PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 26 February 2009

(Extract from book 2)

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

By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

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Minister for Community Development and Minister for Energy and Resources	The Hon. P. Batchelor, MP
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Minister for Planning	The Hon. J. M. Madden, MLC
Minister for Sport, Recreation and Youth Affairs, and Minister Assisting the Premier on Multicultural Affairs	The Hon. J. A. Merlino, MP
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Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Roads and Ports	The Hon. T. H. Pallas, MP
Minister for Education	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects	The Hon. T. C. Theophanous, MLC
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Assembly committees

Privileges Committee — Mr Carli, Mr Clark, Mr Delahunty, Mr Lupton, Mrs Maddigan, Dr Napthine, Mr Nardella, Mr Stensholt and Mr Thompson.

Standing Orders Committee — The Speaker, Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell.

Joint committees

Dispute Resolution Committee — (*Assembly*): Mr Batchelor, Mr Cameron, Mr Clark, Mr Holding, Mr McIntosh, Mr Robinson and Mr Walsh. (*Council*): Mr P. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik.

Drugs and Crime Prevention Committee — (*Assembly)*: Ms Beattie, Mr Delahunty, Mrs Maddigan and Mr Morris. (*Council*): Mrs Coote, Mr Leane and Ms Mikakos.

Economic Development and Infrastructure Committee — (*Assembly*): Ms Campbell, Mr Crisp and Ms Thomson. (*Council*): Mr Atkinson, Mr D. Davis, Mr Tee and Mr Thornley.

Education and Training Committee — (*Assembly*): Mr Dixon, Dr Harkness, Mr Herbert, Mr Howard and Mr Kotsiras. (*Council*): Mr Elasmar and Mr Hall.

Electoral Matters Committee — (*Assembly*): Ms Campbell, Mr O'Brien, Mr Scott and Mr Thompson. (*Council*): Ms Broad, Mr P. Davis and Mr Somyurek.

Environment and Natural Resources Committee — (*Assembly*): Ms Duncan, Mrs Fyffe, Mr Ingram, Ms Lobato, Mr Pandazopoulos and Mr Walsh. (*Council*): Mrs Petrovich and Mr Viney.

Family and Community Development Committee — (*Assembly*): Mr Noonan, Mr Perera, Mrs Powell and Ms Wooldridge. (*Council*): Mr Finn, Mr Scheffer and Mr Somyurek.

House Committee — (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Delahunty, Mr Howard, Mr Kotsiras, Mr Scott and Mr K. Smith. (*Council*): The President (*ex officio*), Mr Atkinson, Ms Darveniza, Mr Drum, Mr Eideh and Ms Hartland.

Law Reform Committee — (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan and Mr Foley. (*Council*): Mrs Kronberg, Mr O'Donohue and Mr Scheffer.

Outer Suburban/Interface Services and Development Committee — (*Assembly*): Ms Green, Mr Hodgett, Mr Nardella, Mr Seitz and Mr K. Smith. (*Council*): Mr Elasmar, Mr Guy and Ms Hartland.

Public Accounts and Estimates Committee — (*Assembly*): Ms Munt, Mr Noonan, Mr Scott, Mr Stensholt, Dr Sykes and Mr Wells. (*Council*): Mr Barber, Mr Dalla-Riva, Mr Pakula and Mr Rich-Phillips.

Road Safety Committee — (*Assembly*): Mr Eren, Mr Langdon, Mr Mulder, Mr Trezise and Mr Weller. (*Council*): Mr Koch and Mr Leane.

Rural and Regional Committee — (*Assembly*): Ms Marshall and Mr Northe. (*Council*): Ms Darveniza, Mr Drum, Ms Lovell, Ms Tierney and Mr Vogels.

Scrutiny of Acts and Regulations Committee — (*Assembly*): Mr Brooks, Mr Carli, Mr Jasper, Mr Languiller and Mr R. Smith. (*Council*): Mr Eideh, Mr O'Donohue, Mrs Peulich and Ms Pulford.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

Acting Speakers: Ms Beattie, Ms Campbell, Mr Eren, Mrs Fyffe, Ms Green, Dr Harkness, Mr Howard, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Ms Munt, Mr Nardella, Mr Seitz, Mr K. Smith, Dr Sykes, Mr Stensholt and Mr Thompson

Leader of the Parliamentary Labor Party and Premier:
The Hon. J. M. BRUMBY (from 30 July 2007)
The Hon. S. P. BRACKS (to 30 July 2007)

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. R. J. HULLS (from 30 July 2007)
The Hon. J. W. THWAITES (to 30 July 2007)

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr E. N. BAILLIEU

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. LOUISE ASHER

Leader of The Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
Mr P. L. WALSH

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Lobato, Ms Tamara Louise	Gembrook	ALP
Asher, Ms Louise	Brighton	LP	Lupton, Mr Anthony Gerard	Prahran	ALP
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Blackwood, Mr Gary John	Narracan	LP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
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Brooks, Mr Colin William	Bundoora	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
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Burgess, Mr Neale Ronald	Hastings	LP	Napthine, Dr Denis Vincent	South-West Coast	LP
Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Noonan, Wade Mathew [5]	Williamstown	ALP
Clark, Mr Robert William	Box Hill	LP	Northe, Mr Russell John	Morwell	Nats
Crisp, Mr Peter Laurence	Mildura	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Overington, Ms Karen Marie	Ballarat West	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Pallas, Mr Timothy Hugh	Tarneit	ALP
Delahunty, Mr Hugh Francis	Lowan	Nats	Pandazopoulos, Mr John	Dandenong	ALP
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Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Eren, Mr John Hamdi	Lara	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Foley, Martin Peter [2]	Albert Park	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Fyffe, Mrs Christine Ann	Evelyn	LP	Ryan, Mr Peter Julian	Gippsland South	Nats
Graley, Ms Judith Ann	Narre Warren South	ALP	Scott, Mr Robin David	Preston	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Seitz, Mr George	Keilor	ALP
Haermeyer, Mr André [3]	Kororoit	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Hardman, Mr Benedict Paul	Seymour	ALP	Smith, Mr Kenneth Maurice	Bass	LP
Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Ryan	Warrandyte	LP
Helper, Mr Jochen	Ripon	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [6]	Albert Park	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kairouz, Ms Marlene [4]	Kororoit	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice	Altona	ALP	Weller, Mr Paul	Rodney	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Wells, Mr Kimberley Arthur	Scoresby	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wynne, Mr Richard William	Richmond	ALP
Lim, Mr Muy Hong	Clayton	ALP			

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 2 June 2008
[4] Elected 28 June 2008
[5] Elected 15 September 2007
[6] Resigned 6 August 2007

CONTENTS

THURSDAY, 26 FEBRUARY 2009

Thursday, 26 February 2009

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.34 a.m. and read the prayer.

CONDOLENCES

Bushfires: Victoria

The SPEAKER — Order! I wish to report to the house that I have received messages of condolence in relation to the Black Saturday bushfires from Alex Fergusson of the Scottish branch of the Commonwealth Parliamentary Association; from the vice-president of Chile, Mr Ceroni; from the chairperson of the Aichi Prefectural Assembly, Mr Kurita; from the ambassador of the Islamic Republic of Iran, Mr Movahhedi; and from the speaker of the Republic of Nauru, Mr Akua.

I have also received copies of resolutions passed in the Queensland and South Australian parliaments. The South Australian Parliament resolved:

> That this house expresses its sadness at the tragic bushfires that devastated Victoria on 7 February 2009, extends its deepest sympathies to the families and friends of those who died or who are still missing, sends its condolences to all those affected by the fires and commends the selfless and heroic efforts of all emergency services personnel and others who have responded to the crisis. This house pledges its moral and practical support to everyone involved in the rescue and recovery effort and to the rebuilding of lives and communities. As a mark of respect to the memory of those who perished, the sitting of the house will be suspended until the ringing of the bells.

The Queensland Parliament resolved:

1. That on behalf of all Queenslanders, this house places on record its deep sadness and regret at the tragic loss of life and hurt caused to the people of Victoria by the unprecedented bushfire disaster that has occurred.

2. That Mr Speaker be requested to convey to the Speaker of the Legislative Assembly of Victoria the above resolution together with an expression of the sympathy of the members of Parliament and people of Queensland for the loss sustained by the survivors and families in this disaster.

Mr BATCHELOR (Minister for Community Development) — By leave, I move:

> That the resolutions and associated documents received from the Queensland Legislative Assembly and the South Australian House of Assembly regarding the Victorian bushfires be tabled.

Motion agreed to.

Tabled.

RULINGS BY THE CHAIR

Petitions: attachments

The SPEAKER — Order! In the previous sitting week a point of order was taken by the member for Kew in which he sought some clarity around standing order 46, 'Attachments to petitions'. That standing order states:

> A petition must not have letters, affidavits or other documents attached to it.

The member for Kew also drew my attention to a ruling by former Speaker Maddigan which gave some guidance as to what was meant by 'attachments'. I concur with Speaker Maddigan that the provision of the details of to whom and where to return a petition should not be construed as an attachment. I have a similar view as to the incidental material photocopied on the reverse side of the page. The member for Kew mentioned sports results and similar information that is included in school newsletters. I see no reason to prohibit a petition being tabled because there is text on the reverse side which is inconsequential or irrelevant to the terms of the petition. However, if the reverse side has information regarding the petition other than the name and address showing to whom the petition should be forwarded, then it is inappropriate to table it.

MAJOR SPORTING EVENTS BILL

Introduction and first reading

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I move:

> That I have leave to bring in a bill for an act to re-enact with amendments and to consolidate into one act the law relating to major sporting events and to venues for events, to repeal the Major Events (Aerial Advertising) Act 2007, the Major Events (Crowd Management) Act 2003 and the Sports Event Ticketing (Fair Access) Act 2002, to consequentially amend other acts and for other purposes.

Mr BAILLIEU (Leader of the Opposition) — I ask the minister for a brief explanation of the bill.

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — The bill provides for improved outcomes for the staging of major sporting events, brings all the pieces of event legislation into one and deals with some emerging issues such as unauthorised broadcasting and other commercial issues.

Motion agreed to.

Read first time.

MELBOURNE UNIVERSITY AMENDMENT BILL

Introduction and first reading

Ms ALLAN (Minister for Skills and Workforce Participation) introduced a bill for an act to amend the Melbourne University Act 1958 to facilitate the amalgamation between the faculty of the Victorian College of the Arts and the faculty of music at the University of Melbourne and for other purposes.

Read first time.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 35 to 47, 138 to 140 and 203 to 228 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Housing: Albion property

To the Legislative Assembly of Victoria:

The petition of the residents of Susan Street, Albion 3020, Victoria, as well as surrounding neighbours, draws to the attention of the house:

1. that they strongly object and protest the redevelopment plans at a residential house located at 16 Susan Street Albion 3020, Victoria. As a community the above residents have serious concerns about the redevelopment plans.

The petitioners therefore request of the Legislative Assembly of Victoria the following:

(a) that the proposed demolition plans be cancelled/revoked;

(b) that the nature of the claim be investigated by the appropriate department in question before proceeding with the demolition plans;

(c) that an alternative housing arrangement for the lead tenant facility be looked into by the Department of Human Services which will not be a burden on taxpayers funds.

By Mr LANGUILLER (Derrimut) (86 signatures).

Box Hill Hospital: funding

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the urgent need for the full redevelopment of Box Hill Hospital to proceed without delay.

The medical needs of residents of the eastern suburbs and beyond are suffering because the hospital is struggling to cope with growing numbers of patients, including elderly patients and young families, in the hospital's current old and inadequate facilities. This has resulted in Box Hill Hospital having some of the worst waiting lists and waiting times of any hospital in Melbourne, despite the best efforts of doctors, nurses and other hospital staff.

The petitioners therefore request that the Legislative Assembly call on the Brumby government to provide the necessary funding urgently so the full redevelopment of Box Hill Hospital can proceed without any further delay.

By Ms WOOLDRIDGE (Doncaster) (64 signatures).

Schools: Catholic sector

To the Legislative Assembly of Victoria:

The petition of Victorian residents who choose Catholic education, or support this right of choice, draws to the attention of the house that the level of funding provided by the Victorian state government to Catholic schools is inadequate and discriminates against families who choose a Catholic education for their child/ren.

The petitioners therefore request that the Legislative Assembly of Victoria guarantee funding at 25 per cent of the average cost of educating a child in the Victorian government school system, indexed annually and to provide equal funding for children with disabilities who attend a Catholic school.

By Mr LANGDON (Ivanhoe) (231 signatures).

Police: Red Cliffs

To the Legislative Assembly of Victoria:

This petition of residents of Red Cliffs and surrounding communities in Victoria draws to the attention of the house the need to increase police presence in our district.

The petitioners register their dismay after a weekend of vandalism with damage estimated to be in excess of $60 000 to the local bowling club and private and public property.

The petitioners therefore request that the Legislative Assembly of Victoria take action to increase staff levels at the Red Cliffs police station as a proactive step in ensuring that this criminal activity is not repeated.

By Mr CRISP (Mildura) (60 signatures).

Walpeup research station: future

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the impending closure of the Walpeup research

station as a result of a restructure of the Victorian Department of Primary Industries (DPI).

The petitioners register their opposition to the closure of Walpeup research station, on the basis that it will result in job losses, and have serious ramifications for the community, services and environment.

The petitioners therefore request that the Legislative Assembly of Victoria rejects the DPI restructure and calls on the state government to keep the Walpeup research station as a fully funded and functional DPI facility.

By Mr CRISP (Mildura) (18 signatures).

Rail: Mildura line

To the Legislative Assembly of Victoria:

The petition of the citizens of the region known as Sunraysia, primarily in the state of Victoria but including cross-border citizens of New South Wales centred on the city of Mildura, brings to the attention of the house the many promises to return the Melbourne–Mildura passenger train, without delay.

The undersigned petitioners therefore ask the Legislative Assembly to bring forward the reinstatement of the said Melbourne–Mildura passenger train, especially in view of:

1. the many undelivered promises;

2. the urgent need to promote public transport in a global warming context;

3. the pressing need to connect remote Mildura to both Melbourne and the national rail network; and

4. the geographic distance now requiring a rapid service (very fast train) to be competitive.

By Mr CRISP (Mildura) (32 signatures).

Ambulance services: Mornington Peninsula

To the Legislative Assembly of Victoria:

The petition of residents of the Mornington Peninsula draws to the attention of the house the risk posed to the lives of mobile intensive care ambulance patients by the planned change to a single-officer crew. The petitioners therefore request that the Legislative Assembly of Victoria ensure that two-officer crews are maintained for all mobile intensive care ambulances.

By Mr MORRIS (Mornington) (197 signatures).

Paterson's curse: control

To the Legislative Assembly of Victoria:

This petition of the citizens of Victoria draws to the attention of the house the critical need for continuing state government support for the eradication of Paterson's curse as a noxious weed, recognising that it has been relegated in importance by the Minister for Agriculture, Joe Helper, MP, and the Department of Primary Industries, with other exotic weeds now being given precedence.

The petitioners therefore request that the Legislative Assembly of Victoria call upon the Victorian Labor government to clarify responsibility for the control of noxious weeds, and increase funding levels to all government authorities, including local government, to implement appropriate eradication programs, and to include Paterson's curse.

By Mr JASPER (Murray Valley) (115 signatures).

Napier Street, Rye: closure

To the Legislative Assembly of Victoria:

The petition of the residents of Victoria draws to the attention of the house that since the closure of Napier Street, Rye, at Point Nepean Road, trade has suffered, businesses have closed and tenants have walked away due to the decreased number of shoppers because of lack of access to parking.

The petitioners therefore request that the Legislative Assembly of Victoria direct VicRoads to take measures to reopen Napier Street, Rye, at Point Nepean Road, Rye.

By Mr DIXON (Nepean) (447 signatures).

Tabled.

Ordered that petition presented by honourable member for Mornington be considered next day on motion of Mr MORRIS (Mornington).

Ordered that petitions presented by honourable member for Mildura be considered next day on motion of Mr CRISP (Mildura).

Ordered that petition presented by honourable member for Nepean be considered next day on motion of Mr DIXON (Nepean).

Ordered that petition presented by honourable member for Doncaster be considered next day on motion of Ms WOOLDRIDGE (Doncaster).

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 2

Mr CARLI (Brunswick) presented *Alert Digest* No. 2 of 2009:

Gambling Regulation Amendment (Licensing) Bill
Serious Sex Offenders Monitoring Amendment Bill

together with appendices.

Tabled.

Ordered to be printed.

COUNTY COURT OF VICTORIA

Report 2007–08

Mr HULLS (Attorney-General) presented report by command of the Governor.

Tabled.

DOCUMENTS

Tabled by Clerk:

Confiscation Act 1997 — Report 2007–08 under s 139A

Falls Creek Alpine Resort Management Board — Report year ended 31 October 2008

Financial Management Regulations 2004 — Order under regulation 8 authorising the Royal Commission into the Victorian bushfires of late January and February 2009 to incur expenses and obligations

Interpretation of Legislation Act 1984 — Notices under s 32(3)(a)(iii) in relation to Statutory Rules 158 *(Gazette G8, 19 February 2009)*, 162/2008 *(Gazette G7, 12 February 2009)*

Legal Profession Act 2004 — Practitioner Remuneration Order under s 3.4.24

Mount Baw Baw Alpine Resort Management Board — Report year ended 31 October 2008

Mount Buller and Mount Sterling Alpine Resort Management Board — Report year ended 31 October 2008

Parliamentary Committees Act 2003 — Government response to the Family and Community Development Committee's Inquiry on the Involvement of Small and Medium Size Business in Corporate Social Responsibility

Parliamentary Contributory Superannuation Fund — Actuarial Investigation as at 30 June 2008

Planning and Environment Act 1987 — Notices of approval of amendments to the following Planning Schemes:

Casey — C99

Frankston — C52

Hobsons Bay — C58

Kingston — C94

Knox — C45

Mildura — C49

Monash — C83

Moonee Valley — C80, C88

Wellington — C35 Part 2

Whitehorse — C84, C105

Whittlesea — C32, C114

Wyndham — C95

Statutory Rules under the following Acts:

Education and Training Reform Act 2006 — SR 6

Fisheries Act 1995 — SRs 2, 3

Gas Industry Act 2001 — SR 9

Infringements Act 2006 — SR 4

Melbourne City Link Act 1995 — SR 7

Police Regulation Act 1958 — SR 13

Residential Tenancies Act 1997 — SR 12

Subordinate Legislation Act 1994 — SRs 5, 8

Unclaimed Money Act 2008 — SR 11

Wildlife Act 1975 — SR 10

Subordinate Legislation Act 1994:

Minister's exception certificate in relation to Statutory Rule 8

Ministers' exemption certificates in relation to Statutory Rules 4, 7, 9, 10, 13.

The following proclamations fixing operative dates were tabled by the Clerk in accordance with an order of the House dated 19 December 2006:

Education and Training Reform Further Amendment Act 2008 — Sections 4 to 16, 18 to 20, 24, 31, 33, 37, 40 and 42 — 29 January 2009 *(Gazette S16, 29 January 2009)*

Fisheries Amendment Act 2007 — Sections 3(2), 7, 8 and 9(2) — 2 March 2009 *(Gazette G6, 5 February 2009)*

Health Services Legislation Amendment Act 2008 — Sections 6, 7, 8, 9, 11, 12, 13 and 14 and Part 4 — 31 March 2009 *(Gazette G8, 19 February 2009)*.

ROYAL ASSENT

Message read advising royal assent on 10 February to:

Crimes Legislation Amendment (Food and Drink Spiking) Bill

Fundraising Appeals and Consumer Acts Amendment Bill

Major Crime Legislation Amendment Bill

Relationships Amendment (Caring Relationships) Bill
Serious Sex Offenders Monitoring Amendment Bill.

APPROPRIATION MESSAGE

Message read recommending appropriation for Gambling Regulation Amendment (Licensing) Bill.

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Membership

The SPEAKER — Order! I have to announce that I have received the resignation of Mr Adem Somyurek from the Family and Community Development Committee, effective from 25 February 2009.

Mr BATCHELOR (Minister for Community Development) — By leave, I move:

That Ms Marlene Kairouz be appointed a member of the Family and Community Development Committee.

Motion agreed to.

BUSINESS OF THE HOUSE

Adjournment

Mr BATCHELOR (Minister for Community Development) — I move:

That the house, at its rising, adjourn until Tuesday, 10 March.

Mr McINTOSH (Kew) — Certainly the opposition does not oppose the motion the Leader of the House has just moved; however, I note that due to the extraordinary events of the last three weeks and the continuing emergency this sitting week has been virtually devoted to the condolence motion that was passed yesterday. I also note that as a mark of respect question time has been cancelled for the week, and I ask the government to seriously consider an opportunity for a substitute week at some stage later this year. The program for the year has been set out, but I note the fact that we have lost this sitting week. I ask that at some later stage, at an appropriate time when the emergency is over, the government consider the opportunity for it to be held accountable through the Parliament in relation to this matter, given the loss of question time.

Motion agreed to.

Program

Mr BATCHELOR (Minister for Community Development) — I move:

That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. today:

Duties Amendment Bill.

Liquor Control Reform Amendment (Enforcement) Bill

In moving this government business program motion today I would just like to say a couple of things. Firstly — I guess it is stating the obvious — as the member for Kew indicated in his earlier contribution on the adjournment motion, much of this week has rightly been spent on speeches on the condolence motion dealing with the tragic Victorian bushfires. Accordingly, being in the unusual position of having arrived at a Thursday in a parliamentary week and moving a government business program for just the remainder of the day, the government is putting forward two pieces of legislation. There have been discussions across the chamber, and we hope to be able to manage this in a way that will enable consideration in detail to be organised for both of these bills during the course of today.

The other thing I wanted to do is thank those members of the Parliament who made a contribution to the condolence motion on Tuesday and Wednesday of this week. I thank them for the respectful tone and the way they conducted themselves. The Parliament of Victoria has done this with great pride. We can all be proud of it.

I would also like to put on the record my thanks as Leader of the House for the support provided by the opposition during this week and in particular in the lead-up to this parliamentary week. The making of suitable and respectful arrangements in the Victorian Parliament needed the active cooperation and assistance of the manager of opposition business, the member for Kew, and together we worked on making the necessary arrangements some considerable time out from this parliamentary week

The contribution was not just one of having suggestions put to the member for Kew, or indeed the opposition, but rather there was very active engagement and helpful suggestions made about timing, conduct and the framing of the motion. I appreciate that and I think it has added and contributed to the successful conclusion of this very important condolence debate. I just want to formally place on the record my personal thanks and the thanks of the government to the opposition, but in

particular to the member for Kew, for their active cooperation and assistance.

Mr McINTOSH (Kew) — The opposition does not oppose the government business program. I am very grateful for the comments from the Leader of the House. I also put on the record my thanks to the government for enabling this week to be dealt with in such a dignified and respectful way. The Leader of the House is quite right; it took a considerable amount of time last week and this week, right up until Parliament resumed at 2 o'clock on Tuesday. It was a very long and involved discussion about a variety of different aspects, all of which were conducted with mutual respect.

I am also very grateful for the opportunity of participating in a process which reflected the dignity, respect and indeed the whole demeanour of the Parliament this week in the way members have conducted that debate with a view to expressing our condolence, deep regard, respect and thanks to all of those people from emergency service operators right through to the volunteers. It was a great honour to be able to participate in that debate and certainly a privilege to be able to deal with the government in such a mature way over these matters.

Having said that, I am also very grateful that even down to the level of organising committees for both the Duties Amendment Bill and the Liquor Control Reform Amendment (Enforcement) Bill, we have worked in the same spirit of respect and dignity so that this week can be conducted through to its conclusion some time after 4 o'clock today. With those few remarks, the opposition does not oppose the government business program.

Mr LUPTON (Prahran) — The debate this week has in fact done great credit to this Parliament, as is appropriate in the circumstances. We thank the opposition for its cooperation in relation to the government business program today as well as its cooperation in organising the routine of the house generally this week. The two bills that are before us on the government business program should adequately be dealt with during the course of today in the way that has been outlined. I support the program.

The SPEAKER — Order! Before calling the member for Lowan, I advise members that there seems to be a problem with the clock behind me. Members are advised to use the clock at the front of the chamber.

Mr DELAHUNTY (Lowan) — I have just a quick comment on behalf of The Nationals. We are very happy to not oppose this government business program. I think the way Parliament has operated this week is the way Parliament should operate. There has been great cooperation. I thank the member for Kew and the Leader of the House for the way they have involved us in this discussion.

Motion agreed to.

MEMBERS STATEMENTS

Point Nepean: management

Mr DIXON (Nepean) — The future of the former quarantine station at Point Nepean is up in the air. The Rudd government wanted to push forward the handover to the Victorian government and told the Point Nepean community trust to prepare for a June 2008 handover date. The trust started preparations for a transition, only to be told at the last minute that the handover would be delayed. The trust was then told that the new definite handover date would be November 2008. Right up to that date all indications were that the Rudd and Brumby governments would go ahead and there were no indications otherwise.

The magic date came and went, and when no-one from the state turned up on the Monday, Tuesday or Wednesday, the community trust had to take up the reins again. This disregard for the trust and its employees by both Labor governments is deplorable. The handover date is up in the air, and the federal legislation responsible for the trust's work grandfathers on 11 June, so what will happen then? The trust has done a great job of restoring and planning for the future of the precinct, but it has over $20 million sitting in the bank that is not able to be spent. We have lost 12 months through this federal-state impasse.

The Brumby government's 2008 statement of government intentions foreshadowed legislation to facilitate the handover and establish Melbourne University and the proposed respite centre's presence on the site. This did not happen, and I notice that it is now foreshadowed for this year. Point Nepean is too important to Victoria and Australia to be left in limbo like this. Peter Garrett, the federal Minister for Environment, Heritage and the Arts, and Gavin Jennings, the Minister for Environment and Climate Change, must get their act together.

Tarneit electorate: bushfire support

Mr PALLAS (Minister for Roads and Ports) — I rise to acknowledge the contribution that the community of Tarneit is putting into the emergency and

relief effort in our fire-affected areas. My local community of Tarneit is one among many communities that have been touched by the devastation of these fires. The desire to give support to those who have been so egregiously affected arose quickly. The adversity that we have seen so many families face has also seen many others come together in support of those in need.

Our local Country Fire Authority crews of Hoppers Crossing, Werribee, Truganina and Point Cook are continuing to fight fires and support people in their time of peril around the state. Our local crews have been in areas such as Kinglake, South Morang, Whittlesea, Kilmore and Wandong. I can only commend them for their brave and continuing efforts. I also must recognise the Werribee police, the State Emergency Service and St John Ambulance for their unrelenting and tireless support for those who have had so much to bear.

I acknowledge the Wyndham City Council's generous donation of $50 000 to the relief effort. I also acknowledge its participation in the skills sharing and support systems managed by the Municipal Association of Victoria for the relief effort in the fire-affected areas. I also want to recognise the generosity of our local community in its efforts to support those who have been so deeply affected by the fires. A massive tool donation drive is under way and the Salvation Army has collected boxes and boxes of toiletries to distribute. People are donating teddy bears and other toys. I understand there is more than one fundraising concert being organised.

Bushfires: recovery strategy

Dr SYKES (Benalla) — The post-fire recovery effort is in full swing in many parts of Victoria. A key activity is making our roadways safe by the removal of burnt and dangerous trees. Unfortunately VicRoads efforts in making roads safe in the Flowerdale area have been hampered by an overzealous interpretation of dubious Department of Sustainability and Environment guidelines. This is in the context of a burnt tree falling and tragically killing Australian Capital Territory firefighter, David Balfour, recently. Further, the trees were marked for removal by approved arborists who have overseen the removal of thousands of trees in the Toolangi State Forest to make way for the much-despised north-south pipeline.

I call on the Minister for Environment and Climate Change to show leadership on this issue and immediately instruct DSE staff to apply common sense rather than zealously implementing guidelines which will be subject to intense scrutiny in the forthcoming royal commission. I remind the minister that as his staff seek to protect a few hundred trees, government policies are being held responsible for the destruction of millions upon millions of trees in the fires of 2003, 2006–07 and 2009.

Ms Green interjected.

Dr SYKES — I also call on the Minister for Agriculture to stand up for farmers and commit the government to meeting 50 per cent of the cost of fencing between Crown land and private property. This is what good neighbours do and what was recommended by the all-party parliamentary inquiry into the impact of public land management practices of bushfires in Victoria.

Now is the time for common sense and equitable sharing of the costs of recovery from these tragic fires. I call on the Brumby government to step up to the mark.

Penny Mullinar

Ms GREEN (Yan Yean) — I rise to pay my respects in memory of Penny Ward Mullinar, who died peacefully at her home at St Andrews on 11 February 2009 after a battle with cancer. Penny was 61 and was surrounded by her loving family. Penny was the daughter of actress Lois Ramsey and was also an actress herself. Penny had a great sense of humour and was a defender of the green wedge.

Penny served as a councillor at Nillumbik Shire Council, and while serving she went on to study and achieve a master's degree in strategic planning. She chaired the land use committee and was on the planning committee of council. Her funeral last Friday was one of the most loving farewells I have ever attended.

It was full of love and joy and said so much about what Penny's contribution had been in life. Many shire officers and councillors and all her friends will miss her 'Hello, darling' and her impish humour and friendly manner. The funeral service was conducted by Richard Piper, and a gorgeous movie made by her brother, Stephen, showed Penny in her actress role and other roles and particularly when she was in the production of — —

The ACTING SPEAKER (**Mr Seitz**) — Order! The member's time has expired.

Buses: Doncaster

Ms WOOLDRIDGE (Doncaster) — I rise to condemn the Brumby government for its cancellation of a critical bus route which Doncaster students rely on to get to school. I have been contacted by a number of

parents who have children attending schools along Elgar Road, notably Koonung Secondary College and Box Hill Senior Secondary College. The students used to catch the 289 bus service from their homes in Donvale directly to school. It was a 25-minute trip. However, that service was cancelled last November when the government introduced the Manningham Mover, a new service which loops around Doncaster, Templestowe and Bulleen.

The bus they now have to take goes on a more circuitous route, and they have to change buses at Doncaster Shoppingtown to go down Elgar Road. These students have had their travelling time tripled, taking up to 1¼ hours each way. It is unacceptable that students have to spend up to 2½ hours travelling each day when only a few months ago it took a fraction of that. Parents have even had to leave their work to pick up their children to ensure they can get to school on time when connecting services have not arrived. The schools are upset, the parents are upset and the students are upset, but their complaints keep falling on the deaf ears of this government. The Brumby government must reconsider the cancellation of the 289 route and ensure that Doncaster students have reliable and timely bus services to get them to and from school.

Essendon Rowing Club: bushfire support

Mrs MADDIGAN (Essendon) — On a positive note, it would be good if this Parliament were to look forward together in a cooperative manner to assist the bushfire victims, as we have agreed. That brings me to the Essendon Rowing Club. The house might not immediately see the direct link, but the Essendon Rowing Club is doing its bit for the bushfire victims and had a huge concert last week. In addition this weekend in association with its sponsors, the Rotary Club of East Keilor and the Moonee Ponds branch of the National Australia Bank, the rowing club will be taking up a further collection for bushfire victims at the Henley on the Maribyrnong Regatta.

The Essendon Rowing Club is one of the oldest rowing clubs in the state, having been established in 1880, and has a great reputation throughout Victoria. The Henley on the Maribyrnong is the fastest sprint regatta in Australia. I encourage anyone who lives in Essendon or the surrounding areas who is not doing anything and would like to come down to participate in what will be a great day on the Maribyrnong River on Saturday, and they can also make a contribution to bushfire victims. I would like to congratulate the president, Paul Parker, and the secretary, Erin Cordwell, on their great effort. I should say that Bill Shorten, the federal member for Maribyrnong, and I did some rowing to publicise it the other day, but unlike The Nationals we did not fall out of our boat.

Chirnside Park: bushfire support

Mrs FYFFE (Evelyn) — Last night I attended a fundraiser at Reading Cinemas at Chirnside Park, organised by the Chirnside Park traders. Funds were being raised for the owners of Chirnside Park Pets, Rolf and Cathy, and their daughters, Meg and Harriet. Despite having lost their own home and all it contained on Black Saturday, they have selflessly given food and any item needed by others affected by the fires free of charge from their shop. I thank them and I salute them. They are amazing people and true Australians.

Students: bushfire impact

Mrs FYFFE — Like many schools around Victoria, schools in my electorate have enrolled pupils who have had their lives seriously and tragically impacted by the bushfires. The very nature of the trauma experienced by these children will mean that they will need ongoing support and care. Our principals and teachers also need resources and support as they guide our most precious assets on the road to recovery. I ask the government to commit to providing the funding and support needed.

Land tax: rates

Mrs FYFFE — A gentleman in my electorate, Mr Di Ilorio, had a land tax bill of $9135. Last year it was $6320. He has been advised that if he has financial difficulties, he can pay this over a 37-week period. That works out at $246.89 per week. With the economic crisis, many self-funded retirees' savings took a battering, leaving them only moderately better off than people on pensions, yet they are still having to pay enormous land tax bills. He and many other self-funded retirees are now left wondering how long it will be — —

The ACTING SPEAKER (**Mr Seitz**) — Order! The member's time has expired.

Wandong Country Music Festival

Mr HARDMAN (Seymour) — I rise to invite one and all to the Wandong Country Music Festival and the ute competition which are going ahead this Sunday, 1 March, at the L. B. Davern Reserve in Wandong, despite the fires. As the website says, 'The grass is black' — and it is — 'and the background razed, but that won't stop Wandong'. The show starts at 10.00 a.m. with what can only be described as a premier line-up of country music stars that includes

Sara Storer, James Blundell, Melinda Schneider, Carter and Carter and other first rate acts.

All funds raised from what is promising to be the best festival yet will go to the Country Fire Authority. The Wandong community has chosen to donate the funds from the event to the CFA to show its great appreciation for the CFA brigades that worked so hard to save the communities in Wandong, Heathcote Junction and other local areas in the Mitchell shire. For a great day out, for a worthy cause and to get a firsthand feel of great community spirit, come to the Wandong Country Music Festival on Sunday, 1 March.

Country Fire Authority: volunteers

Mr DELAHUNTY (Lowan) — I wish to express a deep and special gratitude to our fireys — those firefighters who have put in and are still putting in a remarkable effort to protect life and property. Special praise and thanks goes to our Country Fire Authority volunteers — these proud people with proud traditions. All Victorians are proud of the courage and sacrifice of these fireys and their continuing untiring efforts.

Today I also want to thank the employers of many CFA volunteers who have allowed these volunteers the time to fight fires and protect our communities. I also express a deep gratitude to the family members of our CFA volunteers whose lives have been disrupted by their absence.

Not only did our CFA fireys work on the Horsham and Coleraine fires, but more than 1200 western Victorian CFA members have supported other Victorian fireys with their amazing effects. All these efforts and the unprecedented level of donations make me very proud to be a western Victorian and an Australian.

Bushfires: Horsham Golf Club

Mr DELAHUNTY — I also take this opportunity on behalf of the Horsham Golf Club to thank the government for the grant for course restoration and vegetation rehabilitation. The bushfires have impacted on many sporting facilities. Rebuilding needs to happen quickly to enable people to get back together, support each other and help get over these horrendous bushfires.

Ovarian cancer: Teal Ribbon Day

Ms THOMSON (Footscray) — Yesterday was Ovarian Cancer Australia Teal Ribbon Day. It is an important day for every woman in Australia, because every woman needs to know the symptoms of ovarian cancer. This year 1500 Australian women will be diagnosed with ovarian cancer. The majority of those women will be diagnosed at advanced stages of the disease where the cancer has spread and is difficult to treat successfully. More than half these women will not live for five years after their diagnosis. But if ovarian cancer is found in the early stages, it is very treatable. Up to 95 per cent of women who are diagnosed early will be alive well after five years.

There is no reliable early detection test or screening program for ovarian cancer. The Pap smear does not test for ovarian cancer, so until there is a test — and that may be many years away — awareness is best. Every woman needs to know the symptoms. They include abdominal bloating, unexplained abdominal or pelvic pain, feeling full or having difficulty eating, increased urgency to urinate or a change in bowel habits. If a woman experiences any of these symptoms for more than a two-week period and they are unusual to them, they should see their GP and ask, 'Could it be my ovaries?'. When in doubt, rule it out!

Ovarian Cancer Australia's Teal Ribbon Day recognises the need for women to become aware. Teal is the international colour for ovarian cancer.

The ACTING SPEAKER (**Mr Seitz**) — Order! The honourable member's time has expired.

Land tax: rates

Mr KOTSIRAS (Bulleen) — Many Manningham landowners have been surprised to learn that they face land tax increases of up to 300 per cent this year. This year's land tax bills are based on 2007's inflated property prices, yet since then Victorian property values have dropped substantially. For the first time in Victorian history, land tax will subsidise this government's incompetence by more than $1 billion. Many very angry property owners have already contacted me to express their disgust at Labor's latest land tax hike.

I have been shown many 2009 notices that show that land tax has increased exponentially. In one instance the 2008 land tax was $4928 and in 2009 it increased by 72 per cent to $8495. In another case the 2008 land tax was $10 247 and in 2009 increased by a whopping 270 per cent to $37 912, so from $10 000 it went to $37 000 in just 12 months.

