PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 11 October 2007

(Extract from book 14)

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By authority of the Victorian Government Printer

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

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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.

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

Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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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, Mr Lupton, Ms Marshall, Ms Munt, Mr Nardella, Mrs Powell, Mr Seitz, Mr K. Smith, Mr Stensholt and Mr Thompson

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The Hon. S. P. BRACKS (to 30 July 2007)

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The Hon. R. J. HULLS (from 30 July 2007)
The Hon. J. W. THWAITES (to 30 July 2007)

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Deputy Leader of The Nationals:
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Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kosky, Ms Lynne Janice	Altona	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Weller, Mr Paul	Rodney	Nats
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Lim, Mr Muy Hong	Clayton	ALP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 6 August 2007
[4] Elected 15 September 2007

CONTENTS

THURSDAY, 11 OCTOBER 2007

CONTENTS

Thursday, 11 October 2007

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.33 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 39 to 50 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.

NOTICES OF MOTION

Notices of motion given.

The SPEAKER — Order! Before calling the Deputy Leader of the Opposition, I note that a mobile phone was ringing. I remind members that mobile phones should be on silent if they are brought into the chamber.

Further notices of motion given.

PETITIONS

Following petitions presented to house:

Strzelecki Highway, Mirboo North: safety

To the Legislative Assembly of Victoria:

The petition of the citizens of Mirboo North and region draws to the attention of the house the lack of appropriate warning and speed restriction signage applicable to traffic on the Strzelecki Highway, Mirboo North, in the area immediately adjacent to the primary school and secondary college.

The petitioners therefore request that the Legislative Assembly of Victoria calls upon the Victorian government, through the agency of VicRoads, to erect at the appropriate location on the Strzelecki Highway electronic speed signs with automatic speed changes calibrated to accord with school hours.

By Mr RYAN (Gippsland South) (452 signatures)

Parliamentary officers: enterprise bargaining agreement

To the honourable the Speaker and members of the Legislative Assembly of Victoria in Parliament assembled:

To the Legislative Assembly of Victoria:

The petition of the undersigned officers of the Parliament of Victoria draws to the attention of the house that:

1. your petitioners are officers of the Parliament of Victoria appointed under the Parliamentary Administration Act, which was enacted with the intention of distinguishing the parliamentary administration and its officers from the Victorian public service;

2. your petitioners uphold the values of parliamentary officers set out in section 5 of the act and further recognise the statement of corporate intent of the parliamentary departments, which limits their ability to take part in public life as guaranteed to other Victorians under section 18 of the Charter of Human Rights and Responsibilities Act of 2006; and

3. the alignment of the salaries and remuneration of parliamentary officers with provisions of the Victorian public service agreement and with the arts agencies of the Victorian public service (which operate under a less restrictive act), fails to acknowledge the special character of the work parliamentary officers perform and the obligations imposed on them under the Parliamentary Administration Act.

The petitioners therefore request that the Legislative Assembly of Victoria take all necessary steps to:

apply to the salaries and remuneration of parliamentary officers the Victorian government wages policy and public sector standard announced by the former Premier in the Legislative Assembly on 19 July 2007, restated by the new Premier of Victoria in the Legislative Assembly on 8 August 2007 and the Treasurer in the Legislative Council on 18 September 2007, and subsequently reiterated on many occasions.

By Ms CAMPBELL (Pascoe Vale) (105 signatures)

Tabled.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Parliamentary Contributory Superannuation Fund

Mr STENSHOLT (Burwood) presented report, together with appendices.

Tabled.

Ordered that report and appendices be printed.

DOCUMENTS

Tabled by Clerk:

Gambling Regulation Act 2003 — Report on the Gambling and Lotteries Licence Review panel to the Minister for Gaming in relation to the current Public Lottery Licensing Process under s. 10.2A.11

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns — June 2007 and Summary of Variations Notified between 21 June 2007 and 8 October 2007 — Ordered to be printed

National Parks Act 1975 — Report on the working of the act 2006–07

National Parks Advisory Council — Report 2006–07

Ombudsman — Investigation into the Office of Housing's Tender Process for the Cleaning and Gardening Maintenance Contract — CNG2007 — Ordered to be printed

Police Appeals Board — Report 2006–07

Public Record Office Victoria — Report 2006–07

Victorian Energy Networks Corporation — Report 2006–07.

BUSINESS OF THE HOUSE

Adjournment

Ms NEVILLE (Minister for Mental Health) — I move:

That the house, at its rising, adjourn until Tuesday, 30 October 2007.

Motion agreed to.

MEMBERS STATEMENTS

Mental health: government policy

Mr BAILLIEU (Leader of the Opposition) — In this Mental Health week, I would like to raise the issue of this government's mental health policy.

The prevalence and the cost of mental illness in Victoria demand action and demand system reform, but under this government we have seen neither. Mental illness affects one in five people and costs the Victorian economy $5.4 billion annually. Labor's response has been dismal: stagnating investment and stagnating reform, leading to a system which blocks access to all but the most acutely unwell. This system is complex and difficult to navigate for those who do manage to get care, and provides no discharge or accommodation options for those who need ongoing care.

Victoria was once the national leader in mental health care and reform under the previous Liberal government, but now less than 50 per cent of Victorians with a mental illness get access to any services in any one year. While around 230 000 young Victorians have a mental disorder, the number receiving treatment is incredibly small.

For those who do manage to gain access to treatment, Labor's system of care is fragmented, complex and inadequate, and I urge the government to think again and properly fund mental health programs and providers in this state, including first-episode treatments, support services for youth mental health hospital-based acute care, and additional research.

Foster care: Bellarine electorate

Ms NEVILLE (Minister for Mental Health) — I would like to take this opportunity to commend some outstanding individuals in my electorate.

At the National Foster Care Conference this weekend just past, foster carers Margaret and James Tippett from Point Lonsdale were awarded national foster carer recognition awards. Margaret and James have been fostering children in need for over 20 years. It is an exceptional and incredibly selfless achievement providing care and support and love for abused and neglected children. It is an achievement that deserves recognition and acknowledgement by the whole community and I congratulate them wholeheartedly.

I would also like to note that a recent analysis of foster carers around the state revealed that Geelong and the surrounding areas have some of the highest numbers of carers in the state, so I congratulate Margaret and James and indeed all foster carers for the fantastic work they do.

Ocean Grove: Home hardware store

Ms NEVILLE — On another matter, I would like to congratulate the Ocean Grove Home hardware store. This family-run business has just won the Hardware Association of Victoria's Store of the Year award under the 20 or less employees category. The business is run by Mr Paul Drake and his family and supporting staff and won the award for excellence, innovation, business strategy and employee appeal.

The Ocean Grove hardware store is no stranger to recognition and acclaim. In 2001 it won the same award, and in April this year it was awarded a community business award in recognition of the work it does in the local community. Congratulations to Paul, his family and the team. May the awards keep rolling in.

Victorian Environmental Assessment Council: river red gum forests report

Mrs POWELL (Shepparton) — I raise a matter for the attention of the house regarding the outrage throughout country Victoria at the flawed and

unsubstantiated draft proposals for the management of the river red gum forests by VEAC (Victorian Environmental Assessment Council).

These proposals have been drafted by bureaucrats who obviously do not understand or care about the community's love of our wonderful bushland. VEAC proposes to increase national and state parks from 62 000 hectares to 152 000 hectares and establish new national parks including the Lower Goulburn River national park. The state government has a woeful track record of managing existing forests and Crown land, and it has allowed the amount of weeds and the number of foxes, wild dogs and wild cats to increase, causing havoc to neighbouring properties. It is a fact that adjoining landowners do a better job of preserving and protecting Crown land than the government does with its 'lock up and leave it' management plan.

VEAC has proposed restrictions or bans on hunting, fishing, domestic animal grazing, dog walking, firewood collection, timber harvesting, camping overnight with dogs and horses, and community events. This has understandably angered people who have enjoyed these activities for years. Its proposal to ban campfires all year round should be immediately ruled out.

Locking up national parks will result in a build-up of fuel loads which will increase the risk of high temperature forest fires. The VEAC draft report states that 4000 gigalitres of water are required for a flood plain inundation every five years. This proposal is so outrageous that the Premier recently ruled it out. I call on the Premier to abandon the entire VEAC report, which does nothing to protect our river red gum forests and disadvantages those who want to share our forests.

Graeme Dunne

Mr PALLAS (Minister for Roads and Ports) — I rise to pay tribute to a great man whose life was cut short by an horrific road accident last week, but I do not wish this end to be his epitaph.

On Tuesday of this week I attended the funeral of Graeme Dunne, a contractor for VicRoads, who was struck and killed alongside the Westgate Freeway on 1 October by a wheel which had come off a passing truck. This tragic event cut Graeme's life short and robbed his wife, Nola, of a husband and his children, Ashleigh and Jamie, of a father. Graeme Dunne did not deserve to die. He was a good man doing a great job. It is a profound and sad irony that a man helping to make our roads safer became a road toll statistic while doing his job. Graeme Dunne is the embodiment of why each life lost on our roads is one too many. He was the quintessential self-made man — he was a dishwasher at the age of 12, a bricklayer, a stonemason and a blacksmith. He was a lover of animals, a home builder and a farmer.

All in all, to those who knew him and to those who came to depend on him, he was an unforgettable character. His friends and colleagues at the VicRoads Deer Park depot grieve the passing of an invaluable member of their team. As the depot manager said in his eulogy, Graeme's passing was 'a senseless loss of a great worker and a terrific friend'. I never had the privilege to get to know Graeme — the lover of antiques, the early riser and the hard worker — nor did I get to appreciate his camel-chasing skills or his pride in his farm at Rockbank.

The mosaic of personalities that makes up this state is one of its finest defining characteristics, but I cannot help but think that our collective colour and vibrancy has faded through the loss of this great Victorian character. I also regret that I never got to know him. Graeme Dunne celebrated life, and we owe it to his memory never to waiver in our resolve to keep our roads the safest they can be.

Ambulance services: Craigieburn

Mrs SHARDEY (Caulfield) — Craigieburn residents will be forced to wait longer for medical treatment because of a power struggle between DHS (Department of Human Services), MAS (Metropolitan Ambulance Service) and the local volunteer community. On 10 August this year, the volunteer CERT (Craigieburn community emergency response team) was told by DHS and MAS to return their vehicle, radios and uniforms. This left it unable to attend medical emergencies in the Craigieburn area. Craigieburn residents are being used as pawns in a power struggle between MAS, DHS and the voluntary CERT.

CERT was established 12 years ago and was entirely funded and supported by the community without financial assistance from MAS or DHS; it operated on a 24/7 basis all year round. The model proved so successful that DHS used it as a blueprint for further teams around the state. Several months ago, CADAC (Craigieburn and district ambulance committee), the overseeing committee of CERT, contacted the former Minister for Health, DHS and MAS requesting assistance to manage internal issues. This organisation, which is run entirely by volunteers, asked for help, but instead CADAC was told by DHS that it was washing its hands of CADAC.

Currently the Craigieburn ambulance station operates for only 12 hours a day, from 9.00 a.m. to 9.00 p.m. With no available valuable CERT team, patient care is compromised as the community is forced to rely upon ambulances from outside the area. Rapid response times in medical emergencies are vital, and the Craigieburn community should not have to suffer.

Tallarook: achievements

Mr HARDMAN (Seymour) — Things are no longer crook in Tallarook; come and take a look! What better opportunity than this weekend to visit Tallarook art show at the beautiful Tallarook Mechanics Institute Hall. This year over 100 quality paintings will be vying for $7000 in prize money. There are also many regular new train services on weekends so people can get from Melbourne to enjoy the great atmosphere at Tallarook.

Tallarook has a great future as well, with Mitchell Webster and Keily Brown of Tallarook Primary School recently becoming winners of the state Tidy Towns Young Leader awards. This year Tallarook was the regional winner of the north central region Tidy Towns awards. It took out 10 individual awards for the improvements made in the community — to the Tallarook Mechanics Institute Hall, the arboretum, the railway station, the pool and the Tallarook Primary School. These improvements happened because of the work and dedication of many community members. I would like to congratulate all those community members who were involved in arranging these events, doing these activities and improving Tallarook.

Tallarook is a great little town. It has been assisted, of course, by the council and the state government, which has helped with funding for the projects at the school, the hall and the arboretum. I would like to see people come and have a look at Tallarook. There is nothing crook about Tallarook, so come and take a look!

Darebin Creek Trail: bridge

Mr McINTOSH (Kew) — The proposed bridge to link the Darebin Creek Trail with the Main Yarra Trail must be built. The bridge should provide cyclists as well as pedestrians with an uninterrupted path from the northern suburbs into the city and, of course, visa versa. I agree that cyclists as well as pedestrians should not be forced to cross the very dangerous and old Chandler Highway bridge. Proponents of the bridge, such as Bicycle Victoria and Parks Victoria, are currently advocating that a bridge crossing the Yarra River adjacent to the Kew Billabong should be constructed and that a bike path skirting around Willsmere Park should also be constructed.

There have been a number of concerns raised with me — not about the fact that there should be a link or a bridge between the two trails — but about where the bridge is to be located. These concerns about the bridge location are based on the significant environmental impact on the Kew Billabong and indeed Willsmere Park. Opponents of the bridge say that the location creates a problem and that there are a number of acceptable alternative sites for the bridge. As Julia McKenzie, a 22-year-old constituent of mine, said very eloquently recently in the *Progress Press*, with adequate consultation by Parks Victoria and recognition of the needs of people and the environment, this issue could be easily solved.

Schools: Albert Park electorate

Mr FOLEY (Albert Park) — I would like to draw the house's attention to the achievements of our public primary schools in Albert Park. Education is the pillar of opportunity and progress in our community. The fact that our schools also turn out well-rounded young people who emerge able to tackle the world is a further benefit. All our schools in Albert Park are supported by great principals, wonderful staff and active school councils. They are all academically strong and rigorous and a reflection of the overall investment and support state schools are given by this government.

Let us look at the roll call of the Albert Park schools. Elwood Primary School has just opened its children's hub, built in partnership with the local council, this government and a range of preschool and child-care providers. The school has received further classroom upgrades, and its grounds are currently being redeveloped. That is not to mention the support this government has lent to the redevelopment of the hall, the kitchen and the gardens project.

St Kilda Park Primary School has seen its numbers grow, and its contribution to the kids of its community is a model of engagement and leadership that is second to none. Middle Park Primary School has just finished its upgrade, and I look forward to the Minister for Education opening that shortly. Albert Park Primary School is well regarded, to the point where during the recent by-election a number of parents pointed out to me that they had moved into the area specifically to get their children into that school. Port Melbourne Primary School, under the leadership of its dynamic principal, Peter Martin, continues to grow and show leadership in all areas of curriculum and community engagement. The challenge now is to continue the development, and I hope to be part of that building of our primary schools in the future.

Planning: Echuca brothel application

Mr WELLER (Rodney) — In February this year I sought the assistance of the Minister for Planning to work with the Campaspe Shire Council to help it prohibit the establishment of a brothel in Echuca. A Melbourne-based company is behind the application, which would see a brothel containing six client rooms and employing 12 workers set up in an industrial area in Echuca's south-east. The proposal has been met with strong community opposition. Many people believe it will adversely alter Echuca's reputation and image. The Campaspe shire's seven councillors refused the brothel application in a unanimous vote in February, with a move to amend the planning scheme to permanently prohibit the establishment of brothels in the shire in the future.

As required under state legislation, the Campaspe Shire Council made an application to the planning minister for an amendment to its local planning scheme to ban brothels in the municipality on the ground that the brothel would cause social disruption within the community. To my deep dismay and that of that of the council and the community the minister has rejected the application, effectively giving the green light to brothels to be established in Echuca and right across the community.

The minister believes there is insufficient strategic justification to support the amendment. I fail to see how a minister based in Melbourne could have any idea of the type of impact this proposal would have on the social fabric of our rural community. I am particularly disappointed that he has ignored the advice of the councillors of the Campaspe shire, who have an intimate knowledge of this region and feel strongly that the proposed brothel is not consistent with — —

The ACTING SPEAKER (Mrs Fyffe) — Order! The member's time has expired.

Burma: pro-democracy protests

Mr LIM (Clayton) — I take this opportunity to pay tribute to those thousands of heroic Buddhist monks involved in the latest struggle for democracy in Burma. Since 1962 Burma's population, now 50 million, has been subject to a military dictatorship which has continually used brutal force to subdue moves towards democracy.

Over the past week tens of thousands of Burmese people have joined Buddhist monks and nuns on the streets of Rangoon in their protest against this repressive military junta. These courageous people have braved violence in the form of mass arrests, beatings and even death as they voice their disapproval of Burma's unelected and undemocratic military government.

The violence reached new heights last Thursday when the military fired directly into crowds of demonstrators. Government reports stated that some 10 people were killed; however, diplomats and activists say the number of deaths was many times higher. The military has used tear gas and made baton charges against groups of protesters, with particular savagery directed towards the Buddhist monks. In Rangoon monasteries have been raided and ransacked, and large numbers of monks — a reported 1000 — have been arrested and detained. Meanwhile there are reports that other monks and demonstrators have been severely beaten.

Despite the military's threat of the use of further force, the demonstrations continue to take place across Rangoon and Mandalay.

The ACTING SPEAKER (Mrs Fyffe) — Order! The member's time has expired.

Haemophilia Awareness Week

Mr BLACKWOOD (Narracan) — This week is Haemophilia Awareness Week, which runs from 7 to 13 October. It is an initiative of Haemophilia Foundation Australia to raise community awareness about bleeding disorders in Australia. The theme for this week is that haemophilia is one community of many faces. The week aims to show that haemophilia affects people of all ages and experiences.

Around 2000 people have bleeding disorders in Australia, with up to 20 or 30 new cases identified each year. Haemophilia is incurable, and without proper treatment it can be life threatening. It is a blood clotting disorder in which one of the essential clotting factors is deficient or missing. This causes bleeding into joints, muscles and organs. The treatment is to give a replacement clotting factor intravenously to stop bleeds and prevent further damage. The disorder almost exclusively affects men but is passed through the female carrier of the defective gene.

Haemophilia Foundation Australia was formed in 1979 and incorporated in 1986. The foundation has for over 27 years represented the needs and issues of people — and their families — with haemophilia, von Willebrand disorder and other related bleeding disorders. The foundation is committed to improving treatment and care through representation and advocacy, education and the promotion of research.

I take this opportunity during Haemophilia Awareness Week to acknowledge the difficulties faced by haemophilia sufferers and their families in my electorate of Narracan and to raise the awareness of just how tough it is to live a normal life with a bleeding disorder.

South Barwon Football and Netball Club: achievements

Mr CRUTCHFIELD (South Barwon) — I congratulate South Barwon Football and Netball Club on its outstanding year of success in 2007. Whilst the record books would show 2007 as a successful season — 16 of the club's teams played in finals, 10 participated in grand finals and there were 9 premierships, including senior football and netball premierships — the club's success can also be measured in its ongoing commitment to providing a happy and safe environment for budding junior footballers and netballers to develop their skills and gain the necessary appreciation of and respect for team values. South Barwon teams were club champions in both the football and the netball sections of the league, a super effort. The club has now grown from around 4 teams in 2000 to 30 football and netball teams in 2007, all participating in a range of competitions, and it will again grow with the summer netball competitions.

The senior footballers won their third premiership in a row, and the under-16 boys won their premiership, as did the under-14 boys. In netball the A grade girls won their fourth premiership in a row, and the D grade girls won their premiership, as did the under-17s, the under-15s, the under-13s and the under-13s division 2.

I acknowledge senior football coach Dale Amos, who is in his fourth year, as triple premiership coach; Matthew Verfurth and Vinny Lazzaro on the match committee; and Scott Edwards, junior coordinator. In the netball section, congratulations to David Morgan and president Jenny Fagan and the coaching staff on a great year. Thanks also to ladies committee president Elaine Thomson and grounds crew Bill Brebner, Vern Mathewson, Bert Hassan and Graeme Amos. Finally, hearty congratulations to all committee members and other volunteers magnificently led by president Richard Holtz.

Bellfield Drive, Lysterfield: traffic control

Mr WAKELING (Ferntree Gully) — I am very concerned for the welfare of residents, particularly children, residing in Bellfield Drive in Lysterfield. A significant volume of traffic has been diverted along this road during the current reconstruction of the intersection of Napoleon and Kelletts roads. When the original detour commenced, some temporary local area traffic management devices were implemented in an effort to slow traffic. Due to a spate of vandalism, most of these devices were removed.

Despite calls from residents and their local member of Parliament, the government appears to be ignoring community concern and does not appear to be taking any action to reinstate these speed devices. It is imperative that the government listens to the concerns of residents and reinstates these important speed deterrents.

Dairy Lane–Ferntree Gully Road: keep-clear zone

Mr WAKELING — I wish to raise another concern with the Minister for Roads and Ports. Many residents who reside near Dairy Lane in Ferntree Gully are very concerned about the inability of motorists to make a right-hand turn from Dairy Lane onto Ferntree Gully Road. Local residents have raised concerns that during peak periods, westbound vehicles on Ferntree Gully Road block this intersection. I have been working with local Knox councillor Debbie Field on behalf of Ferntree Gully residents in an effort to remedy this situation.

The current situation is inequitable, given that many residents throughout the region are provided with similar access points onto Melbourne's road network. It is imperative that the Minister for Roads installs a keep-clear zone at this intersection to enable Ferntree Gully residents access to the eastbound lanes of Ferntree Gully Road.

Charles Lewis

Mr BROOKS (Bundoora) — Mr Charles Lewis of Bundoora was one of the founding members of a fine local organisation, Volunteers of Banyule. In 1998 he and Sister Margaret Ryan, the Volunteers of Banyule's first president, were the driving force behind the establishment of that organisation. Volunteers of Banyule is a volunteer resource centre servicing the north-eastern region of Melbourne to assist non-profit organisations in the region with their recruitment strategies, and promotes volunteering through local events, libraries, service groups and schools. The centre's office is located in Watsonia North in a facility that is kindly provided by Banyule City Council.

The original meeting to form Volunteers of Banyule was held at Mr Lewis's home in Bundoora. Charles Lewis was the treasurer of Volunteers of Banyule from

its formation in 1998 until his resignation in 2005. During this time he set up the organisation's financial and reporting processes. He was renowned for never missing a meeting and was always on hand to lead and encourage staff and volunteers. Through to today, Charles has been an active member and supporter of Volunteers of Banyule. During the organisation's recent 2007 annual general meeting, the current president, Mr Phil Strode, awarded Charles Lewis a life membership of Volunteers of Banyule in recognition of his significant contribution to volunteering and to Volunteers of Banyule over the years.

I wish to publicly commend Mr Lewis for his dedication to the cause of volunteering and for his contribution to the local community. I congratulate him on being awarded life membership of the Volunteers of Banyule.

Hull Road–Brice Avenue and Hull Road–Cardigan Road, Mooroolbark: safety lights

Mr HODGETT (Kilsyth) — I wish to raise the issue of safety improvements at the intersections of Hull Road with Brice Avenue and Cardigan Road, Mooroolbark, which the minister and the government refuse to acknowledge is a legitimate concern to local residents in my electorate. Of the three roads Hull Road is a main road which connects Lilydale with Croydon, via Mooroolbark. Used as a through route, the road traverses built-up areas along most of its length. As a declared main road, works to Hull Road require approval and funding from VicRoads. Cardigan Road falls under the auspices of the Shire of Yarra Ranges and carries traffic from local residents and the various schools in the area.

Brice Avenue is also a Shire of Yarra Ranges road, with a shopping strip, including a Coles supermarket and the Mooroolbark railway station. This means that there is a volatile mix of vehicles and pedestrians, whether they are commuters, shoppers or schoolchildren, converging at Hull Road near Brice Avenue and Cardigan Road — volatile because the minister and his office do not feel that pedestrian lights at these intersections are ready to be considered and prioritised on a statewide basis at this time.

There is an ever-increasing demand for pedestrian lights and traffic lights at these intersections to service the residents of Mooroolbark East who drive or walk from this area on a daily basis. The Minister for Roads and Ports has informed my office with yet another puff-piece paragraph about road spending by this government and yet I see no benefit for either pedestrians or drivers using these roads in Mooroolbark. I urge the government to address this problem as a matter of urgency.

Sam Mitchell

Mr HODGETT — On another matter, I congratulate Sam Mitchell on being made captain of the Hawthorn Football Club. Sam is a former player with the Mooroolbark Football Club and the Eastern Ranges Football Club.

Friends of Lower Kororoit Creek

Mr NOONAN (Williamstown) — I rise to congratulate the Friends of Lower Kororoit Creek, who were last month awarded a 2007 Victorian Landcare award. The award recognises the group's significant contribution to the sustainable management, rehabilitation and conservation of the Lower Kororoit Creek. Friends of Lower Kororoit Creek also won the Caring for Waterways award at the 2006 Port Phillip and Westernport Regional Landcare Awards, with an outstanding entry.

The group was established in 2001. There have been countless planting days and working bees, with over 1000 volunteers of all ages planting in excess of 30 000 trees, shrubs and plants along the creek from Barnes Road to Grieve Parade, Altona North. Many other organisations including Parks Victoria, Melbourne Water and the Hobsons Bay Council have been involved in the improvement plans and plantings that have been undertaken along this section of the creek.

This outstanding project has been driven by a range of community leaders including Geoff, Olga, Kristen and Dean Mitchelmore, Laurie McCauley, Kerry Cordell, Debbi Woods, George Said, Simon and Fay Hogan, Jennifer and Allan Williams, Russell Elphey and Debbie Emerson. Their passion and dedication has turned what was once a rubbish dumping ground into a thriving natural oasis which can be enjoyed for generations to come.

The work of the Friends of Lower Kororoit Creek has led to it becoming an entrant in the Australian Landcare Awards, and I certainly wish them all the best with their entry.

Water: unbundling system

Mr CRISP (Mildura) — Unbundling continues to cause many people in my electorate expense, frustration and grief. Even though the Department of Sustainability and Environment had two years to prepare, it appears the managing government authorities were ill-prepared

for the task. DSE has failed miserably to have the systems in place to manage unbundling.

No better example of the problem created by this ill-preparation is that of Mr and Mrs Hooper from Red Cliffs. The Hoopers sold their horticultural property which had 50 megalitres of water to go with the land. The Hoopers purchased another property which required settlement on 17 August. The process of transferring the ownership of the 50 megalitres of unbundled water started on 29 June. Fees were paid, 100-point identification papers signed and water share documentation filled in. By 17 August there were additional fees and papers to be signed and the settlement date of the transaction had to be amended. Due to DSE's inability to progress the water transaction to allow the property settlement, my constituents are paying $2600 a month in penalty interest.

This is not an isolated case, and I insist that the government pay compensation to those disadvantaged by the inability of DSE to have the systems in place to transact these water transfers effectively. This is another example of the Brumby government failing country Victorians when it comes to water management. If the government cannot get this right in two years, why should country Victorians trust the government with the food bowl modernisation project?

Livingstone Primary School: Watoto Childcare Ministries

Ms MARSHALL (Forest Hill) — Situated in the electorate of Forest Hill, Livingstone Primary School has the motto 'Linking the community through learning', and true to their word a group of students have now given much-needed assistance and attention to help other children half a world away.

The students have been fundraising for a Ugandan charity, Watoto Childcare Ministries, and have raised money to build a house for African orphans. The mission of Watoto is to raise the next generation of Ugandan leaders by placing parentless children in families where the necessary love, care, spiritual discipleship and physical needs are provided.

Like the children of Livingstone, the goal is to equip these children with the essential moral values and life skills that will enable them to make a significant and lasting impact. Teacher and fundraising coordinator Carissa Beeston said that the children had spent eight weeks doing chores around their homes to contribute almost $3000 to the fund. Not only have the students contributed in such a positive way financially but through this program they have learnt firsthand of many activities that constitute daily life for the children they are helping, giving them an extraordinarily important connection to African culture and the impact of their efforts.

Congratulations to the teachers and students at Livingstone Primary School for their inspirational effort, and for building and strengthening the ties that make Forest Hill the great electorate that it is.

Mental health: child and youth support

Mr TILLEY (Benambra) — Child and youth mental health in regional Victoria is unsatisfactory and often inaccessible. In May this year I met with Bronwyn Lehman who has genuine concerns over her 15-year-old daughter's mental health. This child is not new to the mental health system, having been part of it since the age of five when she was diagnosed with oppositional defiance disorder. As Laura has grown older her violent outbursts have become more difficult, and by May this year her mother was having difficulties coping.

Agencies' advice for assistance was sought. The responses ranged from, 'Go to the Department of Human Services for fostering' to, 'We are unable to take on any new cases'. During this year Laura has made five attempts on her life, three by way of drug overdose and two by hanging, which to date have been unsuccessful, thankfully. This is despite her mother being told that Laura was not at risk.

In the meantime the family copes the best way they can. Laura's mother is often covered in bruises from the physical abuse she suffers from Laura, and Laura's younger brother and sister are having to grow up particularly fast to cope with the extreme mood swings and physical and verbal outbursts.

Our mental health system is flawed. If a child can get to this point without there having been any intervention and the family has to cope without any support, what hope is there for Laura as an adult — and that is if she makes it? NECAMHS (North East Child and Adolescent Mental Health Services) has advised Laura's mother that she is off its books, and counselling sessions obtained through Central Hume Support Services have now finished. Laura is currently in the too-hard basket, and her family waits — for the next outburst and for the next attempt at self-harm.

The ACTING SPEAKER (Mrs Fyffe) — Order! The member's time has expired.

Burwood Tennis Club: centenary

Mr STENSHOLT (Burwood) — I would like to congratulate the Burwood Tennis Club on its 100th anniversary, which it celebrated in style last Saturday night at the clubhouse on Warrigal Road. I was delighted to join the club, along with local Boroondara councillor Heinz Kreutz and the current mayor of Monash, Tom Morrissey, who is a former member of the club. I congratulate the president, Colin Edwards, and the secretary, Greg Lammers, the committee, the coaches and all the members on achieving this wonderful milestone.

It was fascinating to see some of the photos from the club's archives, which included teams from 1931, the old clubhouse and the wartime netball team, as well as recent club heroes, including Colin in his more hirsute days. The night also saw the official opening of the five new clay courts, which means the club will no longer have to constantly water the courts, saving a million litres of water a year. I have to confess to playing a hand in obtaining the new courts, as I advocated on behalf of the club. The Boroondara council recognised the foresight and vision of the club by going guarantor for the club as it borrowed $110 000 to put in the new courts.

The Burwood Tennis Club is a strong, happy and community-conscious club. Congratulations on its first 100 years, and bring on the next century!

Tortice Drive, Ringwood North: traffic control

Mr R. SMITH (Warrandyte) — I draw the attention of the house to the intersections at either end of Tortice Drive in Ringwood North and to the unacceptable delays local residents need to endure on a daily basis at these intersections.

My electorate office fields numerous complaints about these two intersections, and I must say the government has been very remiss in not addressing the problem sooner. I ask the minister to address this traffic snarl as soon as possible.

Racism: civic leadership

Ms D'AMBROSIO (Mill Park) — Civic leadership is one of the finest attributes of a robust and inclusive society. Unfortunately we have been let down badly yet again by the federal government driving wedges to divide our community, as seen by the misinformed statements of the federal immigration minister on the settlement of African refugees in this country. You only have to hear and read the media reports of the last few days about the several racially motivated attacks in our community to see what a lack of civic leadership can unleash.

The ACTING SPEAKER (Mrs Fyffe) — Order! The time for members statements has expired.

EQUAL OPPORTUNITY AMENDMENT (FAMILY RESPONSIBILITIES) BILL

Second reading

Order of the day read.

The ACTING SPEAKER (Mrs Fyffe) — Order! I ask the house to pause while copies of the bill are circulated.

Mr McINTOSH (Kew) — I move:

That the debate be adjourned.

The reason I do so is that this is not the appropriate time for second-reading speeches of any nature. The reality is that the Leader of the House assured us on Tuesday that there would be adequate time for debating various bills during the course of this week. The reality is that four bills still remain undebated and there are some 30 opposition speakers still to make their contributions, particularly in relation to the emergency services and graffiti legislation. Debating time at this time should not be taken up with second-reading speeches. The convention of this place is that second-reading speeches should be commenced at 4 o'clock, once any bills have gone to the guillotine, and it is not appropriate that second-reading speeches be conducted at the present time. I certainly ask the government to support my motion. To impact upon our speaking time by putting in second-reading speeches at this time is completely inappropriate.

The reality is that a number of opposition speakers want to speak on the four bills that are currently under the guillotine, and those bills should be able to be debated properly and adequately. That is what the Leader of the House assured all members of the house about on Tuesday when we debated this week's government business program, which the opposition parties opposed because they were sceptical, believing the debates on these bills could not be completed in that time.

It is appropriate that these matters be postponed and that we then move on to item 8 on the government's business program, the Emergency Services Legislation Amendment Bill, so that all members of this house get adequate time to speak. Otherwise it would be a

complete sham. Indeed the assurance that the Leader of the House provided to this house on Tuesday that adequate time would be provided is again a sham. I implore the house to postpone the second-reading speech on this bill.

Mr CAMERON (Minister for Police and Emergency Services) — The government certainly rejects the motion that has been moved by the member for Kew. He asserts that it is a convention in this house that second readings be made at 4 o'clock, when the fact of the matter is that sometimes they are made at 4 o'clock and sometimes during the course of the day. There is no convention about this matter. The fact of the matter is that while the opposition wastes its time with motions like this, we could have had the second reading attended to. The opposition wants to waste time instead of getting on with business. The government wants to get on with business. The government believes the government business program should be followed.

Mr DELAHUNTY (Lowan) — I will not say too much because I do not want to waste the time of the Parliament. We want to get on with the business program, which is to debate the Energy Legislation Further Amendment Bill; that is very important for us, and we have only heard the lead speakers on it. There are also four other bills, and I am sure that there are members in the house — particularly from The Nationals — who want to speak. We believe that there is not enough time for debating. We believe that we should get on with this. This second reading could take 30 minutes from our debating time, so we will be supporting the motion of the member for Kew.

Mr BATCHELOR (Minister for Community Development) — We are not in a position to accept this motion. What we want to do in this Parliament is to proceed in an orderly way to deal with matters of government business, which traditionally involves bills that are to be dealt with during any given week, plus second readings, to provide the platform for legislative debate — —

Honourable members interjecting.

Mr BATCHELOR — No. The member for Bass says I misled the house. That is absolutely untrue. Time and again the member for Bass cannot help himself. The member for Bass is a recidivist of the worst nature on this issue, and the record will show that. What we do is provide the opposition with the detail of what will be the legislative program in the following sitting week, and we cannot do that without doing the second-reading speeches. What we are trying to do is not only do it for the benefit of the opposition but for the benefit of the media and the public at large so they can get access to the substance of second readings early in the legislative week. The only thing that is different is that we normally do these second readings on a Wednesday rather than a Thursday, so we have decided to do them early on Thursday so everybody has maximum time to be prepared, to get briefed, to seek consultation and to have their party room discussions both formally and informally during the course of this week. What we are seeing opposite today are the world champion hypocrites!

Honourable members interjecting.

Mr BATCHELOR — The world champion hypocrites are led by the member for Kew, ably backed by the member for Bass — and the lapdogs in The Nationals are ably supporting them. What we want to be able to do is second read the detail of the next parliamentary week's legislative debate. The Liberals and The Nationals are trying to stifle that. The debate of legislation is government business, and it is also government business to provide time for second-reading speeches to commence the information flow.

God only knows the mob over there needs the maximum time possible to understand the detail, but it seems that the more time we give them, the more they get confused. We will not be accepting this proposal, and we will be providing the maximum time for the slow thinkers over there, led by the member for Bass, to understand what is coming up.

