consultation for the reform process has been extensive and fully consistent with the recently released 'Collaboration and consultation protocol for the Department of Human Services and the health, housing and the community sector'.

It goes on to say:

> DHS agrees with the report's view that capacity assessment is a vital component in managing reform. Work currently under way on the Family and Placement Services Sector Development Plan is examining sector capacity in terms of both staffing needs; funding models; and physical and systems infrastructure. DHS is confident that this will assist future service development.

I would like to read the Auditor-General's response. The last paragraph states:

> I consider that a sound approach to strategic planning for public sector reform has two components: rational or intentional and responsive or emergent. DHS' approach to reform was unbalanced because of its undue reliance upon an emergent approach.

Effectively, the Auditor-General is saying that DHS has become too emergent and too responsive in the way it is going about providing these services.

The major concern of The Nationals, which we will address, is something we have spoken to the government about. We would like to sincerely thank the staff who have helped us prepare for the passage of this bill through the house. We have been given an enormous amount of support with regard to the legal standing of this bill.

We have one major concern, which we will discuss with the minister in the committee stage; we will need some assurances in relation to the administration component of this bill. In effect, if the government is not happy that the agencies are being run efficiently or competently, then it will be able to install an administrator. We need to ask the Minister for Aged Care if he is prepared to provide some assurances on that. We will do that in the committee stage.

The government contributes about 52 per cent of the total business income of Mallee Family Care. Another 10 per cent or 12 per cent of the service's business is done with the Australian government and about 25 per cent is done with the New South Wales government. A separate entity within the business operates Chances for Children. It has philanthropic people and businesses bringing money in. People from all around Victoria are donating money to these organisations, which will be at risk of having the government come in and look for disclosure of all their business and put in an administrator if it is unhappy with the process. We will talk about how one government can move in on an organisation which has many different forms of income and different forms of business with other governments. We will seek responses about how that is going to work and the various steps that need to be put in place to satisfy everybody. There needs to be a transparent stepping process for how that is put in place. Hopefully that can be handled in the committee stage of the bill.

In closing, there are blanket concerns across the whole sector. There is a genuine concern that this sharing of responsibilities is not as it would seem from the second-reading speech. The fact is the bill is worded so that we are looking at the best interests of the children. The agencies cannot oppose this bill, and we will not oppose this bill providing we get some assurances from the minister. We need to look at this to make sure the best interests of the children are pursued. We need to help the agencies so they can find more and more families who are prepared to open up their houses to problematic children. That will give us greater choice and better-quality foster homes so we can enhance these children's chances of picking up normal lives. If that means that some government agencies need to shoulder more responsibility than others, so be it. If that means a true sharing of responsibilities works, so be it.

We need to ensure that we truly have the best interests of the children at heart, that we do not just talk the talk but that we put in place the best legislative processes

and the best framework to get the best outcomes. If that is the case, we will support this legislation all the way.

Hon. C. D. HIRSH (Silvan) — The Children, Youth and Families Bill is one of the outcomes of the government's policy statement *A Fairer Victoria — Creating Opportunity and Addressing Disadvantage* which was released earlier this year. The government's white paper, *Protecting Children — The Next Steps*, released in early August, has been widely distributed and discussed. It builds a policy framework for vulnerable children, young people and families and provides a base upon which the Children, Youth and Families Bill has been developed. It is absolutely crucial that children and young people have the best possible start in life. This bill is aimed at protecting vulnerable children and young people and, crucially, proactively helping them to grow up healthier and happier and better able to reach their potential.

I am not going to go into too much detail about the bill itself, because it would take too long, but I want to speak very briefly about the principles of the bill, particularly clause 10, which talks about best-interest principles, clause 11, the decision-making principles, and in particular clause 12, which states:

> (a) in making a decision or taking an action in relation to an Aboriginal child, an opportunity should be given, where relevant, to members of the Aboriginal community to which the child belongs and other respected Aboriginal persons to contribute their views;
>
> (b) a decision in relation to an Aboriginal child, should involve a meeting convened by an Aboriginal convener who has been approved by an Aboriginal agency and, wherever possible, attended by —
>
> (i) the child; and
>
> (ii) the child's parent; and
>
> (iii) members of the extended family of the child …

This will hopefully enable the very large, out-of-proportion number of Aboriginal children currently in protection to remain with family and at least have continual contact with their culture and elements of their families.