Land tax bills are based on valuations taken during the September and December quarters of 2007, which was at the height of Melbourne's property price cycle. This government is arrogant, uncaring and out of touch with the plight of suffering Manningham families. This

massive land tax hike comes at a time when many property owners are struggling through the worst economic decline in many years, and all they get from this uncaring government is a slap in the face.

The ACTING SPEAKER (**Mr Seitz**) — Order! The member's time has expired.

Eltham Rotary: bushfire support

Mr HERBERT (Eltham) — I rise today to thank the Rotary Club of Eltham for putting on the Victorian fire survivor fundraising benefit, raising money for the victims of the disastrous bushfires that have touched many Victorians. I was delighted to be involved in the event, which was held on 22 February at Alistair Knox Park in Eltham, where I was given the opportunity to thank many locals who have been helping the recovery effort and to enjoy a night of live entertainment. I was particularly moved by Melanie Mason, a young rising star we will see a lot of in the future. Melanie sang a moving tribute to the Country Fire Authority when she sang the song *Heroes*.

Rotary clubs all over Australia work hard to make our communities better places in which to live, and none demonstrate this commitment to community building better than the Eltham Rotary club. The electorate of Eltham has many strong ties to the areas devastated by the bushfires, and everyone who attended that concert was really quite moved by the event. The Eltham Rotary club, seeing the desperate need of those affected by the bushfires, organised a number of fundraisers resulting in considerable funds for the bushfire appeal. The concert raised about $14 000 which was a great effort. Combined with other efforts, about $100 000 has been raised by local Rotary which will go to those who have lost so much in the fires.

Once again, I thank the Rotary Club of Eltham, its president, David Flint, and event organiser, Ken Paynter, for hosting this event and for their continued efforts to make our communities much stronger.

Land tax: rates

Mrs SHARDEY (Caulfield) — I, and obviously many other members, are being deluged with complaints about the outrageous increase in land tax this year under the Brumby government. This year this iniquitous tax is based on the overly inflated property values of 2007, which has led to self-funded retirees and small business owners facing bills which are double, and often treble, compared to last year. This will deliver a record tax take to the government of over $1 billion, which is more than treble the take of a decade ago.

The view of one of my constituents is as follows:

> There is something fundamentally wrong with a system that harvests revenue in such a way and indicates an abject failure to adjust the overall tax take from this source to reflect the very steep rise in land values (which coincidentally are now under severe pressure due to the mounting financial crisis of which we hear so much).
>
> If local councils can adjust the cents per dollar of value in order to keep rate rises (and the overall rate revenue) in line with fiscal responsibility it is difficult to conceive of a justification for state government not to impose a similar form of self discipline.

Obviously that is something it has totally failed to do.

Bridie Murphy

Ms RICHARDSON (Northcote) — On 27 November I attended assembly at Westgarth Primary School to announce the winner of the Catherine Helen Spence award, Bridie Murphy. The award commemorates Catherine Helen Spence, a notable journalist, reformer and campaigner for women's voting rights in the latter part of the nineteenth century.

Bridie Murphy was chosen as the recipient for her outstanding leadership skills displayed both in the classroom and in her sporting endeavours. Bridie's success is all the more noteworthy given that her own great-great-grandmother signed the original monster petition of 1891. This petition was celebrated in 2008, during the 100th anniversary of women gaining the right to vote in Victoria. Bridie, who was a fantastic ambassador for her school, was thrilled to be linked with Catherine Helen Spence in last year's anniversary of women's suffrage in Victoria. She has made her family and her great-great-grandmother very proud indeed.

Rail: Clifton Hill bridge

Ms RICHARDSON — Passengers on the Hurstbridge and Epping rail lines are now enjoying the benefits of the new bridge between Westgarth and Clifton Hill, opened by the Premier, on 27 January. With over 60 000 passengers travelling across the bridge each weekday, the duplication doubles capacity through Clifton Hill and allows more services to be scheduled when the first of up to 70 new trains are delivered later this year.

The duplication will also benefit Epping line travellers by reducing delays and will provide extra capacity

when the line is extended to South Morang. This is an important part of the Brumby Labor government's $38 billion Victorian transport action plan and directly benefits the commuters from my electorate of Northcote and other residents in Melbourne's north.

Water: desalination plant

Mr K. SMITH (Bass) — I wish to raise my concern about the government and the indecent haste and contempt it has shown for the people affected by the proposed desalination plant to be constructed near Wonthaggi. We have an arrogant Premier and Minister for Water who have run roughshod over the rights of people with the proposed plant and powerlines to the plant. We have had a massive task with an EES (environment effects statement) for a plant, and this was supposedly completed in 12 months, including a panel hearing and a recommendation by the Minister for Planning. What a sick joke. What a waste of time and money when it was simply a charade. The result of the EES and the panel hearing was as the government wanted.

One of the 87 separate sections of the EES said, 'Incomplete due to lack of time', yet the panel of hand-picked, so-called independent experts gave the Minister for Planning, Minister Madden, a report that the Premier and the Minister for Water wanted. It was 'Go ahead and bugger the concerns of the people in the area'. The weak-gutted minister gave no directions on the overhead powerlines. He could have directed the tenderers to put the power not only underground but on government land, where it would not interfere with the prime farm land. He could have also directed the tenderers to put the inlet and outlet pipes to the plant far enough out from the shore line that the fragile marine ecology could have been protected. If the EES had been done properly, instead of having been rushed through, or the panel members had shown true independence and the planning minister had had the balls to make the right decision, the matter could have been resolved to the satisfaction of most of the local community.

Arthur Jenkins

Ms OVERINGTON (Ballarat West) — Arthur Jenkins will be remembered as a gentleman, a historian, an artist and a man who worked hard to raise his family. Born in Sebastopol in 1915, Arthur died on 26 January 2009 in Sebastopol. Arthur was passionate about the history of Sebastopol and wrote a number of books, mainly relating to its early mining days. He was a collector of many items relating to its history and was a founding member of the Sebastopol Historical Society. Brian and I have known Arthur and his family for many, many years, and Arthur was delighted that I asked him to authorise my campaign material when I first stood for council in 1982. He continued to authorise it at every election thereafter.

I loved Arthur's style of painting, many of his works of mines in the Sebastopol area. He was very pleased when Rio Tinto commissioned him to do a number of paintings for its offices. The artwork has since been donated to the Ballarat Gold Museum. He was a very keen sportsman, having played cricket for many years — right up until he was 60, actually — before moving on to bowls. As I said, I really enjoyed his style of painting. When I concluded my mayoral year in 1991, I was presented with one of Arthur's paintings, which hangs proudly on our lounge room wall. Arthur is survived by his sons, Edwyn and Darryl, and his daughter, Ann.

Bushfires: Gippsland

Mr NORTHE (Morwell) — I want to pay homage to the hundreds of volunteers and local businesses who have assisted and are assisting the Latrobe Valley community as it recovers from the Churchill-Jeeralang bushfires. Whilst Country Fire Authority volunteers and many other organisations have quite rightly been applauded for their courage and commitment, we should not forget the contribution of our local businesses and residents. Literally hundreds of people offered their services to support the bushfire victims in Gippsland. Whether it was by helping out in the various relief and recovery centres, or sorting goods at Salvation Army sites, our community came to the fore when needed. There have been countless fundraising efforts and functions, with many more to come. This has boosted funding to the Gippsland Emergency Relief Fund to in excess of $2 million.

Let it be known that all contributions, no matter how great or small, will make a difference to those who suffered at the hands of these fires. Given the current economic climate, our local businesses have been magnificent. The donations have ranged from the supplying of meals to the donation of residential land for auction. I have pages and pages of instances of where businesses have supported bushfire victims in the most generous manner and without seeking publicity for it. We must ensure these businesses and other businesses in bushfire-affected areas are supported through government recovery measures.

Whilst it is pleasing to see funding available to businesses directly impacted by the fires, we must not forget those who have been indirectly impacted, as they

are the lifeblood of many smaller communities in the Latrobe Valley and Victoria.

Real estate agents: advertising

Ms CAMPBELL (Pascoe Vale) — Congratulations to the estate agents who abide by the Estate Agents Act and work to ensure not only that they obtain listings and make sales but also that they enhance the reputation of the industry and build the confidence of vendors and purchasers. In contrast, brickbats to those who advertise in the following manner: '$450 000+/plus'; '$450 000+/buyers'; 'in excess of $450 000'; '$450 000–$530 000', which is more than a 10 per cent variation; 'asking $450 000'; and 'low $400 000s'.

The full force of CAV (Consumer Affairs Victoria) should be felt by agents who are not abiding by state real estate law which is designed to ensure all agents abide by the same high ethical practices and that vendors and purchasers are also protected. An entry into the real estate industry should not be a frustrating experience for vendors or purchasers, either of whom can be duped when the law is ignored. The act will continue to be ignored unless there is appropriate enforcement, and that means prosecutions and sanctions for those breaking the law. If this does not occur, then agents who do the right things and who lose their market share to unlawful practices are faced with the question, 'If you can't beat them, why not join them?'. I look forward to our newspapers being provided with advertising copy that abides by the Estate Agents Act, and internet sites abiding by the act, and where that does not occur that very shortly those breaching the law will be sanctioned by CAV.

Ambulance services: enterprise bargaining agreement

Mr BLACKWOOD (Narracan) — The ambulance officers in my area and across Victoria are being hung out to dry by the Brumby government in their current EBA (enterprise bargaining agreement) negotiations. This is having a major impact on morale across our entire ambulance workforce. The area managers of Ambulance Victoria have reached a stalemate in their negotiations and the minister is refusing to give them the authority to bring anything new to the negotiating table. This has been the situation since last November. Ambulance officers have continued to provide a high-quality service and maintain good response times right through these negotiations. They do not want to withdraw services, but given the bloody-mindedness of the Brumby government they may be forced to escalate this dispute.

Our West Gippsland paramedics are having to deal with staff shortages and an amalgamation of the Rural Ambulance Victoria and the Metropolitan Ambulance Service, which, as they feared, has turned out to be a takeover of RAV by MAV and which may pose significant risks to country services. I am told that Ambulance Victoria has located Melbourne-based ambulance representatives at the incident control centres of the current fires, and not country-based officers, who have the local knowledge and experience.

Victorian paramedics are better trained and more qualified than their interstate counterparts, but are paid $20 000 to $30 000 less. I call on the Minister for Health to start treating our dedicated, highly qualified and hardworking paramedics with the respect they deserve. He must not allow this dispute to compromise access to ambulance services for the people of Narracan. The minister must get involved, get fair dinkum and get this fixed.

Organ donation: registry

Ms MUNT (Mordialloc) — Late last year, on 21 August, I attended a funeral for a young man of 53 years. He was a loving father and son, brother and uncle, and a wonderful friend and work colleague to many. He had a brilliant mind, he was a great asset to our community, and was a very hard worker; he was in the prime of his life. He had many years left to give to us. For the final year of his life he had waited in vain for the great gift of a liver transplant. He was one of the many for whom no liver became available. His life would have been saved. Now he has gone. His name was Stephen.

I would like to take this opportunity to encourage Victorians to consider registering on the organ donor registry. Call 188 777 203, visit www.medicareaustralia.gov.au, or visit your local Medicare office. Particularly now, as we see Victorians rallying for those affected by our bushfire tragedy, can we spare a thought also for those of our fellow Victorians who are waiting for this great gift of life? I would like Stephen's life to provide another great gift: the raising of awareness about organ donation.

Penny Mullinar

Ms MUNT — The member for Yan Yean was too distressed by the member for Benalla's contribution to finish her own. She wanted in particular to finish her contribution by saying: Penny's brother Stephen presented a beautiful film of her life to the tune of *Aquarius*, which showed her in the original cast of

Hair. My deepest sympathies go to Roddy, Millie and Tom.

Emma Brooks

Mr NOONAN (Williamstown) — I rise to place on record our collective congratulations and best wishes to the member for Bundoora, who on Tuesday welcomed into the world a beautiful young daughter, Emma Brooks. Weighing 7 pounds and 7 ounces, I understand that all are doing well. It is great to see the member for Bundoora's commitment, because he is back in the house today to resume duties.

The ACTING SPEAKER (**Mr Seitz**) — Order! The time for members statements has concluded.

LIQUOR CONTROL REFORM AMENDMENT (ENFORCEMENT) BILL

Second reading

Debate resumed from 4 December 2008; motion of Mr ROBINSON (Minister for Consumer Affairs).

Opposition amendments circulated by Mr O'BRIEN (Malvern) pursuant to standing orders.

Mr O'BRIEN (Malvern) — The Liquor Control Reform Amendment (Enforcement) Bill describes its purposes as being to strengthen enforcement powers, to clarify the powers of the director of liquor licensing in relation to security cameras, to require associates of licensees to be declared and to make miscellaneous amendments. There are some aspects of this bill which the Liberal-Nationals coalition believes are worthy of support, but there are other aspects about which the coalition has serious reservations. The reservations we have about aspects of this bill are shared by many stakeholders in the licensed entertainment industry, such as the Australian Hotels Association, as well as by organisations including the Police Association.

The amendments I have circulated seek to amend the bill by removing two of what I think are its most objectionable elements. We encourage the government, in the words of an excellent alcohol campaign, to 'step back and think' about this bill. If it does so, I hope the government will consider a number of other aspects of the bill which are misplaced and which will potentially harm small business while doing nothing effective to reduce the problems of alcohol-related violence in Victoria. Certainly the intent of the bill — to improve the enforcement of liquor licensing in this state — is something members on this side of the house support wholeheartedly, but we have reservations about the means the government has elected to employ in this bill.

Essentially the bill's major flaws involve its attempt to increase the power of the director of liquor licensing. In doing so it actually usurps the authority of Victoria Police and the Victorian Civil and Administrative Tribunal, and it does so in a way that is antithetical to the framework of the act that this bill seeks to amend. The bill further restricts the right of small business to be given a fair go and does not make the director of liquor licensing accountable for any misapplication of the powers provided to that position.

Before I start going through the bill in detail I would like to take the house to questions about the introduction of civil compliance inspectors. That is a key element of this bill. I quote from the Premier's press release of 2 May 2008, when the government decided to go ahead with this proposal:

> This directorate will be responsible for the inspection and enforcement of liquor licence laws and will be staffed by 30 inspectors and 6 lawyers.

We do not believe civil compliance inspectors are an adequate substitute for more police. The coalition believes the best way to enforce liquor laws is to have sworn police officers doing so and to ensure that we have the resources for those police officers to be able to do their job effectively. The civil compliance inspectors will have no powers to arrest, so while they will have significant legal powers to pick up on various regulatory breaches — some of which will be of a quite minor nature while some will be of a more serious nature — these inspectors will not be able to tackle the issues that are at the heart of alcohol-related violence. Civil compliance inspectors will not keep our streets safe in the early hours of the morning. Bureaucrats with biros are no substitute for cops with cuffs.

Another serious concern we have regarding these civil compliance inspectors is the potential for corruption. In the past non-police officers attempting to enforce liquor licensing laws have been aligned with practices that can only be regarded as corrupt — such as turning a blind eye to various breaches in return for the provision of free food and drink. Later on I will take the house to comments on this very issue and about his own experience made by someone who was until recently a member of this house, and I am sure the minister at the table and other members opposite will be very interested to hear them.

The other difficulty with civilian compliance inspectors is that there is no Office of Police Integrity to supervise.

This side of the house has had some queries about how effective the OPI is, but certainly we would say it is better than nothing. It is definitely better than merely having an ombudsman alone. Sworn police officers who are enforcing laws, including liquor laws, are subject to supervision by the OPI, but these compliance inspectors will have no such supervision. When you are dealing with small firms that are in the cash business, such as the provision of food and entertainment, given that there have been problems in the past with issues of corruption pertaining to the enforcement of licensing laws, I think it is essential that the people enforcing those laws be subject to a proper, rigorous ethical regime.

I note in that regard also that we have no broadbased anticorruption commission in Victoria, which could otherwise provide some sort of safeguards. It is not a usual thing for the Victorian Council for Civil Liberties and the Police Association to see eye to eye on many matters. It probably happens about as often as Israelis and the Palestinian authority or Carlton and Collingwood football club supporters seeing eye to eye, but the bill has succeeded in bringing them together. Unfortunately for the minister they have come together to criticise aspects of the bill, particularly the proposed civilian compliance directorate.

I take the house to some comments by the vice-president of the Victorian Council of Civil Liberties, Ms Georgia King-Siem. She wrote:

> Ultimately the bill extends several 'police powers' to authorised persons. From a civil liberties perspective, the extension of these powers to other arms of government is a worrying trend. The bill does contain some safeguards, but as identified above, they do not go far enough.

Senior Sergeant Greg Davies, who is the secretary designate of the Police Association, wrote:

> We also believe that the introduction via the bill of 'compliance inspectors' is a 'bandaid' measure designed at remedying the ongoing issue of the lack of police numbers and police presence in the central business district of Melbourne.

He went on to say:

> … it does nothing to increasing a visible police presence, which we have no doubt would impact on the unruly behaviour that we have all witnessed and has resulted in the serious injury and death of innocent members of the community.

Mr Davies also asked:

> Are these 'compliance inspectors' existing public service personnel or are they to be specifically recruited for this role? If they are to be recruited, we would argue this investment should be committed to the recruitment of additional police personnel.

In the briefing I had with the minister's staff and departmental officers it was confirmed that these civilian compliance inspectors would be specifically recruited. It is quite clear that these will be new staff coming in. The government's budget of $17.6 million for this compliance directorate certainly indicates that these are new people coming into this role. I can only say I concur with the concerns of Liberty Victoria and the Police Association. We do not believe civilian compliance inspectors are the best way to enforce the liquor laws. We certainly do not believe they are an adequate substitute for a better resourced, strengthened police force. While we will not oppose the bill or the creation of civilian compliance inspectors, we state our position that we do not believe this is the answer and that the government has got it wrong. The government should be directing those resources into better resourcing Victoria Police.

I mentioned earlier the concern that aspects of the bill seem to cut away at some of the foundations of liquor licensing regulation in Victoria. I take the house back to the debate on the Liquor Control Reform Bill in October 1998, when my good friend and colleague, who is currently the member for South-West Coast but was then the Minister for Youth and Community Services, gave the second-reading speech. This bill was a comprehensive rewrite of liquor licensing laws in Victoria. It ushered in a new act and a new regime that was in some ways more liberal than previous regimes. It was well regarded in the community as having brought these matters up to date.

In the second-reading speech the minister said:

> Parties aggrieved at any decision of the director may appeal the decision to the Victorian Civil and Administrative Tribunal.

That has been a fundamental aspect of the legislation since its inception over 10 years ago. There has been what you could almost term a separation of powers between the roles of Victoria Police, the director of liquor licensing and the Victorian Civil and Administrative Tribunal (VCAT). Increasingly what we are seeing with legislation proposed by this government is a blurring of those lines of distinction. This is happening through the proposal to cut out VCAT from its rightful position as the proper place of review of decisions of the director of liquor licensing and through a blurring of the distinction between the proper powers of police and the powers given to the director of liquor licensing. The amendments I have circulated deal

directly with those two issues, and I will come to them in turn.

I mentioned earlier that members opposite might be interested in the views that have been expressed about what happened in the old days when officers who were not police enforced liquor laws. Mr Haermeyer, the former member for Kororoit and a former member for Yan Yean, who I think is now doing our work in Frankfurt, made a contribution to the second-reading debate on the Liquor Control Reform Bill on 27 October 1998. Mr Haermeyer, who I think was the shadow minister at the time, said:

> I shall relate one experience my family had with a liquor licensing inspector. Shortly before Christmas one year he walked into the hotel and ordered his supply of liquor for the celebrations. As my mother was totalling up the cost he indicated that the carpet was looking a bit threadbare.
>
> In those days licensing inspectors were able to put orders worth tens of thousands of dollars on a hotel, and if you did not comply you would go to the wall; they would send you broke. Inspectors could tell you if your carpet was too thin or needed replacing. There was enormous corruption in the industry in those days.

This is on page 741 of *Hansard*. Later he went on to say:

> For the reasons I indicated earlier the function —

that is, the function of enforcing compliance —

> lies most appropriately with the police. Some of the people we used to call liquor licensing inspectors were shonky — there was enormous corruption in the industry — and I feel more comfortable with the police taking on this role …

I can only say 'Hear, hear!' to what Mr Haermeyer said back then. He was absolutely right. There will be far more community confidence that our liquor laws would be enforced properly, vigorously, justly and without concerns about corruption if they are enforced by sworn police officers rather than the government's proposed civilian compliance inspectors.

On this point about police I also refer to the government's own evaluation of its trial 2.00 a.m. lockout. At chapter 11.6 of the evaluation compiled by KPMG is a report on the issues that were raised by stakeholders relating to tackling alcohol-related violence. Under the subheading 'Greater police presence' it states:

> Members of Victoria Police, city council, licensees, emergency services and other late-night business operators considered that a greater police presence on the street in the form of foot patrols may assist in reducing alcohol-related violence.

That is not exactly a surprising finding. It is common sense. We reiterate our position, which is that moneys which the government is proposing to put towards civilian inspectors should be put towards increasing the number of police on the streets. Not only can they enforce regulatory aspects of liquor laws but they can also be there to try to tackle alcohol-related violence when it occurs. The same cannot be said of the proposed civilian compliance inspectors.

The first significant clause in the bill amends the definitions section of the act by inserting a provision for compliance inspectors. There are a number of subsequent administrative measures which I shall not trouble the house with and which do not particularly trouble the opposition, but there are some measures along the way that I would like to refer to. Clause 8 inserts a substitute section 18B, which empowers the director of liquor licensing to impose a condition on a licence that would require the licensee to fit security cameras:

> … on the licensed premises or any authorised premises, or on any other premises, land, fixtures or objects that are under the control of the licensee and that are in the vicinity of the licensed premises or authorised premises.

Essentially the change this clause introduces is that cameras can be required to be installed off premises. For example, it can be a condition of the licence that there be security cameras operating in a car park or even potentially on a street light that is in the vicinity of licensed premises. Concerns have been raised about how this might be applied in a practical sense. In correspondence I have had with Liberty Victoria, it has flagged the concern that given that licensees often live on their premises, they could be required to put cameras anywhere, including in private areas.

Honourable members interjecting.

Mr O'BRIEN — I note that because I am sure that members opposite — particularly the member for Essendon and the member for Prahran — are great fans of the Victorian Council for Civil Liberties and are not about to see its views mocked. That provision is something which, on its face, we on this side of the house do not find objectionable, and we are prepared to rely on its being applied in a common-sense way.

Clauses 9 and 15 relate to liquor licences for TAFE colleges. Essentially those provisions make it easier for those institutions to operate liquor licences, which again the opposition believes is appropriate.

Clause 11 in some ways makes a significant change. It amends section 96A of the act by repealing

subsection (1)(b). Section 96A is a very important section because this is the section which empowers senior officers of Victoria Police to shut down a licensed venue for 24 hours where there are particular circumstances that warrant it. This is a very important measure because there are times when police need to act urgently to secure life, to secure property or to prevent the recurrence of violence. This important measure was introduced fairly recently. The opposition supported the measure at that time, and it supports this amendment, which essentially makes it easier for police to use the provision. It removes the requirement for the police to be of the belief that the licensee will continue to engage in certain conduct in order to exercise the suspension power. Because the police will be using this power only in extraordinary circumstances and urgent circumstances, and because the suspension is limited to 24 hours, we believe the amendment is appropriate, and we support it.

That brings me to clause 12 of the bill, which inserts a brand new section, section 96B. That section provides the director of liquor licensing with the power to suspend a liquor licence for up to five days. The trigger for the director to exercise that power is exactly the same as that which applies to the police. A senior police officer could decide that a particular set of circumstances did not warrant the exercise of a suspension, but the director of liquor licensing could come in over the top and decide that it did. Whereas the police can suspend a licence for only 24 hours, the director of liquor licensing can suspend a licence for five days. This is not a clause the opposition supports, and one of my amendments goes to deleting it, because it introduces a section that causes confusion between the roles of the director of liquor licensing and Victoria Police.

The police are there to protect life and property from violence and at times need to act urgently. If you have a police force that has the power, the resources and the authority to do those things — to step in and act urgently — why would you need to give the director of liquor licensing what are in some ways greater powers, because the director can impose a longer suspension period? It is completely inappropriate, and the opposition does not support this clause. I do not understand why it is felt there is a need for it. If it is an urgent matter, police can deal with it; if it is not an urgent matter, the Victorian Civil and Administrative Tribunal can deal with it.

We seem to be in a mode at the moment where the government likes to set up a director of liquor licensing — and I am not personalising it; it I am referring to the position rather than the incumbent — as being part police and part VCAT. The director is judge, jury and executioner. That is not the director's proper role. It is a confusion of that role, and it undermines the structure of this act, where there is clear separation between the roles of the police, the director and VCAT. While the director might like to have greater powers, that is not the test. The test is: are those powers necessary, and are they going to be beneficial powers? Given that police have powers to act urgently where necessary and given that VCAT is the specialist tribunal set up to deal with matters where there is not that level of urgency, we say that those matters are covered. There is no need to create a third level of power where the director of liquor licensing can suspend a licence without — I note again — any appeal to VCAT.

If the provisions in proposed section 96B are implemented, the director will be able to write to a licensee with concerns about conduct, to which the licensee will be able to respond and give a sensible, correct and reasonable explanation, but under this act there is no obligation on the director to act reasonably. I asked the question at the briefing, and it was confirmed that there is no reasonableness obligation on the director. Moreover, there is no ability for an affected licensee to appeal to VCAT to have a decision reviewed. There is no obligation on the director to act reasonably and no opportunity for a licensee to go to VCAT to have a suspension reviewed. How can the government possibly say this is an appropriate measure? The government has our support in making sure police can act urgently where it is necessary, but this clause is a bridge too far.

I refer the house to clause 13, which deals with the operation of breach notices. Again, breach notices are notices that can be issued by the director of liquor licensing, and if a licensee fails to respond adequately, this can ultimately lead to a temporary variation or even a temporary suspension of a liquor licence.

There are a couple of concerns with this clause. The first is that it removes the requirement that a licensee must be likely to continue to engage in the offensive conduct before the director can exercise her powers. The whole format of breach notices has been a preventive measure. When conduct has been identified as being potentially in breach of the act the director must bring it to the licensee's attention. When there is a concern that the offensive conduct will continue, the director can take steps to vary a licence on a temporary basis. Removing that particular limb puts the director in the position where breach notices can be punitive rather than preventive. It is punishing a licensee for past conduct rather than preventing future bad conduct.

That is confusing the role of the Victorian Civil and Administrative Tribunal with that of the director. It is the director's role to bring cases to VCAT and let it decide whether a licensee has breached the act and what the penalty should be. This clause puts the director in the position of judge, jury and executioner. It confuses the role of the director of liquor licensing. It undermines the principles of the act, and we do not support this clause.

Clause 16 amends the defences that are available in relation to drunken or disorderly patrons. This is a new provision; it was introduced only recently. In that regard we are a little bit surprised to see that the government is moving to amend it so quickly. The defence in the act has been operating only since 22 May 2008, so it is not even one year old. The defence was introduced at a time when penalties for offences of permitting drunk or disorderly persons to be on a licensed premises were increased substantially.

The minister has also advised that there have been no Magistrates Court prosecutions under this provision. It seem to be a case where the government is deciding there is a problem with the provision when there is no evidence of it. Given that the defence was brought in as almost a quid pro quo for the increased penalties, I would appreciate hearing from the minister as to why he believes it is necessary. The opposition will not be moving an amendment to that particular clause, but given that the measure has been in place for a short time and that it has not been considered by a court yet, we would appreciate some clarification as to why this provision is necessary.

Clauses 17 to 21 provide for compliance inspectors to have a broad range of powers and authorities. Proposed section 130A in clause 19 of the bill provides the inspectors with the power to obtain names and addresses from any person on licensed premises if the inspector suspects on reasonable grounds that the person has committed an offence. You might think that this would have to be an offence under the Liquor Control Reform Act given that the supposed purpose of these civilian compliance inspectors (CCIs) is to enforce liquor licensing laws. That has been the advice from the minister and the Premier, and that is what is in the bill and the second-reading speech. But the advice I have received from the minister indicates that this is not the case. The CCIs only have to have a suspicion that an offence of any type has been committed, and they will then be empowered to demand full names and addresses.

To delve into a hypothetical, an 18-year-old girl in a pub accidentally drops a chip packet on the floor and some inspector is allowed to rip out his ID card and demand that she give him her full name and home address because he suspects her of littering, which is an offence but one he is powerless to do anything about — and it has nothing to do with liquor licensing laws. If the minister thinks this government has got trouble with ticketing inspectors and their relationship with the public, he should just wait to see what happens when he sends his armies of civilian compliance inspectors into the night. Their powers to demand names and addresses are not triggered by just potential breaches of the Liquor Control Act; it can be any offence. This seems to be either an incredible oversight or an incredible overreach. Either way I would hope the minister would have second thoughts about it, because it is not something which is going to engage any confidence.

The problems of alcohol-related violence are significant in Victoria, and the opposition is very keen to see strong action being taken to deal with them. Too many lives have been lost, too many futures have been lost and too many opportunities have been missed because of alcohol-related violence in our society. There is a great human cost. We strongly support measures which will deal with that scourge of alcohol-related violence. We strongly support better enforcement of liquor licensing laws but, as I have indicated in my contribution, we believe the government has not got it right with this bill. We think our amendments will improve the bill, and we urge the minister to step back and think and put in place more measures to tackle the real issues rather than just — as the Police Association called them — bandaid measures.

Mr LUPTON (Prahran) — The opposition comes into this place and pays lip service to the motion that we as a Parliament should improve public safety and take measures to reduce alcohol-related violence when the measures it proposes continue to undermine sensible and appropriate attempts to improve the monitoring and enforcement of liquor licensing laws in this state. The intention of the bill is to put in place a series of enhanced measures which will improve the monitoring and enforcement of liquor licensing laws and free up the resources and time of members of Victoria Police so they are increasingly better able to concentrate their attention on the serious and important matters that they ought to be concentrating on.

A steady stream of propositions has come from the opposition over a period of time, where it consistently opposes appropriate increased powers for the director of liquor licensing. The opposition seems to have a particular problem with the notion that the director of liquor licensing is the senior public official in this state responsible for the enforcement of liquor licensing

laws. The director has a very important role to play in ensuring that premises that operate under liquor licences do so in accordance with the law and high standards.

What this legislation does is implement a series of proposals that were announced by the government after a significant amount of consultation, much of which forms part of the government's previously announced alcohol action plan. It comes in the context of increased operations under our liquor licensing laws to more rigorously enforce provisions relating to the responsible service of alcohol. We have seen over the last year or so significant increases in enforcement measures. We need to make sure that the powers and authority given to the relevant officers under the legislation are appropriate to ensure that liquor licence venues are operated in accordance with the standards that people in the community would expect.

The bill in particular enables the creation of civil compliance inspectors, a matter that has previously been announced by the government and which involves the establishment of a dedicated civilian liquor licence compliance directorate located within the Department of Justice. That directorate is part of the comprehensive response that the government has announced in relation to dealing with issues of alcohol consumption and alcohol-related crime and violence and will result in a better monitoring of licensed venues and an enhanced ability to enforce our liquor licence laws in Victoria.

It is a rigorous regime under the oversight ultimately of the Ombudsman. The way compliance inspectors will be appointed and supervised is a far cry from any liquor licensing inspectors that were appointed under previous regimes going back before the 1990s. We have inspectors who have significant powers in a range of areas, whether it be food safety, building safety, occupational health and safety, all of which powers need to be exercised appropriately and within the confines of the law. This is no different in essence, but a very rigorous regime has been set up around it. The new arrangements will allow more police to spend a greater amount of their time on the street and dealing with the most serious matters that they should be dealing with. I think that is a good thing; it is appropriate and is something that the community in Victoria would expect.

We believe that the appointment of compliance inspectors is a very positive step forward and will result in greater monitoring and enforcement of our liquor licensing laws, allowing police to concentrate more appropriately on things that they should be freed up to do. Of course police support that approach.

Another important amendment in this legislation deals with changing the nature of the offence of permitting drunk or disorderly patrons to be on licensed premises. The bill substitutes the word 'and' for the word 'or' between the two limbs of the defence that is available to persons where they are charged with permitting drunk or disorderly persons to be on licensed or authorised premises. It is only a change of one word, but one word in legislation can be important, and changing it from 'or' to 'and' means that a defendant will not be able to claim that they simply were not aware that a drunk or disorderly person was on the premises. Previously it was possible to raise that as a defence. The amendment will require that a licensee demonstrate that they did not know such a person was on the premises and also that they had taken reasonable steps to ensure that drunken or disorderly persons were not on the premises. That will provide the prosecution authorities with a greater ability to enforce the law. I think there is a general community view that we need to clamp down on the service of people who in ordinary terms would be considered to be drunk or disorderly in order to more effectively deal with alcohol-related violence.

The legislation also gives the director of liquor licensing increased powers in relation to suspending a licence for up to five days. This is something that the opposition has indicated that it opposes. Under the proposed legislation the director of liquor licensing would have to believe on reasonable grounds that the licensee has engaged in conduct that would constitute grounds for an application to Victorian Civil and Administrative Tribunal under section 90 of the act for an inquiry into the licensee, and also that unless the licence is suspended there is a danger that a person may suffer substantial harm, loss or damage as a result of the licensee's conduct. This sits in between the immediate police power to close premises for 24 hours where there are serious matters confronting police officers, and the slower and more detailed ability of the director of liquor licensing currently to serve a breach notice, which takes a considerable period of time.

We believe it is appropriate that the director of liquor licensing has these enhanced powers because it will improve the enforcement of liquor licensing laws. It will mean that licensees will be able to seek a review of these matters; it is subject to review in the Supreme Court. But basically we believe the director of liquor licensing needs the sorts of powers that are proposed in this legislation to appropriately and properly enforce liquor licensing laws in this state for the benefit of the community in order to reduce alcohol-related violence and improve community safety. I support the bill.

Mr NORTHE (Morwell) — I am pleased to make a contribution to the Liquor Control Reform Amendment (Enforcement) Bill 2008. May I say up-front that I support the amendments as proposed by the member for Malvern. This bill, as outlined, will establish a new civilian compliance directorate within the Department of Justice and those compliance inspectors will be appointed by the secretary to the department. As has already been outlined, these inspectors will have a range of powers, essentially linked to ensuring that licensed premises and their employees and patrons are complying with the current liquor licensing laws.

These inspectors will have the power to issue infringement notices for certain offences, but unlike the police they will not have the power to issue notices for offences such as contravening a banning notice or an exclusion order. They will not be empowered to arrest under-age persons. That is something that the opposition has some concerns about. There is a contradiction in police having the powers as distinct from the compliance officers, and we wonder how that will all work. We think a much better method is making sure that police officers are employed to undertake such activities.

New powers will be given to the director of liquor licensing. It will allow the director to suspend the licensee's licence for up to five days, and the member for Malvern has set out the opposition's concerns about that. The proposed legislation does say that the director must have the necessary grounds to suspend a licence.

The amendment also proposes that the director must give 48 hours notice to the licensee should she wish to suspend the licence in that case. The member for Malvern indicated that police can also suspend a licensee's licence for up to 24 hours and those arrangements will continue. Currently when the director issues a breach notice she must believe the licensee will continue to engage in inappropriate conduct. However, it will now be sufficient for the director to believe such conduct has occurred for a breach notice to be served. The same principle applies to police officers when suspending a licence for 24 hours. Under this legislation the director will be able to undertake a broadbased inquiry. That means the director must publish a notice in the *Government Gazette* but also local newspapers relevant to the locality where the breach has occurred.

I have a couple of queries about the compliance inspectors relating to how they will operate, how they will be employed and what impact they will have. From a local perspective as the member for Morwell, with the Traralgon entertainment precinct we have experienced and are not immune to our share of alcohol-fuelled violence, as happens in Melbourne and other regional areas. The establishment of the Traralgon central business district (CBD) safety committee some time ago was a local initiative to tackle alcohol-fuelled violence. It involved the Latrobe City Council, the local police, local venue operators, taxi operators, bus services and the community in general. They met and came up with some local initiatives to try to reduce the incidence of alcohol-fuelled violence. At one of the initial meetings I attended I asked the group what was one action that they thought could make a large difference to counteracting the incidence of alcohol-fuelled violence. The one issue that was brought forward all the time was the need for a greater police presence. When police had resources available to them on the Friday or Saturday evenings, the incidence of offences reduced markedly.

The whole intention of what the opposition is saying is that it believes the police are in a far better position to conduct these types of activities as opposed to the compliance inspectors. One of the initiatives proposed by the CBD safety committee involved taxi rank security. With funding through the federal government's national community crime prevention program, security guards were placed at taxi ranks to reduce the amount of violence in those areas. That was very successful. Unfortunately the current federal government has seen fit to reduce that funding. We have ongoing issues in our area with that particular issue.