House divided on motion:

Ayes, 31

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

Noes, 42

Allan, Ms	Hudson, Mr
Andrews, Mr	Kosky, Ms

Barker, Ms	Langdon, Mr
Batchelor, Mr	Languiller, Mr
Beattie, Ms	Lim, Mr
Brooks, Mr	Lupton, Mr
Cameron, Mr	Marshall, Ms
Campbell, Ms	Merlino, Mr
Carli, Mr	Morand, Ms
Crutchfield, Mr	Munt, Ms
D'Ambrosio, Ms	Nardella, Mr
Donnellan, Mr	Neville, Ms
Duncan, Ms	Noonan, Mr
Eren, Mr	Pallas, Mr
Foley, Mr	Pandazopoulos, Mr
Graley, Ms	Richardson, Ms
Green, Ms	Scott, Mr
Hardman, Mr	Seitz, Mr
Harkness, Dr	Stensholt, Mr
Helper, Mr	Trezise, Mr
Holding, Mr	Wynne, Mr

Motion defeated.

The SPEAKER — Order! I remind members for the second time this morning that if mobile phones are brought into the chamber, they must be on silent. The only alternative would be to ban the bringing in of mobile phones to the chamber. I seek members' cooperation in this matter.

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) 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 (the charter), I make this statement of compatibility with respect to the Equal Opportunity Amendment (Family Responsibilities) Bill 2007 (the bill).

In my opinion, the bill, 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 amends the Equal Opportunity Act 1995 to provide that an employer, a principal or a firm must not, in relation to work arrangements, unreasonably refuse to accommodate the parental or carer responsibilities of a person offered employment, an employee, a contract worker, a person invited to become a partner in a firm or a partner in a firm. All relevant facts and circumstances must be considered in determining whether a refusal was unreasonable, including the needs of the employer, principal or firm, and the circumstances of the worker who has requested the accommodation.

The bill also clarifies the meaning of discrimination in the Equal Opportunity Act, and makes it discrimination for an employer, principal or firm to contravene the requirement not to unreasonably refuse to accommodate parental or carer responsibilities.

Human rights issues

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

Section 3(1) of the charter defines discrimination to mean discrimination within the meaning of the EO act on the basis of an attribute set out in that act. This includes the attribute of parental status or status as a carer on which the amendments in the bill are based.

The bill amends the meaning of discrimination in the Equal Opportunity Act to include discrimination constituted by a contravention of the new sections dealing with unreasonable refusals to accommodate (sections 13A, 14A, 15A and 31A) as well as current sections 51 and 52 of the Equal Opportunity Act. This means that discrimination under the charter will now include this wider meaning.

For example, section 8 of the charter provides that everyone has the right to recognition and equality before the law. Under section 8(2), every person has the right to enjoy his or her human rights without discrimination and under section 8(3), every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. With the amendments in the bill, these rights will include not being unreasonably disadvantaged in the workplace because of parental and carer responsibilities. It is noted that section 8(4) of the charter provides that measures taken for the purpose of assisting or advancing persons disadvantaged because of discrimination do not constitute discrimination.

The bill is also compatible with section 17 of the charter, which provides for the protection of families and children. Section 17(2) recognises that families are the fundamental group unit of society and are entitled to be protected by society and the state. Section 17(2) recognises that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him of her by reason of being a child.

The bill therefore enhances human rights without limiting them.

2. Consideration of reasonable limitations — section 7(2)

The bill 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, and does not limit, the human rights protected by the charter.

ROB HULLS, MP
Attorney-General

Second reading

Mr CAMERON (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

The Victorian government has a clear and unequivocal commitment to protecting Victorian families and helping working Victorians find a decent balance

between their work and family responsibilities. Parents and carers need to know that they will not be disadvantaged because of their responsibilities, or prevented from fully participating in the workforce.

We particularly recognise the harm WorkChoices is having, and will continue to have, on the ability of Victorian families to pay mortgages, household bills and provide for their children's future.

As we are well aware, WorkChoices has attacked the rights of working families by cutting wages and conditions but also introducing AWAs that even the federal government's own research shows are bad for working families: their own study of individual and collective agreements shows that those on collective arrangements have a much greater chance of having family-friendly provisions.

WorkChoices is an undeniably anti-family policy, which embodies unfairness. For its part, the Victorian government will always stand up for working families, and the Equal Opportunity Amendment (Family Responsibilities) Bill is designed to do exactly that.

The bill amends the Equal Opportunity Act 1995 to provide further protection from discrimination in the workplace to workers with parental and carer responsibilities. As such, the bill enhances the objectives of the Equal Opportunity Act, by promoting recognition and acceptance of everyone's right to equality of opportunity, and eliminating discrimination as far as possible.

The bill does this by providing that an employer, a principal or a firm must not, in relation to work arrangements, unreasonably refuse to accommodate a person's parental or carer responsibilities. New provisions are to be inserted in part 3 of the Equal Opportunity Act setting out this requirement, and the meaning of 'discrimination' is to be amended to make clear that a contravention of the requirement is discriminatory conduct.

The bill includes examples of how a worker's responsibilities might be accommodated. For example, an employer may be able to accommodate an employee's responsibilities by allowing the employee to work from home on a particular morning each week to look after their child, or to reschedule a regular staff meeting so that a part-time employee can attend.

These are, of course, simply examples of possible work arrangements. There may be a number of ways in which an employee's responsibilities might be accommodated, depending on all the circumstances.

The bill seeks to balance the needs of the working parent or carer and the disadvantage suffered by them if their family responsibilities are not accommodated, with the capacity of the employer, principal or firm to accommodate the responsibilities and the impact of doing so. Importantly, the bill only requires an employer, principal or firm to accommodate the responsibilities, where this is reasonable. It does this by providing that a breach will only occur where an employer, principal or firm unreasonably refuses to accommodate the person's parental or carer responsibilities, taking into account all relevant facts and circumstances.

A list of considerations is included in the bill in order to determine whether a refusal is unreasonable. The considerations include:

the nature of the person's work and family responsibilities

the nature and cost of the arrangements required to accommodate the responsibilities

the financial circumstances of the employer, principal or firm

the size and nature of the workplace and the business of the employer, principal or firm

the effect on the workplace of the accommodation, including the financial impact on the business

the consequences for the employer, principal or firm of making the accommodation

the consequences for the person of not making the accommodation.

This list is not exhaustive, and none of these factors are determinative on their own. They are, however, common-sense considerations that aim to encompass the needs of both parties.

Other factors that could be relevant in a particular case might, for example, include when the arrangements are to commence, how long they are to continue for, what information has been provided by the worker in respect of their situation, the accrued entitlements of the worker, and whether there are any legal or other constraints that affect the feasibility of the employer accommodating the responsibilities.

If, for example, a partner working in a firm has asked the firm to work from home on certain days because child-care arrangements are not available on those days, the firm should then ask itself questions such as:

is the nature of the work such that the partner can work from home?

if the partner is allowed to work from home, will other partners or employees be affected?

will any of the partner's clients or customers be affected?

how much will it cost the firm to set the partner up to work from home?

can the firm afford this?

if it is not possible to let the partner work from home, what other alternatives might there be?

are there any other relevant considerations such as occupational health and safety issues?

The bill makes it clear that it will be discriminatory for an employer, principal or firm to contravene the requirement not to unreasonably refuse to accommodate parental or carer responsibilities, and a person will be able to make a complaint of discrimination to the Victorian Equal Opportunity and Human Rights Commission about this contravention. The person will not have to separately prove direct or indirect discrimination in making the complaint.

Further practical guidance about these requirements will be provided in guidelines that are to be developed by the Victorian Equal Opportunity and Human Rights Commission, in collaboration with Industrial Relations Victoria, and in consultation with key stakeholders. The guidelines will be available prior to commencement of the bill.

In summary, the bill, and its guidelines, will provide guidance to employers, principals and firms about how to accommodate parental and carer responsibilities. It is well recognised that flexible working arrangements benefit employers, employees and their families and that improving work and family balance is directly related to retaining skilled staff, especially women with family and carer responsibilities. This saves employers recruitment and training costs and ultimately boosts productivity.

The Victorian government has done the maths. Research shows that the real cost of recruiting and training a worker is just over $17 000, which is an extraordinary 38 per cent of an annual salary of $45 000. This is a message that most employers understand: if you operate an organisation with a high turnover in staff, it directly impacts on your budget.

While many employers no doubt endeavour to adopt a flexible approach to working arrangements, there are some employers who are unlikely to accommodate family responsibilities even where it is practicable to do so. It is therefore necessary to take this positive legislative step to ensure that workers with family responsibilities are not disadvantaged in their participation in the workforce.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 25 October.

VICTORIAN WORKERS' WAGES PROTECTION BILL

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) 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 Victorian Workers' Wages Protection Bill 2007.

In my opinion, the Victorian Workers' Wages Protection Bill 2007, 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 key purposes of the bill are to —

ensure that employers pay wages in money and to set out the methods for that payment;

regulate the ability of an employer to make deductions from an employee's wages; and

provide for enforcement mechanisms and remedies if an employer fails to pay an employee's wages in money, unlawfully deducts an amount from an employee's wages, or terminates, or threatens to terminate or prejudicially alter an employee's position because the employee is entitled to or seeks to exercise a right under the bill.

Human rights issues

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

Property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with

the law. The bill is compatible with section 20 of the charter as it enhances individuals' rights at common law or under an industrial instrument to be paid their full entitlement to wages in money, without unauthorised deductions by an employer.

Protection of families and children

Clause 9(1)(b) of the bill provides that a written authorisation to make deductions is of no effect if the employee is under the age of 18 years and the authorisation has not been consented to in writing by the employee's parent or guardian. Clause 9(1)(b) engages section 17 of the charter which provides that:

(1) Families are the fundamental group unit of society and are entitled to be protected by society and the state, and

(2) Every child has the right, without discrimination, to such protection as is in his or her best interests as is needed by him or her by reason of being a child.

The bill is compatible with section 17 of the charter in relation to the protection of families and children, as it strengthens protections for young workers who are more susceptible to exploitation in the workplace by creating an additional safeguard before an employer can make deductions from their wages. This protection is in the best interests of young people and is needed by them.

Right to privacy

Section 13 of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. Clause 9(1)(b) engages the right to privacy of persons under the age of 18 years who will be required to obtain the consent of their parent or guardian to authorise a deduction. The right to privacy in section 13(a) is only limited if an interference with privacy, family, home or correspondence is 'unlawful' or 'arbitrary'.

'Unlawful' means that no interference with privacy can take place except if the law permits it. The United Nations Human Rights Committee has said that a law which authorises any interference with privacy must be precise and circumscribed. In order to avoid being characterised as an 'arbitrary interference', the interference must be in accordance with the provisions, aims and objectives of the charter and should be reasonable and justifiable in the particular circumstances. Protecting the community from harm is a key principle underpinning the charter. Clause 9(1)(b) does not limit the right to privacy because the requirement that a worker's parent or guardian must scrutinise and agree to their work arrangements in respect of deductions from wages, where the worker is under the age of 18 years, does not unlawfully or arbitrarily interfere with the right to privacy as the level of parental intervention is limited to a very specific set of circumstances and is justifiable, similar protections exist in other employment legislation, and the objective of protecting vulnerable workers from unreasonable deductions from wages is consistent with the charter.

Recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law and is entitled to equal protection of the law without discrimination. Discrimination, in relation to a person, means discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of that act.

Section 9(1)(b) engages the right to recognition and equality before the law because it provides for less favourable treatment of persons in the same or similar circumstances based on their age. However, the limitation is reasonable and justifiable, as discussed in section 2 of this statement.

Furthermore, insofar as the bill seeks to protect vulnerable workers from exploitation, it promotes the human rights concern of recognition and equality before the law as it takes steps to diminish or eliminate conditions that have resulted in groups within society (young workers, workers from other countries on subclass 457 visas and workers from non-English-speaking backgrounds etc.) being disadvantaged.

The right to be presumed innocent

The bill also raises the issue of the right to be presumed innocent provided for in section 25 of the charter. Clause 23 of the bill provides that there is a reversal of the evidentiary burden in proceedings for breach of the act where an employer has not paid an employee their full entitlement to wages in money or where an unauthorised deduction has been made, in circumstances where the employee is dead. This will mean that if a proceeding is brought against an employer under section 23, the employer will be required to point to evidence that the deceased employee was paid in money and that any deductions from their wages were authorised.

It is considered that section 25 is not engaged by clause 23 of the bill because the proceedings against an employer are civil, not criminal. The bill seeks to establish a civil penalty regime that confers enforcement powers on the Minister for Industrial Relations (or his or her delegate) and empowers a court to impose a civil penalty, which is a form of state sanction in response to unlawful conduct. However, even if the right to be presumed innocent is engaged by clause 23, any limitation on the right is reasonable and justifiable, as discussed below.

2. Consideration of reasonable limitations — section 7(2)

To the extent that the rights to recognition and equality before the law and the right to be presumed innocent may be limited, I consider that the limitations will be reasonable, in accordance with section 7(2) of the charter. I provide the following reasons for this view.

Recognition and equality before the law

(a) the nature of the right being limited

The prohibition of discrimination is one of the cornerstones of human rights instruments and this is reflected in the preamble to the charter. However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) the importance of the purpose of the limitation

The limitation on the right to equal treatment before the law serves a significant public interest purpose; namely, enhancing and protecting young people's entitlements. This is achieved through requiring that a worker's parent or guardian scrutinise and agree to their work arrangements in respect of deductions from wages, where the worker is under the age of 18 years.

Young workers as a class are recognised as having less experience of and familiarity with their rights at law and lesser bargaining strength in negotiating employment

arrangements. Young workers are more likely to work in lower paid jobs and on a part-time or casual basis, and can be more vulnerable than adult workers to unfair work practices such as the making of unauthorised deductions from wages. For example, some cases have been reported of young employees working in the hospitality or retail sectors being held responsible for accidental breakages or for shortfalls in the till. The proposed requirement will confer an additional and important protection on young employees. This additional protection is therefore considered critical.

(c) the nature and extent of the limitation

The bill proposes to limit the right by restricting the power of young workers to authorise deductions from their wages unless their parent or legal guardian has also done so.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the objective of protecting vulnerable workers from exploitation in the workplace.

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

There are no less restrictive means available to achieve the purpose of protecting young workers from exploitation.

(f) any other relevant factors

Similar protections exist in other employment legislation, at both state and federal level.

Right to be presumed innocent

(a) the nature of the right being limited

The presumption of innocence is a well-recognised civil and political right and a fundamental principle of the common law. However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) the importance of the purpose of the limitation

Clause 23 places an evidential burden on the employer in relation to establishing certain matters. Such matters are in the sole knowledge of the employer. If the employer were not required to point to evidence that a deceased employee was paid in money or that any deductions were authorised, it would be difficult, if not impossible, for representatives of the employee to pursue a claim of unlawful deduction and for an employer to be held liable for their conduct. The limitation is therefore important in ensuring that employers are penalised for contraventions of the act in circumstances where the employee has died.

(c) the nature and extent of the limitation

The limitation has a very confined operation. The employer need only meet an evidential burden in relation to certain matters in circumstances where an employee has died. In addition, clause 14 of the bill requires that a written letter of demand be served on an employer before proceedings may be brought (where practicable) which will provide an employer with the opportunity to avoid proceedings being taken at all by producing evidence that the deceased employee was paid in money or that any deduction from their wages was authorised.

(d) the relationship between the limitation and its purpose

The purpose of the reversal is to facilitate the bringing of proceedings in such circumstances, where the employer is in a unique position to adduce evidence before the court. The limitation has a direct relationship with its purpose, and is considered to be a proportionate legislative response to this objective.

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

There are no less restrictive means available to achieve the purpose of facilitating proceedings being brought where an unlawful deduction or reduction in wages is alleged, and the employee is deceased.

(f) any other relevant factors

Nil.

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because although the bill raises the right to privacy, protection of families and children and property, it does not limit these rights, and insofar as the bill limits the right to equal treatment before the law and the right to be presumed innocent, these limitations are reasonable, justifiable and in the public interest.

ROB HULLS, MP
Minister for Industrial Relations

Second reading

Mr CAMERON (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

This bill will provide an improved safety net for all employees in Victoria by affording stronger protections to employees against unauthorised deductions from their wages.

Deductions have commonly occurred (whether lawfully or otherwise) in a variety of circumstances, such as:

for board or lodgings;

to recover overpayments;

for breakages or damage to employer property or to cover any shortfall in the employer's takings; or

for the benefit of the employee, such as towards health fund or union membership fees.

Currently there are no general protections in Victorian legislation in respect of making such deductions, and only limited protections are afforded in the federal jurisdiction.

These protections are particularly needed at a time when workers' rights have been eroded as a result of the commonwealth's WorkChoices legislation. As we are all well aware, that legislation has attacked the rights of working Victorian families by reducing their basic employment entitlements, and hitting the most vulnerable workers hardest. This bill represents a further element in the government's efforts to protect Victorian families from the most regressive industrial relations laws ever forced onto the Australian community.

The gross unfairness of WorkChoices has been compounded in numerous instances by the plight of some of the skilled workers who have come to Australia under the sponsored business visa (subclass 457) scheme, who have been exposed to exploitation in the workplace, including through deductions from wages.

This bill gives effect to a key election commitment, to ensure that all employees are aware of any deductions that form part of their usual work, and that amounts cannot be legally deducted by the employer without the employee's express agreement. The government is committed to protecting workers in the face of the draconian WorkChoices legislation which has severely undermined the rights of working families in Victoria.

This bill will provide key additional protections to Victorian employees, in particular key protections to vulnerable workers such as young workers, workers on 457 visas, workers from non-English-speaking backgrounds and workers in rural areas. It will also provide a clear benefit to employers by codifying what their rights and obligations are in respect of deductions from wages.

Key elements of scheme

Payment of wages

The bill requires all employers to pay employees their entitlements to wages in full, in money. Therefore, wages should not be paid, in whole or in part, 'in kind' through the provision of goods or services. 'Wages' is defined very broadly in the bill, to cover all of the salary and related employment entitlements that employees receive in monetary form.

However, the bill makes clear that this will not prevent an employer and employee from negotiating non-cash benefits as elements of their remuneration package and the employer then paying the employee accordingly.

Deductions from wages

The bill allows for employers to make deductions from wages in certain circumstances. Deduction is defined to mean any amount not paid directly to the employee, and includes amounts withheld by the employer or paid to a third party.

The bill provides that an employer must not make any deductions from an employee's wages unless the employer has received a valid written authorisation from the employee and the deduction is made in accordance with that authorisation; or the deduction is otherwise required or authorised by a law.

The bill contains stronger protections where the deduction is for the direct or indirect benefit of the employer or a related party to the employer, including in respect to both the information requirements, and the circumstances when a deduction may be made. A 'related party' is defined in the bill to cover persons with a financial or other stated interest in the employer's business, executive officers of the employer and relatives of the employer or such persons. For example, the spouse of a director of the employer's business is a related party to the employer.

Information requirements

The bill clearly sets out the information that an employer must give to an employee, before seeking their consent to a deduction from their wages.

Where a deduction is initiated by the employer or is for the employer's or a related party's benefit, then the employer must advise the employee in writing of the details of the proposed deduction, before asking for their consent. This includes some fundamental details, informing the employee about the nature of the proposed deduction, such as:

the reason for it;

who it will be paid to;

the amount of the deduction;

whether it will be a one-off or a multiple or ongoing deduction.

The bill also distinguishes between deductions for the employer's or a related party's benefit and other deductions, in respect of variations in deductions. In simple terms, where there is nothing in it for the employer, an employee may authorise the employer to

make deductions in an amount, as varied from time to time, to the nominated party such as their health fund. However, where the deduction benefits the employer, the employer must get the employee's written consent to any changes in the amount of the deduction, before the deduction is made at the new rate.

Unauthorised deductions

The bill imposes some additional requirements, and sets out in clear terms when an authorisation given by an employee will be of no effect. These are sensible, and I would like to think most people would say, self-evident, protections. So:

> when an employee consents to a deduction, their consent must have been freely given;
>
> and where an employee is under the age of 18 years, their parent or guardian must also have consented to the deduction.

A lot of the instances that are mentioned of unfair, if not currently unlawful, deductions involve young workers in the retail and service industries. Scrutiny of deductions proposals by a young worker's parent or guardian is an important protection for such workers.

The government is aware of cases which emerged since WorkChoices involving outrageous deductions made to young people's wages. For example, since July 2007, the workplace ombudsman has been investigating the Chili's restaurant group following allegations aired in the media about the alleged unfair treatment of its workers. These allegations included that Chili's made young and vulnerable workers supply their own 'floats' when they came to work every day and deducted money from these when a customer absconded without paying the bill. The government believes that young workers should be protected from such deductions and this bill will provide this protection.

Reasonableness

A key element of the bill and of the election commitment is, that where a deduction is for the direct or indirect benefit of the employer or a related party to the employer, the deduction will be unlawful if it is unreasonable in all of the circumstances.

The bill provides guidance to employers and employees as to when deductions may be considered reasonable or unreasonable in all of the circumstances.

A deduction may be unreasonable in all of the circumstances if it would result in the employee being paid less than the applicable legal minimum.

A deduction may be unreasonable in all of the circumstances where it relates to the cost of replacing any clothing or other property provided to the employee which is lost, damaged or destroyed, unless this was intentionally or recklessly caused. This protects vulnerable workers such as young employees engaged in the hospitality industry or as mechanics, being charged for accidental breakages or for insurance costs relating to customer vehicle repairs, whilst affording adequate safeguards to employers against intentional acts of employees.

Likewise, a deduction may be unreasonable in all of the circumstances where nothing of value was provided by the employer for the deduction, such as where the deduction is to make good a shortfall in the till.

Importantly, the bill also identifies where a deduction for the direct or indirect benefit of the employer or a related party may be reasonable — if the deduction is in respect of the provision of goods, services or accommodation to the employee, by or on behalf of the employer, and:

> the amount of the deduction is specified;
>
> the amount is a direct and proper reflection of the actual cost of the goods, services or accommodation in respect of which the deduction is being made; and
>
> if practicable, the employer has given the employee an opportunity to obtain the same or similar goods, services or accommodation elsewhere.

Otherwise, relevant factors as to whether a deduction is or is not unreasonable will depend, as you would expect, on all of the circumstances, and could, for example, include:

> the connection between the employment and the reason for the deduction, such as where the proposed deduction relates to reimbursement to the employer of training costs — whether the training provided by the employer is required by the employer or is essential for the employee's current job;
>
> whether the goods remain the property of the employer or become the property of the employee;
>
> whether the goods or services confer a benefit of significant value to the employee;
>
> the amount of the deduction relative to the employee's wages.

The bill also allows for regulations to be made to prescribe certain types of deductions as reasonable or

unreasonable, which will facilitate the scheme being capable of addressing any emerging issues into the future.

457 visa holders

In view of heightened concerns regarding the treatment of subclass 457 visa holders that have been identified in recent times, the bill also contains an express provision that prohibits an employer making deductions that relate to the provision of employment placement services to such employees, or in respect of any other costs that the employer is required by law to bear.

The commonwealth Parliament has investigated the 457 visa scheme after a number of cases of unfair treatment were exposed in the media, and legislation has been proposed to protect such workers.

While these developments are of course supported, they have been a long time in the coming and do not answer all concerns. This bill will serve the important purpose of strengthening the message to Victorian employers that the exploitation of such workers will not be tolerated.

Enforcement and recovery

Both existing and former employees will be able to challenge an employer on the grounds that a deduction was not lawful, or that the employer has failed to pay their full entitlement to wages in money. Applications will generally be made to the industrial division of the Magistrates Court, and can be made by the employee, at the employee's request, to an eligible union, or by the minister or his or her delegate.

The bill establishes a civil penalty regime, not uncommon in the industrial relations area, such that breach of the act does not constitute a criminal offence and does not attract criminal sanctions but may result in the imposition of a civil penalty of up to $10 000. In addition to a penalty, the court will be able to order payment to the employee, 'reimbursing' the employee for their loss.

The court will be able to order that the penalty be paid into the Consolidated Fund, to the employee or to any organisation (which would include any union bringing the proceeding on the employee's behalf). This flexibility is considered desirable, given the limited discretion the court will have to award costs. The general principle of not awarding costs has been adopted to minimise any disincentive to bring proceedings (where a matter has failed to resolve), given the often potentially small amounts involved.

Importantly, the bill requires that an application can only be made to a court after a written demand for payment has first been made, unless this is not practicable. This serves two purposes — most critically, it seeks to avoid the need for court proceedings in at least some instances, by putting the employer on notice of the claim. However, where proceedings are brought, it may also be relevant to a court's consideration as to whether interest should be payable by an employer on any amount ordered by the court to be paid to the employee.

When making an order for payment to the employee, the court may offset any benefit of goods or services that the employee has received in respect of the deduction. This will avoid employees receiving a 'windfall' benefit or the employer being doubly penalised, in circumstances where the breach was of a minor or technical nature, or was unintended.

And the bill also includes a protection against victimisation, where an employee seeks to exercise any right under the act. Breach of this requirement may also attract a penalty of up to $10 000.

The bill has a default commencement date of December 2008, and allows an additional six months grace period for parties to get their house in order by ensuring that any pre-existing authorisations are compliant with the act's requirements by that time.

In conclusion, the Victorian Workers' Wages Protection Bill 2007 will serve an important purpose in clarifying the rights and responsibilities of Victorian employers and employees, in respect of payment of wages and deductions from wages. The measures in the bill are carefully targeted at ensuring fairness, while providing real and robust protections to employees. These initiatives will also complement recent amendments to the Equal Opportunity Act 1995 that prohibit discrimination on the grounds of employment activity, and are part of a suite of reforms of this government aimed at establishing a safety net of rights for Victorian workers.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 25 October.

PORT SERVICES AMENDMENT BILL

Statement of compatibility

Mr PALLAS (Minister for Roads and Ports) 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 Port Services Amendment Bill 2007.

In my opinion, the Port Services Amendment Bill 2007, 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 will enact a suite of amendments to:

(a) affirm the powers of the Port of Melbourne Corporation and the Victorian Regional Channels Authority to deposit and place dredged material and undertake works for this purpose;

(b) enable the creation of restricted access areas in respect of which the abovementioned port managers can manage access to facilitate the carrying out of their respective powers or functions and give effect to their objectives. In most situations, these areas will be required to ensure public safety, although other important purposes may be to facilitate security, environmental management, and important activities, works and projects;

(c) clarify the imposition of wharfage and channel fees and increase the flexibility of the Port of Melbourne Corporation and other channel operators to charge channel fees; and

(d) make a range of other unrelated amendments including regarding the auditing of safety and environment management plans, and deregulation of certain non-infrastructure prescribed services.

Human rights issues

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

Section 12: freedom of movement

The proposed part 5A of the Port Services Act 1995 will enable the minister on recommendation of the respective Port of Melbourne Corporation or the Victorian Regional Channels Authority as recommending authorities, to declare that part of port of Melbourne waters or land or port waters of the Victorian Regional Channels Authority, as applicable, are areas to which access is restricted. The minister must not make the declaration unless satisfied that it is necessary for the purposes of the powers or functions and objectives of the recommending authority. It will be an offence for someone who is not authorised, to enter or remain in the restricted access area.

More specifically:

Clause 84 provides that the minister on recommendation of the relevant recommending authority, may declare that:

part of port of Melbourne waters or land, or port waters of the Victorian Regional Channels Authority is an area to which access is restricted; or

when a vessel is in port of Melbourne waters or port waters of the Victorian Regional Channels Authority, that an area within a specified distance of the vessel is an area to which access is restricted.

Clause 84 also provides that the minister must not make the declaration unless satisfied that it is necessary to enable the recommending authority to carry out its powers or functions and give effect to its objectives.

Clause 85 permits the minister to make the declaration so that certain vessels or persons are permitted access or prohibited access.

Clause 88B provides that it is an offence for a person to enter or remain in a restricted access area in contravention of a declaration unless the person is within a category of persons who may be authorised to enter. Various categories of persons will be permitted to enter the restricted access area as follows:

any persons requiring entry who are authorised by the recommending authority to enter. This would include officers, employees or contractors of the recommending authority as authorised by that authority;

a member of the police force;

employees in the public service within the meaning of the Public Administration Act 2004 and officers or employees of public bodies, performing duties or functions under specified legislation.

Clause 88B also provides that it is a defence if the person charged has a reasonable excuse for entering into or remaining in the area.

Clause 88C provides that it is an offence, unless otherwise permitted within the terms of the act, to interfere with/hinder or cause another person to interfere with or hinder activities being carried out by the recommending authority in the restricted access area or the entry into the restricted access area of a person authorised by the recommending authority.

These provisions limit a person's right to move freely within port of Melbourne waters and land or port waters of the Victorian Regional Channels Authority to the extent that a restricted access area is declared over the areas. The provisions limit a person's right to move because they restrict a person's right to enter restricted access areas unless they are permitted to enter or are specifically authorised within the terms of the provisions and as outlined above.

Section 15(2) and (3): freedom of expression

Section 15(2) of the charter gives a person the right of freedom of expression, which includes the freedom to seek,

receive and impart information and ideas of all kinds, whether within or outside of Victoria in a variety of forms.

The right to freedom of expression encompasses a freedom not to express; to say nothing.

Section 15(3) provides amongst other things that the right may be subject to lawful restrictions reasonably necessary, for instance, for the protection of national security, public order, public health or public morality.

Clause 88D engages the right to freedom of expression by compelling a person to express information or produce documents. It provides that:

(1) a person who is in a restricted access area must, if asked to do so by a member of the police force, give certain details about him or herself or provide certain evidence about his or her authority to be in the area.

(2) A person who is not entitled to enter or remain in a restricted access area without a relevant certificate of authorisation, when asked to do so by a member of the police force, must produce the certificate.

Failure to comply with either of clauses 88D (1) or (2) are offences.

These provisions limit a person's right to freedom of expression.

Section 13(a): privacy

Clause 88D engages, but does not limit, the right to privacy as provided in section 13(a) of the charter.

Clause 88D(1) requires a person who is in a restricted access area, if required to do so by a member of the police force, to give his or her name and address, state the authority under which he or she is entitled to be in the area and provide evidence relating to that authority.

Clause 88D(2) requires a person who is not entitled to enter or remain in a restricted access area without a certificate of authorisation, when asked to do so by a member of the police, to produce the certificate.

The right to privacy encompasses the idea that individuals should have an area of autonomous development, interaction and liberty — a 'private sphere' free from government intervention and from excessive unsolicited intervention by other individuals.

A law will contravene this provision if it interferes with a person's privacy 'unlawfully or arbitrarily.' An interference with privacy will not be 'unlawful' where the interference is permitted by law and where the provisions are precise and circumscribed so that there are not broad discretions in authorising an interference with privacy. An interference with privacy will not be arbitrary where it is in accordance with the provisions, aims and objectives of the charter and is reasonable in the circumstances.

The interferences with privacy outlined above are not unlawful. The power to interfere with privacy will be conferred by statute, and is of confined scope and for a reasonable purpose. The information which must be provided on request of Victoria Police is limited to that information which is reasonably required to assess whether a person is authorised to be in the restricted access area.

Furthermore, the interferences with privacy are not arbitrary. The information which the police may request is limited and the power may only be exercised in precise circumstances.

Therefore, the above provisions do not limit the right to privacy as they do not interfere with privacy either unlawfully or arbitrarily.

Section 20: property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

In the proposed section 88F, a member of the police force may take charge of a vessel and move it to an appropriate place or direct that another person do so if the person in charge of the vessel commits an offence within sight of that member of the police force.

Clause 88F raises the property right because it will permit a member of the police force to take charge of a person's vessel. However, the right is not limited because there is no deprivation of property other than in accordance with law. If the precondition to taking charge of the vessel is met, that is, if a person has committed an offence under the relevant provisions within the sight of the member of the police force, then the deprivation of property will be 'in accordance with law' and will not occur on an arbitrary basis.

Section 25: rights in criminal proceedings

Clause 88D of the bill requires a person who is in a restricted access area to comply with a requirement to provide their name and address and state the authority under which they are in the area and provide any evidence of that authority.

Section 25(2)(k) of the charter provides that a person charged with a criminal offence has the right not to be compelled to testify against himself or to confess guilt. This is a very limited protection of the right to silence as it applies only to persons charged with an offence. At the time the person is required to provide information under clause 88D, he/she will not have been charged with an offence. On this basis, the right in section 25(2)(k) of the charter would have no application. Further, during any criminal proceeding regarding the offence, the court will have a discretion regarding whether information produced under clause 88D is admissible and will exercise its power in a manner compatible with the charter.

2. Consideration of reasonable limitations — section 7(2)

Section 12: freedom of movement

(a) the nature of the right being limited

An aspect of the right to freedom of movement is that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it. The right is not dependent on any particular purpose or reason for a person wanting to move or stay in a particular place. Under the charter, it may be subject to reasonable limitations that are demonstrably justified.

(b) the importance of the purpose of the limitation

Clause 84 is necessary for the Port of Melbourne Corporation and the Victorian Regional Channels Authority to have clear access to and power to regulate access to their respective waters, and in the case of Port of Melbourne Corporation, its land. This is to enable their respective powers or functions to be carried out in furtherance of their objectives. Clear access and the ability to regulate access may arise in situations of urgency or emergency or in the carriage of activities, such as special projects.

Clear access and the ability to regulate access may not only be necessary to facilitate the particular activity but will in most cases be necessary to protect persons from a safety perspective in the context of a proposed activity or due to safety risks arising from other circumstances.

Examples of where access might be restricted or regulated are:

> where potentially hazardous activities such as capital dredging are to be carried out in port waters or those managed by the Victorian Regional Channels Authority and it is necessary and responsible to restrict access of persons to ensure their safety;
>
> where a large cruise ship is visiting port waters or waters managed by the Victorian Regional Channels Authority and there is public interest in the event, such that persons may seek to come in close proximity to the vessel to observe it;
>
> where a war ship is visiting port waters or waters managed by the Victorian Regional Channels Authority and there is public protest to the visit such that persons may seek to obstruct the entry or movement of the vessel in relevant waters.

The offences specified in the proposed division 3 of part 5A, being clauses 88B, 88C and 88D are required to address the safety risk posed by the presence of persons in waters in situations of potential danger, as well as where there might be other risks such as security or environmental risk. In most circumstances, it will not be sufficient that a person who has committed a relevant offence is served with an infringement notice. Particularly in the context of safety risk, it is imperative that persons are moved away from areas that are potentially hazardous.

Clause 88E is required to bring into play additional offences under the Summary Offences Act 1966 to further support the prevention of safety and other risks.

Clause 88F which enables Victoria Police to take or move or direct another person to move a vessel where the person in charge has committed an offence under the proposed provisions, also restricts a person's freedom of movement to the extent persons are in charge of the vessel or on the vessel and are not free to move. The clause is needed to address the safety risk posed by the presence of vessels or persons in vessels in situations of potential danger, as well as other risks such as security and environmental risks. The clause, in conjunction with the power of arrest, for example under the Crimes Act 1958, also is necessary to enable Victoria Police to enforce the requirement not to enter a restricted access area without authority.

(c) the nature and the extent of the limitation

As provided in clause 84(3), declaration of a designated access area may only be made by the minister if the minister is satisfied that the declaration is necessary to enable the recommending authority to carry out its powers or functions and give effect to its objectives. These powers, functions and objectives are set out in the Port Services Act 1995 and consequently access to waters and land cannot be restricted unless necessitated by a statutory purpose.

Clause 86(3) provides that a restricted access area declaration only remains in force for the period specified in the declaration unless revoked earlier, and in any event, is limited to a maximum of no more than 12 months.

In a variety of circumstances, access to restricted access areas will still be permitted and clause 83, in conjunction with clauses 88B and 88C, sets these out. Importantly, the intention is not to restrict public service employees and officers and employees of public bodies in performing duties and functions under relevant legislation and their right to carry out statutory duties and functions in restricted access areas is expressly preserved.

So too, the definition of 'authorised person' in clause 83, in conjunction with clauses 88B and 88C, recognises the right of a member of the police force to enter a restricted access area.

Clause 88G also permits the Port of Melbourne Corporation and the Victorian Regional Channels Authority to permit access to restricted access areas, subject to conditions. Accordingly, there may be circumstances where persons are permitted to enter with appropriate controls or precautions for their safety.

Also, clause 85 permits the minister to make the declaration so that certain vessels or persons or classes of vessels or persons are permitted access (or prohibited access) and so that conditions may be inserted into the declaration so that the prohibition is not all encompassing if circumstances permit this.

