PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 20 September 2007

(Extract from book 13)

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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.

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

Acting Speakers: Ms Beattie, Ms Campbell, Mr Eren, Mrs Fyffe, Ms Green, Dr Harkness, Mr Howard, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, 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. J. W. THWAITES (to 30 July 2007)

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Leader of The Nationals:
Mr P. J. RYAN

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

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Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Northe, Mr Russell John	Morwell	Nats
Clark, Mr Robert William	Box Hill	LP	O'Brien, Mr Michael Anthony	Malvern	LP
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Fyffe, Mrs Christine Ann	Evelyn	LP	Ryan, Mr Peter Julian	Gippsland South	Nats
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Helper, Mr Jochen	Ripon	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
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Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
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] Resigned 6 August 2007

CONTENTS

THURSDAY, 20 SEPTEMBER 2007

Thursday, 20 September 2007

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

RULINGS BY THE CHAIR

Members statements: points of order

The SPEAKER — Order! Before calling notices, a point of order was raised by the Deputy Leader of the Opposition yesterday and it has been referred to me. The member was seeking clarification on the raising of points of order during members statements. I would like to refer all members to a ruling by previous Speaker Andrianopoulos:

> It is appropriate for points of order to be taken and dealt with at the end of the 15-minute period. Members should be afforded the opportunity to make statements uninterrupted.

I take this opportunity to remind all members of this well-established practice.

NOTICES OF MOTION

Notices of motion given.

Mr NARDELLA giving notice of motion:

Mr McIntosh — On a point of order, Speaker, I have been watching the clock. The member for Melton has been speaking for over 45 seconds, and it is clearly not a notice of motion. It is a statement, it is inappropriate and it should be ruled out of order.

Mr NARDELLA — On the point of order, Speaker, I have been in this place long enough to understand how to frame a notice of motion, unlike the member for Kew.

Honourable members interjecting.

The SPEAKER — Order! I warn members of The Nationals and the Opposition. Points of order will be heard in silence.

Mr NARDELLA — I have been in this place long enough to understand how to frame a notice of motion. It is — —

Mr Walsh interjected.

The SPEAKER — Order! The member for Swan Hill is warned.

Mr NARDELLA — I have taken advice, and my notice of motion is in the correct form.

The SPEAKER — Order! As discussed last sitting week, notices have become fairly wide and varied and very diverse. The length of this notice of motion does concern me. As with some motions yesterday, the opportunity is there for them to be trimmed by the clerks. I will continue to hear the member for Melton, understanding that his motion will most likely be trimmed.

Mr NARDELLA continued giving notice of motion.

Further notices of motion given.

Mrs POWELL having given notice of motion:

The SPEAKER — Order! I advise the member for Shepparton that the clerks will need to have a look at her notice of motion. The initial part of it is identical to that proposed by the member for Swan Hill and will be looked at outside the chamber.

Further notices of motion given.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 30 to 32 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Following petitions presented to house:

Nuclear energy: federal policy

> To the Legislative Assembly of Victoria:
>
> The petition of residents of Victoria draws to the attention of the house the commonwealth government's promotion of a nuclear industry in Australia and the strong likelihood that Victoria will be selected as a site for the construction of a nuclear power facility.
>
> The petitioners therefore request that the Legislative Assembly of Victoria reaffirm the opposition of the Victorian government to the creation of a nuclear industry in Victoria, including the construction of a nuclear power plant.

By Dr HARKNESS (Frankston) (5 signatures)

Cycling: safety

To the Legislative Assembly of Victoria:

The petition of the residents of the state of Victoria draws to the attention of the lower house the bewilderment, disappointment, and disbelief of the community of Mentone and wider Victoria towards the regular practice of cyclists deliberately running red lights, especially at the Beach Road, Mentone, crossing, with cyclists racing downhill in a 'Hell Riders' pack, or individually, knowing that they cannot stop if the lights change, and still not consciously valuing pedestrian life enough to 'pull their heads in' even though there has already been a death at that crossing.

The passing of the 'much-loved local', James Gould, is commemorated daily with bunches of flowers, a year after his death, yet cyclists abuse pedestrians who point to the flowers when a cyclist breaks the law. There is a serious 'attitude problem' in relation to cyclists; respect for human life and the law. The practice of cyclists 'running red lights' with impunity, must stop! Cyclists believe it is their right to do so, leading to serious injury, disablement and loss of life. A message must be sent to cyclists, and seen to be sent, through Brumby government action, in addressing the 'civil war' between pedestrians and cyclists, in order to prevent further 'civilian' mortality, by way of legislation, immediately, urgently, and with overdue haste!

The petitioners therefore request that the Legislative Assembly of the Parliament of Victoria calls upon the Brumby government to:

(1) amend the existing law, or make a new law, including the charges of manslaughter and the causing of grievous bodily harm (not just enforce implied powers of existing law) to ensure that they might also, in appropriate circumstances, apply to a cyclist recklessly causing death or injury; and

(2) then enforce the aforementioned law, in order to do the right thing by the citizens of Victoria who are entitled to feel safe, believe they will be safe, and are safe, in crossing the road and making it to the other side alive.

By Ms MUNT (Mordialloc) (47 signatures)

Water: north–south pipeline

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to develop a pipeline which would take water from the Goulburn Valley and pump it to Melbourne.

The petitioners register their opposition to the project on the basis that it will effectively transfer the region's wealth to Melbourne; have a negative impact on the local environment; and lead to further water being taken from the region in the future. The petitioners commit to the principle that water savings which are made in the Murray Darling Basin should remain in the MDB. The petitioners therefore request that the Legislative Assembly of Victoria rejects the proposal and calls on the state government to address Melbourne's water supply needs by investing in desalination, recycling and capturing stormwater.

By Mrs POWELL (Shepparton) (76 signatures)

Emergency services: south-western Victoria helicopter

To the Legislative Assembly of Victoria:

The petition of the citizens of western Victoria draw to the attention of the house the lack of a multifunction emergency helicopter rescue service based in Warrnambool. The petitioners therefore request that the Legislative Assembly of Victoria immediately provide a rescue helicopter for the region, as western Victoria remains the only area of the state not covered by an emergency helicopter service. Our desired helicopter service would include air ambulance, firefighting capabilities, day and night search and rescue facilities and would be available for onshore, coastal and offshore operations. We seek a speedy establishment of such a helicopter to cover all of western Victoria.

By Dr NAPTHINE (South-West Coast) (7124 signatures)

Tabled.

Ordered that petition presented by honourable member for South-West Coast be considered next day on motion of Dr NAPTHINE (South-West Coast).

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

Ordered that petition presented by honourable member for Shepparton be considered next day on motion of Mrs POWELL (Shepparton).

PUBLIC SECTOR ASSET INVESTMENT PROGRAM

Budget information paper 2007–08

Ms NEVILLE (Minister for Mental Health), by leave, presented 2007–08 public sector asset investment program — budget information paper no. 1.

Tabled.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2007–08 (part 3)

Mr STENSHOLT (Burwood) presented report, together with appendices, extracts from proceedings and minority report.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Ombudsman, Office of — Report 2006–07 — Ordered to be printed

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

Corangamite — C17

Hume — C99

Moonee Valley — C78

Yarra — C96

Statutory Rules under the *Subordinate Legislation Act 1994* — SRs 95, 96, 97, 98

Subordinate Legislation Act 1994 — Ministers' exception certificates in relation to Statutory Rules 95, 97, 98.

BUSINESS OF THE HOUSE

Adjournment

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

That the house, at its rising, adjourn until Tuesday, 9 October 2007.

Motion agreed to.

MEMBERS STATEMENTS

Mental health: volunteer support program

Ms NEVILLE (Minister for Mental Health) — I was pleased to be asked to launch recently the mental health volunteer support program for the Geelong region. This program is a project initiated by Barwon Health volunteer services and supported by a $150 000 grant from the Department of Planning and Community Development. The project will provide Geelong volunteers with free access to an award-winning course designed to better support people with a mental illness.

The course provides volunteers with the skills to help a person and their family better manage a potential or developing mental health problem. Many people with a mental illness lose social and personal interaction skills. Volunteers can play an important role in offering companionship and support. The training course will provide information about mental health in the community, including depression, anxiety, psychosis and drug abuse. The mental health first-aid course also includes mentoring initiatives, developing companionship skills and how to further educate the public about mental health issues.

I would like to acknowledge the range of organisations that are involved in this important project: Barwon Health, Australian Red Cross, Pathways, Geelong mood support group, Geelong Mental Health Consumers Union, the Salvation Army, Kardinia Mental Health Services, Mental Illness Fellowship, Barwon Network of Neighbourhood Houses and the Geelong Volunteer Resource Centre. I would particularly like to acknowledge Melanie Tanis and Keyda McNama. They have been instrumental in getting volunteers involved in this project — giving of their own time and enormous passion for this issue.

Finally I would like to thank the many volunteers who have been willing to give up their time; without them this program would not be possible. Congratulations to everyone involved. This project will make an important difference to those living with a mental illness.

Freedom of information: water restrictions

Ms ASHER (Brighton) — I wish to draw to the house's attention a second example of the Labor government using FOI to hide advice it received about water restrictions for Melbourne prior to the last election. Melburnians will remember that harsher restrictions were introduced after the state election. I lodged an FOI application in January 2007 for documents about water restrictions that were given to the government from 1 December 2005 to 1 December 2006.

The Department of Premier and Cabinet identified 23 documents and advised me that they were all exempt on the basis of being either internal working documents or in the case of 17 documents they were so-called cabinet documents. I requested an internal review and the department identified a 14-page document that was previously classified as an internal working document and gave it to me. What did I see in that 14-page document? Nine blank pages stamped 'Released under FOI'. This is FOI under the Brumby Labor government, and nothing has changed from the Bracks Labor government — this is FOI under Labor. The information I was given was simply some factual information about what restrictions were what.

This case will go to VCAT (Victorian Civil and Administrative Tribunal). The government's conduct shows that the Premier's claim to be transparent and accountable is a sham. This is the second case before

VCAT directly relating to the government's inaction on water supply prior to the 2006 election.

Oakleigh Amateur Football Club: achievements

Ms BARKER (Oakleigh) — It was a great day last Saturday at the Trevor Barker Oval in Sandringham when Oakleigh Amateur Football Club captain Trevor Bromley and coach David Gately held aloft the premiership cup, having beaten Hampton Rovers by 65 points in the Victorian Amateur Football Association D1 grade. It has been a wonderful team effort by the players to have now won back-to-back premierships. With promotion to Dl grade just this year it is certainly a great achievement that in one year this group of players has again won the premiership and has now been promoted to C grade.

This club has many volunteers, and it is a real team effort on and off the field. I pay tribute to the coach, David Gately, an excellent coach who is ably assisted by Ben Gately. We are also very lucky to have four dedicated trainers. John Bromley is now in his 11th season at Oakleigh and has three very skilled and dedicated assistants in Belinda Bromley, Jo McKenna and Selena Earl. I also thank very much our president, Barry Alexander, who is an inspiring president and certainly leads by example in all aspects of the extensive voluntary work that he does for the club. Norm Walsh is another stalwart of the club, and is such a dedicated worker at the club that I do not know what we would do without him.

The committee has worked very hard to provide opportunities for this club to succeed on the field and also to provide social activities for all of us who support it. An essential part of their work is fundraising and gaining sponsors, and I particularly thank our major sponsors: Porter Davis Homes, Lance Hawker of Better Torque Motors, James Podesta of Watts Fencing and Cathy of Emporio Family Restaurant. To the players, the coaching staff, the match committee members, trainers, team managers, water carriers, Kath Johnstone in the canteen, the committee and all those who put in such a great amount, congratulations.

Drought: government assistance

Mrs POWELL (Shepparton) — I wish to alert this house that almost all of our Victorian farmers are in crisis. I hear this from the councils I meet across country Victoria, from the drought recovery workers, from the service providers and from the farmers themselves. We have already lost far too many farmers who have made the decision to leave the land, to destock or not to produce a crop or fruit due to the lack of water. It is getting too hard, and they wonder who cares.

The Leader of The Nationals gave examples of state government support that is needed, including immediately reintroducing the $20 000 cash grants for farmers and small businesses affected by the drought; compensating irrigators for water they pay for but do not receive; funding employment and training programs; continuing the 50 per cent council rate rebate to farmers and businesses in exceptional circumstances declared areas; speaking to the banks and lending institutions to ensure they assist our farmers and small businesses; and increasing counselling services in country Victoria.

I am told that mental health illnesses have increased because of the severity and length of the drought, which is causing depression, stress, anxiety, despair, helplessness, isolation and anger, and that is not helped by this government's decision to take water from the Goulburn system for Melbourne, Geelong, Bendigo and Ballarat. I urge the state government to stop the north–south pipeline, upgrade the water infrastructure and support our rural communities so they know they are valued and can continue to feed this state, this nation and beyond and make a decent living while they are doing it.

Tesselaar Tulip Festival

Mr SEITZ (Keilor) — Last Sunday I was a guest of the Australian Turkish Cultural Platform at Silvan, which was celebrating the origin of the tulip at the Tesselaar Tulip Festival. It was an excellent example of multicultural Melbourne. The activities that the Turkish community and the Dutch-background Tesselaar Tulip Farm joined together in putting on last weekend demonstrated how people in Melbourne work together and support each other. It also showed people from Melbourne and in the region that the tulip originated in Turkey. Because the Dutch got hold of the tulip bulb and made it a Dutch tradition, everybody believes the tulip originated in Holland.

On Sunday there were demonstrations of cultural dancing and music by the Turkish community and of the arts by the modern-day young Turkish community, with performances including clothing design and modelling. A very interesting one was the tattooing of hair. I have never seen a hairdresser put messages in ladies' hair, whether it be advertising signs for the Commonwealth Bank or the Australian Turkish Cultural Platform itself. A number of other — —

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

Emergency services: south-western Victoria helicopter

Dr NAPTHINE (South-West Coast) — Alycia Fowler suffered critical injuries when her car collided with a truck near Warrnambool. When Alycia tragically died some weeks later without regaining consciousness, her family and friends joined the fight to get a locally based emergency helicopter for south-west Victoria, as it took eight hours and multiple stretcher transfers to get Alycia to the Alfred trauma centre.

At 6.45 a.m. on 14 August Carolyn Meerbach was enjoying her morning walk in Portland when she was hit by a vehicle. It took until 3.00 p.m. to get Carolyn to the Alfred. Today Carolyn is barely clinging to life. Her surgeon says her chances were significantly reduced due to the time taken to get her to Melbourne. Her family has joined the campaign to get a local rescue helicopter.

Together these families and supporters have, in only three weeks, collected 7124 names on a petition calling for government action to get an emergency helicopter for south-west Victoria. They are not alone. There are on average two cases per week in south-west Victoria where life-threatening situations are such that a local helicopter is needed. These are work accidents, vehicle accidents, serious medical emergencies and search and rescues at sea and on land.

Acting Speaker, can we stop the clock for a minute?

The ACTING SPEAKER (Mrs Fyffe) — Order! Stop the clock.

Dr NAPTHINE — Acting Speaker, I have been watching the clock, and it suddenly went from showing 1½ minutes to showing 9 seconds. You pace your speech according to the clock.

The ACTING SPEAKER (Mrs Fyffe) — Order! I am advised that the clock froze and that the clerks had to reset it.

Dr NAPTHINE — Acting Speaker, an honourable member watches the clock because there are issues that an honourable member wishes to raise. When it gets to a certain time, one wants to change from one issue to another issue, and one is guided by that clock. If the clock is not working, it disrupts the effectiveness of the speech.

The ACTING SPEAKER (Mrs Fyffe) — Order! I am assured that on the computer the member will actually have the right time. I do not know what the answer is with the display clock.

Dr NAPTHINE — But, Acting Speaker, the issue is that I was on my feet and I had anticipated that when the clock turned to showing 20 seconds to go I would refer to the further component of this issue that I wished to raise. I looked at the clock and there was still 1 minute 24 seconds to go, so I continued without referring — —

The ACTING SPEAKER (Mrs Fyffe) — Order! I have heard sufficient. I think, bearing in mind that I am not sure what to do, that we will give the member 20 seconds from now.

Dr NAPTHINE — Thank you. The Fowler and Meerbach families wanted to collect signatures at the Coleraine races. However, the Coleraine racing committee refused them permission because the Premier was attending. I wonder: did the Premier's office bully or threaten the Coleraine racing committee to stop them collecting signatures at the races? We need the emergency helicopter. One hundred and fifty thousand people are at risk.

Puckapunyal neighbourhood centre: men's shed

Mr HARDMAN (Seymour) — I would like to thank and congratulate the Puckapunyal neighbourhood centre and all those who have supported the establishment of a men's shed at Puckapunyal, which will provide a place for men from across the Seymour and Puckapunyal area to meet and learn skills. The men's shed is well equipped with tools of all kinds, benches for participants to create useful objects and enable them to take part in projects that will benefit the community. The first project the men's shed will be involved in is creating nesting boxes for the Department of Sustainability and Environment which will provide habitat for native fauna.

At the opening on Monday of this week there was a large gathering of people who had for some time been supporting the operation of a men's shed across the Mitchell shire, and it was great to see the Puckapunyal neighbourhood centre grow and continue its work in offering creative courses and programs for the people of the area.

Cr Sue Marstaeller

Mr HARDMAN — I would also like to congratulate Cr Sue Marstaeller on the work she does for the communities in southern Mitchell shire. Cr Marstaeller was honoured by the community of Wandong-Heathcote Junction by having a new building — the Sue Marstaeller Sports Pavilion — named after her in recognition of the efforts she has made on behalf of the community.

The new pavilion, funded in greater part by the Mitchell shire but also by $50 000 from the state government's Small Towns Development Fund and the community, contains change rooms, a common area, kitchens and public toilets servicing the L. B. Davern Reserve. The L. B. Davern Reserve contains new and upgraded tennis and netball courts, also a project of the shire but supported by Sport and Recreation Victoria's minor facilities fund. I would really like to congratulate Cr Marstaeller.

Peninsula Community Health Service: future

Mr MORRIS (Mornington) — Last Thursday afternoon I attended a packed meeting of members of the Peninsula Community Health Service at the Currawong Community Centre in Mornington. The meeting was called to enable members to formally express their view on the Department of Human Services plan to merge the service with community health. And express their view they did! Despite assurances from a senior officer of the department, the meeting unanimously rejected the plan and called for the continuation of a community-based organisation. At two earlier public meetings similar motions were also unanimously supported.

I understand the Minister for Health has agreed to meet a delegation from the membership, and I thank him for that. The minister has an interest in the community health field, and I am sure he appreciates that, given the clear differences between the Peninsula community and that of Frankston, any merger will in fact be a takeover. The community will be essentially removed from community health. I again urge the minister to reject this flawed proposal.

Mount Eliza Centre: hydrotherapy service

Mr MORRIS — On another matter, Acting Speaker, three months ago I raised the issue of the hydrotherapy service run at the Mount Eliza Centre. The service was threatened following the opening of a new facility in Mornington, despite its only being half built, because the health network did not have enough staff to run both. Fortunately, through the good work of the Peninsula Community Health Service and others, the hydrotherapy program has been relocated to another facility. Nevertheless, the area has lost a pool that has served the community well. This is an action typical of this government. It gives with one hand and takes away with the other. When is this government going to start keeping its promises?

El Salvador: 186th independence anniversary

Mr LANGUILLER (Derrimut) — On this, the 186th anniversary of the independence of El Salvador, it gives me great pleasure to extend my warmest greetings to everyone involved with the second annual dinner dance of the Foundation of Salvadorean Communities in Australia. Since its inception this special fundraising benefit has been a welcome opportunity for many in Victoria's Salvadorean community to celebrate their history and heritage, while improving the lives of some of El Salvador's most needy and vulnerable.

As Salvadoreans around the world take time to celebrate this landmark occasion, I am reminded of a remark made by Sir Winston Churchill: 'We make a living by what we get; we make a life by what we give'.

Sri Lankan Study Centre for the Advancement of Technology and Social Welfare: 15th anniversary

Mr LANGUILLER — On another note, Acting Speaker, it is with great pleasure that I commend the Sri Lankan Study Centre for the Advancement of Technology and Social Welfare 15th anniversary celebrations at the University of Melbourne. The tireless work undertaken by SCATS benefits a wide range of people including the young, the old, women, job seekers, high school students and the many talented members of this community.

SCATS has persistently enriched the social and cultural life of Sri Lankans living in Australia. Importantly SCATS has assisted many members of its community with access and equity issues relating to mainstream services. In addition SCATS has made the time to help other communities access other services.

Gippsland East electorate: government assistance

Mr INGRAM (Gippsland East) — Many small businesses continue to suffer as a result of the natural disasters — bushfires, drought and floods — that have occurred in my electorate this year and in recent years.

Small businesses and primary producers were offered financial assistance by the state government, but the eligibility criteria require that these people have to have been directly affected by fire or floodwaters. Many have been indirectly affected, particularly businesses, and they have been refused access to low-interest loans. Many have applied for grants, and have been encouraged to apply for them, but have been let down by this process. Significant cost has been incurred in their just doing their financial statements, but because of the eligibility criteria they have not been allowed to receive funding.

These people are not seeking a handout but assistance in the form of low-interest loans in order to keep trading and continue to employ local staff. In discussions with local councils they have argued that small business should have access to funding based on the Cyclone Larry funding model due to the immediate cash-flow impacts that occur. This model should be considered and implemented by the state government. This is highlighted by a letter from Jan Franz from the Fisherman's Wharf restaurant at Paynesville, who highlights clearly, like many other businesses during the fires and floods, the cost to business of not being able to trade for extended periods and not having access to support.

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

Senior Sergeant Paul Gunning

Ms RICHARDSON (Northcote) — On Tuesday, 4 September, I was privileged to attend the Corporal R. E. Breavington memorial award ceremony at All Nations Park in Northcote. Every year since 1990 the award has been given to a member of the Northcote police station who, as voted by his or her peers, has displayed selflessness and dedication and acted in a way to inspire others.

This year's winner was Senior Sergeant Paul Gunning. In 2000 Paul's service was recognised and honoured when he won the Australian Police Medal, but for his colleagues at Northcote the Breavington Award honoured his outstanding leadership abilities. Fellow policemen at Northcote could not speak highly enough of Paul and his achievements. Senior Constable Alix Watson said, 'You couldn't ask for a more honest, caring and supportive boss. Voting for him was an opportunity for us to show him we think he is a fantastic leader who we respect'.

The Breavington award commemorates the heroic life of a former Northcote policeman, Corporal Rodney Breavington, who enlisted the day after the outbreak of war in the Pacific in 1941. He was captured at the fall of Singapore, but his escape, along with Private Victor Gale, resulted in both allied and Japanese reports of their amazing feat of endurance. Unfortunately Breavington was captured and executed by the Japanese, who sought to make an example of him because he refused to sign an agreement not to attempt to escape again. After digging their own graves, Breavington pleaded for the life of Private Gale; he refused a blindfold and saluted his superior officers, which infuriated the Japanese.

In the words of former prisoner of war Private Tommy Thwaites, who also attended the award presentation and who served with Breavington, his courageous defiance served to inspire others to continue the fight to be free and survive. To the members of the Northcote police station, Corporal Breavington serves as an inspiration. The award in his name is a symbol of excellence for which — —

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

Boating: Warneet

Mr BURGESS (Hastings) — I wish to raise a matter for the attention of the Minister for Environment and Climate Change in the other place. The action I seek is that the minister meet with members of the Warneet community and clarify plans for the future development of boating facilities for Western Port.

Concerned residents contacted me after the release of the state government's coastal boating action plan, which outlined the state's plan to improve recreational and boating facilities in Port Phillip and Western Port bays. More than $20 million is earmarked to be spent over the next four years on boating safety and accessibility in the coastal region. The coastal villages of Tooradin and Warneet have been identified for upgraded boating facilities. This is despite the assurances by the Department of Sustainability and Environment and Parks Victoria to residents in December 2006 that there were no future plans to increase boating facilities in Warneet. Of the 160 000 boat registrations in Victoria in 2006, more than half of those registrations were in this region.

Warneet residents are concerned that any upgrades to boating facilities will bring an unmanageable increase in boat and trailer traffic into Warneet. The current estimate of cars with boat trailers in Warneet is 150 per day on any weekend during the boating season. The issue is further compounded by the number of unsealed

roads, which already cause significant health issues for residents in the township due to the fine powder dust. Accessibility for increased boating traffic would also be hazardous due to the condition of the unsealed roads, and upgrades are urgently needed.

There are further contradictory messages being given to the Warneet community. On the one hand, the Warneet Ski Club, which is an excellent community facility which provides local residents with boating-related recreational and social activities, has been told it is to close and a local business has been refused a permit to operate a hovercraft. On the other hand, the state government recently released the boating action plan.

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

Schools: Mordialloc electorate

Ms MUNT (Mordialloc) — We have great schools in our local area, both state and independent, and I am always excited and impressed with the range and breadth of achievement of our local students. I would like to pay tribute to some of those students and their achievements in this place today.

Ermajo and Amber Graham have been selected to represent Victoria at the under-16 national water polo championships in Sydney in late September and early October. Good luck girls. Congratulations also to Kate Sizer, year 7, Casey Irwin, year 8, David Ross, year 10, Laura Barnewall and Avery Buttress, year 12, from Cheltenham Secondary College on their selection and participation in the special student edition of *1 v. 100*. It sounds like great fun. Congratulations also to all the students from Cheltenham Secondary College who were invited to enter the state science talent search run by the Science Teachers Association of Victoria, because their assignments were of such high standard. There were 37 of them. What a great result for Cheltenham Secondary College.

I would also like to congratulate Julie Wang from Mentone Girls Grammar for her Victorian certificate of education high achiever award presented by the former Premier, Steve Bracks. Julie is now studying science-law at Melbourne University. Well done, Julie, and my best wishes for your very bright future.

Congratulations also to Parkdale Secondary College for its wonderful performance and fourth place in Victoria at the grand final of the Rock Eisteddfod at Vodafone arena last week. Also congratulations to Kilbreda College for its beautiful production of *Beauty and the Beast*, which I attended a few weeks ago. It is a very talented group of students and teachers throughout my electorate. Well done!

Moe Racing Club: development

Mr BLACKWOOD (Narracan) — I rise to call on the Minister for Racing to give his full support to a project currently being proposed by the Moe Racing Club in my electorate of Narracan. The Moe Racing Club has an application before Racing Victoria Ltd for the construction of a synthetic track and lighting. This is a very exciting concept and has the potential to enhance racing in Gippsland and beyond, provide a major economic boost to Moe by attracting thoroughbred trainers to the Moe area and increase employment opportunities. Of course the multiplier effect back through the business community will be very significant.

The Moe business community has had to endure a downturn in business over the past 12 months due to this government's decision to relocate the Moe Magistrates Court. The development of the Moe Racing Club as the premier hub of racing in Gippsland would go a long way towards restoring the economic viability of the local business people.

The Moe Racing Club is managed by a very dedicated, hardworking group of local men and women, headed up by president, Paul Davis, and chief executive officer, David McKinnon. It is a very professional organisation and has developed a magnificent convention centre, pokies venue and bistro. The racing facilities are excellent for horse, jockey and punter. I call on Minister Hulls to back a winner for the Moe Racing Club, back a winner for the Moe community and back a winner for Gippsland, by making financial assistance available similar to that provided to the Geelong Racing Club for its synthetic track development in 2006.

Ballarat: Passport to Diversity dinner

Mr HOWARD (Ballarat East) — Last week I was pleased to be a guest at the City of Ballarat's Passport to Diversity celebration dinner. This was another very inspiring celebration, which followed other enjoyable events held over the past month. These include the launch of the new Ballarat Indian community group and the Multicultural Fling, run by the Central Highlands Asian Australian Association.

The Passport to Diversity dinner focused on the very successful initiative instigated by the City of Ballarat to appoint 10 multicultural ambassadors, which took place one year ago. The ambassadors have done a great job over the last year, having spoken at many events and

being featured in the Ballarat *Courier*. They have shared their experiences, which range from being post-World War II migrants from Europe to being more recent refugees from life-threatening circumstances in their countries of origin.

It was also pleasing to attend the events with our newest arrivals from Togo, and I commend the City of Ballarat for the great leadership it has shown in supporting multicultural events over many years and helping to celebrate our great multicultural diversity, which is growing in Ballarat. I commend the city, the *Courier* and all of those involved in establishing more organisations and running more events. Time does not allow me to name the multicultural ambassadors, but they are all worthy of commendation.

Bridges: Echuca-Moama

Mr WELLER (Rodney) — Frustration and anger within the community concerning the stalemate over the Echuca-Moama bridge reached boiling point two weeks ago when a truck accident near the bridge caused traffic chaos in both Echuca and Moama for some 6 hours. On 6 September a truck overturned near the entrance to the bridge on the Echuca side of the Murray River at 7.30 a.m. Lack of an alternative access forced emergency services personnel to limit traffic to one lane until 1.30 p.m. that day. Arterial roads on both sides of the river were affected by the traffic blockages, with vehicles banked up for several kilometres in all directions.

In this day and age it is completely unsatisfactory for thousands of people to be inconvenienced to such an enormous extent and for businesses to suffer as the result of a comparatively minor accident. The economic loss and social disruption caused by this accident, and by others which have occurred in recent times, are infuriating to local residents, particularly when there is a solution by way of constructing a new bridge to the west of the town.