Transport is a major issue in the Latrobe Valley. Patrons come to the Traralgon entertainment precinct from outlying areas such as Churchill, Morwell and Moe. One of the concepts initiated by this committee was to have a NightRider bus service. One of the issues that was contributing to the incidence of violence was that people could not get home to their neighbouring towns and were wandering around the streets until their emotions escalated over time, which contributed heavily to the violence that was occurring. I raised this matter during an adjournment debate with the Minister for Public Transport last year and duly noted that the state government had $2.8 million in its 2008–09 budget for NightRider bus services but that that amount was applicable only to metropolitan areas. The response from the minister was that there had been trials in regional areas such as Geelong and Bendigo which had not been that successful, but I want to make the point that each area is different. I do not think you can have a blanket approach of one size fits all to address the problem of alcohol violence in all areas because each area is different.

Eventually through the Latrobe City Council we were able to obtain funding through the Transport Accident Commission for a NightRider bus service, which is ready to go right now. We believe this is one local initiative that will make a big difference to the level of violence in our region. As I expressed earlier in my contribution, I have my doubts whether the appointment of compliance officers will do this. I know there is an obligation on the compliance officers and an intent to make sure the licensees are complying with the laws — and that is fine and I do not have an issue with that — but I believe a greater police presence and local initiatives such as I have outlined will work better.

The Traralgon entertainment precinct has a designated area. Legislation that passed the Parliament last year deemed that some entertainment precincts would be designated areas and that is a step in the right direction because it gives police greater powers to ban people from entertainment precincts if they misbehave.

Another local initiative was a safe street summit for our youth. It is important that we involve our youth in any initiatives or activities or even legislation so we know how they feel. That has been very successful. A number of members of the local youth have contributed to that through the local council. The main objective of that initiative was to explore other safety issues to ensure people were safe in our area.

In summing up, I think what we need to do is to make sure we have better resourced programs available for taxi security if we are to address alcohol-fuelled violence. We have to make sure that we have transport initiatives available for all areas to be able to tackle this issue. I have mentioned previously that a greater police presence will not only markedly reduce the incidence of violence but will give people a much greater sense of safety in these areas in that they can go out and have a good time without fear of having somebody spoil their night.

Where the opposition is coming from is that the types of activities intended to be undertaken by compliance inspectors could very well be carried out by police officers, if they were properly resourced around the state and in areas where we have issues with entertainment precincts. Traralgon has experienced myriad incidents of alcohol-fuelled violence over time.

I support the amendments proposed by the member for Malvern. I understand the intent of the legislation; however, I believe what we on this side of the house have proposed is a far more sensible and practical approach.

Mrs MADDIGAN (Essendon) — I rise to support the Liquor Control Reform Amendment (Enforcement) Bill 2008, which is a further step in the government's policy of ensuring that Melbourne is protected from the abuse of alcohol. I would like to say at the outset that most young people who go into the city do not drink to excess and most clubs operate in a lawful way, so this bill is not a problem to them. The bill is targeted at those who breach regulations and behave in an unacceptable manner.

I must say I was a little surprised by some of the comments from the member for Malvern about this bill, and particularly his proposed amendments. It has been pointed out to me by some of my colleagues here that the member for Malvern bears a startling resemblance to Harry Potter, and I wondered today whether he had metamorphosed into Harry Potter, because he sees evil spirits and demons all around him. I can assure him that some of the evil spirits and demons he thinks may be out there are not there, so he does not have to be too concerned.

The member for Malvern spoke about compliance inspectors. We have not appointed any of these, but he has already accused them of being corrupt, of exceeding their powers and of not being able to be trusted.

Mr O'Brien — What did André say?

Mrs MADDIGAN — I thank the member for Malvern for asking, 'What did André say?'. André was of course a member of this house, and the member for Malvern rested his arguments on André's comments made in 1997, when the previous Liberal government was in power, about an event that occurred some years before then. This bill, the previous bill and other legislation introduced by the government have been brought in to overcome those problems which the former government allowed to continue and which the member for Malvern was so keen to discuss with us.

If the member for Malvern's argument was followed through, it would change the whole nature of policing in Victoria, because he is suggesting that the compliance officer work should be done by police. Perhaps before going into that, I will read a quote to the member for Malvern, because he might find this helpful. It says:

> Valuable operational police resources must be freed up from non-core policing activities if we are to allow police to do their job and achieve an increased visible police presence on the streets.

That comes from the Liberal Party's 2006 policy platform. As the member for Prahran has already explained, the police support this measure and are pleased to see it, because it means that they can spend their time dealing with more serious crimes.

Mr O'Brien — What does the Police Association say?

Mrs MADDIGAN — The member for Malvern is under the impression that the Police Association runs the police force. I thought it was the police commissioner who ran the police force, but perhaps the member for Malvern and I can discuss that at a later time. If you take the member for Malvern's views to their logical conclusion, we would have to get rid of all inspectors who operate in this state. We would get rid of gaming inspectors; presumably we would get rid of food and health inspectors; and we would get rid of building inspectors, because all these people are civil servants who enforce the law.

The member for Malvern perhaps needs to think a little more about the logic of some of his arguments — which brings me to another concern he has about the location of cameras. This amendment is intended to increase the level of safety around venues by ensuring that the director can require cameras to be affixed to such objects as poles or other fixtures in the car park of a venue and not only the actual licensed premises building. The member was very concerned that people living in buildings would somehow have their privacy intruded upon, but from looking at it, unless you pitch your tent in the car park, the chances of your privacy being invaded are fairly slight.

I am not quite sure if the member for Malvern has ever been in the city on a Saturday night and gone to the police operations centre where he would see many of the cameras that have been installed by the City of Melbourne in another cooperative effort between public servants and police to assist with crowd work and alcohol problems. It works extremely well. I am certainly not aware of any complaints in the past from people who live in those buildings about their privacy being invaded, so I think that is another one of those little demons that the member for Malvern was a little anxious about.

There is a great deal of work done around liquor venues, and most are well maintained and well restricted in terms of not serving people who are intoxicated. The government, in association with a number of organisations, has been working hard in that area in the last few years, and particularly in the Melbourne central business district, which I think the member for Malvern also referred to.

Operation Razon is being conducted by plain-clothes police and has already made 1016 visits to licensed venues across Victoria and issued 229 infringement notices and 440 warnings for breaches of liquor laws. So a lot of the work is not high crime work; it is warnings about liquor laws. The question is: is that the most useful use of resources, for our plain-clothes police to be going around and issuing warnings for breaches of liquor laws when there are crimes in the community? The opposition has referred to violent crime in Melbourne that needs to be tackled. If you look at that in its entirety, you see it is a waste of our police time to be undertaking fairly simple administrative functions that other officers could do. These people, like other inspectors, will be trained properly. They will know what the law is and will be able to assist greatly in resolving some of the problems we have had in the past.

In addition to Operation Razon, in October 2007 a Safe Streets task force was established to focus on alcohol-related violence and public order offences. It also concentrates on venues in the city and metropolitan Melbourne on weekend nights and has visited over 8000 venues. There is a great deal of work being undertaken at the moment.

It is important that we tackle the problems of alcohol abuse from both sides: the user and the nightclubs. The parliamentary Drugs and Crime Prevention Committee, which I chair and on which sits the member for Mornington, who is in the house, has been looking at juvenile crime. Certainly the influence of excessive drinking on crime levels, both at a juvenile and adult level, is significant. The discussion paper that our committee put out identifies some of the links between alcohol abuse and crime. I will quote briefly from it. It says:

> Certainly the literature suggests that many if not a majority of young offenders in detention or on community service orders will have used drugs or alcohol at some point prior to their detention. A study of alcohol and drug use by juvenile detainees conducted by Prichard and Payne for the AIC found that:
>
> > … detainees consistently engage in a wide variety of illegal behaviours and for most substance abuse is a prominent feature of their lives …

Not only on the level of young people in the city, or indeed older people, but on all levels and in other areas the government has to continue with its alcohol-related plan to cut the level of alcohol abuse. It is an important issue. As I said, some newspaper reports treat young

people very harshly, but most of them behave in a responsible and sensible manner when they go out, as do most adults for that matter. It is sad that many are tainted by broad generalisations about young people and how they behave in Australia and Victoria. Most of the young people I meet are terrific. They work hard and have a much greater social conscience than I had when I was their age, and they will make a very valuable contribution to our state in the future.

We are talking about only a small part of the population. All the work we can do to assist in that is very worthwhile. I am pleased to support this bill. I am confident that I can assure the member for Malvern that the many evils and demons he sees happening in the future will not eventuate.

Ms ASHER (Brighton) — I, too, want to make a couple of observations on the Liquor Control Reform Amendment (Enforcement) Bill 2008. In so doing I reiterate the position of the coalition put by the member for Malvern — that is, we will not be opposing this bill but we strongly support his two amendments, to delete clauses 12 and 13.

I want to reiterate our strong position of support for the government, the council and the police for any measures to try to curb alcohol-related violence, particularly in the central business district where it is at its worst, but it is certainly not confined to just that area. When debating liquor bills in this place we have taken a strong position of support for the many small businesses that constitute this industry. We feel that sometimes the government takes on policy positions that do not always take into account the interests of business in this area.

I want to make three general comments about the bill before the house. The first is in relation to the civilian compliance inspectors that the government is seeking to introduce. They existed previously and were abolished for a range of reasons, probably best articulated by the previous minister for police and a former shadow small business minister, the Honourable André Haermeyer, who pointed to the corruption that was evident in some instances in relation to the previous iteration of these inspectors.

The bill accords these new civilian compliance inspectors with the right of entry to licensed venues. It also gives them the power to demand documents and other evidence from licensees. It gives them the power to interview licensees and staff, the power to demand names and addresses from anybody present at those venues, and the power to issue infringement notices; but quite rightly, they have no power of arrest. The bill sets up the structure — back to the past, if you like — with the establishment of civilian compliance inspectors.

We on this side of the house have a range of concerns about the inspectors. Firstly, it is interesting to see the government is going to spend $17.6 million in effecting this policy option. More substantially, it is worthy of note that the industry, the Police Association and other organisations all agree that law enforcement should be done by police, not by civilian compliance inspectors.

The industry is strongly opposed. I refer in particular to a briefing note from the Australian Hotels Association, which sets out the industry's objections to these inspectors. The undated briefing note refers directly to the compliance directorate:

> The issues requiring enforcement action occur in the early morning and on weekends — will the civilian directorate be deployed at such times? Is it effective and efficient to spend up to $17 million on visiting pubs, licensed clubs and restaurants during the day to conduct administrative reviews to ensure required signs and the licence are on display and the licensee has a copy of the plan, when problematic late-night bars and nightclubs are not even open?

The AHA goes on to make the next point:

> The previous decisions to disband equivalent civilian liquor inspection directorates were based on concerns regarding their field management, command and control processes and back-up resources, particularly in late-night environment. Conflict between what essentially became a 'vigilante' force and venue operators and security staff was both common and dangerous.

The AHA, which is a genuine representative of small businesses, then goes on to say:

> The potential for corruption was an issue of particular concern in the review of the then civilian directorate in mid 1980.

The AHA, the industry body, has set out some valid concerns relating to civilian compliance inspectors. In addition to these business concerns there are other concerns. These inspectors are not accountable in the same way police officers are. I take up the basic point made by the member for Malvern, which is that bureaucrats may be able to solve a number of things but I suspect they cannot solve violence. The big policy issues for this Parliament are overconsumption of liquor and violence. I would be amazed if this new civilian compliance inspector directorate actually had the capacity to solve that most important and fundamental policy issue that needs to be looked at.

The second area of concern that the opposition has — and this is the thrust of one of the amendments before the house — is the increase in the powers of the

director of liquor licensing. The bill empowers the director to suspend a liquor licence for up to five days. I remind the house that this is an unelected bureaucrat and, more importantly, these decisions are not reviewable by the Victorian Civil and Administrative Tribunal (VCAT).

The police already have the power to suspend licences if there is a grave and pressing concern relating to that venue. That is a reasonable policy position, but we do not believe that the director of liquor licensing should have the power to suspend a business licence for up to five days. Consequently I support the amendment to delete clause 12.

The member for Malvern has also moved to delete a proposal to transform breach notices into a punishment rather than to have them as a preventive policy solution. He outlined the way these breach notices would work. His fundamental point — and it is a point the opposition agrees with — is that the concept of having a breach notice is to bring conduct to a licensee's attention and to have the licensee act on that conduct. The change under the bill will now be punishing licensees and businesses for past conduct. We believe that is the role of VCAT.

The common theme between the two amendments before the house is, if you like, that the government has a policy problem in front of it, in particular the significant amount of late-night, alcohol-fuelled violence, and it is proposing to curb this by extending the powers of the director of liquor licensing. We are arguing that those powers are too broad and that many of these matters should be part of the Victorian Civil and Administrative Tribunal's role. In the case of the suspension of licences a range of policy solutions are available, and there is no need for the director of liquor licensing to have that power. The police have the power in the short term, and in the long term VCAT has power to deal with that issue.

Given that a number of people wish to speak on this bill, I will conclude my remarks by again making the observation that we understand the problem and we want to solve the problem, but we do not think the measures the government has put forward will solve the problem the government is trying to ameliorate.

Ms DUNCAN (Macedon) — I rise in support of the Liquor Control Reform Amendment (Enforcement) Bill 2008. I have listened with interest to some of the debate that has been going on about this bill. It is always interesting to hear the objections from the opposition. You would have to say that if you read its 2006 election commitment regarding police and police duties, you would think this is something you would expect it to support. The opposition suggests it is supporting the government's efforts in trying to reduce alcohol-fuelled violence in our clubs and pubs, particularly around the city, although certainly the problems are not confined to the city. I get calls from time to time about various venues in my electorate, and I hear people's concerns about some of the behaviour inside these venues, but possibly more concerning to the public are the sorts of incidents that can occur outside these venues.

I preface my comments by saying the vast majority of pubs and clubs I am aware of comply with current regulations and do so with pride, because they understand it is important and a means of safeguarding their industry. Most venue operators do not want this sort of problem in their venues either. It gives them a bad name and turns people away, especially the sort of people they want to attract, and it tends to encourage the elements they are probably trying to keep out of their venues. It becomes a problem for them in the longer term.

Most clubs support the amendments and the type of regulation we have around liquor licensing. It has always been so. It is one of those industries, as is gaming, that is highly regulated and has a lot of enforcement. It is expected by the public that we should regulate those sorts of industries because of their social responsibilities and the potential impact if things go wrong — there is the potential to impact on the community, its safety and its sense of safety. People understand why there is a lot of regulation around these industries and why it continues to be necessary.

The bill before the house builds on a range of reforms this government has introduced and is part of a number of broader government policies. One such policy — which this bill supports — is the government's commitment to restoring the balance through Victoria's alcohol action plan 2008–13. The purpose of this plan is to enhance the operation of the current act through further monitoring and enforcement. This will make sure that licensees meet their obligations and responsibilities in creating the culture we want to see. Such a culture should support appropriate and responsible use of alcohol. It is also part of, and contributes to, the Growing Victoria Together policy, which also looks at building friendly, safe and confident communities and ensuring that our streets, homes and workplaces are safe.

The bill before the house contributes to both those broader policies. We know that hearing disturbances outside can sometimes have an almost disproportionate impact on people's sense of safety, a bit like graffiti

can. Hearing disturbances impact significantly on people's sense of safety in their environments, communities and streets. I strongly support some of the specific measures contained in this bill, because we know that some of the problems that arise, and we have seen them particularly in the city, are due to the increased incidence of alcohol-fuelled violence.

We have heard from the member for Essendon, who is the chair of the parliamentary Drugs and Crime Prevention Committee, about the link between alcohol and crime. We know that is absolutely a very strong link. You only need to spend a few hours in the Magistrates Court on any day, and I suspect any Magistrates Court, to see how many of the cases that appear before the courts — certainly the Magistrates Court — arise from alcohol. A huge percentage of these cases, whether they involve family violence, protection order breaches or violence in the streets, are alcohol related.

We often talk about a range of other drugs and we hear a lot about new designer drugs that have the potential to kill and may lead to all sorts of inappropriate behaviours. While that is true, the most prevalent drug in our society is alcohol, and it has a huge impact on many parts of our community. There is a need for continued reform of liquor control and a range of other laws to strengthen the safety of the community.

One of the features of this bill which has been spoken about by the opposition is the establishment of provisions to support a new liquor compliance directorate within the Department of Justice. We have heard some discussion from opposition members about their view that the inspectors will have inappropriate powers or be unable to fulfil the roles we are asking them to carry out.

I would point out, as has been pointed out by the member for Essendon, that the powers these inspectors will have will be similar to those that gaming inspectors currently have under the Gaming Regulation Act of 2003. Those powers include something which has been talked about by the opposition as a problem: they will have right of entry to licensed premises at any time when the premises are open to the public or at any other time with the written consent of the occupier. If the inspector reasonably suspects that the business of supplying liquor to the public is being carried out on the premises, particular requirements apply before an inspector may enter private rooms in licensed premises. They also currently have powers of inspection and seizure, and the power to require the production or provision of documents, equipment or any other thing, to examine and test equipment, to require persons to answer questions and provide information, and it goes on. There is a list of other powers currently conferred on inspectors. This reform would continue that consistent approach to the powers of inspectors.

The other point I would like to raise is the issue of closed-circuit television cameras around venues. Frequently the issue is raised of disturbances that may occur outside a licensed venue. We know that some of the venues take great care to have security people outside as well and do not assume that their responsibilities finish when a client walks out the door. The amendments in this bill will make that much more prevalent. I believe we will see a lot more cameras outside venues, not just pointing at the venue but also pointing away from the venue so there is an ability to provide a greater surveillance of those areas outside of the venue. That is something the community will feel very comfortable with. The bill makes clear that the director may require cameras to be affixed to particular premises. I believe more cameras being placed around venues to particularly cover areas that are currently considered as danger spots will increase the level of venue safety.

These are just some of the aspects of this bill. I hope the opposition supports this bill. It is an important addition to a number of other government policies that are all aimed at increasing community safety. The ongoing amendments and continued reform in this area by the government is important reform and is something the community expects. It would be very disappointing if the opposition did not support these strengthening measures which are all aimed at better enforcement of and better compliance with existing law. I hope the opposition supports this bill without amendment. I commend the bill to the house.

Dr NAPTHINE (South-West Coast) — The government argues that this bill will strengthen enforcement powers under the Liquor Control Reform Act as part of the government's so-called alcohol action plan, which is spoken about in the second-reading speech. But the bill outlines a plan to spend $17 million on a 'new civilian compliance directorate', as stated in the second-reading speech.

With this bill the government is introducing a raft of bureaucrats with clipboards and biros to try to deal with an increasing alcohol problem in our community. I would suggest that that is a misguided approach. What we really need are more police, more police on the streets and more definitive action to deal with the major problems of alcohol in our society. The new civilian compliance directorate, the army of bureaucrats with clipboards and biros, will have no powers to deal with

the abuse of alcohol in our society and no ability to deal with the alcohol-fuelled violence we see on our streets in the early hours of the morning or in our homes. There is nothing in the bill that will direct attention to binge drinking and under-age drinking, which are increasing problems in our community. As I said, what we really need are more police, and more police on the streets, and we need to introduce a significant new range of measures to deal with alcohol and alcohol abuse in our society.

I want to refer to some of the suggestions put forward by constituents of mine that I think ought to be considered by the government in dealing with some of the alcohol problems in our society. I refer to a letter dated 29 January 2009 addressed to the Premier from Margaret Lang. She outlined the situation as she sees it, and said:

> Every day we open our papers, see on television and hear on our radios the impact alcohol has on road accidents, home abuse, police cells at weekends, hospitals overcrowded at weekends with staff being abused, unsafe streets in many cities and towns, yet I find it difficult that your government is silent on this issue …

Further she said:

> Warrnambool police issued nearly twice as many tickets for alcohol and offensive behaviour in December, compared to the same time in 2007. Statistics reveal open alcohol offences —

in —

> 2007 were 220 and —

in —

> 2008 were 404, with offensive behaviour 115 during 2007 and 219 in 2008. These figures clearly show a real problem not only in Warrnambool, but across our entire state.

In her letter Margaret Lang suggested to the Premier:

> I would like state Parliament to consider …
>
> 1. All advertising to be banned on alcohol.

I think it is worthy of consideration. I would not necessarily agree with a total ban on alcohol advertising, but there is a real need to look at the extent of alcohol advertising in our society, because it is becoming all pervasive.

Mr Robinson interjected.

Dr NAPTHINE — The minister just wants to handball and duckshove. It is about time that this minister and this government accept the responsibility. She also suggested:

> 2. No further licences for 12 months to be issued …
>
> 3. Curtail all outlets to reduce the hours of trading —

to reduce the access and availability. They are issues the government ought to consider.

Ken Mason from Portland in a letter of 23 December 2008 referred to the contrast between the attack on tobacco use and the lack of effort with regard to alcohol. He said:

> Almost by contrast it seems to me that there has been a profoundly disturbing lack of similar action taken with regard to alcohol advertising and promotion when it is evident that alcohol lies at the root of many deaths, injuries and other tragedies. I wonder why it remains possible for … products to be so widely advertised …

People are concerned that they see advertising that is particularly aimed at encouraging people to abuse alcohol and overuse alcohol. We see advertisements for two bottles of spirits at a significantly reduced price to encourage over-purchasing, or two slabs at a reduced price. These are the sorts of things that a responsible industry ought to address, and if the responsible industry will not address them, then the state government ought to do something.

The other issue that needs to be addressed is the issue of alcopops. They are sweet tasting, colourful, fizzy drinks presenting and tasting like popular soft drinks. But they have an alcohol content of 5 per cent, and increasingly the more popular ones have an alcohol content of between 7 and 9 per cent, compared to full-strength beer which is between 4.7 and 4.9 per cent and low-alcohol beer which is 2.5 per cent or less. Alcopops are popular with and are clearly the drink of choice of under-age drinkers. That is reinforced by comments in a media release dated 25 February 2009. It reports VicHealth chief, Todd Harper, as saying:

> RTDs —

ready-to-drink —

> are the most popular alcoholic drink, and the most common first-used alcoholic beverage, among younger … groups. They are the preferred drink for young people who drink at risky levels.
>
> The sweetness of RTDs means they are especially attractive to young women …
>
> Risky levels of alcohol use by young people are linked to increased risk of long-term developmental damage and chronic disease, as well as increased risk of acute harms such as injury, and violence, as well as impacting negatively on the wider community …

An article in the *Age* of 15 September 2007 reports:

> Previously unreleased federal government findings show that 14 to 19-year-olds who drink at dangerous levels choose spirits-based, ready-to-drink … stubbies or cans. Unpublished figures from the 2004 national drug household survey show that the sweet drinks were favoured by almost 78 per cent of girls and 74 per cent of boys at risk of short-term harm.

Indeed articles in the *Age* of August 2007 showed that alcohol companies deliberately target this young audience. An article in the *Age* of 27 February 2008 refers to a study by the consumer group Choice. It says:

> It … found that 24 per cent of the teenagers surveyed could not taste the alcohol in the four alcopops tested, and another 7 per cent were unsure. Almost half the teenage males could not taste the alcohol in the Vodka Mudshake Original Chocolate, which contains 4 per cent spirits.
>
> Results showed that 60 per cent of teenagers surveyed liked the taste of alcopops. Only 25 per cent liked wine and 38 per cent liked beer.

What I am saying is that the use of alcopops is a problem among under-age drinkers and among binge-drinking young people. The solution I put forward very strongly to this government to consider is to legislate to ensure that alcopops can have no greater than 2.5 per cent alcohol content, the same level as in low-alcohol beer. I believe that would be a significant step forward in helping to reduce the impact of alcohol abuse among young people — that is, the risks involved in the abuse and overuse of alcohol, such as alcohol-induced violence and other inappropriate activities and behaviour.

I believe the government should take this matter seriously. I have raised it previously. There is considerable support in the community for the government to act on these alcopops. We are seeing a trend where increasingly alcopops contain around 7 per cent alcohol, with some of the more popular ones containing up to 9 per cent alcohol. That is totally wrong. It is inappropriate, and I believe the government should legislate to enforce a limit on the alcohol content of these popular, sweet, fizzy drinks that are targeted at young people, particularly under-age drinkers. The government should limit the alcohol content to 2.5 per cent or less. Young people would then be able to purchase and drink alcohol, provided they were over 18 and it was legal for them to purchase a drink, but would not be in a position where they could physically consume enough alcohol to cause them major problems.

I think this is a very positive proposal. It is a positive idea. Instead of spending $17 million on bureaucrats with clipboards and biros, we need to take some positive action and do something about the abuse of alcohol in our society. One of the positive actions we can take is to tackle the issues of advertising and a reduction in the alcohol content of alcopops, which are widely used and abused in our society.

Ms BEATTIE (Yuroke) — It gives me great pleasure to rise to support the Liquor Control Reform Amendment (Enforcement) Bill. The member for South-West Coast talks about things that could be done. One thing that could be done is that this Parliament could speak with one voice about the dangers of alcohol. It would be a positive step forward to support the Liquor Control Reform Act and the government in what it is doing to try to curb public drunkenness and the alcohol-fuelled violence that goes with it.

I had cause to go interstate a couple of weeks ago. When you are interstate you still want to keep up with the news, so you buy the local paper. I bought the local Sydney paper. You could have just replaced the headline banner with that of the Melbourne *Herald Sun*, because what is taking place interstate in relation to alcohol consumption shows that the issues are exactly the same in both cities — young people going out and binge drinking and the violence that goes with that.

There seems to be a bit of a hang-up about bureaucrats with clipboards and biros. We on this side of the house have moved into the 21st century, and we want to be able to assist the police in the work they are doing, and we want the inspectors to perform their functions with due diligence.

The issue of alcopops has been raised again. There is a propensity for them to be very sweet and to appeal to young people, but there are also other issues. I was at a liquor shop a couple of weeks ago and there was a special of two 4-litre wine casks for $10. The two wine casks were packaged in plastic so that you could only buy two at this very cheap price; you could not buy just one. I am not going to discriminate against young people, because what we have to do is educate them properly about the dangers of drinking generally and of excessive drinking in particular. Indeed there were many people buying those two-for-$10 wine casks, which I thought was very sad.

The bill also provides for probity and criminal history checks, and appointed inspectors will have to have an identity card issued to them. Of course the possession of the identity card is a precondition of an inspector exercising their functions under the act. Members of the police force will have all the powers of inspectors and will retain their existing powers under the act — and I am sure that the police will use the extra powers they

will have. Under Assistant Commissioner Gary Jamieson we have seen a wide range of measures such as time-out zones and safe zones trialled in the city over the summer period. I certainly wish him well in his endeavours.

The opposition often accuses the government of wasting money by promoting itself. That is not so. We have spent money on promoting responsible drinking. We have spent money on ads asking young women to be careful of their personal safety when they are out and could be taken advantage of. These are the things the opposition criticises the government for, but I ask the opposition to support us in our endeavour.

The bill confers on compliance inspectors powers similar to those conferred on gaming inspectors under the Gambling Regulation Act. Some of those powers include the right of entry to a licensed premises at any time when premises are open to the public or at any other time with the consent of the occupier or if the inspector reasonably suspects that the business of supplying liquor to the public is being conducted on the premises. Particular requirements apply before inspectors may enter private rooms, which is a good safeguard. They also have the power to require the production of documents, equipment or other things, the powers of inspection and seizure, and the powers to examine and test equipment.

One of the things I am concerned about is the proliferation of alcohol outlets in certain areas. I objected to the opening of a licensed premises — I frankly state it was a Safeway store — in Craigieburn. One of my objections was that it was next door to an existing liquor outlet. The long-time owner of the existing store knew just about every kid and every family in Craigieburn. If someone came in, he might say, 'I know you are not 18. I am not selling you alcohol'. He kept a tight watch on that. I am not accusing Safeway of breaching the licensing act, but its staff would not have that personal knowledge of the people in the area.

With those few words I urge the opposition to support the government in its endeavours to bring about the responsible enforcement of the licensing act. The government is trying hard to tackle public drunkenness and the alcohol-fuelled violence that seems go with it. These assaults occur for no apparent reason and not necessarily in a stoush; when young people are alcohol fuelled, they are just aggressive. I urge the opposition to withdraw its amendments and support the government. With those few words I commend the bill to the house.

Mr JASPER (Murray Valley) — I am pleased to join debate on the Liquor Control Reform Amendment (Enforcement) Bill and to state that the liquor industry in Victoria is important to this state and to its economy.

I want to say at the outset that most of the people responsible for licensed venues in Victoria's liquor industry operate very effectively; they operate to the highest standards and want to produce the best service they can to the clients they serve. I know of the importance of this industry to the economy in cities and towns in my electorate, but it is also important that we keep that industry managed and controlled. It is critical that I put that on record as part of my contribution to the debate.

The concern being expressed by most people I talk to across Victoria centres on the excessive consumption of alcohol at times by particular people. That certainly needs to be addressed and controlled. I have listened with a great deal of interest to previous speakers: the lead speaker for the coalition in opposition and the comments made by some government members in support of the legislation. I want to make sure that the house understands the changes that have been implemented in this industry over a long time.

In earlier debates on the liquor industry I have mentioned the Nieuwenhuysen report of the 1980s. If we had listened to the recommendations Dr Nieuwenhuysen made, we would have trading 24 hours a day, 7 days a week, 365 days a year. He was saying we had to keep up with the modern world, to do what they do in Europe and other places. I was strongly of the view at the time that we should not go along the track recommended by Nieuwenhuysen. Fortunately the responsible government minister at the time decided they would not take all of the recommendations in the report on board, but the operation of the industry was expanded.

Over the years we have seen an expansion in the number of liquor licences that are available throughout Victoria; I think over 18 000 licensees are now operating in the liquor industry in this state.

I believe there needs to be a critical review of the liquor licensing hours. I refer to the situation in my electorate, where former superintendent of police Doug McPhee now sits on the Rural City of Wangaratta. He is extremely concerned about the extended trading hours in that city, with one venue being able to stay open until 5.00 a.m.

I believe we need look at restricting the liquor service hours in that municipality; we could go back to

manageable hours and make sure all licensed outlets closed at the same time. The police in Wangaratta tell me that some people leave an hotel or alcohol outlet when it closes at 2.00 a.m. and go to one that closes at 3.00 a.m., then to the next one that closes at 4.00 a.m., and so it goes on. In my view there is no need for such excessive hours of trading within a rural city like Wangaratta, and that applies across Victoria.

The government has introduced this legislation to try to restrict and control the current excessive liquor trading hours and availability of alcohol to the general public. This issue needs to be further addressed, but in my view and the view of members of the opposition, it needs to be done by the police.

As I said, changes have already taken place. In Wangaratta, former inspector John Park was in charge of liquor licensing arrangements through the 1980s and into the early 1990s, but civilians were also involved in inspecting the various licensed premises. They were able to say whether appropriate work should be undertaken at those premises. I have heard some of the comments made about the operations of those civilian personnel in years gone by. In the latter part of the 1990s civilian licence checking was abandoned, and that was probably a good thing at the time.

Now we have a situation where the government, through this legislation, is reintroducing the idea of civilian compliance inspectors; we oppose that concept. Once liquor legislation has been introduced here, we normally consult various liquor outlets and liquor organisations to get their opinions on it. Generally, responsible people in the industry are telling us that this legislation is flawed and that we should not be supporting it. The AHA (Australian Hotels Association) says about the bill:

> AHA (Vic) is of the view that not only is the currently sought additional power inappropriate and excessive for an administrative regulator, particularly when having regard to a recent amendment allowing senior police to close a premises for 24 hours; but when combined with the expansion of the director's overall powers since 2004, brings into question the very basis of the statutory role of the director.

That is looking particularly at the extension of the powers of the director of liquor licensing. The information from the AHA goes on to say:

> AHA (Vic) is of the view that such expansive, interventionist and relatively unfettered powers cannot reasonably reside with an administrative decision-maker.

Again, that is referring back to the expansion of the powers of the director of liquor licensing.

The document goes on to deal with the liquor licensing compliance directorate:

> There is general agreement that liquor law is best enforced by Victoria Police. AHA (Vic) is perplexed that a reported $17 million is budgeted for the establishment of the civilian directorate at a time when available police resources are being effectively directed to enforcing liquor law, with more such resources required.

That is referring to police resources.

The information from the AHA continues:

> The potential for corruption was an issue of particular concern in the review of the then civilian directorate in mid-1980.

As I indicated, the civilian directorate was effectively abandoned in the late 1990s. These are the views coming from the Australian Hotels Association, which I think is an excellent organisation that looks after the wellbeing of the industry and the members it serves.

The Association of Liquor Licensees Melbourne has provided me with some information, and it is strong in its views against the developments that are provided for in this legislation. The information provided to me by the secretary of the association states:

> Victoria Police are best equipped to enforce liquor licensing legislation. We suggest that the immediate and proactive approach would more appropriately be to strengthen police numbers which already have proven protocols in place and which are subject to independent scrutiny.

The letter goes on to say:

> Through this proposed bill, the government is once again targeting reputable business operators which contribute significantly to Melbourne's renowned, diverse and enviable tourism and hospitality sector.

I will quote one more paragraph from this letter:

> … the state government's intention is adopt further draconian punitive approaches to liquor licensees rather than harnessing the support we offer in developing real and sustainable solutions to (alleged) alcohol-related issues.

This is a further indication of the organisations within the liquor industry that oppose the proposals being put forward by this legislation. I believe it is critical that we look at control of the industry and that we look to the police for enforcing as best they can the regulations in relation to the industry within the state of Victoria.

I see that the minister at the table is obviously listening to all the comments being made. What he needs to do, I think, is talk more to the people involved in the industry — the people who have developed the industry over many years and who have a high standard and a high reputation in the industry, which is important to

the economy of the state of Victoria. We really need to understand that they are the people the minister should be consulting before he brings legislation into this Parliament and before he decides that this is the way we should go. He should get the information from organisations such as the AHA and respond to their comments and what they believe is the way we should be going.

Finally, I believe the minister should be looking at reviewing the extensive trading hours available to the range of liquor outlets and liquor organisations across the state of Victoria. The Rural City of Wangaratta is moving to restrict these hours of trading, because that is where the problems are being created. The excessive hours produce excessive alcohol consumption, particularly by young people — and others — and they need to be restricted so we can have appropriate control, but not with the legislation that is before the Parliament. I believe the minister should be reviewing the types of recommendations that are being made and the changes that are being imposed on the industry within the state of Victoria.

Mr SCOTT (Preston) — It gives me pleasure to rise to speak in favour of the Liquor Control Reform Amendment (Enforcement) Bill 2008. The bill meets the commitment made in the Premier's annual statement of intentions government in 2008 to tackle alcohol-fuelled violence. It also supports Victoria's alcohol action plan 2008–13, Restoring the Balance, and builds on the reforms of the Liquor Control Reform Amendment Bill 2007. As previous speakers have touched on, this is an important area of government regulation.

Alcohol, as other speakers have said, is a drug. However, as a drug it is different from the nicotine found in tobacco, because there are safe levels of alcohol use. In fact according to some research alcohol can even be beneficial to one's health. At the same time there is clearly an issue of regulation being required because there is a relationship between alcohol and violence. There are also health issues related to excessive consumption of alcohol, both immediate issues about intoxication and longer term health issues. It is important that the sale of alcohol be regulated, and we need to ensure an appropriate balance is struck between access to alcohol for adults and the need to protect people from alcohol abuse and the violence and crime related to alcohol abuse.

This bill complements current enforcement regimes by creating a civilian compliance directorate within the Department of Justice. The directorate will ensure better monitoring of licensed venues through the use of civilian compliance inspectors. I note that the member for Malvern raised a number of concerns regarding compliance inspectors and the potential for the return to corrupt practices he identified as existing in the past. I draw his attention to clause 26 of the bill, which requires compliance inspectors to be competent to perform the functions of a compliance inspector and of good repute, having regard to character, honesty and integrity.

Mr O'Brien — Is that guaranteed?

Mr SCOTT — I was getting to that. You have pre-empted my next point. There is a requirement under new section 172B, which is inserted by clause 26 for criminal record checks. The secretary may require a person under consideration for appointment as an inspector to consent to having his or her photograph and fingerprints taken. The secretary must refer any photograph, fingerprints and any supporting documentation to the chief commissioner. The chief commissioner must inquire into and report to the secretary on matters relating to whether the person under consideration is of good repute, having regard to character, honesty and integrity. There is also a requirement for inspectors to have identity cards with them. I draw the member's attention to those provisions, which are designed to ensure the good repute of the persons who undertake the role of compliance inspector.

I would also draw attention to the Liberal Party's previous policy, because other criticisms were made about the desirability of police undertaking these actions. The Liberal Party, in its 2006 policy platform, said:

> Valuable operational police resources must be freed up from non-core policing activities if we are to allow police to do their job and achieve an increased visible police presence on the streets.

Further, it is important to note that there was a discussion by the previous speaker about the opening hours and the issue of restricting them. We would not want to return to the situation which existed for a long time in Victoria, which people like my parents and others have described to me, of the very strict opening hours that led to things like the 6 o'clock swill. If regulation is so tight that it creates artificial constraints, that in itself can create unintended consequences. These could include the large levels of alcohol abuse that existed in the past, when people literally lined up dozens of pots in front of them to consume just before 6 o'clock, leading to people wandering out paralytic and driving their cars home. There are many things about the past that were desirable, but I do not think the

6 o'clock swill was one of them. It is a past we wish to escape from.