(d) the relationship between the limitation and its purpose

The limitations are rationally connected to the purpose they seek to achieve. They establish an effective means by which:

> access to Port of Melbourne waters and land, and waters managed by the Victorian Regional Channels Authority is restricted or can be managed through authorisation to facilitate what those recommending authorities need to do in accordance with their statutory purposes;
>
> access to the waters and land in the circumstances above can be restricted or managed as appropriate, to protect persons from safety risk. A safety risk might occur in the context of a proposed activity or project or as a result of an unexpected incident;
>
> safety and other risks can be managed in areas where clear or regulated access to waters is required by Port of Melbourne Corporation or the Victorian Regional Channels Authority (and land in the case of Port of Melbourne Corporation).

Importantly, the restrictions are narrow and focused on the purpose and objectives of the relevant sections of the bill. The

restrictions on entering a declared restricted access area are only applicable:

during the period specified in the restricted access area declaration, which cannot be for more than 12 months; and

in the area specified in the restricted access area declaration, which in the case of an area around a vessel cannot be greater than 1.4 km from the vessel and in the case of a fixed area, cannot be greater than 12 square km.

Further, certain public bodies will be automatically permitted to enter the area in the carriage of their statutory functions and powers and otherwise access may be permitted by the Port of Melbourne Corporation and the Victorian Regional Channels Authority.

In addition, the terms of the declaration may specifically permit (or prohibit) certain vessels or classes of vessel or persons or classes of person to enter the restricted access area. As noted above, conditions may also be inserted into the declaration so that the prohibition is not all encompassing if circumstances permit this.

There may be circumstances where the minister on recommendation of the recommending authority considers that it is entirely safe, appropriate and reasonable for certain access to continue in an area which becomes declared as a restricted access area.

The restrictions by virtue of Victoria Police's powers to take charge and direct the movement of vessels are also narrow and focused as they are limited to circumstances where an offence under the relevant provision has been committed within the sight of a member of the police force.

Accordingly, the restrictions are narrow and focused on the purpose and objectives of the bill and are therefore proportionate.

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

No other means are considered reasonably available to achieve the purpose of the restrictions imposed.

In fact, there are precedents for the creation of zones where freedom of movement is restricted such as:

Commonwealth Maritime Transport and Offshore Facilities Security Act 2003, where a range of maritime security zones can be created and access can be restricted or otherwise managed;

Safety on Public Land Act 2004 (Vic), where public safety zones can be created in state forests and entry and activities in the zones can be restricted and regulated.

Section 15: freedom of expression

(a) the nature of the right being limited

The freedom of expression is a right of fundamental importance in our society.

(b) the importance of the purpose of the limitation

Section 15 of the charter is engaged and limited because clause 88D compels a person to express information or produce documents. The purpose of the limitation in section 15 is to determine compliance with the act. Victoria Police needs to be able to identify whether a person is validly in a restricted access area or whether an offence has been committed.

(c) the nature and the extent of the limitation

The requirement to provide information is limited to seeking information from persons in a restricted access area seeking a certificate of authorisation from persons who require one to be validly in the restricted access area. Accordingly, the request is not one that can be made arbitrarily.

(d) the relationship between the limitation and its purpose

The limitation is proportionate to achieve effective compliance as the information can only be requested in the limited circumstances referred to in paragraph (c) above. The limitation is also necessary to determine compliance with the act and to facilitate public safety and security and carriage of important objectives, powers and functions of the Port of Melbourne Corporation and the Victorian Regional Channels Authority.

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

No other means are considered reasonably available to achieve the purpose of the restrictions imposed.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because while it does restrict certain human rights, the restrictions are reasonable and demonstrably justifiable in accordance with the criteria set out in section 7(2) of the charter.

TIM PALLAS, MP
Minister for Roads and Ports

Second reading

Mr PALLAS (Minister for Roads and Ports) — I move:

That this bill be now read a second time.

This bill makes a number of important amendments to the Port Services Act 1995.

Powers to facilitate dredging

While the Port of Melbourne Corporation and the Victorian Regional Channels Authority are considered to have sufficient powers under the Port Services Act 1995 to undertake dredging activity, there is no express power to 'place' the dredged material. The bill amends the Port Services Act to expressly provide that those operators can place/dispose of dredged material and

undertake works for this purpose, and thereby affirms their power to do so.

Restricted access areas

The bill inserts a regime into the Port Services Act whereby restricted access areas can be declared by the Minister for Roads and Ports in the waters of the Port of Melbourne Corporation and the Victorian Regional Channels Authority and on relevant land of the Port of Melbourne Corporation. This is a very important measure designed to facilitate public safety and security and facilitate those operators in carrying out their statutory objectives and functions and powers.

The amendments address a gap identified in the current legislative regime. While there is some power to control and regulate vessels by the director of marine safety and harbourmasters, there are severe limitations on the ability to regulate the access of people, such as divers and swimmers unless they have some connection to vessels. The amendment will allow the operators to regulate the access of people (and vessels).

It is the intention that the restricted access areas are not limited to a horizontal space but include vertical space and include the full depth of the relevant waters.

The restricted access areas might be utilised in a variety of circumstances, such as where:

potentially hazardous activities are to be carried out in port waters and it is necessary and responsible to restrict the access of persons to ensure their safety;

a large cruise ship is visiting port waters or those managed by the Victorian Regional Channels Authority and there is public interest in the event such that persons may seek to come in close, dangerous and disruptive proximity to the vessel to observe it; and

where a war ship is visiting port waters or those managed by the Victorian Regional Channels Authority and people seek to obstruct the entry or movement of the vessel in the waters.

In most situations, public safety will be a prime driver for creation of the restricted access areas, although they will also facilitate management of security risk, environmental risk and the carriage of important activities, works and projects in the bay.

The provisions do limit a person's right to freedom of movement but the limitations are necessary and reasonable and justified. The areas cannot be created for more than 12 months (and otherwise would need to be re-declared), and may not be more than 1.4 km from a vessel and 12 square km in a fixed area. Further, they can only be declared where they are necessary to enable the operators to carry out the statutory objectives, functions and powers.

Importantly, statutory bodies (for example, Victoria Police, WorkSafe and the Environment Protection Authority) are not restricted from entering the areas to carry out their statutory functions and powers and the operators can authorise the access of other persons. Additionally, there is enough flexibility in creating the declarations so that they can permit the access of certain persons and vessels where circumstances permit and with appropriate controls.

Wharfage fees and channel fees

A number of technical amendments are made to the charging of wharfage fees and channel fees under part 6A of the Port Services Act to clarify their impost and more properly reflect commercial imperatives and practice.

More particularly, the requirement for ministerial approval of the fees is removed as it duplicates the role of the Essential Services Commission.

The current wharfage provisions restrict Port of Melbourne Corporation's ability to charge wharfage to particular lease sites and were inserted at a time when the economic policy for ports revenue supported the idea that the main source of revenue would be leasing of a port's assets rather than transfer of cargo over its wharves. The bill removes the leasing requirement and reflects how the Port of Melbourne Corporation earns its revenue.

Section 74 is also amended to provide that wharfage can be charged to vessel owners where empty containers are unloaded from vessels. This is not currently covered by the Port Services Act.

The bill also amends section 75 of the Port Services Act so that channel fees can be payable by either or both the owner of the vessel and the owner of the cargo to make the charging regime more flexible.

Removal of price control of certain services

The bill adopts a recommendation of the Essential Services Commission in its final report on the Review of Port Services 2004 by removing certain services from the price control of the commission on the basis that there is little evidence of market power in the services. The services are connection of water and electricity to berthed vessels in Geelong and Portland,

and towage in the ports of Geelong, Portland and Hastings. The commission has confirmed that its recommendation stands.

Safety and environment management plans

The bill addresses several omissions identified in the Port Services Act relating to safety and environment management plans.

More particularly, the bill gives the minister the power to vary the time allowed for certification of management plans to cater for situations where there may be reasonable reasons why a port cannot complete an audit within the statutory time frames.

The bill also allows local ports to engage Environment Protection Authority auditors to audit environment management plans, in addition to those auditors approved by the minister. This addresses an oversight in the act.

The bill finally makes it an offence for a port manager not to ensure that a safety management plan or environment management plan is prepared and certified in accordance with the Port Services Act. There is an oversight in the current provisions not making failure to audit plans an offence.

Charter of human rights

In accordance with the review of legislation being undertaken by government departments to ensure that it accords with the Charter of Human Rights and Responsibilities Act 2006, an amendment is being made to section 31(1) of the Port Services Act so that there is consistent treatment of domestic partners with spouses. This addresses an apparent oversight in not making these amendments in 2001 when discrimination based on marital status was removed in various pieces of legislation.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Mr PALLAS (Minister for Roads and Ports) — I move:

That the debate be adjourned for two weeks.

Dr NAPTHINE (South-West Coast) — The matter of time that this bill will be adjourned is a very important issue. The bill relates to a number of areas, particularly to the proposed channel deepening project in the port of Melbourne.

While the Liberal Party has some concerns about the environmental impacts of the proposed channel deepening project, overall we support the benefits of it. However, we do not support the project if it causes environmental damage to the bay. This bill pre-empts the SEES (supplementary environment effects statement) process; a report of this was due to go to the Minister for Planning in the other place on 1 October. The report needs to be publicly released. The government's comments on that report need to be made available to the public before the Parliament can legitimately, fairly and reasonably debate this legislation.

Regarding the matter of time, I seek an assurance from the minister that this bill will not continue the government's process of pre-empting legitimate consideration of the environmental impacts of the channel deepening project and will not pre-empt the community's access to and discussion of the SEES process and report. To date that report has been kept a secret and has been hidden from the people of Victoria, while at the same time the government has brought forward this legislation to facilitate channel deepening.

We know that the community is legitimately concerned about the environment in The Rip area of the bay where there has been rock fall and where it has been proposed to use a hydro-hammer. The proposed use of this hammer to deepen the channel in this Rip area was not even a part of the trial dredging process. The Victorian community, particularly the users of the bay and the people who see Port Phillip Bay as a precious environmental resource, have real and legitimate concerns about those issues.

Similarly people are very concerned about the material that is to be dredged or is proposed to be dredged from the river mouth area. The silt which has built up over a number of years is highly contaminated with heavy metals and other toxins. Under the proposal this material, which is rich in heavy metals and other toxins, is merely going to be dumped in the bay. This issue is what this bill is about. That might be reasonable to do, and it is reasonable that we debate these issues, but we need to debate the issues with full knowledge and full information.

Therefore it is incumbent upon the government not to pre-empt this process and not to rush the legislation through Parliament before the community has had reasonable access to the SEES process report and has heard the minister's response to it. I am seeking from the minister an assurance that this bill will not be debated until the SEES process report has been circulated, published and made available to the

Victorian community and there has been sufficient time for the community to read the comprehensive report.

You may recall, Acting Speaker, there was an environmental impact statement done on the channel dredging project, which proved to be an absolute disaster. It highlighted a whole range of problems and a whole range of issues. It forced the government to then go to a supplementary environment effects statement. Now we have had a panel examine the supplementary environment effects statement over many, many days of public hearings and many significant submissions. In that process there has been a significant degree of controversy and a number of issues have been raised, particularly in regard to the environment of the Rip Bank area, the heavy metal and other toxin contamination from the river mouth area, the plumes that are going be raised, the impact on the dive community, the penguin and dolphin communities, as well as fishing in the bay.

There are a whole range of issues that this Parliament needs to consider in debating this legislation. Parliament cannot do that until the SEES process is completed, the report has been considered by the Minister for Planning in the other place and the report has been published. Therefore I would urge that the minister on behalf of the government give an assurance to the house in the interests of fairness and community expectations that this bill will not be debated for at least a month so these matters can be considered.

Mr PALLAS (Minister for Roads and Ports) — In reply to the issues raised I can indicate that the assurances sought by the member for South-West Coast will not be granted. It will not be supported by the government. The fundamental assumptions in the propositions put by the member for South-West Coast are flawed. He assumes that the administration of the ports, which is what this bill deals with, concerns only the issues essentially relating to the capacity of the Port of Melbourne Corporation to manage the normal processes of dredging as well as the integrity of the channel.

More importantly, it also deals with critically important issues around the determination of effective environmental assessment management plans and the application of provisions associated with the use and employment of charging arrangements within the port. It applies not just to the port of Melbourne but also to the Victorian Regional Channels Authority. These arrangements will be necessary for the good and proper administration of the ports — all of our four commercial ports — whether or not channel deepening proceeds. The fundamentally flawed assumption that the member for South-West Coast makes is that the effective operation of the ports would be compromised if this bill does not proceed.

Importantly, what the member for South-West Coast fails to appreciate is that, regardless of whether or not this bill passes through this Parliament, this government's view is that channel deepening cannot and will not proceed unless and until the necessary environmental approvals are granted. It is fundamentally flawed to suggest we should give a certain assurance about time lines so that the panel report can be available for debate, because that is an issue that is essentially the responsibility of the Minister for Planning and, ultimately upon his assessment, the Minister for Environment and Climate Change in the other place. And ultimately, of course, the federal Minister for the Environment and Water Resources has responsibilities.

The member for South-West Coast can dog whistle about his political party's attitude on this issue. He can go around telling the community that the opposition supports channel deepening subject to appropriate environmental approvals. There is no substantive difference in his position to the one that is being espoused, responsibly adhered to and applied by this government. If the member for South-West Coast has a view that proper administrative legislation should not be put in place, and if he takes the view on the basis of the second-reading speech that what I have put before this Parliament is not appropriate and well-structured administration for the proper operation not only of the port of Melbourne but also of the Victorian Regional Channels Authority, then he should get up and say that these things are bad in terms of the effective administration of the port now and going forward, regardless of channel deepening.

The issue of channel deepening will be out in the public forum within the appropriate time lines, which the government has properly identified and structured in the legislation. We will not precipitously pre-empt the process that we have put in place. It is appropriate that the community get to see what is in the channel deepening report, but the report is not conditional on the passage of this legislation. Channel deepening itself is not conditional on the passage of this legislation.

To give a demonstration of how fundamentally flawed is the proposition of the member for South-West Coast, let us bear mind that we have dredged the port of Melbourne for the last 100 years. In the last two or three years we have done major channel deepening, and we have also done regular maintenance of the bay. His proposition effectively says the appropriate spoil

material cannot be lawfully placed within the bay, and that, of course, has been going on for 100 years. To compromise the effective operation of the port in such a way is, quite frankly, inappropriate.

Mr McINTOSH (Kew) — I move:

That the expression 'two weeks' be omitted and that the expression 'six weeks' be inserted in its place.

I do so for the reason that the member for South-West Coast indicated, which is that he wants an assurance from the minister that this bill will not be debated until the environment effects statement is made. Accordingly until that occurs it is inappropriate that we debate this bill. It is clearly about dredging in the bay; it is about deepening the bay. The only significant matter that is on the agenda at the moment is the channel deepening project. Accordingly I suggest the appropriate time is six weeks.

Mr BATCHELOR (Minister for Community Development) — We will be opposing the amendment moved by the member for Kew. As the Minister for Roads and Ports has just outlined, there is no connection, tie or chain between these two pieces of legislation. This is a — —

Mr McIntosh — You are asking to facilitate dredging.

Mr BATCHELOR — Dredging has been undertaken for the last 100 years. The maintenance dredging of Port Phillip Bay will continue into the future. This bill will deal with that. What the Liberal Party is really concerned about is that it will be forced to declare its hand — whether it stands up for Victoria or whether it tries to sabotage the economic base of Victoria, which is the port of Melbourne. All around the state the Liberal Party has a variety of positions that it is putting on the port of Melbourne.

Dr Napthine — On a point of order, Acting Speaker, it is a narrow debate on the matter of time, particularly the amendment to the motion extending the time for adjournment from two weeks to six weeks. It is not appropriate for the minister to be canvassing a whole range of other issues. It is on the matter of time.

Mr BATCHELOR — On the point of order, Acting Speaker, the debate is around the adjournment of this bill before the Parliament. The bill deals with dredging.

Mr McIntosh — It does deal with dredging!

Mr BATCHELOR — It does deal with dredging. Of course it does; that is what it says on the first page, but it is a bill that enables us to talk about the policies and the attitudes of various political parties. It enables us to deal with the issues that are contained in the bill, as you would have heard from the contribution from the member for South-West Coast.

The ACTING SPEAKER (Mr Eren) — Order! I do not uphold the point of order.

Mr BATCHELOR — As I have said, this bill is about dredging the bay of Port Phillip. It is not a piece of legislation that is solely derived from the channel deepening project; it is a piece of legislation that is necessary for the economic and environmental management of Port Phillip Bay, the port of Melbourne and, through that, the economy of Victoria. We are not prepared to jeopardise the economic fundamentals of this state.

The port of Melbourne is vital not only to the manufacturing heartland but also to the rural heartland because it is through the port of Melbourne that exports and imports flow. We are in need of this generic legislation, if you like, which enables a whole host of administrative decisions to be undertaken in maintaining the economic centrepiece of the Victorian economy, the port of Melbourne, and the shipping channels that lead to it and away from it. The reality is, however, that this legislation will not come back to the house until the end of October.

An honourable member interjected.

Mr BATCHELOR — It is three weeks away. We will adjourn this debate, through the usual formal process, for two weeks, but the Parliament does not sit again for another three weeks. So you can see, Acting Speaker, that once again the Liberals are just playing procedural tricks during the day to delay the debating of other pieces of legislation — and to thwart their own desire to contribute to debates on other pieces of legislation during the course of the day. This is nothing other than political subterfuge. This is a fraud that is being perpetrated by the member for Kew and the member for South-West Coast.

Mr INGRAM (Gippsland East) — I rise to speak on the matter of time and the amendment proposed by the member for Kew. As the Leader of the House has stated, this concerns the issue of channel deepening, and I remember that we had a similar bill discussing channel deepening in the last Parliament. There was a debate, as I understand, about the time that that bill was to be held over, and despite that motion, as I understand it — this is going back a long while now — that bill

hung around on the notice paper for months and months, well past the six weeks that this one has.

This is potentially a contentious issue, and whilst I understand that the bill does not directly concern channel deepening, it concerns some aspects of it. I think it is therefore important that there is an amount of time for members to discuss the implications of that, and therefore I will be supporting the amendment proposed by the member for Kew.

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

Ayes, 41

Allan, Ms	Kosky, Ms
Andrews, Mr	Langdon, Mr
Barker, Ms	Languiller, Mr
Batchelor, Mr	Lim, Mr
Beattie, Ms	Lupton, Mr
Brooks, Mr	Marshall, Ms
Cameron, Mr	Merlino, Mr
Campbell, Ms	Morand, Ms
Carli, Mr	Munt, Ms
Crutchfield, Mr	Nardella, Mr
D'Ambrosio, Ms	Neville, Ms
Duncan, Ms	Noonan, Mr
Eren, Mr	Pallas, Mr
Foley, Mr	Pandazopoulos, Mr
Graley, Ms	Richardson, Ms
Green, Ms	Scott, Mr
Hardman, Mr	Seitz, Mr
Harkness, Dr	Stensholt, Mr
Helper, Mr	Trezise, Mr
Holding, Mr	Wynne, Mr
Hudson, Mr	

Noes, 31

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

Amendment defeated.

Motion agreed to and debate adjourned until Thursday, 25 October.

AGENT-GENERAL AND COMMISSIONERS FOR VICTORIA BILL

Statement of compatibility

Ms ALLAN (Minister for Regional and Rural Development) 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 Agent-General and Commissioners for Victoria Bill 2007.

In my opinion, the Agent-General and Commissioners for Victoria Bill 2007, 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

Human rights issues

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

The bill does not engage any of the rights under the charter.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not engage any of the rights under the charter, 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.

HON JACINTA ALLAN, MP
Minister for Rural and Regional Development
Minister for Skills and Workforce Participation

Second reading

Ms ALLAN (Minister for Regional and Rural Development) — I move:

That this bill be now read a second time.

Victoria is a small player on a large world stage, where it is imperative to both promote and differentiate ourselves. We need to demonstrate the benefits of our goods, services and expertise, as well as our natural advantages of diversity of culture and language, which make Victoria particularly well suited to meet world expectations and exceed them.

To continue to grow the Victorian economy we need to increase our exports and seize the opportunities abroad, particularly in fast-growing economies. To identify how we can make the most of our overseas presence and connections, the government has recently undertaken a

review of the Victorian government's international networks.

This review identified a series of reforms for the Victorian government's overseas offices, which will boost Victoria's economic performance and standing in the global economy. The reforms included the recommendation that the Premier appoint commissioners for Victoria, as statutory appointments, to Victoria's network. This will ensure that any such appointments are based on merit and made via a transparent process. This bill will give effect to implementing this recommendation.

The purpose of this bill is to create a new class of statutory officeholders to complement Victoria's representative to the United Kingdom, the Agent-General. These new officeholders will be known as commissioners for Victoria. This bill will continue to provide for the position of the Agent-General, a longstanding connection between the United Kingdom and Victoria.

Commissioners based overseas will undertake similar roles to the Agent-General, who will also hold office as a commissioner. These positions are designed to replace a range of existing Victorian representatives outside Australia with similar responsibilities but different titles and arrangements.

In some cases, commissioners can be resident in Victoria to provide representation to a specific overseas location. The success of this model is evidenced by the work of Sir James Gobbo, Victoria's recently retired Commissioner for Italy. Sir James has been an excellent representative, using the wealth of his experience to provide a vital connection between Italy and Victoria, and furthering the extensive commercial, cultural and community links between us.

The creation of commissioners for Victoria will form a brand for Victorian trade and investment promotion professionals, increasing the international profile of the state in an increasingly global market.

The creation of this category will also complement the government's recent investment in Brand Victoria and Brand Melbourne, focusing on differentiating ourselves amongst myriad other competitors for international trade, business, tourism and exchange.

The bill sets out clear functions and duties. Commissioners will be responsible for furthering Victoria's commercial, economic, cultural, scientific and technological relations outside the state. This list reflects the diversity of Victoria's products, services and skills which we can proudly offer to the world, including trade, tourism, culture, sport and major events.

The bill will enable the Victorian government to attract and appoint high-calibre individuals with demonstrated leadership skills, considerable experience and appropriate qualifications to these specialist trade and promotion roles. These recognised leaders could come from a range of fields, including commerce, business, tourism, government and public administration.

The bill reflects the existing Agent-General's Act 1994, but updates it to reflect the current needs of Victoria's expanding market opportunities overseas. Importantly, this update also incorporates greater accountability mechanisms, including making commissioners subject to specific provisions of the Public Administration Act 2004, with a requirement for annual reports and more stringent criteria regarding suspension and removal. These provisions will make commissioners for Victoria and their overseas operations transparent and accountable. This approach reflects the government's commitment to more accountable government for Victorians.

The bill will also repeal the existing Agent-General's Act 1994 with transitional provisions to ensure the continuity of the office, which has proudly served Victoria for more than a century.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 25 October.

MELBOURNE AND OLYMPIC PARKS AMENDMENT 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 Act, I make this statement of compatibility with respect to the Melbourne and Olympic Parks Amendment Bill 2007 ('the bill').

In my opinion, the bill, 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 the bill

The purpose of the bill is to amend the Melbourne and Olympic Parks Act 1985 to consolidate land management arrangements in the Melbourne and Olympic parks precinct.

The Melbourne and Olympic parks precinct is an increasingly important part of Melbourne's sport and major events infrastructure. Already host to the Australian Open Tennis Championships, the Victorian Institute of Sport, Collingwood Football Club and key entertainment events, the development of the new rectangular stadium will make it a key focal point for football (soccer), rugby league, rugby union and the Melbourne Football Club. Efficient land management arrangements are crucial to the operation of this area, particularly to facilitate the changes required to accommodate arrangements for the new stadium.

The bill provides for parcels of land adjacent to the National Tennis Centre and Olympic Park within the precinct to be incorporated into the National Tennis Centre and Olympic Park lands and reserved for 'tennis, other sports, recreation and entertainment' and 'sports, recreation and entertainment' respectively. Some of these parcels of land are currently unreserved while others are reserved as public park but separated by roads or rail corridor from other areas of public park. Most of these lands are already being used by the Melbourne and Olympic Parks Trust ('the trust'), by agreement with the relevant land manager, for purposes related to the management of the National Tennis Centre and Olympic Park. Some very small pieces of land around the edges of the National Tennis Centre and Olympic Park within the precinct are included to tidy up the boundaries at those points.

The bill provides for the area known as Gosch's Paddock to be permanently reserved as public park under the management of the trust. It is recognised that Gosch's Paddock is a highly valued area of public open space that needs to be protected. Some of Gosch's Paddock is currently public park land managed by the City of Melbourne while two other sections of Gosch's Paddock are unreserved. The bill will rectify an inefficient land management arrangement while protecting the public open space.

The bill provides for the trust to grant non-exclusive licences to use Gosch's Paddock for purposes that are not substantially detrimental to its reservation as a public park, subject to:

written approval by the minister; and

approval of the minister responsible for the Crown Land (Reserves) Act 1978 by order published in the *Government Gazette*, including a statement of reasons; and

consideration by both houses of Parliament where it must be tabled and may be disallowed by a resolution of either house.

It is intended that the purposes for licences would include use of the existing sports facilities in Gosch's Paddock, consistent with current practice. Licences would be for a period of not more than 21 years. The trust would also be able to grant permits to use Gosch's Paddock for events such as community fun runs. There will be no capacity, however, to provide leases for exclusive possession of any part of Gosch's Paddock.

In recognition of the importance of Gosch's Paddock as public open space, the trust would be required to account for its performance in maintaining public access to Gosch's Paddock in its annual report to Parliament under the Financial Management Act 1994.

The bill provides that the trust must not construct or carry out works in Gosch's Paddock without the written approval of the minister, who must consult with the minister responsible for the Crown Land (Reserves) Act before giving approval. This requirement does not, however, apply to minor works including temporary structures such as tents, maintenance and repair works, horticultural works and plantings and works required to maintain public safety.

Human rights issues

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

The bill consolidates land management arrangements in the Melbourne and Olympic park precinct. The bill includes provisions to:

(a) incorporate small parcels of land that are reserved as public park, into the National Tennis Centre and Olympic Park,

(b) enable the trust, with the written approval of the minister and the minister responsible for the Crown Land (Reserves) Act 1978, and subject to disallowance by resolution of either house of the Parliament, to issue non-exclusive licences for the use of Gosch's Paddock for periods up to 21 years.

The above provisions of the bill limit the right to freedom of movement in section 12 of the charter, which provides that:

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

It is therefore necessary to consider whether the limitations on the right to freedom of movement are demonstrably justified having regard to the factors set out in section 7(2) of the charter.

Section 20 of the charter, which protects against deprivation of property (of natural persons only) other than according to law, also requires consideration in the context of this bill. This is because clauses 11, 12 and 13 of the bill remove trusts, limitations, reservations, restrictions, encumbrances, estates and interests from a number of parcels of land. In doing so, these clauses could also be perceived to take away proprietary interests, which would amount to a deprivation of property in contravention of section 20 of the charter. However there will not be any deprivation of property as a result of these clauses, because:

Clause 14 of the bill provides that any leases and licences over the land to which new sections 30G and 32B apply will be protected; and

Removal of any property rights of natural persons over other lands affected by the bill would not be arbitrary because it is part of a highly structured and circumscribed process relating to a limited number of small parcels of land. Further, the proposed changes to reservations will be conferred under statute.

For these reasons, it is not expected that this bill will deprive any person of property other than in accordance with law. Accordingly, there will not be any limitation of the property rights protected under section 20 of the charter.

2. Consideration of reasonable limitations — section 7(2)

(a) The nature of the right being limited

The right to freedom of movement is an important right in international law. It includes the right to move freely within Victoria, including freedom from physical barriers and procedural impediments. It can be impacted by proposals that involve changes in land use that limit the ability of individuals to move through, remain in, or enter or depart from areas of public space.

(b) The importance of the purpose of the limitation

The purposes of the limitations are of critical importance to the efficient operation of the Melbourne and Olympic parks precinct. The limitations are necessary to facilitate the changes required to accommodate arrangements for the new stadium. They are also necessary to accommodate increasing popularity of, and attendance at, the precinct for key events such as the Australian Open. The trust requires efficient management arrangements and flexibility to maintain and improve its high levels of performance in managing its ongoing business.

(c) The nature and extent of the limitation

The extent of the limitations is insignificant.

The incorporation of lands that are reserved as public park into the National Tennis Centre reflects current use of the land and does not significantly further limit freedom of movement in those areas. The relevant pieces of land are isolated from other areas of public parkland by the rail corridor and/or roads and in practical terms already function as part of the precinct. For example, the 'throwing cage and adjacent land' is used in conjunction with athletics activities in the precinct.

The change in reservation means that the land will be able to be used for purposes of 'tennis, other sports, recreation and entertainment' and that the 'no detriment' test that applies to proposals for development in public parks will no longer be relevant to those areas. This may limit the right to freedom of movement to a minor extent. The existing planning and building approval requirements, however, will continue to apply.

The treatment of Gosch's Paddock in the bill affirms the right to freedom of movement. Significant sections of Gosch's Paddock are currently unreserved, and the bill will reserve the area for public use and thereby protect the right to freedom of movement in the area. The provision in the bill for the trust to grant licences for use of sport facilities in the park continues current practice in terms of use of the park. Indeed it is expected that use of the playing fields may be decreased under the new arrangements because of a need to maintain the surfaces at a higher standard.

The bill provides a substantial safeguard in that any licence for use of Gosch's Paddock must be approved in writing by the minister, approved by the minister responsible for the Crown Land (Reserves) Act 1978 by order published in the *Government Gazette*, including a statement of reasons, and laid before both houses of Parliament where it may be disallowed by a resolution of either house. While the bill provides for licences to be issued for up to 21 years in order to give licensees certainty, this is in effect largely the same as the current arrangement in which three-year licences are renewed upon expiry.

(d) The relationship between the limitation and its purpose

There is a rational and proportionate relationship between the limitations imposed by the bill and the purposes of the limitations. The insignificant extent of the limitations on the right to freedom of movement are proportionate to the important purpose the limitations seek to achieve.

The lands to be incorporated into the National Tennis Centre and Olympic Park are rarely trafficked because of their size and inaccessibility. The limitation on the right to freedom of movement by these provisions of the bill is proportionate to the important purpose of facilitating arrangements to accommodate the new stadium and enabling the trust to efficiently manage continued growth of key events. Further, the lands will continue to be generally accessible and used for highly valued public purposes as part of the lands managed by the trust.

The limitation on the right to freedom of movement which will occur as a result of the granting of licences of up to 21 years for use of Gosch's Paddock is rational and proportionate to the purpose of providing accommodation for the new stadium, and the need for efficiency in managing the demands on the precinct.

Mechanisms to keep the relationship between the limitation and its purpose in proportion are provided on an ongoing basis by the significant checks and balances instituted by the bill. These include the requirement for licences to be approved by two ministers in writing and the provision that licence approvals made by the minister responsible for the Crown Land (Reserves) Act 1978 must be laid before both houses of the Parliament and may be disallowed. The obligation on the trust to report annually on maintenance of public access to Gosch's Paddock is another significant measure.

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

As previously stated, the limits in the bill are minor and they are balanced against provisions that promote and protect public access to Gosch's Paddock as a public park.

The nature and scope of the limitations in this bill, such as they are, arise from the need to give the trust increased flexibility to manage its ongoing business more effectively and meet new challenges such as facilitating arrangements to accommodate the new stadium and the increasing popularity of, and attendance at, key events.

There are no less restrictive means available that would reasonably achieve the purpose of the limitations. Other potential management arrangements, like the current arrangements, are inefficient and would continue to hinder the trust in managing its business.

(f) Any other relevant factors

The trust encourages public access to walkways and other open areas throughout the National Tennis Centre and

Olympic Park. These are frequently used by recreational walkers and joggers.

Incorporation of marginal lands in the precinct into the National Tennis Centre and Olympic Park under the direct control of the trust will enable the trust to achieve a more integrated appearance as well as functionality for this vital part of Melbourne and Victoria that plays host to many interstate and international visitors.

The provision that the trust must not construct or carry out works in Gosch's Paddock without ministerial consultation and written approval affirms the right to freedom of movement because it reinforces protection of Gosch's Paddock as a public park. This test would have essentially the same effect as the process prescribed by the Crown Land (Reserves) Act 1978 in relation to development in public parks. The ability for the trust to undertake minor works as defined is also consistent with practices in other public parks.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it only limits, restricts or interferes to a minor extent with a human right, being the right to freedom of movement under section 12 of the charter, and the limitation is reasonable and proportionate. This is in view of the important objective of the legislation, which is to consolidate land management arrangements in the Melbourne and Olympic park precinct and to permanently reserve Gosch's Paddock as a public park, and the significant measures in the bill to minimise the nature and scope of the restrictions, as detailed in this statement.

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.

The Melbourne and Olympic parks are at the heart of Melbourne's most important sports and entertainment precinct. The parks' proximity to the CBD and quality and flexibility add enormously to Melbourne's competitive advantage in hosting major events and accommodating sports teams who represent and inspire Victorians.

The precinct hosts one of Australia's most important sporting events — the Australian Open. It regularly hosts important international events such as the Commonwealth Games, the World Swimming Championships, the World Gymnastics Championships, and the World Track Cycling Championships.

It is currently, or will become, the home for tennis, athletics, the Victorian Institute of Sport, Melbourne Storm, Melbourne Victory, the Melbourne Football Club and the Collingwood Football Club.

Following the completion of the new rectangular stadium, the Melbourne and Olympic parks will contain in excess of three-quarters of a billion dollars in sport and entertainment assets under the management of the Melbourne and Olympic Parks Trust.

Because of the history of the area, the Melbourne and Olympic parks precinct is a patchwork of land titles and management arrangements. Part of the land is managed by the Melbourne and Olympic Parks Trust, part by the City of Melbourne, part by the minister responsible for the Crown Land (Reserves) Act 1978 and a part by VicTrack. Some of the land has no formal management arrangements.

The range of different organisations managing and maintaining this land is inefficient, cumbersome and makes it difficult to plan and coordinate a long-term vision for the precinct.

The lack of a cohesive land management structure limits the government's long-term ability to support and improve facilities within the precinct for major events and to provide for key stakeholders such as the Australian Open and the precinct's other tenants.

A recent demonstration of the existing complex management arrangements occurred when the Collingwood Football Club moved its training base from the oval where the rectangular stadium is to be built to its current location in Gosch's Paddock. In this case, the club was required to obtain agreement from the Melbourne and Olympic Parks Trust, who in turn had to get two licences to provide the Collingwood Football Club with a training oval. One licence was required from the Secretary of the Department of Sustainability and Environment for most of the southern oval and another licence from the City of Melbourne for the rest of the oval. These licences then needed to be approved by the minister responsible for the Crown Land (Reserves) Act 1978.

Historically, the majority of the precinct has been and is still currently used by the Melbourne and Olympic Parks Trust and its tenants. This includes the throwing cage area used as a warm up and training facility for athletics, Gosch's Paddock used as a training venue for Collingwood Football Club and Melbourne Storm, four tennis courts in the north-western corner of the tennis centre and land along Batman Avenue which is used for infrastructure during the Australian Open.

In order to promote and develop the precinct as the jewel in Victoria's sporting crown, this bill proposes to consolidate all of the land in this precinct under the management of a single body — the Melbourne and

Olympic Parks Trust — with a consistent set of land-use arrangements.

The management and planning of this very important state asset will then be coordinated under a single body that is directly answerable to the state government. A single management authority for this land will enable the land to be coordinated, maintained and presented in the best possible manner.

It will also allow the trust to enter into long-term licences with the Melbourne Football Club, Melbourne Victory and Melbourne Storm for their use of Gosch's Paddock. Currently, the Melbourne City Council as the land manager of part of the land cannot offer a licence of more than three years. However, these tenants need a greater certainty through longer licences if they are to commit to the new rectangular stadium.