All that is required to overcome this stalemate is for the roads minister to give the green light for a new application to build a bridge in the west to be lodged under the Victorian Aboriginal Heritage Act. If there is an objection under the act, the Aboriginals can take it to the Victorian Civil and Administrative Tribunal. It is time that the roads minister came to Echuca, spoke to the stakeholders and the community about their concerns, and resolved the issue.

Viewbank College: *Crazy for You*

Mr LANGDON (Ivanhoe) — I pay tribute to the students who participated in the Viewbank College production of *Crazy for You*. This year is the 10th anniversary of my sponsorship of the school production. Each year the production seems to get better and better.

This year's show had eighteen year 12 students, whom I would like to name. They are: Jessica Brown, Imogen Forbes, Adam Montebello, Tom Armstrong, Katherine Collins, Daniel Kamateros, Broden Kelly, Robert Paul, Rhys Purdey, Kinnersly Smith, Madeline Snow, Rosalind Slade, Emily Altis, Andrew Hondromatidis, Melanie Brackenridge, Sean Dawson, Katy Hocking and Sheree Ronai-Horvath. I pay tribute to those students, most of whom have been involved in some parts of the productions over a number of years. They played a significant part in this year's production. They were the stars of the show either as singers, dancers or sound people, members of the lighting crew and stage managers, or by helping to design and paint sets. Some of those listed were in the production's orchestra.

It was fabulous to see so many senior students stepping up in their last year of school to participate in the show. I pay tribute to them and the school production. As I said, it is my 10th year of supporting this production, and it seems to get better and better every year. This year, as I said earlier, it featured the largest number of year 12 students, and I pay tribute to them.

Ferntree Gully electorate: youth council

Mr WAKELING (Ferntree Gully) — I recently had the pleasure of hosting the inaugural Ferntree Gully electorate's youth council, comprising representatives from Rowville Secondary College, St Joseph's College, Fairhills High School and Upwey High School.

The student representatives spoke passionately about a range of issues affecting young people in Melbourne's east. They were very concerned about access to safe and reliable public transport, and they explained that many students were unable to access crowded bus services before and after school. They also called on the state government to take action on delivering the Knox tramline. Female students were particularly fearful of using the Ferntree Gully railway station on safety grounds.

The youth council representatives also raised concerns about the lack of accessible leisure facilities for young people on Friday and Saturday evenings. They also called for the greater education of young people on

issues associated with suicide, depression and other health matters. I was very impressed with the contribution of these young community leaders and will continue to stand up for their concerns in Parliament.

Angliss Hospital: development

Mr WAKELING — I am very concerned about recent comments in this house by the health minister regarding the future development of the Angliss Hospital. A number of capital works programs are identified in Eastern Health's strategic plan and include the need to address ongoing infrastructure needs and increased bed capacity by rebuilding wards 2 East and 2 West as well as wards 1 East and 1 West.

Instead of the health minister criticising the Liberal Party for raising these important issues, I call on him to tell residents in Melbourne's east when this government will provide the necessary funding to implement these important capital works programs.

Geelong Football Club: All-Australian selections

Mr TREZISE (Geelong) — I take this opportunity to congratulate the nine Geelong Football Club players who this week were selected in the All-Australian Australian Football League (AFL). As members are aware, the Geelong Football Club dominated the home-and-away season, finishing three games clear and on top of the ladder — but of course the job is far from complete.

The domination of the Cats in season 2007 is reflected in the nine All-Australian selections. It is a credit to Cameron Ling, Steve Johnson, Jimmy Bartel, Darren Milburn, Matthew Scarlett, Gary Ablett, Jr, Cameron Mooney, Joel Corey and Matt Egan that they have gained selection, and I congratulate them all. It is a testimony to the character of individuals like Cameron Ling, whose sacking many were calling for this year. He defied his critics and has now reached the pinnacle of his profession.

Of course we are still two games from the ultimate AFL glory, and my only regret is that my father, who lived and breathed the Geelong Football Club, may have passed away one year too early. Congratulations to all involved at the Geelong Football Club. Go Cats for 2007!

Guide dogs: trainee Prue

Ms GRALEY (Narre Warren South) — I will shortly have to bid a sad farewell to someone who has regularly come to my office in recent times. That someone is a young trainee guide dog called Prue, who is about to be returned to the Guide Dogs Association for the next stage of her training. Prue has been brought up since she was a tiny puppy by a lady called Gayle Errington, who is a much-valued volunteer in my electorate office. Gayle has invested an enormous amount of time and energy in bringing up Prue, so that she is now ready to become a guide dog and make a huge difference to the life of a visually impaired person.

Thanks to Gayle, Prue has not only been trained like other dogs to be a valued member of a family, but over the past year she has also been exposed to a wide variety of experiences, people, sights and sounds. We have all had to train ourselves to resist patting the lovely Prue. My constituents visiting the office have all been drawn to her, and many times a little chat about her has helped soothe the path through a problem or two. I would like to commend Gayle for her selfless act of volunteerism, along with all those other individuals and families who take on the very important task of puppy-walking a future guide dog.

We will all miss Prue. She is probably the only dog in training who has spent time with lots of politicians, attended many official functions and sat patiently while our noisy folding machine constantly went through its paces. I am sure this will make her the most diplomatic, popular and astute guide dog going around. We can only hope she does not take to kissing babies.

Ivanhoe Grammar School: parliamentary visit

Mr KOTSIRAS (Bulleen) — I wish to pay tribute to Ivanhoe Grammar School, which is the wonderful school that my son attends. He is currently in year 10. The teachers are dedicated, and I am sure the member for Ivanhoe will support me in saying they are hardworking. The students are also hardworking, and they are educated in a magnificent educational environment. I pay tribute to the principal, I pay tribute to the teachers and I pay tribute to the students as well. They are very impressive.

If I were allowed — which I am not — I would acknowledge the students in the gallery. They are great students. All year 8 students have visited the Parliament this week and have advised me that they have enjoyed it and enjoyed listening to the ministers — —

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

EDUCATION AND TRAINING REFORM MISCELLANEOUS AMENDMENTS BILL

Statement of compatibility

Ms PIKE (Minister for Education) 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 Education and Training Reform Miscellaneous Amendments Bill 2007.

In my opinion, the Education and Training Reform Miscellaneous Amendments 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 amends the Education and Training Reform Act 2006 by introducing a range of measures to assist in the administration of that act and to reflect recent machinery of government changes. It will also make statute law revision changes and technical amendments to improve the drafting of the act, and address other matters which have arisen since it was passed.

The more significant provisions establish a process for the approval of providers of overseas student exchange programs; prevent double payments in respect of personal injuries to volunteer school workers; permit the registration of home schooling for students up to 18 years of age, require criminal records checks for registered teachers to be undertaken every five years, enable the Victorian Institute of Teaching to obtain teacher details from their employers, and widen the category of criminal offences which the Chief Commissioner of Police must inform the Victorian Institute of Teaching where a teacher is charged or convicted.

Human rights issues

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

The only human right that might be impacted by the bill is the right to privacy under section 13(a) of the Charter of Human Rights and Responsibilities. That subsection states that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The word 'arbitrary' requires that any interference be reasonable in the circumstances.

It is considered that, although clauses 9, 10 and 11 of the bill engage the section 13 right, they do not limit that right.

Clause 9 of the bill inserts a new section 2.6.22A in the act to require the Victorian Institute of Teaching to undertake a criminal record check on a registered teacher every five years.

Clause 10 of the bill inserts a new section 2.6.26A in the act and enables the Victorian Institute of Teaching to obtain from the employers of teachers the names of the teachers, the teacher's registration number and date of birth.

Clause 11 of the bill amends section 2.6.31 of the act so as to widen the category of criminal offences which the Chief Commissioner of Police must inform the Victorian Institute of Teaching on becoming aware that a teacher has been charged with, committed for trial or convicted of any of those offences.

None of the clauses involve an 'unlawful' interference with privacy. They will not be unlawful as the bill, or the act once it is passed by Parliament, will provide for the action referred to in those clauses to occur.

For the following reasons, none of the clauses involve an arbitrary interference with privacy.

The requirement under clause 9, for the Victorian Institute of Teaching to undertake a criminal record check on a registered teacher every five years, is being introduced for consistency with criminal record checks under the Working with Children Act which last for five years, and to ensure that any criminal conduct engaged in interstate by a teacher is identified. Whilst section 2.6.22 of the current act requires the chief commissioner to notify the Victorian Institute of Teaching if a registered teacher is charged with or convicted of a sexual offence against a child, the chief commissioner's records only relate to offences in Victoria. A full criminal record check on the other hand is undertaken on a nationwide database, and will also pick up offences other than sexual offences against children. These other offences might also be relevant in assessing a person's suitability to be a teacher.

Clause 10, which enables the Victorian Institute of Teaching to obtain from the employers of teachers the names of the teachers, the teacher's registration number and date of birth, is being introduced to enable the Victorian Institute of Teaching to crosscheck its teacher registration details against details of persons employed in schools as teachers. It is vital that our children are taught by properly trained and registered teachers, and that any that have been deregistered for criminal offences are not teaching in our schools.

Clause 11, which widens the category of criminal offences which the Chief Commissioner of Police must inform the Victorian Institute of Teaching on becoming aware that a teacher has been charged with, committed for trial or convicted of any of those offences, will mirror the change to the Victorian Institute of Teaching Act 2001 that was made under section 53 of the Working with Children Act 2005. The offences cover violent offences like murder, and various drug offences. As stated earlier, section 2.6.22 of the current act requires the chief commissioner to notify the Victorian Institute of Teaching if a registered teacher is charged with or convicted of a sexual offence against a child. These extra offences are all relevant to the issue of whether the teacher should continue to be registered.

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

As the bill does not limit human rights, 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 limit human rights.

BRONWYN PIKE, MP
Minister for Education

Second reading

Ms PIKE (Minister for Education) — I move:

That this bill be now read a second time.

Members may recall that the Education and Training Reform Act 2006 introduced significant reforms, and also merged and updated 12 separate acts dealing with education and training. The purposes of this bill are to introduce a range of measures to assist in the administration of that act and to reflect recent machinery of government changes. It will also make statute law revision changes and technical amendments to improve the drafting of the act, and address other matters which have arisen since it was passed.

As the provisions of the bill can be grouped under those three main purposes, I propose to deal with them in that order.

The first group of measures are designed to assist in the administration of the act and implement recent machinery of government changes. A number of the bill's provisions fall into this group, and I will focus on those that are more significant.

The measures include the ability to enable fees to be paid by instalments. The act currently enables the minister to fix the various fees that are payable under the act by education providers for things like the registration of schools or education and training organisations, the registration of bodies wishing to deliver higher education courses, and providers of courses to overseas students. The amendment is based on section 35A of the repealed Victorian Qualifications Authority Act 2000 which empowered the minister to fix a fee for matters chargeable under that act, and for the minister to authorise the fees to be collected in periodic instalments or other methods. As some fees are payable in respect of registrations covering a five-year period, and the revenue of education providers is spread over the same period, it seems reasonable to enable them to pay the fee by instalments, rather than requiring them to make an up-front fee at the start of the five-year registration period.

The measures will also enable the Victorian Curriculum and Assessment Authority to appoint a committee without first having to obtain the minister's approval to appoint a committee. This is a power that the other education authorities have, and there appears to be no good reason to continue this anomaly.

The measures also require the Victorian Registration and Qualifications Authority to have regard to the suitability of a course for overseas students when considering whether to approve a person to provide a course to an overseas student. This change will mirror section 27(3)(da) of the repealed Victorian Qualifications Authority Act 2000, which enabled the former Victorian Qualifications Authority to have regard to the suitability of the course for overseas students when considering whether to approve a person to provide a course to an overseas student.

The regulation of education providers to overseas students is done in compliance with the Commonwealth's Education Services for Overseas Students Act 2000, and an offence occurs under section 8 of that act if a person provides a course to an overseas student without first being registered by the relevant state authority. The relevant state authority in Victoria is the Victorian Registration and Qualifications Authority, and section 4.5.1(2) of the Education and Training Reform Act 2006 states that in deciding whether to grant an approval, the authority may have regard to the national code and any guidelines issued by the authority and matters relating to the management of the education institution. Whilst subsection (3) enables the authority to issue guidelines dealing with all or any of the matters referred to in subsection (2), none of the matters in subsection (2) refer to the suitability of the course. The proposed amendment will address this issue and enable the authority to have regard to the suitability of the course.

Another measure involves permitting full-time employees of universities to be paid a fee for membership of an authority such as the Victorian Registration and Qualifications Authority. The university employees undertake their role as board members outside their role as employees — however, schedule 2 of the Education and Training Reform Act 2006 prevents them receiving any fees. It is important that the VRQA and other authorities continue to attract members with relevant expertise and experience, and the proposed amendment will remove the current restriction.

The bill also increases by one the membership of the Victorian Registration and Qualifications Authority. This change reflects recent administrative arrangements and ensures that the Secretary, Department of Education and Early Childhood Development, and the Secretary, Department of Innovation, Industry and Regional Development, are members of the authority. The administrative arrangements also supported amending the bill to remove the mandate that the secretary must be a member of the Adult Community and Further Education Board.

Administrative efficiencies will be achieved by the amendment enabling the regulations under the act to incorporate matters in documents as published from time to time. The education and training portfolio is governed by various national guidelines and frameworks, such as the Australian Qualifications Framework and the standards for registered training organisations, and at the state level through instruments such as guidelines, ministerial orders, or directions. The regulations sometimes need to refer to the above documents; however, the current regulation-making power under the Education and Training Reform Act 2006 is restricted to referring to documents as issued or published at the time the regulations are made. The current regulation-making power cannot refer to documents as published from time to time, or as amended from time to time. To accommodate changes in published documents without having to remake the regulations, the amendment will enable the regulations to incorporate matter contained in a document as amended from time to time. Section 32(4) of the Interpretation of Legislation Act 1984 will be relevant to this amendment, as it requires the minister to table in Parliament a copy of the relevant documents, and for copies to be kept in the department for inspection by the public, as well as notices to be published in the *Government Gazette*, so as to provide information to the public of the documents as amended.

The bill will also permit the secretary to delegate his employment powers in respect of school services employees to a government school principal. This change will mirror current practices and will reflect the recent transfer of these employees to employment by the secretary in the teaching service under part 2.4 of the Education and Training Reform Act 2006. It will also be consistent with the delegation of other powers to principals of government schools in respect of teaching service positions in the teaching service.

Another administrative-type measure effects an amendment to permit the minister to delegate to the chairperson of the merit protection boards the power to appoint an acting member of a merit protection board. These boards hear reviews and appeals in respect of the teaching service. Due to the volume of business, there are seven merit protection boards. Section 2.4.45 provides that a merit protection board consists of three members appointed by the Governor in Council of whom —

> one shall be the chairperson nominated by the minister;
>
> one shall be a person nominated by the secretary;
>
> one shall be nominated by the minister after calling for expressions of interest from teachers employed in government schools.

The absence of a member for illness or other cause is addressed by section 2.4.47, which permits the minister to make an acting appointment in the absence of a member. The number of boards and the urgency within which acting appointments need to be made favour administrative arrangements being put in place to enable the chairperson of the boards appointing an acting member from a list previously agreed to by the minister. This will be achieved under the bill by enabling the minister to delegate to the chairperson the power to appoint an acting member.

The second last matter in this group of administrative-type provisions will update the volunteer school worker compensation sections in the Education and Training Reform Act 2006. Those sections currently provide for payment of compensation to volunteer workers for personal injuries incurred whilst engaged in school work. They also provide that compensation is to be paid under the Accident Compensation Act 1985 and that the Victorian WorkCover Authority is to represent the Crown in the proceedings. Until recently, proceedings under that act were taken before the County Court, the Magistrates Court or VCAT.

However, part III of the Accident Compensation Act 1985 was updated recently to enable the parties to a dispute to refer the dispute to conciliation by the Accident Compensation Conciliation Service, which can also involve a referral to medical panels. The amendment will ensure that the Victorian WorkCover Authority will be entitled to reimbursement of its reasonable costs and expenses in representing the Crown in those conciliation proceedings and which might also include referrals to medical panels.

The last matter in this group of administrative-type provisions will permit teaching service disciplinary proceedings to be conducted under the teaching service provisions in part 2.4 of the Education and Training Reform Act 2006, irrespective of when the relevant facts occurred, provided proceedings have not already commenced under the repealed Teaching Service Act 1981. The reason for making this change is because although the discipline provisions for the teaching service are identical under the Teaching Service Act 1981 and Education and Training Reform Act 2006, the law requires that the proceedings be commenced under the Teaching Service Act 1981 if the relevant facts occurred before 1 July 2007 (being the date on which the Education and Training Reform Act 2006 came into

operation) and under the Education and Training Reform Act 2006 if the facts occurred on or after 1 July 2007. This division causes confusion and is an arbitrary and unnecessary division when preparing allegations or holding hearings. The amendment is based on section 83 of the Teaching Service Act 1981, which introduced a similar capacity to hear matters under amendments to that act.

The next group or provisions are those that make statute law revision changes or technical amendments to improve the drafting of the act. Again, a broad range of matters is covered in this group. They all improve the quality of the expression or clarify what is intended or make some correction to the current wording in the Education and Training Reform Act 2006.

An example involves ensuring the consistent use of terms throughout the act, such as 'prescribed minimum standards for registration' and 'award, confer or issue a qualification'. Other examples involve changing the title of a director of an adult education institution to the term currently used of 'chief executive officer', correcting references to 'the TAFE institute' to read 'the board of the TAFE institute', and referring to 'a member' instead of 'a director' of a board of an adult education institution. There is a substantial difference between referring to the board of a TAFE institute instead of just the TAFE institute, as the board is a body corporate whereas the institute is not, and whilst these changes may appear minor they are of substance.

The more significant measures involve amending the definition of 'higher education award' in section 1.1.3 so as to only exclude a VET sector graduate certificate from the definition and not a higher education graduate certificate. The current definition excludes all graduate certificates and is too wide. The amendment will mirror the definition that existed under the former Tertiary Education Act 1993.

Another notable measure is the update to section 2.6.31 so as to widen the category of criminal offences which the Chief Commissioner of Police must inform the Victorian Institute of Teaching on becoming aware that a teacher has been charged with, committed for trial or convicted of any of those offences. This amendment will mirror the change to the Victorian Institute of Teaching Act 2001 that was made under section 53 of the Working with Children Act 2005.

A further measure includes placing the Department of Education and Early Childhood Development on the state register kept by the Victorian Registration and Qualifications Authority as a provider of courses to overseas students, and updating section 11 of the Child Employment Act 2003 to refer to section 2.1.5 of the Education and Training Reform Act 2006 instead of section 74G of the repealed Community Services Act 1970. Section 11 of the Child Employment Act 2003 prohibits a person from employing a child during normal schools hours on any school day unless the minister has granted the child an exemption from attendance at school under section 74G of the Community Services Act 1970. Section 2.1.5 of the Education and Training Reform Act 2006 now contains the minister's powers to exempt children from attending school and should replace section 74G of the Community Services Act 1970.

I have previously mentioned that the regulation of providers for overseas students is done in compliance with the commonwealth's Education Services for Overseas Students Act 2000, and requires providers to be registered by the relevant state authority. Under arrangements with the commonwealth, the Department of Education and Early Childhood Development was listed as the provider of courses through its government schools and the bill will continue that arrangement, rather than having individual government schools being registered.

The last group of provisions are those that address matters which have arisen since the passing of the act. This last group covers the following five matters.

The first involves an amendment to the volunteer school worker provisions so that payments under those provisions will cease if the volunteer school worker receives an award at common law and/or agrees to a compromise of a common-law claim in relation to the same injuries. The amendment largely repeats the contents of section 134AB(36) of the Accident Compensation Act 1985, so as to prevent persons from 'double dipping' by receiving damages on the one hand and continuing to receive compensation under the statutory compensation scheme.

The second matter involves the transfer of the function of registering student exchange organisations from the department to the Victorian Registration and Qualifications Authority. Student exchange organisations arrange accommodation and schooling placements for Victorian school students going overseas. Under arrangements between the states and the commonwealth, these organisations have to be registered by the relevant state authority in order to qualify for special entry and exit visas for an equal number of students travelling out of and into Australia. The registration of these organisations in Victoria to date has been undertaken by the department under the minister's common-law powers.

Having regard to the other registration functions of the Victorian Registration and Qualifications Authority, it seems logical and preferable that this function be transferred to it, so it continues to be the one-stop shop for education providers. The new provisions give a statutory base to this function and enable student exchange organisations to be registered with the authority and enable it to issue guidelines and set conditions and forms for registration.

The third matter requires the Victorian Institute of Teaching to ensure that every registered teacher has a criminal check every five years and for the institute to undertake the check and invoice teachers. The proposal will mirror the requirements of the Working with Children Act, which requires a criminal check every five years. A recent audit of institute's records revealed that criminal checks have not occurred at the same time as initial registration and that some checks have occurred prior to or after initial registration.

The next matter involves the Victorian Institute of Teaching being able to obtain relevant details of teachers from schools to enable it to crosscheck its details of registered teachers. The amendment will enable the institute to seek the relevant details from the employer of teachers, for example, the secretary or school council in the case of teachers in government schools, or the employer of teachers in non-government schools. It is proposed that the institute will obtain the information through an annual online census, although it will also be able to require the relevant details in specific cases.

The last matter involves amending section 4.3.9 to permit children to be registered for homeschooling up to 18 years of age. The reason for this amendment is because section 4.3.9 of the Education and Training Reform Act 2006 enables the Victorian Registration and Qualification Authority to register students for homeschooling. The word 'student' is not defined in the act, but the section is part of the scheme which gives parents of compulsory school-aged children the option of registering their child for homeschooling. The purpose of the amendment is to ensure that the authority may continue to register students for homeschooling past their 16th birthday and enable parents to continue to receive government support available to registered homeschoolers. The amendment will also reflect arrangements previously operating in the department.

In conclusion, in one sense this bill provides the finishing touches to the current act. On the other hand, it builds upon the current act by making some significant changes to provide the right framework upon which we can continue to lead in the field of education and training.

I commend the bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until Thursday, 4 October.

TRANSPORT LEGISLATION AMENDMENT BILL

Statement of compatibility

Ms KOSKY (Minister for Public Transport) 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 Transport Legislation Amendment Bill 2007.

In my opinion the Transport Legislation 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 is another step in the reform and modernisation of Victoria's transport legislation. It provides the legislative underpinnings for a number of important government public transport initiatives, including the new ticketing solution and the introduction of new SmartBus services among other key matters such as a major new reform initiative aimed at improving safety at level crossings.

The main purposes of the bill are to:

(a) to amend the Transport Act 1983 —

(i) to facilitate the use of smartcards for public transport; and

(ii) to otherwise improve the operation and enforcement of that act; and

(b) to amend the Public Transport Competition Act 1995 —

(i) in relation to bus contracts; and

(ii) to otherwise improve the operation of that act; and

(c) to amend the Rail Safety Act 2006 to improve the operation of that act; and

(d) to make miscellaneous amendments to —

(i) the Marine Act 1988;

(ii) the Rail Corporations Act 1996;

(iii) the Road Safety Act 1986;

(iv) the Terrorism (Community Protection) Act 2003;

(v) the Transport Legislation (Further Amendment) Act 2006;

(vi) the Transport (Taxi-cab Accreditation and Other Amendments) Act 2006.

Human rights issues

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

The human rights that the bill will have an impact upon or engage are as follows.

Section 8 — recognition and equality before the law

Clause 23 engages the right to recognition and equality before the law provided by sections 8(2) and 8(3) of the charter.

The clause will amend section 220D of the Transport Act to confirm the power of the director of public transport to determine and publish a condition that provides that overseas students or specified classes of overseas students are not eligible for student concession entitlement to use a public transport service. Overseas students are defined as excluding Australian citizens, permanent residents, persons with refugee status, overseas exchange students and persons in receipt of an Australian development scholarship from the commonwealth government.

In *Sydney University Postgraduate Representative Association (SUPRA) v. Minister for Transport Services* (2006) NSWADT 83, the New South Wales Administrative Decisions Tribunal held that the concession scheme was the provision of a service and that exclusion of full-fee-paying overseas students from the New South Wales concession scheme was discriminatory. Similar proceedings have been brought in Victoria, but have yet to be determined.

Following the New South Wales decision, the eligibility for student concession entitlement has been reviewed. The government has decided not to extend the student concession entitlement to overseas students who are on temporary student visas. The concession entitlement will continue to apply to full-time students who are Australian citizens, permanent residents, persons with refugee status, overseas exchange students and students in receipt of an Australian development scholarship from the commonwealth government.

In discrimination, context is everything. This is particularly so in the area of taxpayer-funded benefits. Unless a government is able to afford a universal benefit or decides to provide no benefit at all, the redistribution of wealth through the provision of targeted welfare benefits often involves distinctions on the basis of attributes specified in the Equal Opportunity Act, such as age, impairment, marital status, parental status and carer status. These distinctions are considered normal and necessary in the welfare context, whereas in other contexts they might be highly discriminatory.

The same can be said for targeting benefits, including public transport concession entitlements, on the basis of citizenship, residency and visa status. Citizenship and residency are commonly used as criteria for eligibility to taxpayer-funded benefits, such as welfare and health care. The reason is simple. Provision of a particular taxpayer-funded benefit cannot be considered in isolation. It must be considered in the context of the taxation and welfare schemes as a whole. It is fair and reasonable to exclude visitors and temporary residents from receiving taxpayer-funded benefits (welfare schemes, health care et cetera), because their residency status is such that they do not participate in or contribute to the taxation scheme in the same way as long-term or permanent residents or Australian citizens.

Provision of subsidised public transport for students represents an investment for Victoria and Australia. The scheme is primarily aimed at persons who are likely in the future to contribute to the generation of a 'knowledge economy' and the creation of a skilled workforce in Australia. These students will also contribute as taxpayers once they enter the workforce. Some will have already made such a contribution. Accordingly, the scheme covers students whose residency or visa status indicates a long-term connection with Australia. The scheme is not limited to Australian citizens. Persons of foreign nationalities will be entitled to a student concession entitlement if their status is such that they are likely to have an ongoing connection with the taxation system, that is if they are permanent residents or have been granted refugee status.

To amount to discrimination under the Equal Opportunity Act, a person must be treated less favourably by reason of nationality than a person of a different nationality in the same or similar circumstances. The interlocking nature of the tax and welfare systems in redistributing wealth has led the House of Lords to conclude that no discrimination arises in respect of differential treatment of recipients of retirement pensions based upon residence in the UK.[1] Their lordships considered that the fact that the plaintiff was living outside the UK and therefore was not currently contributing to the UK tax regime meant that her circumstances were 'materially and relevantly different' and different treatment was justified.

For the same reasons as the House of Lords found the UK pension scheme did not amount to discrimination, the exclusion of those overseas students who are in Australia on temporary study visas is not discriminatory. These students do not have the same ongoing connection with the Australian tax system as students who are Australian citizens. They are not in 'same or similar circumstances'.

Even if the scheme could be regarded as discriminatory for the purposes of the Equal Opportunity Act, the discrimination is justified for the purposes of section 7(2) of the charter. The following addresses the factors set out in section 7(2).

<u>The nature of the right</u>

The right to be free from discrimination is an important right, but as already set out above, it can be limited and context is important.

<u>The importance of the purpose of the limitation</u>

The government considers it is critical to encourage and support education. Investment in education is an investment in Victoria's future economy. The purpose of the provision is

[1] *R v. Secretary of State for Work and Pensions; Ex parte Carson and Reynolds* (2005) 2 WLR 1369.

to enable public moneys to be targeted in the most effective way.

Nature and extent of the limitation

This is not a case where persons are being excluded from access to public transport by reason of their nationality. Overseas students are the recipients of a heavily subsidised public transport system in the same way as all other public transport users. The limitation relates to their access to additional subsidies.

The student concession scheme does not distinguish between all foreign nationals and Australian citizens. Nor does it treat students of one foreign nationality less favourably than another. A large number of non-Australian citizens will be eligible for a student concession entitlement by reason of their permanent residency or refugee status. The scheme also provides for student concession entitlement for overseas exchange students and persons in receipt of an Australian development scholarship from the commonwealth government. This recognises the reciprocal nature of student exchange programs and Australia's contribution to aid programs

The relationship between the limitation and its purpose

The limitation is directly connected to the purpose of the provision. It excludes from the definition of overseas students those persons whose citizenship, residency or visa status is such that there is likely to be an ongoing connection with Australia.

Any less restrictive means reasonably available

The government recognises that some overseas students studying in Australia will go on to apply for work visas or permanent residency and will ultimately contribute to Australia's economy in the longer term. However, there is no simple way of accurately identifying those persons in advance.

The costs of extending the existing concession entitlement scheme to all overseas students is significant and would necessarily mean less money being available elsewhere. Reduced subsidies or a means-tested scheme for all students would not achieve the purposes of the existing scheme to the same extent. Further, establishing a means-tested scheme for students would be costly and therefore reduce the moneys available for subsidies. It is difficult to link the student concession scheme to receipt of commonwealth welfare benefits because of the complexities surrounding eligibility of students for such benefits.

All public transport users, including overseas students, are subsidised by approximately 60 per cent in the use of their public transport. The government considers that a targeted scheme in respect of additional subsidies is the best use of public moneys.