Comment was also made that there are differences between what happens here and what happens in European jurisdictions, where there are more liberal opening hours and a cafe and wine bar culture. I would have to say that I was unaware that the sort of violence that exists, exists around European-style venues. I believe it is other sorts of venues that attract the attention because of violence and alcohol abuse. We have to be careful when defining these issues that we are cognisant of where the problems really exist, and in any actions designed to tackle them we should not be establishing straw men to be knocked down.

This is an excellent bill. It makes a number of amendments which will lead to better compliance. It should be noted that the powers of compliance inspectors are also held by the police, so the argument that the police are irrelevant to this process is a non-starter. This bill reflects well on the minister. I noted that previous speakers also suggested the minister should consult with stakeholders and industry groups. I know from other contexts that we have a minister who is deeply committed to consulting with people in relevant industries and who has always taken a thoughtful and considered approach to complex matters where we have had to balance different competing interests — that is, to protect people from themselves while allowing others the opportunity to enjoy the social activities available in society and protecting third parties from becoming victims of alcohol-related violence. I commend the bill to the house.

Mr MORRIS (Mornington) — It is interesting that the member for Yuroke made the comment that there are problems in New South Wales similar to those in Victoria. I would have thought anyone would be running at a million miles an hour to avoid a comparison with New South Wales, particularly as it is not a terribly flattering comparison. I simply make that observation.

The consumption of alcohol in quantities that cause harm to the individual has been a problem for a very long time. It is of course the biggest drug problem we have in this country. It is the primary source of violence, and it is probably the primary source of drug abuse too; it often forms part of a pattern of polydrug use. It is a significant problem. We also know that it often leads to aggression and subsequently to violence, sometimes violence in terms of self-harm but more often in terms of violence to others.

In recent years we have seen a transformation of the streets of the city of Melbourne to the point where various campaigns have been run by media outlets — most recently during the lord mayoral campaign — to make the city a much safer place. People have stood up and said, 'We think the City of Melbourne has to do something about it because the government isn't'.

A series of actions by the government — the less generous of us might call them 'knee-jerk' — have simply failed to address the problem. Most recently we had the failed lockout program. To be fair, it has worked well in regional centres, and I know it is in place in Frankston and appears, with one exception, to be working there. But in the city it failed because it was poorly thought out and implemented. It was a real threat to the vibrant nightlife culture we have in Melbourne, but worse than that is that it held the director of liquor licensing up to ridicule by the media for simply implementing a government policy that was very poorly thought through.

Unfortunately time does not permit me to go right through the process, but previous speakers have referred to the change in licence controls over the years. I certainly do not want to go back to the 6 o'clock swill; I was a very small boy when that was abolished, but I did work in the liquor industry as a part-timer in the 1970s. The big difference between now and then was how tightly prescribed the regime was. There was control over where you could stack booze on the floor. If you wanted to expand your sales area, you had to submit a plan and get it approved. It was a very different regime. Beer cost $6.95 a dozen. We had suburban beer barns, and we had a significant drink-driving problem as well. Drink driving was endemic. It was greatly reduced through the introduction of random breath-testing stations in the late 1970s. The solution to that problem was enforcement by the police and prosecution if you broke the law. That is what was needed, but that is not what is proposed in this case, which is why the amendments have been put on the table.

The biggest problem we have with the present legislative framework is that it is far too open to interpretation. It has converted this problem into a consumer affairs issue. The provisions proposed to be removed by the member for Malvern's amendment simply threaten licensees and create a class of inspectors with the intent of closing down a legitimate industry or threatening it into submission, regulating it to death without any thought about whether it will be effective and achieve anything.

Two clauses are proposed to be deleted. One of them, clause 13, is simply a denial of natural justice. You simply cannot close a business down for five days with no right of appeal. Many of those businesses will go broke. Anyone who has been in business understands that. Clearly, unfortunately, the government does not. If you are going to have these sorts of conditions, you need to be able to close the licensed premises down. The member for South-West Coast summed it up similarly: the difficulty with the licensing inspectors is that we need to have police enforcing these things if we are to make any impact. With those few comments, I commend the amendments.

Ms MUNT (Mordialloc) — I rise to make a brief contribution to debate on the Liquor Control Reform Amendment (Enforcement) Bill 2008. It will be a very brief contribution as I am supposed to be in the chair, and the Acting Chair has graciously relieved me for a couple of minutes while I make this contribution.

I do not want to go through the whole bill. It is part of Victoria's alcohol action plan. It puts in place a compliance directorate with civilian inspectors to monitor clubs and pubs. It also changes the offence of 'drunk or disorderly' by substituting 'and' for 'or' so that it is 'drunk and disorderly' rather than 'drunk or disorderly'. The proposed legislation will allow the installation of more security cameras that point at the clubs in the relevant areas so that surveillance can be carried out.

I am the mother of teenagers, and there are many young people in my electorate who very much like to come into the city and enjoy themselves at the clubs until very late. We do not want to be wowsers, but we want to regulate and control this industry to best practice without impinging on the rights of people to enjoy themselves. The Victorian action plan is part of that and is another step in putting those regulations in place to have the best possible entertainment industry while providing safety and security to the patrons to enjoy those areas and entertainment. I commend the bill to the house.

Mr CRISP (Mildura) — I, too, rise to make a brief contribution to the debate on the Liquor Control Reform Amendment (Enforcement) Bill 2008. I cannot help but note the appropriateness of this house discussing this bill during FebFast, an event that is being supported by many members.

To go right to what I think is important, the issue for country people is: why not use the police force? If the aim is to lower the incidence of alcohol-related violence and you are going to spend $17.6 million to create a directorate, I think it is a waste of time. Country people will see this as administrative duplication. If the civil compliance inspectors have trouble, the first thing they will do is call the police, so you might as well have had them there to start with. There are also cross-jurisdictional issues and complications that will occur because you have created a second police force or a second enforcement force.

Country people want alcohol violence problems solved. Country people want improved enforcement of liquor laws. And country people want more police on the beat. Country people are also suspicious of bureaucratic power and its accountability. With no Victorian Civil and Administrative Tribunal appeal process, I will be supporting the amendment to give at least that degree of accountability within this legislation. In my view and, I am sure, that of the people of Mildura, the money would be much better spent on a police force.

Mr ROBINSON (Minister for Consumer Affairs) — I thank all contributors to this debate, the members from Malvern, Prahran, Morwell, Essendon, Brighton, Macedon, South-West Coast, Yuroke, Preston, Murray Valley, Mornington, Mordialloc and Mildura.

The measures before the house are designed to create a more effective compliance function in respect of licensed premises. They are motivated by the government's broad ongoing desire, one that I think is shared overwhelmingly by Victorians, to achieve safer entertainment precincts and a safer environment for people who wish to frequent licensed premises. That is both within the venues and outside the venues.

The compliance unit is a key measure, and with this unit we are proposing the establishment of a specialised function. Importantly, and I think this has been missed in some parts of the debate, it frees up police who are not currently in those venues, armed with cuffs. They are armed with clipboards and biros, attending to all of the compliance functions — a lot of which are, by the historic nature and traditions of liquor, quite bureaucratic.

We believe it is a far more effective use of police resources to have those police out where they can do the best job possible — that is, on the street. Overwhelmingly that is what Victorians want, and that is what the compliance unit is designed to achieve.

One of the reflections I might make in respect of the opposition's position is to suggest to its members that it is too simplistic a view that they are putting forward. Liquor control is a very highly regulated field. The

inspectorial and compliance roles have changed over time and inevitably in a highly regulated field will continue to be amended. There is no one simple measure that will solve the problems which have emerged in respect of antisocial behaviour. That is the experience in Victoria; that is the experience in every other state and territory in Australia; and it is the experience well beyond Australia. If there was a simple solution it would have been found, but there is not one simple solution and that is why the government — —

Mr Walsh interjected.

Mr ROBINSON — Not even prohibition works, I might point out to the member for Swan Hill. The government's measures are quite wide ranging. We have seen an increased level of police activity; banning notices in designated areas; a freeze on late-night licences; improved NightRider bus services; camera requirements upgraded; a fee review; an ongoing licence category review; and a review of patron limits.

We will be having a review of the availability of water in venues. We have seen Consumer Affairs Victoria launch an inquiry into alcoholic energy drinks, to pick up a point that the member for South-West Coast made; he may not be aware of that. We have seen advertising campaigns. All of these things will contribute to addressing the problems that confront this state, but again I make the point: there is no one measure.

However, it is important to get the optimum balance where the police can work alongside the director of liquor licensing to make sure that we get an effective, comprehensive regulatory response to allow those compliance and enforcement functions to work as well as they can work. Certainly allowing a civil compliance unit to take over some of the day-to-day, more bureaucratic work from police officers is a step towards achieving that optimum outcome.

The public's expectation is that the government will develop a stronger intervention and response role, both inside and outside venues. They charge, as we all do, the director of liquor licensing as much with this function as they do police. They do not want an artificial debate where we say, 'No, this should be the job of police up to this point and then it should be someone else's, or, 'This should be someone else's job up until the point where the police have responsibility'. These two functions have to work alongside each other. Indeed there are other agencies, such as councils, that have a role to play as well. We need to build a more comprehensive response.

The proposed changes are informed by both the police and the director of liquor licensing. The police are keen to have the defence provisions reviewed — the member for Malvern raised that — due to the difficulty in successfully prosecuting under the law as it is constructed. That is something which has only emerged in the last year, and we have to take that advice on board. That has informed a decision in respect of one other provision of the bill.

Separately it is also the case that some licensees, or parties acting on their behalf, act irresponsibly. I agree that most act quite responsibly but there are some who act very differently. There is one prominent nightclub owner who still claims publicly that alcohol and violence are not connected. That is a disgraceful position for someone to take; the owner should know better. That is used as an argument that the government should be less intrusive in respect of the right of licensees to go about their business, which the government — and I am sure, the opposition — reject entirely.

But it is the case that some licensees under the existing prescribed legislative powers will simply say to the director, when the director is looking to take action, that they promise not to continue with or allow certain behaviours to continue. That simply means the director is hamstrung in being able to take action as the director should be able to take action and is one of the reasons we have changed the act.

To take up a line of the member for Malvern: yes, he would like to see cops with cuffs, and we believe that the compliance unit will allow more of that to happen, but we also have to be mindful of the tendency of some irresponsible licensees to resort to that old trick, when the director comes a-hunting, to look for the silks and their stays. That is what these irresponsible licensees will do. We want to tackle these matters.

In summary, the member for Wangaratta talked about restricting the hours. I think there is some danger in overreacting and saying simplistically that the problem can be solved by merely — with respect, I think this is what he was saying — restricting the hours of operation. It is the case that behaviours change, and young people today believe being able to stay up and enjoy nightclubs to a much later time than was the case 20 years ago is appropriate. It is also the case that not every nightclub that operates till 5.00 o'clock is necessarily a dangerous nightclub.

I certainly would not want to create a situation for young people in Wangaratta where they were not able to access entertainment options that are available in

greater number in Melbourne. I think that is one of the risks in accepting or acting on suggestions that are made by well-meaning individuals. You have to get the balance right. Certainly the government is attempting to do that. We believe these measures allow for a more effective response function in relation to licensed premises across the state. I understand we have a difference of opinion on some of the provisions, and we will allow that to work its way through in the consideration-in-detail stage.

Motion agreed to.

Read second time.

Consideration in detail

Clauses 1 to 11 agreed to.

Clause 12

The DEPUTY SPEAKER — Order! I advise the house that because the member for Malvern is proposing to omit the clause, he does not have to formally move amendment 1 in his name.

Mr O'BRIEN (Malvern) — Clause 12 of the bill empowers the director of liquor licensing to, among other things, suspend a liquor licence for up to five days. The test for the director being able to exercise this power is exactly the same test as applies to Victoria Police when they suspend a licence, therefore this power is unnecessary. If a matter is serious enough to warrant urgent action to suspend a licence, Victoria Police has that power already. If there is a need to suspend a licence for more than 24 hours, there is nothing in the act to prevent Victoria Police from reissuing a suspension until such time as the period of danger has passed.

If the matter is not serious enough to warrant urgent action, then the matter should go to the Victorian Civil and Administrative Tribunal. VCAT was the body set up to deal with these sorts of matters. The opposition agrees with the government that there is a need in extenuating circumstances for Victoria Police to take urgent and immediate action — that is in the bill, that is in the act and we support it — but you should not have three stages, where urgent matters go to the Victoria Police, matters which are not really that urgent but which 'we would like to get on' go to the director of liquor licensing and everything else goes to VCAT. It is empowering the director of liquor licensing at the expense of VCAT.

That change is unnecessary, particularly when combined with the fact that licensees who have their licences suspended under this proposed power have no right of appeal to VCAT, and when you consider that there is no obligation on the director of liquor licensing to act reasonably in answer to any response that is put by a licensee who is under threat of suspension. That is a cocktail that could lead to abuse of power when you also consider that there can be no compensation for a licensee who has had their licence suspended and a five-day suspension could effectively put someone out of business. This clause should not stand, and I urge members to vote against it.

Mr ROBINSON (Minister for Consumer Affairs) — Again I say with respect to the member for Malvern that his analysis of the liquor industry is overly simplistic. It is the case that circumstances will arise where that seamless transition from what should be a police power to a director's power to the Victorian Civil and Administrative Tribunal will not arise. There are circumstances in which the director will find themselves in a position where actions as a precursor to implementing a five-day suspension would be warranted. That is certainly the experience of the director in the past and that is the request that has come from the director — that we give that new power.

Perhaps I can best sum up the government's position by referring to an excerpt of a letter that I sent some days ago to the Australian Hotels Association. I apologise if I have not made a copy of this available to the shadow minister, but on this point I said:

> Whilst a senior police member can suspend a licence immediately, the director is required to provide a licensee with not less than 14 days to respond to a breach notice. Therefore, the new suspension power of the director is expected to operate as a intermediate response to a serious situation that is not critical enough to warrant a police-made 24-hour suspension but requires a more expeditious response than the breach notice process.

I conclude by again reiterating the public's expectation is that the government will develop a capacity to respond to situations as they arise in respect of licensed premises and behaviours, attitudes and other circumstances that create risks to the public. That is what we are on about here — public safety. We need an ability for police and the director to intervene where they believe it is appropriate in order to avoid that risk spilling over into harm.

That is the thing about licensed venues: where the risk of harm arises it is a risk that presents itself to a large number of people. We can probably go backwards and forwards in this debate on the legal niceties of where or how these powers ought reasonably start or stop, but the government's view is that circumstances have

demonstrated themselves up to this point of time to be such that the director's powers need to be increased.

I understand people will say there are risks associated with that. Yes, there are risks associated with everything in respect of liquor licensing and the powers that various authorities have. That is inherent in a heavily regulated field. It is the same with gaming. Gaming and liquor are probably the two most regulated industries in Victoria. We do run those risks all the time, but it should not be a consideration that prevents us from implementing changes which we believe, and overwhelmingly the public believes, are necessary so that we have a reasonable power of intervention in circumstances where the risk of harm to large numbers of people in licensed premises arises.

Mr O'BRIEN (Malvern) — The minister mentioned that he has sent to the Australian Hotels Association a letter which I have not had the benefit of seeing, but I do know that the AHA has been very clear about this provision. I note some comments that the association has provided to me:

> We are particularly concerned at the continuing expansion of the director of liquor licensing's enforcement-related powers, including the proposed power to suspend a licence for up to five days. With senior police having already been given power to close premises for 24 hours, we see this additional power as unnecessary and inappropriate … The original separation and independence of the roles of the director, VCAT and Victoria Police in the liquor licensing function as introduced upon the abolition of the then Liquor Licensing Commission in 1999 are increasingly compromised.

Without adding further to the debate, I suggest this is a change which puts the director in a position where she is judge, jury and executioner. That is not an appropriate role for the director of liquor licensing. The government should have more faith in Victoria Police and more faith in the Victorian Civil and Administrative Tribunal.

Mr ROBINSON (Minister for Gaming) — I greatly respect the position of Brian Kearney. Brian is someone of great experience in these matters, and he and I will continue to have discussions with respect to his concerns about the growth in the powers that have been accorded and that have been proposed to be accorded to the director of liquor licensing. That is a quite proper discussion, and I well understand him as a practitioner in the field on both the licensing side and now the hotels industry side; that is a very understandable and valuable perspective.

Separate to that, the government is not always going to agree with an industry body in this respect. The government simply cannot agree with all the industry bodies that will bring different perspectives to it on this matter. We believe these measures are reasonable and proper and provide the ability to create a more effective, optimal response from both the police and the director of liquor licensing.

House divided on clause:

Ayes, 42

Allan, Ms	Langdon, Mr
Batchelor, Mr	Languiller, Mr
Beattie, Ms	Lim, Mr
Brooks, Mr	Lobato, Ms
Cameron, Mr	Lupton, Mr
Campbell, Ms	Maddigan, Mrs
Carli, Mr	Merlino, Mr
D'Ambrosio, Ms	Munt, Ms
Donnellan, Mr	Nardella, Mr
Duncan, Ms	Noonan, Mr
Foley, Mr	Overington, Ms
Graley, Ms	Pallas, Mr
Green, Ms	Pandazopoulos, Mr
Hardman, Mr	Pike, Ms
Harkness, Dr	Richardson, Ms
Helper, Mr	Robinson, Mr
Howard, Mr	Scott, Mr
Hulls, Mr	Seitz, Mr
Ingram, Mr	Stensholt, Mr
Kairouz, Ms	Thomson, Ms
Kosky, Ms	Wynne, Mr

Noes, 31

Asher, Ms	O'Brien, Mr
Baillieu, Mr	Powell, Mrs
Blackwood, Mr	Ryan, Mr
Burgess, Mr	Shardey, Mrs
Clark, Mr	Smith, Mr K.
Crisp, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Jasper, Mr	Victoria, Mrs
Kotsiras, Mr	Wakeling, Mr
McIntosh, Mr	Walsh, Mr
Morris, Mr	Weller, Mr
Mulder, Mr	Wells, Mr
Napthine, Dr	Wooldridge, Ms
Northe, Mr	

Clause agreed to.

Clause 13

The DEPUTY SPEAKER — Order! I advise the member for Malvern that he does not need to formally move amendment 2 standing in his name.

Mr O'BRIEN (Malvern) — Clause 13 does two things. Firstly, it changes the nature of breach notices from a preventive measure to a punitive measure. As I indicated in my earlier contribution, we oppose that. The clause also essentially reverses the onus of proof, whereby if the director of liquor licensing uses the

breach notice system to put a condition on a liquor licence, that will now stay permanently. The onus will then be on the licensee to apply to the Victorian Civil and Administrative Tribunal to have that reversed. Currently a change to a liquor licence under the breach notice system is a temporary one, and if the director wants to make it permanent, the director has to go to VCAT. We on this side of the house do not see why this shift of onus should take place and why more responsibility should attach to the liquor licensee to have to go to VCAT to have a temporary condition reversed. This is another retrograde step that will make life harder for small businesses. It might make life easier for the director of liquor licensing, but we do not think the measure can be supported.

Mr ROBINSON (Minister for Consumer Affairs) — The member for Malvern says he does not understand why this change is proposed. It has been the experience of the director of liquor licensing in trying to do her job of bringing to account irresponsible licensees that they too quickly seek refuge. Section 97A(1)(b) of the act as it currently exists provides that the director must be satisfied that it is likely that the licensee will continue to engage in the form of conduct which has given rise to the problem.

What licensees do in seeking to avoid the director's actions is simply promise that they will not allow that behaviour to continue, promises which the director advises are all too often worthless. That is the problem we have. The law therefore allows irresponsible licensees to outflank the director by simply giving promises that they will change their behaviour and that things will improve, when they do not. The government can either sit and accept that the law will continue to be outflanked by irresponsible licensees or it can seek to tackle it. That is why this change is being proposed. I put it to the opposition that if a licensee has engaged in conduct — —

Dr Napthine interjected.

Mr ROBINSON — When it comes to the safety of patrons of these venues I would have thought that the director's perspective in respect of irresponsible licensees was one that we ought to value. I would have thought that the director would know a little bit more about this than the member for South-West Coast. If we want the director to adequately do the job this Parliament has given them by virtue of legislation it has previously passed, then we ought give the director the ability to do so by virtue of this amendment.

Mr O'BRIEN (Malvern) — Having been provoked, I note that the requirement is that the director 'believes on reasonable grounds' it is likely that the licensee will continue to engage in conduct. 'Reasonable grounds' means that the director does not have to take the licensee at their word. If the director believes there is not going to be compliance and that the licensee is not going to be maintaining the law in relation to future conduct, there is no requirement on the director to simply take the licensee at their word. The minister is the person who does not have an understanding of the operation of the act.

House divided on clause:

Ayes, 44

Allan, Ms	Kosky, Ms
Batchelor, Mr	Langdon, Mr
Beattie, Ms	Languiller, Mr
Brooks, Mr	Lim, Mr
Cameron, Mr	Lobato, Ms
Campbell, Ms	Lupton, Mr
Carli, Mr	Maddigan, Mrs
D'Ambrosio, Ms	Merlino, Mr
Donnellan, Mr	Munt, Ms
Duncan, Ms	Nardella, Mr
Foley, Mr	Noonan, Mr
Graley, Ms	Overington, Ms
Green, Ms	Pallas, Mr
Hardman, Mr	Pandazopoulos, Mr
Harkness, Dr	Pike, Ms
Helper, Mr	Richardson, Ms
Herbert, Mr	Robinson, Mr
Howard, Mr	Scott, Mr
Hudson, Mr	Seitz, Mr
Hulls, Mr	Stensholt, Mr
Ingram, Mr	Thomson, Ms
Kairouz, Ms	Wynne, Mr

Noes, 31

Asher, Ms	O'Brien, Mr
Baillieu, Mr	Powell, Mrs
Blackwood, Mr	Ryan, Mr
Burgess, Mr	Shardey, Mrs
Clark, Mr	Smith, Mr K.
Crisp, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Jasper, Mr	Victoria, Mrs
Kotsiras, Mr	Wakeling, Mr
McIntosh, Mr	Walsh, Mr
Morris, Mr	Weller, Mr
Mulder, Mr	Wells, Mr
Napthine, Dr	Wooldridge, Ms
Northe, Mr	

Clause agreed to.

Clauses 14 to 27 agreed to.

Bill agreed to without amendment.

Third reading

Motion agreed to.

Read third time.

DUTIES AMENDMENT BILL

Second reading

Debate resumed from 4 December 2008; motion of Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission).

Government amendments circulated by Mr BATCHELOR (Minister for Community Development) pursuant to standing orders.

Sitting suspended 1.03 p.m. until 2.03 p.m.

Mr WELLS (Scoresby) — I rise to lead the debate for the opposition on the Duties Amendment Bill. If ever there was a bill to teach students of politics how not to bring legislation into the Legislative Assembly, it is the Duties Amendment Bill. The objectives of the bill are to bring in as much money as possible for the government to ensure that the state budget does not go into deficit, but the government allocated no time and had no process in place to consult widely on this bill.

I spoke to a lawyer the other night, and he described the bill as a 'monumental stuff-up'. The government was so hell-bent on fleecing Victorians in order to balance the budget and is so arrogant and out of touch with ordinary Victorians that it has now been caught out. The point is that when it comes to the Duties Amendment Bill, the Treasurer, John Lenders, was saying to everyone in Victoria, 'We know far better than you. We do not even need to consult with you. Trust us. We are the government, and we will fix it'. But this has ended up being a disaster from start to finish.

The amendments that have been circulated by the government today have been forced on it by the Liberal Party and The Nationals and by other groups that have maintained the pressure. This bill has been an embarrassment to the Brumby government, and it has been ducking and weaving since early December. The person responsible for the mess is the Treasurer, John Lenders. He is the one who took it to cabinet. He is the one who gave cabinet the advice to make sure it was ticked off. The bill was second-read in this house in December. I note when I read the Treasurer's press releases from time to time that he refers to others as lazy. I put two options to this chamber about what the Treasurer has done with regard to this bill: he is either incompetent or lazy. I am happy for the government to make up its mind about which he actually is.

Let me explain the shambles that is the Duties Amendment Bill 2008. It was drafted without any consultation whatsoever. Not one of the stakeholders was consulted at any point in the lead-up to the drafting of this bill. The Treasurer will argue that he did not want to pre-warn anyone about closing some of the tax loopholes, but the damage and the uncertainty that this bill has caused in the meantime, especially to pensioners and retirees entering into retirement villages, is inexcusable.

Mr Stensholt interjected.

Mr WELLS — I know the member for Burwood would be most concerned about the constituents in his area who have moved into retirement villages and who have had this bill hanging over their heads. Surely the Treasurer would have realised the impact it would have had on retirement villages and the way the transfer of units works, yet there has been no consultation with retirees, pensioners, the Law Institute of Victoria, solicitors, real estate agents or property councils — absolutely none. We wait for the ALP and the government to pass judgement on whether the Treasurer is incompetent or lazy.

I suppose there is another option, and that is if the budget were to go into deficit. The Treasurer needed to fleece the pensioners and the retirees at any cost in order to keep the budget out of deficit. Maybe the thought of being the first Treasurer since the Cain and Kirner governments to drive the budget into deficit might have been just too much, so the Treasurer took aim at the pensioners and the retirees. I will go into greater detail later.

My office sent an email to the Treasurer's office on 18 December 2008 requesting a briefing. The next day we duly received a response saying, 'Yes, we will get that under way'. Then we heard absolutely nothing.

Mr Stensholt interjected.

Mr WELLS — I see! The Brumby government went to sleep from 18 December 2008 until 12 January, so that is why we have got this problem. But it gets worse, and I will explain. On 12 January we requested a briefing. There was no response until last Wednesday, 18 February. In the afternoon of 18 February my office received notice from the Treasurer's office that we could have a briefing the next day but not on Friday. We barely had 24 hours notice in which to get ready for a briefing, so there has been a massive rush to extract as much money as possible.

At this point I thank the Treasury officials, because they were fantastic in the briefing. They were very good in

their detailed explanations, but when we asked for a copy of the amendments, there were no amendments. The amendments were not available to us. Initially we asked for the briefing on 18 December 2008, and again on 12 January; then when we went to the briefing that was called in such haste, the amendments were not available. We were assured that they would be available to us prior to the weekend. Of course that did not happen either. The interesting thing about it was the press release from the Treasurer that went out the second the briefing was over. The press release said that the government was going to remove retirement villages from the bill — its focus was surely on the spin and rhetoric and certainly not on the substance.

As I said, the bill was introduced in early December 2008. When we asked why the amendments were not drafted and presented, Treasury explained that it was because of the bushfires. Just remember this, this bill was brought in in early December 2008, we asked for a briefing on 18 December 2008 and again on 12 January, and on 18 February we were told that there were no amendments due to the bushfires. We have no choice but to move a reasoned amendment. I would expect most Labor MPs to support the reasoned amendment I propose to move, because of the embarrassment this bill has caused.

I move:

> That all the words after 'That' be omitted with the view of inserting in their place the words:
>
> > 'this house refuses to read this bill a second time until all stakeholders are properly consulted and serious inherent problems with the bill are resolved including:
> >
> > (1) a stamp duty payment deadline of 14 days on property settlements, which is administratively unrealistic and financially burdensome, particularly for country Victorians;
> >
> > (2) the proposed retrospective application of a number of provisions;
> >
> > (3) continuing legal concerns regarding the interpretation of proposed wording; and
> >
> > (4) the failure to prevent unintended adverse consequences for many Victorians'.

The purpose of the bill is to make amendments in three main areas, two of the changes being anti-avoidance measures. The first is to ensure that leases are not used to avoid duty, the second is to clarify when duty is payable in relation to changes in beneficial ownership and the third is to reduce the time period for payment of duty from 90 days to 14 days.

The main provisions, which are designed to ensure that leases are not used as a mechanism to avoid duty, mean that property transactions involving leases will take on the appearance of a sale and transfer of ownership rights and will become dutiable. There is substantial evidence of the leakage of significant state stamp duty revenue through the use of long-term leases for property transactions to avoid payment of duty. Media reports and the SRO (State Revenue Office) advise that a number of large property sale transactions have been conducted involving lease structures where no transfer has occurred in order to avoid stamp duty. These lease arrangements have invariably involved long-term periods, in one case a 299-year term with up-front multimillion dollar premiums and peppercorn nominal annual payments thereafter. The Liberal-Nationals opposition supports this area of the bill where there are long-term leases which have been designed to deliberately avoid stamp duty.

The bill then clarifies when duty is payable when there is a change of beneficial ownership. The provisions incorporating a definition of 'beneficial ownership' are deemed by the SRO to be required to overcome an adverse judgement in a 2007 court case. The case involved the use of a unit trust and discretionary trust arrangements as a legal loophole to avoid payment of stamp duty. The court held that the original policy intent and legislative wording did not go far enough to establish a dutiable transaction and the general catchall provisions of the Duties Act were not able to be relied on.

The reduced time for payment of duty from 90 to 14 days is going to cause problems. Current longstanding practice has been for stamp duty to be payable up to 90 days following settlement. The proposed provisions will reduce this period to 14 days. The government argues that this is still generous, since other state jurisdictions impose stamp duty liability upon the signing of the contract, not at settlement. I will get to that in a moment.

We have a number of concerns. We maintain that there are still a significant number of concerns even after the government has lodged four pages of amendments. Firstly, it now appears that this will not apply to retirement villages, but we still have concerns about people renting a house or a business or shop under a commercial lease. We have been assured that the amendments cover these people, but the legislation has been so poorly worded that the SRO has had to come out and issue a revenue ruling to interpret the legislation. That does not make any sense. The legislation should stand on its own and be clear for everyone to be able to read. But in this case, because of

poor drafting, the SRO has had to interpret the intention of the legislation.

Our second main concern is the change to the payment of stamp duty, from 90 days to 14 days from settlement. In a complex sale which involves paperwork being referred to other parts of the state in country Victoria or interstate, or when country solicitors are trying to get their paperwork signed and delivered by a number of different owners, I question whether they will be able to get the settlement and payment made within 14 days. It is our understanding from people who have been associated with this industry that the government will have a one-off $500 million windfall.

Mr Stensholt — That is absolute rot.

Mr WELLS — The member for Burwood has just said, 'That is absolute rot'. That is fine. The calculation is that $4 billion will be brought up-front over a 12-month period, with the change from 90 days to 14 days, and the government is denying that there will be a one-off short-term gain of $500 million. That is fine; we will follow that one through.

Our third issue relates to the payment within 14 days from, as the bill states, when there is a transfer in an interest in the property. The legal advice we have had — and, yes, it was contradicted by those who briefed us on the bill — was that the interest in the property could also mean a 10 per cent deposit. Once you put down a 10 per cent deposit you would then have an interest in that property and you would then, as was our legal advice, pay duty on that 10 per cent deposit and then make another payment 14 days from settlement. We were assured in the briefing that that is not the case. If that is not the case, that is fine; at the consideration-in-detail stage we will seek reassurances that that will not be the case.

We need to make doubly sure that if payment is made at the time of deposit and another payment is made 14 days from settlement, that the original payment made is taken into consideration. We also need assurance that the retrospective part of it — that dates back to 21 November 2008 — only relates to those large transactions that involved the 199-year or 299-year leases. You can imagine the concern of the retirees and pensioners who purchased units in retirement villages after 21 November. They were told by their lawyers and other retiree experts that they would have to find another $18 000 to pay for the stamp duty. No wonder the retirees and pensioners were concerned.

The other point we need an assurance on, which was raised by the honourable member for Malvern and the shadow Attorney-General, is the issue of the interest that is in trust accounts with lawyers. My understanding is that the interest from the money kept in those trust accounts is used to pay for such things as legal aid. We need an assurance that that will be maintained.

As I said at the very start, the intent of the bill was to close a loophole — that is, that the Myer family avoided paying about $33 million in tax using a loophole. The tax was avoided when the Myer flagship city store was transferred to the consortium using a 299-year lease rather than a sale. In a normal sale the $605 million transaction would have resulted in a $33 million stamp duty bill, but no stamp duty is levied on leases and the consortium paid no tax. We would support the government in closing that loophole.

But let me tell members about some of the fear that has run rampant across the state because of the government's incompetence. I want to read this letter because this one was of great concern to us. It says:

> My wife and I are pensioners in our early 70s and have our names on a waiting list for entry into a leasehold retirement village in Wantirna. The present indications are that a unit may become available for us within the next 12 months.
>
> However, I am deeply concerned to hear that the state government is proposing legislation to introduce stamp duty on retirement village leases which, if passed, will be retrospective to 21 November 2008.
>
> I believe that the name of the bill is the Duties Amendment Bill 2008.
>
> My understanding is that all retirees including pensioners who are proposing to enter a retirement village in the future will be expected to pay this new stamp duty in addition to the current unit lease price.
>
> I am advised that the stamp duty on a unit lease price of $370 000 will be around $18 000. In the past stamp duty has only been applicable on the outright purchase of a property and not on a lease arrangement.
>
> I strongly believe that in these times of severe economic downturn, that it is both unwise and inconsiderate for the state government to be even considering this new tax which will adversely affect many thousands of older Australians on fixed incomes who can least afford it.
>
> With the cost of entering a retirement village constantly on the rise, this proposed additional tax may put our plans of entering a village beyond our reach.
>
> We would greatly appreciate your efforts in opposing this proposed new stamp duty when it is presented for debate in Parliament and thank you in anticipation of your help in this matter.

That is one of the many, many letters we received over the break from people who are petrified about the way this government has gone about business. But it gets worse. The Retirement Village Association (RVA), outlined its concerns in a letter to John Lenders, the Treasurer, on 17 December. The association, which represents about 150 000 people, said in the second paragraph:

> It is therefore with great concern that we note the proposed Duties Amendment Bill … which has the potential to have significant adverse ramifications for the retirement village industry and retirement village residents, was introduced into Parliament on 4 December 2008 without any consultation with the industry's stakeholders.

That is just unbelievable. It talked about how it will be retrospective to 21 November 2008, which makes its talking about lack of consultation even worse. It went on to say:

> The memorandum indicates that the purpose of the bill is to assess duty on leases whereby any consideration other than the rent, is paid in respect of an option to purchase or a right of first refusal.

It was most concerned about that. In conclusion it said:

> The Retirement Village Association therefore requests that the Honourable Treasurer urgently reconsiders the proposed bill in order to ensure that what seems to be unintended consequences of the bill are removed. If the minister is of the view that these are not unintended consequences, then the Retirement Village Association is most concerned that there has been no consultation with the industry in relation to such significant changes for Victorian taxpayers entering into occupancy at retirement villages.

We then wrote to the Retirement Village Association seeking further advice.

But the next letter I refer to is of even more concern. The Law Institute of Victoria (LIV) wrote to the Treasurer on 15 December. The letter outlines the press release that was issued:

> We record our surprise at the media release. This is a major taxation announcement. So far as we are aware it was not preceded by any consultation. The State Taxes Committee of the LIV has maintained cordial relations with the State Revenue Office and the LIV would have welcomed the opportunity to discuss the issue given that the media release suggests there has been some avoidance of duty.

So why would the government not even consult with the Law Institute of Victoria, when the processes are set up for it to look at anything to do with a change in the law or taxes? You would expect these proposed changes to automatically go to the law institute.

The law institute in its conclusion said:

> Clearly, if after examining all the facts the government wishes to impose stamp duty on premiums paid for the grant of a lease, then the government is at liberty to do so. However, in the LIV's view it is incorrect to suggest that the measure now proposed closes a loophole when, in reality, it imposes a new tax.
>
> Moreover, it would appear that a sledge hammer has been taken to the nut constituted by the Trust Company of Australia decision, given the wide-ranging implications of the non-lease amendments proposed by the bill, including for the retirement village industry and for legal practice generally.

That is from the Law Institute of Victoria.

Then we had legal advice saying the bill was too broad and went further than was explained by the commentary in its memorandum. That advice also went on to say that in relation to retirement villages the transaction may only be at risk of being dutiable in some cases.

We then looked at the issue of the change of time period for the payment of duty from 90 days to 14 days. The problem that has been outlined to us is that when country solicitors — in Mildura, Mallacoota, Bairnsdale or Orbost — are carrying out a transaction, they have to have that duty paid within 14 days. The problem the bill is going to create is that these small firms are going to be hit by a penalty and then are going to be hit by interest every single time they are late with a payment, even where that is due to no fault of their own. The government says, 'It happens in other states'. According to the Tax Institute of Australia, though:

> For example, in Queensland they at least allow a 30-day window before stamp duty has to be paid, and this has been proven to be inadequate.

This is going to be very difficult. The banks have concerns about the cash flows; the country solicitors have concerns, and of course they were not consulted; and then there is the issue of the complex sales. People would refer to these as involving the big end of town. If you are doing a purchase of tens of millions of dollars and a number of people are part of the purchase, then it is going to be very difficult for that paid work to be finalised and the payment made within 14 days. As we have said, the calculations that have been given to us by large industry associations on the revenue being moved from 90 days to 14 days are that it will mean a $500 million short-term windfall for the government.