A key attraction of the Melbourne and Olympic parks precinct is its parkland setting. This will continue to be very important, not only for event visitors and tenants of the precinct but also for local residents and the wider community, who are very proud of Melbourne's parkland network. Accordingly, to ensure that Gosch's Paddock is well protected, it will remain as a permanently reserved 'public park' under the Crown Land (Reserves) Act 1978. In fact, the permanent public park reservation will be extended to include the currently unreserved southern section of Gosch's Paddock.

The bill will also establish the Melbourne and Olympic Parks Trust as a committee of management for Gosch's Paddock under the Crown Land (Reserves) Act 1978. They will be required to manage Gosch's Paddock in the same manner as the City of Melbourne.

They will be subject to the same consent arrangements in relation to the issuing of licences to sporting clubs, with the exception of being able to enter into licences of up to 21 years. This will require a consent from the minister responsible for the Crown Land (Reserves) Act 1978 with this consent being published in the *Government Gazette* and being subject to the scrutiny of the Parliament.

Over and above the protections that Gosch's Paddock will enjoy under the Crown Land (Reserves) Act 1978, the trust will also:

have no power to enter into leases over any part of Gosch's Paddock;

require a consent from both the Minister for Sport, Recreation and Youth Affairs along with the normal consents required from the minister responsible for the Crown Lands (Reserves) Act 1978 under the provisions of the Crown Land (Reserves) Act 1978 before the trust can enter into licences of up to 21 years;

need the approval of the Minister for Sport, Recreation and Youth Affairs for any land improvements beyond only minor works in Gosch's Paddock. The Minister for Sport, Recreation and Youth Affairs will be required to consult with the minister responsible for the Crown Land (Reserves) Act 1978 before providing any approval; and

need to report annually to Parliament under the Financial Management Act 1994 on its performance in retaining access to public open space in Gosch's Paddock.

In summary, the bill amends the Melbourne and Olympic Parks Act 1985 (MOP act) to:

revoke any reservations, Crown grants, committees of management and regulations on all reserved land within the precinct not currently either National Tennis Centre land or Olympic Park land;

remove certain redundant road declarations in Gosch's Paddock, Flinders Park and the former army barracks site outside of the CityLink lease area;

temporarily reserve all land to the north of Olympic Boulevard (formerly Swan Street) that is not currently National Tennis Centre land as National Tennis Centre land;

temporarily reserve all land to the south of Olympic Boulevard (formerly Swan Street) that is not currently Olympic Park land or Gosch's Paddock — as Olympic Park land;

permanently reserve Gosch's Paddock as 'public park' under the Crown Land (Reserves) Act 1978;

make the trust responsible for the additional National Tennis Centre land and the additional Olympic Park land under the MOP act;

allow the trust to administer land for public purposes;

establish the trust as a committee of management of Gosch's Paddock under the Crown Land (Reserves) Act 1978;

notwithstanding the restrictions within the Crown Land (Reserves) Act 1978, allow the trust to grant licences of up to 21 years for Gosch's Paddock, subject to the consent of the Minister for Sport,

Recreation and Youth Affairs and the minister administering the Crown Land (Reserves) Act 1978;

require the trust to seek the approval of the Minister for Sport, Recreation and Youth Affairs on decisions when carrying out works in Gosch's Paddock. The minister is required to consult with the minister responsible for the Crown Land (Reserves) Act 1978 on these matters before providing any consent;

require the trust to report annually on its performance on retaining access to public open space in Gosch's Paddock to Parliament under the Financial Management Act 1994;

maintain the various leases and licences in place over land being transferred to the trust's care by ensuring that all rights and obligations under those arrangements would continue as if the trust had entered into the arrangements; and

tidy up an outdated reference in section 16D of the MOP act. The reference to 'secretary' has been amended to 'chief executive officer'.

In conclusion, this is a sensible amendment to the Melbourne and Olympic Parks Act 1985 aimed at facilitating good governance of one of Melbourne's most important pieces of public infrastructure.

I commend the bill to the house.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until Thursday, 25 October.

ELECTRICITY SAFETY AMENDMENT BILL

Statement of compatibility

Mr BATCHELOR (Minister for Energy and Resources) — Just for the edification of the house and to demonstrate that this government is all caring and all listening, at the conclusion of this second reading we will go back to the emergency services legislation and deal with the other second readings at 4 o'clock, as requested by the opposition.

Mr BATCHELOR (Minister for Energy and Resources) 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 Electricity Safety Amendment Bill 2007.

In my opinion, the Electricity Safety Amendment Bill 2007, 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 will amend the Electricity Safety Act 1998 to:

mandate submission of and, once approved, compliance with electricity safety management schemes by major electricity companies, namely electricity transmission and distribution owners or operators;

harmonise the safety management scheme regime in the Electricity Safety Act 1998 with the gas safety case regime in the Gas Safety Act 1997;

require registered electrical contractors and licensed electrical workers to rectify their defective electrical work that is unsafe;

improve the representation of the railway and tramway industries on the Victorian Electrolysis Committee; and

repeal redundant provisions, including provisions for the approval of electricity safety managers that are no longer required, make statute law revisions and necessary consequential changes.

Human rights issues

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

The bill provides that Energy Safe Victoria may, by written notice, require a registered electrical contractor or licensed electrical worker that carried out unsafe work to rectify it at no additional expense to the customer. Penalties apply for non-compliance with a rectification notice. Section 11(2) of the charter provides that a person must not be made to perform forced or compulsory labour.

The rectification work that a registered electrical contractor or licensed electrical worker may be required to perform is work that the contractor or worker may also be required to perform pursuant to the agreement between the contractor or worker and the consumer. Further, it is work for which the contractor or worker is entitled to be paid by the consumer if payment has not already been made under the agreement.

It is arguable that section 11(2) of the charter is not engaged since elements such as involuntariness and oppression are lacking. A registered electrical contractor or licensed electrical worker can avoid a notice under the bill, and the risk of a penalty for non-compliance, by rectifying unsafe work promptly, as he or she would be contractually bound to do anyway.

In the event, it is considered that work required by a rectification notice issued under the bill is work or service that forms part of normal civil obligations, as provided for in the exception in section 11(3)(c) of the charter.

By providing for the issue of rectification notices, the bill will ensure that defective work that is unsafe is made safe as soon as possible and regardless of whether the consumer chooses to enforce his or her contractual rights. Electricity is inherently dangerous and unsafe electrical work creates significant risks to life and property: for example, from house fires caused by faulty wiring.

Conclusion

For the reasons outlined above, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

PETER BATCHELOR, MP
Minister for Energy and Resources

Second reading

Mr BATCHELOR (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The government is committed to ensuring an efficient and secure energy system and reliable and safe delivery of energy services.

As part of this commitment, this bill will amend the Electricity Safety Act 1998 to secure improved safety and reliability of electricity assets.

The key proposal of the bill is to insert new divisions 1 and 2 into part 10 of the Electricity Safety Act 1998. This proposal will require the submission of and, once approved, compliance with electricity safety management schemes (ESMSs) by electricity transmission and major distribution owners or operators. An ESMS specifies the assets or operations to which it applies, the hazards and risks to persons and property arising from those assets or operations, and the safety management system to be followed to minimise as far as practicable those hazards and risks.

This proposal will adopt best practice safety management regulation that facilitates better hazard identification and risk-management activities aimed at preventing incidents and at mitigating the consequences if they do occur.

Most Victorian transmission and distribution companies have seen the benefits associated with voluntarily submitting and complying with an approved ESMS under the existing Electricity Safety Act 1998. The bill will ensure that these benefits are locked in. The benefits include lower compliance costs under the ESMS regime compared to prescriptive regulations and improved safety performance.

The bill inserts a new division 3 into part 10 of the Electricity Safety Act 1998 to make amendments to the existing voluntary ESMS regime under division 2 of part 10 of the Electricity Safety Act 1998. These amendments are largely as a consequence of the introduction of the new mandatory ESMS regime inserted by new divisions 1 and 2 of part 10.

In addition, the bill will harmonise the ESMS regime with the gas safety case regime in the Gas Safety Act 1997. This includes inserting a new section 103 to provide for the provisional acceptance of an ESMS, based on section 41 of the Gas Safety Act 1997 and inserting a new section 107 to require an ESMS to be maintained up to date, following, for example, developments in technical knowledge and changes in safety risk, based on section 45 of the Gas Safety Act 1997.

By aligning, where appropriate, the gas and electricity safety regimes the bill will reduce the regulatory burden for those entities operating in both the electricity and gas industries.

Furthermore, the bill introduces a new section 120I to clarify that Energy Safe Victoria may conduct audits to determine compliance with an ESMS.

Clause 9 of the bill repeals section 149A of the Electricity Safety Act 1998 which provides for the approval of electricity safety managers — a requirement that is considered redundant.

Currently, section 37 of the Electricity Safety Act 1998 requires that a registered electrical contractor must not permit a person to carry out on the contractor's behalf or direct a person to carry out electrical work which does not comply with the Electricity Safety Act 1998 and associated regulations. As an alternative to prosecution for non-compliance with section 37, clause 12 of the bill provides that, following the issue of a written notice by ESV, registered electrical contractors and licensed electrical workers are required to rectify their defective work that is unsafe. Compliance with such a notice is subject to the right of review by the Victorian Civil and Administrative Tribunal.

The rectification work is to be at no additional expense to the customer. Rectification of unsafe defective electrical work may include the labelling of switchboards, the securing and protection in position of cables and the secure installation of equipment.

A registered electrical contractor or licensed electrical worker can avoid a notice under the bill, and the risk of a penalty for non-compliance, by rectifying unsafe work promptly, as he or she would be contractually bound to do anyway.

In addition, clause 14 of the bill will improve the representation of the railway and tramway industries on the Victorian Electrolysis Committee.

Furthermore, the bill makes statute law revisions, necessary consequential changes and provides for the smooth transition from the existing voluntary ESMS regime to a safety management framework comprising both a mandatory and voluntary ESMS regime.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 25 October.

EMERGENCY SERVICES LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 10 October; motion of Mr CAMERON (Minister for Police and Emergency Services); and Dr SYKES's amendment:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to provide for the replenishment by the government of all water from privately owned storages used by the Country Fire Authority and/or the Metropolitan Fire Brigade to fight fires and to undertake other authorised activities'.

Mr TILLEY (Benambra) — I rise to make a contribution to the debate on the Emergency Services Legislation Amendment Bill 2007. As claimed in the second-reading speech, this bill seeks to address the ever-changing dynamics of emergency services. The bill ensures that the compensation provisions of the Emergency Management Act 1986 apply to all volunteer workers performing emergency response and recovery activities. I would like to thank those members of the Wodonga SES (State Emergency Service) whom I have consulted and spoken with in relation to those matters.

The pecuniary interest provisions that this bill will enshrine in legislation are open to abuse by overzealous officials and further water down freehold title rights to land and people's ability to defend their land and stay and fight and protect their assets. The bill creates new offences; however, a great concern of mine is that it removes the minimum penalties for certain offences.

The issue which is of the greatest concern to me is water, and this bill fails to address the issue. This bill fails to address the fact that we are experiencing a time of drought, we are experiencing critical water shortages and we are seeing this government wanting to take more water out of country Victoria through a pipe.

I expect and I hope in the foreseeable future that when the community cabinet comes to visit the north-east, particularly the shires of Alpine, Indigo and Towong, no lip-service whatsoever will be provided to those communities by ministers who are having a look around and seeing for themselves how short water is and how valuable a resource the little amount we have up there is. I ask the community cabinet to please have a good look and see that our dams are low, our rivers are low and our towns along the Murray River are experiencing stage 4 water restrictions. There simply is not enough water, and we are heading for devastating times.

The Water (Irrigation Farm Dams) (Amendment) Act effectively took away the right of farmers to harvest the water that fell naturally on the land. This was an inherent right at the time of the proclamation of the colonies, and for those farmers in the catchment areas that I represent that right was taken away from them without compensation.

People who farm, work the land and live in the north-east of Victoria have paid a premium for their land specifically because of their original access to water for their land. I have spent some time looking through the bill, perusing it and consulting and speaking with people. It certainly does allow the government to take further water away from private land-holders without compensation. I refer to a recent article in the *Weekly Times*. I read it a number of times — three or four times — and it is most definitely one of the most misleading media articles or misdirections from this government that I have read in a long time. The media in particular never lets the truth get in the way of a good story. Nevertheless the article quotes a spokesperson or a representative of the Victorian government. It states:

> A spokesman for Minister for Police and Emergency Services, Bob Cameron, said the government's water-replacement policy would apply again this season after being introduced last year.

The suggestion is that water that may, in the event of fire, be taken away from the water resources of land-holders is going to be replaced. But if you look at the water replacement policy published by the Department of Sustainability and Environment, it consists of only a couple of lines. It has no particular or great detail, but it speaks about providing and replacing farmers' water for the 'health of affected residences and

pets' and the 'health and productivity of their stock'. Not only do we have farmers grazing cattle and other like things, but we also have people who are orchardists and the like, and there is absolutely no coverage for those other farming areas in that policy. The final comment in the bottom line of the firefighting and water replacement policy is:

> To lodge a request for water replacement please contact your local council.

Once again we are seeing more responsibility shifting and cost shifting onto local government. I call on this government to take responsibility and lead by example — lead from the front — and stop shifting those responsibilities onto our local government.

The bill makes a suggestion that compensation can be sought by way of insurance policies. In the consultations that I have had with insurance companies, the advice that I have received strongly suggests that there is no insurance company that knows what the hell this government is talking about. You cannot and will not be able to insure water! It beggars belief that whilst we are debating this bill here, we are looking at replacing water by putting extra pressure on land-holders to try to recover their losses. It simply beggars belief. What needs to be done is that compensation for the loss of any water needs to be secured in legislation, and the reasoned amendment from The Nationals certainly seeks to address that issue.

Talking more locally, I turn to the issue of water availability for firefighting. The small community of Stanley, just outside Beechworth, has been fighting for water availability for firefighting for over seven and a half years and has been bitterly disappointed. During the 2002–03 bushfires the areas around Stanley and Eldorado, consisting predominantly of orchards surrounded by pine plantation, experienced extensive fires. It was through the water storages of those orchardists in their dams that firefighters were able to save the area of Stanley. But as a result they lost quite a substantial amount, and when the frosts hit they lost their crops.

A proposal has been put forward by the Stanley Spring Ditch and Wetlands Reserve Committee, a community representative group, and the Minister for Police and Emergency Services is certainly familiar with this matter. I have corresponded with him and he has responded, and I thank him for that. The minister should also be well across the issue of water savings for firefighting from his previous portfolio, as he visited Stanley when he was Minister for Agriculture. I acknowledge that any visit from any government minister is appreciated, but I call on ministers to listen to the communities they visit and take away some of that good local knowledge and advice.

I refer to the report put out by the Department of Sustainability and Environment after the 2003 bushfires, which states:

> Other options are needed for the contingency planning necessary to ensure water for firefighting. In keeping with the concept of fire safety being a partnership between state and local government and communities, public land managers, catchment management authorities/water authorities, fire agencies and community groups should work together to develop and implement environmentally sound local solutions to ensure water supply for firefighting.

The example that was given was the exact Stanley group that I was talking about. The report states:

> An example of this is the proposal by community groups at Stanley in the north-east to use a small parcel of public land, currently an old mining site of little apparent environmental value, to establish a small dam to provide water for firefighting. The group has suggested the dam can be filled from a spring without interfering with the water catchment.

This is not only for firefighting on the ground, but aerial refuelling could also be used. The 100 000-litre tank that was provided as a result of those consultations with the minister would probably only be able to provide water for two strike teams working around the clock with about three tanker loads, which would be totally ineffective for that area given the lie of the land of the orchards and the surrounding pine plantations. Such a small amount of water would not even put a dent in any wildfire. I say in closing that I will be supporting the reasoned amendment. However, if the amendment fails, I will most definitely be opposing this bill.

Mr DONNELLAN (Narre Warren North) — From the outset I would like to clarify something. In relation to the right of emergency services to access private water supplies for fighting fires, that right has been there since 1915. The ability to claim water loss back off insurance companies has been there for that same period of time. The bill is not actually proposing to vary those rights.

Dr Sykes interjected.

Mr DONNELLAN — Yes, we have actually had them checked. At the end of the day it is a bit disappointing that we are seeing an exercise that is more about trying to stir up fear and hatred in the community than anything else — in the same way as is happening with the north–south pipeline.

At the end of the day if the people representing those areas do not want the investment of $1 billion, then that

is very difficult to understand. Given that Melbourne's water usage is about 400 gigalitres a year and what is wasted in a year through the Goulburn irrigation system is 450 gigalitres a year, it seems strange to try to stir up envy and hatred between the city and the country on a continuing basis. It is disappointing at the end of the day that hatred continues to be stirred up by the conservative parties. Anyway, let me get on to the bill because I think those corrections needed to be made.

Since 1999 the state government has had a major commitment to strengthening the capacity of our emergency services by rebuilding the facilities, updating equipment and providing state-of-the-art communication services. In the 2007–08 budget the State Emergency Service received $37 million to improve its information technology and asset management systems and to provide broadband for all the SES units. We all know how important that is out there when we are helping our local community, whether in the regional areas, the outer suburban areas or the inner city.

A further $12 million was provided in that budget to replace and retain the asset base of the SES. I believe this money will be used to replace old equipment such as trucks, trailers, four-wheel drives and, again, communication equipment. Of that, $7.5 million will be to establish new SES units in the municipalities of Hepburn, Wyndham and Whittlesea. The amount also includes improvements to the facilities in Geelong, Mitta Mitta, Moe and Swan Hill, as well as upgraded facilities in Carrum, Penshurst, Wangaratta and Fiskville.

At the end of the day this government is not just investing in those areas where we actually have seats, it is investing across the state to ensure that everybody has quality emergency services. It is not just those seats we hold; we are putting money into those areas where it is actually needed.

Looking at the state's capital commitment for, say, the police services, and how many new police stations we have built or upgraded, it is 148. That is realistically the biggest upgrade ever by any government. It cannot really get bigger and better than best, and that is what we have done. We have had a budget for the police of $1.6 billion — again, the biggest and the best you could actually find, you cannot get better than that. We are committed absolutely.

The emergency services budget has doubled since 1999, which is a major commitment to emergency services. It is a commitment we did not see from the last coalition government, but we have done it. At the end of the day we have done it, we have delivered, we have got the goods.

The 2007–08 budget delivered $73 million of new initiatives in emergency services. There was $8.8 million to rebuild 18 Country Fire Authority stations. That has got to be a lot better than the federal government's contribution to the CFA which was to run a couple of stupid advertisements last year which added up to nothing. We are committed to actually doing something for the CFA. There was no money from the federal government for the CFA to help fight fires, just a little nice advertisement so that it could pretend it had actually done something in the local community, which it did not. In the same way this opposition did nothing when it was in power.

Honourable members interjecting.

Mr DONNELLAN — The opposition did not double the budget and did not make a commitment. It just hid, was quietly subsumed and quietly just did nothing. That is what literally killed The Nationals. At the end of the day The Nationals nearly did themselves in by being so quiet. Hopefully next time they will talk a little more.

You can see this government is definitely committed to emergency services. We have put the money in, we have done the right things, we are rebuilding the services, and we are doing the job well. We are not out there creating fear in the community, which is the speciality of the opposition. We might get the banjos out next! It is a bit like *Deliverance:* let us all pretend we are stupid and ignore the facts. This is what the opposition is doing and it can stir it up forever, but sooner or later someone needs to bring this state back together. The opposition has divided the state by blaming deaths and suicides over the last seven years on the north–south pipeline, but it is deluding itself. The opposition needs to grow up and get real. I commend the bill to the house.

Mr CLARK (Box Hill) — I am pleased to speak particularly about the issue of fire service access to privately held supplies of water. I listened carefully to the remarks of the previous speaker, the Parliamentary Secretary for Treasury and Finance, on this score. Unfortunately he did not advance this issue any further, he seems to have simply repeated the argument that was put initially by the minister and, yesterday, by the member for Yan Yean, which compounds the concerns of country Victorians about what exactly the government's intentions are, because it should be blindingly obvious to everyone that in this time of drought and acute water shortages, water is becoming

an increasingly precious resource of concern to country Victorians.

It was interesting that the member for Yan Yean yesterday acknowledged the fact that we are now dealing with climate change and drought. The logic is that water is a far more precious resource than it probably ever was in the past. The government is saying, 'Trust us' and that is the trouble — it is saying, 'If the fire services take water out of a well, tank or dam, then trust us to compensate' but it will not put it explicitly on the record, and it will not put it in the legislation.

Particularly at this time when water has become increasingly precious, the simple way to resolve everyone's concerns would be to make clear in the legislation that, yes, certainly the fire services can draw on water supplies to fight fires, but there should then be arrangements to replenish the water taken, especially when that water is taken for public good and public benefit at a cost to the farmer or other party that has that water supply.

The minister has added to the concerns of country Victorians by linking two separate provisions in the legislation. The first is the provision about the right of the fire services to draw on water; and the second is a provision about damage done by chief fire officers being deemed to be damage by fire within the meaning of insurance policies. It is worth making the point that not everyone is insured. Even if insurance did clearly apply, which for reasons I will come to is debatable, not everyone is insured and indeed many farmers have been unable to afford insurance and have had to let policies lapse in the current situation of rural crisis.

There is a real dilemma, and it is not good enough for the government to say that its new section 96 simply perpetuates the regime that previously applied. Proposed section 96, with the exception of some minor rewording, mainly adds a right to obtain access to information and broadens the purposes for which water can be taken. But what has caused the difficulty is that the minister and other speakers have linked this back to section 93, which is a section that does not actually refer explicitly to water; it refers to damage to property caused by the chief officer or any officer exercising the powers of the chief officer — and so on — and it says that such damage where caused:

> in the exercise of any power or the performance of any duty conferred or imposed by or under this Act shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged notwithstanding any clause or condition to the contrary in any such policy.

That is in section 93 of the Country Fire Authority Act 1958. The question that has to be asked and has not been answered is whether the drawing of water is damage to property in terms of section 93 of the Country Fire Authority Act. On the face of it the property has not been damaged; but water has been taken. There is also the further issue as to whether a landowner in that situation has ownership of the water concerned — or is it simply water that remains in public ownership on which the CFA is entitled to draw? That may depend in part on the actual nature of the water storage involved.

There is further confusion on that score, because section 96, as it is proposed to be amended, refers to water in wells or tanks belonging to any person, yet there is silence as to whether or not the provision extends to dams. The linking of this section to section 93 raises the implication that dams can be drawn upon as well as wells or tanks. As I said, you would think the government could easily lay this matter to rest, first of all by confirming that it will provide replenishment of water so taken and then by putting that in legislation, so putting the issue beyond doubt rather than forcing people to rely on its good word.

On Tuesday in the other place the Minister for Environment and Climate Change was asked about water drawn by the Department of Sustainability and Environment for firefighting. In answer to a supplementary question from Mrs Petrovich, a member for Northern Victoria Region in the other place, asking whether the minister would assure the community that the government would compensate all landowners whose water was taken for use in DSE firefighting operations, the minister said the answer was yes.

We got a partial answer from the government in relation to DSE operations, yet we get no answer from the government in relation to other firefighting services, and there is certainly not a willingness on the part of the government to put this matter into legislation rather than to have people relying on the good grace and goodwill of the government. Country people have every reason not to trust the word of this government, and it is not good practice to have people's rights and their commercial and legal position dependent on the grace, favour and ex-gratia payments of the government of the day. When people need to rely on a right and a protection and a backup such as this, it should be in legislation.

I want to say also a few words about the changes being made by this bill in relation to the fire services levy. This is a massive backdown by the government on the bungled measures it put in place back in 2005 despite

the clear warnings given to it by this side of the house that the provisions government members were trying to insert at the time were not going to work. The government is now taking out the provisions it inserted back in 2005 and instead dealing with the situation relating to insurance policy excesses above $10 000 with new provisions in clauses 31 and 98 of the bill, which set up a completely different regime. The measures the government brought in back in 2005 came at a time when our current Premier was the Treasurer, and he, if he had had any genuine commercial knowledge or understanding or indeed any decent channels of communication with the private sector, would have picked up on the fact that what the government was attempting to do back in 2005 just was not going to work.

The government at that time tried to impose a bizarre situation covering cases where a relevant insurance policy, which would almost always be a commercial insurance policy, provided for an excess of above $10 000. This is a very common practice and nothing to do with fire services levy avoidance; it often makes sense for large insured entities to manage a sizeable first slice of any liability exposure. The government tried to assume that it could come up with a formula that would work out what an insurance premium would have been had a large corporation of this kind, instead of ensuring with a deductible of $100 000, $500 000 or even several million dollars, instead had a deductible of only $10 000. That of course threw the insurance industry into chaos, because it was a totally unrealistic and impractical hypothetical assumption, totally out of touch with reality.

The insurance industry and the major corporations around Victoria tried to get this message through to the government back in 2005, and in their usual pigheaded way, government members refused to listen and crashed on with this mechanism and this procedure, which were not going to work. Ever since the legislation went through in 2005 they have been struggling to make it work, and they have now realised that what we were telling them at the time was absolutely right — that it was not going to work — and they have now backed off. In the meantime they have caused enormous cost, confusion and concern to the industry. They have damaged Victoria's credibility and standing in insurance markets around the world, and they have demonstrated once again that they are totally out of touch with the reality of and an understanding of the private sector.

In conclusion, I urge the government to lay to rest and resolve the issue of concern about access to private water by agreeing to what this side of the house is proposing and enshrining protections in legislation.

Ms MARSHALL (Forest Hill) — I am very pleased to rise and make a brief contribution to the Emergency Services Legislation Amendment Bill 2007, which will strengthen the legislative framework for Victoria's emergency management arrangements by amending the Emergency Management Act 1986, the Country Fire Authority Act 1958, the Metropolitan Fire Brigades Act 1958, the Victoria State Emergency Service Act 2005 and the Summary Offences Act 1966.

Since 1999 the government has systematically improved the capabilities of the emergency services. Under challenging conditions the emergency services provide support and protection to all Victorians through some of the most devastating events, such as bushfires and floods, that can befall a community, ensuring they are equipped to face these and other diverse emergencies. It is a priority, given the ever-changing risk environment.

Some aspects of the bill include better protection for volunteers and emergency workers; stronger emergency management provisions; removing ambiguities regarding the emergency services commissioner's powers, including implementing the government's commitment to expanding the role of the commissioner to monitor the performance of all emergency service agencies; clarifying and extending the powers of the chief officer to direct movement at fire scenes; and clarifying the issue of access to and use of water.

The question was posed whether the government is changing the legislation for water that is not stock and domestic. The simple answer is no. The bill does not change the provisions relating to water that may be taken for firefighting purposes. The Country Fire Authority will continue to have free access to water belonging to public authorities or water held by persons. The bill amends the purposes for which the water may be accessed and used in order to better reflect the range of functions that the CFA performs, such as responding to hazardous material fires. It clarifies that the right to stay on a property for persons with a pecuniary interest does not apply to persons who interfere with emergency services operations; it introduces new offences for obstructing fire services personnel, resetting fire indicator panels and raising false alarms of fire; and it resolves ambiguities regarding claims for compensation for volunteer emergency workers who undertake emergency activities.

Emergencies such as bushfires and floods are likely to be more frequent and more severe in the years ahead, and taking into account increased security risks over the past few years, it is vital that the government's legislation adapts to the rapidly changing conditions. These pressures and the government's adaptation to them are reflected in the contents of this bill.

The consultations with the Country Fire Authority, the Metropolitan Fire and Emergency Services Board, the Emergency Services Transport Authority, the Victorian State Emergency Service, the volunteer associations of the CFA, the Community and Public Sector Union of Victoria, the United Firefighters Union, the Department of Premier and Cabinet, the Department of Treasury and Finance, the Department of Sustainability and Environment, the Department of Primary Industries, Victoria Police and the Victorian WorkCover Authority have been extensive and thorough, and I commend the bill to the house.

Mr BLACKWOOD (Narracan) — It is with pleasure that I take this opportunity to contribute to the debate on the Emergency Services Legislation Amendment Bill 2007. Most of the proposed amendments are appropriate and necessary. However, I am really concerned about the access-to-water provisions in the bill. I have a real concern about the government walking away from its responsibility to replace water taken from farm dams and not providing compensation where that can be justified.

In the second-reading speech the minister went to some lengths to say that the bill makes it clear that where the Country Fire Authority or Metropolitan Fire Brigade takes water from a person's well or tank for firefighting purposes, this loss of water will be deemed to be fire damage in a person's insurance policy against fire. I am completely mystified by some of the assumptions that the minister has made in preparing this amendment. The government is completely misinformed if it thinks it can transfer the cost of replacing the water that is taken from farm dams in a bushfire emergency to the insurance companies, the farmers or the property owners involved.

Where these people have been good enough to make water available for a firefighting effort, which could have had a major impact on their stock and domestic water supply, they will then be expected to wear any increase in the cost of their insurance premium as a result of a claim they will have to submit. Worse still, in the current drought situation, with the enormous pressure it is putting on the incomes of farming families, many farmers just cannot afford insurance. These people will be left high and dry by this government once again.

In an article published in the *Weekly Times* last week a spokesman for Minister Cameron is reported as making some very misleading statements:

> A spokesman for Minister for Police and Emergency Services, Bob Cameron, said the government's water replacement policy would apply again this season after being introduced last year.
>
> Under the policy, water taken during a fire would be replaced where it was essential for stock and domestic needs.
>
> The water would be supplied within 48 hours from when it was safe to do so.

The reality is that the size of some of the dams that may be drawn upon is such that it would be humanly impossible to refill them within 48 hours, even if water was available and it was safe to deliver.

The Leader of The Nationals also raised concerns which support what I am saying. I quote from the same article in the *Weekly Times* of last week:

> Victorian Nationals leader, Peter Ryan, said if land-holders had to claim the losses on insurance it could result in increased premiums.

Also Simon Ramsay from the Victorian Farmers Federation said:

> … if the government was taking water to fight fires, particularly on public land, land-holders should be compensated.
>
> 'Water is a tradeable asset and should be recognised as such by the government and compensation should be paid', Mr Ramsay said.
>
> 'As for the insurance, that's a discussion with the insurance companies we still have to have'.

Pat Siddle, a farmer and resident of Erica in my electorate, has written to me with her account of exactly what she experienced last summer as water was taken from her dam. Her story illustrates how flawed the amendment being proposed by the minister is and just how country people can be taken for granted and seriously disadvantaged in situations not of their own making when government policy is mandated without due consideration for its impact on people's livelihoods.

Pat Siddle and her husband have been subjected to the trauma of bushfire for two years in a row. They know what it is like to do it tough, and they know what it is like to live in a community under threat of bushfire. They have had enough. I will quote from some of Pat's letter, as it best describes exactly what they experienced

and why they are sick and tired of government interference in their lives:

> With the Coopers Creek fire they used water from our larger dam at our other property at Parkers Corner. That was stocked with trout, so I'm positive many were sucked up and ended up on the fire.
>
> We had irrigated a small paddock above the dam to put our cattle in (if we came under threat) which we tried to do, but before we could shift the cattle two choppers arrived, spooking our cattle. We managed to lead them away, only to discover media set up (on our property) at the gateway where we were trying to take the cattle, so between them —

the media —

> and the choppers zooming in every 2 minutes, all hell broke loose. The cows panicked again, took off where they had come from, through a fence. Anyway we managed to eventually lead them to safety. The poor cattle were so spooked they holed up way down the back of the paddock. We had to lead them up for water when the choppers went. It was a hot day, and they were very thirsty by the time all action ceased. Not all had time for a drink when the choppers returned, so off they went again, breaking another fence. As if this wasn't bad enough we had to also put up with vehicles driving onto our property to watch the choppers filling up, and if they didn't drive, they walked. It was like Bourke Street.
>
> What gets up my nose is the hassle for permits and the cost we went to (and the red tape you have to go through if you want to use the water) to build our dams and now here we are supplying water for firefighting. They are saying they will replace the water. Well, I think we should have a say in how we want to be compensated for the use of our dams. I'm getting fed up with one set of rules for us and another for government bodies. The government should build their own firefighting dams in their parks.

I believe the amendment being proposed in relation to the use of water from farm dams is ill thought out, takes country people for granted and gives no guarantees which would encourage the cooperation you would normally get from people like Pat and Ron Siddle when their community or public land nearby is under bushfire attack.

I will be supporting the reasoned amendment being proposed by The Nationals. If that fails, I will be opposing the bill.

Ms RICHARDSON (Northcote) — I am very pleased to speak in support of the Emergency Services Legislation Amendment Bill. All measures that further improve Victoria's world-leading emergency services are to be welcomed. We know that changes in our climate will take place and that they will put even greater challenges before our emergency services personnel. Governments in all jurisdictions need to respond to that increased challenge and ensure that emergency services are supported in the best way possible to better protect people facing natural disaster. I particularly welcome the clarification that the bill provides in respect of the pecuniary interest exemption. Currently people do have the right to stay on their property if they have a pecuniary interest, even in a state of natural disaster.

In January 2006 Kenneth Wilson and his 12-year-old son Zeke were killed after passing through a road block. The police allowed Mr Wilson to proceed through it after he showed his drivers licence to prove that he had a property he was trying to reach and protect. Tragically Mr Wilson ran off the road, hit a tree and perished with his son in the fire. The coronial inquest highlighted that police believed they had no power to stop the landowner from returning to their property even if they believed it was unsafe to do so. The bill will have no impact on the very successful 'stay and defend or leave' policy of the CFA (Country Fire Authority), but the bill will clarify the circumstances when emergency services personnel, who are trying to protect Victorians facing an emergency, are able to act.

I also welcome improvements that resolve ambiguities regarding volunteers making compensation claims. We all know that the work that these volunteers undertake on behalf of us all is particularly hazardous. Allowing compensation claims for injuries to be determined by the Accident Compensation Conciliation Service and medical panels in accordance with the Accident Compensation Act is a constructive and positive step. Injured volunteers will avoid costly legal proceedings and be treated fairly in accordance with their service.

These measures are designed to protect and assist emergency service workers by making it an offence to assault, resist or delay a firefighter or damage their equipment. The powers of the emergency services commissioner to monitor, advise, report and make recommendations have also been clarified. These measures and others are designed to further assist our excellent emergency service providers. Therefore I disappointed to learn that the opposition is opposing this bill. The message this sends on the eve of our bushfire season is that improving the lot of our emergency services does not matter to the opposition — but it matters to Labor.

No change whatsoever is proposed to water access and compensation in this legislation. So why tell regional and rural communities something different? Why be scaremongers on this point? Why send the message that drawing water to fight fires is somehow unacceptable? Today many members opposite have said that during their contributions. Members opposite are seeking to

scare already stressed communities. They should be ashamed of themselves. If this bill fails in the upper house because of the Liberal Party and The Nationals, they will have to explain to all the people who will be threatened by bushfires this summer why they have acted in this appalling manner. This bill deserves to be supported. To that end I commend it to the house.

Mr WELLER (Rodney) — I rise to speak on the Emergency Services Legislation Amendment Bill. I would like to clarify for members of the house that I was a member of the Tennyson fire brigade from 1979 to 1986. From 1986 to the present I have been a member of the Lockington fire brigade. I do not attend many fires, because my present job does not allow me to, but I still take a truck out every three or four months for its Sunday morning test. So I know a bit about the CFA (Country Fire Authority) and the importance of safety at fire grounds.

We should be talking about water. I also own part of a farm business which at the moment involves carting water to stock. I very much understand the precious nature of water in dry times. The member for Benalla has moved a reasoned amendment to make sure that the government replaces the water it takes to fight fires. It is quite simple, and a minister in the other place has said on record that the government will do that. So what is the problem? Why would we not put that minister's declaration into legislation rather than having decisions on this issue being made on the whim of a minister in the future? Let us put it into legislation so that everyone understands where they stand. As the minister in the other place said, that would be a true and fair system.

I read yesterday's *Daily Hansard* with some interest. In particular I read the contribution that the member for Yan Yean made yesterday. She is reported as saying:

> Volunteers did not even have boots until 1998.