The protection of children and the support of families to enable them to do their best for their children is not just a matter for community service or government; it is a much wider community responsibility. In the 1980s when I was a member of Parliament we got going the first program in simple parent education, teaching parents how to be good parents. For some parents this is what is needed. The birth of children can cause quite a lot of trauma for people who do not know how to parent, and often fairly simple intervention early on can prevent further problems later.

Reforms are needed because early intervention when families first show signs of difficulty can help to improve resilience generally and allow healthy child development to take place. It can often either reduce or prevent altogether child abuse which can arise out of severe stress suffered by parents. Too often families with complex problems end up bouncing between child protection and family support services without a lasting response to their problems. One of the issues is to do with research over the last decade or so on child development, particularly a greater understanding of the development of the nervous system showing that a basic and critical ingredient for optimal development is stability, and because of this understanding and knowledge a different approach is absolutely essential in the child protection area.

Professor Frank Oberklaid, the director of the Centre for Community Child Health at the Royal Children's Hospital, has stated that the legislation has the strong support of the children's hospital and the paediatric community. He recently wrote a paper, which I have read, addressing research on the developmental needs of young children in which he stated that a common theme in the voluminous literature on children's development, especially that of younger children, is the need for stability in the early years in particular. He said:

> Meeting the developmental needs of young children is not only a moral imperative but also has consequences —
>
> developmental consequences —
>
> beyond childhood. The experiences a young child has sets him or her on a developmental trajectory that has a profound impact right throughout the life course.

If a young child's developmental need is not met — and the basic developmental need is stability — it can cause ongoing problems throughout the child's life. Brain development can be limited and can be set off track by a neglectful or abusive environment, and we know that well. Stress and distress in childhood increases vulnerability in many domains — physical, developmental and emotional. Professor Oberklaid emphasises in his paper that for normal brain development to take place, and for children to learn everything they need to learn to live a happy and successful life, they first need stability in their primary caring environment. This is why the times have changed concerning removal of children from parents.

The first and hopefully last step will be support for families so that the child can remain in the best possible

environment when it is a good one — that is, with the family, where stability, care and love can be provided on an ongoing basis with proper support. However, if the situation in the family is so serious that the child has to be removed, it is important that time frames are put in place to enable stability to be again part of the child's experience. If the child is shuttled back and forth from a difficult home into care, home again and then back into care, that stability will be lacking and the child's development will be interfered with. For a child under 2 who has been in out-of-home care for one or more periods and the time frame totals 12 months, then permanent out-of-home care will take place. As the child grows older there will be longer time frames. Those early years are so crucial for a child's future development that it is the most important time to intervene and ensure that stability is provided.

The issue of the voluntary agreement mentioned by Ms Lovell is a good thing when it is used for what it is meant to be used for. There have been no increases in voluntary agreements over the last two years, but it is a good preventative tool to be used for parents who may need respite care during a stressful family event or where a child has a disability. It is an area that you would not want to remove because it enables parents to receive support at a time when they are in crisis, and the child will be allowed to go back home.

If the Victorian Civil and Administrative Tribunal is hearing a Department of Human Services complaint, the tribunal will have qualified people who understand the area. Under this legislative model there will be greater use of family conferencing, and the use of forms of dispute resolution other than adversarial situations will be much increased. We hope that will prevent a great deal of pain, complaint and other forms of problematic relationships between services and families.

I am not going to go on for too much longer because it is almost 10 o'clock, but altogether this bill is going to look at the child's development as a primary focus in a family environment where possible; but where it is not possible, the focus will be on a stable environment. That is at the core of the bill, and I commend it to the house.

Hon. B. N. ATKINSON (Koonung) — This legislation is generally supported by the Liberal Party because it seeks to introduce a regime which is perhaps more supportive of children and certainly involves non-governmental agencies' support as well as a range of services that one would expect would provide an enhanced opportunity for young people and for children to develop well, happily and safely in their living environment. But our concerns about the legislation were well outlined by the Honourable Wendy Lovell in her contribution this evening. The house is obviously aware that the opposition plans to pursue a number of amendments to this legislation to ensure that it works more effectively.

This bill is a very comprehensive piece of legislation. I would suggest that it is rather prescriptive legislation in some parts, while in other parts it will perhaps be open to a great deal of interpretation by people. In many cases one might argue that the ability to interpret this legislation is going to be appropriate. In other places it might be that the level of interpretation of the legislation available could well cause continuing problems in terms of addressing the needs of children and young people in families that are disrupted or families that have suffered a range of problems and become dysfunctional.