Other relevant factors

Also relevant to the issue of whether any limitation is reasonable and justifiable is that full-fee-paying overseas students come to Australia and are granted study visas on the basis that they are able to meet their expenses, and will not need to rely upon taxpayer-funded benefits. Overseas students must provide evidence of their capacity to meet living expenses and education costs for the duration of their studies. In addition, many new overseas students are required by the Department of Immigration and Multicultural Affairs to sign a legal document (called an 'assurance of support').

Section 24 — right to a fair hearing

Clause 23 makes clear that the publication of conditions excluding overseas students from the student concession scheme is authorised by the act and does not constitute discrimination under the Equal Opportunity Act. The provision applies retrospectively to the existing conditions, but expressly preserves the current complaint in the Victorian Human Rights and Equal Opportunity Commission.

Section 24(1) provides that a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The right to a fair hearing is said to be a procedural right that affects the way a hearing is conducted, rather than affecting the substantive rights between the parties. Even if the section affects substantive rights, it applies only to a party to a civil proceeding. It does not apply to persons who have not yet issued a proceeding. As the current complaint is expressly preserved, the provision is compatible with section 24 of the charter.

Section 13 — privacy and reputation

Section 13(a) of the charter provides:

> A person has the right —
>
> (a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with …

In international human rights law, 'home' includes a place where a person resides or carries out his or her usual occupation.[2]

Clause 12 inserts a new regulation-making power into the Transport Act to enable regulations to be made to collect information from equipment that is used in taxicabs. Although the home has been interpreted to include the workplace, it is questionable whether collection of information from equipment used in taxicabs is covered by the right.

In any event, the requirement will be made lawful through the clause, and it is not arbitrary. The information is needed to provide for access to information to assist in the administration of the taxicab accreditation scheme. It is also needed to facilitate longer term planning and regulation of the taxi industry and to assist with broad overall public transport planning.

Accordingly the provision does not limit the right to privacy in section 13 of the charter.

Section 15 — freedom of expression

Clause 10 raises but does not limit the right to freedom of expression provided by section 15(2) of the charter.

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[2] General comment 16, United Nations Human Rights Committee.

The provision seeks to restrict commercial expression by amending the offence on touting for the hire of a motor vehicle.

The right may be subject to lawful restrictions reasonably necessary to respect the rights of other people and for the protection of public order.

In this instance, the right needs to be balanced against the property rights of legitimate commercial vehicle passenger operators who are operating in accordance with their licence which has been granted under the Transport Act. The right also needs to be balanced against the potential disruption to public order if the legitimate licensing regime was undermined and touting became more prevalent.

Therefore, it is considered that the provision provides for a lawful restriction that is reasonably necessary.

Section 20 — property rights

Division 5 of part 3 raises the right not to be deprived of property other than in accordance with the law, as provided by section 20 of the charter. It does not, however, limit the right for the reasons explained below.

The division will amend the Public Transport Competition Act which provides legislative support for a contractual mechanism that provides for the transfer of property used in provision of regular passenger services under certain circumstances, for example the insolvency of an operator.

The purpose of the mechanism is to enable service continuity in the event that an operator is unable to provide the bus service. The type of property affected includes buses and bus depots. The consideration payable for the relevant property is determined under the contract and will already be agreed by the parties to the contract. In addition, the transfer will be subject to any encumbrances, so as not to prejudice existing third-party rights.

In any event, it is unlikely that a person will be affected by the provision as the property in question will be owned by companies, which do not enjoy human rights under the charter. In the event that the property is owned by a person, it will not be allocated except in accordance with the law. The allocation will not be arbitrary. In fact, the terms under which the property can be allocated will be specifically agreed by the parties in the new performance-based bus contracts. The division will simply provide legislative support for those contractual terms.

Therefore, it is considered that the division does not limit the property right provided by section 20 of the charter.

Clause 27 raises the right not to be deprived of property other than in accordance with the law, as provided by section 20 of the charter. It does not, however, limit the right for the reasons explained below.

The clause will amend section 228ZX of the Transport Act to enable forfeiture of a seized thing under certain circumstances without a court order. The current provision requires an order by the Magistrates Court.

The deprivation of the property rights is in accordance with law and will not be arbitrary. Officers receive appropriate training on the use of coercive powers and other relevant matters. The circumstances under which the property can be deprived are very limited and align with those in section 109 of the Occupational Health and Safety Act 2004, namely where the transport safety officer —

> cannot find the owner of the seized thing despite making reasonable enquiries;
>
> cannot return the thing to the owner despite making reasonable efforts; or
>
> considers it necessary to retain the thing to prevent the commission of an offence against the relevant act or the regulations.

Therefore, it is considered that the clause does not limit the property right provided by section 20 of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because:

> To the extent that some provisions raise human rights issues they do not limit those rights.
>
> To the extent that some provisions may limit human rights those limitations are reasonable and justified in the circumstances.

LYNNE KOSKY, MP
Minister for Public Transport

Second reading

Ms KOSKY (Minister for Public Transport) — I move:

That this bill be now read a second time.

This bill supports a number of important public transport reform initiatives, including the new ticketing solution and new SmartBus services among other key matters such as a major new reform initiative aimed at improving safety at level crossings.

The bill represents a further step in the work of improving Victoria's transport policy and legislation settings. We are doing this to give the state a best practice framework that supports the modernisation and improvement of our transport sector. While the results of this reform activity can be seen most clearly in recent major proposals, such as the Rail Safety Act 2006 and the Accident Towing Services Act 2007, at the same time the government is improving the central Transport Act 1983. Examples of this important work include recent major reforms in taxi regulation and public transport enforcement.

We are in the midst of the most far-reaching transport policy and legislation reform review program for the last 25 years. This work continues at pace. It will ultimately result in new overarching settings which will better support the essential project and service delivery

reforms being delivered within the framework of the *Meeting Our Transport Challenges* (MOTC) statement released in May 2006.

New ticketing solution

In September 2006, the government unveiled the myki card, an innovative smartcard-based ticketing initiative developed by the Transport Ticketing Authority as part of the new ticketing solution project (NTS). Similar smartcard ticketing systems are already in place and working successfully in a number of major cities, such as Hong Kong, London, Taipei and Singapore.

The myki card will open the door to a new era in public transport and it will give Victorians a new world-class ticketing system. It will provide access to a wide range of public transport services across the state. Passengers will simply scan their myki cards across an electronic reader as they get on and off a tram, bus or train platform. Myki will then calculate the best fare for the journey and deduct the amount from money stored on the card.

This innovative system will provide easier use of public transport as part of the government's ongoing commitment to modernising public transport in Victoria.

Legislative change is necessary to ensure appropriate support for this exciting new technology. The amendments in the bill facilitate the implementation and operation of the new ticketing system and, in particular, they support the enforceability of the system and the control of fare evasion. While fare evasion has declined in recent times due to government and operator initiatives, it is still estimated at around $50 million per annum and is therefore still too high.

Under the current ticketing system, information showing whether a ticket is valid is printed on the ticket. This information can include the zone for which the ticket is valid and the time or date when the ticket expires. With NTS, this information will instead be contained in the microchip on the card and will need to be read by a hand-held electronic device.

Amendments to the Transport Act are needed to assist the taking of evidence for existing fare evasion offences when the new ticketing system commences. New, robust evidentiary provisions will facilitate enforcement. Other regimes are similarly reliant on technology: for example, blood alcohol controls for drivers, operators and workers in the road, marine and rail safety sectors. These regimes include simple and effective certificate-based means of proving technical evidence such as that proposed in the bill for the new ticketing system.

Without the amendments, the ability to conduct efficient and effective prosecutions, and to control fare evasion will be undermined as the organisational and administrative burden involved in proving offences would otherwise be overwhelming. This would be so even in circumstances where there is no real challenge to the reliability of the technology, devices and system. Experts would be required to attend and give highly technical evidence for each court case. Such an increased use of expert evidence would inevitably result in an increased number of contested cases. This would lead to the enforcement regime being seriously compromised as well as needlessly burdening our court system.

Metropolitan bus contracts

MOTC is aimed at better addressing travel demands and providing greater public transport availability for Victoria into the future. To help achieve these aims, the government has committed $1.4 billion over 10 years to develop a new cross-town transport network. This includes $660 million to extend the existing SmartBus network.

Some amendments are required to the Public Transport Competition Act 1995 to support the introduction of the new SmartBus services as well as to reflect the negotiations for the new bus contracts which are currently under way. The changes will provide legislative support for some contractual conditions that have been included in new service contracts and which have been subject to extensive consultation with the bus industry. The provisions are based upon commercial principles that have been settled with the Bus Association Victoria on behalf of the bus industry.

The amendments make various changes including:

enabling the procurement of the new orbital SmartBus services through an open tender process. Four new orbital routes will now link suburbs surrounding the city rather than relying solely on the more traditional radial routes. Under the current act, the allocation of contracts for such services is constrained and they are unable to go out to open tender;

providing continuity of bus services where a termination event occurs under a service contract, for example where an operator withdraws from providing a service. When a termination event occurs, the service contracts will enable transfer of

assets such as buses and depots to the director of public transport to secure service continuity;

supporting a performance monitoring regime for patronage and operations. The regime will provide incentives for good performance but will also enable penalties to be imposed if operators fail to comply with the required standards.

Rail safety initiatives including safety interface agreements

Victoria is proud of its recent efforts at the forefront of rail safety reform. We have been determined to both maintain rail safety levels and drive safety improvements across the board. As part of that endeavour, we have worked with the National Transport Commission, other jurisdictions, industry and unions since 2004 to drive the development and delivery of new policy and legislation as an important means of generating improved safety performance on the ground.

A new contemporary rail safety regulatory framework has emerged from this work. It includes the imposition of safety duties aimed at the parties who form the rail safety 'chain of responsibility', an enhanced risk-based accreditation regime for rail operators and a new range of compliance sanctions. These reforms were contained in the state's first dedicated rail safety statute, the Rail Safety Act 2006, which also led to the establishment of the state's first independent safety regulator, the director, public transport safety, and through separate cognate legislation, the state's first independent accident investigator, the chief investigator, public transport and marine safety investigations.

National consistency

Victoria's reforms now form part of an emerging national framework since the approval of a rail safety bill proposal by the Australian Transport Council in mid-2006. I am proud that Victoria delivered this reform through its Rail Safety Act a full 11 months ahead of a Council of Australian Governments deadline for national implementation. Having delivered the substantive reform early, all that remains now through this bill is for Victoria to make some final minor, miscellaneous and machinery amendments to the Rail Safety Act.

The national bill is being progressively implemented in the other states and territories. Once that work is completed Australia will have a nationally consistent rail safety framework for the first time in its history.

Action on level crossing safety

The tragic level crossing accident at Kerang in June which led to the loss of 11 lives shows that we must continuously strive for improvement on rail safety issues. Accordingly, the bill includes a further major reform proposal aimed at improving safety at level crossings.

The government already has a series of initiatives under way to improve safety at railway crossings across Victoria. These include:

Australian Level Crossing Assessment Model (ALCAM) risk assessment works;

driver education;

the state road and pedestrian level crossing upgrade program.

These are complemented by the government's level crossing safety package announced on 25 June. That package includes:

installation of automated advance warning signs;

installation of rumble strips;

trialling of red light cameras at Springvale Road, Nunawading and on the Midland Highway, Bagshot;

the proposed introduction of rigorous level crossing offences, for example, speeding through a level crossing before an oncoming train;

works to remove ALCAM visibility problems;

research into new technological applications which may increase safety such as GPS.

To add to these initiatives, the bill amends the Rail Safety Act to require safety interface agreements particularly where railways and roads intersect. This proposal has been developed by the National Transport Commission in conjunction with Victoria, other jurisdictions, industry and unions. Subsequently, the Department of Infrastructure has consulted with local government regarding the proposal.

Safety interface agreements are designed to manage the risks to safety that are identified and assessed by those parties at designated locations. Apart from largely continuing the existing requirements on rail operators to enter into safety interface agreements for rail infrastructure, the bill introduces new requirements on rail infrastructure managers, relevant road authorities

and private land-holders to enter into such agreements if the risk circumstances require it.

Accordingly, the proposal requires rail infrastructure managers, road authorities and where necessary, private land-holders, to identify and assess safety risks at level crossings and to seek to enter into safety interface agreements with the other party. Overall, the agreements provide for joint undertakings which will assist in reducing level crossing safety risks.

Private full-fee-paying international students — concession travel on public transport

Victoria has a generous public transport concessions program available across the State. In 2006, the government spent over $170 million on concessions for a wide range of public transport users. The program is kept under constant review. Last year, for example, we announced further concessions for seniors in our community as part of the MOTC statement.

It is, however, critical that resources continue to be carefully targeted especially considering the subsidies which already apply for all users of public transport travel.

Victoria very much welcomes the private full-fee-paying overseas students who choose to study here and we acknowledge their important contribution to the state. However, for sound policy reasons, this government has not considered providing concessions assistance to this particular group of students a priority, and therefore the students do not receive the entitlement. The previous government held the same view.

Providing transport concessions to private full-fee-paying overseas students would be very costly. The money used to pay for extending the scheme to these students would have to come from another area of budget and could impact on other service improvements if the entitlement was granted. In addition, it would be inconsistent with the terms of the students' entry into Australia. When private full-fee-paying overseas students gain a visa to study in Australia, they must demonstrate that they are already fully self-sufficient and able to meet all their living expenses, including public transport expenses, while they are here. The students are required to pay substantial fees to study for their degree and, at the same time, they are also not eligible for benefits such as Medicare, Newstart allowance or Austudy. Unlike Australian citizens, permanent residents and students with refugee status whose intention is to live and work In Australia on an ongoing basis, there is no expectation that private full-fee-paying students will continue to live in Victoria beyond completing their education.

In these circumstances, Victorian taxpayers should not be expected to further subsidise private full-fee-paying overseas students' travel on public transport. New South Wales, like Victoria, does not provide concessions to this group of students and in 2006 it passed special legislation to exclude the entitlement following a finding by the NSW Administrative Decisions Tribunal under antidiscrimination law in that state.

While the government does not believe the current policy is discriminatory, the purpose of the amendments is to continue the current policy of not providing public transport concessions to private full-fee-paying overseas students. As part of that, the amendments confirm that the policy does not constitute, and has never constituted, discrimination on the basis of race for the purposes of the Equal Opportunity Act 1995. However, the bill expressly preserves the right of the complainant to pursue the argument in a current matter which is before the Victorian Equal Opportunity and Human Rights Commission. But the government is otherwise acting through the bill to prevent further complaints and cases being brought or parties or persons being added to the current matter.

Finally, the amendments also empower the making of conditions under section 220D of the Transport Act for the purposes of section 32 of the Charter of Human Rights and Responsibilities Act 2006 to put beyond doubt the possibility of their validity being affected.

Financial assistance for traumatised train drivers

Tragically, a number of people in Victoria commit suicide each year by placing themselves in front of moving trains. This phenomenon is an international one and the causes are very complex. The Department of Infrastructure is working with Connex, V/Line, the police, the coroner's office, the Rail Tram and Bus Union, the Department of Human Services, academic researchers and other organisations to try to gain a better understanding of the causes and of possible means of reducing the occurrences.

International research shows that train drivers involved in such fatalities can suffer significant mental distress and injury. The research shows that train drivers in these situations often feel a particularly poignant sense of helplessness as, no matter what a driver does, it is generally impossible to stop the train in time to prevent death occurring. This is the case with both suicides and

fatal accidents and it differentiates the experience from deaths witnessed by most other workers.

Workers compensation, under the Accident Compensation Act 1985, covers the lost weekly earnings and medical costs of drivers who suffer injury as a result of these incidents. Counselling and other support services are also provided by Connex. Compensation for pain and suffering, however, is only payable for significant permanent impairment. For a train driver to be eligible for this compensation, the mental impairment must be of such a level that he or she would most likely not be considered fit to drive a train again.

A modest payment of financial assistance is sometimes paid to train drivers under the Victims of Crime Assistance Act 1996. That act provides assistance to persons who suffer injuries (including 'mental illness') resulting from 'acts of violence' that are 'criminal acts' as defined in the act.

However, in 2003 the Victims of Crimes Assistance Tribunal ruled that a train driver was not eligible for compensation under the act. This was so even though the driver was traumatised by an incident where a person had committed suicide by placing himself on the tracks in front of the train. The decision was subsequently taken on appeal to the Victorian Civil and Administrative Appeals Tribunal in *Dennison v. Victims of Crime Assistance Tribunal* but the appeal was dismissed. Judge Higgins ruled in that case that the action of the deceased was not a criminal act in the sense required. His Honour considered that it was not possible to infer that the person intended to cause serious injury to another person, namely the train driver. Judge Higgins made it clear that in other circumstances, such as where a person deliberately parked a vehicle in front of a train, such an inference could be drawn and drivers would be eligible.

As a result of this decision, not all drivers receive assistance where deaths occur as entitlement now depends on the circumstances of relevant incidents. This is clearly inequitable. Accordingly, the bill requires that the director of public transport pay financial assistance to train drivers who drive trains which strike people resulting in death. This will fully restore driver eligibility at the same level as was previously available under the Victims of Crime Assistance Act. The bill also expressly excludes the possibility of double dipping under both the transport and victims of crime regimes.

Controls on illegal touting by commercial passenger vehicle operators/drivers

Unauthorised touting for the hire of commercial passenger vehicles — for example, taxi and hire car — is prohibited by the Transport Act. Touting is often a systematic and varied operation which can involve professional 'spotters'. Spotters approach potential customers and guide them to drivers waiting at short-term car parks or other adjacent areas. Touting tends to be more common in peak periods and at night and it is particularly prevalent in high-profile locations such as Melbourne Airport.

Besides people being troubled by unwelcome and unsolicited approaches, touting undermines the work practices and earnings of law-abiding taxidrivers who may often have waited an hour or more in queues leading to taxi ranks. Complaints are often received and some incidents lead to threats of violence from people who are detected touting.

The existing anti-touting offence, however, is deficient and difficult to enforce. This is widely known and the result is regular and persistent illegal touting by some taxi and hire car drivers as well as by people using private or unlicensed vehicles.

As a result of these issues, the Transport Act is being amended to more effectively address the touting problem.

Road rules parking control problems in park-and-ride facilities

Park-and-ride facilities are an important part of the state's public transport network. The increasing popularity of public transport across Victoria means that more and more people are now choosing to drive to their local station and use public transport. This government is committed to ensuring there is the necessary infrastructure available so people have that choice. The government committed $90 million to providing additional park-and-ride facilities as part of the MOTC action plan.

It is also important that parking in park-and-ride facilities is both safe and orderly. Currently, the parking control provisions in the Victorian road rules are rarely enforced in metropolitan and regional park and ride facilities by police and local government officers. In particular, under the current settings, these common parking controls cannot be readily enforced by the authorised officers employed by transport operators.

This leads to parking-related safety problems at park and ride facilities, such as vehicles parking in loading

zones, in disabled parking bays and on raised footpaths and kerbed areas. Vehicles are also regularly found to be parked in front of pedestrian and vehicle access points. The latter, where the vehicle access point is set aside for train drivers, can sometimes result in late or cancelled trains since drivers are unable to park their cars and get to work.

This situation is unsatisfactory and, as a result, requires some appropriate amendments to the Road Safety Act. The amendments will facilitate park-and-ride facilities being clearly designated with appropriate signage and also enable routine road rules parking controls to be enforced by transport operator authorised officers.

Miscellaneous minor and technical amendments

The opportunity has also been taken in the bill to make a number of largely miscellaneous minor or machinery amendments to public transport and related legislation.

For example, the bill will enable the delegation by ministers of administrative-type powers under the Terrorism (Community Protection) Act 2003. At present, the Premier is able to delegate certain responsibilities under the act to the 'relevant minister'. Responsibilities to be delegated include overseeing the actions of a declared operator of essential services, for example declared transport operators. The relevant minister oversees preparation of risk management plans and participation in training exercises. However, currently the minister cannot delegate any of these responsibilities, thereby involving the minister in detailed administrative work which is better and more efficiently undertaken by the department. The amendments proposed enable the minister to delegate such tasks.

Some of the other general amendments will:

make minor and miscellaneous modifications and clarifications to the operation of the taxi accreditation scheme and the commercial passenger vehicle driver accreditation scheme;

clarify the scope of the safety-based accreditation scheme for operators of larger passenger vehicles (buses) so that it could if necessary be extended to require accreditation of operators of non-motorised vehicles, for example horse-drawn carriages, should it be decided to develop future regulations suitable to those vehicles;

make it clear that the director of public transport can include reference to external material (for example, lists of bus routes) when determining certain conditions, such as those in Victorian Fares and Ticketing Manual;

enable prosecutors from the public transport division in the Department of Infrastructure to prosecute marine offences;

better facilitate vegetation clearing near railway tracks for safety purposes.

Various other minor and technical amendments are also proposed.

This bill introduces further substantive policy and legislation changes as part of the government's continuing drive to modernise and improve transport across Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until Thursday, 4 October.

EMERGENCY SERVICES LEGISLATION AMENDMENT BILL

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) tabled the following statement in accordance with the 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 Emergency Services Legislation Amendment Bill 2007.

In my opinion, the Emergency Services Legislation Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with human rights protected by the charter. I base my opinion on reasons outlined in this statement.

Overview of bill

The general purpose of the bill is to amend the Emergency Management Act 1986, Country Fire Authority Act 1958, Metropolitan Fire Brigades Act 1958, Victoria State Emergency Services Act 2005 and Summary Offences Act 1966. The bill will clarify the powers and roles of the emergency services commissioner ('the commissioner') and strengthen the role of the commissioner to report to the minister on emergency-related matters. It will also make routine amendments to agency-specific legislation to better enable them to discharge their emergency response roles.

This bill recognises that the impact of emergencies is often severe and that the nature and range of emergencies has significantly changed over time. The community values the

significant efforts of emergency services in responding to and recovering from emergencies, and the dangers in which emergency services workers and volunteer emergency workers are placed. This bill will reflect the values of promoting a safe and secure Victoria and of protecting our emergency services from harmful activities by increasing penalties. It will also create new offences to mitigate risks that undermine effective emergency responses.

Human rights issues

1. Human rights protected by the charter that are engaged by the bill.

The following human rights protected by the charter are relevant to the bill:

1.1 Section 13: privacy and reputation

(a) A person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

The right to privacy is engaged by three separate provisions:

1. Clause 62 amends the Emergency Management Act to empower the commissioner to require an agency to disclose information which the commissioner reasonably believes is necessary to:

   monitor compliance with a standard prepared under part 4A,

   monitor the performance of an emergency services agency, or

   advise, make recommendations and report to the minister.

   Information provided for these specific purposes may involve the disclosure of personal information to the commissioner. This may be necessary to, for example, determine whether an emergency services agency attended at the correct premises by reference to the address of a person given during a '000' emergency call.

2. Clauses 34 and 93 amend the Country Fire Authority Act and Metropolitan Fire Brigades Act (respectively) to enable the Country Fire Authority (CFA) and Metropolitan Fire and Emergency Services Board (MFESB) to access any information regarding the location of water supplies on a person's property. The proposed amendment also clarifies existing rights to use water. Such powers are necessary to enable the CFA and MFESB to readily and promptly access sufficient water supplies to fight fires. Where the CFA or MFESB access water from a person's well or tank for firefighting purposes, the loss of water would be deemed to be fire damage within a person's insurance policy against fire, under the fire services legislation.

3. Proposed amendments to the Country Fire Authority Act, Metropolitan Fire Brigades Act and Emergency Management Act to enable the emergency services to direct a person to leave premises may also involve an interference with a person's home by providing powers of entry and evacuation. Where firefighters use reasonable force to evacuate a person who refuses to withdraw, bodily privacy may also be affected. These amendments are at clauses 11, 13 and 35 in relation to the Country Fire Authority Act; clauses 79, 90 and 92 in relation to the Metropolitan Fire Brigades Act; and clause 92 in relation to the Emergency Management Act.

To comply with section 13(a) of the charter, a person's privacy must not be unlawfully or arbitrarily interfered with.

Unlawful interference

No interference with privacy can take place except permitted by law. The circumstances in which the bill will authorise agencies to provide and access information are precise and circumscribed. The CFA may access information and premises for firefighting purposes, and emergency services can do so for the purpose of evacuating persons from emergency situations. The powers do not give broad discretions to the agencies to interfere with privacy.

Arbitrary interference

An interference with a person's privacy is not to be arbitrary where it is in accordance with the provisions, aims and objectives of the charter and is reasonable in the circumstances. It is clear that the charter aims to protect life. Each proposed amendment is consistent with the protection of life. The commissioner has an advisory role to assure the government that emergency services agencies are performing to an appropriate standard, and that emergency services are not prevented from discharging their emergency response functions.

In each case, the proposed amendments involve powers which are exercisable to protect life, and which are constrained by clear and reasonable parameters. As such the proposed amendments do not involve unlawful or arbitrary interferences with privacy. Therefore while the right to privacy may be engaged, it is not limited.

1.2 Right to property

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

The right to property is engaged by three proposed amendments.

1. Emergency services may direct evacuation from premises in an emergency area or state of disaster under the Emergency Management Act, from burning premises under the Country Fire Authority and Metropolitan Fire Brigades acts ('the fire services acts'), and remove persons from land or premises where they interfere with the operations of the fire services. Further, provisions will clarify the emergency services' ability to direct movement around, and prevent entry to, the affected area. Directing the withdrawal of persons, or directing movement around emergency areas can temporarily deprive a person of that person's property if a person is forcibly evacuated from a burning premises or is unable to retrieve their property. If the property is subsequently destroyed, the deprivation is permanent. These amendments are at clause 66 in relation to the Emergency Management Act; clauses 11, 13 and 21 in relation to the Country Fire Authority Act; and clause 92 in relation to the Metropolitan Fire Brigades Act.

2. Clause 39 in relation to the Country Fire Authority Act and clause 105 in relation to the Metropolitan Fire Brigades Act create an offence to wilfully reset or interfere with a fire indicator panel. This may result in a person being denied access to, and use of, his or her property. However, fire indicator panels have a significant impact on public safety as they provide the location of the fire and facilitate a prompt response to the fire. Resetting fire panels can endanger public safety, as it may delay rescue attempts within the building or enable the spread of fire beyond the building.

3. Clause 34 in relation to the Country Fire Authority Act and clause 93 in relation to the Metropolitan Fire Brigades Act clarify existing rights to water. The chief officers can access and use persons' water or water from any wells or tanks for the purposes of discharging their functions under their acts. While the use of a person's water deprives the person of their property, there are existing provisions within the fire services acts that can compensate the owner of the water under policies of insurance.

Deprivation of property under these provisions would be in accordance with the lawful exercise of a statutory power to direct the withdrawal of persons (including those with a pecuniary interest where they are interfering with the fire services or during a state of disaster), direct evacuation or movement, or to use water. Further, these powers are not arbitrary as they are in place to better enable the fire services and Victoria Police to protect life. Limitations on the right to property are more readily justifiable than limitations on the charter right to life. As such, these provisions also accord with the aims and objectives of the charter. Therefore, the right to property is not limited by these provisions.

1.3 Freedom of movement

Section 12 of the charter states that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The right to freedom of movement is limited by four separate proposals.

1. Emergency services may order the withdrawal from premises affected by fire or declared emergencies and use 'reasonable force' if a person refuses to comply with an order to withdraw. Ordering the withdrawal and forcibly evacuating persons limits the charter right to free movement as it may prevent a person from remaining on property and requires a person to relocate to another place, which is a safer location away from the emergency. The use of force must be reasonable in accordance with the charter right not to be subjected to inhuman or degrading treatment under s. 10. These amendments are at clause 13 in relation to the Country Fire Authority Act and clause 79 in relation to the Metropolitan Fire Brigades Act.

2. Victoria Police in a declared emergency under the Emergency Management Act and the chief officers under the fire services acts will have clearer powers to direct the movement in emergency areas and fire-affected areas. While these powers exist in the current legislation, this bill clarifies powers with respect to preventing persons entering an affected area, closing roads and directing traffic in emergency areas or areas likely to be affected by fire, and directing persons to leave such areas by the safest and shortest route. These amendments are at clause 66 in relation to the Emergency Management Act; clauses 11 and 21 in relation to the Country Fire Authority Act; and clause 92 in relation to the Metropolitan Fire Brigades Act.

3. Enable the fire brigades to direct the removal of a person if that person interferes with, or obstructs, the fire services in the course of their duties. This proposal limits free movement by directing a person to leave a particular area and if the person refuses, to remove with reasonable force a person from the area. These amendments are at clauses 13 and 35 in relation to the Country Fire Authority Act; clauses 64 and 66 in relation to the Emergency Management Act; and clauses 90 and 105 in relation to the Metropolitan Fire Brigades Act.

4. Clause 134 amends the Summary Offences Act 1966 to create an offence to assault, resist or delay an operational CFA or MFESB member. Clause 105 will also provide an offence under the Metropolitan Fire Brigades Act to interfere with a fire brigade's appliances or equipment.

In particular, it will be an offence under new section 75C of the Metropolitan Fire Brigades Act to drive over a fire hose. This has the effect of denying a person free movement in an area where the fire brigade is extinguishing a fire.

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

As the right to freedom of movement is limited by the bill, it is necessary to consider whether the limitation is reasonable under s. 7 of the charter.

(a) The nature of the right being limited

The right to move freely in Victoria is an aspect of the right to freedom of movement under section 12 of the charter. The right to freedom of movement is not an absolute right at international law. While the right to free movement is an element of personal autonomy, there are circumstances that justify its limitation, for example, the protection of public safety.