That is incorrect; I always had my Blundstones on when I arrived at the fire ground. I did not turn up in thongs. Any CFA member would understand that you turn up to the fire ground appropriately. Although the government did not supply boots prior to 1999, I think it is wrong to suggest that the CFA members turned up to fire grounds with nothing on their feet. How ludicrous! The member for Yan Yean also said, as reported in *Daily Hansard*:

> We had completely underresourced emergency services — —

Ms Green — On a point of order, Speaker, the member for Rodney, who is required to sit down while I am on my feet, is misleading the house. I take offence at what he has said, because I did not at any time say during my contribution last night that — —

The ACTING SPEAKER (Ms Beattie) — Order! The member for Yan Yean has no point of order.

Mr WELLER — The member for Yan Yean then said:

> … but they did not give 'a rat's' about what actually happened with emergency services under their tenure. They have only discovered it now. Our rural communities are under stress. They have been under stress for 10 years.

But the last eight years of stress has been caused by the Bracks government and then the Brumby government.

The Nationals and the Liberals have been in Parliament putting the case for rural Victoria, and they have been ignored. The government has not listened. If it had listened, it would have known that rural communities have been under stress for the last 10 years. Where is this year's drought package? We are in the same dire position that we were in at the same time last year. Where is the support for irrigators who have to pay bills for water that is not delivered? Where are the fodder subsidies? Where is the assistance to cart fodder? We have been putting a case, but the people on the other side of the chamber have not been listening.

The member for Yan Yean then made another statement:

> There is now very little water in dams to fight fires anywhere.

I would probably agree with that. Then she said:

> One of the silly proposals in the member for Benalla's contribution was to build firefighting dams. That might be well and good if it rained, but it does not rain anymore.

You would think it would never rain again if you listened to the member for Yan Yean during her contribution last night. I would like to ask this question: why is the government proposing to spend $750 million on a pipeline from the Goulburn Valley to Melbourne if it is not going to rain again? What are we going to have? A big slippery dip and people sliding down it? Why would we spend that sort of money when there is an obvious answer?

In Melbourne there is still 300 000 megalitres of water going out into the bay from the eastern and western treatment plants. The obvious thing to do would be to utilise that. We could treat it to A-class water, rather than leaving it as C-class water, and utilise it on our sporting fields and lawns and in our toilets and industry. That would be the common-sense thing to do given the

government is admitting that it is not going to rain again.

We support giving more powers to the police and fire brigades to get a better result on the fire grounds. What we should be doing is making sure we do not go too far. Since the Linton inquiry the Country Fire Authority has become very cautious, and rightly so. I am a CFA member, and I do not want to perish on the fire ground; it would be a terrible way to go. So it is right that the CFA is cautious. However, the pendulum has swung too far. In 2003 when the fires came out of the forests in East Gippsland and through the Wulgulmerang area all the CFA units were down on the Buchan football ground because it was deemed too unsafe — —

An honourable member interjected.

Mr WELLER — No, they were. I was up there, and I spoke to the people. The farmers were protecting their farmland. We did not lose any farmers either. There was an overreaction. When I went there with Bruce Esplin they made it quite clear that they were frustrated. They were left to defend their own houses and sheds while the fire brigades were on the Buchan football ground. We have to get the balance right. On this trip in 2003 I also went with Bruce Esplin to the Mitta Mitta Valley and Omeo to investigate the responses and the local knowledge that the local fire brigade people wanted to give us. They bemoaned the fact that their local knowledge was not listened to.

The farmers' fathers actually put the 1939 fires out in the Mitta Mitta Valley with horses and bags. We had all the latest equipment, which should have been used but was not. There were four nights when it could have been back-burnt. The local knowledge said to back-burn it, but it was not. The weather changed. We had a 43-degree day, with a 100-kilometre an hour wind, and it was a disastrous result. The people in the Mitta Mitta Valley were shell shocked. They were absolutely astounded. What they were really frustrated about was that they were not allowed to back-burn three or four nights before that terrible event.

What we should also do to avoid these disastrous situations is have better preparation in our national parks and on Crown land to prevent fire. We encourage landowners every year to take precautions against fire, to be fire conscious and preventive by reducing the fuel loads. We need to do more of that on our own Crown land and in our parks to avoid the massive fires we have been experiencing over the last four to five years.

We talk about farmers and community people insuring against fire. I note that the government has just put up the fire services levy by another 2 per cent, which is a disincentive to insure. The tax is 49 per cent, and then you have to pay stamp duty on top of that and then GST on top of that. We have on our insurance policies in Victoria a tax on a tax on a tax, which is a disincentive to insure. Under this government it continues to rise. Just the other day it rose another 2 per cent.

What we should be focusing on is encouraging people to insure, not discouraging them. As the Crown land manager, the government should be taking greater care in the preparation for the fire season to make sure there is not the same amount of fuel there. Country people were once again frustrated by the recommendation in the Victorian Environmental Assessment Council report that we allow coarse woody debris to build up to 50 tonnes. What do we want to do? Cook the Murray River forests in the same way as we cooked the high country forests? I think it is time we woke up and started to manage our public land to avoid fire, not encourage fire. What the government takes it should give back, as the minister in the other place has said he will do.

Mr INGRAM (Gippsland East) — It is a pleasure to rise to speak on the Emergency Services Legislation Amendment Bill. There are a number of issues I would like to touch on, including the reasoned amendment that has been put forward. The majority of the provisions of the bill should be supported by all parties.

I understand the reasons for the reasoned amendment and indicate that I support the idea behind it because I have some concerns about the issue of water and requiring insurance companies to cover the cost. As members would probably be aware, that issue has come to the Environment and Natural Resources Committee. Whilst I will not speak about what is going on within that committee, the issue has been raised in many submissions and evidence that has been put forward. I suggest members have a look at some of the issues that have been put forward. The member for Narracan raised the issue in relation to one of his constituents who presented to the inquiry. I understand the reasons for it and support it.

There are a number of issues contained in the bill. One of them is road closures. As members would be aware, my area was significantly burnt in 2002–03 and again in 2006–07. We have had a lot of issues with road closures, and the local police have done a good job overall in managing them. It is a difficult situation. They do not necessarily have the powers they desire to close roads and stop people going into areas. If someone owns property in a fire area, the police do not necessarily have the power to detain them.

A number of issues have been raised, including trucks attempting to go up the Great Alpine Road during the 2002–03 fires and last summer's fires, which created a major problem. There are winding, narrow roads, and if a truck accident occurs and the only way in or out is closed, you could end up with a major disaster. We have the provisions in this bill because of some of the issues that have been raised, including an incident in western Victoria which was extremely tragic. It is important that this Parliament provide the police with the power to stop vehicles going in and out to avoid any ambiguity and future problems.

I would like to pick up some comments made by the member for Rodney and correct the record. He was incorrect when he talked about the fires at Wulgulmerang, Gelantipy and Black Mountain. Whilst it was a tragic situation — luckily no lives were lost in those 2002–03 fires — part of the problem arose because of the briefing given to CFA officers, which took place not at Buchan but at the Sykes's property at Gelantipy, which was not far from where the fire ended up going through. The information was not accurate in relation to where the fire was. There was a briefing in the morning, and they did not have time to get the fire crews back out to the properties before the fire front went through.

The disappointing thing is that a number of locals in that area went up to see for themselves where the fire was but did not report where the fire front was coming through. If that information had been reported back to the authorities, the situation of people not having fire trucks in their local area would not have occurred. Whilst I understand the disappointment of people having to deal with fire on their own — and I think everyone would acknowledge that it was not a good operation; it could have been done a lot better — there were a number of factors which led to that. I think that has been acknowledged by both the emergency services commissioner, Bruce Esplin, and others.

One of the other issues I raise is the need for accident safety zones imposing 40 kilometre-per-hour speed limits in and around areas where car accidents have occurred. This has been raised by the Country Fire Authority and the State Emergency Service. In the future we should create accident speed zones, because many emergency services volunteers, police and other professionals who work in accident areas are very concerned about the speed of approaching vehicles.

Whenever an accident occurs and an emergency vehicle is there with flashing lights, there should be a compulsory buffer of 100 metres or so to prevent anyone from travelling at speeds greater than 40 kilometres per hour. That would protect the volunteers and professional staff who operate in those areas and provide a much safer environment. It is common sense, but there are currently no laws to that effect. This suggestion should be considered by the government, and I have written to the minister about that.

I will support the reasoned amendment, but I will not vote against the bill, as I think many of its provisions are important.

Mrs VICTORIA (Bayswater) — I rise with some concerns about the Emergency Services Legislation Amendment Bill. As the member for Gippsland East has just pointed out, there is bipartisan support for many of the provisions in the bill. Unlike the member for Rodney, who has very good on-the-ground experience, I had to look at this type of legislation in quite a theoretical way. I have gone through it with some vigour, trying to find out what is good and what is bad.

I have to say that some of the provisions are terrific. The fact that the bill ensures that compensation is available to all volunteer emergency workers performing emergency response and recovery activities is terrific, as is the fact that the bill clarifies that all interstate and international firefighting units that come to Victoria to help us out during our bushfire season will be under the direct control of the Country Fire Authority (CFA) or the Metropolitan Fire Brigade (MFB) — whichever happens to be in charge of a particular incident.

The bill also places the equipment from other brigades — whether they be interstate or international — under the control of either the CFA or MFB. That is all very good. In the past we have had people from the United States of America, Canada and New Zealand come to help us fight fires, and it is important that they know who is boss when it comes to our type of circumstances, as our fires might be fought slightly differently, given the equipment we have here, from how they are fought in their home countries.

One of the things that worries me about this bill is that even though we have increased the maximum penalties for numerous fire-related offences and also created new offences, which is terrific — these offences include assaulting, resisting or delaying firefighters; obstructing officers or interfering with fire equipment; and wilfully causing a false fire report — the bill removes minimum sentencing.

At a time when the public is so vocal about its belief that sentencing is a good deterrent and its concern that sentencing does not reflect what the public wants and is in so many areas inadequate, this gives the public a perception that we are going soft. That worries me. Whilst I was doorknocking during the election campaign of 2006 many people brought up with me their belief that sentencing was inadequate in many areas. I am not sure what message the removal of legislated minimum penalties will send to the wider community.

The other thing that really worries me — and many of my colleagues have touched on this — is the fact that water will not be replaced when it is used.

Honourable members interjecting.

The ACTING SPEAKER (Ms Beattie) — Order! The members for Benalla and Yan Yean can go outside if they wish to discuss their issue further.

Mrs VICTORIA — Traditionally, if the CFA or MFB has taken water from a person's dam, the water was replaced. Now it is proposed that such a person would have to claim this on insurance. If you look at insurance claims, you see that once you make a claim, your policy premiums rise, and quite often a no-claim bonus is lost. Therefore the cost will be borne by the farmer or person who owns the dam.

One thing that really worries me is that the category under which a person is supposed to claim this loss is being called 'water damage'. That is fraud. Water damage is where a house is damaged because water has come from above, from a river or from flooding. Water theft is not water damage. Taking water is theft if the person whose water it is is not aware that it is being taken, as is the case with any asset.

We have heard from the member for Rodney that water is very much a tradeable asset. If an asset is taken without your consent, is that not theft? In that case, should it not be replaced in a way that is not at your cost or the cost of your insurance company? I find this unfair and unacceptable. I believe the reasoned amendment should suggest that the bill be thought through more clearly and that it be redrafted and clarified. The government should look at its obligations to pay for water used to fight fires. The government should either replace or adequately compensate people for the water, not expect them to claim compensation for it from their insurance companies.

With that in mind, I would like to say what a great job the fabulous CFA brigades in my area do. The Boronia and Bayswater brigades are the major fire brigades that help out when it comes to fires in the nearby areas of the Dandenongs and those sorts of areas. They do a brilliant job. We do not have much of a problem in my area with people taking water, but I feel for my country cousins. I worry about what they will have to do and whether they will be committing fraud by collecting on their insurance for water damage.

Given that a reasoned amendment has been put forward to redraft and clarify this situation, if that amendment is not accepted, I will oppose the bill.

Mr LANGUILLER (Derrimut) — I rise today to speak in support of the Emergency Services Legislation Amendment Bill 2007. From the outset I wish to commend the minister and indeed the parliamentary secretary for the good work done in relation to this piece of legislation. I wish to refer succinctly to the statement of compatibility that the minister and his department have provided. As you may know, Acting Speaker, I am a member of the Scrutiny of Acts and Regulations Committee, ably chaired by the member for Brunswick. We have the opportunity of going through most legislation, and I think this is one of the reports provided to the Parliament and the community which ought to be commended.

The second point I would like to refer to in passing in relation to this legislation concerns the provisions that are being made for the purpose of giving international firefighters the same controls and protection as Victorian firefighters. On that note it ought to be put on the record that on the occasions when we have needed the support and solidarity of other firefighters from a number of countries around the world, they have come and helped and supported us, in the same manner that our firefighters across all jurisdictions and bodies have done elsewhere in the world. So good on them.

The other matter which of course one needs to refer to is access to water. As you would know, Acting Speaker, the bill clarifies that the fire brigade may access and use water for the purpose of the function of their duties under the Country Fire Authority Act and the Metropolitan Fire Brigades Act. This is a point that has been raised by members of the government and indeed the opposition and The Nationals. One of them has referred to one issue for whatever political reason. I have worked with the member for Benalla and it surprises me that he picked on this subject in the manner that he did in his press release of Monday, 1 October 2007, which I wish to quote:

> Leader of The Nationals Peter Ryan and The Nationals spokesman for Police and Emergency Services Bill Sykes said new legislation to be debated in state Parliament would

> force land-holders to use their own insurance to claim water taken for firefighting purposes.

Further on the press release says:

> If private water supplies need to be accessed, the land-holders should be compensated, particularly in circumstances where the fire is occurring on public land …

The Parliamentary Secretary for Emergency Services, the member for Yan Yean, in her contribution to the debate was very plain and explained it very simply, because it appears that it needs to be explained simply so that members of the opposition can actually grasp and understand it. She referred the opposition parties to section 56 of the Metropolitan Fire Brigades Act 1915, which reads:

> Any damage to property caused by the Chief Officer or the deputy or assistant Chief Officer or any member of any brigade or by any brigade in the lawful execution of any power conferred by this Act shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged notwithstanding any clause or condition to the contrary in any such policy.

This is exactly what happens now; the act has not been changed. What actually happens — and I need to make this point very clearly — is that if the chief officer or acting chief officer needs to use water for the purpose of fighting fire, the chief officer or the acting chief officer or any other person responsible for that role will have to use that water, and it will be deemed to be used for the purpose of fighting fire. The act has not changed in any way, to my understanding. There is obviously a misinterpretation or a misunderstanding of this matter, because in fact nothing has been changed for the purpose of making anybody's life any worse than it has been so far.

The reality, as country members would know — I am not one, and I acknowledge that — is that water needs to be accessed for that purpose. The chief officer needs to have access to the water. If in fact that occurs — and I am told that it happens rarely, incidentally — and if any claims need to be made, then they are made, as they have always been made since the Metropolitan Fire Brigades Act of 1915 under section 56, which plainly states that the damage that may be caused to any property in terms of water may be deemed to be damage for the purpose of firefighting. Consequently if a claim needs to be made, it needs to be put against the insurance. That has always been the case; it has not changed under this act.

The amendment that has been moved, which would have the effect of starting all over again and resubmitting the legislation to this Parliament, is, with respect, a waste of time. The reality is that everyone has said that they support almost every clause in the proposed legislation. Members from the country would know much better than those of us in the city that the time has come for quick action. A number of members have indicated that we need to strengthen the powers of police so that, in terms of access, roads, blockades or whatever else, the police have the power to perform their work in assisting those who are fighting the fires. We are introducing provisions for the purpose of ensuring that international firefighters who come to Australia to help us in Victoria have the same standards and protection as everyone else.

Every one of the measures that have been introduced in this legislation is for the purpose of ensuring that we fight fires the best we can. So the amendment is wrong and the timing is worse. Procrastination is the last thing we need in Victoria now.

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

Business interrupted pursuant to standing orders.

ABSENCE OF MINISTER

The SPEAKER — Order! Before calling questions without notice I remind honourable members that the Attorney-General will be absent from question time. Questions to the Attorney-General and the Minister for Industrial Relations will be answered by the Minister for Police and Emergency Services, and questions relating to racing will be answered by the Minister for Gaming.

QUESTIONS WITHOUT NOTICE

Gaming: probity controls

Mr O'BRIEN (Malvern) — My question is to the Minister for Gaming. I refer the minister to his answer to my question on Tuesday, when he stated that the lotteries licence renewal process has no precedent in Victoria in terms of the extent of the probity controls on it. I also refer the minister to the fact that the probity auditor, Mr Geoff Walsh of Pitcher Partners, shared ownership of an expensive thoroughbred racehorse named Puzzles with a Mr A. G. Robinson. Is that not the minister?

Mr ROBINSON (Minister for Gaming) — I thank the member for Malvern for his question. Much as I am not sure how my racehorse interests relate to my position as the gaming minister, I am very happy to outline to the member for Malvern my interests in thoroughbreds.

I have never been the owner as such of that racehorse. That racehorse was retired some time ago; indeed I think that racehorse was retired early last year. I do not believe I ever met Mr Geoff Walsh. I did not know Mr Geoff Walsh as an owner of that racehorse. As I said, I am not an owner of that racehorse.

Mr O'Brien — Were you? Do you have an interest?

Mr ROBINSON — I have been asked if I was an owner of that racehorse. I was not an owner of that racehorse as such. In any event, I understand that that racehorse was retired. I think that racehorse went to stud last year, and am pleased to advise the house that I think that racehorse, a mare, had a yearling late last year or early this year. I am very happy to take any other questions that the member for Malvern might like to ask me about my racehorse interests.

Mr O'Brien interjected.

The SPEAKER — Order! This is not an opportunity for the minister and the member for Malvern to have a conversation across the chamber.

Mr ROBINSON — If the member for Malvern can find any part of any probity audit report or indeed the report of the very excellent independent review panel that refers to my racehorse ownership interests and my fondness for a punt, he is more than welcome to raise those with me.

Gaming: public lotteries licence

Mr DONNELLAN (Narre Warren North) — My question is for the Premier. Can the Premier update the house on the outcome of Victoria's first competitively tendered public lotteries licence?

Mr BRUMBY (Premier) — I thank the member for his question. Today the 54-year monopoly of the public lotteries licence came to an end in the state of Victoria. Last night the gaming committee of cabinet endorsed a decision on public lotteries licences that will run in Victoria for the next 10 years.

The decision made by cabinet followed a recommendation from the steering committee and from the Minister for Gaming and of course was overseen by a review process headed by retired Federal Court judge, Justice Ron Merkel. The review process for those licences began back in late 2004. The tender process itself commenced in late 2005. The considerations which the government took into account are obviously the public interest and also value for money.

From 1 July 2008 there will now be two licences for the delivery of lottery products in our state. Tattersall's will continue to run its very successful category 1 products. Members of the house will all be familiar with these: they are Saturday Lotto, Powerball, Oz Lotto, Super 66 and so on. And there will be a new entrant to the market, Intralot, which is established in 32 countries around the world. It has been awarded the licence to run the instant lotteries, or the scratchies, as they have become well known.

Today the report of Justice Merkel was tabled in the Parliament. In relation to the complete, overall process which the government put in place, Justice Merkel confirms the probity, the impartiality and the propriety of the tender process. If you look at the benefits of this decision for our state, there are, I think, three significant benefits.

Firstly, it provides best value for money for Victorian taxpayers. This is a 10-year lotteries licence agreement, and over the course of that 10-year period there will be total revenue to the state in excess of $3 billion. All of that money goes straight into the health system. It is a good economic return for the state, but it is an even better return for the health system.

Secondly, as I have said, it introduces competition into the industry for the first time in more than 50 years. On this side of the house, as we heard yesterday from the Minister for Energy and Resources, we have always supported competition, and we have seen more competition introduced into this process for the first time in 50 years. Thirdly, Victorians will continue to be able to access lottery products conveniently.

I would say finally in relation to the decision that the report by Justice Merkel, which, as I have said, was tabled this morning in the Parliament, does confirm the probity, the impartiality and the propriety of the process. The panel found no evidence to substantiate opposition claims of interference in the process by lobbyists, although Justice Merkel's report does raise legitimate questions, which the government will examine, in relation to the role of lobbyists going forward.

The government is obviously examining those matters. We are looking at all the recommendations made by Justice Merkel, and we will be responding to them before the end of the year. But it is clear beyond doubt from the Merkel report that many of the wild, inaccurate and unsubstantiated claims which have been made by the opposition have not been substantiated in any way, shape or form.

The government has made that decision. I want to thank and compliment the Minister for Gaming for the work he has put into this licensing process and for his recommendation.

Wimmera River: environmental flows

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Water. Given that the government is withholding 10 billion litres of environmental flows to the Thomson River to help preserve Melbourne's gardens, will the minister suspend environmental flows in the Wimmera River to honour the government's promise that life-preserving stock and domestic water will be supplied to families within the Grampians-Wimmera-Mallee system?

Mr HOLDING (Minister for Water) — I thank the Leader of The Nationals for his question. The first point I make goes to the constant claims that the Leader of The Nationals makes about the level of water restrictions that exist in Melbourne and the uses to which Melbourne's water is being put. In relation to environmental flows to the Thomson and the environmental flows to the Yarra, the Leader of The Nationals claimed in this place on Tuesday that that water was being withheld so that Melbourne's lawns could be watered. That is exactly what he said — 'in favour of watering Melbourne's lawns'.

The facts are these. Since 1 November last year there has been no general capacity for Melburnians to water their lawns — that is, since the imposition of stage 2 water restrictions. The Leader of The Nationals comes into this place and expects to have credibility commenting on issues about the prevailing levels of water restrictions when in fact the information and the assumption that underpinned the question that he asked on Tuesday were totally baseless.

Mr Ryan — Answer the question.

Mr HOLDING — The question the Leader of The Nationals asked today tries to draw a link between the environmental flows in relation to the Thomson River and environmental flows in relation to the system in the Murray.

Mr Ryan — The Wimmera.

Mr HOLDING — The Wimmera River, not the Murray?

Mr Ryan — We said the Wimmera.

Mr HOLDING — Okay. The prevailing conditions that exist in relation to the river systems across Victoria are monitored closely by catchment management authorities, and on the advice of those authorities the Minister for Environment and Climate Change in the other house is able to make judgements about where environmental flows ought to be continued and where they ought to be qualified in some way. Those judgements are made based on soundly founded environmental advice as to what the prevailing environmental flows should be in a particular situation.

Mr Walsh interjected.

Mr HOLDING — The member for Swan Hill interjects. Let me make this clear: we accept at the moment that in a situation where there has been a prolonged period of drought and at the same time a situation where there have been record low inflows into our water systems, it is very important to manage environmental flows so that irrigators' allocations and stock and domestic needs for particular farming communities are able to be met. These are an important set of balances that need to be taken into account, and the judgements we make reflect those balances.

The assumptions that underlie the claims made by the Leader of The Nationals continue to be unfounded, continue to be inaccurate and continue to be based on a baseless sense of what Victoria's water needs are.

Gaming: public lotteries licence

Mr NARDELLA (Melton) — My question is to the Minister for Gaming. I refer the minister to earlier claims that the government's commitment to an open and transparent reporting process on the public lotteries licence would not be met. I ask the minister to advise the house how today's announcement by the government responds to those claims.

Mr ROBINSON (Minister for Gaming) — I appreciate the question from the member for Melton on what has been a very important announcement. The announcement made today in relation to the awarding of lottery licences is a very significant announcement, firstly because it delivers for Victorian taxpayers nothing short of a fantastic outcome. It is a fantastic outcome, because over the next 10 years estimated revenue of some $3 billion-plus will come back to the state for the purposes of our hospitals and health services. I think all members in this place will think that is a tremendous outcome.

The announcement is also important because it was accompanied this morning by the report of the independent review panel, chaired by the very eminent lawyer, Mr Ron Merkel, QC. That report is important

because it addresses a number of wild and irresponsible claims that have been made about the role of that panel and about the integrity of its work. The panel's report was fearless and forthright, and in unequivocal terms it has concluded that fairness and impartiality were afforded to the bidders.

The member asked me how the panel's report addresses claims about the panel that have been made over previous months. I want to say the report very much destroys totally the claims that have been made about its ineffectiveness. For example, there were claims that continued over the last few months that this was indeed an improper tender process. Nothing could be further from the truth, because the conclusions of the panel include this:

> … there is no evidence —

no evidence! —

> of any improper interference with the making of a recommendation or a report …

So that claim is totally wrong.

It was also claimed that the independent review panel was a sham. That is a disgraceful claim to have made. Anyone reading this report, which was produced by Mr Ron Merkel, QC, would be offended by such a claim. It is an outstanding report. It has been claimed that this report would not be published until after the licences were awarded. Clearly that claim is totally wrong, because the report was tabled here this morning in Parliament before the announcement was made at the press conference and before the report was made publicly available.

It was claimed that this report would be 'censored to within an inch of its life'. I can assure the house that this claim as well is totally wrong and that the report has been tabled in this Parliament, in this house, complete and unedited down to the last word, the last vowel, the last consonant and the last apostrophe.

It has been claimed that there would be no access to documents for the independent review panel, and again this is totally wrong. The panel's report includes the finding that no information requested by the panel was withheld. One might ask who it would be that is making these outrageous, spurious claims. Who would it be? It is none other than the member for Malvern. We have to say, on the production of this report, that even a cursory examination of it shows that the member for Malvern was wrong, wrong, wrong and wrong.

But there is one claim on which I am sure I actually find myself in agreement with the member for Malvern — that is, he has constantly referred to the need for processes like this to emphasise probity and the security of documents. I agree with him; I actually think that is an important element. I know that he, like me and every other member, will be very disturbed to read in the independent review panel's report at page 74 that a breach of confidentiality:

> … arose out of questions by the Leader of the Opposition.

Speaker, I will just repeat that in case members did not hear.

Honourable members interjecting.

Mr ROBINSON — The section that deals with confidentiality breaches includes this comment that a breach:

> … arose out of questions by the Leader of the Opposition —

here in Parliament. Unfortunately the Leader of the Opposition finds himself in a difficult position — that is, that rather than being part of the solution, he is in fact part of the problem. I know that the member for Malvern will seek to counsel his leader at some stage.

The SPEAKER — Order! The minister should refer his comments to the report.

Mr ROBINSON — I will conclude by saying that the government's decision to establish the independent review panel was the right decision. It was without doubt the right decision, and I would like to commend the former minister for his work in establishing the panel. This panel report puts the claims by the opposition absolutely to the cross. These are nothing but spurious and offensive claims, and they have been proven to be without foundation.

In closing I would like to congratulate Mr Ron Merkel, QC, for his work. He has done an outstanding job. His report demonstrates exceptional judgement, and I think that is a lot more than can be said about at least one other lawyer in this place.

Gaming: probity controls

Mr O'BRIEN (Malvern) — My question is to the Minister for Gaming. I refer to the minister's previous answer, when he denied ever having had any ownership of a horse called Puzzles, which is also owned by the lotteries licence probity auditor Mr Geoff Walsh of Pitcher Partners. I refer the minister to a document from Racing Information Services Australia Pty Ltd which lists for Puzzles 'owners details (updated nightly)'. It has four owners, two of whom are Mr G. E. Walsh and Mr A. G. Robinson. I ask the minister: why has he

denied his interest in this horse, and why is he covering up?

Mr ROBINSON (Minister for Gaming) — I thank the member for Malvern for his question. It is fascinating that on a day when we have had the release of the independent review panel's report talking about the lotteries licence — something the opposition has been interested in for a long time — the member for Malvern chooses to ask me about racehorse interests.

Let me explain. The horse Puzzles has very good breeding. It would now be a five-year-old mare and was by the boom sire Redoute's Choice. I would love to think that I could own a Redoute's Choice horse. Speaker, if I could own a Redoute's Choice horse, I do not think I would be standing here in Parliament. I would be finding a lot better things to do with my life!

At a fundraising function for a local charity some years ago, the charity being Taralye — I think some of the ministers here would know that it is an organisation in Blackburn that does world best practice work with children suffering from hearing loss — an opportunity arose for a number of people to make a contribution to that charity and in exchange have a slice of the proceeds of any winnings of that horse directed back to that charity. I, along with a number of other people — —

Honourable members interjecting.

The SPEAKER — Order! I ask the minister to resume his seat. The level of interjection is far too high. The level of disrespect to the Chair is even higher.

Mr ROBINSON — Taralye is an excellent charity. I want members to know that I had high hopes for that horse. I thought that the contribution I had made to that charity would result in a very large sum of money going back to that charity through winnings. Sadly I was wrong. I have to confess to the house that my ambition and judgement got the better of me. For the outlay I made of several hundred dollars — which went to the charity — the charity received in exchange through winnings a sum of about $38.04.

Mr O'Brien interjected.

The SPEAKER — Order! The member for Malvern!

Mr ROBINSON — At no time was I involved in the breeding of that horse, and at no time have I exercised any control over that horse. It would seem that what the member is referring to is the way in which the racing industry maintains interest. At the time I made that contribution — —

Mr Wells interjected.

The SPEAKER — Order! I warn the member for Scoresby. The minister will have his answer heard in silence.

Mr ROBINSON — At the time I made that contribution I did the right thing and reported it in the register of members interests. There has been no — —

Honourable members interjecting.

Mr ROBINSON — If I understand the contention — —

Mr Hodgett interjected.

The SPEAKER — Order! I warn the member for Kilsyth. The minister is answering the question. He will be heard in silence. The next member on either side of the house whom I need to call will be asked to leave the chamber.

Mr ROBINSON — Suffice it to say that the member is contending that I had some sort of active, ongoing interest in or ownership of this horse. I can assure him that I would have liked nothing more than to have been able to go down to John Hawkes's stables there at Flemington and say, 'I would like to see my horse, and I would like to start making decisions about what happens to it'. I would have been given short shrift!

Just to close, let me say again that the member has made reference to Mr Geoff Walsh, the racehorse owner.

Mrs Victoria interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! Under standing order 124, I ask the member for Bayswater to leave the chamber for 20 minutes.

Honourable member for Bayswater withdrew from chamber.

Questions resumed.

Mr ROBINSON (Minister for Gaming) — I met Mr Geoff Walsh, from the probity auditors, not the chief of staff — he does not want to get those mixed up again — —

Ms Asher interjected.

Mr ROBINSON — He does now, does he? That's good. A few weeks ago he didn't.

The SPEAKER — Order! The minister is not helping.

Mr ROBINSON — I met Mr Geoff Walsh for the first time some weeks ago when I came to the office of the Minister for Gaming, and my dealings with Mr Walsh have been exclusively in relation to his role as probity auditor.

Mr Mulder interjected.

The SPEAKER — Order! I ask the member for Polwarth for his cooperation.

Roads: funding

Ms MARSHALL (Forest Hill) — Now for a real issue and a real question.

Honourable members interjecting.

Ms MARSHALL — Wasting more time.

The SPEAKER — Order! The member for Forest Hill, without controversy and editorialising.

Ms MARSHALL — My question is to the Minister for Roads and Ports. Can the minister update the house on the government's efforts to secure an appropriate level of national network road funding for Victoria?

Mr PALLAS (Minister for Roads and Ports) — I thank the member for Forest Hill for her question and for her continuing interest in making sure that Victoria has premium road and transport networking connections. AusLink is supposed to be about decisions made in the best interests of growing the national economy. That is a principle that this government supports. It is necessarily about making sure that we can identify the sorts of transport connections that grow the national economy. But of course under AusLink 1 Victoria was ripped off. We got 16.5 per cent of the total allocation under AusLink 1, yet we have 25 per cent or thereabouts of the national gross domestic product, we have 25 per cent of the freight task of the nation, and we make 25 per cent of the contributions to fuel tax. Unfortunately we essentially fell short of our 25 per cent entitlement — an entitlement that the opposition, when previously in government, actually supported as a fair share. It seems to have selective amnesia nowadays. That $1.27 billion shortfall translates into $361 out of the pocket of every Victorian motorist.

What that means now, given recent announcements by the federal government in terms of future allocations under AusLink 2, is that out of the $16.8 billion available under the national network funding, $4.85 billion has already been announced and allocated to Queensland, but nothing for Victoria. Some $2.4 billion has been allocated to New South Wales, but nothing for Victoria. Some $1 billion has been allocated to South Australia, but nothing for Victoria.

The Australian Automobile Association recently put out a report that said that for every dollar spent on roads there is a $5 return to the national economy. Victoria has a strategic vision as a government, and it has sought to engage the federal government around that vision. As part of our National Transport Links — Growing Victoria's Economy strategy we have identified 30 strategic projects that will actually grow this nation's economy in the freight and logistics hub of the nation. But what have we heard back from the federal government? Nothing.

This government has been prepared to say, 'If we get a fair share of the funding, the state government will make a contribution of 25 per cent'. Not one other state has made that commitment — not one other state! There is nothing fair about this process. To give you an illustration — —

Dr Napthine interjected.

The SPEAKER — Order! The member for South-West Coast!

Mr PALLAS — When the Deputy Prime Minister outlined the creation of AusLink 2, he made a number of observations. The first one he made was that the federal government would expect state governments to make a contribution towards road projects identified under the national network funding. So far he has identified $2.4 billion funding for the Princes Highway, but the New South Wales government has said it cannot and will not contribute, and there has been no requirement for that funding to be conditional upon a contribution. Some $2.3 billion has been identified for the Goodna bypass, but once again the Queensland government has refused to commit, and the federal government has not made it a condition of allocation. And $2.8 billion has been identified for the Bruce Highway, but once again there is no requirement to match the funds.

Additionally the federal government has said that it will not extend the national network corridor any further. This is a critical issue to Victorians, because there is only one ask that we have made in respect of this state

in terms of growing the AusLink corridors and network — one that The Nationals I am sure will support us on — and that is extending the national network to Princes Highway West. Of course the federal government has said it will not do it, and it has refused to do it so far as Victoria is concerned. But that rule does not apply when you look at other roads being funded under the national network funding that the federal government has recently identified. For example, for South Road in Adelaide $1 billion has been included as an addition to the AusLink network.

More ridiculously, only 12 months ago the federal government rejected joining with the Tasmanian government on a fifty-fifty basis for the Kingston bypass in Tasmania, but it is now offering to pay for the lot. It was rejected in the first place because it was off corridor, but that does not matter anymore. Does it matter to the people of Princes Highway West? It sure does. Basically that government is stuffing the doughnuts down the mouths of federal marginal seats and Victoria is being fed the hole. Essentially the federal government should stop paving roads in marginal seats with gold and invest in Victoria's infrastructure. Victoria is the nation's freight and logistic hub. Quite frankly, a grave injustice is about to be done to this state unless the opposition joins with us, because this is tantamount to an injustice to this state.

Gaming: probity controls

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. When did the Premier first become aware that the Minister for Gaming shared ownership of an expensive — —

Honourable members interjecting.

Mr BAILLIEU — I ask again: when did the Premier first become aware that the Minister for Gaming shared ownership of an expensive thoroughbred racehorse with the lotteries — —

Honourable members interjecting.

The SPEAKER — Order! Government members are not helping this afternoon at all. The Leader of the Opposition has been given the call to ask a question; he will be heard in silence.

Mr BAILLIEU — Speaker, I will ask the question again. When did the Premier first become — —

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! Under standing order 124, I ask the member for Narre Warren North to leave the chamber for 20 minutes.

Honourable member for Narre Warren North withdrew from chamber.

Questions resumed.

Mr BAILLIEU (Leader of the Opposition) — When did the Premier first become aware that the Minister for Gaming shared ownership of an expensive thoroughbred racehorse with the lotteries licensing probity auditor, and what action did he take?

Mr BRUMBY (Premier) — This is a good example where the opposition needs a bit of flexibility in question time. It needs a plan B. The Minister for Gaming was asked two questions in relation to this matter and I thought answered both succinctly and comprehensively.

Honourable members interjecting.

Mr BRUMBY — We have seen throughout this tender process a continual number of claims made by the opposition about ministers, about public servants, about former premiers — —

Mr R. Smith interjected.

The SPEAKER — Order! I warn the member for Warrandyte.