One of the most important aspects that the Honourable Carolyn Hirsh touched on in her contribution was about the importance first and foremost of trying to raise children in a family environment. While she made considerable comment on the importance of stability and the fact that research shows the importance of stability for young people — and I do not resile from that completely — I have to say there is no substitute for the family bonds, a hug and having your parents and siblings around you. If it is possible for us to ensure that we can provide the support to families so that they do not become dysfunctional and so that they are able to provide proper care to children, that ought to be our objective.

It is fascinating that as this legislation passes today, the government chose last week not to proceed with legislation addressing domestic violence, because many of the children in these homes are subjected to the ramifications of domestic violence. There are also issues of alcoholism, drug use, gambling and other problems. There is a range of issues but probably those most prominent have a marked effect on some families and on the ability of some parents to deliver proper care and a sound developmental environment for young people. The term that the Honourable Carolyn Hirsh used — and I agree with it — is 'good parenting'.

I think this legislation goes some way towards trying to achieve that result. As I said, there are a number of opportunities for bringing additional facilities or resources to support families in raising their children. I welcome those opportunities as they are outlined in this legislation, particularly with regard to therapeutic treatment orders and so forth.

I note also changes to the protection orders and the way in which criminal activities are likely to be treated in the future. For the most part there are a number of improvements in that process. I have some real concerns and do not share the enthusiasm that the Honourable Carolyn Hirsh has, and presumably the minister has, for the Victorian Civil and Administrative Tribunal to be the administrative body that handles some of these matters brought by the Department of Human Services in regard to the arrangements that might be provided for a young person who is seen to be at risk. I am concerned that VCAT is becoming a very jumbled mess of jurisdictions and responsibilities. I am very concerned about the capacity of VCAT to judge some of these matters because it simply, from my perspective, does not seem to have the people who have the qualifications and experience to assess some of these matters.

Child protection is a very important area. My wife is a teacher, and I know that she, many of her colleagues and a range of people with whom I have discussed the issue of child protection have indicated some real continuing concern about mandatory reporting and about being able to identify children who might be at risk or who might have suffered as a result of some inappropriate behaviour by parents or someone else in the home or external to that home. The consequences of the making of inaccurate reports are significant. People who had been accused of abuse have come to my office claiming that they have suffered as a result of mandatory reporting. Although the claims were not substantiated, the knowledge of the reports being lodged had been fairly widely circulated and in some cases had serious ramifications for people.

In terms of mandatory reporting I think most members of the house would agree that at the end of the day the bottom line is the safety and health of the child. The child must have the ability to live their life in a safe environment. They must be allowed every opportunity of developing through education, but also with adequate provision of food, clothing, shelter and the support and encouragement that we know is so important to our growth as individuals and to any learning outcomes that those young people might have.

As children grow older and particularly as they enter their adolescent years in particular we need to ensure that they have a value system so they will appreciate right from wrong and will be far less likely to become participants in our juvenile justice system and narrow their opportunities in life because of circumstances they might become involved in. Perhaps some young people do not appreciate what is expected of them as citizens and what their responsibilities are as much as what their rights might be.

In terms of this legislation I am a little concerned about some of the time lines that have been introduced. Whilst the Honourable Carolyn Hirsh suggested that they were appropriate and saw them as being very important in providing stability to a young person, one of the concerns I have is that whilst they might well be appropriate in the sense of interventions, there still needs to be the ability to bring children back into families where primary issues that have caused dysfunction have been addressed and risk factors removed. For instance, I might be talking about alcoholism, drug taking, gambling or such like, where a parent or parents, a sibling, or carers or guardians in a home environment, have addressed those primary issues of substance dependency or whatever. Where those problems have been addressed and reconciled there seems to me to be an opportunity to look at putting such children back into a family environment.

I recognise that stability is important, and I see the point that was being made — that it is not in a child's best interests to be pushed backwards and forwards from institutional care, or from non-family care back into the family for a stint and then back into care somewhere else. I understand that is a problem, but I think that there are circumstances in which it is possible to reconcile family circumstances, particularly if the support packages are there. I hope that is not lost as a result of what I would see as some of the prescriptive elements of this legislation.

I will make one comment in terms of the provisions for Aboriginal children within this legislation. I appreciate the cultural sensitivities of Aboriginal people and the fact that their nurturing processes for children perhaps can be different to what we would espouse as people coming from predominantly European backgrounds, or indeed from areas in Asia. Perhaps there are some different cultural aspects to the way in which we would nurture our children, but can I suggest that the same sensitivity that applies to those Aboriginal family relationships, which I think are important and which I commend in the bill, ought to extend to all children and all cultures. In other words, I am not sure that there is necessarily a need to draw some of the distinctions that are drawn in this bill — that is, to distinguish Aboriginal families from other families in the community — because I believe that the same sensitivities apply to all relationships, notwithstanding the fact that some of us might apply some different approaches to the way in which we nurture our children and help them grow and develop.