(b) The importance of the purpose of the limitation

The limitation is important to better protect human life and facilitate an effective response to emergencies. The objective of providing for the removal of persons who interfere with fire brigades is to ensure that fire brigades can protect life and property in extremely difficult conditions.

The fundamental objective of the limitation is to protect human life while also recognising property rights. As fires are unpredictable and can cause significant damage and injury within a short time, the risk of injury or death is often extremely high for persons who remain in burning premises. Typically, fire brigades are the best qualified to determine the risk posed, based on an understanding of fire patterns, firefighting capabilities and the structural environment of the premises. The fire brigades may also protect a person's life in circumstances where a person may not fully understand or appreciate the dangers with which they are faced.

(c) The nature and extent of the limitation

Free movement is restricted by requiring that a person be removed from, or restrict his or her entry into, an area in circumstances where:

an 'emergency area' has been declared because the circumstances are such that it is necessary to exclude persons from the area;

an area is affected by fire, or is likely to be affected by fire (based on a number of considerations, such as roads on which visibility is impaired due to smoke);

a state of disaster has been declared;

a person is in premises that are burning, or are threatened by fire; and

a person is interfering with a fire brigade or its equipment in the performance of the fire brigades' duties.

If a person does not comply with a direction to withdraw or to refrain from interfering, he or she may be removed with reasonable force, but will not be detained. However, where a person interferes with equipment, the person may be charged or imprisoned.

(d) The relationship between the limitation and its purpose

The limitation of freedom of movement is rationally connected to the purpose of promoting public safety and accords with the state's duty to take positive steps to protect life. By removing persons from a fire scene where such persons interfere with firefighters in the course of their duty, that person is not only removed from an immediate danger, but is also unable to jeopardise the brigade's operations and potentially other persons' safety. Further, directing movement in and around the emergency better enables emergency services to protect the safety and security of persons affected by the emergency.

The limits imposed by these proposed amendments are proportionate to the objectives sought. Persons are directed to withdraw from the fire scene and are not detained against their will. The bill provides for persons to be directed away from the fire scene to a safer location by the safest and shortest route. Persons will generally be able to return to the fire scene once it is safe to do so.

The proposed amendments also aim to protect the MFESB against interference with appliances and fire hoses. Driving over a fire hose may cause extensive damage not only to the hose, but also to the water pump to which the hose is attached. If such equipment is damaged, the fire brigade's ability to effectively respond to the fire is compromised and the safety of crew and other persons may be affected. Significant public moneys are also wasted to replace damaged equipment.

While it is reasonable to assume that the MFESB will take measures to minimise the restrictions of movement (for example, by providing a ramp over the fire hose where practicable), this is not always possible or effective. Instances have been reported of persons driving over fire hoses despite warnings of the potential damage.

Attaching a criminal penalty to wilful interference with apparatus or driving over a fire hose is an effective means to help prevent damage to MFESB equipment, and deter behaviour that may compromise firefighting efforts and risk public safety.

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

A less restrictive means of protecting firefighters from interference with their equipment would be to cordon off access to the area in which the MFESB is conducting its response activities. However, this would involve expending significant amounts of time and resources to establish a cordon which may waste valuable time in responding to the fire. Further, the emergencies are often unpredictable and can affect a large area. Response to such emergencies requires a mobile and flexible effort, and so a cordon would not always be effective. A cordoned-off area would not necessarily have the ability to deter certain behaviour that may put safety of firefighters and others at risk.

There does not appear to be any other less restrictive means reasonably available. Creating an offence provision achieves the objectives of the proposed amendment and is most appropriate for the unpredictable nature of emergencies.

(f) any other relevant factors

No other factors are considered relevant.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities. A person's right to free movement under section 12 of the charter is limited. However, this limitation is reasonable and proportionate and demonstrably justifiable in accordance with section 7 of the charter.

BOB CAMERON, MP
Minister for Police and Emergency Services

Second reading

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

That this bill be now read a second time.

The purpose of this bill is to amend the Country Fire Authority Act, Metropolitan Fire Brigades Act, Victoria State Emergency Service Act, Emergency Management Act, Summary Offences Act and other acts.

Since 1999 the Victorian government has strengthened the capability of the emergency services by rebuilding facilities, updating equipment and providing state-of-the-art communications technology. However, the emergency landscape is constantly changing and we need to continue to work hard to make our world-class emergency services even stronger. This bill strengthens Victoria's already effective emergency management framework to better equip our emergency services to face an increasingly diverse range of emergencies.

The devastating impact of emergencies is fresh in the minds of Victorians. The most recent bushfire season burned over 1.1 million hectares of land, affected communities, resulted in the loss of property and had significant costs to tourism and local industries. In a number of Victorian communities severe floods followed the bushfires. This was during a time where the whole of Victoria remained in severe drought.

Emergencies such as bushfires and floods are likely to be more frequent and more severe. When combined with increased security risks since September 11, 2001, it is essential that the legislative framework continues to adapt with the changing risk environment. This bill will amend these acts in several ways to ensure our emergency workers are operating under a more modern legislative framework.

Better protection for volunteers and emergency workers

Firstly, the bill provides better protection for volunteers and emergency workers. The Victorian government values and supports the efforts of our dedicated emergency workers in protecting the lives of all Victorians every day of the year. Victorians are especially grateful to the thousands of volunteer emergency workers in the Country Fire Authority (CFA), Victoria State Emergency Service (SES) and other emergency services organisations who give their time and energy to protect Victorians and their property.

The government recognises that volunteer emergency workers often place themselves in physical danger to perform their vital roles. This bill will make it clear that the compensation provisions under the Emergency Management Act apply to volunteer emergency workers injured while performing their emergency response or recovery responsibilities. This will ensure that volunteers will be protected regardless of whether the activity is performed as a single agency or in a multi-agency response.

SES volunteers will also be able to have their claims for injury compensation determined by the Accident Compensation Conciliation Service and medical panels, in accordance with the Accident Compensation Act. This means that SES volunteers will no longer need to go through costly, stressful and lengthy court proceedings to have compensation entitlements determined by the courts.

In the 2006 Victorian bushfires firefighters from New Zealand were injured while supporting our fire services in firefighting activities. The government appreciates the efforts of interstate and international units and wants to ensure that international units are protected against personal liability when they come to Victoria to assist during emergencies. To ensure that Victorian, interstate and international units respond to fires in a coordinated and seamless manner, the bill clarifies that members of interstate and international units must follow the directions of the CFA or Metropolitan Fire Brigade (MFB) as appropriate. The bill will also require that any equipment for assisting in the firefighting operations is placed under the CFA or MFB's control, for as long as it is within Victoria.

CFA and MFB officers will be able to perform their work more safely as a result of this bill. The bill provides greater protection to firefighters by inserting an offence to assault, resist or delay firefighters in the course of their functions and duties.

Every second counts in an emergency response. Our firefighters must be confident that they will not be impeded or injured, or have their equipment damaged while discharging their responsibilities. To this end, the bill amends the MFB act to insert an offence to damage or interfere with certain MFB equipment.

Stronger emergency management provisions

The second area of amendment is in relation to enhancing emergency services capabilities to respond effectively to emergencies.

The emergency services commissioner

Since the Victorian government established the Office of the Emergency Services Commissioner in 2000, the commissioner has played a vital role in strengthening the emergency management arrangements in Victoria. The commissioner has undertaken a number of investigations, including the 2005 Melbourne Airport emergency and the 2003 Victorian bushfire inquiry. The commissioner has also been important in engaging the Victorian community in emergency management. The work of the commissioner is critical in enabling us to learn from past experience and build upon our emergency management arrangements.

This bill better supports the commissioner's current role with respect to reporting, advising and making recommendations to the government on matters relating to emergency management, emergency activity or emergencies.

The bill provides that the commissioner may monitor the non-financial performance of emergency services agencies in relation to emergency management, emergency activity or emergencies. For the purposes of

performing his or her functions, the commissioner's existing power to obtain information will extend to urgently requiring information.

Directing movement at fire scenes

The fire brigades are the experts at understanding and predicting fire behaviour, weather conditions, and safety risks 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.

Access to water

The bill clarifies that the fire brigades may access and use water for the purposes of their functions or duties under the CFA act and MFB act. This would include emergency response or preventing a fire reigniting. Free access and use of water also includes free access and use of water infrastructure, and information regarding the location of water. Where the CFA or MFB takes water from a person's well or tank for firefighting purposes, this loss of water would be deemed to be fire damage within a person's insurance policy against fire.

Pecuniary interest

The pecuniary interest exemption will no longer apply to any person during declared states of disaster. States of disaster are a 'last resort' option for extreme catastrophes facing Victoria or a part of Victoria and in these instances it is appropriate to remove persons from their property where there is immediate danger. It will also no longer apply to a person interfering with, or obstructing, the fire services in the course of their duties.

Fire prevention measures

The third area of amendment is to increase penalties and create new offences to deter behaviour that could lead to significant emergencies or jeopardise an effective response to emergencies.

For example, the bill provides an offence for wilfully damaging, interfering with or resetting a fire indicator panel. A fire indicator panel is often the first point of call for the responding fire brigade, as it gives clear and immediate information of the location and source of the fire, or a fault in the fire detection system. Resetting a fire indicator panel removes this information so it cannot be accessed by the fire brigade. The potential effect is to obscure the location of the fire or fault, so that fire brigades cannot immediately identify the source of the alarm. Instead, they must waste valuable time identifying the fire's location. In large premises, the time wastage may be considerable and lives may be put in danger.

The bill also creates an offence to wilfully give or cause to be given a false report of an emergency to a fire brigade.

Fire services funding

Amendments were made to the fire services acts in 2005, to enhance equity among insurance companies under the insurance-based fire services funding system.

After extensive consultations with the insurance and insurance-broking industries on the deductibles formula it was determined that the changes would be overly complex, costly to administer and place an implementation burden on Victorian businesses that would have exceeded the equity gains of the deductibles formula.

This bill removes the changes made in 2005. It reinserts a longstanding equity provision that deems a policy-holder with a high deductible to be uninsured — and liable for the costs of providing the service — if the amount of the fire damage is between $10 000 and the amount of the deductible.

Without this provision the situation is inequitable. It would mean that a person who is uninsured is liable to pay for the services of the fire brigade, but a policy-holder who is effectively uninsured through the use of a deductible is not liable for such costs.

General amendments

The bill also provides a more effective framework for managing the functions and operations of the CFA, MFB and SES. This includes providing the SES with more appropriate management and administration powers, including a more active role in registering units and more flexible delegation powers.

The last general amendments made by the bill provide for greater consistency in terms used within and between acts. The bill removes redundancies, rectifies drafting ambiguities and makes other procedural amendments to the powers and duties contained in the Emergency Management Act, MFB act, CFA act and Victoria SES act.

I commend the bill to the house.

Debate adjourned on motion of Mr THOMPSON (Sandringham).

Debate adjourned until Thursday, 4 October.

GRAFFITI PREVENTION 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 (referred to as 'the charter'), I make this statement of compatibility with respect to the Graffiti Prevention Bill 2007 (referred to as 'the Graffiti Prevention Bill').

In my opinion, the Graffiti Prevention 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 Graffiti Prevention Bill seeks to:

reduce the significant financial and social costs of graffiti to the Victorian community;

provide a strong deterrent to perpetrators of graffiti and promote the accountability of those perpetrators for their actions; and

reduce the incidence of graffiti in Victoria.

Human rights issues

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

Structure of the Graffiti Prevention Bill

Various clauses in the Graffiti Prevention Bill raise various human rights concerns.

Clause 5 of the Graffiti Prevention Bill makes it an offence for a person to mark graffiti on property that is visible from a public place without the property owner's consent.

Clause 6 makes it an offence for a person to mark graffiti that is visible from a public place if the graffiti would offend a reasonable person and provides an exception for graffiti that is reasonable political comment.

Clause 7 makes it an offence for a person to possess a prescribed graffiti implement without lawful excuse while on the property of a transport company, in an adjacent public place or in a place where the person is trespassing.

Clause 8 makes it an offence for a person to possess a graffiti implement with the intention of contravening clause 5 or clause 6 of the bill.

Clause 9 makes it an offence to advertise for sale a prescribed graffiti implement if the advertisement is likely to incite or promote unlawful graffiti and the person intends the advertisement to incite or promote unlawful graffiti. Clause 9(2) provides that evidence that the advertisement was placed in a publication, including on an internet site, that itself contains images that incite or promote unlawful graffiti, is proof that the advertisement is likely to incite or promote unlawful graffiti in the absence of evidence to the contrary.

Clause 10 makes it an offence to sell a spray paint can to a person under the age of 18 unless the person demonstrates that he or she needs the paint for employment purposes.

Clause 12 provides for the issue of a search warrant where there are reasonable grounds for believing that an offence against the bill has been or is being committed.

Clause 13 allows a police officer, in certain circumstances, to search a person without warrant and to seize a prescribed graffiti implement or evidence of the commission of an offence against the bill.

Clause 14 regulates how a search of a person aged under 18 years can take place. The clause allows for a person aged between 14 and 17 years old to be subjected to a 'pat-down' search. No search can take place of a person aged under 14 years.

Clause 15 sets out how a search of a person must be conducted under the bill. A search must be conducted in a manner that affords reasonable privacy to the person being searched and must be conducted as quickly as is reasonably practicable. If, before or during a search, the officer reasonably suspects that the person is aged under 18 and is inhaling or will inhale a volatile substance, the officer must stop the search and deal with the person under division 2 of part IV of the Drugs, Poisons and Controlled Substances Act 1981.

Clause 18 provides that a local council may take any action necessary to remove or obliterate graffiti on private property if the graffiti is visible from a public place. This includes entry to private property if entry is necessary to remove or obliterate the graffiti and consent has been obtained from the owner or occupier.

Clauses 24 and 25 prescribe the forfeiture of seized graffiti implements and their return in certain circumstances.

Section 8: 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.

Clause 10 of the Graffiti Prevention Bill prima facie limits this right because it draws distinctions between people based on age, which is an attribute in the Equal Opportunity Act

1995. However, the right is not absolute and is subject to reasonable limitations pursuant to section 7 of the charter, as discussed in part 2.

Clause 25(6) raises the right of every person to be equal before the law in that it means that a person aged under 18 must be accompanied by a parent or guardian when collecting a graffiti implement that was previously seized. However, this clause is designed to ensure that the child, in returning home with the graffiti implement, does not unwittingly become further entangled with the law. In this way, the clause seeks to give effect to section 17(2) of the charter by giving the child protection in his or her best interests because he or she is a child.

Section 12: freedom of movement

Section 12 of the charter states that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

Clause 7 of the Graffiti Prevention Bill limits the freedom of movement of a person by preventing a person from legally entering upon certain defined property while possessing a spray paint can without a lawful excuse. However, the right is not absolute and is subject to reasonable limitations pursuant to section 7 of the charter, as discussed in part 2.

Clauses 12 and 13 limit the right to freedom of movement because they allow a person to be stopped and searched for evidence that they have committed an offence under the bill. While being so searched, the person will [be] prevented from moving. However, as stated above, the right is not absolute and is subject to reasonable limitations pursuant to section 7 of the charter, as discussed in part 2.

Section 13: privacy and reputation

Section 13(a) of the charter requires that a public authority must not unlawfully or arbitrarily interfere with a person's bodily privacy or home. 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. Arbitrariness will not arise provided that the restrictions on privacy are in accordance with the objectives of the charter and are reasonable, given the circumstances.

Clauses 12 and 13 of the Graffiti Prevention Bill raise the right to privacy because the clauses allow a person or a person's premises to be searched in certain circumstances. However, both clauses limit the circumstances in which a search of a person or of a person's premises can take place. In clause 12, those circumstances arise only when a police officer has made out on oath that there are reasonable grounds for believing that an offence against the bill has been or is being committed. If this leads to the issue of a search warrant, the warrant must be issued in accordance with the Magistrates' Court Act 1989. In clause 13, those circumstances arise only when a police officer has reasonable grounds for suspecting that a person has in his or her possession a prescribed graffiti implement on property or in a place referred to in clause 7 and that evidence could be lost or destroyed if a search is delayed until a search warrant is obtained. Clause 13 also sets out matters that the officer may take into account when determining that there are reasonable grounds for his or her suspicion and it regulates how the search can take place. The interferences with privacy enabled by the clauses are not unlawful as the powers to search are confined and structured and are reasonable in the circumstances. The interference with privacy is authorised on a case-by-case basis according to the specific circumstances involved. Therefore, in neither case is the right to privacy unlawfully or arbitrarily interfered with and there is no limitation of the right provided for in section 13 of the charter.

Clause 18 raises the right to privacy in that it allows persons to enter private property and remove from it graffiti. However, the right in section 13 guarantees privacy where it is not unlawfully or arbitrarily interfered with. Clause 18 allows entry only in circumstances in which both notice is given to the owner or occupier of the property at least 28 days before the entry is to take place. Furthermore, the notice must specify: particulars of the action proposed to remove the graffiti and the proposed date and method of the removal. Finally, the owner or occupier must give consent to the entry and removal; in the absence of that consent, no entry takes place. Accordingly, the clause does not allow any unlawful entry nor does it permit it to take place arbitrarily.

Section 15: freedom of expression

Section 15(2) of the charter provides that every person has the right to freedom of expression, which includes freedom to seek, receive, and impart information and ideas of all kinds, whether within or outside Victoria and in any medium, including by way of art. Section 15(3) provides that special duties and responsibilities attach to the right of freedom of expression under section 15 of the charter and the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons, or for the protection of national security, public order, public health or public morality. Public order may be defined as the sum of rules which ensure the peaceful and effective functioning of society. Common public order limitations on the right to freedom of expression include prohibitions on speech that may incite crime, violence, or mass panic.

Clause 5 of the Graffiti Prevention Bill interferes with a person's right to freedom of expression by making it an offence for a person to mark publicly visible graffiti on property without the consent of the owner of that property. However, the clause protects the property rights of the owner by requiring the property owner's express consent to the marking of graffiti on their property. The clause is therefore a lawful restriction reasonably necessary to respect the rights and reputation of other persons, pursuant to section 15(3) of the charter.

Clause 6 of the Graffiti Prevention Bill also interferes with a person's right to freedom of expression by making it an offence for a person to mark publicly visible graffiti on property if the graffiti would offend a reasonable person, regardless of whether the owner of the property consents. An example of such graffiti might include a racist or sexist slogan painted on a wall that offends a reasonable person. The clause protects public order and public morality by preventing the marking of publicly visible comments that would offend the community, while still allowing reasonable political comment. The clause is therefore a lawful interference with the right to freedom of expression as permitted by section 15(3) of the charter.

Clause 9 of the Graffiti Prevention Bill also interferes with a person's right to freedom of expression by making it an offence to advertise a prescribed graffiti implement if the advertisement is likely to incite or promote unlawful graffiti. However, the right may be subject to lawful restrictions reasonably necessary to protect public order. In this context, public order includes the need to prevent people from profiting from the sale of items advertised in such a way that the marking of illegal graffiti is incited or promoted. An example of this has been described in a Melbourne newspaper of a store that advertises its business on an internet graffiti website that depicts images of clearly illegal graffiti on Melbourne's public transport system. The business specialises in the sale of spray paint cans, nozzles for spray paint cans adapted specifically for graffiti, and books and magazines relating to graffiti culture. The clause protects public order by preventing someone from attempting to profit through another's illegal activities. The clause lawfully and reasonably restricts the right to freedom of expression as permitted by section 15(3) of the charter.

Clause 10 of the Graffiti Prevention Bill also interferes with a person's right to freedom of expression by restricting access to a medium of expression (that is, spray paint cans) to persons under the age of 18 years old. However, the right may be subject to lawful restrictions reasonably necessary to protect public order. In this context, public order includes the need to protect the public from the application of unlawful graffiti to private and public property. More graffiti in Victoria is applied by spray paint than by any other form of graffiti implement and most offenders apprehended for graffiti-related offences are aged 18 years or under. Limiting the availability of spray paint to those aged under 18 will continue the work already being undertaken by a number of municipal councils who have passed by-laws that restrict the sale of spray paint in their local government areas and who have reported a decline in graffiti applied in those areas. The clause lawfully and reasonably restricts the right to freedom of expression as permitted by section 15(3) of the charter.

Section 17: protection of families and children

Section 17(2) of the charter provides that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by reason of being a child.

Clause 14 of the Graffiti Prevention Bill provides that a member of the police force must not search a person who is or appears to be under 14 years of age. This clause upholds the right of the child to such protection as is in his or her best interests by reason of being a child. Furthermore, any search of a person aged under 18 under the bill can only be a pat-down, and not a full, search.

Clause 15(3) of the Graffiti Prevention Bill states that a police officer must take a welfare, rather than a law enforcement approach to a person aged under 18 years whom the officer suspects of both contravening clause 7 and inhaling a volatile substance. In the absence of clause 15(3), the officer would be obliged to enforce the law against the person in circumstances in which it would not be appropriate to do so. Clause 15(3) therefore ensures consistency with the right that a child has 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 clause enhances that right by recognising that it is in the best interests of a child who is inhaling a volatile substance to be subject to a welfare response.

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 the law.

Clause 13 of the Graffiti Prevention Bill raises rights relating to property because, in certain circumstances, it allows a police officer to seize a prescribed graffiti implement or other evidence of the commission of an offence under the bill. However, the right in section 20 of the charter only prohibits a deprivation of property that is carried out other than in accordance with law. Property can lawfully be seized pursuant to clause 13 if a police officer has reasonable grounds for suspecting that a person has in his or her possession a prescribed graffiti implement on property or in a place referred to in clause 7 and that evidence of this could be lost or destroyed if a search is delayed until a search warrant is obtained. The clause also sets out matters that the officer may take into account when determining that there are reasonable grounds for his or her suspicion and it regulates how the search can take place. The power to seize property is therefore devised precisely to guide those who apply the law. The power is confined and structured, formulated in a precise manner and accessible to the public. Further, the power to deprive a person of property to which this clause applies will take place under powers conferred by legislation. The deprivation of property will therefore be in accordance with law, and there is no limitation of the right granted in section 20 of the charter.

Clauses 24 and 25 of the Graffiti Prevention Bill raise rights relating to property rights. Clause 24 provides for the forfeiture of a graffiti implement that has been seized from a person who has been found guilty of an offence against the bill, or found not guilty of such an offence because of mental illness, or in certain circumstances when the person has been served with an infringement notice for such an offence. Clause 25 provides for the return of that implement when proceedings against the person are not brought or are discontinued. The effect of the two clauses is that a graffiti implement will generally be forfeited when a person is found guilty of an offence under the bill and generally returned to the person when the person is not found guilty of an offence under the bill. The provision for the forfeiture of property is formulated in a precise manner and will occur only under powers conferred by legislation. Therefore, the deprivation of property will occur in accordance with the law and there is no limitation of the right to property section 20 of the charter.

Section 21: personal liberty and security

Section 21(3) of the charter provides: that every person has the right to liberty and security; that a person must not be subjected to arbitrary arrest or detention; and that a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law.

Clauses 12 and 13 of the Graffiti Prevention Bill engage with the right to personal liberty in that they allow a person to be detained in order that the person may be searched for evidence that indicates that a breach of the bill has occurred or is occurring. However, the deprivation of liberty will occur on grounds and in accordance with procedures established by law. Both clauses set out in detail the circumstances in which a person may be subjected to such a search. In addition, clause 14 regulates how the search may be carried out. It provides that a search must be carried out in a manner that

affords reasonable privacy to the person being searched and as quickly as is reasonably possible. Any deprivation of liberty caused by a person being searched pursuant to the bill will be short-lived and temporary and proportionate to the purpose of preventing the continuance of an offence under the bill or to seek evidence of the commission of such an offence. There is therefore no impermissible limitation on the right in section 21 of the charter.

Section 25: rights in criminal proceedings

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

Clause 7 of the Graffiti Prevention Bill interferes with the right in section 25(1) of the charter because the clause places on the accused an evidential burden to demonstrate the existence of a lawful excuse for carrying a spray paint can in a designated geographical area. However, the right is not absolute and is subject to a reasonable limitation pursuant to section 7 of the charter, as discussed in part 2.

In certain circumstances, clause 9 of the Graffiti Prevention Bill may interfere with the right in section 25(1). The clause creates an offence with two elements. The prosecution must prove the existence of both elements for it to secure a conviction. The first element is that the person advertised for sale a prescribed graffiti implement that is likely to incite or promote unlawful graffiti. The second element is that the person intended the advertisement to incite or promote unlawful graffiti.

Clause 9(2) provides that evidence that the advertisement was placed in a publication, including on an internet site, that itself contains images that incite or promote unlawful graffiti, is evidence that the advertisement is likely to incite or promote unlawful graffiti. That is, evidence of the first element of the offence. To counteract this evidence, the accused could offer evidence that showed that those images were not in fact likely to incite or promote unlawful graffiti. In the absence of any contrary evidence brought by the accused, the court must accept that the first element of the offence has been proved. This interferes with the right in section 25(1) of the charter because the clause places on the accused an evidential burden to demonstrate the existence of evidence that shows that the advertisement is not likely to incite or promote unlawful graffiti. However, as is stated above, the right in section 25(1) is not absolute and is subject to a reasonable limitation pursuant to section 7 of the charter, as discussed in part 2.

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

Section 8 of the charter: recognition and equality before the law and clause 10 of the Graffiti Prevention Bill

(a) What is 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 accordance with section 7 of the charter.

(b) What is the importance of the purpose of the limitation?

The purpose of the limitation is to assist in reducing the incidence of graffiti vandalism to a significant extent by making it more difficult for minors to access the most common and preferred graffiti implement. The purpose is important because it seeks to reduce the defacing of private and public property, which involves a considerable cost to, and diminishes feelings of security and confidence within, the community.

(c) What is the nature and extent of the limitation?

The nature and extent of the limitation is the restriction of the sale of a specific item, namely a spray paint can, to a person under 18 years old. The limitation on the right does not extend to possession or use of such items, except in contravention of the offence in clause 7 of the Graffiti Prevention Bill. The proposed restriction and the bill overall, does not affect the general use of a spray paint can except where it is used for the prohibited marking of graffiti. A person under 18 years old may still use a spray paint can at work, at school, at home or elsewhere. However, the restriction will also affect those people under the age of 18 who wish to purchase a spray paint can for a legitimate and lawful purpose, and will have to approach an adult, such as a parent, to obtain one. The restriction will operate so as to discriminate against those persons on the ground of their age.

(d) What is the relationship between the limitation and its purpose?

There is a rational connection between the limitation on the right and its purpose in that the restriction on the sale of spray paint cans to minors aims to stop those persons who intend to mark graffiti from obtaining the means to do so. Statistics from Victoria Police indicate that of all of persons apprehended for graffiti crimes in the five years between 2001 and 2006, on average nearly 69 per cent were aged 18 years or under. There is evidence available that such a restriction is likely to have the effect of reducing the incidence of unlawful graffiti. For example, a number of local councils, such as the City of Casey and the City of Boroondara, have already passed local laws that restrict the sale of spray paint to persons under the age of 18 and have reported a reduction in the amount of graffiti applied in their local government areas as a result of these local laws. Casey indicated that it has achieved a 70 per cent reduction in the area of graffiti requiring removal following introduction of the law.

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

Other means already exist for the reduction of unlawful graffiti by minors and some additional ones are proposed in the bill. Such measures include the criminalisation of certain graffiti marking, early clean up and general removal initiatives, education for minors and offenders, prohibition of the possession of graffiti implements in certain places, and new search and seizure powers. Some of these measures are less restrictive and some are more restricted than the restriction on the sale of spray paint to minors. Given the inherent difficulty in preventing widespread marking of graffiti on public and private property across Victoria, the restriction will operate simply as one of a range of measures designed to reduce the illegal marking of graffiti.

(f) Are there any other relevant factors?

There are no other relevant factors.

(g) Conclusion

In conclusion, the limitation is compatible with human rights because there is a rational connection between the purpose of reducing graffiti by minors and the restriction, the purpose is both legitimate and important, and is proportionate to the discrimination against persons under the age of 18 years so as to be reasonable and demonstrably justified in a free and democratic society.

Section 12: freedom of movement and clause 7 of the bill

(a) What is the nature of the right being limited?

The ability to move about freely in public spaces in Victoria is a right granted to all Victorians and visitors to this state. However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) What is the importance of the purpose of the limitation?

The purpose of the limitation is to prevent the marking of graffiti on and around Victoria's public transport system. Marking graffiti by way of spray paint on Melbourne's public transport system, particularly on metropolitan trains, is thought to elevate the status of such offenders within their offending community.

(c) What is the nature and extent of the limitation?

Clause 7 of the Graffiti Prevention Bill limits the freedom of movement of a person by preventing a person from legally entering upon public transport or on land adjacent to public transport infrastructure while possessing a spray paint can without a lawful excuse. The clause does not forbid the person from entering on this land; it simply makes it a condition that if the person does enter that land and is carrying a spray paint can, the person must have a lawful excuse for carrying that can.

(d) What is the relationship between the limitation and its purpose?

There is a close relationship between the limitation and its purpose. That is, the limitation will restrict the legal ability of would-be graffiti offenders from entering the space upon which they wish to mark unlawful graffiti.

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

The limitation restricts the possession of spray paint on public transport only to those persons who do not have a lawful excuse for that possession. Accordingly, the limitation represents the least restrictive way of preventing the application of unlawful spray paint graffiti on the public transport system.