Another issue identified by the law institute is interest on dutiable property. As we have said, when the bill goes into the consideration-in-detail stage we are going to be looking for assurances from the Minister for Finance, WorkCover and the Transport Accident

Commission that if someone were to pay for an interest in a dutiable property, perhaps in the form of a deposit, then they would not be paying duty on that deposit and would not be paying another amount after the 14 days. I refer back to the letter from the Law Institute of Victoria, which says:

> Particularly troubling is the provision which deems the creation of an interest in dutiable property (such as land) to be dutiable as a change in beneficial ownership. An agreement which creates an interest in land will now be dutiable. This seems to mean that land contracts of sale (or a grant of an easement) will now be dutiable in Victoria, effecting a significant change in Victorian practice.

The law institute has raised these concerns. Had it been consulted, maybe these issues would have been dealt with then.

The *Australian* of 31 January picks up the same point, reporting PricewaterhouseCoopers tax partner Barry Diamond as believing:

> … another 'absurd' unintended consequence of the bill was that it created the potential for stamp duty to be levied twice — at the signing of the contracts —

that is, the deposit being paid —

> and at settlement.

The article continues:

> 'And the situation gets worse because the bill brings forward payment from 3 months to 14 days', he said. 'In the light of the current economic conditions, questions must be asked about the cash-flow impact'.

Of course we have also asked — —

Mr Stensholt interjected.

Mr WELLS — We cannot wait for some of the answers on this. It will I guess be referred back to. I can almost assure the house that this bill will have to be brought back to this chamber to be amended again, because it is not right.

We also have concerns about the retrospective provisions of the bill, and we will be seeking guarantees that no other transactions will be affected by that part of the bill which provides for retrospectivity back to 21 November 2008. If it refers only to those long-term leases — the 199, 299 or 399-year leases — then that is fine, we accept that, but we want the assurance that no other transactions are going to be caught up in that retrospectivity. Members would all have received legal advice from a number of people on the issue of renters — whether they have residential, commercial or shop leases — and we will also be raising that issue.

The member for Malvern and the shadow Attorney-General will probably speak about the issue of legal aid. As I mentioned earlier, we also have concerns about the Public Purpose Fund, which is the fund into which the interest on money held in trust accounts by law firms is paid and which in part goes to pay for legal aid. We will be seeking assurances that there will be no reduction in those payments to the Public Purpose Fund as a result of the period for payment of duties being changed from 90 days to 14 days.

I come back to the very start. We said that we will be taking the bill into the consideration-in-detail stages to seek a number of guarantees. We have been lobbied very solidly to move amendments, but the problem is that if we had moved one amendment, we would have had to move two, then four, then eight, then sixteen, and it would have become a nightmare.

The amendments given to us just before lunch will make the bill even more unworkable than it already is. There are four pages of amendments. We are pleased to see that the first one is an amendment to clause 4 regarding retirement villages. However, the bill is an example of a government that is out of touch and arrogant.

Ms RICHARDSON (Northcote) — I rise to support the Duties Amendment Bill 2008. The bill amends the Duties Act 2000 and is very straightforward. It is no surprise to me that members opposite, in particular the member for Scoresby, have defended self-interest, because that is clearly what is being done in opposing the bill today. If we do not move forward with this legislation, support it through the Parliament and put it in place, it is those people who can afford to pay the high prices that these arrangements set up and establish — the top end of town — who will be the beneficiaries of the Liberal Party's killing off of the legislation. The Liberal Party is the party of self-interest. It was formed to represent self-interest, so it should be no surprise to any of us that it is trying to scuttle this legislation with the reasoned amendment that is before the house.

This is important legislation because it closes significant loopholes that have enabled a few people and some businesses to avoid paying duty. It brings Victoria closer to being in line with other states. In respect of stamp duty, it ensures that it is paid whenever property is acquired and not avoided through the establishment of long-term leasing schemes. These schemes have been used by those at the top end of town or at the high end of the property market. They involve making a very large payment at the beginning of a lease but a very small, nominal rent for the life of the lease.

These sorts of arrangements can be set up for 100, 200 or 300 years. They are clearly set up to avoid paying duty, which mums, dads and the vast majority of businesses across the state pay, in accordance with the law. These sorts of long-term leasing arrangements are not entered into by ordinary Victorians.

One example we have seen of this sort of arrangement was when the Myer flagship store was transferred to a 299-year lease rather than being sold, avoiding $24 million in stamp duty. This sort of avoidance can happen because in 2001 Victoria was the first state to abolish stamp duty on commercial leases. This loophole was noticed and capitalised on. This legislation will shut that loophole down. Another example is that of an office building at 161 Collins Street that was transferred to a long-term lease arrangement. I understand that $22 million in duty was avoided as a consequence of that arrangement.

The State Revenue Office (SRO) has identified that in 2007 there was $101 million in unpaid taxes and claims that were incorrectly made for exemptions and the like to which people were not entitled. This falls into that category. The money that is being lost to the state could be spent on new schools, modernised schools, upgraded roads, hospitals and other improvements across the state. It is not there to line the pockets of the big end of town, and is clearly not there to line the pockets of lawyers and tax avoidance specialists who set up these scam arrangements in the first place. It is certainly not there to further protect the interests of the people with whom the Liberal Party is aligned.

Honourable members interjecting.

The SPEAKER — Order! The member for Warrandyte is out of his seat, and I will not have him interject. I ask the member for Murray Valley to show some restraint.

Ms RICHARDSON — The bill in no way affects ordinary shop and residential leases, despite the claims made by the member for Scoresby. The SRO commissioner has made that abundantly clear; the explanatory memorandum, press releases et cetera have made that clear. I am not sure why the member opposite finds it so difficult to understand, but perhaps he can spend some time with me later so I can explain it to him in more detail.

A concern was raised regarding retirement villages, and it is addressed by one of the government's amendments. During the course of consultation on the bill the Retirement Village Association, among others, expressed concern about bonds paid as part of the long-term leasing arrangements for retirement villages. Therefore an amendment has been circulated that ensures that these arrangements will not be subject to duty. As with ordinary retail, commercial and residential leases, retirement facilities where bonds are paid will not be affected in any way by these changes.

The bill also makes an important amendment following a Supreme Court decision in 2007 to ensure that where there is a change in the beneficial ownership of dutiable property it is possible to identify the relevant beneficial owner in respect of discretionary trusts or unit trusts. This is another important anti-avoidance measure.

The bill also reduces the time limit by which duty is to be paid. At present it must be paid within three months of settlement. This period will be reduced to 14 days. Already, I might add, duty is paid within 14 days two-thirds of the time. This change will have no effect on the ordinary purchaser, as they pay duty at the time of settlement, after which it is forwarded by the banks. However, banks will have to forward the duty sooner — within the 14-day period.

The bill brings Victoria more into line with other states. I am baffled by the opposition's position on this bill. It is clear that duty needs to be paid, there is no change in the amount of duty to be paid and, as I said, mums and dads pay this amount at the time of settlement.

I think the member opposite is trying to make the suggestion that you have somehow got to get the paperwork all in order before you can settle and pay the duty, and he is making reference to small business accountants, conveyancers and the like around the state who are struggling to get this done. The concern about the administrative burden the member for Scoresby is referring to — he also makes reference to it in the amendment he has put before the house, and I think he also made public comments to this effect early in February — is a very misplaced concern. It fundamentally misunderstands how settlement proceeds, because of course before you can conclude settlement you have to have all your paperwork in order. Everything has to be accurate and all the administrative work has to be done, and then the amount of duty is paid following settlement.

This idea that you can have the settlement date and then run into the 90-day period, get all the papers in order and get everything correct and the like is not how it is done in the real world where all of us live and where clearly the member for Scoresby does not live. If there is a delay to any of the paperwork, or if there is some sort of problem, what happens is settlement is delayed, the date is moved past the date that was initially agreed

and then penalties are entered into as a consequence of that. This administrative burden that he is trying to cling to is not a burden at all.

In conclusion I want to have a look at some of the other false claims that have been made by the member for Scoresby, such as the claim that somehow changes to the stamp duty provisions will mean a doubling of stamp duty on primary residence purchases and commercial property purchases — in other words, that stamp duty has to be paid once at the time of the signing of the contract and then again at the time of settlement. This is just not the case. Stamp duty is only levelled once in Victoria when a dutiable transaction has occurred. A normal deposit does not represent a dutiable transaction and does not attract duty.

These changes to stamp duty provisions do not alter the law in any respect, and I think we need to make that abundantly clear to the member for Scoresby again later in the day. You do not pay double duty now, and you will not pay it post the introduction of this proposed amendment. The commissioner has also made it abundantly clear in the draft ruling he has put together as a consequence of the legislation that the normal outgoings that are part of various leasing arrangements that are in place across the state will not be caught by this amendment. There will not be any duties paid as a consequence of any leasing arrangements that are currently in place. That should again make it abundantly clear for the member for Scoresby.

In conclusion, I congratulate the Treasurer for bringing this important legislation before the house. I think it will bring significant amounts of revenue to the state.

Mr JASPER (Murray Valley) — I am pleased to join the debate on the Duties Amendment Bill. I have listened with a great deal of interest to the comments made by the members for Scoresby and Northcote. I totally reject the comments the member for Northcote made in relation to the member for Scoresby when she said he was acting in self-interest. That is a disgraceful comment to make when he made a genuine contribution to debate on the legislation as we see it on the opposition side, and surely that is what we are meant to be doing.

One of the issues raised by the member for Scoresby was the lack of consultation, and that is a major issue that all governments should be looking at when they introduce legislation into the Parliament. They should be making sure that people are aware of the legislation and consulting broadly so that it does not affect people adversely. When these Treasury bills come into the house it always seems to me as though the government is trying to find how it can raise extra money. The government calls it closing loopholes, but on many occasions the legislation goes further than that. It is not only closing loopholes, it is adversely affecting a great range of people.

I also listened to the comments made by the member for Northcote when she said that two-thirds of stamp duty is paid within the 14-day period, which is the period proposed as a reduced time for payment of stamp duty. I suggest the member for Northcote she talk to some country solicitors so she can understand the difficulties those people encounter when they are making responses and providing information relating to stamp duty, particularly in multiparty or multistate transfers where they are invariably involved and where they cannot respond within the 14-day period.

As a member representing an area along the border between Victoria and New South Wales, I am very much aware of the problems with border anomalies, particularly where solicitors operating across the border are dealing with transfers of property from owners in one state to persons in another state. There are other issues that should be considered in this matter, and I am sure the member for Northcote would learn something if she came to country areas and saw what goes on there as compared to what happens in metropolitan Melbourne. It was interesting to listen to her comments on this issue and in defence of the legislation.

I strongly support the reasoned amendment moved by the member for Scoresby, because I think it encapsulates the answers to the queries we have in relation to this legislation. It also answers queries that have been raised with us as members of Parliament working within the system and representing the views of not only the people within our electorates but also those across the state of Victoria where there are difficulties with the legislation.

The reasoned amendment moved by the member for Scoresby refers to a reduction in the period allowed for payment of stamp duty from 90 days to 14 days. I have already covered this issue in the comments I made about the contribution of the member for Northcote. This issue will cause difficulties; there is no doubt about that. What assurances do we have that there will not be penalties and interest charged on payments of stamp duty which are overdue beyond the 14 days? Will any time be allowed, particularly for country solicitors and country operators who are having difficulties in meeting the 14-day deadline? This is an all-encompassing bill which does not take account of the difficulties that are experienced by people who may not be able to meet this new 14-day period that is

proposed for the payment of stamp duty. The 90-day period gave that flexibility. The member for Northcote indicated that two-thirds of the stamp duty is paid within the 14 days anyway; I think her argument was quite superfluous in that regard.

The second issue raised in the reasoned amendment is the proposed retrospectivity application of a number of the provisions back to 21 November 2008. Many members will know that over the time I have been a member in this house I have strongly opposed retrospective legislation. When Treasury bills are introduced Treasury argues that retrospectivity applies when there are changes to rates and charges that are imposed, but this is an issue where there are major concerns. We have this retrospectivity provision which makes stamp duty and other duties payable back to 21 November, and that is an issue which I believe should be addressed. Bringing legislation in from the date — —

Mr Stensholt interjected.

Mr JASPER — I do not believe he did. As far as I am concerned — and I am quite clear on this — retrospectivity is an important issue. At the Scrutiny of Acts and Regulations Committee's regulation review committee I regularly bring to the attention of the committee the fact that we should not be approving regulations that are being reviewed where retrospectivity is involved.

Another issue involves the interpretation of the wording of the bill. There is no doubt that we have had representations from solicitors and others who have looked at this legislation. In particular it was brought to my attention that the St John's Retirement Village at Wangaratta believes there will be an unintended consequence of part of the legislation being brought before the Parliament. I am not one who will defend abuse of any laws or abuse of legislation, but what has happened is that this legislation is all-encompassing and does not provide the appropriate exemptions which have been provided in the past for people who are in retirement villages and in other areas where they are in a lease arrangement with an organisation, so they will now have to pay stamp duty.

I also refer to people who have leases in alpine resorts. They are also under attack in this area, given that already stamp duty is applicable to any transfers that are made of property in these alpine resorts, despite the fact that the properties in these alpine resorts are generally under lease arrangements for a maximum of 50 years but in most cases for 35 years. We will now have the situation where there will be not only stamp duty payable when there are transfers of property in alpine resorts but also charges as far as the lease arrangements are concerned. This is provided for in the all-encompassing legislation that has been brought before the house.

I do not think the government has thought this issue through properly. Obviously it has not thought it through, given that the Treasurer has already indicated that amendments to the bill will be introduced in the house. I agree with the comments of the member for Scoresby about the lack of response from the Treasury in relation to this issue and the subsequent press release indicating that amendments will be introduced to take account of the all-encompassing nature of the changes to leasing arrangements that are proposed by this legislation.

I trust that the Minister for Finance, WorkCover and the Transport Accident Commission, who is at the table, will take note of the comments being made, particularly as they relate to the issues addressed in the reasoned amendment and that he will give an assurance that these issues will be addressed and responded to. I repeat that there are issues to do with the reduction in time for the payment of stamp duty. Will Treasury provide any flexibility where this cannot be achieved? And what requirements will there be on solicitors who cannot meet those requirements because of circumstances beyond their control?

I also mentioned retrospectivity, which is an important issue. But the critical issue with this legislation as far as I am concerned is the imposition of stamp duty in respect of all leasing arrangements, the all-encompassing nature of those provisions and the impact that this will have on many people throughout Victoria, including the unintended consequences.

What concerns me above everything else with the bill before the house is the lack of appropriate consultation. The government has said it has looked at it and assessed it, but has it gone out into the community and had appropriate consultation with the people who can provide important information on the issues in the legislation? I am always wary when I see coming before the house legislation that is the responsibility of Treasury, with its all-encompassing nature and the extent of many of the provisions in the legislation.

I strongly support the reasoned amendment moved by the member for Scoresby. I hope we can get appropriate responses from the Minister for Finance, WorkCover and the Transport Accident Commission in relation to the issues that have been raised. They are of genuine

concern, and the government should be able to respond to them and give us appropriate answers.

Mr INGRAM (Gippsland East) — I want to make a brief contribution on the Duties Amendment Bill. The legislation before the house makes changes which everyone in this place has indicated they support in principle — that is, the closing of the loopholes in relation to leases established to get around the payment of stamp duty. I support other members of this place, the members for Scoresby and Murray Valley, who have spoken about the concerns that have been raised. There has been some publicity about this legislation in the media, which has raised a very high level of concern among solicitors. A number of my local solicitors and people involved in conveyancing have contacted my office expressing their concern about the commercial leases in my area and what this bill has the potential to do, so I support a number of the comments made by previous speakers.

A number of proposed amendments have been circulated. I understand the government has indicated that those amendments will address some of those concerns. The problem is that those concerns are still there. It is an obligation of the government to alleviate those concerns and make sure that the issues raised are addressed. That is why I will be supporting the reasoned amendment moved by the member for Scoresby. As I indicated, there has been much debate about this legislation in recent weeks, and those concerns have been expressed to me. I will be listening to the consideration-in-detail debate to see how the concerns that have been raised with me and other members have been addressed by the amendments in the legislation before the house.

Mr STENSHOLT (Burwood) — I rise to support the Duties Amendment Bill 2008, which has a range of provisions in it, in particular those dealing with the ability of people to try and scam the stamp duty regime by coming up with new lease arrangements. I refer to an article by Ben Butler that appeared in the *Herald Sun* of Monday, 5 January:

> A consortium including the Myer family avoided about $33 million in tax using a loophole the state government plans to close.
>
> The tax was avoided when Myer's flagship city store was transferred to the consortium using a 299-year lease rather than a sale.

I am sure the member for Murray Valley would join with us in condemning this tax avoidance behaviour, which I understand currently involves around $50 million or $60 million a year. This should be avoided. I am very disappointed that the Commonwealth Bank and Colonial First State have been involved in these tax avoidance arrangements.

There is a range of issues in relation to this. I had a look at some research articles on this tendency in considering the legislation. I refer the member for Scoresby to an article by Bill Orow and Eu-Jin Teo that appeared in the *Journal of Australian Taxation* of 2004 entitled 'Duties general anti-avoidance rules — lessons from income taxation':

> In keeping with the Australia tradition of reliance upon broad and relatively undefined discretionary powers, the Victorian Parliament has enacted duties general anti-avoidance rules …

In our laws we set out the general definitions, and it is quite common for taxation officers of the Australian Taxation Office and the State Revenue Office to issue rulings. I am sure the member for Scoresby would be familiar with private rulings from his previous career as an accountant; these things exist. We set the general parameters, and the State Revenue Office is able to provide rulings on anything specific. That happened in this case where, quite frankly, some straw men have been raised.

I commend the Treasurer for the process of consultation he has undertaken and for proposing the amendment in relation to retirement villages. I note the member for Scoresby mentioned the letter he received from Neil Cameron. He also wrote to me, and we acted on that letter. He then responded to me:

> Many thanks for your reply to my submission. Sorry I missed your call … this morning.
>
> Having read the report by Ben Butler on page 24 of the 'Business Daily' section of the *Herald Sun* newspaper … headed 'Stamp duty attack', I am now fully aware of the background to the introduction of this legislation due to the selfish and greedy actions of a number of large commercial consortiums avoiding the paying of tax by using a loophole in the tax laws when transferring property, by using a long-term lease rather than a sale.

He went on to repeat his views.

Honourable members interjecting.

Mr STENSHOLT — I am happy to table the letter, but I have to print it off first. He went on to say:

> In summary, the proposed tax … will be payable by the ingoing resident and not the retirement village.
>
> …
>
> I am sincerely hoping that the government will move to include an amendment to this bill which will exempt all retirees, including pensioners, from paying this new tax when entering leasehold retirement villages …

> I hope that I can count on your support when this matter is debated in Parliament when it resumes next month.

He has my support. There has been consultation, and we have proposed this amendment before the house. I note the member for Scoresby talked about pensioners. I am sure he would realise that if you are a pensioner and have not taken advantage of this particular arrangement before, you are entitled to freedom from stamp duty. There is a scale up to a certain level, under which you can get that stamp duty exemption. I advised the people who came to me that I would talk to the Treasurer and the Minister for Finance, WorkCover and the Transport Accident Commission. We have done that successfully as part of the process of consultation. I also advised that if they are pensioners, they can get the advantage of stamp duty exemption. It has been a very positive exercise in consultation across the board.

There have been a number of false allegations and misunderstandings in relation to this bill. The member for Scoresby talked about retrospectivity. I think he supports retrospectivity in terms of the date of the press release issued by the Treasurer or the Minister for Finance, WorkCover and the Transport Accident Commission. But he was seeking an assurance that — and I am sure the Minister for Finance, WorkCover and the Transport Accident Commission will take into account some of the issues he has raised — the legislation will not affect arrangements other than those intended to be caught. The intention of the legislation is to catch those particular arrangements. But the member for Scoresby, as I understand it, is not against retrospectivity. I hope he is not, because we do have to have certainty in the marketplace.

That certainty is very important. But a number of allegations have been falsely made surrounding the new provisions, one of which is that people are going to have to pay stamp duty twice. I am sure members opposite do not believe that. The member for Scoresby certainly could not believe that. It is not the intention of the bill that people be taxed twice, nor is it the arrangement. You do not pay stamp duty twice on the same transaction.

The other thing that I am struggling to understand is why people cannot pay within 14 days, particularly these days with electronic banking transfers. Most people have the money up front at the time of settlement, and all the documents should be ready. I think it is the law that all the documents have to be there when you settle. Any property transactions I have been involved in have required that I had all the documents there ready to be signed and the money had to be in the bank, including any duty payable. It is almost a windfall gain for lawyers or bankers who do not have to pay for such a long time. I think 14 days is very sensible in these days of electronic transfers. Provided people comply with the arrangements required by law, they should have a reasonable assurance that they will be able to do that. I am sure the internet has reached even to the far reaches of the Murray Valley electorate.

I know the State Revenue Office always has its doors open if there are difficulties. It is responsive to people who have genuine concerns. Although it is up to the minister to provide these assurances, I know from personal experience the State Revenue Office is considerate and willing to talk to people, and it is able to deal with individual cases. I am sure that it will continue to do this.

Among other issues which have been raised are legal concerns around interpretation. A lot of straw men have been raised upon this. A lot of false allegations have been raised about whether the tax is going to apply to every lease et cetera. It is meant to apply to sales and not to just anyone who is leasing a shop or something like that. The commissioner of state revenue is quite happy to provide a ruling to this effect. The tax is not meant to apply to a shop lease. It is meant to prevent tax avoidance by people such as the Myer family and the Commonwealth Bank in relation to the buildings in Bourke Street.

The other issue is around the unintended consequences of the legislation. There was the issue regarding retirement villages, which I mentioned before. This was the subject of much consultation and a number of meetings were held. People like me — and I assume the member for Scoresby — raised the issue of retirement villages and Mr Cameron's concern with the minister and the State Revenue Office. I hope the member for Scoresby did, because I certainly did. The minister and the Treasurer listened to those concerns and have provided the amendments circulated here today.

I am happy to support the bill and support the amendments. I reject the reasoned amendment.

Ms ASHER (Brighton) — I wish to make a couple of comments on the Duties Amendment Bill, and also indicate my support for the reasoned amendment moved by the member for Scoresby. At the outset let me state that I agree with the government's stated aim of needing to plug a loophole where leases are used as a device to avoid a sale, and thereby to avoid duty. There is a number of reasons why that was adverse to Victoria, and we support the government's desire to plug that loophole.

However, the bill is fundamentally flawed. The fact the government has had to bring in 19 amendments spanning four pages indicates an admission on the government's part that it got it wrong when it second-read the legislation in November. The fact that this was not the government's initiative in terms of these amendments is evident by the timing of the amendments.

Throughout the Christmas period the member for Scoresby and the opposition raised the concerns of people who were about to enter retirement villages, and initially the government dug its heels in. The opposition had received significant representations from people who were self-funded retirees in self-funded retiree groups basically expressing concern that this duties bill, as second-read, would impact adversely on people entering retirement villages and with significant financial consequences — for example, on the average retirement village unit of $400 000 the stamp duty bill, which would have been generated prior to these amendments, would have been $16 000-plus. Again, on a unit costing $500 000, the stamp duty bill would have been $22 000.

It was drawn to the government's attention that the bill as written and as second-read in November carried substantial flaws that would impact adversely on people wanting to buy into retirement villages. I want to refer now to information passed on to me by Chris Daly, who is an expert in these particular things. He makes the valid comment that:

> The retention of the freehold by the developer of the village enables him to exercise a far greater degree of control over the operation of the village …

That is a control that other residents want — for example, residents want to make sure that the rules of retirement villages bind everyone. There is a legitimate reason for the use of a lease in that situation alone, but more importantly there is a legitimate reason for the use of a lease because the length of stay of residents in retirement villages is actually short. The average, I am told, is six years, and there are obvious reasons why the stays are short — illness and death are two of them. Clearly to transfer freehold titles would be an unnecessary impost on everyone. Again, the comment has been made to me that where retirement villages are subdivided into separate titles, this may well impede redevelopment and extension of retirement villages, when it is in everybody's interests that retirement villages are constantly modernised.

The point I am making is that the use of a lease for retirement villages was not a device and cannot be compared with the sort of example that the government put forward to bring in the bill.

I understand the amendments were flagged with the member for Scoresby on the weekend, and I am pleased the government today has introduced 19 amendments, spanning four pages, to verify the point that the member for Scoresby has been making consistently over the summer period — and that is, the government got it wrong.

The bill was second-read in November, and the government got it wrong. It would be far preferable if government members said that they got it wrong and apologised to people who were stressed by the proposed legislation — and believe me, there were many people who were very stressed at the concept of having to pay significant amounts of duty to enter a retirement village.

I congratulate the member for Scoresby on forcing the government to back down on this issue. He issued a press release on 19 February drawing attention to the fact — lest the government wishes to claim credit for this — that he forced the government to back down so that retirees and people who wished to enter retirement villages would not have to pay exorbitant and untenable amounts of stamp duty for an arrangement which is not a device to avoid stamp duty but a device that is well suited to retirement villages.

I am conscious of the fact there are many members who want to speak on this bill, so therefore I will make my comments brief and conclude.

Ms CAMPBELL (Pascoe Vale) — I applaud this legislation and place on record my support for the bill and my rejection of the reasoned amendment moved by the opposition. We are all clear why we are here; we are here because there were loopholes that were required to be closed because of tax-avoidance measures that were based around leases. The opposition members, particularly the previous speaker, the member for Brighton, have made much of the fact that there are a range of amendments. It is a shame she has left the chamber because I would have liked to point out to her that with anti-avoidance legislation we have to make sure, especially after the considerable work that goes in initially, that we do not flag to those wishing to avoid taxation the anti-avoidance measures that are being brought in and voted upon by the house.

It is a fact that the legislation was introduced in November, so there was opportunity for it to lay over during the Christmas break to enable considerable consultation. It is important to place on record that the

public consultation process involved a range of stakeholders, and it is as a result of their participation in the discussions over the summer period that some of the amendments have been introduced. Let us look at the history of consultation and some of those that have been involved: the Law Institute of Victoria, Australian Banking Association, Retirement Village Association, Shopping Centre Council of Australia, Australian Institute of Conveyancers (Victorian Division), Taxation Institute of Australia, Consumer Affairs Victoria, Stockland, Aged and Community Care Victoria, Residents of Retirement Villages Victoria and Investment and Financial Services Association.

This government is about consultation, but it is also about ensuring the rectification of any loopholes in revenue gathering, because it is required to provide services in this state. In this case it needs to ensure that any loopholes involved with leases are rectified. As a result we are here today to deal with good amendments proposed by the government.

The point made by many members of the opposition — and a point I was curious about — was in relation to the duty date. Most people are now paying their duty earlier than legislation currently allows, and it is important that legislation is modernised. Provision is available for electronic funds transfer and upon settlement you usually find it is quite easy to do everything simultaneously. The reduction from three months to 14 days in the time for the payment of duty is much better and a far more modern way to do business.

My only other comment is that while the government is to provide goods and services that we all collectively call for — we call for them in the adjournment debate, in 90-second statements and so on — we have to make sure that revenue is gathered justly and appropriately and that where loopholes are identified they are removed. This is good legislation. It ensures the provision of goods and services in this state and it removes inappropriate loopholes.

Mr CLARK (Box Hill) — The bill has three main purposes. The first is to seek to ensure that artificial lease structures are not used as a device to avoid duty. We have made clear on this side of the house that we support measures that will achieve that effect, particularly in relation to very long-term leases that are tantamount to a transfer of ownership. However, the government has managed to bring in far more than that in the way it has drafted this bill, and that has caused the concerns outlined by the member for Scoresby.

The second purpose of the bill is to make further provision as to when duty is payable when there is a change of beneficial ownership. Rather than clarify the law, the government has created confusion. Certainly in the minds of the Law Institute of Victoria, I understand they are saying that we are moving towards a quasi New South Wales style of duty and opening up the risk potentially of double duty. This has been the opposite of red tape reduction. It is the creation of red tape and confusion for business.

The third of the provisions is to reduce the time period within which duty must be paid from 90 days to 14 days. This is clearly a measure designed to provide a massive windfall one-off gain to the government. This is not an anti-avoidance measure. There was no necessity for it to be introduced alongside the other measures in this bill. Industry sources have put the one-off windfall to the government of the order of $500 million, and that does not sound unreasonable given the magnitude of duty collected in this state and given that the pull forward of revenue is up to 14 days short of three months.

If the government disputes that figure, let it put on the table its calculations of what the windfall gain is going to be. It is going to be a pretty dramatic figure however you do the arithmetic, and it comes at a time when a government that has squandered the good times is struggling to cope now that times have got tougher. This grab for revenue is likely in the government's eyes to be seen as potentially making the difference between a budget that is reported to be in surplus this year and a budget that turns out in deficit.

However, nothing comes free, and if the government is getting a windfall gain of that magnitude, someone else is paying the cost. If you do a very rough calculation of the order of 5 per cent interest per annum applied to $500 million, it comes out at around a $25 million per annum cost to the community, which is paying this revenue early. That is going to come from a variety of sources, but a significant chunk of it is going to be through depleted amounts held in solicitors trust accounts, and the lack of funds in solicitors trust accounts is going to impact on the amount of money that is payable into the Public Purpose Fund, because the Public Purpose Fund derives its revenue from the statutory deposit accounts, with which solicitors have to transfer a sizeable proportion of their trust balances, and it also comes from the revenue that is payable on the trust account balances that solicitors hold.

The 2008 annual report of the Legal Services Board at page 74 shows that the board and the fund received income of over $44 million through law practice residual trust accounts and $22.9 million from statutory deposit accounts. These are sizeable sums that are

involved, and those moneys go to a variety of purposes, including $31.9 million to Victoria Legal Aid, $2.1 million to Leo Cussen Institute, $1.9 million to the Department of Justice, $1.6 million to the Victorian Law Reform Commission, $1.7 million to the Victoria Law Foundation and $7 million paid out in major grants, according to the figures on page 75 of the annual report.

Over the years the Attorney-General has increasingly come to rely on money drawn from the Public Purpose Fund to provide much-needed resources for legal aid and other public causes. In 1999–2000 the funds set aside for these various grants totalled $7.9 million. On a comparable basis the figure set aside in 2006–07 for disbursement in 2007–08 has reached $49.9 million, of which, as I have said, $31.9 million goes to Victoria Legal Aid — a massive amount indeed.

The public, the profession and this house need an explanation from the government as to how much the government expects funds available through the Public Purpose Fund for legal aid are going to be cut as a result of this measure if it is enacted in its current form. Will the government guarantee that it will top up any reduction in the money that is available through the Public Purpose Fund for legal aid and for other purposes?

Mr SEITZ (Keilor) — I stand to support the Duties Amendment Bill 2008. What I have been listening to has shown there is some confusion in the minds of opposition members. They say they support closing loopholes, and that is exactly what the aim of the bill is — to close the loopholes that exist for clever corporate accountants and lawyers to advise their clients about. That is certainly not the case with the retirement villages in my electorate, where there are three huge retirement villages. I discussed with the tenants the concerns expressed early on and the misinterpretation that they would have to pay stamp duty. They have been excluded by the Treasurer following the work done by a number of people on the government side. We have looked at it, listened and consulted.

There are a number of stakeholders involved with whom discussions and consultations have taken place. Stockland has taken over the three retirement villages in my area, which were independently run by a small family business that grew from one to two then to three big villages. I am pleased to support the legislation with the proposed amendments, but I am also pleased to support it and to make sure those people at the top end of the market who can afford to pay stamp duty do pay and do not use legal loopholes that are not available to or known about by the small people because they do not have corporate accountants and lawyers working for them, advising and looking at all the loopholes.

This has been brought out because the State Revenue Office took the case up on some of those issues, and the court ruling went against the commissioner of state revenue. The amendment is here to enshrine the requirement in legislation and make it quite clear, instead of leaving it to case-by-case court interpretation and argument. For that reason I commend the changes because the use of legal loopholes is taking money away from state revenue, and as the member for Northcote said, that money could be used for other purposes in our society, in particular to provide government services to our community. It is a very fair amendment that we are putting up — that those who can afford to pay more taxes pay more taxes. They should be paying more taxes rather than developing and using avoidance schemes.

I have been amazed over the last few years to see all the ‘For sale’ and ‘For lease’ signs up on big properties. That in itself gave the message that there was something behind it, that there was an advantage in leasing in most cases. In relation to this legislation, I do not think we should take any notice of the opposition’s crocodile tears on this matter, because we have done the homework as far as retirement village rates. As I said, my electorate in particular would be affected by stamp duty when it first comes out. I talked to the people and the tenants in the retirement villages, because they were looking at whether the body corporate would have to put up the fees and meet these costs that would be imposed in the future — which of course is not the case.

I have no hesitation in supporting the bill, but I say we should be looking at more of these loopholes that will inevitably come up from the legal system and from our corporate accountants trying to save the big dollars for people in business at the top end of the market, particularly in the current economic circumstances when they are all trying to make savings and show a profit from their budgets when they have to present them to their boards of directors. They will always come up with schemes. I know there are other people who want to speak after me, so I commend the bill and wish it a speedy passage through the house.

Ms WOOLDRIDGE (Doncaster) — I rise to join the debate on the Duties Amendment Bill 2008 and support the member for Scoresby’s reasoned amendment. It is a very sensible way to approach this bill, because I have to say this bill is a mess — so much so that the State Revenue Office had to put out advice

on how to read it. The bill should be withdrawn and rewritten. I support some of the tenets of the bill in that the removal of lease arrangements that seek to avoid stamp duty by the use of long time periods is very sensible and has been supported in all speeches made by members on this side of the house.

However, I would like to speak from the perspective of my shadow portfolio of ageing. I must say I was pleased that the government finally conceded to pressure from the opposition and stakeholders calling for an exemption from stamp duty on retirement villages and residential aged care.

Last sitting week, not long ago, the Treasurer refused to reassure thousands of senior Victorians that they would not have to pay thousands of dollars more in stamp duty when they entered retirement homes or aged-care facilities. It has been estimated that the average amount they would have been required to pay was well over $20 000 had the bill as it stood gone ahead. Prior to the government's backdown last week the proposed stamp duty amendments would have made these current retirement accommodation options unaffordable for retirees because they would have been unable to pay the stamp duty up front.

I received representations from constituents, seniors, senior advocacy groups such as the Over 50s Association, and aged-care industry groups such as Aged and Community Care Victoria. It is clear in drafting this bill that the government has failed to consider the impact the bill would have on many senior Victorians.

Seniors have been among the hardest hit by the downturn of the world economy. Overnight they have experienced sharp losses in investments and the erosion of superannuation savings. This is particularly pertinent for self-funded retirees. If that were not bad enough, they were then informed that they would be slapped with yet another tax from this government should they wish to enter a retirement village or residential aged-care facility. The legislation was ill considered and poorly drafted. I am pleased that the government finally amended the bill to safeguard against such a negative impact for the aged-care sector.

However, the question needs to be asked: why did the government overlook senior Victorians in drafting this legislation? The reason is that, to their embarrassment, this arrogant government and its incompetent Treasurer have actually failed to take this into account. It has been described as an 'unintended consequence'. The unintended consequences resulted in four pages of amendments and 19 different clauses being amended. This embarrassing backflip by the government could have been avoided if it had bothered to even talk to any stakeholders or interest groups prior to the introduction of the bill.

The government has said the unintended consequences have been addressed through consultation. Perhaps an idea would be to consult before delivering the bill rather than after it. It is only the government's own incompetence and laziness that has meant it has had to do these embarrassing backflips. Instead of choosing to draft legislation in a tightly locked, bureaucratic cocoon, the government should be talking to people through this process. It also confirms that the aged-care industry is a low priority on the government's agenda. It reinforces this by its lack of consultation.

This lack of consultation is a hallmark of the government across the board. Time and again we have seen the government being forced to withdraw, reverse, back down and change decisions due to community backlash and pressure from the opposition. I support the reasoned amendment, and I sincerely hope senior Victorians will no longer be marginalised and victim to Labor's out-of-touch politics.

Mr SCOTT (Preston) — It is with pleasure that I rise to support the Duties Amendment Bill. It is an excellent piece of legislation that deals with a loophole that had developed. Previous speakers have noted that there have been significant examples of people seeking to avoid tax by using leases as a construct, where in fact they were really changing ownership of the land. The purposes of this bill are: one, to ensure that leases are not used as such a mechanism to avoid duty; two, to clarify when duty is payable in beneficial ownership; and, three, to reduce the time for the payment of duty. This is simply an anti-avoidance measure. Though some members have not supported the bill wholeheartedly, at least we have had general agreement to that principle. People who should pay tax where effective control or ownership of real property has been obtained should not be able to use mechanisms to avoid the duty. This has been achieved in this case by basing liability on the change of effective ownership or control rather than the form of the transaction.