As I said, the principal bottom line for all of us has to be the safety of children and the fact that children are not put at risk. I have a lot to do with Joe Tucci, who was mentioned earlier in the debate, from Australians Against Violence. That organisation has done a fabulous job in terms of putting abuse of children and violence against children on the agenda and developing public policy to address some of those issues.

As I said, it is unfortunate that the other legislation on domestic violence was pulled by the government and not proceeded with, particularly in this week of all weeks. I understand that we will be wearing white ribbons on Thursday for a day of defiance against domestic violence, which ought to be repudiated as should any situation where violence occurs and affects the development of our children.

I congratulate Joe Tucci and his organisation on their contribution to so much of the public policy debate. I believe that they have had a fair input in terms of their thinking and the work that they have done on this legislation. This legislation is a move in the right direction, but I will be supporting the amendments to be moved by the Honourable Wendy Lovell because I think they will achieve a greater workability and will address a number of issues of concern in the principal legislation. I make those comments notwithstanding that fact that the bill is moving in the right direction and hopefully will introduce a regime of greater protection for children and of helping children to be removed from risk situations, but also of having a view towards supporting families wherever possible.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Victorian Opera: artistic director

Hon. ANDREA COOTE (Monash) — My adjournment matter this evening is for the Minister for the Arts in the other place. It concerns the Victorian Opera, a company recently launched by the minister with a great deal of flourish but not a great deal of detail. When it was first announced there was the appointment of a chairman, Michael Roux, but no artistic director. Last week the government announced that Richard Gill had been appointed as artistic director of the newly formed Victorian Opera company.

There are many questions and problems surrounding this opera company. For example, we have still not been told when it will start performing or where it will perform. It was supposed to support both Melbourne Opera and the Melbourne City Opera, which have been operating quite successfully for some time. I record my praise for Lady Primrose Potter, who has been behind Melbourne Opera, and the opera company, which has done excellent work. It has won awards and encouraged young people in the state to be involved with the company. It has put on some excellent operas with a high grade of performance. It has given opportunities to a lot of young people.

Victorian Opera, which was recently announced by the Minister for the Arts in the other place, could have built upon the strengths of Melbourne Opera and enhanced the excellence, programming, costume design, lighting, theatre sets and all that goes with a successful opera company. The minister could have enhanced what was already here; but no, we had the light and sound but no substance, which tends to be a hallmark of what the minister puts out.

The main problem with the appointment of Richard Gill last week is that he is based in Sydney. In this state one of the criticisms of the Australian Opera is that it is Sydney based and very Sydney-centric, and we do not get a fair Melbourne input into its operas. The appointment of Richard Gill is another Sydney appointment which should not have happened. We have some excellent people in this state, and it is about time we promoted them and gave them an opportunity to flourish in Victoria. I do not believe we have to look interstate to find somebody. The job was not properly advertised. In fact, I do not know that it was advertised at all.

My question is: why did the government choose to appoint a Sydney identity to the position of artistic director when within the state of Victoria there was clearly a list of capable talents to choose from for this position?

BreastScreen Victoria: Geelong

Ms CARBINES (Geelong) — I wish to raise a matter with the Minister for Health in the other place concerning the very important provision of BreastScreen Victoria services to women who live in the Geelong region.

Over the last few days the Geelong media has reported that there is uncertainty about the ongoing provision of BreastScreen services in Geelong when the current provider, the St John of God Hospital, ceases to operate

the service at the end of the year. Indeed, suggestions have been made in the media that women are no longer able to book appointments in Geelong for this vital service, and this has caused much concern and anxiety for women living in the region, particularly as it was suggested that women would have to travel to Melbourne to access BreastScreen services from the end of the year. On top of that, today the *Geelong Advertiser* raised concerns about the lack of availability of stereotactic biopsies for women living in the Geelong region due to equipment failure.

These articles have provoked much anxiety amongst Geelong women. As a member for Geelong Province I have received many calls from concerned constituents who are upset about what they perceive to be a real threat to the successful BreastScreen service, which screens 12 000 local women a year. Media statements issued today in Geelong have sought to assure women that they can continue to make appointments and that services will be available as normal at the Barwon Health Belmont clinic until a permanent location for BreastScreen is determined in Geelong.