Mr BRUMBY — We have seen throughout this process a whole series of wild, outrageous, dishonest and untruthful claims made by the Leader of the Opposition — —

The SPEAKER — Order! I bring the Premier back to the question, which was specifically about the ownership by the Minister for Gaming of the racehorse. I do not believe there was any mention in the question of the probity audit.

Mr BRUMBY — The Leader of the Opposition is making an allegation in his question about a tendering process. Let us be clear about the question that has been asked. The question goes to the integrity of a process which has been overseen by Ron Merkel; that is what the question is about.

The SPEAKER — Order! The Premier may wish to interpret the question other than as it was stated, but I bring the Premier back to the question, which was quite specific and did not concern the probity audit.

Mr BRUMBY — The Minister for Gaming has been asked two questions on this matter today and has answered them succinctly and comprehensively, and he has indicated to the house the complete spuriousness and fallaciousness of this question. It is a completely fallacious question.

Mr Baillieu — On a point of order, Speaker, seemingly, as he always does, the Premier is debating the question. It is a very simple question: when was he made aware, and what action did he take?

Mr Batchelor — On the point of order, Speaker, the original question related to ownership and to the probity auditor, Mr Walsh. That was the text of the original question, and it should be within the scope of the answer the Premier gives in answering that question.

Dr Napthine — On the point of order, Speaker, the question is very simple. It asks the Premier when was he advised, when did he first become aware — —

The SPEAKER — Order! The member for South-West Coast knows better than to repeat the question in taking the point of order.

Dr Napthine — The point I am trying to make is that the question is direct and simple in terms of the timing of when the Premier knew and what action he took. That is the question, and that is the question he should be answering.

The SPEAKER — Order! I uphold the point of order and ask the Premier to relate his answer to the question.

Mr BRUMBY — The Minister for Gaming today has indicated in the house that at a fundraising event for Taralye, which is a school for deaf children, he contributed to a fundraising event for a charity and declared that interest in his pecuniary interests register, full stop.

Honourable members interjecting.

The SPEAKER — Order! I understand that the member for Polwarth is seeking the call for a point of order.

Mr Mulder — On a point of order — —

The SPEAKER — Order! I understand the member is seeking the call for a point of order. The member for Clayton was on his feet, waiting for the call for the next question, and I was waiting for the house to quieten before calling the member for Clayton. I will call the member for Clayton, and the member for Polwarth will have the call for his point of order at the end of this question.

Tertiary education and training: student places

Mr LIM (Clayton) — My question is for the Minister for Skills and Workforce Participation. I refer the minister to recent research by Monash University's Centre for the Economics of Education and Training suggesting that Victoria will experience a growing skills crisis over the next 15 years, with a net shortfall of almost 50 000 higher education graduates by 2022, and I ask: what impact will this have on the Victorian economy?

Ms ALLAN (Minister for Skills and Workforce Participation) — I thank the member for Clayton for his question. As the house has heard many times previously, education and training are and continue to be the no. 1 priority of the Victorian government. Access to higher education — to university education — for Victorians who want it and for Victorian industries that need those skills now and into the future is of crucial importance to the Victorian government.

Unfortunately, despite the importance of this issue to Victoria's economy, it continues to be neglected and underfunded by the federal Liberal government. As the member for Clayton has stated, Monash University's Centre for the Economics of Education and Training has just completed a report on the number of higher education graduates the Victorian economy will need into the future. This report has found that Victoria is not receiving enough university places to meet the needs of Victorian industry, and it projects a shortfall of almost 50 000 higher education graduates over the next 15 years.

The Brumby and Bracks governments have worked very hard over the past eight years. We have invested more than $7.3 billion in education and training. What has happened with this investment is that it has resulted in more young people completing year 12 than ever before. Victoria actually has the highest year 12 completion rate of any Australian state. We are doing our bit in Victoria to build the highly skilled workforce we need to drive the future economic growth of this state by making more young Victorians eligible for university. However, they are having that door into university slammed shut in their faces by the federal government, which is not holding up its end of the deal.

Earlier this year we had the release of annual university places, and this year alone we saw that more than 10 000 eligible Victorians missed out on their dream of

a university education. Yet this latest report that has been released by Monash University shows us that industry will be screaming out for more higher education graduates, to the tune of an additional 9000 people a year between now and 2022.

Earlier today we saw the release of some more great news for the Victorian economy, with our unemployment rate now at a record low 4.2 per cent. That is the lowest on record, and we have seen the creation of 59 800 new jobs in Victoria — —

Mr Wells interjected.

The SPEAKER — Order! The member for Scoresby!

Ms Asher interjected.

The SPEAKER — Order! The Deputy Leader of the Opposition!

Ms ALLAN — I know we are not to respond to interjections, Speaker, but — —

The SPEAKER — Order! The minister will ignore interjections.

Ms ALLAN — The matter has been raised: what about Queensland and Western Australia? With the jobs that have been created to date, there are more new jobs in Victoria than in any other state in Australia, with 59 800 jobs created here in Victoria. The good news keeps on rolling in in Victoria, whether it is the population growth — we are growing at the fastest rate since 1972 — or that we have the highest building approvals of any Australian state. But the Victorian government wants to keep this going. We need the right people with the right sets of skills, and re-electing John Howard is not going to provide them, because the federal government continues to ignore the needs of Victoria's economy. We will not get the right people with the skills, because the federal Liberal government will not wake up, will not listen to reports such as this one that has been released and will not support the needs of Victorian students and Victoria's economy.

What has been the response to date from the federal government? It has been to shoot the messenger. It has not been to listen on the issue and address the issue, which is its responsibility. The response has been to shoot the messenger and accuse me of scaremongering — of all things — whenever I have stood up for Victoria in calling for more places. The evidence is now in. I will be sending a copy of this report to the federal education minister in the hope that she reads it and that she recognises that it is her government that is failing Victoria's young people and undermining the great efforts of the Brumby government to continue to build to make Victoria the best place to live, to work, to learn and to raise a family.

Mr Mulder — On a point of order, Speaker, I refer to discussion in the house yesterday in relation to the fact that questions should be factual. The question put by the Leader of the Opposition — —

Honourable members interjecting.

Mr Mulder — Questions and answers should be factual. The question put by the Leader of the Opposition to the Premier referred to the ownership of a thoroughbred racehorse. In his answer, the Premier referred to the member's interest. The simple fact is that the racing industry records ownership details on registration forms for horses. The Minister for Gaming knows this very well and he has denied ownership.

The SPEAKER — Order! The member for Polwarth is correct. There were a number of points of order made yesterday which I have accepted I will refer back to this house, but one of the things that clearly shows from yesterday's question time is the number of frivolous points of order that are being taken, and I believe that the member for Polwarth is guilty of doing just that.

Water: north–south pipeline

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Agriculture. I refer to a comment in the *High Country Times* on 20 June this year from former Central Highland Upper House MP, Robert Mitchell, when he said:

> Only Labor's policy has ruled out sending our water to Melbourne to overcome any water shortage concerns.

I also refer to a quote attributed to Mr Mitchell in the *Benalla Ensign* on 8 November 2006 reaffirming his opposition to the transfer of water from north of the Great Dividing Range to Melbourne, and I quote:

> Provincial cities, farmers and everyone else will be forced to compete against Melbourne for water they need just to live or earn a living.

And I ask: given that Mr Mitchell is a Labor candidate at the upcoming federal election and is a senior adviser to the Minister for Agriculture, what advice has Mr Mitchell provided to the minister in relation to the north–south pipeline and is it consistent with his publicly stated views, or has he, like the minister, sold out the communities of northern Victorian on this critical issue?

Mr HELPER (Minister for Agriculture) — I thank the Leader of The Nationals for his question. Robert Mitchell is a senior adviser, as the Leader of The Nationals indicated. He was a very good member of Parliament in this Parliament, and he will be a very good representative of the people of McEwen after the federal election. I look forward to that occurring, because then the people of McEwen will be represented by a decent federal member.

In answer to the Leader of The Nationals question, I will stand by my views on the north–south pipe proposal and project, and my current staff member, Robert Mitchell, will stand by his comments on the north–south pipe.

Dr Napthine interjected.

Mr HELPER — I did not indicate that at all.

The SPEAKER — Order! The minister should ignore interjections, which are disorderly. I ask the member for South-West Coast for some cooperation.

Mr HELPER — If I can suggest to the Leader of The Nationals that the water minister will, of course, have an adviser who advises on water issues. The agriculture minister does not have a direct adviser on water matters. The advice that Rob Mitchell — —

Ms Asher interjected.

Mr HELPER — The advice that I receive from Robert Mitchell is advice that I respect.

Honourable members interjecting.

Mr Ryan — On a point of order, Speaker, on a point of clarification, is the minister asserting that the Minister for Agriculture has no interest in matters to do with water?

The SPEAKER — Order! That is not a point of order.

Mr HELPER — In conclusion, I certainly respect the advice I receive from Robert Mitchell. If I can come back and commence to respond to the question, I very much look forward to the people of McEwen being represented in the federal Parliament by somebody who has an empathy for those people and has an understanding of issues, although of course I will be very sad to see him leave my staff if he is elected to the federal Parliament.

Health: funding

Mr LANGUILLER (Derrimut) — My question is to the Minister for Health. Can the minister outline to the house what measures the Victorian government is taking to meet the health needs of Victorians and the challenges faced?

Mr ANDREWS (Minister for Health) — I thank the honourable member for Derrimut for his question. He asked me about challenges in relation to our health system, and it is important to be frank and up-front about the fact that with an ageing community and with a community increasingly gripped by chronic disease, we face substantial challenges to meet the needs of today and to provide for the health circumstances that will confront us in the years to come.

There were two important reports launched last week. Firstly, I released the *Your Hospitals* report on Thursday last week. What that report showed was that the Victorian health system is treating record numbers of patients with record levels of funding provided by this government. The report showed that against the nine targets we set ourselves, we either met our target, maintained our performance or improved our performance in eight of those nine areas — all while treating more patients than we have ever treated and all while we face record pressures in our public hospital system here in Victoria.

But in terms of building a better future and meeting those challenges, we as a government are committed to more funding, to new models of care, to doing things differently, to improving outcomes for patients right across our health system and to dealing with those issues of ageing, chronic illness and the many other factors that present us with great challenges.

That is why, just as one example, we have invested since 2001 some $200 million in the hospital admission risk program — an important program to divert patients and to make sure that where a hospital admission can be avoided, it is in fact avoided. It is about the right care at the right time in the right place. That is an award-winning program — a program, as I said, where our government has provided real leadership, with more than $200 million in extra funding since 2001. That program alone benefited 30 000 Victorians just last year. We will continue to provide leadership, to provide funding, to drive change and to deliver new models of care, because that is about meeting the challenges of the future.

I was asked about challenges, and I mentioned that there were two reports. More funding and meeting the

challenges of the future brings me to the second report. That was a report issued by the Australian Institute of Health and Welfare last week. What that report showed last Friday was that, whilst our government and state governments right across Australia have been increasing their effort — in our case a 96 per cent increase since 1999 — we have had a situation where the commonwealth government has seen its share of public hospital funding actually decrease from 45 per cent to 41 per cent. So over 10 years, while state governments like ours have been in there giving our health and hospital services the resources they need to treat more patients and provide better care, the federal Liberal-National government has seen the proportion that it puts into our public hospitals actually decline from 45 per cent to 41 per cent.

Mrs Shardey interjected.

Mr ANDREWS — It is not just me saying this; it not just me claiming that those in Canberra, those so close to those opposite, are not giving us a fair deal. The Victorian Australian Medical Association, for instance, said:

> The minister

that is, me —

> is right to point out that the share of federal government funding for hospitals has fallen …
>
> The federal government needs to lift its effort on public hospital funding.

That is what the Victorian AMA — not me — said to support the views put by the Australian Institute of Health and Welfare.

Honourable members interjecting.

Mr ANDREWS — But it is not just me and the AMA. There are many other interesting comments made about these matters, and I will share one with the house:

> One of the reasons why we are having to spend more on public hospitals is because they are having to do more as our population ages.

A very sensible comment; I could not agree more.

> States to their credit have been spending more faster than we have.

What an absolutely sensible set of comments. Who might have made those comments?

An honourable member interjected.

Mr ANDREWS — No — good guess. It is no-one here, Speaker. It was none other than Tony Abbott.

You have got the AMA, you have got the Australian Institute of Health and Welfare, and you could have got the federal health minister himself acknowledging that there is more to be done, that the states are doing their important work but that the commonwealth is lagging behind. What we need is a proper health partnership. We need funding based on burden-of-disease data, not the commonwealth electoral pendulum. We need funding from a true and proper partnership — a fifty-fifty partnership. Good health policy is the key to good health outcomes, not bad health politics.

EMERGENCY SERVICES LEGISLATION AMENDMENT BILL

Second reading

Debate resumed.

Mr WELLS (Scoresby) — I rise to join the debate on the Emergency Services Legislation Amendment Bill. I want to make a few comments about the fire service levy, but before I do so I will refer to parts of the emergency services bill which provide that interstate and international firefighters who come to Victoria will come under the control of either the CFA (Country Fire Authority) or the MFB (Metropolitan Fire Brigade).

I still do not understand why the government is removing the minimum legislative penalties for fire-related offences. If there is a crime committed, it seems to be typical of the government to have a knee-jerk reaction. It says it is going to fix a problem. It introduces legislation, but then it seems like the government does not follow through on the issue. I am not sure whether that is due to a matter of principle or the government being just soft on crime.

The fire service levy is the revenue stream that is required to raise funds for the two firefighting services, being the CFA and the MFB. The CFA receives a contribution; 77.5 per cent of it comes from the fire service levy and 22.5 per cent of it is provided by the state government. The MFB receives a contribution; 75 per cent of it comes from the fire service levy, 12.5 per cent is made up by the state government and 12.5 per cent comes from local government. There is much debate about the fairness and equity of the fire service levy. Here is the issue: if people are paying house insurance, then part of that money goes to the fire service levy, but how do other people, who do not

insure their houses, contribute to paying the fire service levy? This is part of the issue that should be dealt with on another day.

I well remember August 2005 when the government brought in a harebrained idea about setting an amount for deductibles. If you had $10 000 worth of deductibles or more in terms of fire insurance, then you would be deemed not to be covered and you would have to pay another fee. I remember at that time a bill came into the house concerning the Victoria State Emergency Service levy. There was a fantastic piece of legislation that involved the SES becoming an independent statutory body; but then the government put the fire service levy into that same bill. That did not make any sense. While the Liberal Party strongly supported the SES part of that bill, we had real problems with the part of the bill that dealt with the fire service levy. At that time we explained to the Labor Party that it simply would not work, and part of the reason for that was that the Labor Party could not explain through regulation how the system was going to work.

Even though there were briefings regarding the fire service levy and the fact that people would not be making a contribution to the fire service levy if they had deductibles valued at $10 000 or more, the government could not explain to us how it was going to implement the legislation. During my contribution to the debate on that particular bill I said:

> The measures do nothing with regard to equity issues concerning the self-insured or offshore insured companies. The actual calculation formulas for all insurers and the contributions to [the] fire services levy are yet to be determined …

When we had a briefing on that bill we asked the government for an explanation as to whether it was going to introduce regulation or legislation. We asked the government to explain how this new system was going to work. We find out two years later that the government had absolutely no idea about how it was going to implement this issue. The government could not explain it to the business communities. When people received their fire insurance bills, they did not understand them. At the time the then shadow Treasurer, the member for Box Hill, was reported as saying:

> What you are trying to achieve by using this formula is to say, 'Forget what the industry practice is. Assuming the industry insured everything down to $10 000, what would the premium be?'. How on earth do you calculate that?

The member for Box Hill was exactly right. The Liberal Party explained that it had very serious concerns about the issue. Once again Labor did not listen. It thought that it had the legislation right; two years later the legislation is back here and we are trying to fix it up. There will be further speakers on this bill. We just hope that this time the government can get the fire service levy right for those who have deductibles of $10 000 or more.

Mr NORTHE (Morwell) — It gives me pleasure to speak on the Emergency Services Legislation Amendment Bill 2007. I concur with the reasoned amendment of The Nationals put forward by the member for Benalla. It is well supported by the Liberal Party, too.

Obviously a part of the purpose of the bill is to amend the Country Fire Authority Act 1958, the Emergency Management Act 1986, the Metropolitan Fire Brigades Act 1958 and the Victoria State Emergency Service Act 2005. It will improve the coordination and the delivery of fire response services and other emergency response services. There are a number of key aspects of the bill, which I will not go into at the moment. I think it is important to recognise our emergency service volunteers and workers who obviously contribute so much to Victoria and Australia. I certainly concur with those thoughts. Last Friday evening I attended a presentation at the Morwell Urban Fire Brigade and was certainly enlightened about some of the difficulties Country Fire Authority (CFA) volunteers and service personnel experience.

Whilst we have moved a reasoned amendment, there are certainly some positive aspects to the bill. The second-reading speech says the bill will provide better protection for volunteers and emergency workers. It certainly enables State Emergency Service volunteers a bit more leeway in terms of injury compensation — that is, they no longer need to go through a stressful court process to have their compensation entitlements determined by a court, which is a very positive move. Also, there is some rhetoric in there in relation to better protection being provided for international and interstate firefighting units coming to Victoria, which is important. That was indicated as necessary last year during the 2006 bushfires when some New Zealand firefighters suffered injuries while helping Victorian firefighting efforts.

I want to raise a couple of points about the second-reading speech which have caused some concern not only for CFA volunteers but also for landowners. The first of those is under the heading of 'Directing movement at fire scenes'. Whilst I am sure the intent of the government is quite noble, in a

practical sense it may be quite different. I will quote from the second-reading speech:

> The fire brigades are the experts at understanding and predicting fire behaviour, weather conditions, and safety risk posed to persons near the scene of a fire. The bill clarifies and extends the powers of the chief officers of the CFA and MFB to close roads and direct traffic on roads affected, or likely to be affected, by fire or smoke from a fire, where it is necessary to do so to protect safety. The chief officers may also direct persons in the vicinity of the fire to leave the area by the safest and shortest route.

While, as I said, the intent is okay, we are concerned about the greater stress on the CFA and its volunteers, how that will be set up, who will be at the road blocks directing people, whether they have the correct skills to be able to direct people away from the danger of a fire, and so forth. Certainly from my conversations with CFA volunteers I understand one of the concerns is the workload they currently have to shoulder in training and the like. One of the problems we have, as I said, is the retention of volunteers within the CFA and emergency services. Unfortunately that number has declined over time.

One of the things that I want to mention about the retention of volunteers is that the government, in the lead-up to the 2006 election — and true to its policy — said that volunteers were eligible to receive free entry into Victoria's national parks. In June this year I sent a letter to the minister about this issue and asked when that promise would be applicable. I still have not heard a response from the minister. It is quite disappointing that that has occurred, because a reduction in the number of volunteers is something we cannot afford in Victoria. The Nationals proposal to look at the payment of personal vehicle registration and compulsory third party insurance is certainly something I advocate for today.

Something that has been talked about quite heatedly in the chamber is the component in the bill dealing with access to water. The key component is along the lines of the CFA and the like being able to access water from people's dams and wells for firefighting purposes. It is not so much that that is the case; I guess it is the aftermath of that — that is, the landowners having to claim that against their personal insurance policy and the implications that follow from that.

Whilst we have seen that there have probably not been a great number of claims over time, there is no doubt that farmers face the prospect of having an excess imposed on their insurance policies and that they will be paying increased insurance premiums as a consequence. We know that water is a valuable commodity at the moment. With the aerial capabilities we have at the moment, particularly with the Elvis helicopter and its capacity to access somewhere in the vicinity of 9000 litres on any particular occasion, this will have a huge impact on landowners.

What The Nationals are basically saying is that we would like to see the government put into legislation the ability to replenish water supplies in lieu of having to make insurance claims. That would be a sensible proposal and something that we hope the government would also support. This has certainly been verified by the Insurance Council of Australia. It has acknowledged the fact that we should revisit the current legislation, which is a sensible thing to do. On the one hand we have had some government members spruiking the fact that The Nationals are trying to drive a wedge between country and urban people. That is certainly not the case at all. Our reasoned amendment is very much a sensible and practical approach, and we hope all members of the house will support it.

All members would have received correspondence from not only landowners but also CFA volunteers before making their decision. The member for Benalla went through that in his earlier address. I have received correspondence from CFA volunteers who have had a good look at this piece of legislation and have relayed some of their concerns to me. One of their concerns is about landowners not being able to stay and fight the fires, given they have a pecuniary interest in their property.

They are concerned about who is going to have control at the road blocks. They feel that as property owners, they would have more local expertise and knowledge than somebody sitting on a road block. There is no doubt that that is a concern. Also, as I have mentioned, there is concern about the insurance claims policy. Unless the reasoned amendment moved by the member for Benalla on behalf of The Nationals is supported, The Nationals will oppose the bill.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

TRANSPORT LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 10 October; motion of Ms KOSKY (Minister for Public Transport).

Mrs VICTORIA (Bayswater) — I had a look at the Transport Legislation Amendment Bill and tried to find what was good and what was not good about it, as I do with most of the bills that come to this place. There are some things that are certainly positive. It is an omnibus bill to reform transport policy, but there are some things that I find puzzling, to say the least.

I am very progressive; do not get me wrong. I like change if there is a good reason for change, but I am afraid I cannot quite find a reason to change to a new smartcard system. I am a great subscriber to the old proverb 'If it ain't broke, why fix it?'. I have had a look at what has been going on with the myki public transport ticketing smartcard, and cannot quite work out why it is that we are moving to this system. I can think of a couple of reasons, and I will go into those in a second.

Currently we have all the information about validity printed on the back of the ticket. It is very easy for people to see, and it is very easy for inspectors to see whether or not it is valid. The information contained on the microchip of the new card will actually have to be read using a hand-held electronic device, and I can see this fraught with all sorts of danger. I can see them being lost, broken, out of service and all that sort of thing.

I believe that when notification is given that an offence has been committed, these readers will be capable of spitting out some sort of certificate or ticket to show people when the offence was committed. This can be done by a rail, tram or bus operator. But I really do not get why we are going over to this system now. It is already being used around the world with varying degrees of success. It has been used in a couple of different states. We are supposed to have been trialling it here as part of the on-board bus equipment that was being trialled in Geelong and Ballarat. That was cancelled, and I believe it was due to its not going the way it should have been going. In fact one of the interstate providers who put this system in has called it 'worthless junk'.

So why is Victoria spending some of its precious money on this when it could be used on providing better rail services for people — for example, in the east, on the Lilydale and Belgrave lines that take in my electorate? I have five or so stations in my electorate. We were not recipients of any of the 200 fantastic new services that the Minister for Public Transport keeps going on about — not one single new service during peak hour. It was with great interest that I noted that, because I actually wrote to the minister and got a reply saying that our loadings were fine. Ask anybody who gets on a train anywhere after 7 o'clock in the morning and they will tell you it is not fine; it is standing room only. I do not know what constitutes 'fine' and what the loading levels are, but they are not fine in the Bayswater electorate.

If you want to get a seat, perhaps you could go earlier when the pre-7 o'clock early bird special comes online in our area. When we talk about work-life balance I do not quite get how this fits in, but if you want a car park at one of the railway stations and you want to get to work for free, you could be leaving home at 5.45 in the morning. That is a good work-life balance! I like to have breakfast with my daughter as often as I can, and I am sure there are others out there who feel the same way. So introducing this system is not going to fix any of the problems we have in the Bayswater electorate.

I think this also allows for a sneaky introduction over the coming months, maybe years, of a user-pays system at railway station car parks. Apparently there is going to be better control over parking with the introduction of this system, and we certainly see it featured as part of this bill. In my mind that says this is about gearing up to have boom gates. If you have a smartcard with a chip in it, what is to stop someone from saying to you, 'You need to swipe your card to get in through the boom gate' in order to know whether you are in fact travelling by train? In other words, is it a commuter who is using the car park, or is it someone who happens to work nearby?

I brought this up during the election campaign, and the former member for Bayswater was quoted time and time again in the local newspaper as saying that I did not know what I was talking about and that there would never be parking fees at metropolitan rail car parks. I want to go on the record today, 11 October 2007, as saying that I do not think that is right. I am going to watch with great interest to see whether sneaky fees are introduced by the Labor government. The government says that the better definition of public transport car parking areas is going to enable common road rules to be enforced. As I said, I think it is a sneaky way of doing what the Labor government intends to do, which is to introduce fees for parking.

One of the other provisions in this bill concerns the control of touting by commercial passenger vehicle operators or others. I used to travel quite a lot for business, and I can tell you that touting is rife. It is also really annoying. It was Liberal Party policy at the November 2006 state election to increase fines for touting and to actually place black bans on touts, preventing them from holding taxi or hire car licences in Victoria. We need to get tough to make sure that the

message gets through. Touting is not acceptable. It robs people who are happy to sit in the queue — or maybe they are not happy to sit in the queue — and comply with the way things are done at airports, for example, where you sit in the queue in your taxi and you take the next possible fare. The touts are simply skipping the queue, and queue jumpers are just not welcome.

One of the other provisions confirms the government's policy that full-fee-paying overseas students are not entitled to concession travel on public transport. As part of their visa conditions full-fee-paying overseas students need to demonstrate that they are already fully self-sufficient. Obviously the bill is not making provision for it, but any talk about concessions in the future can only take place once we get the public transport system right, and it is a long way from right at the moment.

The last thing I want to bring up is something that is of grave concern to the Police Association — and my ears certainly prick up when the police find there is a problem with legislation that is being introduced. Clause 25 provides for some rail safety officers to be exempt from having photographic IDs. If you do not have photographic ID cards, then you have got people running around with cards that can be copied or forged. The Police Association is very worried that this could facilitate entry to railway property by potential terrorists. Unfortunately, given the times we are living in, we need to be careful about that.

I am very cautious about supporting this bill. There are parts of it that are necessary, but I think there are other parts of it that should have been looked at more stringently. As I said, if it ain't broke, don't fix it, and here there has been a little bit of fixing with a lot of public money.

Mr CARLI (Brunswick) — It is with great pleasure that I rise in support of the Transport Legislation Amendment Bill, which is, as previous speakers have mentioned, an omnibus bill. There are a number of changes being made to a number of different areas of transport. I want to use the short time I have to speak on the bill to talk about a couple of important areas of change that I think will fix some problems that we have in the legislation and obviously improve the provision of public transport in Victoria and certainly in the city of Melbourne.

The first issue is that of touting. We already have anti-touting legislation, so it is illegal to tout. It is a problem at Melbourne Airport. There have been a series of attempts to rid ourselves of the touting problem. There have been blitzes at the airport, and there have been attempts to identify and find the touters. The touters are often people with hire-car licences who are not prepared to make the pre-bookings, because hire cars have to be pre-booked for use at the airport. In many cases it is actually people in plain cars who drive in, and obviously there is a safety issue there. These people are not registered, and there is no control or regulation of their activities. Occasionally also taxi drivers try to jump the queue.

The legislation has been there but it has been very difficult to effectively enforce the anti-touting provisions, and that has been a problem over time. The amendment makes it an offence to tout, make an offer or solicit custom for the hire of a motor vehicle in specified places such as Melbourne Airport, and it broadens the scope for enforcement officers to more successfully identify illegal drivers and more importantly to enforce anti-touting legislation. It will rid us of a nuisance that is currently a problem at Melbourne Airport.

Another area I want to focus on is in relation to the bus industry and bus contracts. Currently there are negotiations under way in Melbourne between the bus industry, through Bus Association Victoria, and the state government on new bus contracts. The amendments will increase the scope of those contracts and ensure that built into those contracts will be a series of elements to improve the bus system.

As everyone in this house is aware, the bus industry has been identified as a very key component of the expansion of metropolitan transport services. Two-thirds of Melburnians do not have ready access to the tram or train system and instead depend on the bus system. The Brumby government has committed itself over 10 years to a $1.4 billion investment in the bus industry and $600 million of that will be in the cross town routes — the SmartBus routes — which are a very strategic element in improving public transport through metropolitan Melbourne. We are talking about historical increases in terms of spending on public transport, and the reconfiguration, the rebuilding and the restructuring of our public transport network to make it more effective in the provision of local services and also cross-town services, particularly around the train and tram-based radial system. That is very important.

What do the new bus contracts contain? They contain financial incentives for growth in patronage, improvements in punctuality and more accurate timetables. They contain performance indicators so that the negotiations can be built around such indicators as cancellation rates, on-time running and timing points

along routes. There are penalties for not meeting performance indicators, and there is a mechanism for acquiring bus operating assets under certain circumstances. It is not just about improving the construction of those contracts but also about creating the possibility of better monitoring of our bus system so we have a better understanding of what is working and how that system can effectively be improved. It is very much part of this massive and, as I said, historical improvement in our bus system.

Another component of the amendments as they relate to bus contracts is the ability to go out to open tender for the cross-town or SmartBus routes. I think the SmartBus routes have been an enormous success in our public transport system. They were started a number of years ago, essentially as pilot schemes along two roads: Blackburn Road and Springvale Road. The objective was to provide a direct service along a major arterial road — in that case, those two roads — making sure that bus stops were Disability Discrimination Act (DDA) compliant, and new and accessible buses were in use. The roads were re-engineered to ensure there was better on-road bus priority, and traffic signals were also re-engineered. Many of the bus stops have real-time information and are better identified with the so-called totems.

There has been a lot of marketing of those routes. But more importantly they have improved patronage considerably. Increases in patronage of about 50 per cent have occurred, which, in the case of the bus industry, is extraordinary given that it is an industry that historically has had fairly low increase rates in terms of public transport. It has not had the massive increases we have seen in rail patronage but it has steadily increased.

What we are now witnessing with SmartBus is the construction of a series of cross-town routes — they have all been given colour names: yellow, blue, green, red — which will provide exceptionally good service seven days a week over extended hours. Melbourne has a fantastic radial system running into the central city. The SmartBus routes will provide the cross-town routes running between those radial areas and also around key activity centres. The ability to negotiate tenders with the industry is a great thing and will no doubt further improve what is becoming a major bus system of world standing. With those few words, I conclude, but I certainly wish this bill a swift passage.

Mr K. SMITH (Bass) — I enter this debate on the Transport Legislation Amendment Bill 2007 and say how delighted I am that the minister who took the poison chalice of public transport is sitting at the table. I can express a few of the little concerns that I have in regard to this bill, knowing she has great expectations that she is going to be able to look after me with some public transport.

I speak also in support of the amendment that has been foreshadowed by the member for Polwarth, and I will get to that shortly. I saw that this was an omnibus bill and thought, 'That's good. Perhaps it means that we are going to get a better bus service in the Bass Coast shire'. However, as I read through the report I saw there was a little bit about metropolitan transport and about the myki card — some people call it the mickey mouse card, probably because of the interference of the minister and the involvement of the Transport Ticketing Authority. One has to be a little concerned.

I did not see anything in here for my electorate, although I was delighted to hear the Premier yesterday talking about the, I think, six new trains he has ordered or the eight new six-carriage trains he has ordered and which are to run alongside the other trains — all which of course he is going to have going by 2010.

Ms Kosky interjected.

Mr K. SMITH — In 2009, just before the next election comes along — if it gets finished on time and on budget, which this government has a little bit of trouble actually doing.

Dr Napthine — On the Leongatha line — on the Leongatha–Mildura line!

Mr K. SMITH — It is possible it could even be on the Leongatha–Mildura line.

Dr Napthine interjected.

Mr K. SMITH — That is right. Mildura never got its trains back. One is a little concerned about that. The former member for Mildura, Mr Russell Savage, disappeared off into the ether; he never got his train. And we have the member for Gippsland East, who never got his water in the Snowy. One has to worry about all the promises that were made.

Dr Napthine — Susan Davies never got a train either.

Mr K. SMITH — And Susan Davies has disappeared — she got nothing at all. She should have had streets paved in gold, with gold-plated buses running down there or even a train service down to Wonthaggi, but, no, she did not deliver anything to the people down there in the time that she was their local member. I hope she reads *Hansard* still. It would be good for her to recognise that we still remember her.

I was not joking about public transport down in Bass Coast, because you could probably say there is no public transport in Bass Coast, apart from the occasional V/Line bus that runs up from Inverloch and Cowes, and I think they leave at about 5 o'clock in the morning, which is quite suitable to the people who have been up all night and want to return to Melbourne, but there are not a lot of people who actually catch that early bus; I think one runs in about the middle of the day, which is not a lot of benefit to people either.

I hope the government understands that we pay our taxes down there, and we have some entitlement to public transport. When you come up to Melbourne — and anywhere you go in Melbourne — you can walk for just 5 minutes and can catch a tram, train or bus to go where you might want to go. But if you go down to Wonthaggi and you walk for 5 minutes, you are probably not near any form of public transport. It would be nice if the government could have a little bit of consideration for people in some of the outlying areas, which are really fantastic but which are being very badly serviced.

An area that does have a train service but quite a poor bus service is Pakenham in the Cardinia shire. The trains there are constantly either cancelled or running late when drivers are ill, and people just cannot get on them — although not so much at Pakenham. But when the trains get a bit closer to Melbourne they are so packed that people cannot get on them; and when people are coming home of a night the trains are so packed that they never get a seat until probably a couple of stations before Pakenham — and then it is time for them to stand up and get out.

It would be nice if something were done about the track down there. Maybe the line could be duplicated in a couple of places. Maybe if we could get a few more trains into the Melbourne loop area it would be a bit better for the people in the Pakenham area. They should have a better service into the rapidly growing Pakenham area. This government is pushing people out there. Two stations could and should be built out in that area. One of them could be built at Pakenham West, or Lakeside, which has been very rapidly developed. The government has said it will put a new railway station out there in 2011 or 2012 to service the people living in the thousands of houses built on the new estates out there, which would be a great help to them.

Tens of thousands of people there are now denied access to public transport and have to buy a second car for the wife and the kids because the old man has to drive somewhere to go to work. Suddenly the family has two cars. They cannot just walk 5 minutes to the railway station because the nearest railway station is probably about 20 minutes away. They do not have an opportunity to use a railway station nearby because, even though the Cardinia council promised free land where the railway station could be built, this government will not do it. That is very poor form.

The railway station at Officer is in an extremely poor condition. It has a car park that is more like a rally track: if you want to get in there, you really will wreck your car — if it does not get wrecked during the day by some of the vandals that get around there from time to time. It is a bit of a problem that this government is actually ignoring public transport issues that could be of benefit to the people either in the Bass Coast or the Cardinia shire. While we are on the subject, let us talk about these problems a bit more. What if we got a NightRider bus to go out to Pakenham? NightRider buses go to Dandenong, which means that kids from Pakenham who have gone in to Melbourne can get back only to Dandenong and then have to stand on a station until 5 o'clock in the morning, until the public transport service starts again.

You really have to worry about this sort of stuff. You have to worry about what is going to happen to some of these kids. They either have to stay in Melbourne with some of the drug dealers or deal with other problems in Melbourne, or some of those innocent kids have to go to Dandenong. I am not sure what you would consider to be worse — hanging around Melbourne or hanging around Dandenong — but I think the service should be extended. It should stop at places like Berwick, Narre Warren and Officer. It could go to Pakenham, and it could go on and be extended further down to Cranbourne.

It would be really good to provide that sort of extended service to the kids who want to go in to Melbourne from some of those outlying areas. The government could provide a public transport service that is available to other people who do not pay any more taxes than the people in Pakenham or the Bass Coast. I think we can do a lot for public transport in Victoria — it is just that we have a government that is not very switched on to actually looking after people. It is a real shame that the minister has left the chamber — I hope she reads *Daily Hansard* tomorrow.

The myki smartcard is a good idea. It is being used in a lot of places around the world, but here the government is trying to bring in the mickey mouse, not-so-smart card into Victoria. It has been stuffed up by the government. It does not know what is going on. The Auditor-General is going to have a bit of a look to see what is going on, because some of the financial details

of the tenderers were leaked during the process, and of course that has made the whole thing go skew-whiff. Of course the government is not sure exactly what it wants this service to actually deliver.