When the lease duty was abolished in 2001 it was not envisaged that complex transactions would develop which would effectively transfer ownership but would avoid ordinary duty payments. Often there is a bit of a scare campaign around these types of bills, but my understanding is that it highly improbable that renters would actually pay duty when renting when the property they are in is sold during the time of their lease. I noted with some pleasure that retirement

villages have been exempted from this provision. I note that the Retirement Village Association put out a press release on 19 February celebrating this.

This is an excellent bill. It has my full support and I commend it to the house.

Mrs POWELL (Shepparton) — This legislation should cause huge embarrassment to government members and to the government. As the member for Scoresby said, the bill was poorly worded and open to interpretation, and has caused a huge amount of angst to older Victorians and people thinking about or already living in retirement villages and aged-care hostels.

New section 7 inserted by clause 4 of the bill provides that the application is intended to be broad. It is so broad that guidelines have had to be provided. The government said that it was going to bring in amendments to rectify any unintended consequences. The coalition received the final amendments only minutes before the lunch break. The government said it was bringing in this bill to rectify unintended consequences, but those unintended consequences have huge financial implications for people going into retirement villages.

I have received a letter from Shepparton Villages, a copy of which was sent to Kaye Darveniza, an upper house member for Northern Victoria Region. The letter is from the chief executive, Kevin Bertram, asking for assistance to ensure that changes are made to the stamp duty bill to exempt residency deeds in respect of the bonds associated with his company's residential aged-care facility and to exempt the loan/licence agreements in respect of the loans with his retirement units.

This is one of those bills where the government did get it wrong, as the member for Brighton said. We understand that the bill will come back to this house again. The member for Scoresby has brought in a reasoned amendment which in effect says that the bill should be withdrawn so that stakeholders can be spoken to. The coalition has concerns about the 14-day property settlement, the retrospectivity of the provisions and the legal concerns regarding interpretations of the proposed wording. The bill should be withdrawn and rewritten after genuine consultation with all stakeholders.

Mr HODGETT (Kilsyth) — I rise to make a brief contribution to the debate on the Duties Amendment Bill 2008, and I note that the purpose of the bill is to amend the Duties Act 2000 in three main areas, the first two of these being anti-avoidance measures. The main provisions of the bill will ensure that lease structures are not used to avoid duty, clarify when duty is payable where there is a change in beneficial ownership and reduce the time period for payment of duty from 90 days to 14 days.

The bill as introduced would have seen stamp duty imposed on retirement villages and other aged-care facility lease arrangements, but I am pleased to hear that the government has announced an exemption for retirement villages following pressure from the coalition and stakeholders. It is not often that the Brumby Labor government listens to the community. I am pleased that in this instance the Treasurer, John Lenders, has taken the advice of the coalition shadow Treasurer, the member for Scoresby, who actually knows what he is talking about.

Prior to this the government was proposing to introduce stamp duty on retirement village leases. It is a disgrace that the Brumby government would even consider slugging senior Victorians with new taxes in the current global financial crisis. The state government should be supporting senior Victorians in these harsh economic times instead of imposing new taxes on retirees and pensioners. Forcing people to pay this new stamp duty on top of the unit lease price would have made retirement village or residential aged-care facility accommodation unaffordable for many. Retirees have contributed throughout their working lives and now, when they are planning and preparing for their retirement in uncertain economic times, the Premier and his Labor government moved to introduce a tax on retirement homes.

I am pleased to have made representations on behalf of Neil Cameron from Ringwood East and Brian Rich from Ringwood. I support the member for Scoresby's reasoned amendment.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — It is a pleasure to sum up on the Duties Amendment Bill. I thank all members who have contributed to the debate so far — the members for Scoresby, Northcote, Murray Valley, Gippsland East, Burwood, Brighton, Pascoe Vale, Box Hill, Keilor, Doncaster, Preston, Shepparton and Kilsyth — for their contributions on this important piece of legislation.

I will go to a few issues. I know we will have the opportunity during the consideration-in-detail stage to address some specific matters that the member for Scoresby in particular wishes to raise, so I will not go to those matters now, but I will go to some of the issues raised during the second-reading debate. The first issue

is the question of consultation. Opposition members have again and again made the point that the government's failure to let people know in advance about its intention to introduce anti-avoidance measures reflects poorly on the legislation in some way.

I make the point that when dealing with anti-avoidance legislation — in this case changing the law to prevent people from undertaking certain transactions which have as their purpose and intent the avoidance of stamp duty — it is very important that the government does not telegraph its intentions. If it were to do so, then it would invite a stampede of the very transactions the government is seeking to undermine and prevent. It would encourage a stampede of that sort of transaction. It is not possible for governments to embark on wide-ranging consultation prior to the announcement of measures that are designed to prevent the avoidance of stamp duty.

Since the government made its announcement about the introduction of these measures it has worked with a range of stakeholders who have either made written submissions or participated in meetings so that the government has been able to gain their perspectives. Those perspectives have been fed into either the legislation itself or the house amendments that will be considered today.

I mention specifically the Law Institute of Victoria, the Australian Bankers Association, the Retirement Village Association, the Shopping Centre Council of Australia, the Australian Institute of Conveyancers (Victorian Division), the Taxation Institute of Australia, the Property Council of Australia, Consumer Affairs Victoria, Stockland, Aged and Community Care Victoria, Residents of Retirement Villages Victoria and the Investment and Financial Services Association as examples of government entities and a range of other organisations and stakeholders who have been able to have input into this legislation.

In a sense that goes to a second question that has been raised by a number of members — the members for Murray Valley and Shepparton, and I think other members also — which is the question of retrospectivity. I make the point that if this bill is to be criticised because the anti-avoidance measures are to take effect from the date of the media release announcing them, then that goes against a whole range of well-understood and well-practised circumstances which exist when governments legislate to close down anti-avoidance activities. It is common practice, and the member for Scoresby knows that and in effect acknowledged as much in his contribution, because I understand he does not oppose the retrospectivity.

That other members of the opposition stand up and say that retrospectivity to the date of the release making the announcement is in some way a failing of this bill reveals that they fundamentally do not understand the way anti-avoidance legislative provisions are introduced, not just in this jurisdiction but across Australia in the other states and territories and at the commonwealth level. It is common practice.

In relation to the timing question — the question about the move from 90 days to 14 days for the payment of stamp duty — we will have an opportunity to explore that issue at some length perhaps in the consideration-in-detail stage, but I make the point that stamp duty is an expected, calculable cost of purchasing property. It is well understood in advance of the transaction being entered into and the settlement period often includes 90, 45 or 30 days preceding the actual settlement. There is ample opportunity for those who are to become liable for stamp duty to enter into arrangements to meet their obligations in those circumstances. In many cases the transaction cannot be completed if the stamp duty arrangements have not been satisfactorily concluded in advance. When you look at the practice in other states and territories you find that, while practice is divergent across Australia, the arrangements that have been entered into in Victoria are pretty consistent from a timing perspective with the arrangements in other jurisdictions.

This is good legislation that is designed to protect the integrity of the stamp duty base here in Victoria, and I commend it to the house.

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

Ayes, 47

Allan, Ms	Lim, Mr
Andrews, Mr	Lobato, Ms
Batchelor, Mr	Lupton, Mr
Beattie, Ms	Maddigan, Mrs
Campbell, Ms	Marshall, Ms
Carli, Mr	Merlino, Mr
Crutchfield, Mr	Morand, Ms
D'Ambrosio, Ms	Munt, Ms
Donnellan, Mr	Nardella, Mr
Duncan, Ms	Neville, Ms
Foley, Mr	Noonan, Mr
Graley, Ms	Overington, Ms
Green, Ms	Pallas, Mr
Hardman, Mr	Pandazopoulos, Mr
Harkness, Dr	Pike, Ms
Helper, Mr	Richardson, Ms
Herbert, Mr	Robinson, Mr
Holding, Mr	Scott, Mr
Hudson, Mr	Seitz, Mr
Hulls, Mr	Stensholt, Mr
Kairouz, Ms	Thomson, Ms
Kosky, Ms	Trezise, Mr

Langdon, Mr
Languiller, Mr
Wynne, Mr

Noes, 32

Asher, Ms
Baillieu, Mr
Blackwood, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Fyffe, Mrs
Hodgett, Mr
Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Morris, Mr
Napthine, Dr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryan, Mr
Shardey, Mrs
Smith, Mr K.
Smith, Mr R.
Sykes, Dr
Thompson, Mr
Tilley, Mr
Victoria, Mrs
Wakeling, Mr
Walsh, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms

Amendment defeated.

Motion agreed to.

Read second time.

Consideration in detail

Clause 1

Mr WELLS (Scoresby) — I seek a guarantee in the legislation that this will not apply to commercial leasing arrangements. The State Revenue Office (SRO) has put out a revenue ruling. We believe that is not sufficient, as it can be withdrawn or readily ignored.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — Firstly, I thank the member for Scoresby for his question. It should be noted that the purposes of the bill are to make changes to ensure that leases are not used as a mechanism for avoiding duty. To ask for 'guarantees' that the provisions will not apply to certain arrangements is to misunderstand the nature of anti-avoidance legislation. In effect any such 'guarantees' would mean actually legislating for avoidance opportunities. In any event, standard commercial leases are not caught by the legislation as currently drafted; therefore the best guarantee is the law itself.

Moreover the fact that standard commercial leases will not be caught by the legislation has already been affirmed in the second-reading speech, the explanatory memorandum, a media release by the Treasurer and now in a revenue ruling. The ruling merely clarifies the effect of the legislation. Revenue rulings issued by the commissioner are consulted on with industry stakeholders, as the current one is being consulted on at the moment. Rulings only really get updated when a case is handed down which impacts on its effectiveness or when the law is changed, but again there is wide industrial consultation. Furthermore revenue rulings are a common tool utilised by all revenue offices and the Australian Taxation Office (ATO). It is simply wrong and naive to suggest that the commissioner will, or can, ignore his own public rulings. He is bound by them.

If the suggestion is to 'guarantee' that all 'commercial leasing arrangements' generally will not be caught by the provisions, this is to understand the nature in which stamp duty operates. Stamp duty is a transaction tax; therefore each individual transaction is assessed on its individual merits as to whether or not there is a liability to duty. This is exactly what happens in other jurisdictions that have similar leasing provisions. It comes down to substance over form — in other words, what exactly the transaction is doing or giving effect to, regardless of what it is called. An example is the Myer transaction, where $450 million was paid as part of a lease in the central business district and in return for certain rights over the property that equate to rights acquired through a direct transfer. By definition this is a 'commercial leasing arrangement'. I would have thought this is precisely what these anti-avoidance provisions are meant to catch.

Mr WELLS (Scoresby) — I seek a guarantee that that does not apply to residential leases.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — If this is a reference to standard rental accommodation, then that is a complete misreading of the legislation, which applies to the granting of a lease for which consideration is paid, or agreed to be paid, other than rent reserved. In rental arrangements, rent is paid. Otherwise the provisions are there to ensure that leases are not used as a mechanism to avoid duty. For transactions that utilise leasing arrangements to transfer effective ownership — that is, economic benefits — of the underlying land, the equivalent to a standard sale and purchase transaction, then duty will be payable.

Mr WELLS (Scoresby) (*By leave*) — I seek a guarantee that it does not apply to leases merely because there is a premium paid.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — It is difficult to understand what this question is getting at. Formerly they wanted to exclude leases where anything other than a premium is paid; here the member for Scoresby wants to exclude leases where a premium is being paid. Where a premium is paid, or any other

amount for that matter, regardless of what you call the payment, if that payment effectively transfers the underlying land to the lessee/purchaser, then stamp duty will be payable.

Again, the provisions are anti-avoidance measures aimed at ensuring certain transactions involving leases are subject to duty. The lease transactions targeted by these provisions generally involve the grant of a lease which has certain characteristics. Substantial consideration — that is, the premium — is paid for the grant of the lease, which results in the lessee obtaining certain rights and economic benefits relating to the land that are equivalent to those which a purchaser would acquire if the land were transferred to the purchaser directly. As these leasing arrangements essentially amount to a sale and purchase transaction, duty is charged.

this is a reference to nominal premium amounts being paid, it is doubtful that the relevant characteristics would be present — that is, economic benefits and so forth — or the lessee would be acquiring the rights to and benefits of the underlying land. In these circumstances duty would not be payable on the lease transaction. It would be unusual for a lease to be transferred on its own for a nominal amount. Instead it would be part of a larger transaction, such as the sale of the associated business. But, unlike in some other jurisdictions, the transfer of a business is generally not dutiable in Victoria.

Mr WELLS (Scoresby) (*By leave*) — We seek a guarantee that that applies only to long-term leases. There is nothing in the legislation that so restricts it.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — The changes being proposed relate to 'certain leasing arrangements', for example, where consideration is paid for the grant of a lease which has certain characteristics, such as certain rights and economic benefits that are the equivalent to rights obtained in a sale and purchase transaction. Therefore, rather than having a defined long term, for instance 25 years, the amendments look to the characteristics of particular transactions. Again, they look to what the transaction does or affects — substance over form. The length of the type of lease that these provisions are aimed at has no bearing on liability. This is explained in the explanatory memorandum. Moreover, as soon as you put a term on it you effectively legislate for avoidance opportunities. For example, if the term for leases were 50 years, that transfer of effective ownership of the underlying land would be structured for a period of time designed to get around that 50 years.

Mr WELLS (Scoresby) (*By leave*) — We seek a guarantee that payments or deposits do not trigger duty on a contract of sale.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — In Victoria duty is charged when a transfer of dutiable property, such as a transfer of land, occurs. In most cases the transfer of land occurs at settlement of the purchase transaction. At law, when a deposit is paid under a sale and purchase contract there may be a change in the beneficial ownership of that land to the extent that the purchaser now has an equitable interest in the property. However, the changes in the bill do not make an agreement for the sale or transfer of dutiable property into a separate item on which duty is charged, which is the way the duties provisions operate in New South Wales and in some other jurisdictions. The changes will not result in duty in Victoria being imposed when a contract of sale is entered into and a deposit is paid. Ordinarily a liability to duty will arise when a dutiable transaction occurs. In an agreement for the transfer or acquisition of dutiable property this will be when the agreement is settled, the full purchase price is paid and a signed transfer is exchanged.

Mr WELLS (Scoresby) (*By leave*) — We seek a guarantee that terms contracts will not be caught by this bill.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — The basic concept of a terms contract is that on payment of an initial deposit the purchaser enters into possession of land and continues paying the purchase price by some form of instalment payment. These can be liable to duty now, without the proposed amendments. I do not see how we can guarantee to not apply the existing law or the law as we propose it be amended to.

Mr WELLS (Scoresby) (*By leave*) — We seek a guarantee that revenue to the Public Purpose Fund will not decrease as a result of the reduction of stamp duty payments to 14 days from 90 days.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — Stamp duty payments in and of themselves are not proposed to change as a consequence of this legislation. What will change is the period of time in which a stamp duty bill effectively has to be remitted to government. The member for Box Hill explored this question in some detail in his contribution, and I would simply make the point that members of the opposition cannot have it both ways. They cannot argue on the one hand that the government stands to gain a revenue windfall from the

benefit of interest receipts from the stamp duty sums remitted to government and then on the other hand suggest that amounts in the Public Purpose Fund through solicitors' trust fund accounts will essentially decline. They actually cannot — —

Mr Wells interjected.

Mr HOLDING — The member for Scoresby — —

The DEPUTY SPEAKER — Order! The minister will continue and will not respond to interjections.

Mr HOLDING — The opposition cannot have it both ways. It cannot argue that the windfall occurs on the one hand and on the other hand the government somehow has a threat to its revenue base from some other aspect of the changes.

Mr WELLS (Scoresby) (*By leave*) — The point that we were making in question 7 was that because the money would not be there for 90 days and would only be there for 14 days, there would not be the same amount of interest.

Question 8 relates to our seeking a guarantee that the government will not issue fines or penalties to any country Victorian solicitors or other lawyers where there is a complex purchase sale or to financial institutions for one year, until a review or assessment is conducted to ascertain the effectiveness of the compliance of the new 14-day payment of stamp duty.

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — The State Revenue Office has already proposed transitional arrangements. The SRO has proposed a two-month transitional period to help taxpayers adjust to the new requirements. Accordingly, no penalty tax or premium rates of interest will be charged on any late payments. Only the market rate of interest will be imposed unless there are circumstances that were beyond the control of the taxpayer that led to the late payment. It is inappropriate to give a guarantee to taxpayers that they not be obliged to comply with the law indefinitely. It should be expected that once the law is changed genuine endeavours will be made in good faith to adjust practices according to the 14-day payment requirement.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I move:

1. Clause 4, page 4, after line 23 insert —

'( ) After section 7(3) of the **Duties Act 2000 insert** —

"(3AA) Despite subsection (1), the granting, transfer, assignment or surrender of a lease creating or giving rise to a residency right in a retirement village within the meaning of the **Retirement Villages Act 1986** is not a dutiable transaction.".'.

Amendment agreed to; amended clause agreed to.

Clauses 5 to 12 agreed to.

Clause 13

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I move:

2. Clause 13, line 8, omit "9" and insert "15".
3. Clause 13, line 13, omit "9" and insert "15".
4. Clause 13, line 18, omit "10" and insert "16".
5. Clause 13, line 24, omit "10" and insert "16".
6. Clause 13, line 28, omit "10" and insert "16".
7. Clause 13, line 34, omit "10" and insert "16".
8. Clause 13, page 11, line 5, omit "10" and insert "16".
9. Clause 13, page 11, line 10, omit "10" and insert "16".
10. Clause 13, page 11, line 16, omit "10" and insert "16".
11. Clause 13, page 11, line 20, omit "10" and insert "16".
12. Clause 13, page 11, line 27, omit "10" and insert "16".
13. Clause 13, page 11, line 32, omit "10" and insert "16".
14. Clause 13, page 12, line 5, omit "11" and insert "17".
15. Clause 13, page 12, line 12, omit "11" and insert "17".
16. Clause 13, page 12, line 16, omit "12" and insert "18".
17. Clause 13, page 12, line 25, omit "12" and insert "18".

Amendments agreed to; amended clause agreed to, clause 14 agreed to.

New clauses AA to DD

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I move:

18. Insert the following New Clauses to follow clause 7 —

'AA References to dutiable property — Division 1

After the heading to Division 1 of Part 5 of the **Duties Act 2000 insert** —

"32Y References to dutiable property

For the purposes of this Division, a reference to —

(a) a declaration of trust over dutiable property includes a declaration of trust over a lease referred to in section 7(1)(b)(v) or 7(1)(b)(va);

(b) a transfer of dutiable property includes —

(i) the granting of a lease referred to in section 7(1)(b)(v);

(ii) the transfer or assignment of a lease referred to in section 7(1)(b)(va).".

BB References to dutiable property — Division 2

After the heading to Division 2 of Part 5 of the **Duties Act 2000 insert** —

"38B References to dutiable property

For the purposes of this Division, a reference to a transfer of dutiable property includes —

(a) the granting of a lease referred to in section 7(1)(b)(v);

(b) the transfer or assignment of a lease referred to in section 7(1)(b)(va).".

CC References to dutiable property — Division 3

After the heading to Division 3 of Part 5 of the **Duties Act 2000 insert** —

"41B References to dutiable property

For the purposes of this Division, a reference to —

(a) a transfer of dutiable property or a vesting of dutiable property includes —

(i) the granting of a lease referred to in section 7(1)(b)(v);

(ii) the transfer or assignment of a lease referred to in section 7(1)(b)(va);

(b) a declaration of trust over dutiable property includes a declaration of trust over a lease referred to in section 7(1)(b)(v) or 7(1)(b)(va).".

DD References to dutiable property — Division 4

After the heading to Division 4 of Part 5 of the **Duties Act 2000 insert** —

"50B References to dutiable property

For the purposes of this Division, a reference to —

(a) a transfer of dutiable property includes —

(i) the granting of a lease referred to in section 7(1)(b)(v);

(ii) the transfer or assignment of a lease referred to in section 7(1)(b)(va);

(b) a transfer of an estate in fee simple includes —

(i) the granting of a lease referred to in section 7(1)(b)(v);

(ii) the transfer or assignment of a lease referred to in section 7(1)(b)(va).".'.

New clauses agreed to.

New clauses EE and FF

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I move:

19. Insert the following new clauses to follow clause 8 —

'EE Definitions

At the end of section 57G of the **Duties Act 2000 insert** —

"(2) For the purposes of this Division, a reference to —

(a) a bona fide purchaser of the land for adequate consideration includes a reference to —

(i) a person to whom a lease referred to in section 7(1)(b)(v) has been granted;

(ii) a person to whom a lease referred to in section 7(1)(b)(va) has been transferred or assigned;

(b) a contract for the purchase of the land includes a reference to —

(i) the granting of a lease referred to in section 7(1)(b)(v);

(ii) the transfer or assignment of a lease referred to in section 7(1)(b)(va);

(c) a transfer of dutiable property, being an estate in fee simple includes a reference to —

(i) the granting of a lease referred to in section 7(1)(b)(v);

(ii) the transfer or assignment of a lease referred to in section 7(1)(b)(va);

(d) a transferee includes a person to whom a lease referred to in section 7(1)(b)(v) or 7(1)(b)(va) is granted, transferred or assigned.".

FF Who is an eligible pensioner?

After section 58(2) of the **Duties Act 2000 insert** —

"(3) For the purposes of sections 58, 59, 60, 61, 62 and 63, a reference to —

(a) a bona fide purchaser of an estate in fee simple in land includes a reference to —

(i) a person to whom a lease referred to in section 7(1)(b)(v) has been granted;

(ii) a person to whom a lease referred to in section 7(1)(b)(va) has been transferred or assigned;

(b) a transfer of dutiable property, being a estate in fee simple in land includes a reference to —

(i) the granting of a lease referred to in section 7(1)(b)(v);

(ii) the transfer or assignment of a lease referred to in section 7(1)(b)(va).

(4) For the avoidance of doubt, nothing in subsection (3) affects the operation of this Act other than sections 58, 59, 60, 61, 62 and 63 relating to the transfer of dutiable property.”.’.

New clauses agreed to.

Bill agreed to with amendments.

Third reading

Motion agreed to.

Read third time.

VICTORIA LAW FOUNDATION BILL

Council’s amendments

Returned from Council with message relating to amendments.

Ordered to be considered next day.

MAJOR SPORTING EVENTS BILL

Statement of compatibility

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Major Sporting Events Bill 2009.

In my opinion, the Major Sporting Events Bill 2009, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The objectives of the Major Sporting Events Bill 2009 are to support the acquisition, retention, staging and management of major sporting events in Victoria by including the provisions that may be required to control and protect an event within a single act.

The bill will consolidate existing generic legislation relating to major events — the Major Events (Aerial Advertising) Act 2007, the Major Events (Crowd Management) Act 2003 and the Sports Event Ticketing (Fair Access) Act 2002 — into one act.

The bill also includes provisions relating to the control and management of major sporting events to which the bill applies, to provide a safe environment for spectators and participants and comprehensive assistance for the facilitation of major sporting events. Provisions to manage unauthorised broadcasting; protect against misuse of protected event logos, images and references; modify the application of other laws in order to facilitate an event; facilitate general operational requirements, protect against non-aerial ambush advertising and to protect against claims for economic loss are included in the bill and may be activated by a major sporting event order in relation to a particular event.

This single comprehensive bill will facilitate a more coordinated and consistent approach to attracting, retaining, managing and staging major sporting events, and will create greater efficiencies for government and key stakeholders. It will send clear and positive signals about the priority Victoria attaches to major sporting events, demonstrate a sophisticated understanding of the issues inherent in contemporary major event organisation and keep Victoria ahead of its competitors, increasing its attractiveness to event organisers.

A careful balance must be struck to ensure that events can be staged safely, equitably and successfully and yet present minimal interference with charter rights. This balance has been achieved in the bill.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The rights under the Charter of Human Rights and Responsibilities Act 2006 engaged by the bill are:

section 12: freedom of movement;

section 13: privacy;

section 15: freedom of expression;

section 16: peaceful assembly and freedom of association;

section 20: property; and

section 21: liberty and security of person.

The impact of the bill upon these charter rights is discussed below.

Section 12 of the charter: freedom of movement

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

This right is limited by a number of provisions in the bill which can be grouped as follows:

> provisions related to crowd behaviour and management;
>
> provisions related to access to event venues and areas;
>
> provisions related to closure or modification of roads; and
>
> regulation making power.

Crowd management

Crowd management is an important objective of the bill and a number of provisions of the bill limit freedom of movement for this purpose. Similar provisions currently exist in the Major Events (Crowd Management) Act 2003, which will be repealed by the bill:

> Clause 67 engages the right to freedom of movement because it provides an offence for entry of a person into a sporting competition space within an event venue. This clause is necessary to prevent individuals from invading competition areas such as pitches and tracks and disrupting major sporting events. The offence does not apply where the person is participating in the sporting event with the permission of the venue manager or event organiser, where the person is engaged in the control or management of the event, where the person has permission or is a member of a class of person that has been given permission to enter the space by the venue manager or the event organiser, such as officials, or where the person is or is a member of a class of person that is otherwise authorised to enter and remain in the sporting competition space, such as emergency services personnel.
>
> Clauses 71, 72, 73 and 74 establish restrictions on, respectively: blocking stairs, exits and entries; climbing on fences, barriers or barricades; obstructing the view of a seated person; and climbing on the roof or a parapet of a building within an event venue or event area without authorisation. In clauses 71, 72 and 73 these actions only constitute an offence if they are carried out 'without reasonable excuse'. Each of these provisions involves some restriction on movement for the purpose of promoting the safety and enjoyment of an event by all patrons. Each of these provisions arguably also engages the right to freedom of expression and this is discussed below.
>
> Clause 80(2) enables an authorised officer to direct a person who has refused to comply with a request to surrender a prohibited item to not enter the venue for 24 hours or to leave the venue and not re-enter.
>
> Clause 83 provides that an authorised officer may direct a person to leave and not re-enter or not to enter an event venue or event area if the authorised officer believes on reasonable grounds that a person has committed a crowd management offence under the act, has informed the person of that belief, has asked the person to leave or not enter the event venue or event area and the person has refused to comply with that request.
>
> Clause 84 provides for an authorised officer to direct a person to leave an event venue or event area and not return for 24 hours if the authorised officer believes on reasonable grounds that the person is disrupting or interrupting an event, engaging in conduct which is a safety risk or causing unreasonable disruption or unreasonable interference to spectators or to people organising the event or managing the venue. This provision is discussed further in relation to freedom of expression below.
>
> Clause 85 provides penalties for persons who: enter an event venue or event area, or attempt to do so, contrary to a direction; fail to leave immediately after being directed to do so; or enter, re-enter or attempt to do so having previously left under direction. This clause also provides for a member of the police force, using no more force than is reasonably necessary, to prevent a person from entering, re-entering or attempting to enter or re-enter, or to remove a person who refuses to comply with a direction from an event venue or area. The clause reinforces directions given under clauses 80, 83, 84 and 90 and the limitations on a person's right to remain in the event venue or event area established by those clauses. The capacity to prevent a person from entering or to remove them using force is also discussed in relation to the right to liberty and security of person (see below).
>
> Clause 86 allows the police to apply to the Magistrates' Court to prohibit repeat offenders under the bill from entering specified event venues or areas for a specific event or series of events. The clause includes a number of preconditions that need to be satisfied before an order prohibiting the person can be made. In the first instance a member of the police force must suspect on reasonable grounds that a person who has been convicted or found guilty on two or more occasions of specified offences (such as throwing a lit distress signal or firework) is likely to disrupt an event or series of events that are protected under the bill. The clause requires the Magistrates' Court to quash an order on application by the person subject to the order if the person has successfully appealed against a conviction that was the basis of the prohibition order.
>
> Clause 87 allows a court to make a ban order against a person who the court has found guilty of one of the more serious crowd management offences in the bill (such as possession of a prohibited or controlled weapon or a firearm in an event venue or event area) or an offence against certain sections of the Crimes Act 1958 or the Summary Offences Act 1966 in an event venue or event area during an event protected under the bill. An order imposed under this clause may prohibit a person from entering the event venue or area where the person committed an offence, or can apply to a specified event where the offence was committed, two or more specified events where the offence was committed or attendance by the offender at a specified category of event at any venue where those events take place. A ban order may be imposed for up to five years. A penalty applies to contravention of a ban order imposed under this clause.

Clause 90 allows an authorised officer to direct a person not to enter an event venue or event area for a period of 24 hours if they refuse to comply with a request for an inspection. An authorised officer may also direct a person to leave an event venue or area and not re-enter if they refuse to comply with such a request.

Clause 103 also engages the right to freedom of movement because it provides a capacity for police to remove a person or persons involved in an assembly from an event venue or event area in certain circumstances when the assembly involves unlawful violence and damage. It therefore restricts such persons' right to remain in the event venue or event area. The clause makes clear, however, that this power may only be exercised when a member of the police believes on reasonable grounds that the assembly involves unlawful physical violence and damage to property and that it is not practicable, because of the number of persons involved, to preserve or restore order by arresting any of the offenders. This provision is discussed further in relation to the right to freedom of assembly below. A provision similar to this exists in section 50O of the World Swimming Championships Act 2004.

In addition to penalties associated with some of the crowd management offences discussed, clause 91 authorises a police officer to issue an infringement notice in relation to an offence against clause 67(1) — entry into a sporting competition space, clause 85(1), clause 85(2) or clause 85(3) relating to refusals to leave an event venue or area or re-entry against a direction to leave, each of which involves a restriction on the freedom of movement.

Access to event venues and areas

A key objective of the bill is to facilitate effective, efficient and safe management of major sporting events. A number of provisions relating to access to event venues and event areas limit freedom of movement in support of this wider purpose:

Clause 10(2) provides that if a major sporting event order specifies an area of land to be an event area, the event organiser, venue manager or event area manager may demarcate the event area using fencing, barriers or other permanent or temporary means of physical demarcation. This may affect a person's ability to access the land but is required to enable an event organiser to take effective control of an event area for purposes of establishing an event venue or conducting and managing an event. An event order can only specify an event area if the minister is satisfied that certain criteria relating to the necessity of the event area are met.

Clause 97 allows a range of activities to be undertaken on land that is an event venue or an event area during a specified period despite anything to the contrary in the Land Act 1958, any Crown grant, the Crown Land (Reserves) Act 1978, any reservation under that act and any regulations made under these acts. Such activities and any associated demarcation of land may affect movement on and through such areas of land.

Clause 102 provides for an event organiser to be responsible for and have all powers necessary to control access to an event venue or event area during the period of a relevant event. This is a fundamental requirement to enable an event organiser to establish an event venue or event area and conduct an event effectively and safely and to be able to, among other things, charge spectators a fee to enter the venue to watch the sporting event. It does, however, affect a person's ability to access the land.

Closure or modification of roads

Similarly there are two provisions relating to closure or modification of roads that may limit freedom of movement for the purpose of facilitating major sporting events:

Clause 109 provides for the minister to temporarily close a road to traffic to enable works to be carried out at an event venue or event area, if the minister considers it necessary to do so to enable those works to be carried out, or for purposes of conducting an event. The clause requires the minister not to do this unless the minister has consulted with the relevant road authority (for example the minister must consult with the minister responsible for the Local Government Act 1989 and the relevant local council in relation to closure of a local road).

Clause 110 allows the minister to modify a road for the same reasons and with similar consultation requirements to those that apply in relation to clause 109. Modifications include, but are not limited to, establishing tow-away zones, altering line markings on a road and converting a road to a one-way road.

Regulations

The bill also limits the right to freedom of movement indirectly through the provision of a regulation-making power. Clause 194 provides the power to make regulations in relation to a range of matters including prohibiting or regulating the entry or admission of persons to an event venue. Regulations may be required to facilitate effective and safe management of an event venue, event area or event for similar reasons to those outlined above. Importantly, the scope and detail of any such regulations would be limited by the scope of the regulation-making power and of the bill. It is likely that any such regulations would limit freedom of movement in similar ways and for similar reasons to those outlined above.

Consideration of reasonable limitations on the right to freedom of movement — section 7(2) of the charter

(a) the nature of the right being limited

The right to freedom of movement is a key right in international human rights law. The right to move freely in Victoria includes a right not to be forced to move to, or from, a particular location.

(b) the importance of the purpose of the limitation on the right to freedom of movement

The main purpose of the limitations listed above is to require appropriate standards of safety for participants and spectators at major sporting events where large numbers of people are in attendance in a confined space. In this type of environment, dangers would be posed by behaviour which is recklessly or deliberately harmful to the instigators or others, or by the entry of persons into operational event areas seeking to

disrupt the event or harm participants and spectators. It is also unsafe for unauthorised and untrained individuals to enter construction or logistic sites where they are unaware of potential hazards. The limitations aim to control these risks, including preventing injury, and in seeking to provide a safe environment in which these events may occur, the limitations are intended to protect life.

The limitations also promote efficiency in conducting major sporting events, which is an essential prerequisite for successful events. This is a very significant purpose because of the strategic importance of major sporting events in Victoria.

(c) the nature and extent of the limitation on the right to freedom of movement

The nature of the limitation is to:

prohibit certain types of antisocial, dangerous and disruptive behaviour at major sporting events and remove or deny entry to persons based on their past, present or likely future behaviour;

control access to event venues and event areas to enable them to be established, and an event to be conducted effectively and safely. This also allows the organiser to charge spectators for entry;

enable necessary roadworks in or near an event venue or event area to be undertaken; and

enable regulations to be made that would control the entry or admission of persons to an event venue or event area.

The extent of the limitation is confined to the minimum required to achieve each objective. The limitations also represent lesser restrictions than may be imposed by land and venue managers, who may exercise such powers regardless of the bill. In relation to crowd management, the limitations are restricted to a number of clearly defined behaviours that are antisocial, disruptive or unsafe, only when they are undertaken without authorisation and/or without reasonable excuse. The consequences of the most common contraventions are generally confined to non-entry, or direction to leave, for 24 hours; a fine; or a lower level penalty. The administration of more substantial consequences, such as orders regarding repeat offenders and ban orders, require objective standards and criteria to be met and are subject to a court's jurisdiction. Limits apply to measures that can be taken by courts such as the maximum duration of five years for a ban order.

The nature of the limitation imposed by granting an event organiser the power to control access to an event venue or event area during an event period will vary based on the nature of each event but will be substantially the same as the limitations on freedom of movement associated with other more complex events held in the community that are not protected under the act. These limitations will, by definition, be limited to the period specified in an order relating to an event.

The extent of the limitation on freedom of movement imposed by road closures or modifications will vary according to the minister's assessment of what is necessary in relation to each event but is likely to be similar to limitations caused by closures and modifications for other purposes from time to time. It may not be necessary for roads to be closed or modified for every event. The minister's assessment of what is necessary will be informed by the required consultation with the relevant road authority. Any interference with freedom of movement will be tailored to the circumstances in each case.

The extent of the limitations imposed by any regulations made under the bill would be relatively minor. They could not exceed the limitations contained in the bill itself. Clause 195 provides for a maximum penalty unit of only 20 penalty units for breach of a regulation and does not provide for regulations regarding, for example, direction to leave or the more serious consequences specified on the face of the bill such as bans.

(d) the relationship between the limitation on the right to freedom of movement and its purpose

The relationship between the limitations and the important purposes they serve is direct and proportionate.

In relation to crowd management, most of the provisions that limit the freedom of movement have the purpose of promoting safety, preventing injury and protecting the right to life. These provisions prohibit a limited range of activities that are clearly dangerous in a crowd situation and which, if permitted, would pose immediate, obvious and serious threats to safety. The crowd management provisions also prohibit a limited range of actions that are inherently disorderly and disruptive that would compromise the efficient and effective running of a major sporting event. The close relationship between the limitations and purposes is reinforced by the fact that they only apply in certain places and at certain times, when there is a risk.

The crowd management limitations apply to specific venues, within clearly defined boundaries, where crowds gather for events, and to both key regular events and events that are the subject of a specific major sporting event order. The provisions continue to apply to certain venues on a permanent basis as they do under the Major Events (Crowd Management) Act 2003 because key events conducted at those venues on a recurring basis require the application of the provisions. While these provisions apply permanently to these venues, the nature of the restrictions relate to inherently unsafe or antisocial behaviour or conduct that is only enlivened in the context of a major sporting event and the restrictions provided are less restrictive than the existing powers of venue managers to control access to and conduct within venues.

Within event venues and areas that are identified in a major sporting event order, provisions only apply within the defined boundaries and for the time specified in the order.

There is, therefore, a very close relationship between the limitations and their purposes which is focused on particular behaviours, clearly defined locations and, in relation to major sporting event orders, specific times when the safety and other risks apply. The bill strikes a balance between the need for safety and efficient running of events and the right to freedom of movement of those who attend.

Similarly, major sporting events could not occur without the restrictions related to control of access to event venues and event areas and closure and modification of roads. They are designed to facilitate operational arrangements and to promote safety. They are limited to what is considered

appropriate and necessary for the conduct of each event and only apply to the specific time of the event and to the specific event venues and event areas specified in a major sporting event order. In the case of road closures and modifications the minister is required to consult with the relevant road authority and this would assist in striking an appropriate balance between operational needs and safety imperatives, and freedom of movement.