(f) Are there any other relevant factors?

There are no other relevant factors.

(g) Conclusion

In conclusion, the limitation is compatible with the charter because, even though it limits human rights, those limitations are reasonable and proportionate.

Section 12: freedom of movement and clauses 12 and 13 of the bill

(a) What is the nature of the right being limited?

The ability to move about freely in public spaces in Victoria is a right granted to all Victorians and visitors to this State. However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) What is the importance of the purpose of the limitation?

The purpose of the limitation is to enable the investigation of the commission of an offence under the Graffiti Prevention Bill, which is of crucial importance in achieving its objects.

(c) What is the nature and extent of the limitation?

Clauses 12 and 13 of the Graffiti Prevention Bill allow a person to be searched for evidence that indicates that a breach of the bill has occurred or is occurring. A person's freedom of movement is limited during such a search because the person is unable to walk away from it. However, the bill states that such searches must be carried out quickly and, as a consequence, the limitation on freedom of movement will be of a very temporary nature.

(d) What is the relationship between the limitation and its purpose?

The limitation is necessary to ensure that evidence of the commission of an offence under the bill is taking place or has taken place. Prosecuting graffiti offenders is a central object of the bill and, without the ability to gather such evidence, no convictions could be obtained.

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

There is no other way in which, for instance, a spray paint can could be uncovered in the possession of a person who is hiding one in his or her clothing or bag in the absence of such a search, which, by its nature, must limit the ability of the person to move freely about for a short time.

(f) Are there any other relevant factors?

There are no other relevant factors.

(g) Conclusion

In conclusion, the limitation is compatible with human rights because there is a need for certain persons to be searched in order to give effect to one of the central objects of the bill and the temporary limitation is justifiable in the circumstances.

Section 25 of the charter: rights in criminal proceedings and clause 7 of the Graffiti Prevention Bill

(a) What is 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) What is the importance of the purpose of the limitation?

The purpose of the limitation is to assist the prosecution in securing convictions of graffiti offenders because relevant and adequate evidence is ordinarily very difficult to obtain and consequently convictions are difficult to secure.

(c) What is the nature and extent of the limitation?

The effect of clause 7 of the Graffiti Prevention Bill is that where a person is caught carrying a spray paint can in defined geographic areas the person will have the evidential burden of showing that he or she had a lawful reason for doing so. This means that, to avoid conviction, the accused will be required to point to evidence that they have a lawful excuse for being in possession of the graffiti implement. However, it will remain up to the prosecution to prove all the elements of the offence.

(d) What is the relationship between the limitation and its purpose?

The imposition of an evidential burden with respect to establishing a lawful excuse will assist the prosecution to secure convictions. There is a direct relationship between the limitation and its purpose.

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

There are no less restrictive means reasonably available to secure convictions against offenders who apply graffiti to Victoria's public transport system and infrastructure. In any event, the clause must be structured in this way as the evidence of the lawful excuse will be in the possession of the person and not in the possession of the police or the prosecution. Accordingly, that evidence can only come from that person.

(f) Are there any other relevant factors?

There are no other relevant factors.

(g) Conclusion

In conclusion, the limitation is compatible with the charter because, even though it limits human rights, those limitations are reasonable and proportionate.

Section 25 of the charter: rights in criminal proceedings and clause 9 of the Graffiti Prevention Bill

(a) What is 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, that right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) What is the importance of the purpose of the limitation?

The purpose of the limitation is to secure prosecutions of offenders under clause 9 of the bill. It is important that persons who breach the clause should be brought to justice as a warning to others who similarly set out to encourage, and profit from, illegal behaviour.

(c) What is the nature and extent of the limitation?

Clause 9 of the Graffiti Prevention Bill creates an offence with two elements. The prosecution must prove the existence of both elements for it to secure a conviction. The first element is that the person advertised for sale a prescribed graffiti implement that is likely to incite or promote unlawful graffiti. The second element is that the person intended the advertisement to incite or promote unlawful graffiti.

Clause 9(2) provides that evidence that the advertisement was placed in a publication, including on an internet site, that itself contains images that incite or promote unlawful graffiti, is proof that the advertisement is likely to incite or promote unlawful graffiti in the absence of evidence to the contrary. If the accused offers evidence that the advertisement is not likely to incite or promote unlawful graffiti, it will be up to the prosecution to prove beyond reasonable doubt that it does incite or promote unlawful graffiti. Accordingly, the nature and extent of the limitation of the right is confined.

(d) What is the relationship between the limitation and its purpose?

The imposition of an evidential burden with respect to demonstrating that the publication does not incite or promote unlawful graffiti will assist in securing convictions. The limitation is directly related and proportionate to its purpose.

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

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

(f) Are there any other relevant factors?

Clause 9 has been drafted so that it will impact solely upon businesses that profit from selling materials used to undertake illegal activity and will not apply to persons and organisations who sell spray paint cans to persons who use the product for legitimate purposes.

(g) Conclusion

In conclusion, the limitation is compatible with human rights because it is important that persons who seek to encourage, and profit from, illegal behaviour are brought to justice as a warning to others.

Conclusion

I consider that the graffiti bill is compatible with the human rights charter because, even though it does limit human rights, those limitations are reasonable and proportionate.

BOB CAMERON, MP
Minister for Police and Emergency Services

Second reading

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

That this bill be now read a second time.

As part of its commitment to tackling graffiti in Victoria, the government is introducing the Graffiti

Prevention Bill. The bill will establish a legislative framework that will underpin graffiti prevention and removal. The new legislation will raise awareness that graffiti is a serious criminal offence and provide a clear deterrent to graffiti vandals.

The bill:

creates new specific graffiti offences with tough new penalties for graffiti offenders

gives police stronger powers to search people and property for evidence of graffiti offences and

establishes a system under which graffiti can be removed from private property.

These new offences, penalties, and powers will greatly assist the police in apprehending and charging graffiti vandals.

The bill contains tough new penalties. Convicted graffiti vandals will face up to two years imprisonment or a fine of over $26 000. The penalties are tougher than in some other states — in New South Wales and South Australia the maximum penalty for property damage and destruction under the Crimes Act will remain available for the worst cases.

In addition, the bill prohibits the sale of spray paint to a person who is aged under 18, unless they need the paint for their employment, and so will seek to prevent a destructive and commonly used graffiti implement getting into the wrong hands. Also the bill will endeavour to prevent persons from profiting from other people's illegal behaviour by outlawing the advertising of spray paint in a publication or on the internet in such a way that promotes or incites the marking of unlawful graffiti.

The new laws make it easier for police to apprehend and prosecute graffiti vandals. Currently, the police have difficulty charging graffiti vandals unless they catch them in the act. The new offence of possessing spray paint without lawful excuse on or around public transport or when trespassing will enhance the operational ability of police officers to arrest graffiti offenders.

In addition, there will be a new offence of possessing a graffiti implement with the intention of using it to mark illegal or offensive graffiti. To obtain a conviction under this provision, the prosecution will need to demonstrate that the person possessed the implement and intended to mark unlawful graffiti as currently occurs in the prosecution of similar summary offences against property.

Further, the bill grants clearer powers to the police to search people and places for evidence concerning the commission of a graffiti offence.

The bill also establishes a process whereby authorised persons will be empowered to enter private property and clean publicly visible graffiti from it. These new provisions will minimise repeat graffiti attacks.

The bill reflects the community's desire to more appropriately deal with graffiti and follows the receipt of around 70 submissions on the draft bill that was released for public comment.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 4 October.

WORKING WITH CHILDREN AMENDMENT BILL

Second reading

Debate resumed from 22 August; motion of Mr HULLS (Attorney-General).

Mr CLARK (Box Hill) — The Working with Children Amendment Bill 2007 is a bill that fixes a range of errors, omissions and oversights in the Working with Children Act 2005. It includes four new offences defined as relevant offences which are to be considered in assessing applications by persons for approval to work with children. Those offences include the offence of loitering near schools and other places, and the offence of stalking where the victim is a child. Those are included in the legislation as category 2 offences.

Category 2 offences are ones where there is a general expectation that an authorisation will be refused but the secretary of the department can still issue an authorisation if he or she considers it appropriate. The other two offences being included are the offence of causing injury intentionally or recklessly and the offence of obscene exposure. They are being included in the legislation as category 3 offences, where authorisation must be issued unless it is considered inappropriate to do so. How it is that these offences, particularly obscene exposure, are put in category 3, may be questioned. The government's justification is that obscene exposure may cover a wide range of possible circumstances. One would certainly hope that

the secretary will be very careful in the way she or he exercises their discretion in relation to those cases.

The bill also provides the secretary with a broad exceptional circumstances discretion to refuse an authorisation to work with children based on offences other than offences that are defined as relevant offences for the purposes of the legislation. That discretion will apply where there is considered to be an unjustifiable risk to the physical or sexual safety of children.

The bill also reclassifies two carnal knowledge offences as category 2 offences, whereas previously they have been classified as category 1, where as far as the secretary is concerned no authorisation can be issued. The government's justification is, in the Attorney-General's words, that some of the carnal knowledge offences may have involved boyfriend and girlfriend circumstances. The bill also provides for the Victorian Civil and Administrative Tribunal to make interim orders pending the final determination of a matter where there is an appeal or application to VCAT. In addition the bill provides a defence to the offences of engaging in child-related work without an assessment notice and engaging a person without an assessment notice where VCAT has issued a stay order in relation to a proceeding before it.

The principal act was enacted in 2005. At the time the legislation was debated in this house the Liberal Party expressed a range of concerns about the legislation. We were concerned about its bureaucratic nature, we were concerned about how effective it would be in practice and we were concerned about the lack of independent supervision and the fact that many discretions under the legislation were given to the Secretary of the Department of Justice rather than to an independent commissioner. During the course of debate unfavourable comparisons were drawn between the then proposed Victorian regime and the regime that had been enacted in Queensland. Comparisons were also made with the regime that had been enacted in New South Wales.

There is a serious problem of potential and actual abuse of vulnerable people in the community by carers, particularly, in this context, the abuse of children. The point also needs to be made that unfortunate instances are coming to light where there has been abuse of the elderly and abuse of people with disabilities by those in whose care they are. Some of the examples that have come to light are quite horrific. So the principle of putting in place mechanisms to protect children and other vulnerable people is entirely appropriate, and the use of police checks as part of those protective mechanisms can make good sense. However, the way in which these protections have been implemented in detail is a cause of continuing concern to the opposition, in relation to both the bureaucratic and cumbersome mechanisms and procedures that have been put in place and also the gaps that exist in the regulatory framework in terms of providing appropriate protection for vulnerable people, particularly for children.

When one looks at the documentation that is available on various websites, this complexity can be seen. On the police website there is a form entitled 'Consent to check and release national police record'. As far as one can tell from the information on the website and the nature of the form, this is a general purpose document that is to be completed by the applicant and submitted to the police force. That document will trigger a check and release of police records for a wide range of purposes. Section 3 of the form requires the applicant to indicate whether the purpose of the check is for employment, voluntary work or occupation-related licensing and to specify the type of position to which the check relates or other purposes for which the check is sought. There is also provision to specify who is to be the recipient of the check results and a notification that those check results will be sent directly to the organisation or the person specified.

However, there are other forms that are available in various contexts on various government websites, and I refer in particular to a document entitled 'Safety screening: police check and proof of identity' that is issued by the Department of Human Services. It is described as a 'consent to check and release national criminal history record and proof of identity'. It says that as part of its employment safety screening policy, the Department of Human Services requires all competitive applicants for positions within the department to undergo a national criminal history record check as part of the application and assessment process. It mentions contexts of employment: 'for the purpose of working with children, elderly people or disabled people'. Of course this only applies to people seeking employment within DHS in those various fields. The document then goes on to contain a form that can be completed and signed with a statement of consent.

That is simply one illustration of the fact that there is a variety of forms and pieces of paperwork around. There does not seem to be a single integrated mechanism for conducting police checks. As the member for Bayswater pointed out to me just a short while ago, another bill introduced into this house this morning in relation to educational matters sets out what it refers to as a similar to but different regime from that in the

Working with Children Act, which is to apply in the context of education.

I think we may have reached the point where the question should be posed as to whether we should be moving towards a far better integrated system for police checking to avoid the need for multiple applications, multiple fees and expenses and multiple processing of paperwork on the part of the police force. There would be many people who want to work not only with children but with the elderly or people with disabilities when working in the human services field. This is demonstrated by the application form issued by the Department of Human Services that I referred to earlier.

There are considerable problems with delays in the undertaking of police checks for a wide variety of purposes. I recall that last year, prior to the Commonwealth Games, there was a particular bank-up of processing by the police force and the sad situation where a number of students who were undergoing training to become nurses and needed police checks in order to undertake the practical component of their course were having great difficulty in obtaining those police checks in time. Indeed from memory some of them were not able to obtain those police checks in time, which meant that the practical training component of their course had to be delayed simply because the paperwork could not be processed by the police force.

There is substantial room for improvement in the way these matters are handled. That is not just for the sake of applicants but also for the sake of the numerous community organisations that have to be engaged in these police checks and for the sake of ensuring better protection for those vulnerable people — children, the elderly and people with disabilities — who unfortunately on occasions are preyed upon by the people who seek to associate with them. We could provide far better protections for those people with a more integrated system.

The bill before the house has been considered by the Scrutiny of Acts and Regulations Committee, which has pointed out a number of weaknesses.

Mr Robinson interjected.

Mr CLARK — The minister at the table, the Minister for Gaming, commends the work of SARC, so I hope he will impress upon his ministerial colleague the Attorney-General the importance of taking these concerns seriously and giving them a careful and appropriate response.

SARC draws attention to the retrospective operation of two of the provisions of the legislation — namely, clauses 4 and 22 — and concludes that both of them provide beneficial clarification as to circumstances that do not amount to being engaged in child-related work and in relation to amendments to the Sentencing Act. I think SARC is generally correct in describing the amendments as beneficial in the sense that they do not operate to impose on people burdens that did not apply at the time, or apply liability retrospectively that did not apply at the time. However, I raise some query in relation to the alterations to the definition of 'working with children' — for example, the omission of the word 'private' before the word 'tuition', which would expand the scope of that provision and therefore the scope of circumstances in which approval is required. It may be that non-private tuition is already covered and so in practical terms that does not create a difficulty.

SARC also draws attention to two aspects of the statement of compatibility. The first aspect to which it draws attention is an error in the statement of compatibility in its description of the offence of loitering near schools et cetera in section 60B of the Crimes Act 1958. It points out that the statement of compatibility incorrectly says that to be charged with the offence a person must have been charged with a specified sexual offence, whereas in fact section 60B of the Crimes Act provides that to be charged with that offence they must have been found guilty of a specified sexual offence.

Probably more serious is SARC's observation that the statement of compatibility has failed to address an issue of whether or not clauses 10 and 12 of the bill are compatible with section 25(1) of the charter legislation. As SARC describes it, that subsection gives a person charged with a criminal offence the right to be presumed innocent until proven guilty according to law. SARC goes on to point out that the European Court of Human Rights has held that an equivalent provision under the European Convention for the Protection of Human Rights and Fundamental Freedoms may be infringed not only by a judge or court but also by other public authorities. The presumption of innocence is to protect the accused against any judicial decision or other statements by state officials amounting to an assessment of the applicant's guilt without him having previously been proved guilty according to law.

SARC then goes on to say there may well be balancing considerations which justify the provision in this instance and it has resolved to write to the Attorney-General outlining its concern. SARC's flagging of this point, and in particular some of the European Union interpretations of equivalent provisions, highlights once again some of the great difficulties that this whole concept of a legislated

charter of human rights has inflicted upon the community. It reinforces again the concerns this side of politics raised as to the wisdom of introducing such a charter.

While the propositions and conclusions expressed by the European Union authorities may as a matter of logic flow from the provisions on which they are based, what we could very well find ourselves facing is a circumstance where the law will prohibit and the courts will intervene to prevent a public official such as the Secretary of the Department of Justice from acting to stop someone who is strongly suspected on very good grounds of having engaged in paedophile conduct from working with children on the basis that, because a prosecution did not proceed or was withdrawn for some other reason, a claimed presumption of innocence should apply — and it should apply not only in the circumstance of not prejudging the outcome of a trial but in the circumstance where a public official cannot take into account the fact that someone has been charged with an offence where that charge has not proceeded to trial and conviction.

We really risk tying ourselves up in knots as a community if we reach that conclusion. Yet that is the sort of conclusion a combination of legislative changes and judicial interpretation can end up imposing on the community.

The government could turn around and say it is not a problem because it can go ahead and legislate anyway, and if it likes it can depart from the charter. If that is the path we are going down, you ask yourself why on earth we are bothering to have a legislated charter in the first place. Why do we then have the government putting its head in the sand when it comes to the statement of compatibility, instead of saying if we follow the logic of the legislation and the European Union precedent, we should flag this as a violation of our charter and then go on and justify it? But no, it goes into denial so there is no violation of the charter in the first place. This is not just an academic, intellectual exercise for the Parliament and bureaucrats in writing statements of compatibility. At first instance it has, as we previously warned, the potential to take up enormous amounts of court time and public expense.

Even more seriously it has the risk that judicial decisions will end up meaning that people who really should not be working with children or other vulnerable persons in the community are authorised to do so and cannot be stopped by public officials from doing so because of some alleged violation of a charter, which was never intended by Parliament in the first place. The Scrutiny of Acts and Regulations Committee has done this Parliament and hopefully the community a good service by drawing attention to this issue. It needs to be taken as evidence that the charter is not working and that we should not tie ourselves up in knots as a result of it.

In terms of the provisions in the legislation I also draw attention to what appears to me to be a possible error in one of the amendments made by the bill. It is in clause 3, which amends section 3 of the act. Proposed section 3(1)(a) provides:

> in the definition of parent, after "Act 2005" insert "but does not include a foster carer";

On my reading of the principal act, the definition of 'parent' in relation to a child has the same meaning as it does in the Children and Young Persons Act 1989. If my reading is correct, the reference in that clause to 2005 should be a reference to 1989. If that is correct it may require a house amendment to remedy that issue.

More importantly, however, I want to conclude my assessment of this legislation by drawing attention to one of the major failures in the existing regime which the bill has not addressed. The legislation does not cover what happens when a person who has been issued with an authority to work with children subsequently has that authority revoked — for example, where they are charged with or found guilty of an offence. The concern is that there is no effective mechanism in place to ensure that the various organisations with which a person who has a working-with-children authority may be working are actually notified that the authority to work with children has been revoked. Therefore, they do not have drawn to their attention the fact that the person concerned may well be a risk while working with children in that organisation's care.

It is typical of the lack of realism and lack of practical consideration in the way that this legislation has been structured that it relies upon the alleged offender to notify the various organisations with whom they are working that there has been a change in circumstances. There is no mechanism by which the department itself is proactive in protecting children by making sure that those various organisations are notified. This becomes quite striking when you examine the section of the Department of Justice website that relates to working with children. The website makes the point that:

> WWC checks are valid for five years, unless a relevant change in circumstances results in a negative notice being issued before the expiry date.

It goes on to assert that:

> While your working-with-children (WWC) check is valid, the Department of Justice will be notified by Victoria Police of any new relevant offences that WWC check card-holders are charged with, convicted of or found guilty of. The department is also advised of any relevant new findings made against a person currently registered with the Victorian Institute of Teaching.

It seems pretty clear that there is no proactive program by the department to follow that notification through. The opposition understands from the briefing provided by the department that notification may be made to the one organisation in relation to whom the check was originally sought, and presumably that is the body that was specified when the original application for the police check was made. But of course once the police check has been done and the authorisation to work with children has been issued, the person holding that authorisation can go around to a whole range of other community organisations and use it to get permission to work with children there. It is the failure to have any mechanism to notify those other organisations that is a cause for concern.

Another page of the website, headed 'Relevant change in circumstance', says:

> If you hold an assessment notice and working-with-children (WWC) check card you must inform your employer, agency or volunteer organisation (where relevant) and the Department of Justice in writing within seven days if you have a relevant change in circumstances. For example, if you are a card-holder or applicant and have been charged or found guilty of a new relevant offence.

In other words, the department is putting the onus on the apparent offender to fess up to everybody else. I would have thought that if a paedophile had somehow slipped under the net or someone who had not been charged is subsequently charged or convicted of a child sex offence, it is hardly likely that they are going to be proactive in going around and fessing up to all the other organisations they have managed to infiltrate. The department, on another page related to check status, says:

> People who have passed the working-with-children (WWC) check are subject to ongoing checking.

It goes on to say that there could be a reassessment that:

> … could potentially result in the person having their assessment notice and check card revoked …

Further it says:

> It is recommended that prospective employers, agencies, volunteer organisations, parents and others use the check status online inquiry form to confirm either the progress of a WWC check application or the validity or authenticity of a WWC check card before engaging a person in 'child-related work'. This facility can also be used at any other time considered necessary.

Again, it is clear that the onus is put on all the organisations concerned to proactively conduct checks, and it is an enormous task to have to check the status of all the different volunteers and/or staff on the books from time to time.

The bizarre aspect of this is that there is on the website the ability to go to a page headed 'Check status' where it is possible to check the status of an application or of a working-with-children assessment notice or card online. As far as I can tell, with that inquiry page anybody can lodge an application or receipt number or an assessment notice or card number, together with the surname of the person concerned, and submit that inquiry electronically and be provided with, as the website says:

> … a brief message … advising of the status of the application or WWC check card. The message does not contain any additional information about the individual, such as address details or criminal record information.

It seems that the department has considered it appropriate to allow people to find out that information online, and that seems a reasonable conclusion to reach. It has obviously decided that there are no privacy objections to that approach, so the question has to be asked: why is there not a provision whereby organisations which have taken on a volunteer or staff member who needs a working-with-children card can lodge the details in relation to that person online so that if there is any change in status it does not require the organisation to be constantly going back to the online webpage and checking, and that instead the system will generate an email notification to that organisation telling it of any change in status of the check or of the application of the person concerned? That would seem to be a simple and straightforward way in which this aspect of the regime could be made a lot easier, a lot less bureaucratic and a lot more effective in protecting those whom it is designed to protect.

Overall the opposition does not oppose this bill. Most of its provisions make relatively modest improvements to the operation of the initial legislation. But particularly given the lapse of two years since the original legislation was introduced and given our growing experience, we urge the government to give a lot more attention to making this legislative regime more effective and to better integrating it with similar police-check regimes that apply in many other contexts so that we have an integrated and effective scheme that provides the best possible protection to vulnerable

people in our community, including children, those with disabilities and the elderly.

Mr RYAN (Leader of The Nationals) — The Nationals do not oppose this legislation. We opposed the principal act during the debate at the time on its ultimate passage through this place; but we are pragmatic about these things, and the fact is that it is now part of the legislative structure of Victoria. What this bill seeks to do is to make amendments which are said to be based around the experience of the application of the principal act, so we will not oppose them. There are a number of issues, though, about which we have concerns, and I wish to explore those in the course of making my contribution.

I begin by saying that once again we have what is verging on a ludicrous situation where the statement of compatibility, which is tabled in the house before the second-reading speech, is nine pages in length, whereas the second-reading speech itself, which serves to introduce the bill, is five pages in length. The statement is an excruciating read. It is an endeavour on the part of the government to do everything except comply with the terms of the Charter of Human Rights and Responsibilities which are imposed upon this Parliament.

The government really needs to have a look at the practical application of this impractical piece of legislation to the world in which we live. The Scrutiny of Acts and Regulations Committee (SARC) has made observations in relation to issues in the second-reading speech and, most particularly, the bill, as opposed to what is contained in the statement of compatibility. I say again that this really is reaching farcical proportions, and it is something that I am sure we will unfortunately continue to see evolve as time passes and as the government continues to grapple with a problem entirely of its own making.

We felt that passing the original act was like using a sledgehammer to crack a nut. I see that in the second-reading speech there is reference by the Attorney-General to the fact that the department has received 100 000 applications seeking appropriate notifications under the principal act. The department, at my request, has been good enough to provide me with a series of figures, and they make interesting reading. I am told that the number of working-with-children check assessment notices that were issued between 3 April 2000 and 30 June 2007 was 62 465, the number of interim negative notices issued was 16, the number of negative notices issued was 6 and the assessment notices issued following a review by VCAT (Victorian Civil and Administrative Tribunal) was 3. If ever a set of figures comprehensively reflected the arguments that The Nationals highlighted during the debate on the original legislation, those figures do. We believe that, in the scheme of things, this legislation was always unwarranted and invasive. The figures bear out, I believe, the proposition which we advanced at the time and to which we still adhere.

Apart from anything else, there is gross confusion about the issue of police checks. The member for Box Hill made reference to this in the course of his contribution, and it is something which represents a cause of gross disturbance throughout Victorian communities, particularly those of us who live in the country. The essential problem is that, with these police checks, multiple applications have to be made, depending upon the style of activity to which the checks are dedicated. We have ended up with an almost ad hoc arrangement whereby different rules apply to those who are working with children on a volunteer basis as opposed to those who are working with children in a commercial sense.

It is an issue that is highlighted in the contrast with what applies in Queensland. In November 2004 the then Premier of Queensland, Mr Beattie, introduced into the Parliament the Commission for Children and Young People and Child Guardian Amendment Bill. In the course of the second-reading speech the Premier made reference to what is termed in the principal act 'the blue card'. It applies in Queensland, and in effect it is issued to those who go through the system which applies in that state and which the Victorian government has tried to introduce through the Working with Children Act. As Mr Beattie said:

> The Queensland blue card is unique because it represents a criminal history clearance by a single independent agency — the Commission for Children and Young People and Child Guardian. Significantly it is also transferable across categories of regulated employment, businesses and volunteering in Queensland.

In that state what you have is a mechanism whereby the checks that can be sought will apply across the board. There is none of this business of having to repeatedly seek that the checks be undertaken. In the Queensland system you are able to do it under the one umbrella in a manner that serves all purposes, whether it be for volunteerism or for commercial purposes.

This increasingly is an issue for us in country Victoria. It is highlighted by the experience of those involved in volunteerism and other forms of community pursuits. I do want to refer to a letter I have received from one of my constituents, Liz Morris, who lives in Mirboo North and does wonderful work on behalf of the community of that town. She, along with others, as is the wont in

country Victoria, is involved in a number of community activities and organisations. She has written to me under the letterhead of the Lions Club of Mirboo North, of which I must tell the house I am a member. I was a founding member of that club and I proudly remain a member of it. I do not get to its meetings as regularly as I would like, but I am a member nevertheless. Liz writes to me about the working-with-children (WWC) checks, and I refer to her letter:

> Dear Peter,
>
> I am writing to you to ask if you could help raise the issue of the ensuing debacle over the multiple police checks now being required by the authorities for volunteers.
>
> Lately we have received notice from the South Gippsland shire that all our members who are involved in the Meals on Wheels service are now required to obtain a police check. The cost of $13.30 per person is being met by a grant from the state; the shire currently has 600 people involved in that one service … The police checks become the property of the shire and are valid for three years and are only Meals on Wheels specific. The cost of renewal will then have to be budgeted out of ratepayers moneys.
>
> In the same breath we have been notified by Lions district cabinet that it will be necessary for members to obtain a WWC police check ($70 each, cost to the taxpayer). There are currently 1700 Lions in our district alone (5 districts in Victoria and 19 Australia wide).
>
> Why will not one police check suffice?
>
> Currently one of our members serves on both Latrobe Regional Hospital and Latrobe Community Health Service boards, and she has had two police checks. Now she is required to have two more for Meals on Wheels and Lions. Another member works in aged care and is involved in Auskick, scouts and Lions. These two members are just a sample of what most country volunteers are involved in.

The letter goes to make the self-evident point that what the government is risking through this whole convoluted process of multiple applications for police checks having to be made is that volunteerism is increasingly going to get the staggers. In our small communities very particularly we invariably have a limited number of people who are engaged in multiple activities on different fronts. The government must move to accommodate this issue because there are instances where the volunteers have to pay the money themselves out of their own pockets. On the other hand there are instances where they do not, where some of the costs are able to be met from the grant — I think it was $20 million — that the government originally made available for these police checks to be undertaken.

The simple point is that we must get some consistency in the way that the checks are undertaken in Victoria because otherwise we risk very nasty outcomes insofar as the capacity of volunteers to contribute is concerned, most particularly within country Victoria. That was always an issue when we debated the original bill, and it is even more so now.

The other issue that gave members of The Nationals cause for pause about the original bill was that we do not have an independent authority that is actually involved in the way the act is administered. Yes, we have the child safety commissioner conducting a review of the way the department does its work, but in both Queensland and New South Wales there are independent authorities that hold the materiel pertinent to these applications, most particularly the police checks. With due respect to all members of the department and their successors, the fact is that in this day and age it is not good enough that this work is undertaken by a government department, as opposed to an independent authority. They are some initial matters to which I wanted to make reference.

Insofar as this bill is concerned, as I said, the Attorney-General says it arises from the practical experience of the application of the legislation. Clause 3 amends the definition of parent to delete reference to 'foster carer'. This again highlights one of the points about which we always had concerns. This whole legislation has its focus on the innocents. What history tells us is that about 80-plus per cent of the offences that occur around the style of activity for which this legislation seeks to provide greater protections for our children are in fact committed by family members. That is a matter of the public record. It was an issue highlighted by the privacy commissioner of Victoria, Mr Paul Chadwick, when he made a submission to the Scrutiny of Acts and Regulations Committee at the time of the passage of the original bill. He said that the legislation that was then proposed:

> … may still be regarded as disproportionate in that it will impose a check on many individuals who may reasonably be believed to present less risk to children than some of those who are now excluded. Evidence suggests children are most at risk of abuse from those in their close circle.