What is it going to deliver? Will it allow people to travel on all sorts of public transport? Will it allow them to get into anything else? If you go to Hong Kong and you have your card, which is called the Octopus over there, it takes you almost anywhere. It allows you entry into almost anything, and it is a great service to the people of Hong Kong. Yet we are not smart enough to be able to get on a plane and go over and see how the whole service works, or even to ring them up and ask them to come over here to tell us how the system works and how good it is. No, that would be too simple for this government!

The other thing that I would like to mention briefly is the decision to have no public transport concessions for overseas students. I can understand the reason why this has been brought in: $22.5 million is a lot of money in terms of a public transport service that is not working properly. If it was fixed up, we could probably offer this service to some of the people who come to Victoria to ensure their education is provided properly.

Mr BROOKS (Bundoora) — I will make just a brief contribution to the debate on this bill, given the time of day. I wanted to make a few comments about some provisions of this bill, particularly those that relate to the myki card system, which I see as a very important improvement to our public transport service ticketing system. I know the residents in my electorate of Bundoora and those people who commute will be looking forward to the introduction of that ticketing system. It is part of a wider package of improvements that people in my electorate have seen in public transport and other modes of transport.

The Watsonia station is in the process of being upgraded, as we speak, to a premium station, which means it will be staffed from the first train in the morning until the last at night; it will have better and enclosed waiting areas — currently they are exposed — refurbished toilets and better lighting and security. People in Bundoora have also benefited from the new train timetables and the new peak afternoon and evening service, which is a great addition to the rail service for commuters who live in the Bundoora electorate and use the Hurstbridge rail line.

Also, disabled accessible tram stops are being constructed along Plenty Road, and better bus services are to be established. Recently the government improved the bus services in the Bundoora electorate, in particular the 513 and 566 routes, which have extended operating hours on weekdays and Saturdays, and will operate on Sundays for the first time. It might not sound like much to members in the house, but it is a great improvement for many people, particularly older people who rely on those bus services.

As the Minister for Roads and Ports announced to the house last night, $280 000 will be spent on a cycling and pedestrian link between Macleod station and La Trobe University, which is again about improving cycling and pedestrian links throughout the Bundoora electorate.

That other part of the bill that I wanted to quickly touch on deals with assistance for train drivers who have been traumatised by the unfortunate occurrence of suicide on our rail lines. I understand that in 2003 a decision by the Victims of Crime Assistance Tribunal on payments for pain and suffering was upheld by the Victorian Civil and Administrative Tribunal. I want to put on the record that I think it is important that the government looks after those train drivers who have been affected in such a tragic way, and I support that part of the bill.

Another part of the bill that I want to comment on concerns the park-and-ride facilities. There are some arrangements in this bill which will see the enforcement of parking restrictions at those park-and-ride facilities improved. Obviously this government has invested significant funds in improving park-and-ride facilities across the metropolitan area and indeed across Victoria. That will be rolled out over the next 10 years — and as I said, this is part of a large package of transport improvements. I commend the bill to the house.

Mr THOMPSON (Sandringham) — The public transport system in Melbourne is very important. It was established through the vision of Melbourne's early planners and has served the metropolitan area very well. With the growth of the urban sprawl in this state there are large corridors which are not well served by public transport. In 1982 the Labor Party promised to extend the railway line to what was then VFL Park. The line was to run from of Huntingdale station, up North Road to Rowville or thereabouts. Regrettably that political undertaking was not fulfilled on the basis of a review that was commissioned and a report that indicated that it was not viable, yet much was made of that political undertaking or promise at the 1982 election.

Another public transport issue linked to access to service is reliability of service. For successive months, indeed years, the Sandringham line has had one of the more unreliable public transport services — if not the

most unreliable service — as measured by the number of cancellations.

The next criterion that one might measure a public transport system by is cleanliness and the absence of rubbish, and in particular the absence of graffiti, which can detract from the quality of the service provided in aggregate terms. The *Sunday Herald Sun* of 23 September contains an article headed 'Call to close down "paradise for vandals" — train station home for graffiti shop'. The article states:

> Anti-graffiti campaigner and Liberal MP Murray Thompson said: 'It beggars belief that you can buy graffiti paraphernalia from a store in a railway station.
>
> What next: homemade bomb shops at airports, balaclavas at banks or free flares for soccer fans?'.
>
> Connex, which manages the station on behalf of the government, confirmed yesterday that This Is It was leasing one of its shop spaces.
>
> Connex spokesman John Rees said the transport company was aware spray cans were being sold there, but the shop's manager had been asked to take the product off the shelves —

interestingly!

> But store manager Dom Sigillo said This Is It had been leasing the building for three years and had never been questioned about the spray can sales.

The *Sunday Herald Sun* article features some of the tags painted on Connex trains which feature on a pro-graffiti website. Graffiti on public transport is an issue that is not being tackled comprehensively by the Labor Party. Some piecemeal attempts have been made in recent times to adapt Liberal Party policy from a number of years ago, but the government is five years behind the pace.

In relation to other issues regarding the Transport Legislation Amendment Bill, there is concern about the implementation of the smartcard system. There is the issue of the metropolitan bus contracts, in particular the tender renegotiation of bus service contracts for local bus services. Some bus companies in Melbourne such as Grenda have done a great job in servicing the south-east of Melbourne.

Another matter for concern is the increase in public transport patronage in the last few years. According to recent figures there has been a 20 per cent spike in public transport patronage. This is an outstanding statistic, but when it is hard to get a seat on the train and the proposed solution is to remove seats from trains to get more passengers on board, something is wrong. At the Sandringham station the problem has been exacerbated by the increase in the number of travellers who park their cars in local shopping precincts and neighbourhoods. That is making it difficult for other neighbourhood users to access local facilities and their properties.

I would like to focus on a number of other issues in the bill. Firstly, there is the issue of the enforcement by authorised officers at park-and-ride facilities of breaches of the law. One of the provisions will allow public transport car parking areas to be better defined to enable common road rules and parking controls to be enforced by officers authorised by the transport operator. At Sandringham and the following stations that serve the Sandringham line there has been a problem with the increased aggregation of commuters around public transport facilities without adequate car parking. This will continue to translate into an issue as people seek to conserve energy and utilise public transport. If people are going to use the early bird opportunities before 7.00 a.m. — which represent a significant increase in saving — it will further compound the aggregate patronage levels and the demand for car parking spaces in the area.

It is a pity that time is moving fast. On the other side of the chamber I can see members who are very keen to make a contribution. It is unfortunate that there are multiple members in this chamber who will not have the chance to speak on this bill and other bills, particularly on this side of the house. One of the great scourges of metropolitan Melbourne is the proliferation of graffiti across the suburbs, and not only on the public transport system. That is one of two key bills that members on this side of the house will not have the chance of addressing or responding to.

In relation to other improvements, under the former Liberal government there were reforms that installed a computer system on the public transport system which enabled the monitoring of all stations. In the case of the Sandringham line a large bank of TVs can be operated from Sandringham station, and that certainly has improved the security of the Sandringham line. If you press the green button, you get information about the next train coming in, and if you press the red button, you can speak to an operator who has the opportunity to observe your circumstances on the railway platform. The use of those security cameras has been the basis of many a surprise for people who have caused damage on the Sandringham line. I remember a number of years ago when a carriage of a train arriving at Sandringham station was aflame, having been set alight by vandals. That is an example where security cameras can help detect crimes and assist in the prosecution of the people responsible.

I now turn to the Frankston line, which, like the Sandringham line, has been the victim of a range of cancellations by Connex services. Many commuters have written to my office complaining about being left stranded at railway stations such as Richmond in the early evening, with the blistering cold ripping across the platform. They complain about their services being cancelled and sometimes having to wait up to 40 minutes, as happened to one of my constituents, a Mr Howard, who had to wait on the Richmond station for 40 minutes. He elected to catch a taxi home. This is a further factor which aggravates the patrons of the service.

Some people have done outstanding work to improve the Connex system, such as the Friends of Mentone Station and Gardens. At a time when the member for Thomastown, the former Minister for Transport, was proposing to turn the gardens into a car park and bus terminal, it was the good work of the former member for Mordialloc and his near neighbour that helped the residents fight that proposal.

Despite confirmation in writing that they would stick with that plan, there was a collaborative effort on the part of a number of members which saw that plan reversed. The Friends of Mentone Station and Gardens do an outstanding job in improving the immediate precinct. It is now going to be an important railway station, as it has one of the highest levels of throughput of any station on the line. The schools in that immediate precinct are Mentone Girls Secondary College, the local Catholic school Kilbreda College, Mentone Boys Grammar, Mentone Girls Grammar, Mentone Girls Secondary College and St Bede's College, and I think many thousands of students from those schools use that station each week.

Another issue that has been tackled by the Friends of Mentone Station and Gardens has been the incidence of graffiti. To its great credit, by being in a position to report the time of graffiti vandalism occurring at the Mentone railway station, police are able to observe the site and apprehend the offenders. I trust that the full weight of the current law will be thrown at those offenders, with no weak-kneed judgements, to reflect the community angst at the proliferation of graffiti in metropolitan Melbourne and on the public transport system in particular. The government has been slow off the mark in responding to this issue. It has been soft in addressing the issue, and the judiciary has also failed to properly respond to these matters and to reflect the level of community angst about graffiti and the cost of tens of millions of dollars to the community across metropolitan Melbourne.

Ms D'AMBROSIO (Mill Park) — In the very short time we have left I will add a couple of words to debate on the Transport Legislation Amendment Bill. I am very pleased to support a bill that provides a variety of amendments to existing legislation to facilitate the major improvements that this government has made to public transport, and which it will continue to make, ranging from a modernised ticketing system right through to improvements in financial assistance to traumatised train drivers and the like.

I am very pleased that areas such as my electorate of Mill Park will be benefiting from the SmartBus system, which will for the first time in living memory see the benefits of an orbital bus service in recognition of the fact that the face of metropolitan Melbourne in terms of population and where people live and where people work has changed dramatically in the last 30 years. There is certainly a move away from people living in the suburbs and working in the city. More and more, as time goes by, we are seeing people living in the suburbs and working in those same areas. People need flexible public transport solutions to be able to get them across metropolitan Melbourne and not just into the city. I am very pleased to lend my two bits worth to this very important legislation, which will facilitate some tremendous changes in public transport that this government is responsible for.

Mr WALSH (Swan Hill) — I think we are all very frustrated this week that there are a lot of people who want to talk on some very important business in this house and that effectively, with the government business program that we have, we are not all going to have that opportunity. I know there are quite a few members of The Nationals who want to speak on a range of bills. We have not yet come back to the Transport Accident and Accident Compensation Acts Amendment Bill.

We had an excellent contribution from our leader on that bill, and we have speakers who wanted to reinforce the issues that he raised. We had a substantial amount of time last night on the Graffiti Prevention Bill, but there are still members who wished to speak on that, and we are now debating the Transport Legislation Amendment Bill. The Emergency Services Legislation Amendment Bill, and particularly the issue around water and the reasoned amendment that the member for Benalla moved, is something that is of vital interest to all our constituents, and we are being denied an opportunity to speak on that.

As far as the Transport Legislation Amendment Bill is concerned, one of the things I would like to put on the record in my brief time is this issue around the

smartcards and making sure that the system that is implemented is user friendly for country people who come to Melbourne and who very rarely use public transport. I can remember when I became president of the Victorian Farmers Federation I actually had to have lessons on how to use trams and use those stupid things that you put the money into, press the button on and all that sort of thing. We need to make sure that the system is user friendly for those country people who come to Melbourne who do not use public transport very often, because ticketing machines can be a disincentive for people to use the public transport system.

Mr Kotsiras — Have you worked out how to use gambling machines?

Mr WALSH — I do not use gambling machines. The ticketing machines can be a disincentive for people to actually use public transport. We are finding with the cost of travel that people are coming back to public transport, and I think that is a good thing, but we need to make sure it is user friendly for those who do not use it all the time.

Ms MARSHALL (Forest Hill) — It gives me a great deal of pleasure to rise in the very short time left to support the Transport Legislation Amendment Bill 2007, as it concerns a number of very important public transport reforms, including the new ticketing solution, the new SmartBus service and a major reform initiative aimed at improving safety at level crossings.

Other objectives include confirmation of the policy that private full-fee-paying overseas students are not entitled to concession travel on public transport, the provision of financial assistance to traumatised train drivers, endeavours to control illegal touting by commercial passenger-vehicle operators and other vehicle drivers, and the provision for road-rail safety interface agreements, which form a major part of the response to the Kerang accident. The bill does so through amendments to the Transport Act 1983, the Public Transport Competition Act 1995, the Rail Corporations Act 1996, the Rail Safety Act 2006, the Road Safety Act 1986, the Marine Act 1988 and the Terrorism (Community Protection) Act 2003.

Under the new ticketing system the information regarding the validity of a ticket such as the expiry date et cetera, which under the current Metcard system is actually printed, will now be contained within a microchip on the smartcard, and it will be read by a hand-held electronic device.

Business interrupted pursuant to standing orders.

The DEPUTY SPEAKER — Order! The time set down for consideration of items on the government business program has arrived.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

EDUCATION AND TRAINING REFORM MISCELLANEOUS AMENDMENTS BILL

Second reading

Debate resumed from 10 October; motion of Ms PIKE (Minister for Education).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

TRANSPORT ACCIDENT AND ACCIDENT COMPENSATION ACTS AMENDMENT BILL

Second reading

Debate resumed from 9 October; motion of Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission); and Mr RYAN's amendment:

> 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 the full ramifications of the government's proposal to change the legislation following the Court of Appeal decision in the matter of *Mountain Pine Furniture Pty Ltd v. Taylor* are considered and appropriate arrangements are put into place to fully compensate those who are adversely affected by the bill'.

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

Ayes, 67

Allan, Ms	Languiller, Mr
Andrews, Mr	Lim, Mr
Asher, Ms	Lupton, Mr

Baillieu, Mr
Batchelor, Mr
Beattie, Ms
Blackwood, Mr
Brooks, Mr
Brumby, Mr
Burgess, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Clark, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Fyffe, Mrs
Graley, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Dr
Helper, Mr
Hodgett, Mr
Holding, Mr
Hudson, Mr
Ingram, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr
McIntosh, Mr
Maddigan, Mrs
Marshall, Ms
Merlino, Mr
Morand, Ms
Morris, Mr
Mulder, Mr
Munt, Ms
Napthine, Dr
Nardella, Mr
Neville, Ms
Noonan, Mr
O'Brien, Mr
Pallas, Mr
Pandazopoulos, Mr
Pike, Ms
Richardson, Ms
Scott, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr K.
Smith, Mr R.
Stensholt, Mr
Thompson, Mr
Tilley, Mr
Trezise, Mr
Victoria, Mrs
Wakeling, Mr
Wells, Mr
Wynne, Mr

Noes, 9

Crisp, Mr
Delahunty, Mr
Jasper, Mr
Northe, Mr
Powell, Mrs
Ryan, Mr
Sykes, Dr
Walsh, Mr
Weller, Mr

Amendment defeated.

House divided on motion:

Ayes, 67

Allan, Ms
Andrews, Mr
Asher, Ms
Baillieu, Mr
Batchelor, Mr
Beattie, Ms
Blackwood, Mr
Brooks, Mr
Brumby, Mr
Burgess, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Clark, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Fyffe, Mrs
Graley, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Dr
Helper, Mr
Hodgett, Mr
Holding, Mr
Hudson, Mr
Ingram, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr
Languiller, Mr
Lim, Mr
Lupton, Mr
McIntosh, Mr
Maddigan, Mrs
Marshall, Ms
Merlino, Mr
Morand, Ms
Morris, Mr
Mulder, Mr
Munt, Ms
Napthine, Dr
Nardella, Mr
Neville, Ms
Noonan, Mr
O'Brien, Mr
Pallas, Mr
Pandazopoulos, Mr
Pike, Ms
Richardson, Ms
Scott, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr K.
Smith, Mr R.
Stensholt, Mr
Thompson, Mr
Tilley, Mr
Trezise, Mr
Victoria, Mrs
Wakeling, Mr
Wells, Mr
Wynne, Mr

Noes, 9

Crisp, Mr
Delahunty, Mr
Jasper, Mr
Northe, Mr
Powell, Mrs
Ryan, Mr
Sykes, Dr
Walsh, Mr
Weller, Mr

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

GRAFFITI PREVENTION BILL

Second reading

Debate resumed from 10 October; motion of Mr CAMERON (Minister for Police and Emergency Services).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

EMERGENCY SERVICES LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Police and Emergency Services); and Dr SYKES's amendment:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and

redrafted to provide for the replenishment, by the government, of all water, from privately owned storages, used by the Country Fire Authority and/or the Metropolitan Fire Brigade to fight fires and to undertake other authorised activities'.

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

Ayes, 45

Allan, Ms
Andrews, Mr
Batchelor, Mr
Beattie, Ms
Brooks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Graley, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Dr
Helper, Mr
Holding, Mr
Hudson, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Lim, Mr
Lupton, Mr
Maddigan, Mrs
Marshall, Ms
Merlino, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Pallas, Mr
Pandazopoulos, Mr
Pike, Ms
Richardson, Ms
Scott, Mr
Seitz, Mr
Stensholt, Mr
Trezise, Mr
Wynne, Mr

Noes, 31

Asher, Ms
Baillieu, Mr
Blackwood, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Fyffe, Mrs
Hodgett, Mr
Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Morris, Mr
Mulder, 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

Amendment defeated.

House divided on motion:

Ayes, 46

Allan, Ms
Andrews, Mr
Batchelor, Mr
Beattie, Ms
Brooks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Graley, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Dr
Helper, Mr
Holding, Mr
Hudson, Mr
Ingram, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Lim, Mr
Lupton, Mr
Maddigan, Mrs
Marshall, Ms
Merlino, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Pallas, Mr
Pandazopoulos, Mr
Pike, Ms
Richardson, Ms
Scott, Mr
Seitz, Mr
Stensholt, Mr
Trezise, Mr
Wynne, Mr

Noes, 30

Asher, Ms
Baillieu, Mr
Blackwood, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Fyffe, Mrs
Hodgett, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Morris, Mr
Mulder, 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

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

ANIMALS LEGISLATION AMENDMENT (ANIMAL CARE) BILL

Statement of compatibility

Mr HELPER (Minister for Agriculture) 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 Animals Legislation Amendment (Animal Care) Bill 2007.

In my opinion, the Animals Legislation Amendment (Animal Care) Bill 2007, 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 purpose of the Animals Legislation Amendment (Animal Care) Bill 2007 ('the bill') is to improve the administration and enforcement of animal welfare legislation and provide for more effective management and protection of animals in Victoria.

The bill amends the Impounding of Livestock Act 1994 ('the livestock act'), the Domestic (Feral and Nuisance) Animals Act 1994 ('the DFNA act'), and the Prevention of Cruelty to Animals Act 1986 ('the POCTA act') to:

implement government's pre-election commitment to increase penalty levels for animal cruelty offences;

strengthen the POCTA act to better handle investigations and prosecutions;

provide wider powers of search and seizure, and disposal of animals that are abandoned or neglected;

establish microchip animal identification standards to underpin voluntary permanent identification of horses;

provide for notices to be issued to owners to control their trespassing animals;

create a power to impound suspected restricted breed dogs pending the declaration process;

provide for infringement notices to be issued for minor dog attacks and other minor offences;

make it an offence to undertake prohibited procedures on an animal;

make it an offence to use, set or sell non-approved harmful animal traps;

make it an offence to breed animals that have a proved heritable defect that causes serious welfare consequences in their offspring;

provide for an annual licence for accredited rodeo operators; and

make a number of machinery amendments to facilitate the administration of powers and enforcement.

The bill also rearranges existing provisions setting out the powers of authorised officers and inspectors in the DFNA act and the POCTA act to improve the structure of the enforcement powers.

Human rights issues

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

The bill engages four of the human rights provided for in the Charter of Human Rights and Responsibilities ('the charter').

Section 11: freedom from forced work

Section 11 establishes a right for an individual not to be held in slavery or servitude, and not to be made to perform forced or compulsory labour.

In the bill, the following two provisions engage the right to freedom from forced work:

Where an authorised officer of a council reasonably believes that livestock are not adequately confined on a property, he or she may serve a notice on the owner of the livestock under the livestock act, directing the owner to undertake measures set out in the notice to ensure the livestock are adequately confined. A failure to comply with the notice will result in a penalty not exceeding 50 penalty units. The requirement to adequately confine the animal is in the general interest of the community, since trespassing livestock, particularly on roads, can pose a danger to the public, as well as to the animal itself. For this reason, the requirement to confine the animal falls within the exemption for forced work in section 11(3)(c) of the charter as it forms part of normal civil obligations.

As part of the restructure of the enforcement powers under the DFNA act, the bill provides that the Magistrates Court may order the owner of a dog or cat to perform works, where the owner is found guilty of certain trespassing offences under the DFNA act, for the purpose of ensuring the animal is not able to escape from the owner's premises again. Since the owner is ordered to perform work in the community under a lawful court order, this is exempt from the prohibition on forced labour.

The bill does not limit the right to freedom from forced work. Therefore, the right is not discussed further in this statement.

Section 13: privacy and reputation

Section 13 establishes a right for an individual not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked.

The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter.

In the bill, there are a number of provisions which engage the right to privacy. However, in each instance, the interference with privacy is neither unlawful or arbitrary for the reasons set out below.

Where an authorised officer reasonably suspects that there is an abandoned animal in or on private premises, including residential premises under the DFNA act, but not including a building occupied as a residence under the livestock act, that officer has the power to enter the premises and impound the animal. The power can only be exercised at the request of the owner or occupier of the premises under the DFNA act, and cannot be exercised in relation to a building occupied as a residence under the livestock act. Therefore, if a person resides at the premises, there is no interference with their right. Further, the interference with privacy under the DFNA act and the livestock act is nevertheless lawful

and not arbitrary, because the power to enter the person's home is confined to circumstances where the authorised officer has a reasonable suspicion that there is an abandoned animal in or on the premises.

The bill provides that an authorised officer under the DFNA act may require the owner of an animal suspected of committing an offence, to provide his or her current address. The power is only available in defined circumstances, where the officer reasonably suspects the owner has committed an offence under the act and does not have sufficient information about the owner to enable the commencement of prosecution for the offence.

An authorised officer that believes, on reasonable grounds, certain infringement offences under the DFNA act have been committed, may request a person to give his or her name and place of residence, and ask questions. This requirement is a re-enactment of an existing provision, except for the inclusion of additional infringement offences. Further, the decision to interfere with privacy in these cases can only occur where the officer has a reasonable belief an offence has been committed.

The bill authorises an inspector to enter any premises, not including a person's dwelling, under the POCTA act and seize or dispose of an animal if he or she believes on reasonable grounds that the animal is abandoned, distressed or disabled. However, since an inspector may not exercise this power of entry in relation to a person's dwelling, this ensures that there is no or minimal interference with a person's rights under section 13 of the charter.

The bill provides an inspector the power to enter and search premises, including residential premises, as well as a person's vehicle, where the inspector believes on reasonable grounds that there is in or on the premises or vehicle evidence of a contravention of the POCTA act. This power of entry and search can only be exercised if a warrant has been issued by a court. Importantly, the warrant can only be granted by a court in accordance with the rules relating to search warrants under the Magistrates' Court Act 1989. The power is only available in discretely defined circumstances, whereby the court determines that it is necessary to support the objectives of the POCTA act to protect the welfare of animals.

A POCTA inspector may request that a person provide information when exercising a power of entry under the act, as well as request a person to provide their name and address. These powers are largely a re-enactment of existing powers. The power to request information may only be exercised to the extent that is reasonably necessary to determine whether an offence against the act or regulations has been or is about to be committed. The power to request a person's name and address can only be exercised where an inspector believes on reasonable grounds the person has committed an offence against the act.

A magistrate may by order authorise an inspector under the POCTA act to enter premises and search for an animal. This power is only available where the magistrate is satisfied by the evidence of an inspector that there are reasonable grounds to believe the person is contravening a banning order under the act.

A POCTA inspector may enter premises, not including a person's dwelling, under the POCTA act in certain emergency situations. Since an inspector may not exercise this power of entry in relation to a person's dwelling, this ensures that there is minimal interference with a person's privacy. This power is re-enacted as a result of the improved restructure of the enforcement powers. The power of entry can only be exercised where the inspector suspects on reasonable grounds that on the premises, baiting, trapshooting or the use of animals as lures is occurring, that animals are confined without food or water, that the animals are in an entanglement, tether or bog, showing signs of pain or suffering, or that they are likely to cause death or serious injury to any person or another animal.

A specialist inspector may enter premises, not including a person's dwelling, under the POCTA act for the purpose of exercising enforcement powers under the act and regulations. This power is a re-enactment of an existing power under the act. The power can only be exercised with the written authority of the minister, and not in relation to a person's dwelling, therefore minimising the interference with privacy.

An authorised officer of a council under the DFNA act and a POCTA inspector may apply to the magistrate for the issue of a warrant to enter and search premises. These powers are re-enacted as a result of the improved restructure of the enforcement powers. This power of entry and search can only be exercised if a warrant has been issued by a court, and the warrant can only be granted by a court in accordance with the rules relating to search warrants under the Magistrates' Court Act 1989. Further, an officer may only apply for a warrant under the DFNA act where he or she believes on reasonable grounds an animal is present on premises, which the officer is entitled to seize under the act. Similarly, an inspector may apply for a warrant under the POCTA act only where the inspector believes on reasonable grounds that there is on the premises an abandoned, diseased, distressed or disabled animal, the inspector believes on reasonable grounds the welfare of the animal is at risk, or a contravention of the act is occurring or has occurred.

A person must not refuse admission to a POCTA inspector exercising a power of entry under the act. This is an existing requirement, and must only be complied with in respect to inspector's powers of entry under the act.

Accordingly, the bill does not provide for the unlawful or arbitrary interference with privacy and therefore there is no limitation on the right to privacy. Therefore, this right is not discussed further in this statement.

Section 20: property rights

Section 20 establishes a right for an individual not to be deprived of his or her property other than in accordance with law. This right ensures that the institution of property is recognised and acknowledges that the state of Victoria is a market economy that depends on the institution of private property. The right in section 20 of the charter only prohibits

a deprivation of property that is carried out other than in accordance with law. This requires that the powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than arbitrary or unclear, and are accessible to the public and formulated precisely.

In the bill, there are a number of provisions which engage the right to property. However, in each instance, the deprivation of property meets the conditions for lawfulness described above and is therefore in accordance with law, as discussed below.

The bill permits an authorised officer under the DFNA act or the livestock act to seize and dispose of an animal the officer reasonably suspects to be abandoned on any private property. The power to seize and dispose of an abandoned animal found on any private premises can only be exercised if certain articulated criteria under the act are met. An officer can impound an animal where the officer reasonably suspects the owner of the animal has absconded and the animal is abandoned and at peril. An officer must leave a notice in writing at the premises or with the occupier at the time of seizing the animal, stating that the animal has been seized and the contact details of the person holding the animal. A further notice must be served under the DFNA act on the owner of the animal within four days of seizure stating that the animal will be disposed of by sale, rehousing arrangements or humane euthanasia if the animal is not reclaimed within 14 days. The provisions permitting the impounding and disposal of animals in these cases are therefore limited and subject to a number of safeguards.

The bill provides that an authorised officer under the DFNA act may seize a dog suspected of being a restricted breed dog, until such time as the breed is determined. This provision is designed to supplement existing restricted breed legislation regulating the ownership and keeping of dogs whose importation into Australia is prohibited under the Customs (Prohibited Imports) Regulations 1956 (Commonwealth). An animal will only be seized if the authorised officer has a reasonable belief the dog is a restricted breed. If it is found that the seized dog is not a restricted breed dog, the animal will be returned to its owner, and the owner will not be liable for any costs to council for retaining custody of the dog. Where the dog is found to be a restricted breed dog, the animal may be recovered in limited circumstances or disposed of in accordance with disposal powers under the act.

The bill provides that where an animal is found abandoned, distressed or disabled on private premises, not including a person's dwelling, an inspector under the POCTA act may either immediately seize the animal, or seize the animal within two days of first finding the animal. The inspector must reasonably believe the animal is at risk before immediately seizing the animal and a notice must be served on the owner, stating that the animal may be recovered within 14 days after service of the notice and the contact details of the person holding the animal. Where an animal is found abandoned on private premises, an inspector must leave notice in writing at the premises before seizing the animal, stating that the inspector intends to seize the animal within two days of giving the notice if the animal is not recovered.

The bill provides that an inspector has the power to apply to the court to order the disposal of a seized animal where the owner or person in charge of the animal has been charged with an offence against the POCTA act or regulations, proceedings have commenced against the person for an offence under the act or regulations, where that person has been found guilty for an offence under the act or regulations, or the welfare of the animal is at risk. An order for the disposal of an animal will only be made where the return of the animal to its owner or carer will put the animal's welfare at risk, the person has been found guilty of an offence under the act or regulations, or fails to pay a bond ordered by the court. The disposal of a seized animal will therefore only occur in confined circumstances on a case-by-case basis.

The bill provides that an inspector may dispose of an animal where an animal has been seized under the POCTA act and the owner or person in charge is able to be contacted or a notice of seizure has been sent to their last known address, and that person fails to recover the animal within the specified time. Only if these criteria are satisfied can the inspector dispose of the animal. Further, the costs for maintaining an animal for a full 12-month period can be considerable, and often the council will not have the resources to provide ongoing care.

The bill provides that an authorised officer under the DFNA act, and an inspector under the POCTA act, may seize, retain and dispose of animals and other things in specified circumstances. These powers are mainly existing powers and have been re-enacted to improve the structure of the enforcement powers under the acts. The law clearly articulates the circumstances in which the property may be seized, retained or disposed of. The power to seize an animal or thing may be exercised in such cases where the owner of the animal is guilty of an offence or suspected of committing an offence under the act, the animal is found trespassing, the animal's welfare is at risk, the animal poses a danger to the community, to provide support and care to the animal, or to assist in the investigation of an offence under the act. Further, the power to seize an animal or thing is often exercised under a warrant issued by a magistrate or in emergency situations where an animal is in need of urgent care. The power to retain or dispose of an animal only occurs if certain criteria are satisfied, and includes where court proceedings are on foot, where a veterinary practitioner has certified that the animal should be immediately destroyed, where the owner or person in charge has failed to recover the animal, or where returning the animal places its welfare at risk.

A magistrate may order the forfeiture of seized animals or things to the Crown under the POCTA act. This is an existing power under the act and in accordance with the law. Further, a magistrate may only order the forfeiture of an animal if a person found guilty of an offence under the act or regulations is the owner or person in charge of the animal, or the seized thing was used by a person in connection with an offence against the act or regulations.

The right not to be deprived of property other than in accordance with the law is therefore not limited by the bill. Accordingly, this right is not discussed further in this statement.

Section 25(1): the right to be presumed innocent

Section 25(1) provides that an individual charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

The bill limits this right because it makes section 15A of the POCTA act an 'operator onus' offence under part 6AA of the Road Safety Act 1986. Section 15A of the POCTA act makes it an offence for a person to drive a motor vehicle with a dog travelling unsecured in the tray or trailer of the vehicle. The operator onus enforcement system applies to certain traffic, parking and tolling offences where the identity of the offender is not established at the time the offence is detected. The system provides that the person last known to have possession or control of the vehicle is liable for the offence unless the person can identify another person to whom they had passed control of the vehicle, can demonstrate that the vehicle was stolen or that the next person in the chain of control cannot be identified for a legitimate reason.

2. Consideration of reasonable limitations — section 7(2)

Section 25(1): the right to be presumed innocent

(a) the nature of the right being limited

The right to be presumed innocent until proven guilty is a fundamental common-law principle and a fundamental value of a free and democratic society based on human dignity, equality and freedom. It requires that the prosecution has the burden of proving that the accused committed the charged offence and must prove all elements of a criminal offence. However the right is not absolute and may be subject to reasonable limitations.

(b) the importance of the purpose of the limitation

Driving a vehicle with an unrestrained dog on an open tray or trailer has a high likelihood of causing an unnecessary serious injury or death to the dog. It can also lead to serious road safety risks for other road users if a dog falls off a vehicle. Society is increasingly concerned with protecting animal welfare and attitudes have changed such that driving a vehicle with an unrestrained dog is generally considered unacceptable by society. Without the proposed utilisation of the operator onus system, it is very difficult for the prosecution to provide evidence as to the driver of the vehicle because the general public or inspector that witnesses the offence often cannot identify the driver and cannot pull the vehicle over.

(c) the nature and the extent of the limitation

A reverse onus provision may undermine the presumption of innocence because there is a risk that an accused can be convicted despite reasonable doubt of his or her guilt. By making section 15A of the POCTA act an 'operator onus' offence, the onus of proof is reversed in respect of the identity of the offender, which is difficult for the prosecution to prove. It is within the knowledge of the person last known to be in possession or control of the vehicle to know who the next person to take possession or control of the vehicle was. If the person can provide sufficient information via a nomination, the onus shifts to the person nominated to disprove that they were in control of the vehicle. A chain of such nominations may be made until a responsible person is identified or until it is established that the identity of the person ultimately responsible cannot be identified. This mechanism minimises the risk that the person last known to be in possession or control of the vehicle can be convicted where there is a reasonable doubt about whether he or she was driving the vehicle. The maximum court penalty for the offence is proposed under the bill to be 10 penalty units, which is at the low end of the scale of penalties and minimises the impact of the limitation.

(d) the relationship between the limitation and its purpose

The use of the operator onus system will significantly improve the ability to enforce this offence and therefore the limitation is strongly aligned to its purpose.

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

There are no less restrictive means reasonably available to achieve the purpose of securing convictions for the offence.

(f) any other relevant factors

The operator onus system is well established in Victoria for vehicle-related offences.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, although it does limit one human right, the limitation is reasonable and proportionate. The limitation strikes the correct balance by providing the person last known to be in possession or control of the vehicle with the ability to nominate who the next person to take possession or control of the vehicle was.

JOE HELPER, MP
Minister for Agriculture.

Second reading

Mr HELPER (Minister for Agriculture) — I move:

That this bill now be read a second time.

The Animals Legislation Amendment (Animal Care) Bill 2007 makes amendments to three acts within the agriculture portfolio: the Domestic (Feral and Nuisance) Animals Act 1994, the Impounding of Livestock Act 1994, and the Prevention of Cruelty to Animals Act 1986.

Firstly, I will speak about the amendments to the Domestic (Feral and Nuisance) Animals Act 1994.

The amendments to the act will improve provisions relating to the administration and enforcement of that act, introduce higher penalties, provide the power to issue infringement notices for certain offences, and provide standards for permanent identification of horses by microchip implant in Victoria.

The act will be amended to increase the maximum penalty that can be prescribed under the regulations for an infringement notice offence from two penalty units

to five penalty units. Also, the maximum penalty that can be imposed for an offence against the regulations will be increased from 5 penalty units to 10 penalty units. This is consistent with current government policy, particularly in light of the Infringements Act 2006.

A primary purpose of the act is to identify cats and dogs through their registration with local council. Currently, the act provides that owners of a cat or dog must apply for registration or renewal of registration of the animal, a failure to do so resulting in a penalty not exceeding five penalty units. Despite its importance, some owners appear to risk being caught breaching this requirement given that it is cheaper to take the risk of paying the occasional low penalty rather than the annual registration fee. The act is therefore to be amended so the penalty is increased to a maximum court penalty of 10 penalty units for non-compliance.

Despite the minor nature of existing offences under the act relating to the permanent identification of cats and dogs, and the displaying of warning signs by owners of dangerous, menacing and restricted breed dogs, these offences can only be enforced by prosecution in court, which is costly and not always appropriate. Similarly, many dog attacks are quite minor in nature, yet such offences can only be prosecuted in court. Therefore, the act is to be amended to provide authorised officers with the power to issue infringement notices for these offences. The bill also increases the penalty for more serious dog attacks to a maximum court penalty of 20 penalty units.

As it stands, there is no head of power under the act to allow for the service of infringement notices for any offence against the regulations. Many of these offences are minor in nature and the cost to the department and local councils to prosecute is significant. It is therefore considered appropriate to include in the act the power to serve an infringement notice by an authorised officer for an offence against the regulations.