(e) any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purposes of the limitations. In relation to crowd management issues, there is no practical way to maintain safety and order in big crowds at major sporting events if there is no prohibition on the behaviours that are banned or controlled by the bill. Similarly, it is not possible to deliver the operational arrangements, security and safety required for an event and to run it on a commercial basis without the capacity to control access to the event venue and event area. Where, after consultation, it is established that road and traffic arrangements need to be altered in a specific way for a major event, some degree of interference with the right to freedom of movement is unavoidable. Overall, the confinement of interferences with the right to particular events, places and times based on the circumstances of each event ensures that they constitute the least restrictive means available to achieve the purpose.

(f) any other relevant factors

Most of the provisions discussed in this section are identical or substantially similar to provisions in the Major Events (Crowd Management) Act 2003 that are widely accepted in the community.

Conclusion in relation to the right to freedom of movement

The bill does limit the right to freedom of movement but the limitations are justified by the important objectives they serve, which support the right to life by protecting the safety of participants and spectators in large crowds at these events and provide for orderly conduct and efficient and comprehensive management of major sporting events. The limitations strike the correct balance between the right to freedom of movement and the need for safety, orderly conduct and operational efficiency.

Section 13: privacy and reputation

Section 13 of the charter provides that a person has the right —

(a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and

(b) not to have his or her reputation unlawfully attacked.

A law which authorises interference with privacy will only be lawful when it is precise and circumscribed, and details the circumstances in which interferences may be permitted.

This right is engaged by a number of provisions in the bill which can be grouped as follows:

provisions related to commercial arrangements;

provisions related to crowd behaviour and management; and

provisions related to inspection, entry and search powers pursuant to the aerial advertising and sports event ticketing provisions.

Commercial arrangements

Provisions that engage the right to privacy for purposes relating to commercial arrangements are as follows:

Clause 49 enables an event organiser who is authorised to use protected event logos, images or references to seek an account of profits in relation to unauthorised use of event logos, images or references. A court may make an order in this respect requiring disclosure of an account of profits. This may engage the right to privacy but does not limit it because the order is required to effect appropriate restitution and is reasonable in the particular circumstances. It is therefore both lawful and not arbitrary.

Crowd behaviour and management

Provisions that engage the right to privacy for purposes relating to crowd behaviour and management are as follows:

Clause 88 provides an authorised officer with the power to require a person to give his or her name and address, where the officer believes on reasonable grounds that the person has committed an offence against clauses 62–74. These offences include possession of a prohibited item, entering a sporting competition space, damaging flora or infrastructure and obstructing the view of a seated person. Clause 88 engages the right because it requires a person to provide personal information about himself or herself. The clause is subject to reasonable limitations: it can only be exercised when an officer has formed the belief referred to above on reasonable grounds and includes a requirement for the officer to demonstrate that he or she has the authority to require the information (by showing his or her identity card) and informing the individual that it is an offence to fail or refuse to provide his or her name or to provide false information. The power is necessary to enforce the provisions referred to in the clause — i.e. it is not possible for an authorised officer to prosecute these offences without the power to ascertain who is being prosecuted and how they may be served. As such, the interference is reasonable in the circumstances and is neither arbitrary nor unlawful, and therefore does not limit the right.

Clause 89 is related to the clause 88 limitation in that it imposes a penalty for a refusal to provide name and address, or the provision of a false name or address, to an authorised officer, when required to do so.

Clause 90 provides an authorised officer with significant powers of inspection in relation to searching the contents of a person's bags or pockets or to requesting a person to walk through screening equipment passed around the person or the person's belongings. The clause is intended to protect the safety of spectators and participants by reducing the capacity of individuals to disrupt events, or cause physical damage to persons or structures through the use of prohibited items. The criteria upon which a search can be made are clearly communicated at entry to an event venue. The clause

represents a balance between the need for public safety where a large number of people may gather, and the individual's right to privacy. It seeks to incorporate the least restrictive means necessary to achieve its objectives, by providing that a person requested to submit to an inspection may request that it is conducted in private, and that the inspection will occur in a private area set aside by the venue manager or event organiser for that purpose. The restriction is limited by the fact that upon refusal, a person is only denied entry for a maximum of 24 hours. The interference is lawful and not arbitrary because it is reasonable in the particular circumstances. It does not, therefore, limit the right to privacy.

Aerial advertising and sports event ticketing

Provisions that engage the right to privacy for purposes relating to inspection, entry and search powers pursuant to the aerial advertising and sports event ticketing provisions are as follows.

Clause 134 engages the right because it provides for a search warrant to be issued where an authorised officer believes that it will allow discovery of a thing that may provide evidence of the commission of an aerial advertising offence. It engages the right because it provides that a person's personal space and belongings may be searched where a magistrate is satisfied that there are reasonable grounds to believe a relevant discovery will be made. The provision allows an authorised officer to search, seize, or secure against interference any thing or things described in the warrant which the officer reasonably believes are connected to the alleged contravention. Clause 137 allows things not mentioned in the warrant to be seized if certain conditions are met.

The right is not limited by clause 134 because the process is lawful and not arbitrary. The circumstances in which someone's privacy may be interfered with are circumscribed in significant ways: the secretary must provide written approval for an application for a search warrant to be made and a magistrate must be satisfied that there are reasonable grounds to believe that the particular thing will be on the premises over the next 72 hours. Additionally, the warrant must specify a range of parameters, including the alleged offence requiring the search, the premises to be searched, description of the subject of the search, conditions, hours of entry and the date of expiration of the warrant, which cannot be longer than seven days after it was issued. Unlike other warrants issued under the Magistrates' Court Act 1989 a warrant issued pursuant to clause 134 may not authorise an authorised officer to arrest a person and does not, therefore, limit the right to liberty and security of person.

Additional related limitations include the requirement to announce the entry of an authorised officer (clause 135), provision of the warrant to the occupier (clause 136) and the requirement to provide a receipt for anything seized under the warrant and copies of any documents seized (clauses 138, 139). Clause 134 and these related clauses are carefully crafted to ensure that the purpose of the provision is achieved with the least possible interference with the right to privacy.

Clause 141 provides for an authorised officer in the course of exercising inspection powers to make and seize documents or seize information storage devices if the authorised officer finds an information storage device that he or she believes on reasonable grounds may contain information relevant to determining whether the aerial advertising provisions of the bill have been contravened.

Clause 144 enables an authorised officer to require a person, to the extent that it is reasonably necessary, to give information, documents and assistance to the authorised officer in order to determine if the aerial advertising provisions of the bill have been contravened. Clause 146 qualifies this by providing that it is a reasonable excuse for a person not to give information or do anything else the person is required to do under the bill if such actions would tend to incriminate the person. Despite this, however, clause 146 also provides that it is not a reasonable excuse to fail or refuse to produce a document if required to do so under this bill if it would tend to incriminate the person.

Clause 170 facilitates entry or search of premises in relation to the ticketing provisions of the bill and is similar to clause 134. It allows an authorised officer to obtain a warrant, subject to a magistrate being satisfied that specified conditions are met. A warrant issued under this clause may authorise search for, and seizure of, relevant things. As with clause 134, such a warrant may not authorise an authorised officer to arrest a person.

Clause 172 enables an authorised officer, with the secretary's approval, to apply to the Magistrates Court for an order requiring a person to provide specific answers, information and documents to an authorised officer concerning compliance with an approved ticket scheme or alleged contravention of the bill. A magistrate may make such an order if the magistrate is satisfied there are reasonable grounds to warrant such an interference.

Clause 173 provides for documents to be seized pursuant to an order under clause 172 and requires the authorised officer to report back to the Magistrates' Court.

Clause 176 provides balance in relation to clause 172 by providing that it is a reasonable excuse for a person not to give information or do anything else the person is required to do under the bill (other than produce a document) if such actions would tend to incriminate the person.

Clause 181 prohibits an authorised officer from sharing confidential information acquired in exercising the officer's powers under the bill, except to the extent necessary to exercise his or her powers. Such information may be given in court or for similar purposes.

Conclusion in relation to the right to privacy

All provisions in the bill that engage the right to privacy are lawful, in that they are precise and circumscribed. The bill carefully defines the circumstances in which relevant powers can be exercised to ensure that all interferences with privacy under the bill are reasonable in the particular circumstances

and therefore not arbitrary. There is therefore no limitation of the right.

Section 15: freedom of expression

Section 15(2) of the charter provides that every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether —

(a) orally; or

(b) in writing; or

(c) in print; or

(d) by way of art; or

(e) in another medium chosen by him or her.

Section 15(3) provides that special duties and responsibilities are attached to the right to freedom of expression and the right may be subject to lawful restrictions necessary —

(a) to respect the rights and reputation of other persons; or

(b) for the protection of national security, public order, public health or public morality.

This right is limited by a number of provisions in the bill which can be grouped as follows:

provisions related to commercial arrangements;

provisions related to advertising including aerial advertising; and

provisions related to crowd management, operational arrangements and regulations.

Commercial arrangements

There are a number of provisions that limit freedom of expression in relation to commercial arrangements for the purpose of protecting the viability of major sporting events.

Clause 36(3) provides that a person who has not been authorised in writing by the minister to use protected logos and images or event references may not do so if the use is for promotional, marketing or commercial purposes or suggests a sponsorship-like arrangement.

Clause 37 provides offences for engaging in conduct which would suggest to a reasonable person that goods or services, or any person, have a sponsorship, approval or affiliation that they do not have with a declared event, the event organiser or any event or activity associated with an event.

In addition, clause 38 interferes with this right by providing an offence for unauthorised use of a protected event logo, image or reference or any thing substantially identical to a protected event logo, image or reference where it is used for commercial purposes or for promotional, advertising or marketing purposes, whether or not for commercial gain, or would suggest a sponsorship-like arrangement to a reasonable person.

Clause 43 interferes with the right to freedom of expression by providing an offence for broadcasting, telecasting or transmitting by any means whatever any sound or image of an event protected by the bill or any part of that event at or from a place within or outside an event venue or an event area unless that person has a broadcasting authorisation. In addition, clause 44 interferes with the right by providing an offence for making a sound recording or any film, television, video or digital recording of moving images of an event protected by the bill or any part of that event for profit or gain or for a purpose that includes profit or gain at or from a place within or outside an event venue or an event area unless the person has a broadcasting authorisation.

The offences are only designed to capture behaviour which undermines the ability of an event organiser to profit from their labours, with respect to the value of broadcasting a sporting event. Consequently clause 43 does not capture actions which are not for profit or gain, or for a purpose that includes profit or gain provided the broadcast is not of a substantial part of an event; or, provided it is for the purpose of criticism or review, parody or satire, the reporting of news, a judicial proceeding, giving or receiving legal advice, providing official library services for a member of Parliament or private and domestic use. This represents an appropriate balance between the restriction on expression and the rights of event organisers. As a result the clauses create reasonable and proportionate restrictions on the right to freedom of expression.

Clause 45 interferes with the right to freedom of expression by providing an authorised applicant with the ability to apply to the Supreme Court, County Court or Magistrates' Court for an injunction restraining a person from engaging in conduct prohibited in clauses 37, 38, 43 or 44. The conduct may be a contravention, attempting to contravene, aiding, abetting, counselling or procuring a person to contravene, inducing or attempting to induce a person whether by threats, promises or otherwise, to contravene the clauses or being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of clause 37, 38, 43 or 44.

Further, clause 47 may limit the right to freedom of expression by providing that the court, where satisfied on the balance of probabilities that a contravention of section 37, 38, 43 or 44 has occurred, may make orders requiring corrective advertising by any person involved in the contravention. This limits the right to freedom of expression by obliging expression to occur in a certain way. It is reasonable and proportionate, however, to require the correction of advertising to occur where an offence has been committed under the bill. In deciding whether to make a corrective advertising order, the court would be bound by section 32 of the charter to interpret its power consistently with the right to freedom of expression.

These provisions are required to protect the commercial and intellectual property rights of event organisers which may be derived from an event. Unauthorised use of intellectual

property associated with an event and broadcasting footage of an event is sometimes intended to enable a person not associated with the event to make a profit out of the labours of the event organiser. Where such use is not for profit, e.g. unauthorised broadcasting for the purposes of reporting the news, this use is not an offence for the purposes of the act.

Advertising including aerial advertising

Provisions that limit freedom of expression in relation to advertising, including aerial advertising, are as follows:

Clause 116 prohibits a person responsible for a building or structure within an event venue or event area from causing or permitting advertising material to be displayed on the building or structure except as permitted by the event organiser and subject to the terms of any agreement to use the facility.

Clause 117 creates an offence to display unauthorised commercial advertising on a vessel that is within sight of an event venue or an event area. Clause 125 is a similar provision that establishes an offence for displaying unauthorised commercial aerial advertising within sight of an event venue or event area. The offence does not apply, however, to flights undertaken in an emergency, for provision of emergency services or for gathering information for news and current affairs.

Clauses 121 and 131 are similar provisions that provide for a court to grant an injunction or interim injunction to restrain a person from displaying unauthorised commercial advertising on a vessel or unauthorised commercial aerial advertising respectively.

These provisions restrict freedom of expression, but are required to prohibit and deter ambush advertising, in order to protect the commercial advertising rights of official sponsors and suppliers. They do not prohibit advertising altogether. Advertising on buildings within an event venue may be authorised by an event organiser. A person may seek authorisation to conduct advertising on vessels and aerial advertising and such activities can be approved if criteria relating to the impact on the event are satisfied. Advertising on vessels can be authorised by the event organiser under clause 118 and aerial advertising can be authorised by the secretary under clause 127.

Crowd management, operational arrangements and regulations

Provisions that limit freedom of expression in relation to crowd management, operational arrangements and regulations are as follows:

Clause 62 makes it an offence to possess a prohibited item without authorisation and this may limit a person's scope to express him or herself in particular ways. Prohibited items include animals, distress signals, dangerous goods, a whistle or a loudhailer, laser pointers, firearms, weapons, bicycles, fireworks, horns or bugles, flags or banners of a certain size, items of a commercial quantity, public address systems, electronic equipment, broadcast equipment and any such equipment which may interfere with broadcasting or similar equipment used by the event organiser.

Clauses 63 and 65 prohibit possession without authorisation of a lit or unlit distress signal or fireworks respectively and this may limit freedom of expression. The limitation is required for compelling safety reasons.

Clause 64 creates an offence to throw a lit distress signal or firework without authorisation, again for safety reasons.

Clause 67 engages the right by providing a penalty for entering the competition space without a legitimate role or authorisation. The clause also establishes a substantial penalty for unauthorised individuals who disrupt a match, game, sport or event without reasonable excuse while in the sporting competition space. This provision, while restricting some forms of expression, is essential to ensure that sporting events may occur without undue interference and to protect participants and spectators from risk of injury. The offence will not capture legitimate entries into the competition space or legitimate disruptions such as the provision of medical attention for competitors.

Clause 68 makes it an offence to throw or kick projectiles other than in specified circumstances or with approval of the event organiser.

Clause 69 makes it an offence to damage or deface specified infrastructure within an event area except with authorisation of the venue manager or event organiser. This clause restricts freedom of expression to the extent that a person may not deface any building or structure in an event venue or area, by writing or drawing on it or disfiguring it. This restriction is necessary to protect the property rights of the owners of infrastructure within a venue or area. The right of an individual to communicate information and opinions needs to be balanced against the need to protect the property and amenity of a venue and the comfort, enjoyment and safety of patrons.

Clause 70 creates an offence to damage flora except with authorisation.

Clause 71 provides for an offence to block stairs, exits or entries without reasonable excuse, except with authorisation.

Clause 72 creates an offence to climb on a fence, barrier or barricade without reasonable excuse, except with authorisation.

Clause 73 makes it an offence to obstruct the view of a seated person without reasonable excuse, except with authorisation.

Clause 74 establishes an offence to climb the roof or parapet of a building without authorisation.

Clause 84 effectively prohibits conduct that is disrupting or interrupting an event, which is a safety risk or causing unreasonable disruption or unreasonable interference to spectators or people organising the event or managing the venue. It does this by providing for an authorised officer to direct a person to leave an event venue or event area and not return for 24 hours if the authorised officer believes on reasonable grounds that the person is engaging in such conduct. This provision establishes a more objective test than the existing equivalent provision in section 15 of the Major Events (Crowd Management) Act 2003. It focuses more clearly on

disruption of the event and introduces a trigger related to safety. Whereas a person may be asked to leave for 'causing annoyance to spectators' under section 15, clause 84 requires an authorised officer to believe a person is causing 'unreasonable disruption or unreasonable interference to spectators of the event or persons engaged in the conduct or management of the event'. This is important not only to minimise the limitation of the right under this provision but because more significant consequences may result if a person who is directed to leave under this clause fails to do so immediately or re-enters or attempts to re-enter.

Clause 103 engages freedom of expression by authorising police to remove a person from an event venue or event area if an assembly is being carried on with unlawful violence or damage and it is not practicable to restore order by arresting any of the offenders. This could limit some forms of expression.

Clause 104 makes it an offence to interfere with or hinder, or cause anyone else to interfere with or hinder, the carrying out of works at an event venue or event area. This is necessary for the safety of staff carrying out the works, efficient event management and public safety.

It should be noted that a number of the crowd management provisions above also engage the rights to freedom of movement and property rights.

In relation to authorised officers, clause 185 creates an offence to hinder or obstruct an authorised officer. This may restrict some extreme forms of expression as would clause 186 which proscribes impersonation of an authorised officer.

As noted above clause 195 provides for regulations to be made covering a range of matters including the care, control, management and use of an event venue or event area; prohibiting or regulating any activity; and regulating the behaviour of persons to ensure public safety, good order and decency. It is likely that any such regulations would limit freedom of expression in similar ways and for similar reasons to those outlined above in relation to the substantive provisions related to crowd management that are on the face of the bill.

Consideration of reasonable limitations on the right to freedom of expression — section 7(2) of the charter

The right to freedom of expression is often described as essential to the operation of a democratic society. In particular, the right to freedom of expression enables people to participate in political debate, to share information and ideas which inform that debate and to expose errors in governance and the administration of justice. It is an important right in international law.

The right is considered to apply to commercial advertising. It is significant for the discussion in this statement, however, that the courts have historically afforded less protection to freedom of commercial expression than either political or artistic expression.

As stated in the charter the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or to protect national security, public order, public health or public morality.

Rights of others is a concept that includes not only legal rights, but embraces a standard of universal respect for other people.

There are different views about the types of expression that are protected by the right. Courts have generally provided that the purpose of the expression is relevant to determining the weight that should be attached to it, when considering an interference with the right. Political expression will attract more weight than social expression or expression with no intellectual content, and a reasoned restriction of the latter will be easier to justify.

(a) The importance of the purpose of the limitation on the right to freedom of expression

The bill contains a range of limitations of the right for several purposes.

The purpose of the limitations which prohibit unauthorised commercial activities, including use of protected event logos, images and references and broadcasting of an event is to protect the legitimate commercial interests of event organisers. The exclusivity of these items is intrinsic to their value and their unauthorised use by entities that have made no contribution to the staging of an event or creation of the intellectual property misappropriates significant commercial gains. Broadcast and other rights need to be protected to ensure major sporting events remain commercially viable. This is considered to be an appropriate and important objective to be protected by legislation in a modern, commercially competitive environment.

The purpose of the limitations in relation to advertising is to protect the commercial interests of legitimate sponsors from the unauthorised ambush advertising of their competitors. This is to protect the rights of sponsors and ensure that Victoria's major sporting events continue to attract financial support and is also considered to be an appropriate and important purpose.

The purpose of the limitations arising from the provisions related to crowd management, operational arrangements and regulations are to ensure a safe environment for participants and spectators at major sporting events, and consequently to prevent injury and protect the right to life. Additional purposes include facilitating effective and efficient management of events, the protection of property and upholding the public's right not to be subjected to disorderly behaviour.

The nature and extent of the limitation on the right to freedom of expression

The limitation in relation to commercial practices is a prohibition on using protected property such as a logo or event footage without authorisation. Authorisation may be sought for the activities that are the subject of the provisions. The limitations are confined to those necessary to prevent, or provide redress in relation to, commercial harm. For example, the prohibition on broadcasting does not apply to a broadcast, telecast or transmission that is not made primarily for profit or gain and which is not a substantial part of the event or is supported by a legitimate purpose, including criticism, review or the reporting of news (clause 43).

The bill limits the ability of individuals to impart, seek and receive advertising information, including in airspace and on

vessels within sight of the venues of specified major events. However, the bill only prohibits deliberate ambush advertising of a commercial nature and does not seek to limit the rights of individuals making statements of a non-commercial nature. The restrictions apply only to advertising within sight of specified major events on each day of the event. Further, they only apply within prescribed times, which are intended to minimise the duration of the restriction and provide reasonable and appropriate advertising opportunities for authorised advertisers and sponsors.

Any individual wishing to engage in advertising may negotiate legitimate advertising opportunities within sight of the venue of the major event. That is, the bill only limits unauthorised advertising and does not prevent an individual from pursuing other advertising opportunities.

The bill restricts individuals from engaging in a range of behaviours that may constitute forms of expression. These include taking various inappropriate or unsafe items to a sporting event, lighting and throwing flares, throwing or kicking projectiles, entering the competition area without authorisation and disrupting the event, damaging or defacing property, climbing in inappropriate places, deliberately obstructing the view of others and behaving in a way that is a safety risk and causing unreasonable disruption or unreasonable interference with spectators or management of an event. It should be noted that these restrictions are not as great as the restrictions that may be imposed by land and venue managers, without the bill.

Under clause 75 of the bill an individual may seek authorisation for some of these behaviours and in some cases the behaviours only constitute an offence where they are undertaken without reasonable excuse.

The extent of the limitation is that a person may be directed to leave or not enter or re-enter the event venue or event area for 24 hours if they contravene these provisions of the bill, or they may be fined or charged with an offence in more serious cases.

(b) The relationship between the limitation on the right to freedom of expression and its purpose

It is considered that there is a rational and proportionate relationship between the limitations imposed by the bill and the purposes of the limitations.

In relation to commercial arrangements, this is because the provisions only seek to protect the legitimate commercial interests of event organisers from opportunistic exploitation by third parties. Balanced against the important purpose of respecting the rights of event organisers and supporting the commercial viability of major sporting events, the limits are proportionate and rational.

In relation to advertising, the limitation is minimal because ambush advertising is generally undertaken by corporations, which do not have human rights. Further, the period during which advertising is prohibited in relation to each major sporting event is limited. In practical terms, this means that the limit on an individual's rights posed by these clauses is largely a limit on their right to seek and receive alternative advertising information. Balanced against the important purpose of securing sponsorship at major events, these limits are rational and proportionate; particularly as individuals attending major events can readily access these alternative advertising messages in other forums.

The limitations that apply to crowd management and behaviour are targeted at dangerous and disruptive behaviours in a social and recreational context. The limitations do not curtail expression of a political nature. The most common consequence for contravention of these clauses is only a direction to leave and not re-enter an event venue for 24 hours. This can be exercised for the safety of the person ejected, as well as to protect the safety and enjoyment of others at the event. Balanced against the purpose of protecting the rights of spectators and participants to attend a safe and orderly event, these limits are rational and proportionate.

The crowd management limitations apply to both key regular events and events that are the subject of a specific major sporting event order. The provisions continue to apply to certain venues on a permanent basis as they do under the Major Events (Crowd Management) Act 2003 because key events conducted at those venues on a recurring basis require the application of the provisions. While these provisions apply permanently to these venues, the nature of the restrictions relate to inherently unsafe or antisocial behaviour, or conduct that is enlivened in the context of a major sporting event, and the restrictions provided are less restrictive than the existing powers of venue managers to control conduct within venues.

The crowd management limits are consistent with the lawful restrictions referred to in section 15(3)(a) of the charter in that they respect the rights of other persons. In addition to legal rights this provision has relevance and application to a more general respect for others.

(c) Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive measures available that would adequately protect the rights and reputation of event organisers. In particular, as stated above, the provisions prohibiting unauthorised broadcasts or similar are very important because copyright law does not provide a remedy for an event organiser whose sporting event is broadcast by another party, thereby undermining the value of official broadcast rights. In relation to opportunistic exploitation of protected logos, images and references and conduct that suggests sponsorship or a sponsorship-like arrangement, the bill provides effective and timely solutions, where general legal remedies are inadequate. Timeliness is of the essence, in responding to opportunistic behaviour of the type envisaged, in order to avoid or minimise losses by the event organiser.

As previously stated, the nature and scope of the limits on advertising in the bill are designed to ensure that only commercial advertising is restricted, and that the restriction only applies to advertising within sight of the venues of major events. Further, the limits only apply for a defined period of time which is designed to minimise the restrictions while still meeting the purpose of the legislation.

The bill makes unauthorised aerial advertising and advertising on vessels an offence subject to significant penalties. The penalties are 400 penalty units for an individual and 2400 penalty units for a body corporate. It is considered that substantial penalties are required to deter ambush advertisers who stand to make significant gains by offending, and that the penalties are proportionate when set against the potential

damage to the commercial agreements, image and reputation of an event. Further, the penalty for an individual (as for a body corporate) is a maximum penalty and it would be open to the court to impose a lesser penalty depending on the circumstances of the case.

In order to encourage and protect commercial sponsorship at major events in Victoria, a legislative response is considered to be a practical and reasonable response to ambush advertising.

In relation to crowd management provisions, there are no less restrictive means available to achieve a safe and orderly environment at major sporting events. The behaviours that are proscribed are all unacceptable to event organisers, venue managers and the community for various reasons including the need for public order and safety. The minimum consequence of these behaviours — a direction to leave for 24 hours — is the least restrictive response that would achieve the purpose.

(d) Any other relevant factors

Ambush advertising has the potential to undermine legitimate commercial sponsorship of major events and there are no other effective legal avenues available to prevent it occurring at specific major sporting events in Victoria. There are also no legal avenues to prevent unauthorised broadcasts of major sporting events. Similar legislative responses to commercial and advertising issues have been adopted previously in Victoria: for the Melbourne 2006 Commonwealth Games, the 12th FINA World Championships in 2007 and the Australian grand prix.

Most of the provisions relating to aerial advertising that are considered in this Statement are identical or similar to provisions which currently exist in the Major Events (Aerial Advertising) Act 2007, which will be repealed by the bill.

Most of the crowd management provisions discussed in this section are identical or substantially similar to provisions in the Major Events (Crowd Management) Act 2003 that are already widely accepted in the community.

Conclusion in relation to the right to freedom of expression

I consider that the Major Sporting Events Bill 2009 is compatible with the Charter of Human Rights and Responsibilities in relation to the right to freedom of expression under section 15 of the charter because it does limit, restrict or interfere with the human right, but that limitation is reasonable and proportionate. This is in view of the important objectives of the legislation, which include protecting the rights of event organisers, intellectual property owners, spectators and participants, who require a safe environment, encouraging sponsorship at major events in Victoria and promoting safe and orderly event environments, and with regard to the measures in the bill to minimise the nature and scope of the restrictions, as detailed in this statement.

Section 16: peaceful assembly and freedom of association

The right to peaceful assembly protects the rights of individuals and groups to meet in order to exchange ideas and information, to express their views publicly and to hold a peaceful protest.

Clause 103 may appear to engage this right because it provides a capacity for police to remove a person or persons involved in an assembly from an event venue or event area. The clause makes clear, however, that this power may only be exercised when a member of the police force believes on reasonable grounds that the assembly involves unlawful physical violence and damage to property and that it is not practicable, because of the number of persons involved, to preserve or restore order by arresting any of the offenders.

Conclusion in relation to the right to peaceful assembly and freedom of association

The right is not engaged when those who organise or participate in a demonstration have violent intentions that result in public disorder. For this reason the bill will not limit the right to peaceful assembly and freedom of association.

Section 20: right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

This right is engaged by a number of provisions in the bill which can be grouped as follows:

provisions related to commercial arrangements;

provisions related to crowd behaviour and management;

provisions related to access to operational arrangements; and

provisions related to advertising and ticketing.

While these provisions provide for a person to be deprived of property, such deprivation is lawful and not arbitrary. Specific and non-discriminatory criteria have to be met before property can be seized or forfeited. Accordingly these provisions do not limit the right.

Many of the provisions of the bill protect property rights — primarily those of event organisers — by circumscribing how event products and designs may be used by other parties.

Commercial arrangements

A number of provisions related to commercial arrangements engage property rights.

Clause 51 of the bill engages this right because it provides for a member of the police force to seize goods or advertising material if they are marked with or use protected event logos, images or references (or any thing substantially similar) and the member believes on reasonable grounds that this has not been authorised under the act or under any other law. The goods or material may only be seized if they have been found in an event venue or area during the goods seizure period, which is defined as the period commencing three months before and ending one month after the event period.

While the clause provides for a person to be deprived of their property, the seizure of this property may be required to prevent unlawful activities from occurring or continuing to occur. Additionally, where proceedings

are not instituted in relation to the goods, or proceedings are instituted but the defendant is found not guilty, the person from whom the goods are seized is entitled to recover the goods or their equivalent value, if destroyed, and compensation for any loss suffered by reason of the seizure of the goods or advertising material. In this way, the formulation of the clause represents an appropriate balance between property rights and the commercial rights of design owners and event organisers.

The power to seize property is consequently clearly structured, confined and readily understandable by members of the public. Further, the power to deprive someone of their property occurs under powers conferred by legislation. Consequently the deprivation is in accordance with law and there is no limitation of the right provided at section 20 of the charter.

Clause 52 allows seized goods to be forfeited to the Crown after 12 months in certain circumstances.

Clause 53 engages the right by providing for the voluntary forfeiture of goods or advertising material before proceedings are instituted for offences under clauses 37 or 38. If the goods or materials are sold the proceeds will go to consolidated revenue.

Clause 54 also engages this right because it provides for the seizure of broadcasting equipment. Where a member of the police force believes on reasonable grounds that a person has committed, is committing or is about to commit an offence against clause 43 or 44, the member may seize any broadcasting equipment being used by the person, if he or she has requested that they cease the activity which may cause the offence and the person does not comply.

This clause is necessary to protect event organisers from the harmful effects of unauthorised broadcasting, and represents a reasoned balance between protecting their interests and investments and the property rights of broadcasters. The clause is restricted by the requirement that seizure may only occur during the event period and only after a person refuses to cease the activity that may give rise to the offence, after having been requested to do so.

Additionally, broadcasting equipment is required to be returned within 28 days after the date on which it was seized, with the exception of equipment which is film, digitally recorded images or a sound recording (which may be retained by an event organiser for up to six months). Further, where proceedings are not instituted in relation to an offence under clause 43 or 44 or proceedings are instituted but the defendant is found not guilty, the person from whom the broadcasting equipment is seized is entitled to recover the equipment or its equivalent value, if destroyed, and compensation for any loss suffered by reason of the seizure of the broadcasting equipment. The power to deprive someone of their property in this instance occurs under powers conferred by legislation and includes a number of safeguards for the owner of the property. Consequently the deprivation is in accordance with law and there is no limitation of the right provided at section 20 of the charter.

Clause 58 provides for an event organiser to retain a film, images or a sound recording seized under clause 54 for up to six months. This is necessary to ensure these items are not publicly released around the time of the event (when they will cause the most harm) and to allow legal proceedings to be brought.

Clause 60 allows a court to order, where it has found a person guilty of an offence, that goods or advertising material or broadcasting equipment used in relation to an offence be forfeited to the Crown.

Crowd management

Clause 62 engages the right to property by providing an offence to possess prohibited items within an event venue or area, without the authorisation of the venue manager or event organiser. Prohibited items include animals, distress signals, dangerous goods, a whistle or a loudhailer, laser pointers, firearms, weapons, bicycles, fireworks, horns or bugles, flags or banners of a certain size, items of a commercial quantity, public address systems, electronic equipment, broadcast equipment and any such equipment which may interfere with broadcasting or similar equipment used by the event organiser.

Similarly, clause 63 provides an offence to possess lit distress signals or fireworks and clause 65 provides an offence to possess unlit distress signals or fireworks within an event venue or area. Possessing lit distress signals or fireworks attracts a higher penalty than the other offences, because of the increase in danger posed by this behaviour. In addition, clause 66 provides an offence where a person has unauthorised alcohol in his or her possession that has not been purchased at the event venue or area in accordance with the Liquor Control Reform Act 1998.

The right to property is engaged by these offences because individuals in possession of these items may not enter a venue or area unless they surrender or abandon such items, and these items may be seized if they are discovered within an event venue or area. This limitation is, however, reasonable and necessary to ensure that patrons attending major sporting events, where large numbers of people may be located in a confined area, are provided with the safest conditions possible in which to enjoy watching the event.

Clause 80 provides the power for prohibited items to be surrendered to an authorised officer, including items prohibited by a venue manager under clause 79(2), and for an authorised officer who is a police officer to confiscate an item where a person refuses to comply with a request to surrender an item. This provision also engages the right to freedom of movement by providing that an authorised officer may direct a person not to enter or to leave the event venue or event area, and not re-enter, for 24 hours if the person refuses a request to surrender a prohibited item. The provision is designed to ensure the safety and comfort of spectators and event organisers. It is a fair and reasoned provision because surrendered items are required to be stored and returned upon request when the person leaves the event venue or area or within 28 days, with some exceptions, such as prohibited weapons within the meaning of the Control of Weapons Act 1990 or controlled weapons the

possession of which would be an offence under the Control of Weapons Act 1990. The requirement to store surrendered items has been developed to reasonably balance the right to property with the comfort and safety of spectators.

A venue manager may also prohibit an item not referred to in the definition of 'prohibited item' from being brought into an event venue or area, under clause 79(2). A breach of this clause does not constitute an offence, however, and is necessary to enable venue managers to regulate the nature of items brought into an event venue or event area based on the features of that particular venue, area or event.

Any potential deprivation of property resulting from the provisions detailed above occurs in accordance with legislative provisions and is not arbitrary since all persons attending an event may be asked to display items in their possession for inspection and ultimately to be asked to surrender prohibited objects. In the case of some objects they are able to be returned. Consequently there is no limitation of the right provided at section 20 of the charter.

Clause 81 enables an authorised officer who is a member of the police force to retain a surrendered or confiscated item for the purposes of proceedings for an offence against the bill. The clause also specifies the circumstances in which certain types of prohibited items may be photographed and returned to their owner.

Clause 82 provides that certain types of items surrendered or confiscated under the crowd management provisions may be sold by the venue manager if not collected within 28 days.

Operational arrangements

Clause 107 provides, subject to the presence of certain conditions, for removal of a vehicle or vessel that is obstructing an event venue or event area, without authorisation. The clause provides for a member of the police force to enter a vehicle or vessel using reasonable force if necessary and move it to the nearest convenient place.

Advertising and ticketing

Clause 116 provides for an event organiser to obliterate or remove advertising that is not authorised or permitted from a building or structure in an event venue or event area.

Clause 134 engages the right because it provides that items may be seized by an authorised officer under a search warrant issued by a court where the authorised officer believes the items are related to the commission of an offence under part 8 of the bill (aerial advertising). Clause 137 provides for things not mentioned in a warrant to be seized if the authorised officer believes on reasonable grounds that the thing is of a kind that could have been included in a search warrant and is likely to afford evidence, to prevent its concealment, loss or destruction and to prevent it being used in contravention of the act.

Clause 134 is necessary to allow the collection of evidence so that the relevant offences can be enforced through prosecutions. It is, however, the least restrictive approach necessary to achieve the objective, in that it provides for property to be seized but requires that reasonable steps be taken to return the item and that it be returned within three months after seizure, unless proceedings have commenced and are not yet completed. The right is not limited by clause 134 because the process is lawful and not arbitrary. Balanced against the power to investigate and prosecute offences, as outlined in the discussion about the right to privacy, the interference is strictly controlled and limited under the supervision of the court. The authorised officer executing the warrant is obliged to provide a receipt for anything seized under the warrant and copies of any documents seized (clauses 138, 139). Clause 134 and these related clauses are carefully crafted to ensure that the purpose of the provision is achieved with the least restriction of the right to privacy.

Clause 140 provides for the removal of things found during a search and use of equipment on site to examine things. Removal would appear to engage property rights and the use of equipment at the premises may also engage the right in that it may involve using resources, such as energy.

Clause 141 provides for an authorised officer in the course of exercising inspection powers to seize documents or information storage devices if he or she believes on reasonable grounds that they may contain information related to a contravention of the aerial advertising provisions of the bill.

Clause 143 provides for the Magistrates Court to order an extension of a period during which a seized thing may be retained providing certain conditions are met.

Clause 144 enables an authorised officer to require a person, in certain circumstances, to give information, documents and assistance to the authorised officer. It is an offence to refuse or fail to comply with such a requirement without a reasonable excuse.

Clause 146 qualifies this by providing that it is a reasonable excuse for a person not to give information if this action would tend to incriminate the person. Despite this, however, clause 146 also provides that it is not a reasonable excuse to fail or refuse to produce a document if required to do so under this bill if it would tend to incriminate the person.

Clause 170 makes provision for entry or search of premises with a warrant subject to a magistrate being satisfied that specified conditions are met. A warrant issued under this clause may authorise search for and seizure of relevant things.

Clause 172 enables an authorised officer, with the secretary's approval, to apply to the Magistrates Court for an order requiring a person to provide specific answers, information and documents to an authorised officer concerning compliance with an approved ticket scheme or alleged contravention of the bill. A magistrate may make such an order if the magistrate is satisfied there are reasonable grounds to warrant such an interference.