He went on further to say:

> The point, for present purposes, is that the bill for the working-with-children check scheme now excludes the groups who pose the greatest risk, and that is relevant to assessing whether the adverse effect of the scheme on those who remain covered by it is proportionate.

I have regard again to the figures that the department has provided to me: assessment notices, 62 465; interim negative notices, 16; negative notices, 6; and assessment notices issued after review by VCAT

(Victorian Civil and Administrative Tribunal), 3. It makes the point absolutely comprehensively.

The provisions of clause 4 — just in passing — are also of relevance, because the government has had to replace the example which appears at the end of proposed subsection 9(1) with another one because of the fear, I suspect, that what it had out there in the first place by way of an operating example was not reflective of the operation of the act at all.

Otherwise the bill adds four new offences for consideration as to whether a notice should be issued. As members will know, three categories as set out under the act that will apply to those who are seeking a notice under the legislation. They appear in sections 12, 13 and 14, being categories 1, 2 and 3 respectively. The bill adds two new offences to category 2 and two new offences to category 3. They are matters that, having regard to the time, I will not go into in any detail now, but they are another effect of the legislation.

The bill further adds a discretion to the secretary of the department to refuse an assessment being issued in circumstances where there is a cumulative effect, as it might be described, of the conduct of a person who is an applicant because of criminal behaviour in which they might have engaged. This is intended to relate to the fact that under categories 1, 2 and 3 there may not be individual offences which warrant a notice of refusal being issued. But on the other hand the secretary may consider that, having regard to the cumulative nature of those various other offences, they constitute in the secretary's judgement a basis for exercising a discretion to refuse and issuing a notice accordingly, as opposed to the way the discretion would normally operate — that is, to act in favour of the applicant if the applicant was not within any of the provisions of categories 1, 2 or 3 which would cause a negative notice to be issued.

In the second-reading speech and the legislation the term 'significant risk' is used. In making the assessment the secretary must have regard to a number of things, including the time of the offences and the conduct of the applicant since those offences were committed. An appeal provision is available to the applicant if he or she considers that that negative notice is not appropriate.

There is a further provision that includes two additional specific carnal knowledge offences within category 2. I wish to refer to these matters not only in the context of this bill but also in another context. The two offences are referred to within the provisions of clause 3(2):

> "carnal knowledge offence" means an offence specified in clause 1(d)(viii) or (ix) of Schedule 1 to the Sentencing Act 1991.

When you turn to the Sentencing Act and have a look at those specific provisions, you see that subclause (viii) refers to 'section 48(1) (unlawfully and carnally knowing and abusing girl aged between 10 and 16)' and subclause (ix) refers to 'section 48(2) (attempting to unlawfully and carnally know and abuse girl aged between 10 and 16)'.

As I said, these two offences have been added to category 2. The important thing about these concerns not only this legislation but another circumstance altogether. There is a discretion given to the secretary to consent to an appropriate assessment being issued if an applicant is within the category of having committed those offences. But this is in contrast to what the government did in the case of Andrew Phillips, who was the teacher at Orbost who was precluded from continuing his teaching career because as a very young man he had been involved in offences in the nature of these which are now being added to category 2 under this principal act. He had never had a conviction recorded against him, and it had been brought to the attention of police by the young lady's mother and not the young lady herself, yet about 20 years on Mr Phillips was unable to continue teaching because of there not being a discretion with the secretary.

As I said at the time, the government needs to be consistent about this. If it is — and I think it is reasonable — that this discretion is being provided in this case under this legislation, then the same should apply to the situation which prevailed with regard to Mr Phillips under the relevant education act whereby teachers are judged. There is no real distinction that can properly be drawn, and whatever might have been the politics of the time the fact is we need consistency on the part of the government. In all, The Nationals do not oppose this legislation.

Mr HUDSON (Bentleigh) — It is a pleasure to speak in support of the Working with Children Amendment Bill. It is pretty clear that, notwithstanding the criticisms from the opposition, over the last couple of years the people of Victoria have embraced the working-with-children scheme. They have embraced it because they understand this scheme ensures that we are doing whatever we can to make sure that those who are working with our children are appropriate people to do so.

The success of the scheme can be judged by the fact that over the last two years more than 100 000 people have applied for a working-with-children check, and

that is well ahead of what we expected at this point. We have people who are applying for a check well in advance of when they are scheduled or required to do so. The original estimates we had were that there would be 650 000 people subject to this regime. It may be more, because people and organisations are clamouring to have these checks done. That shows that the scheme is being embraced.

The member for Box Hill raised an issue about delays. The fact of the matter is that there have been a huge number of applications. The delay is only of the order of two to eight weeks, and as the scheme beds down and as people become part of the scheme, inevitably that waiting period is going to be reduced. Members of the working-with-children check unit in the department are working through industry by industry and occupation by occupation as we phase in these checks for those who are required to have them. Obviously they are starting with the industries and occupations where children are most vulnerable and most at risk — such as children in foster care or in the care of teachers aides and situations like that — and then working through to volunteer sports and community organisations. They are undertaking an enormous amount of work in briefing these organisations in the community on the requirements of the act. There is an information line that people can ring, which is appropriate.

The fact that different industries and occupations have to be progressively subjected to a working-with-children check, followed by volunteer community and sports organisations, will in itself be a significant deterrent to those who have committed offences who would otherwise want to work with children. When the Leader of The Nationals asks, 'Why do we need this scheme because there have been only 16 people who have been refused a check?', he ignores the fundamental point that those who have committed sex offences who would seek under the cloak of secrecy to work with children will not be applying for a check and will not be working with children — and they will progressively shrink back because they know that they will be found out under this system. To say that there are only 16 who have received a negative assessment reflects the success of the whole scheme, because it shows that we are progressively weeding out people who are totally inappropriate to work with children.

The other aspect of this scheme that is very important is that it is continuously updated. The working-with-children check is subject to continuous monitoring and updating every two weeks. We have an arrangement with CrimTrac whereby, if someone is subsequently convicted of another offence, that information, which is recorded on CrimTrac, is notified to the unit and a reassessment can be done of whether or not that person should continue to hold a working-with-children check card. If, for example, someone is convicted of child pornography offences, that information can be conveyed to the unit and the secretary can consider whether or not to revoke their card.

That is totally different from a police check. A police check is frozen in time. It applies only at the time that it was issued by the police. The Leader of The Nationals raised a complaint about this and said people are required to have all these police checks. It is not the government that is requiring these individuals to have police checks; it is the organisations they are working with that are requiring them to have the checks. They are the ones that, as part of their employment and recruitment practices, are saying, 'If you want to handle money, if you want to be in charge of our finances, if you want to work in our organisation, you require a police check'.

Police checks relate to all offences whereas the working-with-children check relates to serious offences as outlined in schedule 1 of the Sentencing Act. They are serious sex offences, violence offences, offences where commercial quantities of drugs are at fault, child pornography, and the new offence covered by this amending bill. They are different. But the strength of the working-with-children check is that it is continuously updated and organisations can have confidence that when they get a working-with-children check it is the most up-to-date information they can get.

The member for Box Hill also raised the issue of the role of the secretary in determining whether or not a person should get an assessment and therefore a working-with-children card. He somehow sees this as being a negative. The fact of the matter is that in general if you are not happy with a decision of the secretary you can appeal to an independent body called the Victorian Civil and Administrative Tribunal. You can go to the tribunal and seek a review of the secretary's decision. The secretary's decision is not final except in those instances where there are serious sex offenders or offenders under the sex offenders monitoring regime who receive a negative notice.

We have also set up a regime whereby the child safety commissioner is auditing on a yearly basis what is happening with this working-with-children regime. Some of the criticisms that have been made are somewhat spurious. They do not go to the fundamentals of how well this scheme is actually working in practice.

The member for Box Hill also raised an issue about clauses 10 and 12. He raised a question as to whether or not these clauses infringe on the presumption of innocence under the Charter of Human Rights and Responsibilities Act, and he quoted some of the work that has been done by the Scrutiny of Acts and Regulations Committee. I commend SARC for the fine work it is doing in looking at the question of compatibility with the charter of human rights; that is its job. But let me make this statement to the house. The Office of the Chief Parliamentary Counsel Victoria has indicated that if a charge is withdrawn or if a charge is dismissed or discharged at committal, then that is consistent with a finding of not guilty. There is no infringement of the presumption of innocence whatsoever. In those circumstances the secretary would reassess and would issue an assessment notice unless there were other matters that would justify the revocation or refusal of a working-with-children card.

Contrary to the claims made by the member for Box Hill, clauses 10 and 12 are not inconsistent with the charter of human rights. What we are seeing in this house is a consistent effort on the part of opposition members to denigrate the charter. They are not raising these points because they robustly support the charter and think the government is infringing it. They are raising these points because they do not believe in the charter. They want to completely undermine the regime which the Parliament has established to make sure that all legislation that is introduced into this Parliament is consistent with the charter, that a statement of compatibility is issued by the relevant minister, that it is subject to scrutiny by the Scrutiny of Acts and Regulations Committee and that all that work is available to this Parliament. Further down the track, if there is a challenge to that legislation then a court can find the legislation is incompatible with the charter.

Of course, the opposition does not believe in the human rights encompassed within the charter. That is the real point here. It is not about opposition members thinking the government is trying to weave around the charter; it is really about the fact that they do not believe in the rights that are embodied in it. That is also evident in what the Leader of The Nationals had to say about this working-with-children bill, because at the end of the day, after all the criticism and after having rigidly opposed the Working with Children Amendment Bill, The Nationals said, 'We support this'. They did that because they know it is working well and has strong community support.

Mr WAKELING (Ferntree Gully) — It gives me great pleasure to rise to speak on the Working with Children Amendment Bill 2007. This bill will amend the Working with Children Act, which came into operation on 3 April 2006, by introducing a number of changes which have been outlined by members before me. In many respects they include a number of bureaucratic and administrative changes.

I would like to talk about a number of concerns I have with the practical application of the working-with-children check. The first issue is in terms of the notification of organisations about a change in somebody's status as a result of a working-with-children check. As the member who spoke before me just mentioned, the central database may well be updated on a fortnightly or monthly basis, as the case may be, but the most critical fact that has been missed in all of this is that the organisations which utilise the service of that individual are not advised that the person's criminal status has changed. While the department may have a central register which indicates that a citizen has now been registered as a paedophile, the organisation which is utilising the service of that person is not notified. It is incumbent on the persons concerned to notify those organisations.

I would not think that too many people who had been charged with criminal offences involving children would actually go out of their way to advise organisations that their status had changed. In a modern society where a department has this information it should provide the information to community organisations to prevent such a person perpetrating horrendous acts on other people within our society.

The other point I would like to touch on, which the Leader of The Nationals pointed out, is the crazy situation surrounding citizens having to have multiple police checks. One resident from my electorate, Lyn Algie, who is a former Knox volunteer of the year, raised this issue with my office. She says she needs only one working-with-children check but is required to fill out forms for 12 police checks on an annual basis. She said to me, 'Why am I bothering to volunteer in this community when I have to go through this process 12 times?'. She has called upon the government to come up with a simple solution.

I believe it is incumbent on this government not to sit here and defend the situation but to come up with a workable solution that provides an easier process for volunteers, protecting the rights of individuals and protecting children from predators but also reducing the regulatory burden on volunteers in our community.

Ms NEVILLE (Minister for Mental Health) — I am pleased to make a brief contribution on the Working with Children Amendment Bill. The bill before us will

improve mechanisms to assess the suitability of people who are working or volunteering with children. It is just one of the many tools that the Victorian government has put in place to help children reach their full potential. In so many areas of policy responsibility this government has put children front and centre.

We know that a child's full potential can be met only if they are safe from harm. The Working with Children Act, combined with other initiatives like the child safety commissioner and the Children, Youth and Families Act, represents a major step forward in ensuring the protection of children in our community. The bill we are discussing today addresses a number of practical and legal issues that have arisen during the first year of operation of the scheme.

Over the last three years this government has embarked on once-in-a-generation reforms in relation to the protection of children. They have involved new legislation, new programs and initiatives as well as record investment. All of these reforms have been based on contemporary scientific evidence about the impact of abuse on children's brain development.

We have recognised not only that harm is caused by single, serious, episodic incidents but also that it can result from multiple exposures to harmful events and experiences. The bill we are discussing today applies this evidence base to the working-with-children check scheme by providing a much stronger focus on cumulative patterns of risk to children. The proposed amendments will extend the checks to include individuals who may have an extensive and consistent pattern of offences which, while not necessarily serious when considered individually, raise significant concerns in relation to the safety of children when considered together.

This bill also includes an amendment to the Children, Youth and Families Act, which came into operation on 23 April this year. It heralded the arrival of major reforms to the child protection system, with a much stronger focus on the children's best interests being at the heart of all decision making. The Children, Youth and Families Act introduced quality assurances for children placed in out-of-home care, including the requirement to register out-of-home carers. It spells out a process for responding to allegations of physical and sexual abuse by foster carers and employees of out-of-home care agencies.

The amendment in this bill will ensure the effective operation of the Children, Youth and Families Act for children currently in out-of-home care who have experienced physical or sexual abuse in care dating back to December 2002. The passage of this amendment will ensure that vulnerable children who are placed in the out-of-home care system have every opportunity to develop in safe environments with appropriate quality controls on the standard of their care.

The whole community shares responsibility for the healthy development and safety of Victoria's children. This bill is one important way in which the government can promote confidence in services for children among parents and the broader community and encourage the active participation of children in our local community. I commend the bill to the house.

Mrs VICTORIA (Bayswater) — I rise to speak on the Working with Children Amendment Bill 2007. It is worthwhile noting that most of the amendments serve to tighten up and correct mistakes in the original legislation. This legislation makes no effort to notify potential employers or organisations where applicants will have contact with minors if those applicants have ever failed a check or if they have had a working-with-children card revoked or have not renewed it.

I want to relate to the house the story of Peter, who is a plumber in my electorate. He came to see me about another issue and then came back and spoke to me about the working-with-children card. He specialises in backflow prevention and has his own successful business. He has a working-with-children card, but when he wants to go and work in an elderly citizens village or in a hospice or any other aged-care facilities he actually needs a separate check. He cannot understand why he needs separate cards or certificates. According to the Australian Nursing Federation website he would also need a mandatory police check to work in Victoria's public aged-care sector as of 1 June this year.

He can either apply for his own police certificate or apply for one through the aged-care facility, which will get the relevant information sent back to it. That is terrific, but it is no good if he is there just for a couple of hours. As an independent contractor, this process is actually a hindrance to him. He incurs additional costs by having to go for multiple cards or multiple certificates. One of his major problems is that having to do all this creates a lot of down time. Sure enough it is tax deductible, but as he said, 'I need to be out there with my clients, not in here doing paperwork'.

It is really interesting to note that Department of Human Services employees need only one check, and that covers them for working with children, the aged

and those with a disability. If they are going to be out on site the cost is borne by the organisation. It has been relayed to me that the Treasurer in another place was only this week claiming to be making life easy for small business. He spoke about the oppressive burden of red tape imposed by governments and the costs involved therein. This is again evidence that Labor has trouble supporting small business.

I support the changes, but I am a little confused as to why more red tape is being created by the Brumby Labor government if it claims to support small business and is trying to keep down the cost of running a small business.

Ms GRALEY (Narre Warren South) — One of the pleasures of being a member of Parliament is being able to speak on bills like this one, which puts children at the centre of the government's concern. Often as members of Parliament and as citizens we are debating the differences between the public good and individual human rights. In this case it is good to see that the concerns of children and families are at the centre of things. That is where the Brumby government stands on the issue of giving children and families the highest priority.

The bill seeks to clarify and provide more efficiency and balance in the way the legislation operates. I am going to make a brief contribution to the debate, but I wish to highlight the fact that this working-with-children check is unique. Those who have passed the check will be monitored for future relevant offences. I would like to correct the member for Ferntree Gully on one matter. While those who have undertaken the check are monitored, employers will be notified if there is an interrogative notice or a negative notice. A notice will be sent to an employer if the secretary is aware of the employer's name. If the member had himself filled in or checked the working-with-children form, as I recently did when I was asked to fill in one as part of my role on a board dealing with children's matters, he would have seen that the employer's name is upfront on the form.

On that point I would like to say that the form is very comprehensive. It takes a bit of time to fill in. I had to have a couple of attempts to make sure that it was correct, but I must admit the Australia Post people were exceptional in the way they assisted people. They were very thorough in the manner in which they went about it. I commend this bill to the house and wish it a speedy passage.

Mr KOTSIRAS (Bulleen) — As the house has heard, the opposition will not be opposing this legislation. The bill before the house is just an example of how this government failed with the original bill, which was cumbersome and flawed.

While the bill before us has made some improvements, there is a lot more work to be done. There are areas of concern. Many of these amendments just fix up oversights or mistakes made in the previous legislation. But the legislation before us still fails to provide a mechanism to notify an organisation where a person is in contact with children if the person's authorisation is revoked, despite what the previous speaker said. I ask the Attorney-General to point out where in this bill it says that that is not the case. From what I have read this is a flaw, and the government should do something to rectify this problem.

The aim of the bill is to protect children from physical or sexual abuse by making sure that the people who work with them are suitable to do so. The bill includes four additional offences which are to be considered relevant in assessing an application. Loitering near schools and stalking will be category 2 offences. Obscene exposure and causing injury will be category 3 offences. The bill allows someone who has been given a negative report to appeal to the Victorian Civil and Administrative Tribunal.

As I said, the changes are there to improve the initial legislation, but there are still problems. I urge the Attorney-General and the government to go through the principal act, because it is cumbersome and it is confusing. For example, does someone need, and I have been advised that they do not, a working-with-children card if they have a student in their office? Would a member of Parliament be required to have one if they were to have a work experience student? I have been advised that that is not the case, but there is some confusion. It is important that the government makes clear what is needed. While we will not be opposing this legislation, I ask the government to look at the initial legislation again and make further improvements.

Mr PERERA (Cranbourne) — I join members on both sides of the house in supporting this bill. The safety of Victorian children is a very high priority for the Brumby government, and so it should be. There are sometimes difficulties with the long process involved in getting assessments done, but I believe everybody in Victoria appreciates that children are the most important things in our lives and that we have to support and safeguard them and their interests. The working-with-children check is unique. Those who pass the check will be monitored for future relevant offences. Card-holders' criminal records are checked regularly for relevant offences.

The Victorian community has embraced this check, as evidenced by the large number of applications received and processed by the Department of Justice. The existing assessment provisions of the Working with Children Act 2005 need amending to improve the quality of justice the act delivers. The main purpose of this bill is to improve the mechanism of the act to assess suitability. For instance, an applicant's criminal record could include a range of driving, drug and violence offences, some of which attract custodial sentences. While none of the offences is a relevant offence under the act, a prolonged pattern of offending, as well as the imposition of custodial sentences, would raise concerns about the potential risk to children posed by the applicant. The amendment provides the discretion, in exceptional circumstances, for the Secretary of the Department of Justice to make further inquiries of an applicant when they have a criminal record that is of concern.

I would also like to refer to the moving of two offences from category 1 to category 2. Moving carnal knowledge offences into category 2 will deal with the historical carnal knowledge cases where a boyfriend-girlfriend relationship leads to consensual sex but where the victim's parents lay charges against the boyfriend. The person may not have committed a crime, but merely because the parents do not endorse the relationship charges can be laid.

Two new offences will be prescribed under category 2. The first of these is loitering near schools, for which a person must have a prior conviction for one of a specific range of sexual offences and be in or near a place frequented by children without reasonable excuse. The second offence is stalking where the victim is a child and the offender is an adult. Two new offences will also be prescribed under category 3. A person convicted or found guilty of causing injury intentionally or recklessly must receive a working-with-children check unless the Secretary of the Department of Justice is satisfied that it is appropriate to refuse, after considering the legislative criteria.

The Working with Children Act 2005 is a useful statute and serves a noble purpose. These amendments fix the teething problems, which will make it perfect legislation. I commend the bill to the house.

Mr DELAHUNTY (Lowan) — I want to make a few comments on this important bill, the Working with Children Amendment Bill. As we all know, it will amend the meaning of 'parent', delete references to foster parents and expand the category of offences which can be taken into consideration. We would all agree that children are our investment in the future, and we do what we can to protect them. However, as we Nationals said when this legislation was brought in, we think this is using a sledgehammer to try to crack a nut.

If we are going to have this legislation, we need to ensure it is better than it was originally. The legislation will include four new offences: loitering near schools, which is also an offence under the Crimes Act; stalking; causing injury intentionally or recklessly; and obscene exposure. Like the Leader of The Nationals, I will be not opposing this legislation, but I have to reinforce some of the concerns we have.

As the Leader of The Nationals highlighted, the Working with Children Act commenced in April 2006. Between 3 April 2006 and 30 June 2007, 62 465 assessment notices were issued. The number of interim negative notices issued was 16, and the number of negative notices issued was 6. Three assessment notices were issued following a review by the Victorian Civil and Administrative Tribunal. This highlights that right across Victoria we have enormous concerns about the way this has been implemented.

I have been on the board of VicHealth for four years, and I had to fill out a police check and pay the $29 as a voluntary member of the board. I find that a lot of volunteers across country Victoria want to give up. The Leader of The Nationals highlighted the situation with the Lions club. I have had many service clubs contact me about the multiple police checks they have to get. We are going to lose these people. Common sense is not being applied. We are going to lose a lot of volunteers, and volunteers are the social fabric of our country communities. We know that it takes up to eight weeks to get an application through.

I have a letter here from a council which is going out to all the Lions clubs and service clubs in my area. It states:

> Council values your generous contribution in supporting council's Meals on Wheels service.
>
> I am writing to inform you that due to government legislation … council is required to conduct police checks on all volunteers and staff involved in providing services to other people …

They have to go to volunteer registration sessions, fill out the forms and bring along identification. All this is becoming a nightmare for those volunteers. A lot of them are elderly people. Most times Meals on Wheels is a two-on operation — the volunteers are usually never on their own. I want to highlight the fact that many people have contacted my office. On behalf of those people and many others across country Victoria and across Victoria in general, I want to say that this is

regulation gone mad. We need to do something to address those concerns. I bring that to the attention of the house. Again, I will not be opposing the changes.

Mrs FYFFE (Evelyn) — I am pleased to make a brief contribution on this bill. So much of our time in this house is spent fixing up legislation that has been brought in as a public relations response to issues in the community and has not been well thought out and planned. Everything we do here has an effect on some individual out in the community, and there are always unintended consequences.

This legislation is confusing. After listening to both the Leader of The Nationals and the member for Lowan, I think in horror about my children! There is an age difference of 20 years between the oldest and the youngest of my children. I think of all the organisations I have been involved with over the years. My children would have been involved in numbers of things for a short time, and as a parent I would have been okay with it. However, there were a number of times when I was asked to step in because someone had not turned up to referee a game or be the trainer at a junior football club. It would not have been planned, it would have just happened on the day, but it may have been that none of my children was on that team. I would have been breaking the law if these measures had been in place.

For quite a long time I did Meals on Wheels in the Yarra Valley, often on my own. I have been hearing about Meals on Wheels volunteers having to have police checks and the bureaucratic controls involved in that. A member of the government was saying how comprehensive the police check application is. When you look at the many people who are volunteering, you can see that this really is bureaucracy gone mad. From 3 April 2006 to 30 June 2007 there have been 62 465 notices, and only 60 have been interim negative and 6 negative. I look at the costs.

A report on understanding organisational risk factors for children and child maltreatment which I have received says that in Victoria the cost is $70 for employees, and volunteers are free until their renewal after three years. In Western Australia it is $50 for employees and $10 for volunteers; in Tasmania it is $45 for employees and $5 for volunteers; in South Australia it is $28 to $44 for employees and volunteers are free; and in Queensland it is $40 for employees and volunteers are free. If we have had 62 465 applications so far, it makes you wonder why we have to charge so much more than other states.

There is so much more I would have liked to say on this bill, but we have an agreement to speak for only 3 minutes. I am not opposing the bill — but gosh, it is a mess.

Mr R. SMITH (Warrandyte) — I rise to speak on the Working with Children Amendment Bill 2007, which amends the rules and procedures for assessments of whether persons should be authorised to work with children. I do not oppose the bill, but there are issues within the bill that need tightening up, because at present the bill leaves holes which those who have a mind to can exploit.

Currently when a person applies for a working-with-children authorisation they must include on the application form the group they wish to work with, such as a scouts group, a sporting group or something of that nature. A problem arises when card-holders change their employer or volunteer organisation. Unless they are moving from voluntary to paid work, they do not need to let anyone know that they have moved organisations or added additional organisations to the ones that they work with. There is no need to alert anybody at all. Therefore there is no mechanism in place for these additional groups to be aware if the applicant has had their authorisation revoked or simply chosen not to renew it at its expiry. It is basically in the hands of applicants to inform the relevant parties of the status of their authorisation. I would imagine this would not happen if the applicant was a predator of the children in their care. During the departmental briefing we brought this up and were told in very vague terms that a police investigation would probably pick this up. I feel this is a bit too vague and that it should be addressed.

My other area of concern is about one of the exemptions from applying for a check. It relates to where parents volunteer in organisations where their child ordinarily participates. I will use the example on the website. Brett is a volunteer coach for a school football team on which his son Joshua ordinarily plays. Brett does not have to apply for and pass the working-with-children check to do this, even if Joshua does not attend some of the practice sessions or games. That is a concern to me. It is basically saying that just because a person has a child of their own, other parents should automatically assume that person does not prey on children. I think we would all agree in this house that that is a fairly poor argument and one the legislation should address.

It is important that the parents of children who are involved with organisations and other adults do not rely solely on the holding of a working-with-children authorisation as insurance against child predators. The act does not totally safeguard against child-sex

offenders, as there are loopholes in the system. I think everyone in this house would agree that if we can find the loopholes, those smooth operators who prey on children and usually have a great knack for cheating the system and evading detection will probably find the loopholes as well.

It is important that parents and organisations who are involved with children also safeguard themselves and their children by ensuring the status of these authorisations on the appropriate website. In the absence of tighter legislation, it is vital that parents take as much responsibility as they can to try to minimise as much as possible any risk that could be posed to those who are our most vulnerable: our children.

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

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Gaming: public lotteries licence

Mr O'BRIEN (Malvern) — My question is to the Premier. Will the Premier confirm that just days before Intralot's Tony Sheehan was to appear before — —

Honourable members interjecting.

The SPEAKER — Order! I am sorry I cannot hear the member.

Mr O'BRIEN — Speaker, my question is to the Premier. Will the Premier confirm that just days before Intralot's Tony Sheehan was to appear before the upper house gaming inquiry, Geoff Walsh from the Premier's office made contact with Mr Sheehan?

Mr BRUMBY (Premier) — I thank the member for Malvern for his question. As I have indicated before in relation to matters concerning the tendering of the lottery licences, these are matters which are currently the subject of licence processes and tendering. At all stages — —

Honourable members interjecting.

The SPEAKER — Order! The member for Narre Warren North, the member for Bulleen, the member for South-West Coast and the Minister for Health!

Mr BRUMBY — At all stages of this process the appropriate processes have been followed and have been ticked off by the probity auditor.

Mr Baillieu — On a point of order, Speaker, the Premier is straying from the question, which is not about a tender process but is about a contact.

The SPEAKER — Order! I uphold the point of order, and I ask the Premier to come back to answering the question.

Mr BRUMBY — The member for Malvern asked me about a meeting with Geoff Walsh. I have a letter from Geoff Walsh, which I will read, dated 18 September 2007. It says, and I will quote a paragraph:

> In my view the work of the steering committee and GLR has been properly focused on the public lottery licensing objectives. In all material respects and based on the probity framework, the process has been undertaken in accordance with identified probity principles and meets the probity requirements and expectations set out in the Victorian Government Purchasing Board probity policy.

It is signed G. E. Walsh, Pitcher Partners. Methinks, methinks, methinks — —

Honourable members interjecting.

The SPEAKER — Order! I remind members of the house that when the Speaker rises to her feet the chamber should come to order. That persistent level of interjection, laughter and generally uproarious behaviour is not acceptable in this chamber, and it will not be accepted.

Mr BRUMBY — This claim was put today at a media conference — that a senior member of my office had that meeting. Mr Geoff Walsh from my office had no such meeting. The member for Malvern I think does not realise that the probity auditor's name is Geoff Walsh, right? Geoff Walsh: he is the probity auditor. Let us get to the point about probity issues. At every stage through this process the probity auditors have ticked off on the processes put in place by the government — every stage.

Mr Crutchfield interjected.

The SPEAKER — Order! I warn the member for South Barwon.

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question. He has not addressed the question of whether Mr Geoff Walsh from his office had made contact with Mr Sheehan.

The SPEAKER — Order! As members know, I try to keep track of the question that has been asked. In my notes I do not have that 'of his office' was a part of that question. Leaving that to one side, I uphold the point of

order by the Leader of the Opposition, and I ask the Premier to come back to answering the question.

Mr BRUMBY — I conclude by making the obvious point that it is a bit rich getting a lecture from the Leader of the Opposition about probity matters. The Leader of the Opposition was the president of the Liberal Party who picked up the contract to sell schools — —

Honourable members interjecting.