In 2003, the government introduced restricted breed dog legislation into Victoria regulating the ownership and keeping of those dogs whose importation into Australia is prohibited under the Commonwealth Customs (Prohibited Imports) Regulations 1956. Currently under the act, an authorised officer of a council may seize a restricted breed dog in certain non-compliance circumstances. To further support compliance with the government's restricted breed legislation, the bill will allow an authorised officer to seize a dog, solely on the basis that the officer reasonably believes the dog is a restricted breed dog, until such time that the breed is determined. This will provide immediate protection for the community and prevent risk of concealment of the dog from further compliance actions.

Although a person cannot own more than two restricted breed dogs under the act, it has been identified that local councils are powerless to restrict the number of restricted breed dogs kept on a single property, unless the council has enacted separate by-laws prohibiting the keeping of excess animals. The act will be amended to make it an offence to keep more than two restricted breed dogs on a single private property, unless a permit to do so is issued by the local council.

Currently the act provides that a person who seizes a dog or cat must deliver it to an authorised officer of the council. Although this is a statutory requirement, it is unenforceable since a person cannot be held liable for breaching this requirement, and people have been known to keep the animal to the detriment of the rightful owner. It is proposed to amend the act so that a penalty may be imposed on a person who fails to return the animal to an authorised officer as soon as is reasonably possible. Further, a magistrate may order the return of the animal.

An authorised officer of the council will have the power under the act to seize a suspected abandoned dog or cat left on private premises, including a person's dwelling. This will allow for councils to deal with situations where previous occupiers or tenants move out of premises, leaving behind their animal without adequate food or care, and the landowner does not have the power to remove or dispose of the abandoned animal. This power to enter private premises can only be exercised at the landowner's or occupier's request.

Breed societies and sport or equestrian horse organisations maintain their own microchip or brand registries. In addition to the Victorian approved registries, there are at least six other horse microchip registries and at least 50 brand registries operating nationally. Local government, DPI and the RSPCA are therefore finding it increasingly difficult to establish ownership of diseased, injured, straying, trespassing or abandoned horses. According to the horse industry, a lack of registry standards has resulted in variability of permanent identification devices, and the inconsistent placement of those devices in horses.

The implantation of microchips in horses provides a permanent identification method that assists in the identification of owners in the event that a horse is diseased, injured, lost or impounded. Additionally, a standardised system of identification of horses and the ability to contact their associated owners in emergency

situations, such as the recent equine influenza outbreak in Australia, would assist in facilitating the response to such emergencies.

The act already contains all the necessary elements required for the operation and management of animal microchip registries as well as implanting standards, training competencies, scanning standards, auditing and trace-back operation to locate owners. Part 4A of the act that deals with microchip identification is to be adapted to include horse microchip identification standards. As a result of these amendments, the title of the act will be amended to the Domestic Animals Act 1994.

In order to provide industry, particularly non-veterinary implanters, with proper training and education, and since the Domestic (Feral and Nuisance) Animals Regulations 2005 will also need to be amended, the proposal will come into operation on a day or days to be proclaimed, with a forced commencement of 1 December 2009.

The bill includes some machinery amendments to clarify provisions of the act and their intended meaning. In addition there has been a restructure and amalgamation of the enforcement powers of authorised officers to ensure consistency throughout the legislation.

I will now turn to the amendments to the Impounding of Livestock Act 1994.

It is currently an offence under the act for a person to wilfully permit or cause livestock to trespass. The act is to be amended to allow an authorised officer of the council to issue a notice of objection to the owner or person in charge of an animal, alerting them that the animal has trespassed and must not trespass again. A notice to confine requiring the person to ensure adequate confinement of the animal to the property will also be able to be issued where livestock are not adequately confined to the property. In particular this will allow officers to prevent stock from wandering on roads and prevent putting drivers and the animal itself at risk of an accident. A failure to comply with a notice of objection will result in a penalty not exceeding 20 penalty units, while failure to comply with a notice to confine is subject to a penalty not exceeding 50 penalty units. An authorised officer may, as an alternative, issue an infringement notice.

This bill provides authorised officers of a council with the power to enter any land or building, not including any building occupied as a residence, to impound and care for livestock if they believe it is abandoned. Currently, local councils are powerless to impound livestock that are left abandoned on land, particularly in situations where previous occupiers or tenants have moved out. This power to enter private land can only be exercised at the request of the owner of the land.

An authorised officer of a council may issue an infringement notice where an unauthorised person under the act impounds livestock, or drives livestock from a person's land without proper authority.

The bill introduces the power for an authorised officer of a council or other authorised officer under the act to file charges for an offence under the act, and includes generic regulation-making powers, such as the ability to prescribe forms and fees.

Lastly, I will outline the amendments to the Prevention of Cruelty to Animals Act 1986.

The amendments to the act will increase penalties, improve provisions relating to cruelty offences, inspectors powers and provisions relating to rodeos, as well as enhance the administration and enforcement of the act.

The bill will double penalty levels and introduces corporate penalties for offences relating to cruelty, aggravated cruelty, baiting and luring, trapshooting, trapping, illegal scientific use of animals and rodeos under the act. Also, a contravention of an offence under the regulations will be doubled to 20 penalty units. Corporate penalties have been introduced to allow for appropriate penalties to apply where large corporations commit a cruelty offence. This is a result of the government's pre-election commitment to increase penalty levels for animal cruelty offences.

In order to remedy inconsistencies in the legislation, the bill shifts cruelty-related animal procedures offences such as the tail docking of a dog and firing of a horse, which are currently under the regulations, into the act, alongside similar existing act offences. It also introduces new offences for procedures such as grinding or trimming the teeth of a sheep or removing the claws of a cat or the venom sacs of a reptile, unless performed by a veterinary practitioner for therapeutic purposes. Further, it makes it an offence for the owner of an animal to allow such a prohibited procedure to be performed. A breach of any cruelty offence will be increased to a penalty not exceeding 120 penalty units or imprisonment for 12 months, in the case of a natural person, or 600 penalty units in the case of a body corporate. A penalty of 20 penalty units will also apply for showing or exhibiting an animal or allowing another

person to show or exhibit an animal subjected to a prohibited procedure.

The bill will also make it an offence for a person to set, use or sell a trap that is not of a kind prescribed under the regulations, or not set, use or sell a trap in accordance with prescribed conditions. Museums and collectors are exempt from the prohibition of selling traps, provided the traps are sold for collection or display purposes only. Further, the minister will have the power to declare, by order, the areas in Victoria in which prescribed large leg-hold traps may be used. A breach of these offences will result in a penalty not exceeding 240 penalty units or imprisonment for two years, for a natural person, and 1200 penalty units for a body corporate.

The bill makes it an offence to intentionally or recklessly allow an animal with a specified heritable defect to breed or for selling an animal with a specified heritable defect without first advising the new owner. A breach of this offence will result in a penalty not exceeding 60 penalty units, for a natural person, and 300 penalty units for a body corporate. A list of the specified heritable defects and associated species that will constitute an offence are provided in the bill. This list has been prepared in consultation with the Australian Veterinary Association (AVA). These offences improve protection of the welfare of animals.

While it is currently an offence for a person to travel with a dog unsecured on the tray or trailer of a motor vehicle, proving who was driving can be difficult, since the general public or inspector that witnesses the offence often cannot see the driver or pull the vehicle over. The bill makes this offence an 'operator onus' offence under part 6AA of the Road Safety Act 1986. The system provides that an infringement notice is served on the registered owner of the vehicle who can then nominate the person known to have possession or control of the vehicle at the time of the offence. The nominee in turn is liable for the offence unless they can identify another person to whom they had passed control of the vehicle, that the vehicle was stolen or that the next person in the chain of control cannot be identified for a legitimate reason.

Inspectors powers under the act are also to be improved. Inspectors have the power to seize anything they reasonably believe has been used in connection with the commission of an offence under the act. However, since inspectors do not have the power to proactively search for evidentiary materials, they are often refused access to documents, records and other relevant information, thus resulting in a failure to properly investigate alleged offences. The amendment will allow an inspector to apply to a magistrate for the issue of a search warrant allowing the inspector to enter premises, including residential premises and vehicles, and search and take anything described in the warrant, as well as require a person to provide information to an inspector where requested to determine whether an offence against the act has or is about to be committed.

Animals can be abandoned on private land. While currently an inspector may exercise a power to impound an abandoned animal found in a public place, it is proposed to extend this power and allow impoundment of animals found on private property that is not a person's dwelling. The inspector may immediately seize the animal only if he or she reasonably believes the animal's welfare is at risk. In all other cases, the inspector must leave notice at the premises stating that the animal will be seized within two days of giving the notice, if they are not contacted. Once an animal is seized, a notice must be served on the owner or left at the premises, stating that the animal may be recovered within 14 days after service of the notice.

The act currently provides that where a person has been convicted under the act and the court considers the offence is of a serious nature, the court may order that the person be disqualified from having custody of any animal or class of animal for a period not exceeding five years. The term 'custody' has led to enforcement problems, since a person can technically still be in control or ownership of an animal without necessarily being in custody of the animal. Also, offenders can be repeat offenders, and by previous conviction have demonstrated they are incapable of providing proper care to an animal. However, courts do not have the discretionary power to impose a longer ban period. The act is therefore to be amended so that the court may order that the person be disqualified, subject to any conditions, from being the 'person in charge' as defined under the act, or from having ownership of any animal for a period of up to 10 years. An inspector may also apply to the magistrate to order the seizure and disposal of an animal of a class described in the order.

There are currently limited grounds on which to dispose of a seized animal where the owner or person in charge of an animal has been charged with an offence against the act, where proceedings for an offence against the act have commenced, the person has been found guilty under the act, or the seized animal's welfare is considered to be at risk as the owner has failed to demonstrate he or she is capable of providing the animal with adequate care. The bill will therefore provide greater powers to the court on application by an inspector to order the disposal of an animal in these

circumstances, or order that the owner pay a bond or security, or payment of any other identified costs for the animal's care and maintenance during the proceedings. Disposal powers will also be improved in circumstances where the animal has been seized, and the identity of the owner or person in charge of an animal is established and has been notified but fails to recover the animal.

Minor amendments are made to:

narrow the definition of animal, which will help achieve national harmonisation on the use of animals in research and teaching;

allow an annual licence to be issued to accredited rodeo operators who operate numerous rodeos annually and thereby reduce the administrative burden;

allow the department head to vary conditions of a rodeo or rodeo school permit or rodeo licence;

provide a new head of power to regulate the conduct of rodeos and operation of rodeo schools;

allow for the delegation of ministerial and department head powers under the regulations, and

extend the statute of limitations period to three years for certain animal cruelty offences.

In addition, the enforcement powers of the act have been rearranged and some minor changes made to ensure consistency and improve the application of these powers throughout the legislation.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Debate adjourned until Thursday, 25 October.

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.

Police: Brighton station

Ms ASHER (Brighton) — The issue I have is for the Minister for Police and Emergency Services. My request of him is to keep the Brighton police station open as a stand-alone, 24-hour facility. It will well known that the Labor government has wanted to shut this station for a long time, according to FOI documents. On 20 May 2003 the then police minister, Minister Haermeyer, assured me in this place that I was having a 'anxiety attack'. I also note that the former police minister, Minister Holding, wrote to me on 11 July 2005 and likewise said:

> … no further consideration has been given to any options which would result in the closure of the Brighton police station.

He also wrote to me on 31 August 2006, saying:

> While I know it is important for Liberal MPs to conjure up issues to campaign on in the lead-up to the election, I think your campaign in respect of the Brighton police station is a particularly desperate one in the context of my April letter.

One minister told me I was having an anxiety attack and another minister told me I was desperate. However, the current Minister for Police and Emergency Services wrote to me on 6 August 2007 relaying the following news, which is most unfortunate for Brighton. He has washed his hands of the matter. He said:

> There is a continued commitment from Victoria Police to the retention of a police presence in Brighton, appropriate to operational requirements.

We all know what that means — that is, of course, that the station is earmarked for closure. It is very clear to me and to my constituents that the government wants to sell the land at Carpenter Street and Asling Street, Brighton, and divert that funding to build a Sandringham police station. This shows that this government views Brighton as a source of funds rather than as a community needing police services.

The *Bayside Leader* of 28 August 2007 reports Bayside police inspector Forti virtually confirming that the station is tagged for closure. Indeed the minister's spokesman said the Chief Commissioner of Police will be making the decision. I wrote to the chief commissioner on 11 September, but so far I have received no response. I call on the minister not to hide behind the chief commissioner's skirts and make the decision to keep the Brighton police station open. The ALP in opposition clearly thought these sorts of decisions were within the purview of the minister, and I believe they are.

My community pays its taxes. My community is not a great drain on the people of Victoria. My community is entitled to a 24-hour, stand-alone Brighton police station, particularly in view of the rising incidence of violent crime in the electorate. I call on the minister to

have the guts to do his job and leave that police station open, stand-alone and 24-hours.

North West 200 Club: business forum

Mr LANGDON (Ivanhoe) — I wish to raise a matter for the attention of the Minister for Small Business. The action I seek is for the minister and his department to investigate the advertising of a business breakfast forum that was held this week, on Wednesday, 10 October, by the North West 200 Club in Heidelberg. The matter concerns an attempt by the people associated with the Liberal Party to deceive small businesses in the north-east of Melbourne to get money from them under false pretences for the Liberal Party.

An invitation was sent to all small businesses in the north-west region. The pamphlet advertises a business breakfast forum to be presented by legal and business experts. The front of the pamphlet, which I have a copy of here, poses the question, 'How will a change of government impact on your business?'. Another question inside the brochure asks, 'Why is my business at risk?'. The pamphlet is misleading and dishonest. It says nothing about pushing the Liberal Party's views supporting the WorkChoices legislation. The pamphlet also says nothing about the money going from the forum to the Liberal Party. Just to clarify it, I have an annual return of the organisation showing donations of $2500 in six federal Liberal seats, so clearly the funds are going there.

Some investigation has shown that the North West 200 Club is associated with the Liberal Party and that before the last election it donated funds to the Liberals. The pamphlet does not disclose its affiliation with the Liberal Party — there is not one word. The organiser and chairman, Mr Warren Stook, did not disclose that he is a Liberal Party member or say anything about the then workplace relations minister, who appointed him to a reference group that recently reviewed the award system for the Howard government.

Accompanying this pamphlet sent to businesses — and this is where it became a bit suspicious — was a Liberal Party pamphlet. It was delivered at the same time; purely coincidental, surely! The pamphlet attacks the federal Labor opposition about its union mates, et cetera. According to the Australian Electoral Commission records, the North West 200 Club is an associated entity of the Liberal Party. Therefore any information must contain authorisation as required by the AEC if the material is likely to affect voting intention. Clearly it was designed to do so.

I find this matter very concerning and dubious. The North West 200 Club is trying to deceive small business into believing that this is a forum that is completely independent when it is clearly a push for the Liberal Party. I have no objection to anybody holding a forum for the Liberal Party or pushing its views, but they have to be honest and up-front about it. Tell them what it is all about!

Water: north–south pipeline

Mrs POWELL (Shepparton) — I raise an issue with the Premier concerning the north–south pipeline and the so-called food bowl modernisation project. The action I seek is for the Premier to abandon the state government's plans to construct a pipeline to extend from the already stressed Goulburn system to the Sugarloaf Reservoir and instead upgrade the food bowl's ageing water infrastructure, which this government has ignored over the past seven years.

We are talking about a 70-kilometre pipe that is so big that a grown man can stand up in it. It is proposed that it will be constructed through forests, Crown land and private land. There was no community consultation before the decision was made, and the freehold landowners still do not know where the pipe is going and whether it will go through their property. There has been no social, economic or environmental impact study done to see whether it will impact on the Goulburn Valley. There is strong community opposition to this pipeline. I have attended many rallies and meetings and presented petitions to this Parliament.

There is a lot of misinformation about the water savings that this modernisation will bring about. The Premier said on Tuesday during question time that he knows that up to 800 gigalitres of water is lost from this system each year due to seepage, leakage and evaporation. This is clearly wrong. We do not know. The Nationals have asked for an independent audit. What we do know is that actual losses in 2005–06 were 660 gigalitres; in 2006–07, 540 gigalitres; and this year there will be much less loss of water because of the low rainfall and the low water allocation.

The Minister for Water commented this week that when people understand what is going on with the modernisation, they will support it. In fact the opposite is true. When people learn about the modernisation program, they are actually coming out and saying to me that we must continue to oppose it.

There have been a number of community information meetings on the draft report from the food bowl modernisation project steering committee. I have

attended one of those meetings. They have all been poorly attended because there was not enough information given out beforehand. At the meeting I asked John Corboy, who is the chairperson of the Food Bowl Alliance, about his meeting 12 months ago with the government. He told me it was correct that they made a $2.2 billion deal for a share of the water.

The Food Bowl Alliance has now been dudded because it is now only receiving $600 million from this government and $400 million from other water authorities — $300 million from Melbourne Water and $100 million from Goulburn Murray Water. Melbourne is getting the first 75 gigalitres of water. If there are not enough savings, it will raid the water that is in storage for other purposes, including water quality and the environment, to ensure that it does have the 75 gigalitres.

This government went to the last election with a promise that it would not take water from north of the Great Dividing Range, yet while negotiating with a group of people from the Goulburn Valley, it is going to do just that.

Motor vehicles: environmental noise

Mr SCOTT (Preston) — I wish to raise in tonight's adjournment debate an issue for the attention of the Minister for Environment and Climate Change in the other place. The issue relates to environmental noise caused by modifications to motor vehicles, and I am requesting that the minister investigate noisy exhaust systems and the noise pollution they create.

It is abundantly evident that environmental noise is not just a nuisance but a health issue. Apart from hearing loss, environmental noise can cause stress and sleep loss, and it contributes to both physical and mental health conditions. Noise is linked with annoyance, school children's performance, sleep disturbance, some heart disease and hypertension. One of the most annoying forms of environmental noise is that coming from motor vehicles.

Australian design rule 83 requires that new vehicles sold in Australia must meet noise emission standards, but it is not necessarily new vehicles that are the cause of the most troubling noise pollution. Some of the noisiest vehicles on the road are those that have been modified by their owners by fitting highly ineffective mufflers that cause the vehicles to emit a throaty roar as they race through sleeping suburbs — or suburbs of people attempting to sleep, anyway.

The EPA advises that it is an offence to use, own or modify a vehicle so that it exceeds the maximum permitted noise level when the vehicle is driven on the road. Meanwhile, muffler advertisements appear daily selling mufflers on the basis of their roaring volume of sound. I call upon the Minister for Environment and Climate Change to investigate this problem and make Victoria a better place to live, work and sleep.

Harness racing: country meetings

Dr NAPTHINE (South-West Coast) — The issue I wish to raise is for the Minister for Racing, and in his absence the minister at the table. The action I seek is for the minister to keep his promise to represent country harness racing clubs and ensure that they are able to meet with the full board of Harness Racing Victoria, not merely a subcommittee of the board.

In March 2005 the Labor government in conjunction with Harness Racing Victoria shocked country communities by closing seven harness racing tracks and also proposed to close another track in either Stawell or Ararat, saying that it would be closed by the end of 2008. Since then the communities of Boort, Gunbower, Hamilton, Ouyen, St Arnaud, Wangaratta and Wedderburn have been fighting to at the very least be allowed to run their cup meetings on their own home tracks.

These communities are hardworking dedicated volunteer harness racing committees operating at the grassroots of this sport. They simply want a fair hearing and fair consideration. They have worked extremely hard to develop a sound business case to demonstrate that having a local cup meeting in their own town on their own track would be good for the town, would be good for the local economy, would be good for local owners and trainers and good for harness racing across Victoria.

Following a recent meeting with the Minister for Racing, these clubs were promised and were assured by the minister of being able to have a meeting with the full board of Harness Racing Victoria to put their business case for this change. But in the meeting scheduled with Harness Racing Victoria, it seems they are now going to be meeting only with a subcommittee. A letter received by a representative of that group advises:

> Accordingly a subcommittee of the board, including myself, chief executive John Anderson, general manager strategic planning and development Shane Gloury, is prepared to meet with your nominated representatives and receive your submission.

This meeting is scheduled for 18 October. Instead of meeting the full board, as promised by the minister, they are going to meet with one person from the board, the chief executive officer and another employee of the board. This is not what the minister promised; this is not what harness racing clubs need. What we need is for the minister to keep his promise and to make sure that these clubs are allowed to present their business case to the full board of Harness Racing Victoria.

This is not a small issue; it is a very important issue to those local communities. They are volunteer committees, they have worked hard and they can guarantee and deliver outstanding attendances, turnover and great harness racing at their cup meetings at their local tracks. They want that opportunity, and they want to present their business case to the full board of Harness Racing Victoria. I call on the minister to keep his promise.

Housing: affordability

Ms RICHARDSON (Northcote) — I bring a matter to the attention of the Treasurer in the other house. The issue concerns housing affordability, and in particular first home owners' attempts to buy into the market. I ask the minister to take action to assist those wishing to purchase their first home.

The Labor government believes that every Victorian deserves a decent home and place to live. In recent years house prices in Victoria, as in the rest of Australia, have increased significantly. In my electorate in particular house prices have increased enormously in comparison to the rest of Melbourne. While this has led to improved financial security for homeowners and some home buyers, the Howard government's failure to place downward pressure on interest rates means that other Victorians are finding it more difficult to buy or rent a home.

Indeed Mr Costello's five interest rate rises since 2004 have increased payments on average mortgages by around $190 a month. I welcome the Labor government's provision of an extra $500 million over four years to build more affordable homes and to upgrade our existing public housing portfolio. This will significantly assist those most in need in the housing market.

In addition, the Brumby Labor government continues its commitment to implementing the Melbourne 2030 action plan. The plan provides a sustainable framework for urban development and encourages development of well-located, affordable housing close to transport and services. The Labor government is committed to maintaining adequate supplies of residential land across Melbourne by providing up to 25 years land supply in growth areas.

These policies ensure that Melbourne maintains its status as the most affordable capital city on the eastern seaboard. But despite this government's best efforts, the Howard government continues to undermine affordability. It has cut funding to public housing and has failed to do anything to make it easier for low-income families in private rental accommodation. In Victoria alone it has slashed more than $1 billion from public housing, costing us more than 5000 homes.

Dr Napthine — On a point of order, Deputy Speaker, I am reluctant to interrupt the member, but under the adjournment debate rules the member has to ask for specific action from the minister, not general action.

The DEPUTY SPEAKER — Order! The member has asked for action to assist those who wish to purchase their first home, and I consider that action.

Dr Napthine — Yes, and I would argue, Deputy Speaker, that that is a general request, not a request for specific action with respect to the adjournment rules.

The DEPUTY SPEAKER — Order! I do not uphold the point of order.

Ms RICHARDSON — The Howard government's failure to recognise the scale of the challenge that is before us has had a direct impact on first home owners seeking to buy their first home. In a way, too, we are victims of our own success.

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

Surf Coast: Lorne streetscape project

Mr MULDER (Polwarth) — The matter I wish to raise is for the Minister for Local Government and concerns a special rate scheme proposed by the Surf Coast Shire Council for the Mountjoy Parade streetscape project in the township of Lorne. The action I seek is that the Minister for Local Government appoint a municipal inspector to meet with council to examine the project and the process used to design this scheme, as it would appear that there is some doubt about whether council's process for this scheme and the levy set on each property comply with the act, ministerial guidelines or its own policies.

Many in the Lorne community feel they have been misled and misrepresented and are concerned about the

allocation of charges on their residential properties. It is possible that this situation has arisen simply because the council does not understand the purpose of, or know how to manage, a special charge scheme of this size and complexity. The extent of compliance with the legislation and with notions of fairness and equity needs to be independently examined, along with the degree of community benefit that would be generated by the project. A state contribution is being sought to assist with the project in addition to the usual grants for powerline undergrounding and road resurfacing, and it is surely required and should be justified on the basis of Lorne's importance as Victoria's premier tourism destination.

The consultation process undertaken by the Surf Coast shire needs to be examined in terms of the balanced interests of all involved being fairly represented. The streetscape community reference panel consisted of three council officers, an officer from the Great Ocean Road Coastal Committee, five tourism operators and only three private residents. Given this, it is not too much of a leap to conclude that the panel could be seen as having been stacked against the interests of the residents. It could also be argued that council's community consultation process appears to contravene the expectations for consultation set down in ministerial guidelines.

The charge that council proposes to levy on Lorne properties and permanent residents is unfair and oppressive. Ministerial guidelines propose that a special benefit be assessed in terms of physical and environmental amenity, improved access, improved safety and economic benefits. It would appear that the council has made no effort to assess the benefit according to all of these criteria. The council's reliance on net annual value is also inappropriate, as market prices and therefore valuations are affected by a variety of factors such as views and the quality of construction, amongst other things.

I urge the minister to intervene in this matter and put a process in place to provide for a fairer outcome, as the current process has resulted in excessive and unfair costs on properties used exclusively for residential purposes and fails to take into consideration what little benefit residents will receive from the proposed works under the scheme currently proposed by the Surf Coast shire.

Lorne lost the moneys promised to it via the lease on Erskine House. It is the only community to have been subjected to parking meters on its foreshore, and now residents are expected to shoulder the cost of a commercial streetscape upgrade. Residents are saying that enough is enough. They are losing people in their service clubs. They are losing people from the community in their sporting clubs. The young and the elderly are being affected by this. They cannot afford these types of impositions.

Skills training: Workforce Participation Partnerships program

Mr EREN (Lara) — I raise a matter with the Minister for Skills and Workforce Participation. The matter I wish to raise relates to the Victorian government's 2006 election commitment to implement a comprehensive workforce participation strategy for Victoria. I understand the government is currently developing its workforce participation strategy, which will set the priorities for the workforce participation of Victorians.

The action I seek from the minister is that she strongly consider future support of employment programs such as the Workforce Participation Partnerships program which are so important to my electorate of Lara and Victoria. CREATE (Geelong) is one of the organisations in my electorate that is utilising the WPP program, and it is a not-for-profit organisation based in the northern suburbs of Geelong. CREATE offers services to early school leavers, people with disabilities, school programs, traineeships and school-based apprenticeships, case management programs, employment programs, and more recently a community-based enterprise that employs local residents, thus assisting them with their employment. The organisation is a major partner in the neighbourhood renewal initiative. Another very worthy organisation that benefits from the WPP program is Diversitat, formerly known as the Ethnic Communities Council. The people in that organisation certainly speak very highly of the WPP program and think it is a fantastic program.

In the northern suburbs of my electorate there is a huge problem with unemployment. According to the Australian Bureau of Statistics and the 2001 census, within the postcode 3214, which covers the areas of Norlane and Corio, 58 per cent of people of working age were jobless. That is a huge concern for me particularly. The WPP program has been immensely successful in providing sustainable jobs not only in my electorate but for all Victorians who face difficulties entering the workforce and also assisting employers to meet their skill and labour needs. I understand that to date WPP projects have assisted over 2500 job seekers across Victoria to secure ongoing employment. In Victoria the WPP program contributes to economic growth through greater labour force participation, as

well as contributing to greater equity and social wellbeing of individuals, families and communities.

I commend the government for its work to boost workforce participation and assist every person to realise their capacity to participate socially and economically. A key part of the government's work in this area has been the Workforce Participation Partnerships program launched in 2005. Again I ask the minister to strongly consider future support for this very important program.

Polyvinyl chloride pipes: safety

Mr K. SMITH (Bass) — I wish to raise an issue with the Minister for Planning in the other place, through the Minister for Local Government who is at the table, in his capacity as the minister responsible for the Building Commission. I ask him to get the commission to investigate what I believe to be a very serious health issue in the plumbing and building area. The minister would be aware that PVC (polyvinyl chloride) pipes have been used for drainage, waste and vent pipes for about 25 to 30 years. Normally they are 100 millimetres, 65 millimetres, 50 millimetres or 40 millimetres. There is also a 90 millimetre pipe that is used for stormwater pipes, along with the 100-millimetre pipe I have already mentioned.

It has recently been brought to my attention that some of this pipe is not suitable for use in the collection of rainwater and water tank connection as this pipe is classified for non-potable use. My concern is that, with the current drought conditions, these pipes may be being used in rural areas that connect to rainwater tanks. Some of the water is used for garden use, but particularly in rural areas it is also used for domestic drinking purposes. When it is made the pipe contains a lead stabiliser, which can leach into the pipe carrying water to the holding tank and then for distribution to taps, some for drinking and some for garden or for other use.

During my investigations I spoke to a senior scientist at one of Australia's biggest producers of PVC pipe, who informed me that the industry was aware of the problem and that it had removed lead stabiliser from the PVC pressure pipes — different from the ones I have already spoken about — produced by the company 17 years ago; that the industry marked its 90-millimetre DVW stormwater pipe with a non-potable-use sticker; that the technical data also had it down for non-potable use only; and that the industry will phase out lead stabiliser by the end of 2007. My concern is that people — plumbers, farmers and others — who have purchased and installed this pipe are oblivious to the danger of using the pipe.

In my plumbing days I would have installed kilometres of these pipes, and the building industry would have installed hundreds if not thousands of kilometres of this type of pipe. With the recommended installation pamphlet put out by the Plumbing Industry Commission, headed *Roof Plumbing — Storm Water Drainage — Charged Systems to Rainwater Tanks*, I am concerned that people may in fact be endangering their lives because of the problems that lead poisoning can cause to people. I ask the minister to get the Building Commission to investigate this serious health problem and to do something about the number of pipes that are already in the ground that may in fact be causing some people the problems that lead poisoning can cause, particularly here in Victoria, but also across Australia.

Mordialloc Creek Bridge: reconstruction

Ms MUNT (Mordialloc) — I wish to raise an issue with the Minister for Roads and Ports regarding the widening of the Nepean Highway bridge over Mordialloc Creek at Mordialloc. The member for Carrum and I have consulted extensively regarding the Mordialloc bridge and we have advocated very strongly in the past to ensure that local traffic has access across the bridge during the new construction.

When construction began some months ago there was an issue with traffic access over the bridge, as only one lane was available each way, particularly during morning and afternoon peak hours. At that time we brought that to the attention of the minister, who was very responsive. As a result the bridge was reconfigured to allow for two lanes of traffic in during the morning peak hour and one lane out, and two lanes out in the evening peak hour and one lane in. The bridge was temporarily widened. It was quite a feat that VicRoads managed.

The action I seek is that the widened section of the bridge, which as I explained has been widened during the construction phase, be retained and used to better cater for pedestrians and cyclists on the completion of the new bridge. The member for Carrum and I have spoken with the mayor of Kingston, Topsy Petchey, and the chief executive officer, John Nevins, and we believe they also support this permanently widened footprint for the bridge. Local community groups and residents have also contacted me in this regard. The member for Carrum and I firmly support measures that contribute to the amenity and safety of our local cyclists and pedestrians. We are particularly aware that a large

number of schoolchildren cross the bridge on the way to and from school every day, and a large number of recreational walkers and cyclists also use the bridge every day.

The member for Carrum and I would like to congratulate the Minister for Roads and Ports for his responsiveness to our concerns when he allocated over $2 million extra to relieve the traffic congestion during the construction of this new bridge. He acted very swiftly and actually came down soon after we saw him on a sitting day in Parliament to inspect it himself. As I said, the configuration of the lanes was changed in the morning and afternoon to take the peak periods into account. We now ask the minister on behalf of our local community to retain this widened section of the bridge in the permanent construction to allow safe and easy access not only for cars but also for pedestrians and cyclists.

Responses

Mr WYNNE (Minister for Housing) — I am pleased to respond to the matter raised by the member for Polwarth. It concerns a special rate scheme that has been proposed by the Surf Coast Shire Council in relation to the Mountjoy Parade, Lorne, streetscape project. I have had an opportunity to have a look at this particular proposal and take some advice from my department. As the member would be aware, public submissions to the council in relation to this proposal closed today. It is a matter that is currently in process through the council, and under section 163A of the Local Government Act any person can make a submission regarding the proposed special rate or charge. Obviously the council would have advertised that through the appropriate public notices in local newspapers and so forth, and no doubt there are a range of submissions that will attend to this matter.

It is also important to indicate that under section 223 of the act councils must take into consideration all submissions received and provide any person who has made a written submission the right to appear and to be heard before a meeting of the council or council subcommittee. I assume what will happen from here is that the submissions will be collated and brought forward and the submitters will be provided with the opportunity to appear before the council to state either their support or indeed opposition to the particular special rate proposal. As I indicated to the member for Polwarth, obviously the council will consider that matter presumably over the next couple of months, which is the usual process.

I should note that there is an appeal process available — through VCAT (Victorian Civil and Administrative Tribunal) — for members of the public who consider that, if the council is of the view that it wishes to pursue the special rate scheme, there are opportunities for that matter to be heard administratively through the VCAT process.

Whilst this is early days in the process for this particular proposition, it is clear from the advice that I have been provided with by the Office of Local Government that this is in order. There is an appeal process available. The member for Polwarth indicated that I ought to have a municipal inspector investigate the matter, but I am satisfied that what the Surf Coast Shire Council has undertaken in relation at least to the establishment of the process and going through the special rate process is in order. There are important mechanisms available to members of the public both to be heard and to register their particular views on this proposal, as well as opportunities for further appeal at a later date. I thank the member for raising that matter with me.

An honourable member — Comprehensively.

Mr WYNNE — Indeed. The member for Brighton raised a matter for the attention of the Minister for Police and Emergency Services. She is strongly advocating for the retention of the Brighton police station in its current location, and I will make sure that matter is raised for the attention of the Minister for Police and Emergency Services.

The member for Ivanhoe has raised a matter for the attention of the Minister for Small Business and his further investigation. The matter involves an organisation called the North West 200 club, and the member for Ivanhoe alleges that this organisation is a fundraising arm of the Liberal Party.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The minister should ignore interjections.

Mr WYNNE — I am doing my best! The member for Ivanhoe suggests that this is a fundraising arm of the Liberal Party and that it has failed to declare these links. I will make sure that that matter is brought to the attention of the Minister for Small Business.

The member for Shepparton raised a matter for the attention of the Premier. She has strongly advocated for the abandonment of the north–south pipeline project, and I will direct that matter to the Premier's attention.

The member for Preston raised a matter for the attention of the Minister for Environment and Climate Change in another place. The matter he raises is general noise and the modification of motor vehicles and the subsequent impact upon the community of such motor vehicles, presumably in his electorate. That is a matter that I will certainly make sure is addressed.

The member for South-West Coast has raised a matter for the Minister for Racing, advocating that the minister ensure that there is a meeting of the full board of Harness Racing Victoria with affected harness racing organisations in country Victoria, and I will pass that matter on for the attention of the minister.

The member for Northcote raised a matter for the attention of the Treasurer in another place in relation to the quite serious issues of housing affordability in her electorate, but more broadly the question of federal government policy settings. She has asked the Treasurer to address the matter of housing affordability more generally within a Victorian context.

The member for Lara raised a very serious matter for the Minister for Skills and Workforce Participation, seeking her support for organisations such as CREATE — I believe the other organisation is called Diversitat — and for further workforce participation opportunities in his electorate, most particularly in the northern suburbs of Geelong, where I think up to 59 per cent of the population are unemployed. Specifically that is in the Corio-Norlane area, and I will make sure that matter is addressed to the Minister for Skills and Workforce Participation.

The member for Bass raised a very important issue for the Minister for Planning concerning the Building Commission. He is seeking an investigation into PVC pipes which are lead stabilised and not appropriate to be used for transporting potable water, particularly for water tanks, with the potential for water contamination if those pipes are used. It is quite a serious issue and one that I will make sure the Minister for Planning is advised of urgently.

Finally, the member for Mordialloc raised a matter for the Minister for Roads and Ports in relation to the very good work that has been done by the member for Mordialloc and the member for Carrum in relation to the widening of the bridge over the Mordialloc Creek. She suggested that the wider footprint that has now been established ought to be continued for bicycle and pedestrian use in the future. That matter will be brought to the attention of the Minister for Roads and Ports.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 5.15 p.m. until Tuesday, 30 October.