Clause 173 provides for documents to be seized pursuant to an order under clause 172 and requires the authorised officer to report back to the Magistrates' Court.

Clause 176 provides balance in relation to clause 172 by providing that it is a reasonable excuse for a person not to give information or do anything else the person is required to do under the bill (other than produce a document) if such actions would tend to incriminate the person.

Clause 182 provides for certain information to be required to be disclosed by a publisher of a publication in the form in which it is kept by the publisher. This may engage property rights, in that it confers on the secretary or an authorised officer, as public authorities, a right of access to private property.

In addition clause 166 creates offences for selling tickets contrary to the ticket conditions established under an approved ticket scheme. As such it may engage property rights by restricting the use of private property.

Conclusion in relation to property rights

Section 20 ensures that the institution of property is recognised and that Victoria is a market economy that depends on the institution of private property. It is well established in international human rights law that a person must not be arbitrarily deprived of his or her property.

The bill is relevant to property rights because, among other things, it enables authorised officers to apply to a magistrate for a search warrant to enter specified premises and to search for and seize items that are reasonably believed to be connected with an offence under the bill. These powers are part of a comprehensive enforcement scheme set out in the bill. Their inclusion in the bill is necessary to ensure that authorised officers have the powers required to investigate and gather evidence relevant to suspected offences under the bill. In any application for a warrant, an authorised officer must demonstrate the need to exercise these powers in specific circumstances and must exercise the powers in accordance with the directions of the Magistrates' Court. The requirement for powers of entry, search and seizure to be exercised with a warrant is intended to ensure that these powers are exercised with due process and restraint, and that deprivation of property in these circumstances is not arbitrary and is undertaken in accordance with law.

All provisions in the bill that engage property rights are lawful. The bill carefully defines the circumstances in which relevant powers can be exercised to ensure that all interferences with privacy under the bill are reasonable in the particular circumstances and therefore not arbitrary. It is therefore considered that, while these provisions require consideration in relation to section 20 of the charter, this right is not restricted or interfered with by the bill.

Section 21: right to liberty and security of person

Section 21 of the charter provides that every person has the right to liberty and security, a person must not be subjected to arbitrary arrest or detention, and that a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law. The right is concerned with matters related to arrest and detention.

This right is engaged by a number of provisions in the bill which relate to crowd management and operational arrangements. This is because the provision allows for the removal of an individual in prescribed circumstances, and this may be considered detention for a period that is more than transitory.

Crowd management and operational arrangements

Clause 85 provides that a person who has been directed to leave under clauses 80, 83 and 90, who subsequently attempts to enter, re-enter or attempt to re-enter a venue before expiry of the direction, is guilty of an offence, and the police may use reasonable force to prevent a person from re-entering, or to remove a person who has re-entered. This provision is designed to ensure that individuals who have engaged in disruptive or dangerous behaviour are removed or prevented from entering event venues to safeguard the safety and enjoyment of staff and spectators. It is essential that the clauses which identify prohibited behaviour are supported with the power to enforce them, and that this power is rational and proportionate. The power is restricted by the requirement that the exercise is 'with no more force than is reasonably necessary' to effect the removal or entry of the person.

Clause 103 may appear to engage this right because it provides a capacity for police to remove a person or persons involved in an assembly from an event venue or event area. The clause makes clear, however, that this power may only be exercised when a member of the police believes on reasonable grounds that the assembly involves unlawful physical violence and damage to property and that it is not practicable, because of the number of persons involved, to preserve or restore order by arresting any of the offenders. A member of the police force may use such force as is reasonable in the circumstances.

As noted above, clauses 134 and 170 provide for warrants to be issued but both clauses specifically preclude giving an authorised officer authority to arrest a person and do not, therefore, limit the right to liberty and security of person.

Conclusion in relation to the right to liberty and security of person

The bill does not limit the right because these provisions provide for detention on grounds and in accordance with procedures established by law. It is justifiable to detain persons in the circumstances detailed in each provision, to ensure the safety of participants and spectators. The power is appropriately and proportionately circumscribed, as the behaviour which will warrant removal is clearly identifiable and detailed and police may only use such force as is reasonably necessary. Consequently, each of these provisions provides for lawful measures that are not arbitrary.

Final conclusion and statement

The Major Sporting Events Bill 2009 limits the right to freedom of movement and freedom of expression, but the limitations are confined to the minimum available to achieve the objectives of the bill in relation to supporting the acquisition, management and conduct of major sporting events. The limitations are reasonable and proportionate. The

bill also engages the rights to privacy, property and security and liberty of person but does not limit these rights.

James Merlino, MP
Minister for Sport, Recreation and Youth Affairs

Second reading

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I move:

That this bill be now read a second time.

Major sporting events are a very important part of Victoria's history and a highly valued aspect of our lifestyle today. Major sporting events play a key role in maintaining Victoria's attractiveness, and in particular Melbourne's drawing power as a place to live, work, do business and visit.

So much so that Melbourne is sometimes referred to as the sporting events capital of the world. This is not only a proud boast by Victorians. An independent study published in the *SportBusiness International* magazine has recognised Melbourne as the ultimate sports city two years in a row.

The purpose of this bill is to ensure that Victoria continues to be successful as a host of great sporting events.

I believe that the bill will, if passed, be the most comprehensive major sporting event-related legislation in the world, which appropriately reflects Victoria's unparalleled standing as a host of major events and our aspiration and determination to continue to lead the world in this field.

The Victorian Parliament has passed legislation to facilitate the holding of particular events including the Australian Formula One Grand Prix and MotoGP, the Commonwealth Games and the world swimming championships.

In recent years, other legislation has also been passed to address key issues in relation to events, specifically ticketing arrangements, crowd management and aerial advertising. Issues continue to arise around major sporting events, including unauthorised opportunistic attempts to exploit events in various ways, and it is necessary to keep improving our legislation to deal with such challenges.

The bill seeks to establish an improved legislative framework for major sporting events. It does this in two key ways.

First, it incorporates existing general event legislation into a single bill. The Sports Event Ticketing (Fair Access) Act 2002, the Major Events (Crowd Management) Act 2003 and the Major Events (Aerial Advertising) Act 2007 will be repealed and their provisions incorporated into one act. This has the benefit of reducing the number of acts on the statute book, improving the transparency and accessibility of major events legislation and facilitating greater administrative efficiency.

The bill includes some improvements to the existing legislation relating to major events. For example, it adds the AFL finals series to the list of events that are routinely protected by the aerial advertising provisions of the bill in recognition of the importance of those events and the potential for ambush aerial advertising.

The bill also improves the crowd management provision in the act that allows an authorised officer to direct a person to leave a sporting venue because the person has engaged in disruptive behaviour to make it more compatible with the Charter of Human Rights and Responsibilities. A key part of the clause now requires that a person cause 'unreasonable disruption or unreasonable interference' to spectators or event organisers rather than 'annoyance to spectators' as in section 15 of the Major Events (Crowd Management) Act 2003.

Part 10 of the bill sets out a new regime for appointment of authorised officers to carry out relevant functions outlined in various parts of the bill. The new arrangements are a combination of provisions in the existing acts. They provide for the secretary of the department to appoint persons who hold a relevant security licence under the Private Security Act 2004, persons who have the appropriate skills or knowledge or persons who are a member of an appropriate class of persons as authorised officers. This will allow employees of event organisers to be appointed to administer the crowd management provisions of the bill, if appropriate, on the basis of their role with the event organiser, which is not currently possible under the Major Events (Crowd Management) Act 2003.

Second, the bill seeks to make additional types of protection available to major sporting events as needed. Broadly, the bill will provide protection for various commercial arrangements relating to major sporting events, facilitate the operational arrangements required for events, provide limited protection for events against claims for economic compensation, regulate how other acts apply to the staging and conduct of major sporting events and protect against types of ambush advertising.

For example, the bill includes prohibitions against unauthorised broadcasting of an event. This is a vital

addition to Victoria's major events legislation because revenue from broadcast rights underpins the commercial viability of many major sporting events, but existing law does not provide a remedy for an event organiser whose sporting event is broadcast by an unauthorised party. Unauthorised broadcasting can seriously compromise the value of official broadcast rights and threatens the ability of event organisers to stage major sporting events where they cannot guarantee exclusive rights to the official broadcaster. This protection is needed in part because new technology has made it increasingly easy for a person to make and to broadcast, telecast or transmit a recording of an event.

Similarly, the bill sets out other protections and requirements that can be activated when appropriate. These include:

prohibition of unauthorised use of event logos, images and references and related enforcement provisions;

suspension of the application of other acts to event venues or event areas for limited periods to facilitate the delivery of a major sporting event. The acts that may be suspended are the Planning and Environment Act 1987, Heritage Act 1995, Environment Effects Act 1978, Coastal Management Act 1995, Crown Land (Reserves) Act 1978 and Land Act 1958 and the Building Act 1993. In addition, the provisions of the Health Act 1958 and the Local Government Act 1989 can be suspended in relation to noise and light emanating from an event venue or event area and the bill provides for councils' power to make local laws under the Local Government Act 1989 to be suspended in relation to an event venue or event area and activities carried on in those areas in relation to an event;

provision of the power for event organisers to control access to an event venue or event area;

a requirement for vehicles and vessels not to be in an event venue or event area during an event period without authorisation and provision for the removal of such vehicles and vessels;

power for the minister to temporarily close or modify roads for purposes related to event venues or event areas or conducting an event;

a requirement for appropriate restoration of event venues and event areas;

in addition to the existing aerial advertising controls, control of advertising other than aerial advertising including advertising on buildings and structures in an event venue or event area and advertising on vessels; and

where the minister considers it to be necessary and in the public interest, an order may be made that no compensation is payable in relation to a major sporting event, other than for death or personal or bodily injury.

These additional protections largely correspond to provisions in the Commonwealth Games Arrangements Act 2001 and the World Swimming Championships Act 2004. Not all of the provisions of those acts, however, are included in the bill. For example, busking was an offence under section 88W of the World Swimming Championships Act 2004 but an equivalent offence is not included in the bill. Issues such as this can be controlled in other ways at most events.

The effect of including key provisions from event-specific legislation in the bill is that the bill will minimise or eliminate the need for event-specific legislation in future.

The bill provides for the Governor in Council to make orders, on the recommendation of the minister, indicating which parts and provisions of the bill are to apply to a particular event, depending on the requirements for each event. This reflects the Governor in Council's existing powers under the crowd management and aerial advertising legislation and applies those arrangements to the range of additional provisions described earlier.

The bill includes requirements for consultation prior to making some types of major sporting event orders. For example, if the minister wishes to recommend that another law be suspended for a particular event under part 5 of the bill, the minister must first consult with the minister responsible for the act that is to be temporarily suspended in relation to the event.

The bill also includes, in effect, a sliding scale of requirements for accountability and parliamentary scrutiny depending on the contents of a major sporting event order that is to be made. All major sporting event orders must be published in the *Government Gazette*. Major sporting event orders that apply provisions relating to commercial arrangements, advertising other than aerial advertising and aerial advertising to an event, orders that prescribe the non-application of other laws ('acts non-application orders') and no-compensation orders must be laid before each house of Parliament. Acts non-application orders and

no-compensation orders may be disallowed in whole or in part by either house of Parliament.

Under the sports event ticketing provisions in part 9 of the bill the minister has the power to make a sports event ticketing declaration directly. This reflects the arrangement under the current legislation.

Not all protections will be required or applied to every event. It is anticipated that only the most significant of major sporting events would require the full range of protections provided by the bill to be activated.

In addition to providing support for major events and event organisers where an event is covered by the bill, the bill enables event organisers to be held to account. It provides for the minister to make guidelines for minimum event planning standards and, if an event organiser fails to comply with such guidelines, to recommend to the Governor in Council that a relevant major sporting event order applying to the particular event be varied or revoked.

The bill includes a range of necessary provisions, including clarification of how it interacts with the Australian Grands Prix Act 1994, consequential and related amendments and transitional arrangements.

The bill will further strongly enhance Victoria's capacity to attract and host major sporting events for the benefit of all Victorians and build on this important aspect of our lifestyle in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr DELAHUNTY (Lowan).

Debate adjourned until Thursday, 12 March.

MELBOURNE UNIVERSITY AMENDMENT BILL

Statement of compatibility

Ms ALLAN (Minister for Skills and Workforce Participation) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Melbourne University Amendment Bill 2009.

In my opinion, the Melbourne University Amendment Bill 2009, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill facilitates the amalgamation between the faculty of the Victorian College of the Arts and the faculty of music at the University of Melbourne. The bill amends section 29A of the Melbourne University Act 1958 to provide for the faculty of the Victorian College of the Arts to be amalgamated with the faculty of music on and from 6 April 2009. From this date, the faculty of the Victorian College of the Arts will be reconstituted in respect of its objects and it will also be renamed 'the faculty of the VCA and music'.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

This bill does not raise any human rights issues. The bill does not affect any person's existing rights, privileges, obligations or liabilities. Any person's existing rights, privileges, obligations or liabilities in respect of the two entities now known as the faculty of music and the faculty of the Victorian College of the Arts continue to be subject to the statutes and regulations of the University of Melbourne.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not raise any human rights issues, it does not limit any human right and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise a human rights issue.

Jacinta Allan, MP
Minister

Second reading

Ms ALLAN (Minister for Skills and Workforce Participation) — I move:

That this bill be now read a second time.

The bill calls for amendments to section 29A of the Melbourne University Act 1958 to provide for the council of the University of Melbourne to rename 'the faculty of the Victorian College of the Arts' so that it will henceforth be known as the 'faculty of the VCA and music'.

Pursuant to the Melbourne University (Victorian College of the Arts) Act 2006, the Victorian College of the Arts was established as a faculty of the University of Melbourne from 1 January 2007. Section 29A of the act established the faculty of the Victorian College of the Arts with the powers, composition and objects set out therein.

As a consequence of the primary objective of establishing the new faculty, section 29A inadvertently self-entrenched the name of the faculty, which could otherwise be renamed, pursuant to division 5 of the act, using the university's own regulations. Consequently, the act now requires legislative amendment.

On 12 May 2008, the university council approved the amalgamation of the faculty of the Victorian College of the Arts and the faculty of music. The new faculty will include three schools:

a school of art;

a school of music; and

a school of performing arts.

From 6 April 2009, the 'faculty of the Victorian College of the Arts' is to be renamed 'the faculty of the VCA and music' to give effect to the amalgamation. The bill amends section 29A accordingly.

The bill also amends subsection 29A(5) of the Melbourne University Act 1958. It does this by:

providing for the new faculty to be renamed through the university regulations, should this be contemplated again in the future; and

extending the objects of the new faculty so that it may undertake activities including music in the future.

The Melbourne University Amendment Bill 2009 will support the amalgamation of these important faculties. By doing so, it will help the university to foster and enhance teaching and learning, and the appreciation of the music, visual and performing arts in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until Thursday, 12 March.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Hampton Street, Brighton: pedestrian crossing

Ms ASHER (Brighton) — I raise an issue with the Minister for Roads and Ports. The request I have of him is to build a pedestrian crossing at the Dendy Village shopping centre, which is located on Hampton Street. The background of this matter is that for years the residents and staff of Mayflower, which is a retirement community in my electorate that is located nearby, have been calling for a pedestrian crossing on this road. Tragically an elderly resident of Mayflower was killed in a car accident on 7 August 2008 whilst he was attempting to cross busy Hampton Street.

The Mayflower residents have compiled a petition with 350 signatures. Unfortunately that petition is not in a condition to be officially presented to the Parliament, so I want to use my contribution tonight to draw to the attention of the Minister for Roads and Ports that there is a petition signed by the Mayflower elderly residents and staff. I want him to be aware that they have signed this petition calling for a pedestrian crossing at the Dendy Village shopping centre.

I wrote to the minister requesting this on 8 December 2008. I pointed out to him that this particular section of Hampton Street is very narrow and difficult to cross even for able-bodied pedestrians, let alone these elderly people, who in many instances have walking frames or scooters. The minister did not write back to me. Indeed the minister was not even interested in this issue.

On 31 December 2008 I received a response from the minister's chief of staff, Cressida Wall, set out under the letterhead of the office of the Minister for Roads and Ports. Ministers should write to members of Parliament. That is something I always did when I held ministerial office; I did not flick correspondence from members of Parliament to members of staff. This response is completely unsatisfactory. The chief of staff advised me that:

> VicRoads has investigated the possibility of installing pedestrian-operated signals on Hampton Street in the Dendy Village shopping centre and found that there are relatively low numbers of pedestrians crossing the road …

The idea is that you cannot have a crossing because the pedestrian numbers are low. These people are elderly, the road is dangerous and unfortunately we have now witnessed a death. This letter goes on to say that whilst it is recognised that pedestrian-operated signals would provide benefits for some road users there are other proposals that rank higher than one for this location.

The reply from the chief of staff then went on to say that a pedestrian refuge will be supplied. That is

unsatisfactory. It is not what the residents of Mayflower want. I urge the minister to have a look at this personally — I will take him and show him, if he would like — and provide a pedestrian crossing.

Sunbury Road–Uniting Lane, Bulla: turning lane

Ms BEATTIE (Yuroke) — I wish to raise a matter for the urgent attention of the Minister for Roads and Ports. I ask the minister to provide signage and a turning lane on the Sunbury–Bulla road, Bulla. The government installed a new roundabout at the intersection of the Sunbury–Bulla road and Oaklands Road at a cost of about $2.5 million. Further north of that roundabout is Uniting Lane, which is the home of the genuine Calabria Club — not Amanda Vanstone's Calabrian friends!

Dogs Victoria has recently become a co-tenant of the Calabria Club and will be holding dog shows there, commencing next month. It gets around 3000 dogs at a show, and big shows can attract about 8000 people. I used to show dogs, as many members know. When the roundabout was installed the turning lane into Uniting Lane was painted over and diagonal stripes were put in its place. With the amount of traffic on dog show days — and members would know that most dog owners have a dog trailer — it is imperative that a turning lane be installed.

At the moment the only signage points to the Calabria Club, and it is almost at the point where you begin the right-hand turn. With people unfamiliar to the area now using the road it is also necessary to erect signage such as 'Dogs Victoria — turn right 500 metres ahead', or some such thing. I ask the minister to address the issue regarding the signage and the right-hand turning lane. That will sort out the safety issues in that particular area. With more and more people coming into the area that will be a good thing.

As I said, the Calabria Club has taken in Dogs Victoria as co-tenant. It just shows you what a bit of imaginative thinking can do for some of these clubs. I know members opposite have a great interest in Calabrians, so they might care to get on board with this issue. That would be a good thing. This issue can be resolved fairly simply with the erection of the signage, as I have suggested, and the turning lane reinstated. Dogs Victoria coming to Bulla will be a great commercial boon for the area, as it will attract people there. They can come to watch dog shows, and they can also go out to the Living Legends and have a look at the Melbourne Cup horses. This area is becoming a bit of a mecca for the owners.

Bushfires: tourism

Mr RYAN (Leader of The Nationals) — I wish to raise an issue for the Minister for Tourism and Major Events concerning the nature of the government's plans for the promotion of tourism after the dreadful fires which presently plague Victoria are extinguished.

I mention Gippsland as a case in point. After the alpine fires of 2003 and then again in 2006–07 we saw circumstances where the tourism industry was absolutely streeted. It happened again in South Gippsland last year when the fire on Wilsons Promontory broke out. In that instance the tourism industry was severely impacted upon. History shows that when fires happen across our state there are disastrous consequences for our tourism industry. As I am on my feet now it is happening again on Wilsons Promontory, with 23 763 hectares of that magnificent park having been burnt. The park is about 50 000 hectares in total area, so about half of Wilsons Promontory National Park has been burnt, and the fire continues to burn. The intention of Parks Victoria at the moment is to reopen the park on 7 March, just prior to the long weekend, if indeed that is possible. Of course we obviously do not know if it will be possible. As a state we are yet to contend with what may happen tomorrow with the threat of the spread of fires right throughout Victoria.

At the present time there are fires burning within my electorate around Woodside, at Won Wron, at Carrajung, around Yarram and at Devon North, where eight houses have already been destroyed as a consequence of the fires arising from Black Saturday. The tourism operators in South Gippsland are extremely worried about current events. Just a few days ago I was at Port Albert, where they have already seen a severe drop-off in tourism support. It is happening similarly at Yanakie and surrounds, where the bed and breakfast hosts in that area are suffering from a lack of bookings. It is also happening throughout South Gippsland generally. Today I made inquiries about towns such as Foster, Meeniyan and Leongatha. Those inquiries show that in each instance the tourism industry is suffering.

This is a critical element of our small business sector. As I have said so often, if you are in business, you are in the tourism business. What we want to know is: what are the government's plans for the promotion of the tourism industry once these fires are out, not only throughout the electorate that I represent in this Parliament but across the whole of country Victoria. This is a critical issue that must be addressed immediately by the government.

Cycling: Essendon electorate paths

Mrs MADDIGAN (Essendon) — I would like to raise a matter for the Minister for Roads and Ports concerning the extension of bike paths in Essendon, which I was just thinking while listening to the Leader of The Nationals fits in with what he was saying — if you have more bike paths, it is easier to ride your bike to a station and catch a train to some of the tourist destinations that the Leader of The Nationals was referring to. I see that this fits in very nicely.

Obviously in an inner city electorate like mine people can quite easily ride their bikes to major transport hubs as well as to the city and other locations. While I am glad to be able to say that some bike paths have been introduced and paid for by the state government in the last few years, I would be very pleased to see those bike paths extended, particularly along Mount Alexander Road. Part of Mount Alexander Road does have a bike path, but not along its full length. I would like to see bike paths on other roads as well, but initially I ask the minister to see if we can extend the bike path to complete that route.

As I said, Essendon is lucky. It has excellent public transport with trams, trains and bus services. However, being able to extend and continue our bike path network would add to that easy access round the city and cut some of the traffic.

Mount Alexander Road is a major feeder road which carries very heavy car traffic. Any way that we can lessen that by having alternative routes would be useful not only for public transport usage with the better travelling of trams but also for environmental reasons. I would like the minister to investigate as a matter of urgency the completion of the bike path on Mount Alexander Road and the extension of bike paths along some other routes, the details of which I will forward to him shortly.

Portland: jetty

Dr NAPTHINE (South-West Coast) — I wish to raise a matter for the Minister for Environment and Climate Change. The action I seek is for the minister to immediately rescind proposals announced by the Department of Sustainability and Environment to build a 100-metre jetty on the western side of the redeveloped trawler wharf at Portland. These additional works were announced by DSE on the afternoon of Friday, 20 February, in breach of a longstanding agreement with the Portland community that no development would take place on the western side of the trawler wharf.

Following this announcement there has been a torrent of adverse reaction from the Portland community — for example, Andrew Levings, a member of the Portland Professional Fishermen's Association, is reported in the Warrnambool *Standard* of 21 February as saying:

> It's a mindless bureaucratic decision …
>
> Most in Portland would consider it an incursion into an area used by the general public including sea cadets and junior yachtsmen.
>
> The state government has been told for four years that the area is unsuitable for boat berth for a number of reasons yet they turn around and do it anyway.

Bill Sharrock of the Portland Community Stakeholders Group — Bill is well-known to the Labor Party as a good Labor person in Portland — is reported in the *Portland Observer* of 25 February as saying:

> … DSE made no reference to a jetty on the western side of the wharf when it held a community information session in Portland on August 18 last year …
>
> The Portland bay coastal infrastructure plan is clear: there should be no development, intrusion on the western side of the wharf into the recreational area.
>
> …
>
> After all the work and consultation from the community on the trawler wharf redevelopment and the Beca report (Portland bay coastal infrastructure plan), I find the DSE announcement on the jetty without consultation disappointing.

The article also states:

> Former Glenelg shire councillor Frank Zeigler, who played a major role in the Portland bay coastal infrastructure plan process, said the DSE should not build a jetty on the western side of the wharf.

We have it from former councillors, a Labor spokesman and the local fishing community. In an article in the *Portland Observer* of 23 February under the headline 'Jetty proposal a slap in the face', Andrew Levings is quoted as saying:

> … the proposed jetty would threaten both the biological and social environment.
>
> …
>
> The government appears to be pursuing a secret agenda in defiance of this community's aspirations.

What I am calling on the minister to do is listen to the community — 27 community groups in Portland have made it clear that while they support the redevelopment of the trawler wharf they do not support any development on the western side of the trawler wharf. It is dangerous. It is absolutely unsafe for other users,

whether they be the naval cadets, the yacht club members or sailboard operators. It is extremely dangerous to have commercial fishing vessels on that side of the trawler wharf. It is unsightly and it is environmentally risky because the trawlers, with their propellers, will churn and damage the seagrass beds.

The community has made it clear, time and time again over the last four years, it wants no development on the west side. Now DSE is defying that instruction and I call on the minister to rescind that decision.

Williamstown: men's shed

Mr NOONAN (Williamstown) — I wish to raise a matter for the attention of the Minister for Community Development. The action I seek from the minister is that he give due consideration to an application by the Williamstown men's shed for funding under the Victorian Volunteer Small Grants scheme for its Blokes Volunteering for the Environment project. This project will be undertaken in partnership with the Friends of Lower Kororoit Creek, the Williamstown Community and Education Centre and Spotswood community house.

The project aims to construct a number of bird nesting boxes for indigenous species using recycled and industry offcut materials. These nesting boxes are to be set up along the Lower Kororoit Creek area, an area that supports significant vegetation and native fauna species including the endangered swift parrot. The Williamstown men's shed already possesses the tools and know-how to deliver this project, but its members now need to attract volunteers and some further materials.

The Williamstown men's shed plays a vital role in the Hobsons Bay region. It is a place where men of all ages, backgrounds and abilities can gather in their own space to talk, share skills, swap ideas, solve problems or just discuss life in general. Importantly, it is a place where like-minded men can get together to undertake projects that contribute to the local community.

The establishment of the men's shed last year was supported by this government through a $50 000 grant from the Minister for Community Services Men's Sheds Grants program. There are currently 23 volunteer members of the men's shed and they have plans to increase this number significantly up to about 40 or 50. These men, often in their middle to later years, can experience a range of health issues, social isolation, retrenchment and other life-changing occurrences. For these men, the men's shed is invaluable in improving their health and wellbeing through getting them into some level of activity and participating in projects which contribute to both the community and the environment.

Volunteering is a great way for people to contribute to their local communities. Indeed 41 per cent of Victorians are volunteers of some form with most of them being motivated by a desire to give something back to the community. Funding under the Victorian Volunteer Small Grants scheme gives practical help to these local volunteers and community groups who are providing important support and services across the state.

This project is a fantastic opportunity to get local, older, male volunteers involved in work that benefits both the Hobsons Bay community and the local environment. It will also have a positive impact on each of the participant's mental and physical health. Importantly, it will create a positive environment where volunteers can engage with each other and put something back into their community. Therefore it gives me pleasure to support their project, and I encourage the minister where he can to give due consideration to their application, which is being brought to his attention by the Williamstown men's shed.

Peninsula Community Health Service: funding

Mr MORRIS (Mornington) — The matter I raise this afternoon is for the Minister for Health and concerns the reduction in resources available through the Peninsula Community Health Service (PCHS) to assist in the operation of support groups. The action I seek is that the minister ensure that from 1 July 2009 the Peninsula Health network is funded to provide full administrative assistance to the self-help groups associated with that organisation, but particularly Peninsula Community Health Service. Members may recall that last year the health service was forcibly merged with the Peninsula Health network. The merger proceeded despite very strong community opposition, very solid staff opposition and certainly very firm opposition from me as well.

In the 1990s the board, of which I was a member, went through the process with the then Kennett government of merging with the Frankston service. The Kennett government rejected that proposition and it was rejected on reasonable and valid grounds — grounds that are still valid in 2009. I have run those arguments in this place before, so I certainly will not repeat them. In addition to those issues, I was also concerned that services would be cut. We have been assured time and time again that there would be no reduction in services despite the merger. I was concerned about cuts in

services not because I have any criticism of the Peninsula Health network. It does a terrific job, but it is given very meagre resources by the government to do what is necessary.

In recent weeks one of the self-help groups has approached me. It has been in the habit of receiving photocopying, mailing and basic administrative support from PCHS and that was withdrawn. Its representatives were told they could have a room to meet in and tea and coffee. There are about 120 to 150 members; it fluctuates a bit, and 35 to 40 come to meetings. To PCHS's credit, it has come back to the group and has considered the difficulties it is imposing and said that although it is a stretch it will fund the newsletter four times a year and provide meeting space and so on. The point about it is PCHS said specifically at that subsequent meeting that it is not funded to assist the support groups. If the health service is going to support them it has to find the money from somewhere else.

I would have thought one of the most basic functions of a genuine community health service was to assist self-help groups. There are a considerable number of them. There are two diabetes self-help groups in Rosebud and Mornington, a cancer support group, an insulin support group, the Southern Peninsula MS self-help group and so on. They do not get any support or very minimal support. I would have thought the retention of the funding of these services was implicit in the government's commitment that there be no cuts. I call on the minister to make good on his promises.

Casey Central Secondary College: facilities

Ms GRALEY (Narre Warren South) — I wish to raise a matter this afternoon for the attention of the Minister for Education. The action I seek from the minister is for her to visit the site for the new Casey Central Secondary College in Narre Warren South to turn the sod for the commencement of the building of the new school. Already operating at a temporary location at Hillsmeade Primary School, Casey Central Secondary College has got off to a great start with just over 100 students and highly skilled staff under the enthusiastic and experienced leadership of principal Ian McKenzie. Everyone seems to have settled in well. Thanks to everyone at Hillsmeade Primary School, especially principal Ann Nicholls, for making everyone feel really welcome and for the Casey Central Secondary College steering committee for working so hard to make transition ready for the first day of the 2009 school year and a good place to start secondary school. When I visited the students last week they were working hard on their maths but they told me they were having fun too and in typical young boys' fashion they said it was even better than they thought it might be.

The Victorian government has announced that the ABN AMRO-led Axiom Education consortium had been selected to deliver the Partnerships Victoria in Schools project. This public-private partnership involves the design, construction, financing and maintenance of 11 new schools in Melbourne's growth areas, including Casey Central Secondary College. The cutting edge design and environmentally sustainable features will be incorporated to make Casey Central Secondary College one of the best schools in Victoria. I know there are many parents in my electorate who are very enthusiastic about sending their children to this new school.

I am gladdened by Ian McKenzie's statement that 'This college will be of the community, for the community and in the community'. Schools are often the centre of activity in a new community and a meeting place for parents as well as children. I look forward to the new school playing a leading role in building community spirit and showing our young people the value of active community engagement as well as providing an excellent standard of education. It will be a school with a lot going on.

We all have high expectations and I am sure these will be met when the doors open at the Eve estate site in 2010. I am proud to be part of the Brumby Labor government which recognises the importance of building new schools in growth areas like ours. Casey central is the eighth new school in our local area to be opened since Labor took office.

Mr Wynne — How many?

Ms GRALEY — Eight. Education is our no. 1 priority. I urge the minister to visit Narre Warren South soon and to turn the first sod to commence the building of our new school.

Eastern Freeway, Doncaster: noise barriers

Mr KOTSIRAS (Bulleen) — I raise a matter for the attention of the Minister for Roads and Ports. The action I seek is for the minister to instruct VicRoads to determine traffic noise levels along the freeway abutting Doncaster, and in particular the section of the freeway that is adjacent to Paul Street, Park Avenue, Kingsnorth Street, Gregory Court, Louise Court and Parkview Place, Doncaster. All members would agree that traffic noise can affect your ability to work, speak, rest and sleep. Excessive noise can also lead to mental and physical health problems. That is why I ask for

noise level testing to take place. If the noise level is high, I ask the minister to instruct VicRoads to provide extensive works and noise mitigation measures to keep the freeway noise to a minimum for the residents.

A constituent has written to me complaining about the noise level along this part of the freeway and seeking assistance. In his email Paul states:

> I have been a long-time resident of Doncaster and am writing to register my complaint re the inadequate sound protection between Doncaster Road and Bulleen Road on the northern side of the freeway. We live in Kingsnorth Street, which is a stone's throw from the freeway and at peak hour the traffic noise is unbearable. This section of freeway was built in the early 1980s and the only protection is a low timber fence and scattered she-oaks and gums. I would appreciate your help in resolving this matter, and advice …

I have also been advised that at times the noise level is so loud that it is difficult for people to speak in their own homes. The minister needs to ensure that traffic noise measurements are taken at different times along this section of the Eastern Freeway. This is an important issue, and I ask for the minister's assistance. People's lifestyles and health are in jeopardy. I hope the minister does not ignore their pleas. While I understand that the minister receives many requests and that I have asked for the minister's assistance on numerous occasions — he refuses to assist any residents of Manningham — I ask him again to come to Manningham to hear for himself the noise levels coming from that part of the freeway. The minister has in the past ignored my pleas, but I ask him again to come and for once show some compassion for the residents of Manningham..

The Labor Party ignores Manningham, but it is vital that the minister show some compassion and turn up in Manningham to assist the residents. It is a shame that Labor Party members always think of politicking and scoring cheap political points. If there are no political points in it for them, they do not care. This is a lazy, arrogant government which does not care about residents.

Whittlesea Football Club: ground remediation

Ms GREEN (Yan Yean) — I wish to raise a matter for the attention of the Minister for Sport, Recreation and Youth Affairs, and the action I seek is for him to allocate funds to remediate the playing surface at Whittlesea showgrounds. As the minister is aware, the usually excellent playing surface has been affected following its use as a CFA (Country Fire Authority) staging area for the Kinglake-Murrindindi complex fires for some weeks now.

The Whittlesea Football Club, like all the Whittlesea community, has done a fantastic job in pitching in to support the firefighting effort. I have visited the staging area on a number of occasions and observed the hard and selfless work done by football club volunteers. The clubrooms have been completely turned over to the use of the CFA and the firefighting effort. They have had a new life providing meals for firefighters, and providing massages and drinks. Tomorrow the big-hearted Eagles are holding a fundraiser in support of bushfire relief which will be attended by Glenn Archer, Matthew Richardson, Chris Judd, Ben Cousins, Rodney Hogg, Merv Hughes and that local bard, Greg Champion. I wish the club every success for this great effort and have made a donation of goods that can be raffled on the night. I hope I will be able to attend; God willing there will be no serious fire outbreaks tomorrow.

I also wish the club every success on the field this season. This would be a fitting reward for the club's selfless devotion to the firefighting effort both during and since Black Saturday. I urge the minister to ensure that the playing surface is reinstated for the Northern Football League season, and I would also like to place on record my thanks to the league, which last Sunday held a fundraising match in support of bushfire relief. It is fantastic that everyone in the community has shown their support for the survivors of the bushfires and really pitched in. In particular the Whittlesea Football Club has done a fantastic job, and I want to make sure it is able to take its rightful place on the field this season. I urge the minister to act accordingly.

Responses

Mr WYNNE (Minister for Housing) — The member for Brighton raised a matter for the Minister for Roads and Ports seeking his support for the installation of a pedestrian crossing at the Dendy Village shopping centre, and I will make sure the minister is made aware of that matter.

The member for Yuroke raised a matter for the Minister for Roads and Ports in relation to turning lanes and signage at the Sunbury–Bulla road side of the Calabria Club, and I will make sure the minister is made aware of that.

The Leader of The Nationals raised a matter for the Minister for Tourism and Major Events seeking support for plans for the future promotion of tourism in the fire-affected areas, and I will make sure the minister is aware of that matter.

The member for Essendon raised a matter for the Minister for Roads and Ports seeking an extension of

bike paths in Mount Alexander Road in her electorate, and I will make sure the minister is aware of that request.

The member for South-West Coast raised a matter for the Minister for Environment and Climate Change seeking a review of the decision to develop wharf facilities on the west side of the jetty at trawler wharf in Portland, and I will make sure the minister is made aware of that request.

The member for Williamstown raised a matter for the attention of the Minister for Community Development seeking some financial support for extension of the work of the fantastic Williamstown men's shed to some proposed environmental initiatives which the men's club wishes to pursue, and I will make sure the minister is aware of that.

The member for Mornington raised a matter for the Minister for Health seeking his support for self-help support groups which are based at the Peninsula Health Service, and I will make sure the minister is aware of that request.

The member for Narre Warren South raised a matter for the attention of the Minister for Education seeking her enthusiastic support for a proposed sod-turning ceremony at the new Casey Central Secondary College, and I will make sure the minister is aware of that request.

The member for Bulleen raised a matter for the attention of the Minister for Roads and Ports seeking his support for traffic noise level testing on a range of sites between Doncaster and Bulleen roads in his electorate, and I will make sure the minister is aware of that request.

Finally, and can I say very appropriately given the historic week we have had, the member for Yan Yean raised a matter for the attention of the Minister for Sport, Recreation and Youth Affairs seeking his support for remediation works to be undertaken at the Whittlesea showgrounds, which as many members know was a staging area during the fires. It is very appropriate that we finish our week with that request.

The SPEAKER — Order! The house is now adjourned.

House adjourned 4.47 p.m. until Tuesday, 10 March.