This is very welcome news indeed, but I am concerned that until the permanent site for BreastScreen is identified there will continue to be negative speculation about the continuity of this service in Geelong. I therefore ask Minister Pike to ensure that negotiations are completed as quickly as possible in relation to the future site of Geelong BreastScreen and that sufficient funding be made available to ensure the purchase of a new stereotactic biopsy machine.

Timber industry: *Sustainability Report*

Hon. E. G. STONEY (Central Highlands) — I have a matter for the Minister for Agriculture in the other place, Mr Bob Cameron. The Victorian Association of Forest Industries (VAFI) launched its 2005 *Sustainability Report* at its annual dinner last Friday night. The dinner was compered by Craig Willis, and the guest speaker was Mr Weatherman and conservationist, Rob Gell. The president of VAFI, Greg McCormack, was host of the dinner, and he and chief executive officer Patricia Caswell spoke about the forward vision for VAFI including the *Sustainability Report.*

Ms Caswell made the point:

> Many in our community are caught in a blockade mentality. They are either for or against forestry — that is an unsustainable position. The timber industry can provide a model to go forward into forest sustainability.

In launching the *Sustainability Report* Rob Gell said he liked some sections and had a problem with others, but he commended the report as a valuable document. He said in a piece he wrote, which is published in the report:

> I am enormously encouraged by the current initiatives of VAFI in progressing a broad stakeholder-based sustainability agenda for the Victorian timber industry.
>
> After many years of antagonism I believe that at long last a genuine attempt is being made to engage with the community at a range of levels. This is fundamental to a sustainable timber industry.

I quote him again:

> The generation of VAFI's first sustainability report to internationally accepted guidelines will provide the cornerstone for a framework that will demonstrate an intention of openness and a genuine attempt to be receptive to a range of views on a sustainable timber industry for Victoria.
>
> I am optimistic about the potential of this process.

Minister Cameron also wrote a piece for the report. He opened by saying:

> The Bracks government is committed to a sustainable forest industry in Victoria.

The minister's words are just words. They are very easy to say. I therefore ask the minister to put his words into practice. I ask him to begin to actively support the industry, which is under serious threat from this government.

Public transport: New Year's Eve

Ms ROMANES (Melbourne) — I wish to raise a matter with the Minister for Transport in the other place, Mr Peter Batchelor. We are approaching the Christmas–New Year holiday period and questions are being raised about what arrangements will be in place for public transport on New Year's Eve. We are noticing that Melbourne's public transport system is proving increasingly capable of successfully moving very large numbers for major events in this major city. Most of those who go to the grand prix go to that event by public transport, as do increasingly large numbers during the Spring Racing Carnival and other major sporting events.

Public transport services were extensive on New Year's Eve last year, and I congratulate the government on the way those transport services were handled. I hope we have the same success and achieve a similar movement of people this coming year. It is a particularly challenging task on New Year's Eve to move such a large number of people in such a short time frame — it

has been described as a tidal wave going in and out of the city.

It is important to prepare and forewarn people planning activities about what services they can expect, whether they are event organisers, traders, families or individuals. Therefore I request that the minister provide details to the community of the government's plans for public transport services in and out of Melbourne on New Year's Eve this year.

Locusts: control

Hon. DAVID KOCH (Western) — My matter for the Minister for Agriculture in the other place concerns the emerging plague locust threat to Victoria. Western Province farmers are very concerned that record locust numbers now hatching in northern Victoria have the potential to devastate crops and pastures below the Great Divide. The ability of locusts to form into dense swarms then to migrate over large distances means that all farmers need to be vigilant in controlling hatching locusts. Locusts have the potential to reach plague proportions after good rains, which have fallen recently.

Outbreaks generally originate in the channel country of south-west Queensland and adjacent areas of South Australia and New South Wales, and, if undetected, swarms can migrate into the agricultural areas of Victoria. There is a higher than average risk that interstate migratory locust swarms will reach southern Victoria this summer. In addition, locust eggs in southern New South Wales commenced hatching in October and are now forming into large bands. The Australian Plague Locust Commission is monitoring this threat.

The Department of Primary Industries has been receiving reports of Australian plague locust eggs hatching across Victoria. It is undertaking surveys to monitor the threat and advising farmers to act now to minimise the risk. For the first time in at least 30 years aerial surveys have identified large numbers of hoppers that will soon develop into adults. Hoppers have been found across northern Victoria and into Gippsland, with hatchings confirmed in over 140 separate locations. Hatchings have also been discovered near Maryborough in central Victoria. Clearly the potential to devastate agricultural districts across the state is very real. By eating up to half their body weight each day, swarms consume up to 10 tonnes of vegetation per day. High-density swarms can destroy up to 200 tonnes of vegetation in one day.