The SPEAKER — Order! I warn both the Deputy Premier and the Leader of the Opposition.

Dr Napthine — On a point of order, Speaker, the Premier is clearly debating the question, and I ask you to bring him back to actually answering the question — and you might suggest he answer the question for the first time.

The SPEAKER — Order! I uphold the point of order. Has the Premier completed his answer?

The Premier has completed his answer.

Mr McIntosh — On a point of order, Speaker, I am just wondering whether the Premier would make available the letter from the wrong Geoff Walsh.

The SPEAKER — Order! The Premier has made the letter available to the house.

Gaming: public lotteries licence

Mr STENSHOLT (Burwood) — My question is to the Minister for Gaming. I draw the minister's attention to media reports regarding the lotteries licence process, and I ask: can the minister advise the house on the current status of that process?

Mr ROBINSON (Minister for Gaming) — I thank the member for Burwood for his question. This morning my attention was drawn to a newspaper article that claimed that the government had struck a deal in regard to lotteries licences. This is a claim that the government rejects very strongly. No deal has been struck; no decision has been made.

As members would be aware, the government has put in place a very robust process for dealing with lotteries licences. It is a process that, as the Premier has indicated, involves probity auditors Pitcher Partners.

Honourable members interjecting.

The SPEAKER — Order! The member for Kilsyth and the member for Hastings know better than to interject in that manner.

Mr ROBINSON — The probity auditors, Pitcher Partners, have an ongoing role in this process. The Premier has just outlined the latest advice received from the executive director of Pitcher Partners, Mr Geoff Walsh — the other Geoff Walsh! This is one of a number of sign-offs that have been provided to the government over the past few months. This process remains a very robust one, and when the government does reach a decision the public and indeed the Parliament will be advised.

This morning's newspaper article also suggests that the government has struck a deal on expanding the outlets available for lottery product sales. This claim was reinforced later in the morning by the opposition spokesman on gaming, the member for Malvern. I can assure the house that this claim is very wrong. I am sorry to disappoint the member for Malvern, but it has been the case for some years in Victoria that lotto products are available at a wide range of outlets. If, for example, you were in the electorate of Hawthorn and you were looking for a lottery product, you could go to a number of outlets. You could go to the Glenferrie South Newsagency, and you could go to Hawthorn Lotto and Interpost. You could also go to St James Pharmacy, you could go to the Amcal chemist in Hawthorn or you could go to Auburn Pharmacy. I am sure all members would agree that the ability of small businesses such as chemist shops to sell lotto products is a good thing. It is a practice that has been in place for some time, and I am sure the local member would also support that process.

If someone were in Shepparton and looking to buy a lotto product, they could go to the Coles supermarket and buy it. If for some reason they did not want to go into a Coles supermarket whilst in Shepparton, they could go into Lovell's Shepparton newsagency and buy a lotto ticket. If for some reason the newsagency was shut, they could go down the road to Lucky Lovell's Market Place and buy a lotto product. Whatever else we might think about lotto products and lotto licensing, I am sure we would all agree — and certainly it is the case in Shepparton — that Lovell's really do love lotto! Lotto products have been available at a wide variety of outlets in Victoria, and I am sure all Victorians would want that arrangement to continue.

This is a very robust process. We reject the claims that have been made about it in this morning's media. I would encourage the opposition to spend more time examining Tattersall's website for accurate information

and less time procuring confidential Tattersall's boardroom minutes.

Water: north–south pipeline

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to the ever-diminishing public support for the north–south pipe project, as reflected in a press release yesterday from Danny Lee, chairman of the Sunraysia Irrigators Council, which states in part:

> Sunraysia Irrigators Council mistakenly took the government at its word on the benefits of the pipeline proposal. It is now clear that it was a foolish thing to do. Sunraysia Irrigators Council no longer supports this pipeline and will do all it can to prevent its construction.

I ask: will the government now respect the will of the many people and organisations whose views the Premier said would guide his government's decision and abandon this project?

Mr BRUMBY (Premier) — Is it not instructive to look at the real views of The Nationals over the last 15 years in the state? Here we have The Nationals opposing what will be the biggest single investment in new irrigation infrastructure that this state has seen in 80 years. It is new investment which will create thousands of new jobs in northern Victoria and for our state.

I think back to the 1990s and to all of the things that The Nationals supported, such as closing railway lines, closing schools and closing hospitals. They are all things that The Nationals supported.

Mr Ryan — On a point of order, Speaker, the Premier is obviously debating the point — and if he is going to put these things, at least he can face me while he does it.

The SPEAKER — Order! I uphold the point of order and refer the Premier back to the question.

Mr BRUMBY — I was asked a question about the food bowl project and about investment in country Victoria, so I am answering the question. This is a substantial new investment proposed by our government which will generate thousands of new jobs in northern Victoria. It is instructive that The Nationals are out there campaigning against this proposal, the biggest single new investment in water infrastructure that our state has seen in 80 years. The reality is that in the last year this region has seen more than 100 gigalitres of water traded out of it. The water has been traded out of the region because it has been bought by other people who are able to use that water more efficiently. The only thing that will secure the future of this region is substantial new investment, and that is exactly what our government is proposing.

I make the point that you are judged in this business by what you support and by what you oppose. That is the essence of the question from the Leader of The Nationals. It is a fact that back in the 1990s, as a partner in a coalition government, the only things that The Nationals ever supported were cuts to government services in country Victoria — to schools, to hospitals, to rail lines and to drought assistance.

The SPEAKER — Order! The Leader of The Nationals, on a point of order.

Mr Ryan — I think the Premier has finished.

The SPEAKER — Order! Has the Premier completed his answer?

Mr BRUMBY — Speaker, this project — —

The SPEAKER — Order! To save the Leader of The Nationals getting up, the Premier was debating the question, and I refer him to the necessity to restrict his comments to the question.

Mr BRUMBY — I think it is worth reiterating for The Nationals that the Murray and Goulburn systems together have catchment-stored water in an average year of up to 3000 gigalitres and that the distribution losses through that system approach 800 to 900 gigalitres. That is twice the amount of water, for example, which Melbourne consumes in a year. It is incumbent on any responsible government to put in place the investment to increase water savings. That is the environment in which we are living.

We are living in environment in which rainfall patterns are getting lower and lower, and the only way you can create new water is through desalination or saving water which would be lost. That is what we are doing. I repeat: we have set up a steering committee to guide this project, and that steering committee will report back to government in due course. It will provide recommendations on the best way of implementing this project, and it is of course the government's intention to implement it.

Murray–Darling Basin: federal plan

Mr BROOKS (Bundoora) — My question is to the Premier. I refer the Premier to the government's concerns regarding the federal government's Murray–Darling takeover, and I ask him to update the house on Victoria's ongoing efforts to protect irrigators water rights.

Mr BRUMBY (Premier) — I want to thank the honourable member for his question, because I commented briefly on this matter yesterday. I saw in the *Age* today on page 6 the headline 'Victoria revolts at plan to hand over water' and 'Grab "will create a social disaster"'. According to the *Age* newspaper, the stance that our government has taken is:

> … backed by opposition leader Ted Baillieu, Victorian Nationals leader Peter Ryan, the Victorian Farmers Federation and irrigators groups.

Mr Ryan — One big happy family!

Mr BRUMBY — We will come to that. I did see that, and I thought it was a welcome change to see the Liberals and The Nationals actually standing up for Victoria for once — not being at the beck and call of the Liberal Party in Canberra but standing up for Victoria and putting Victoria first. But then my attention was drawn to an interview which the Leader of the Opposition did in Ballarat earlier this morning. The Leader of the Opposition obviously got a phone call, I would say, from Canberra between the publishing of the *Age* this morning and before his 3BA interview — —

Mr Baillieu interjected.

Mr BRUMBY — I think that would be right: you got the phone call, I think. The Leader of the Opposition was accusing me on 3BA this morning of substantially misrepresenting the position, particularly the Prime Minister's position. He has denied the phone call, but he said:

> … but I have had that feedback, but I don't think this is a proposal from John Howard at all.

Presumably the feedback came from John Howard. This is the letter I received from the Prime Minister on 13 September, signed 'John Howard, Prime Minister':

> Given this situation, I propose —

that is, the Prime Minister —

> that we accept all of the recommendations of the report and release the proposed joint statement as soon as possible.

All of the recommendations! The Victorian government has throughout this process stood up for the rights of Victorian irrigators, and we have consistently done that. For the Leader of the Opposition to say today that we are misrepresenting the position and that the Prime Minister does not really want to take Victorian irrigators water and put it in a water quality reserve is quite dishonest. I have, again, today written to the Prime Minister. I have made it absolutely clear to him in a letter which I have sent off today that we will not be supporting his proposal.

Mr Hulls — 'Not'.

Mr BRUMBY — We will not — n-o-t — be supporting his proposal, despite the equivocal views of the Leader of the Opposition today. Earlier this morning — flip-flop — he was supporting my position; on 3BA he was supporting the Prime Minister's position. We have said we will not support this. We will not support a position where the federal government wants to take the water entitlements of Victorian irrigators this year and put them in a reserve to perhaps run down the river to Adelaide next year. We are not going to support that. I have written to the Prime Minister making that very clear, and if the Leader of the Opposition wanted to show his real bona fides on this, he would join me in writing to the Prime Minister categorically rejecting the proposition which the Prime Minister has put to our government.

Gaming: public lotteries licence

Mr O'BRIEN (Malvern) — My question is to the Premier. I refer to the Premier's previous answer, where he refused to confirm that there had been no contact between Mr Geoff Walsh of his office and Mr Tony Sheehan of Intralot in the days before Mr Sheehan gave evidence to the upper house gaming inquiry, and I ask: will the Premier assure the house that there was no discussion of lottery licensing whatsoever between Mr Sheehan and Mr Walsh of his office?

Mr BRUMBY (Premier) — I said before — because this question was raised in a media conference this morning, and it was checked with my office — that Geoff Walsh did not have any meeting as alleged. This question is coming from the member for Malvern, who I understand did some interviews last week using privileged documents from the parliamentary committee. My understanding of the member for Malvern is that he is the same member for Malvern, is he not, who admitted that he had spoken to Mr Kerr after his giving evidence —

The SPEAKER — Order!

Mr BRUMBY — and refused to deny that the Liberal Party was in contact with Mr Kerr —

The SPEAKER — Order! The Premier!

Mr BRUMBY — before he gave evidence.

The SPEAKER — Order! The Premier!

Mr BRUMBY — Is that right?

Honourable members interjecting.

Dr Napthine — On a point of order, Speaker, the Premier is clearly debating the question, and I ask you to bring him back. He was also continuing to abuse this house by continuing to speak after you had asked him to desist.

The SPEAKER — Order! I will seek from the Premier the same cooperation that I seek from all members of this Parliament with regard to his behaviour in this chamber. I uphold the point of order. The Premier is debating the question, and I bring him back to the question.

Mr BRUMBY — All we are seeing from the opposition, of course, is a continuing fishing expedition and a confusion of names. On every occasion, as I have said throughout this process, all of the processes in relation to the lotteries licence have been signed off by the probity auditors. At the time at which the government determines to award a lotteries licence, the government will also release the report of the former Justice Ron Merkel, who has been appointed by the government to oversight the whole process.

Workplace Relations Ministers Council: meeting

Mr LANGUILLER (Derrimut) — My question is to the Minister for Industrial Relations. I ask the minister to report to the house on the latest Workplace Relations Ministers Council held in Sydney last week.

Mr HULLS (Minister for Industrial Relations) — I thank the honourable member for his question. I advise the house that last week we had the first Workplace Relations Ministers Council meeting since grand final eve 2006. That was when Kevin Andrews was actually the federal workplace relations minister. Despite repeated calls to the current minister, Joe Hockey, to convene a meeting, he has continually refused. This left state industrial relations ministers no choice but to convene this very important meeting ourselves. It was an extremely important meeting and an extremely worthwhile meeting.

Ministers discussed a whole range of issues, including issues relating to national workplace reform. Indeed we were addressed by Professor Richard B. Freeman from Harvard University, who spoke about the economic implications of WorkChoices and what a disaster WorkChoices is for working Australians. We were also addressed by Professor George Williams from the University of New South Wales, who discussed very important options for a new national industrial relations system.

It should be noted that this very important meeting took place at the North Sydney Harbourview Hotel.

Honourable members interjecting.

The SPEAKER — Order! I seek the cooperation of the Deputy Leader of the Opposition in ceasing to interject across the table in that manner.

Mr HULLS — People are no doubt saying, 'Why are you mentioning the place where the conference took place?'. We had the meeting at that particular venue because we wanted to give the federal minister, Joe Hockey, every opportunity to attend the meeting. That hotel is actually 150 metres from his electorate office. Had he walked one block he would have heard me detail — —

Honourable members interjecting.

Mr HULLS — In fact he probably did, anyway, but had he walked those 150 steps from his office, he would have heard me talk about WorkChoices and its impact on working Victorian families. Indeed he would have the heard me talk about a whole raft of research that has been undertaken in relation to WorkChoices that shows that typical Victorian workers on AWAs (Australian workplace agreements) earn 23 per cent less than Victorian workers on collective agreements. We also discussed the fact that almost 80 per cent of employer greenfield agreements reduced or removed overtime, penalty rates, breaks and casual loadings. We also discussed the fact that this research shows that low-paid workers have lost job security and have had their work and indeed their rosters changed without any negotiation or notice.

We also discussed the fact that workers in this state in the retail and hospitality industries have lost up to 30 per cent of their earnings under WorkChoices. These are very low-paid workers in any event; as a result of WorkChoices they have lost 30 per cent of their earnings.

Honourable members interjecting.

The SPEAKER — Order! The member for Bass and the member for Ferntree Gully!

Mr HULLS — Had Mr Hockey taken those 150 steps to this particular meeting, no doubt he could have actually spoken about his own research, as is reported in today's *Age*. I notice that members opposite are saying that the research I have quoted is research

that has been undertaken on behalf of the Victorian government and the workplace rights advocate. Today we read that research undertaken by the federal government in relation to WorkChoices and AWAs, as reported in today's *Age*, shows that workers on collective agreements 'have a much greater chance of having family-friendly provisions' than those on individual contracts. It shows that:

> … 15 per cent of workers on collective agreements have paid maternity leave, compared with 7 per cent of those on AWAs. Under collective agreements, 17 per cent have flexible annual leave, compared with 6 per cent under AWAs …

These are important matters that Mr Hockey should have spoken about at this industrial relations ministers conference. Instead we know that the Prime Minister has actually gagged his ministers attending these very important council meetings.

Can I just finish on this very important note: refusing to discuss the devastation that WorkChoices is causing working Victorian families will not make it go away. WorkChoices will indeed haunt every coalition MP right up until the federal election.

Member for Evelyn: electronic communications

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the parliamentary email interception scandal and to the Premier's comments that Ms McTaggart has confirmed that:

> … the emails that came through were deleted, so they haven't gone anywhere …

And I ask: given that Ms McTaggart now admits she forwarded emails to the Yarra Ranges Shire Council, was the Premier misled and has the Premier spoken with the member for Forest Hill about terminating Ms McTaggart's employment?

Mr BRUMBY (Premier) — Can I ask the Leader of the Opposition to produce the document from which he is quoting the electorate officer of the member for Forest Hill — as standing orders require?

The SPEAKER — Order! I did not hear the Leader of the Opposition say that he was quoting from a document. I ask the Leader of the Opposition if he could repeat the question to the Premier.

Honourable members interjecting.

The SPEAKER — Order! The member for Bulleen!

Mr Kotsiras interjected.

The SPEAKER — Order! The member for Bulleen is warned.

Mr BAILLIEU (Leader of the Opposition) — It was not that hard, Speaker. My question is to the Premier. I refer to the parliamentary email interception scandal and to the Premier's comments that Ms McTaggart has confirmed that:

> … the emails that came through were deleted, so they haven't gone anywhere …

And I ask: given that Ms McTaggart now admits she forwarded emails to the Yarra Ranges Shire Council, was the Premier misled and has the Premier spoken with the member for Forest Hill about terminating Ms McTaggart's employment?

Mr BRUMBY (Premier) — I am not aware of the reference that the Leader of the Opposition has made in his question, where he said 'given the individual concerned now admits', and I am asking the Leader of the Opposition to produce that statement.

Mr Baillieu — The comments were made in media reports. We have the copies.

The SPEAKER — Order! Can the Leader of the Opposition make the document available to the house?

Mr Baillieu — The document is available in the library.

Mr Stensholt — On a point of order, Speaker, I may have been misled, but I understand this matter is subject to inquiry, I think maybe by you. It is not appropriate under standing orders for members to allude to matters which are subject to inquiry.

The SPEAKER — Order! The Leader of the Opposition is referring to a media release or a media article. I call the Premier.

Mr BRUMBY — I am still waiting on the Leader of the Opposition. The standing orders are pretty clear in this regard. If the Leader of the Opposition — —

Honourable members interjecting.

The SPEAKER — Order! The member for Bulleen is warned, and so is the member for Hastings!

Mr BRUMBY — The standing orders are pretty clear that anybody asking a question needs to be able to substantiate the basis of it. If the Leader of the Opposition is not able to do that, then when he is, if he cares to write to me about the matter, I will reply.

Child care: access

Dr HARKNESS (Frankston) — My question is to the Minister for Children and Early Childhood Development. Can the minister advise the house what Victoria is doing to solve the child-care crisis in Victoria?

Ms MORAND (Minister for Children and Early Childhood Development) — I thank the member for Frankston for his question. The Brumby government is committed to helping working families give their children the best start in life. One of the biggest issues facing working families is access to affordable quality child care. Access to child care is also fundamental to women's participation in work and training.

Unfortunately we know that many Victorian families are having difficulty in accessing child care close to where they work or where they live. We know from the most recent Australian Bureau of Statistics survey that 20 000 Victorians are not working due to the cost and accessibility of child care. Child-care costs have risen 13 per cent in the last year, and the ABS survey indicates that some families are waiting up to three years to find a place.

The Brumby government has had to step in and fill the gap, because according to the federal Minister for Families, Community Services and Indigenous Affairs, Mal Brough, and the Prime Minister, John Howard, there is no child-care crisis. I suggest that Mal Brough and John Howard are completely out of touch with reality. Do they actually talk to working families about the challenges that they face in balancing work and family life and accessing child care?

Last year the Victorian child-care task force identified a shortfall of 14 000 child-care places — —

Mr R. Smith interjected.

The SPEAKER — Order! The member for Warrandyte!

Ms MORAND — In the absence of commonwealth action, the Brumby government is stepping in and investing in child-care infrastructure and we are investing in the child-care workforce. The investment we have made is included in 49 children's centres, which are already providing 700 new child-care places for 1000 children, and we are building 40 more with a further investment of $20 million over the next four years.

We are also investing in the child-care workforce. On Friday the Premier and I were at a child-care centre in South Melbourne where we announced a $3 million investment in a scholarship program that will provide scholarships to people working in child care so they can upgrade to an early childhood degree, and it will also provide for early childhood graduates to work in child care for two years.

We are taking action while the Howard government is denying there is even a problem. It is sitting on its hands; we are taking action. We are investing in the child-care register, we are investing in infrastructure and we are investing in the child-care workforce. Those investments will continue to make Victoria the best place to work, live and raise a family.

Dental services: funding

Mr LIM (Clayton) — My question is for the Minister for Health. Can the minister outline what actions the Brumby government is taking to meet the oral health challenges facing all Victorians?

Mr ANDREWS (Minister for Health) — I thank the member for Clayton for his question. It is an excellent and timely question. The Brumby government is absolutely committed to the best oral and dental health outcomes for every single Victorian, particularly for those who have health-care cards, who are vulnerable and who are disadvantaged. That is why, as a government, we have provided over the last eight years more than $800 million in funding for dental care right across our Victorian community. In fact we have boosted ongoing funding for dental health by a whopping 128 per cent, which is an enormous boost, to provide the best dental care possible.

Before I go on to paint a broader picture, the member for Clayton will be very pleased to learn — indeed he probably already knows — that this government has provided funding for a new 10-chair clinic to serve the constituents in his local community. It is to be built in partnership with the City of Monash and the MonashLink Community Health Service. The new 10-chair clinic will be for families and the community in the Clayton area.

In broad terms our extra funding has delivered a 66 per cent increase in the number of community dental chairs across our state and a new $52 million dental hospital, and we have reduced times for treatment right across our state. But I want to say, though, that there is more to be done. There are challenges ahead, but there are great examples of where our record funding in partnership — and partnership is critical — with individual health services is delivering really important outcomes for working families across the state.

The Bairnsdale Regional Health Service received an award at the public health-care awards a couple of weeks ago for its exemplary effort in putting to best use the funding we have given it to cut over the last 18 months its waiting list for community dental care by 80 per cent. It is an outstanding effort in that local community. That is just one example of a health service putting to best use the record funding and investment that we have made available to health services right across Victoria.

As I said, Speaker, there are challenges, and we face challenges as we go forward. One of the reasons why we have had to boost funding by almost 130 per cent is that one of the first shameful acts of the commonwealth government was to cut the commonwealth dental health program. That ripped out of this state alone $27.1 million in ongoing funding, and that has had a direct bearing on the funding allocations that we have had to make as a state government. We have had to step in and boost ongoing funding for dental care, particularly for vulnerable and disadvantaged members of our Victorian community, because we do not enjoy a proper partnership in dental care. Those in Canberra have walked away from their proper responsibilities to support vulnerable and disadvantaged Victorians, indeed all Victorians, not just from a dental health point of view but from a health point of view in broader terms.

Since that shameful decision in 1996 much has been said. Some have spoken up about these matters; some have said very little. I want to quote some comments that were made way back in 1996, because they are important and they speak directly to the debate today. The comments are:

> Victoria argued long and hard as to why commonwealth funding for public dental services should not be abolished, on the basis of the health benefits to the low-income and disadvantaged sections of the community …

I could not agree more with that. I did not always agree with the things this individual said or did, but on this matter I agree. I wonder, Speaker, who might have said it. It was none other than the Honourable Rob Knowles, a former Minister for Health. As I said, I did not always agree with what he did or said, but on this matter he stood up and was counted. The challenge for those opposite as we move towards a federal election is to stand up and be counted. Stand up and for once be Victorians first and Liberals second! Just once they should stand up to their masters in Canberra.

This government has a proud record of investment in the dental health services that matter to all Victorians. That is our record, that is our commitment and that is what we will keep doing — I hope in partnership with a Rudd government with a $290 million package for a million more dental sessions over the next three years. We do not hold out much hope of this mob opposite doing anything other than what they are told by Canberra. Getting them to deliver for Victorian families is like pulling teeth.

Water: desalination plant

Mr RYAN (Leader of The Nationals) — My question is to the Premier. With the structural footprint of the proposed desalination plant designed to be almost twice the playing area of the Melbourne Cricket Ground — the building itself being some 6 metres in height and the location in an area of pristine beauty adjacent to the coast of South Gippsland — will the government now commit to subjecting the project to the environment effects statement process?

Mr BRUMBY (Premier) — The Leader of The Nationals wants the government to comply with proper process, and I agree with him. There should be proper process. The process in relation to an environment effects statement is set out in legislation which has been longstanding and in practice in this state under successive Labor and Liberal governments. It sets out that process.

Mr Ryan interjected.

Mr BRUMBY — The Leader of The Nationals laughs as if to display his ignorance on this matter. The process is that the proponent minister collects all the relevant information and studies and refers them to the Minister for Planning, who on advice from the department makes a decision on whether there is or is not an environment effects statement required. That has always been the case under successive governments in past decades, whether Labor or Liberal. It would be a breach of due process for the government to pre-empt that decision in any way, shape or form.

The Minister for Water and I have made it absolutely clear that all the relevant documentation and information in relation to those matters referred to the Minister for Planning will be released publicly, so everyone will see the basis on which a decision on whether to proceed with an environment effects statement is made, or whether a decision in the alternative is made. But that will be an objective consideration by the Minister for Planning consistent with longstanding legislation and practice in this state.

Talking about the more substantive matter — the Melbourne Cricket Ground — the game on Friday

night is a sell-out. Earlier today I was able to point out that, assuming Victorian teams play in the grand final in the week after next, it will provide a major boost to the Victorian and Australian economies. I should say in relation to Friday night — just with a moment's indulgence, Speaker — that Collingwood and Geelong have met on six occasions in preliminary finals. Collingwood has won five of those. The only occasion on which Geelong has won was in 1931, and that was not a game in September; it was actually on 4 October.

The Deputy Premier tells me, however, that Geelong are the champions. Geelong has nine players in the all-Australian team of 2007. It should be a great game on Friday night. It is a sell-out. People say about major events — about football and about all the other sporting events that we do in Victoria — that Victoria does them better than any other state. We get the best events and the best event organisers. We have the best event infrastructure, and we get the best crowds!

Honourable members interjecting.

The SPEAKER — Order! The Premier has concluded his answer.

Mr Ryan — On a point of order, Speaker, next year the Demons will have Juddy and we will win it. We will win it!

The SPEAKER — Order! There is no point of order. The time set aside for questions has expired.

WORKING WITH CHILDREN AMENDMENT BILL

Second reading

Debate resumed.

Ms RICHARDSON (Northcote) — I am pleased to speak on the Working with Children Amendment Bill. The bill amends the Working with Children Act, which commenced operation on 3 April 2006. The purpose of the bill is to further assist in the protection of children from physical or sexual harm by ensuring that all those who work with children or care for children have had their suitability to do so properly checked.

All people involved in child-related work are currently required to undergo a working-with-children check. The working-with-children check considers a person's relevant criminal record such as sexual offences, violent offences or drug offences as well as findings made by prescribed professional organisations. Since the working-with-children check was introduced in April 2006 consideration has been given to how it may be improved to further enhance child protection. In the area of offences and what may be considered as a relevant offence to be given due consideration, the bill makes a link between the offending behaviour and the potential risk that may be posed to a child arising from that offending behaviour — for example, the offence of stalking a child will now be included as a new relevant offence.

A further amendment to the Children, Youth and Families Act allows for an independent investigation of carers and potential referral to the suitability panel of carers for those who have had allegations made against them since December 2002. This reform is also significant, as it deals with particularly vulnerable children and those who are with carers or are in foster care.

In summary, this bill and its amendments are an important part of this Labor government's commitment to ensuring that children's interests are protected so that they may reach their full potential. The community has embraced the scheme, as is evidenced by the large number of applicants. Parents in my electorate, carers and child-care workers have spoken to me at length about the important message embedded at the heart of this scheme — namely, that children and their care are of critical importance to the community and to the Labor government. These changes are critically important to that end. I therefore commend the bill to the house.

Mr HODGETT (Kilsyth) — It is a pleasure to rise to speak on the Working with Children Amendment Bill 2007. I strongly support stringent checks being made to prevent undesirable people from working with children. The safety and wellbeing of children must be our no. 1 priority. Governments should ensure that children are properly cared for and protected from violence, from abuse and from neglect by their parents or anyone else who looks after them.

I state at the outset the Liberal Party strongly supports the principle of protecting children, but can I say that I am concerned about the bureaucratic nature of the legislation and its weaknesses in actually protecting children. I strongly support the principle which forms the basis of this legislation. As I have said, the protection of our children is something which we all agree is dear to our hearts and which we take a great interest in.

We all have specialties in some area, whether it be, on this side of the house, in agriculture, human services, economic development, finance and the like or, on the

other side of the house, as union hacks, career electorate officers and former department advisers. But all of us in this chamber take a real interest in our youth, and particularly in our children.

The Attorney-General said in the second-reading speech that the Working with Children Amendment Bill 2007 aims 'to enhance the existing assessment mechanisms established under the Working with Children Act 2005'. That is his spin. It is the Attorney-General's way of saying, 'We got it wrong. We mucked it up, so here we are back to have another crack at it'. When the Working with Children Bill 2005 was debated in this house, the member for Mitcham even said that the government might not get it right.

Here we are in 2007, and many of these amendments are fix-ups of oversights and mistakes in the original legislation. The legislation still fails to provide a mechanism for notifying an organisation where there is contact with children if an applicant's authorisation has been revoked or not renewed. No doubt we will be back here some time in the future debating amendments that, in the Attorney-General's words, aim 'to enhance the existing assessment mechanisms established under the Working with Children Act 2005'. Hopefully next time the government will get it right.

Mr LANGUILLER (Derrimut) — Firstly, let me very briefly put on record that, as a parent of four children, I would certainly concur with the amendments and with the enhancements that this legislation brings about. I am equally happy to hear that all legislators are in agreement with the Working with Children Bill 2007. I take this opportunity to commend the minister for the statement of compatibility under the Charter of Human Rights and Responsibilities. As a member of the Scrutiny of Acts and Regulations Committee, I am particular interested, as every one of my colleagues on the committee is, in seeing that every piece of legislation is thoroughly examined. I have to say that this is certainly one of those statements that goes through a bill very comprehensively. It contributes to the improved delivery of what is fundamentally in our interests, which is ensuring that children are at the heart of this debate and at the heart of this legislation, that the services and the people who work with children are properly and thoroughly checked, and that children remain in a safe environment.