Locust swarms are very mobile and have the capacity to travel long distances in one night when carried on strong warm northerly winds. Summer crops are most at risk as they are often the only green vegetation around. Land-holders are being advised to spray hoppers to reduce pasture and crop damage now, as once they form into adults they will be more difficult to control and have the potential to cause millions of dollars worth of damage to Victorian agriculture.

Will the minister guarantee there are adequate resources available to assist land-holders and the Department of Sustainability and Environment to control locust outbreaks before they reach plague proportions below the Great Divide, especially in western Victoria and the Wimmera?

Motor vehicles: government fleet

Hon. J. G. HILTON (Western Port) — My adjournment matter this evening is for the attention of the Minister for Finance in his capacity as having the ultimate responsibly for managing fleets of cars which are used in the public sector.

I obtained my licence 40 years ago and since that time safety features on vehicles which were originally options have become standard. Safety features which are now available on many models include side impact protection systems, driver and passenger airbags, anti-lock braking systems, traction control and pre-tensioned seatbelts. The next feature which will ultimately become common is the global positioning system (GPS), which is another safety feature and not a convenience feature.

Many members of the public sector drive many thousands of kilometres a year on public sector business, sometimes on unfamiliar roads and at night. Having a GPS system would obviate the necessity of consulting a *Melway* and enable full attention to be devoted to driving, increasing not only driver safety but also the safety of other road users. I ask the minister to investigate the practicality of including GPS as an allowable option when it is available on approved vehicles.

Gas: Merbein supply

Hon. B. W. BISHOP (North Western) — My adjournment issue tonight is directed to the Minister for Energy Industries. The action I require of the government is the connection of the township of Merbein to the natural gas grid that services the Mildura area. The Merbein Development Association has raised this issue with me, citing that the government has trumpeted a figure of $70 million to take natural gas to regional Victoria and that in 2002 the minister met

with Merbein community representatives and sought expressions of interest in natural gas connection.

Nothing has happened since that time, and now community members are asking the association when natural gas connection is likely, because this will alter what they purchase to heat their homes or to cook their food in the future. I have noted the minister's comments that the Bracks government continues to deliver for rural and regional communities, with $70 million included in the 2003–04 state budget to extend the natural gas network throughout country Victoria.

Merbein is a go-ahead township which has a number of industries operating in it, many of which would benefit from the introduction of natural gas. The pipeline to Mildura is actually connected to infrastructure in South Australia and actually passes Merbein to reach Mildura.

The government's own *Energy for Victoria* report shows an inclination by the government to encourage residents to find alternatives to using firewood to heat their homes and cook their food. The government has effectively banned people from collecting firewood, so it has a responsibility to provide an alternative, such as natural gas. I suspect the question is: when is the government going to actually adhere to its own environment policy regarding renewable and clean energy and provide natural gas to townships such as Merbein?

The action I seek from the minister is to facilitate the connection of Merbein to natural gas, which should be a simple process given the fact that the main gas line is readily accessible.

Footscray: transit city project

Hon. S. M. NGUYEN (Melbourne West) — I raise a matter for the attention of the Minister for Major Projects. Today I received a media release from the Minister for Planning in the other place under the headline 'Full steam ahead for Footscray transit city vision'. This is good news for Footscray — it shows that the Bracks government is keen and committed not only to the Footscray community but to the other 13 transit cities across Melbourne.

Footscray is a multicultural city, and the city of Maribyrnong has changed a lot in the last decade. Many multistorey apartment blocks are being developed — many buildings will be completed in the next few years and many are waiting to be built. Because Footscray is so close to the city and the Docklands it is accessible to the city by bus, train and tram. The City of Maribyrnong has a good policy on multistorey apartments in Barkly Street. It will be a great investment for the future.

The government, through its agency VicUrban, is developing a business case to attract more business investment into Footscray. The transit city project is a good step, with the announcement of a $250 000 tourist refurbishment of the mall and the appointment of a project manager. The redevelopment of the Footscray Mall will help improve this project, which will rejuvenate Footscray by transforming the public open space of the mall, improving the pedestrian facility and improving and upgrading Maddern Square. A full-time project manager has been appointed at the Maribyrnong council, and the appointment is about creating a web design for the renewal and regeneration of the area. It is well located, and there is mixed development around key transport modes. There is a mix of housing, and there are employment and community facilities.

Recent Footscray transit city work includes the construction of a new $14.4 million police complex at the corner of High and Napier streets, $100 000 for a car park upgrade on the site and $400 000 for the upgrade of the underutilised Maddern Square, which is off Nicholson Street. The first application for the new priority development zone in the Footscray railway precinct involves $30 000 for the first stage and $50 000 for Victoria University to develop a cultural project.

A few months ago I organised a meeting between the Footscray Asian Business Association and Maribyrnong council officers to discuss issues concerning the Footscray Mall. FABA wants a welcoming arch to be part of the overall project. The association is keen to see the commencement of the project and has asked for participation in it.

I ask the minister to assist FABA by having professional support provided by the planning ministry, the project manager and council officers, by inviting the association to be part of the planning committee and by supporting the location for the new centre for the arts.

Western Port Highway: upgrade

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Transport in the other place. I have become aware of traffic congestion along the Western Port Highway, through to and including the Monash Freeway. This is quite a revelation, and the constituents that I have the honour to represent are expressing concern about the increasing transit times, complexity and congestion that goes with transit along

the Western Port Highway, through to and including the Monash Freeway.

In particular there is a notable growth in congestion at the intersections of Thompsons Road and Western Port Highway and Hall Road and Western Port Highway in the Lyndhurst area. In discussing the congestion and lack of improvements along the Lyndhurst section of Western Port Highway it would be remiss of me if I did not mention the dangerous traffic lights that were installed by the City of Casey and VicRoads at the intersection of Moreton Bay Boulevard and Western Port Highway. The traffic lights are dangerous, and the road is even aligned differently in that section. It is the first set of traffic lights you come across after leaving Geelong and travelling all the way to the Lyndhurst area. The lights create a very dangerous intersection and must be removed.

I want to make a constructive suggestion that the minister take the opportunity to improve the circumstances for many of my constituents who depend on the Western Port Highway and the so-called Monash Freeway — I call it the Monash Parking Lot — because an extra lane could be added to the freeway. Many of my constituents — I am included among the people who are making this representation because I use what I call the Monash and the Western Port car parks — believe serious consideration should be given to extra capacity on the Monash Freeway, because that is certainly needed.

Will the minister request VicRoads to urgently carry out an efficiency study on the sections of the Monash Freeway and Western Port Highway that I have mentioned, with the aims of adding extra lanes on the Monash Freeway and removing the dangerous lights at the Western Port Highway–Moreton Bay Boulevard intersection at Lyndhurst?

Monash Medical Centre: lost property

Hon. ANDREW BRIDESON (Waverley) — I wish to raise an issue tonight for the Minister for Health in the other place, the Honourable Bronwyn Pike. It relates to the hospital admission of one of my constituents, Mr Adrian Stevens of Jells Road, Mulgrave, who has given me permission to use his name. He was admitted to Monash Medical Centre on 29 October 2003 after suffering an epileptic fit. He was taken by ambulance to the hospital, but he tells me that he lost some property either in the ambulance or in the emergency department of Monash and is seeking reimbursement for these lost items. He lost a baseball jacket, which he tells me is worth about $500, but probably more importantly he lost two pairs of prescription glasses. He has been through the process of applying for reimbursement for these lost items and the hospital saw fit to reimburse him the amount of only $76. I have copies of receipts for the purchase of his spectacles from OPSM. One pair cost him $500 and the other pair appears to have cost him $326, so there is a discrepancy between the amount that he was reimbursed and the amount that the glasses actually cost him.

I understand the reason the hospital has given for not paying the full amount is that the receipts for the spectacles were dated after his admission to the hospital. In other words, he could not provide the receipts for his original spectacles, and the Monash Medical Centre must have some policy to not reimburse in such circumstances. I note from reading the lengthy file which has been given to me that it is policy not to reimburse any patients who lose property in either ambulances or emergency departments. That seems a little unfair, because a lot of people cannot afford the cost of replacing lost items.

I ask the minister to fully investigate this case on behalf of my constituent, and hopefully the issue can be resolved in favour of Mr Stevens.

Murray Valley Highway: speed zones

Hon. W. R. BAXTER (North Eastern) — I raise a matter for the attention of the Minister for Transport in the other place. It concerns the location of speed restriction signs on country highways. In the house several times previously I have expressed my concern that often these signs are located at too great a distance from country hamlets. This means that motorists are forced to drive at the reduced speed limit well past any residences or buildings in the hamlets, and this tends to bring the speed restriction signs into disrepute.

The particular case I want to bring to the minister's attention tonight concerns a location on the Murray Valley Highway between Cobram and Strathmerton. The village of Yarroweyah has for a long time had 80-kilometres an hour speed restriction signs at each end of the town, and that is appropriate. There is a service station located 3 kilometres east of Yarroweyah at the intersection of the Goulburn Valley Highway and the Murray Valley Highway. There have not previously been speed restriction signs in that location, but signs have recently been erected showing a speed limit of 80 kilometres an hour.

I do not object to that, I think it is quite appropriate that there be a restriction at that intersection. Regrettably, however, whoever took the decision to have the signs installed also took the decision, apparently without having any knowledge of the local area, to impose a speed restriction of 80 kilometres an hour along the whole 3 kilometres from the intersection of the highways to Yarroweyah, despite the fact that the road runs through rural farmland without any houses or industry whatsoever.

Motorists find it quite a nuisance, to put it mildly, to be forced to travel for such a long distance at 80 kilometres an hour when it does not seem necessary. There ought to be two separate speed restriction zones and a return to a speed limit of 100 kilometres an hour in the intervening distance. The way it is at the moment can only lead to speed restrictions being brought even more into disrepute, and I ask the minister to have a look at the situation with a view to finding a remedy.

Responses

Mr GAVIN JENNINGS (Minister for Aged Care) — The Honourable Andrea Coote raised a matter for the attention of the Minister for the Arts in the other place. Mrs Coote was seeking some local remedy and result in relation to the appointment of the artistic director of the Victorian Opera company and hoped there would be some demonstration or performance within Victoria of the new opera company. She sought from the minister a guarantee of connectivity between the Victorian Opera company and the Victorian community.

Ms Carbines raised a matter for the attention of the Minister for Health in the other place, seeking support for breast-screening services in Geelong.

The Honourable Graeme Stoney raised a matter for the Minister for Agriculture in the other place. He actually asked him to put his words into practice.

Ms Romanes raised a matter for the attention of the Minister for Transport in the other place, seeking his support to ensure that there be an appropriate resource allocation and timetabling provision so that New Year's Eve revellers can return home from celebrations in the city.

The Honourable David Koch raised a matter for the attention of the Minister for Agriculture in the other place, seeking his support to guarantee sufficient resource allocation to assist landowners and the Department of Sustainability and Environment and the Department of Primary Industries, in particular, to ward off the ravages of the impending locust plague.

The Honourable Jeff Hilton raised a matter for the attention of the Minister for Finance, seeking his examination of the appropriateness of providing global positioning systems in the public service car fleet as a matter of safety and providing greater — —

Hon. W. R. Baxter — For those who do not know where they are.

Mr GAVIN JENNINGS — Exactly; for those of us on the planet this would be of great assistance, I understand.

The Honourable Barry Bishop raised a matter for the Minister for Energy Industries. I would like to give Mr Bishop an award for being parliamentary friendly. He was the first person to raise an adjournment matter in which he identified the issue straight up front, and I appreciate that fact. With that preamble, I repeat that Mr Bishop's matter was for the attention of the Minister for Energy Industries, seeking his support to make gas connections to Merbein.

The Honourable Sang Nguyen raised a matter for the attention of the Minister for Major Projects, seeking his support for the full implementation of a redevelopment in the Footscray transit city proposal and, in particular, the redevelopment of the Footscray Mall within the context of that redevelopment.

The Honourable Ron Bowden raised a matter for the Minister for Transport in the other place. I think the member has a one-off interest in road matters. In particular, Mr Bowden asked for an examination of the effectiveness and efficiency of the Western Port Highway and the Monash Freeway.

The Honourable Andrew Brideson raised a matter for the attention of the Minister for Health in the other place on behalf of a constituent, Mr Stevens of Mulgrave, who, following an admission to Monash Medical Centre in October 2003, lost some property and has not to his satisfaction received compensation for that lost property. Mr Brideson has asked the minister to examine the issue and to seek a remedy for Mr Stevens.

The Honourable Bill Baxter raised a matter for the Minister for Transport in the other place which basically boiled down to the fact that a traffic speed restriction seems to be applied to an overly lengthy distance in the precinct of Yarroweyah, given that there is effectively a 3-mile buffer of an 80-kilometre-an-hour zone. I congratulate Mr Baxter on

being the only member of Parliament in recent memory to use the word ‘hamlets’. I will refer that matter to the Minister for Transport.

The PRESIDENT — Order! The house stands adjourned

House adjourned 10.41 p.m.