During the first year of the operation of the original legislation some practical and legal issues have arisen. In assessing applications the Department of Justice has become aware of categories of offending behaviour that should be considered relevant for the purpose of assessing or reassessing people's suitability to engage in child-related work. The bill provides for the inclusion of four additional offences that are considered relevant in assessing an application. The bill inserts the offence of loitering near schools, which is an offence out of the Crimes Act 1957. Stalking, where the victim is a child, has also been included in category 2, due to the predatory nature of the offence and the specific risk it may pose to the physical and sexual safety of the children.

The bill also includes the offences of 'causing injury intentionally or recklessly' and 'obscene exposure' as offences relevant to the classification of applicants within category 3. Finally, the legislation also places two specific carnal knowledge offences within category 2. This will enable the secretary to exercise discretion in determining whether to issue an assessment notice in relation to carnal knowledge offences. Historical experience has shown that they often encompass situations where the offender and victim have engaged in sexual behaviour as boyfriend and girlfriend.

This is a good amendment to the current legislation. Like every other piece of legislation, it ought to be improved from time to time after being assessed in the light of day-to-day experience. I commend the minister and the department for their work in continuing to deliver a safe environment for children.

Mr WALSH (Swan Hill) — It is a pleasure to rise to speak on this bill. I think everyone in this house supports the intent of this legislation and aspires to the best they possibly can for the children in our society. One of the issues I would like to raise briefly is the disconnect between the intent of what we are trying to achieve and its actual implementation, and the confusion out in our communities about the working-with-children checks and police checks. Those two terms are used interchangeably by a lot of people, and particularly in the volunteer sector that is acting to discourage people entering into volunteerism in society.

I have had people in my office constantly raising questions about the whole issue of working-with-children checks. A Rotary club wanted to run a project with a high school that involved the high school students in a Meals on Wheels delivery program. It was deemed that the Rotary club members should have working-with-children checks before they could have children accompany them on the Meals on Wheels program. It all got too hard for the school and the Rotary club, and that excellent project lapsed.

There is confusion about the volunteer check and the employment check and which means what for whom. If

you have an employment check and pay the money, it can then be used for a volunteer organisation, but the converse does not apply. I have had schools in my electorate raise concerns with me saying that, if they employ casual employees, either the casual employees have to pay or the schools have to pay out of their budgets for the employment checks. With the cost of a passport photo, a check costs $80. The Department of Education and Early Childhood Development is actually the employer, but it will not pay for those particular checks, so the money has to come out of the school budget or the casual staff members, who do not earn a lot of money, have to pay for them.

Another issue I would like to put on the record concerns the many country towns in my electorate. Although the forms for the working-with-children check are available at all post offices, you can only lodge those forms at select post offices. People from quite a few towns in my electorate have to travel up to an hour to lodge those forms at a post office, which is a major impediment, particularly for volunteers.

The last issue I would like to briefly raise involves a letter I received from Sr Mary-Ursula Cain from St Arnaud. She raised the issue of multiple checks and how people out there are being discouraged from volunteering. One particular resident had to have one check for doing Meals on Wheels, one check for teaching religious instruction at the state school, one for being involved in the craft projects at the hostel and one for doing welfare work at St Vincent de Paul's.

I think the intent of what we are doing is fantastic, but the implementation needs a lot of work so that we can make sure it is a lot simpler particularly for volunteers in our society to do the great things they have done all the time without this confusion about the working-with-children check.

Ms MUNT (Mordialloc) — I am very pleased to rise and speak in support of the Working with Children Amendment Bill 2007. I recall speaking in support of the Working with Children Bill 2005 when this system was first put in place. Since the principal act was put in place in 2005, over 100 000 applications have been made for working-with-children checks.

I heard previous speakers say that of those 100 000 there were 16 and 6 and a couple that turned up less than perfect results and that that showed the scheme was not working. I would disagree. If these checks have turned up 16 and 6 and a couple, that is at least 20 people who potentially would have been in contact with hundreds if not thousands of children. Those hundreds if not thousands of children have been spared perhaps inappropriate contact because these checks have been put in place. As a parent I find it very comforting that this screening is in place.

There are two types of checks. An E-card for employees costs $71.20, and a V-card for volunteers is fully subsidised by the Victorian government. I have heard other speakers say that the V-card, which actually costs volunteers nothing, potentially deters volunteers from working for organisations. It is my recollection that it was among the volunteers in some of these organisations that some of the rock spiders were hiding, trying to go unnoticed as they came into contact with children. I believe that if the cost is subsidised it is well worth our while screening the volunteers who come into contact with our children.

Some practical legal issues have become apparent in the act's first year of operation, and they will be addressed by this legislation. The key amendments to the act include the provision of a limited exceptional circumstance discretion to allow the Secretary of the Department of Justice to refuse to issue an assessment notice to an applicant if he or she is satisfied that there is an unjustifiable risk to the physical or sexual safety of children, having regard to the prescribed criteria. The bill will move two historical offences of carnal knowledge from category 1 to category 2, thereby allowing the secretary the discretion to decide whether to grant an applicant an assessment notice, having regard to the prescribed criteria.

The bill includes the offences of loitering near schools and stalking where the victim is a child as relevant offences within category 2. It includes the offences of causing injury intentionally or recklessly and obscene exposure as relevant offences within category 3. The bill also provides the Victorian Civil and Administrative Tribunal the power to stay a negative notice for category 1 applicants, and makes a range of other minor, technical amendments to clarify some terms.

I would like to say that our government is committed to the safety of our children. We have put in place a range of legislation to protect children and women. I believe it is the right of parents and children to feel safe and comfortable with the people who are working with our children in a voluntary or employment capacity. People who do not pass a check are not able to work with our children. People who do pass a check will continue to be monitored for any future transgressions. I support the range of measures that have been put in place to give some peace of mind to parents and their children so they can go about their activities in safety. I commend the bill to the house.

Ms WOOLDRIDGE (Doncaster) — It gives me pleasure to speak on the Working with Children Amendment Bill 2007. It amends the rules and procedures for assessments of whether people should be authorised to work with children under the Working with Children Act 2005. The bill tidies up a lot of anomalies that should have been incorporated in the original legislation. However, there are clearly still some anomalies.

I would like to take the opportunity in discussing the legislation to talk in particular about the bureaucratic process and the relationship between the police checks and the working-with-children checks, because it is clearly a process that could also have been cleared up in this legislation. In doing so I would like to read from a letter I received from Edith Holly at LinC Manningham, a very important local volunteer program. She says LinC Manningham is an organisation created to serve people in the city of Manningham that has over 100 trained volunteers from 13 churches. It is an unfunded organisation: it does not receive any government funding but relies on the goodwill of the church community and occasional donations from generous benefactors.

The volunteers are wonderful people who give freely of their time to transport the elderly and the disabled to medical appointments. They support young families and the lonely and provide emergency food to those who are experiencing difficult times. The problem with the working-with-children checks stems from the need to obtain both police checks and the blue cards. The police checks cost the volunteers $13 and the time to complete the forms. Although the blue cards are free they require a passport photo that costs $12 and the time to read the lengthy 16-page document that contains all the details before completing the form and personally appearing at a post office.

LinC Manningham and Edith Holly say that:

> At a recent meeting of our volunteers these requirements were seen to be punitive and a doubling up of effort, in short, a bureaucratic disincentive to being a volunteer. Some expressed their frustration and argued that they might simply withdraw from LinC rather than meet these requirements.

They would be very grateful if these concerns could be addressed. I wrote to the government over two months ago, and I have yet to receive a response to my request that the government see whether there is a way to streamline these bureaucratic processes so that these costs could be removed. What we do not want to create with this process is a disincentive to volunteers getting engaged in their communities.

There is nothing more important than keeping our children safe. These processes are very important, but I am concerned about the bureaucracy of the process and the process as it is managed. I ask the government as it considers further amendments on this, which we expect down the track, to take these sorts of ideas into account so that we can not only keep our children safe but also encourage volunteers.

Mr LIM (Clayton) — I rise to speak in support of this bill. The bill makes a number of sensible and practical amendments to the Working with Children Act 2005. Some opposition members have made some pretty negative comments about needing to amend the legislation. The government needs to be vigilant with bills like this. If legislation needs to be improved, it should be. This is such a case.

The substantive legislation was groundbreaking legislation and demonstrated the commitment of the Labor government to protecting our children who, by the very nature of their age, are vulnerable to sexual or physical abuse by adults in positions of authority and responsibility who breach the trust placed in them. The 2005 act covered not only a wide range of professionals and other workers but also committee of management members and volunteers engaged in child-related work. Coming from a community organisation background, I can understand the need for such coverage.

The act requires that persons engaged in child-related work be required to have a working-with-children check and obtain an assessment. The act makes it an offence to work in child-related work without an assessment or to apply for work having received a negative notice. The principal act established three categories of applications based on various levels of offences. Category 1 required the Secretary of the Department of Justice to refuse to give an assessment notice on a category 1 application. Category 2 required the secretary to refuse to give an assessment notice on a category 2 application unless satisfied that doing so would not pose an unjustifiable risk to the safety of children. Category 3 required the secretary to give an assessment notice on a category 3 application unless satisfied, in the particular circumstances, that it was appropriate to refuse to do so.

The bill we are debating today makes several changes to these categories. The bill moves two historical carnal knowledge offences from category 1 to category 2, thereby providing the secretary with discretion to grant an applicant an assessment notice, having regard to prescribed criteria. This would cover ‘boyfriend and girlfriend’ situations. However, the secretary would still have to exercise discretion and be satisfied there is no

unjustifiable risk to the safety of children, as the secretary must otherwise refuse an application.

The bill adds to category 2 the two offences of loitering near schools et cetera and stalking. Obviously this does not include normal activities such as parents waiting to pick up their kids or even a situation where a non-custodial parent might be breaching a Family Court order. Rather, it covers offences of a sexual nature where a person must have been both charged with a specified sexual offence and be in or near a place frequented by children without reasonable excuse. The bill adds to category 3 the two offences of causing injury intentionally or recklessly and obscene exposure as relevant offences.

One amendment this bill makes that I am very pleased to see is the provision of a limited exceptional circumstances discretion for the secretary to refuse to issue or revoke an assessment notice to an applicant if satisfied that there is an unjustifiable risk to the physical or sexual safety of children, having regard to prescribed criteria. This would cover circumstances such as where persons have been convicted of offences such as those involving repeated violence, but these offences do not fall within any of the three categories.

While this bill finetunes the substantive act, it demonstrates that our working with children legislation is indeed working. It also demonstrates the Brumby government's continuing commitment to protecting our children. I highly commend the bill to the house.

Mrs SHARDEY (Caulfield) — I am pleased to make a small contribution to the Working with Children Amendment Bill. The original legislation goes back to August 2005, some three years after the Attorney-General gave a commitment to the sector to introduce such legislation. The legislation provides for a scheme to check the suitability of people either working or volunteering to work with children whereby they have regular and direct contact which is unsupervised. The aim of the legislation and the scheme is to protect children from sexual or physical harm.

The working-with-children check process assesses the relevant criminal records in relation to sexual assault, violent or drug offences and relevant findings from prescribed professional bodies. The Liberal Party did not oppose the original piece of legislation, and it does not oppose these amendments. However, at the time we raised some concern about how the act would be implemented. The changes being made with this bill are a reflection of some of the problems, although we still have some continuing concerns.

During the debate on the original legislation I spoke about my involvement with the organisation called the Australian Council for Children and Youth Organisations (ACCYO). It had campaigned for working-with-children checks and for other child-safe policies to be introduced as part of legislation which would ensure that the best is done for our children when adults are working with them. For instance, it noted in some research that police data compiled in Victoria between 1988 and 1996 found that more than 20 per cent of child-sex offenders, in cases involving two or more victims, used community-based organisations such as welfare, youth, church and sporting groups to gain access to their victims. This gives us very real information about the fact that children can be very much at risk through organisations where we would think they would normally be safe.

ACCYO campaigned for this check and for child-safe policies. This organisation, with the support of the federal government with funding, delivered a program to show organisations how to introduce child-safe policies. It was done with the support of organisations like Child Wise, the Centre for Excellence in Child and Family Welfare, and of course Joe Tucci, who is very much known throughout the sector.

The missing element in the legislation in 2005, and which continues to be missing, was the introduction of child-safe policies in organisations dealing with children. At the time the Liberal Party spoke on that legislation it also strongly supported the establishment of an independent officer, such as a commissioner for children, to operate the scheme for working-with-children checks, to be a source of advice to government on child-protection policies and the implementation of a scheme like this, and in a sense to protect the large amount of personal information being collected by the government in the process of operating the legislation. That is what occurs in Queensland. We still very much support an independent person being put in that position. With those few remarks and recognising that this is very much a fix-up piece of legislation, I finish my contribution.

Mr BURGESS (Hastings) — I rise to speak on the Working with Children Amendment Bill. The purpose of the Working with Children Act is to assist in the protection of children from physical or sexual harm by ensuring that people who work with, or care for, children have their suitability checked by a government body. Once they have been checked, a check card is issued. The bill seeks to address these issues and endeavours to enhance the mechanisms within the act to assess the suitability of a person to work with children, and it attempts to achieve this in two

fundamental ways. Firstly, the bill includes four new offences: loitering near schools, stalking, causing intentional or reckless injury and obscene exposure. Secondly, the bill enhances the assessment mechanisms within the act by providing the secretary with discretion in limited exceptional circumstances.

On the first point, the required amendments are most noticeably oversights from the original legislation. Clearly those things could have been done at an earlier date. The inclusion of relevant offences to those for which a person can be denied authorisation are substantially criminal offences and is certainly worthwhile. One has to wonder why these clauses were not in the original legislation. However, one of the most glaring omissions from this amending bill is that it fails to provide an adequate procedure to notify organisations or groups through which a person is in contact with children if that person has had their authorisation revoked or not renewed.

The bill also allows the Department of Justice to assess individuals who have criminal histories that do not fall within the deemed categories on the basis of whether they pose an unjustifiable risk of physical or sexual danger to the child. However, there is a greater concern that comes about in my view from the scheme of which this bill forms part. Probably the best way to look at it is by looking at the categories of paedophile. The categories to which I refer are really about how you would classify people who have a predilection to or propensity for paedophilia. We have category 1, which relates to a person with the potential to be a paedophile who has not yet acted on that propensity. Category 2 covers people who have performed acts of paedophilia but have not yet been detected, and category 3 relates to people who have performed acts of paedophilia and have been apprehended and convicted.

It is clear that the last category is the only one that the scheme really addresses. Of course the first two categories are the ones that are much more significant in terms of numbers. There have been estimates around Australia of the number of paedophiles out there ranging from 1 to 10 000. The Victorian police estimated at one stage that there were at least 1000 paedophiles out there. What they are really talking about are the paedophiles that they know of or suspect strongly.

The problem we are confronted with is that we as a community will, for those in categories 1 and 2 — those who have not yet acted on their inclination or those who have acted and have not yet been apprehended — license them or issue them with a card. I think this is obviously an unintended or unavoidable consequence of the act, and I am certainly not using this to criticise the government. What I am doing is raising this to warn the community — and we need to make sure that the community is aware of this — that it needs to be on the lookout.

Parents have a built-in mechanism for protecting their children. When legislation will license somebody who is a paedophile, even if it is an unavoidable and unintended consequence, it acts to lower the guard of parents and of carers to the point where they may well in fact not watch as closely as they would otherwise have done. What we are actually saying is, 'Here is a person who could interfere with your child, but we have licensed them'. I think what that does is lower the protection mechanism, and that is something that we have to be well and truly aware of when we are commending this bill.

Debate adjourned on motion of Ms KOSKY (Minister for Public Transport).

Debate adjourned until later this day.

FIREARMS AMENDMENT BILL

Second reading

Debate resumed from 19 September; 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 automatic renewal of firearm licences under part 2, except in specific circumstances'.

Mr SCOTT (Preston) — I began my contribution to this debate last night, and I will continue that today. I understand a number of members wish to speak, so I will keep it brief.

I will return to the issue of the reasoned amendment moved by the member for Benalla on behalf of The Nationals. It is my understanding that one of the requirements of the national agreement that covers the regulation of firearms is that licences apply for only a five-year period. Therefore, the reasoned amendment which entails the automatic licence provisions and which was moved by The Nationals is not in keeping with the national agreement. It cannot be supported without breaching the national agreement, and on that basis I oppose the amendment.

However, this is a sensible bill. It makes well-thought-through reforms to a number of areas of

the regulation of firearms, including magazine capacity, categories of firearms and antique handguns, among many other items. I commend the bill to the house.

Mrs FYFFE (Evelyn) — I am pleased to rise to speak on the Firearms Amendment Bill. I have grown up around guns all of my life and so have all my children. As a child in England we used guns for target shooting and to shoot rabbits for meat. Often that was the only meat we had during that week, so we had to use them. Always along the way safety was of prime consideration.

Australia has had a tumultuous past in relation to firearms and 1987 was a pivotal year in gun control. Politicians began to take notice of the problems in society. But it really was not until after the Port Arthur massacre that we finally woke up to the need to control the number of guns. The Howard government secured the cooperation of the states and territories in passing uniform gun control legislation. On the gun buyback program, 643 726 of the newly prohibited guns were bought. A lot of that caused angst, particularly to a friend of mine who was an avid collector of vintage guns. He had an amazing collection going back to the 17th century and had a wonderful display. He was not allowed to keep quite a lot of those guns unless he made it so they could not fire.

Under this bill people will not be allowed to increase the magazine size of weapons. I understand that in countries such as the United States of America they are now marketing gun stocks that have a magazine that can be varied a little bit like a vacuum cleaner with all the various attachments. We have to take steps to stop the increase of magazine size.

I was appalled when I was searching the Net yesterday to read that in the USA an Oregon high school teacher has sued for her right to bring guns into the classroom for personal protection. She is clashing with anti-gun advocates. The comparison is unbelievable. Our strong gun laws are the way we have to go. She wants to bring guns into a school for her own protection, and there is a stand-off between the teacher and the school district. The case is actually going to go to the Oregon state Circuit Court and a hearing is set for mid-October. There are over 12 000 students in that area and the thought of teachers being allowed to carry handguns into a school makes you shudder. You wonder what happens if the gun gets into the wrong hands.

As I said, we have always had guns and we taught our children how to use them properly, but accidents do happen and mistakes are made. Unfortunately a man who was walking his dog died after being shot by a deer hunter at Warburton, which is in my electorate. There was a conviction, and the man responsible went to prison and served a sentence. That was an example of people not using guns correctly. I am not anti-guns, although my friend who collects antique firearms is going to be very disappointed that I cannot argue to support the proposition that he be allowed to continue collecting some of those guns. But I support guns being used for serious purposes.

I have used mine on our farm. Before it was possible to easily purchase bird netting and at a reasonable cost, we had to do patrols at dawn and dusk to scare off the birds so they would not eat our grapes. We have had to shoot starlings and silver eyes, although I admit at one stage my aim was so bad I actually shot through a grapevine when I was trying to shoot at silver eyes. I think that was a little bit of furious anger at the amount of grapes they had eaten.

Every piece of legislation that can be brought in that limits the misuse of weapons cannot but help. I am staggered by the number of people in Australia who have died because of guns, whether it has been suicide, murder or accident. At one stage the number was an average of 617, but in the seven years after new gun laws were announced — that is, 1997 to 2003 — the yearly average almost halved, to 331. The remarkable thing is the acceleration in the falling number of deaths, which is to be commended.

This legislation has some very practical points. I will not detail them, because we are limited in the time available and I know there are a number of other speakers after me. I commend the bill to the house.

Mr TREZISE (Geelong) — I am also pleased to be speaking in support of the Firearms Amendment Bill 2007. I will keep my contribution to the debate brief as well. I am pleased to be supporting the bill because I believe once again it is evidence of the Brumby government's commitment to ensuring all Victorians enjoy a safe and peaceful way of life. The Brumby government is committed to community safety and this bill is further evidence of that.

Last night it was surprising to note an amendment to the legislation before us which was moved by the member for Benalla on behalf of The Nationals. That came out of the blue last night. It was disappointing, because I know, as is the case with all Brumby government legislation, it has been subject to extensive consultation with important stakeholders such as the Sporting Shooters Association of Australia, Field and Game Australia and the firearms consultative committee. Therefore it is disappointing that an

amendment was put up last night out of the blue. Members on this side of the house will not be supporting the amendment because this legislation, as with all of this government's legislation, has been the source of extensive consultation with the important stakeholders, as I mentioned earlier.

It is, I think, 20 years ago this year that we saw the horror of the shootings at Hoddle Street. I do not think anyone would forget where they were when they heard about that massacre and its aftermath. It still affects this state today and, of course, the people who were involved and their families. And no-one in Tasmania would forget the Port Arthur massacre and the lives that were destroyed on that day. This bill is a direct result of what happened at Port Arthur. Following that tragedy the federal government of the day, with the consent of state governments, entered into an agreement that is the genesis of this legislation. Since that time there have been a number of amendments to improve the act. For example, in 2002 the National Handgun Control Agreement was established, and this government fully supported it.

I have just returned from the United States where I had the privilege of attending a re-enactment of a Civil War battle on their Labor Day weekend in Los Angeles. In saying that I had the privilege of watching that re-enactment, I should also say that I was stunned to see row upon row of what I would describe as modern guns for sale at the fair as well as row upon row of antique or historic guns that were still operational. It also surprised me to see marquee after marquee of toy handguns that were attracting great interest from people who were attending the re-enactment. I know the Americans have a different culture from us, but I have to say that I am glad that in Victoria we are putting up the legislation that is before us in this house tonight.

I know there are a number of people who want to speak on this bill before the question is put to the house, so I will conclude by saying that this is good legislation. As I said, it has been the subject of full consultation with important stakeholders across Victoria, and I therefore wish the legislation a speedy passage through the house.

Mr MORRIS (Mornington) — It is a real pleasure to have the opportunity to speak on the Firearms Amendment Bill. I say that it is a real pleasure because we are in fact able to have a debate about changes to the controls in a sensible and rational manner. I reflect on the situation 11 years ago before the events that gave impetus to the national reform when it was almost impossible to discuss these sorts of things rationally. Indeed I well remember back in 1998 when my predecessor as the member for Mornington, Robin Cooper, was the shadow Minister for Police and Emergency Services and this issue was yet again on foot. The number of abusive phone calls that came into his office and the number of large people with a threatening manner who appeared in the doorway endeavouring to sway debate one way or another was very unfortunate, and I am delighted that we are able to have a sensible and rational discussion — which we would have had in this chamber anyway, but outside as well.

The introduction of the national firearms agreement and the two subsequent agreements has been a great success. I am sure we all remember a number of turbulent public meetings when a very newly minted Prime Minister decided to act. He was backed by the states, and in Victoria we have much to thank both John Howard and Jeff Kennett for. We can thank them for many reasons, but their action in tackling gun control, in taking charge of the debate and in implementing the reform was a good effort. I congratulate them both for grasping the nettle, as I congratulate their in one case successors and in the other case colleagues on both sides who worked with them to keep the reform process running.

The bill before us today continues that tradition. The legislation recognises the legitimate right of sporting shooters, whether they be hunters, competitive shooters, professional hunters, people on the land, those who collect weapons or dealers. Anyone who has a need to be involved with firearms is able to work under this arrangement. This has all been achieved while outlawing the sorts of guns that seem to cause so much damage and so much trauma in nations that clearly do not have the sorts of controls we have. The amendments to the Firearms Act that we are considering this afternoon are, as several speakers have remarked, mostly technical. The bill seeks to insert new firearms offences into the Crimes Act and amend the Firearms Act itself, along with minor changes to the Magistrates' Court Act. I am not going to go through the bill clause by clause — firstly, because we do not need to, and secondly, because of the time factor. Basically I have little argument with the provisions in the bill.

If there are any difficulties with this bill, they are more about what is not in it than what is in it. Many of these issues have been covered by the member for Kew, the member for Benalla and the member for South-West Coast. Clearly there are concerns about the administrative burden. We also recognise that there is a need to act in the spirit of the national agreement. We cannot place that agreement in jeopardy and risk a

return to the bad old days. What can be changed and what is not addressed by this bill, as the member for South-West Coast mentioned, is the resourcing of the firearms registration system. It can be fixed, and it should be fixed. The difficulty with the interpretation of clause 35 has also been raised by the member for South-West Coast, and I support his suggestions in that regard.

Despite these difficulties, I think the bill is sound. It tightens up the licensing arrangements, it introduces a number of sensible changes and it streamlines the operations of the current legislation. We have had virtually no feedback on the proposed changes. On that basis I suggest that the changes are acceptable to the community. I am very pleased to support the bill, and I wish it a speedy passage.

Mr CARLI (Brunswick) — I rise in support of the Firearms Amendment Bill. This is a bill that has gone through extensive consultation with various stakeholders. It essentially makes a series of changes to improve the current firearms regulations in the state of Victoria. There is a raft of relatively small changes in each case, but in the context of firearm control they strengthen the regulatory regime.

As the previous speaker noted, the bill recognises and protects the rights of legitimate shooters but at the same time ensures that we have significant and sufficient firearm controls in the state of Victoria. The horrific things that happened a number of years ago set in train significant and fundamental changes in the firearm control regime not only in Victoria but in Australia. The bill contains a series of small but significant amendments that strengthen our regulatory environment in Victoria and therefore make significant changes to the Firearms Act 1996.

I will mention some specific elements of the bill. Firstly, it makes it easier for hunters to cross Crown land without having to get individual permits from the lessees of that land, and that is an improvement in the situation for hunters. It gives the Chief Commissioner of Police the ability to properly categorise guns, and it requires those who have large numbers of guns to have effective alarm systems and effective controls against the theft of those guns.

New section 134AB amends the act to make it an offence to possess or carry a part of a firearm that is capable of being used to alter the category of a firearm in a person's possession, carriage or use so that the firearm becomes a different category of firearm. That is a protection against someone who has a permit for a particular firearm altering that firearm. It would be unlawful unless that person had a lawful excuse or had the consent of the chief commissioner. Again, that is about tightening up the current controls and making them more logical. The bill also ensures that, as part of the firearm regime, silencers are treated as guns, which really clears up something that is probably a bit unclear in the current legislation. I recognise that a number of members have already spoken on this.

It is a good bill which tightens up the regime that was established in 1996 as a result, as we know, of some horrific acts around Australia. It is obviously an area of reform that has very strong support in this Parliament, and I wish the bill a very swift passage.

Mr WELLER (Rodney) — I wish to make a short contribution on the Firearms Amendment Bill 2007. From the outset I declare that I am a member of the Pine Grove Field and Game Club and a holder of a C-class licence. The Nationals will not be opposing the bill, but we have some concerns about it. The member for Benalla has moved a reasoned amendment to draw attention to the totally unsatisfactory performance of the licensing services division (LSD) in processing firearm licence applications. The amendment proposes a common-sense solution to a bureaucratic problem by instituting an automatic renewal process, with safeguards, to substantially reduce the amount of work of the LSD. This issue has been raised repeatedly with The Nationals over the years. It was most recently raised by the Combined Firearms Council of Victoria, which represents most major shooting organisations, in a written submission to the member for Benalla.

Since moving this amendment to draw attention to the issue, we have now been informed by members of the house that the licensing services division is currently undertaking an overhaul of its licensing procedures. If the overhaul results in a significant improvement in the efficiency of service delivery by the LSD, then it will be most welcome. It is unfortunate that the government does not keep all interested parties fully informed on such important matters.

I note that members of the Liberal and Labor parties have raised concerns about the automatic renewal of firearms licences, with safeguards, being inconsistent with the national firearms agreement (NFA). The member for Benalla has received further advice which suggests that this proposal is not inconsistent with the NFA. The advice states that the NFA requires that licences not be issued for more than 5 years — for example, not for 10 years — but it appears not to preclude a more efficient system of renewal.

I request that the Minister for Police and Emergency Services have this issue investigated and, if the member for Benalla's advice is correct, that he pursue a more efficient system of licence renewal. We all remember that in the last election campaign there were commitments made by all sides to reduce red tape in Victoria. This would be a good opportunity.

Mr Batchelor — What have you done about it?

Mr WELLER — The member for Benalla has moved a reasoned amendment to reduce the red tape on firearm licence renewal in Victoria. That is a common-sense approach. It is most important that the rural community, and particularly the farming community, not be burdened by extra red tape. Firearms are tools of trade in agricultural industries. We have a big problem with vermin in this state. We have wild dogs, we have foxes and we have rabbits, and all farmers need to have firearms to help them get on top of vermin control. I am sure that members of the government and the Liberal Party would support farmers' need to have firearms to control vermin, which in this state are out of control.

I conclude by saying that we Nationals do not oppose the bill, but we suggest that the government and the Liberal Party support the reasoned amendment moved by the member for Benalla.

Mr SEITZ (Keilor) — I support the Firearms Amendment Bill and congratulate the minister for bringing it forward and living up to another election commitment of the government. Look at how far we have come with the national agreement on firearms. Look at how far we have come on firearms and guns in general, particularly in Victoria. After all, as some members will recall, we used to have a rifle range for practice right here in Parliament House. Not many members would know that there was rifle range in the building. We have come a long way: politicians do not play with guns anymore. If members do not know where it was, I will take them on a guided tour.

On a serious note, it is important that people are unable to fiddle with guns, in particular by increasing the capacity of the magazine to make them dangerous weapons. Secondly, and importantly, the bill clarifies the situation regarding the two classes of collector licences. Weapons, and pistols in particular, for which you still can buy commercial bullets are in a different class from those for which you cannot purchase ammunition commercially. We know that, if you increase the capacity of different magazines, guns can virtually become automatic machine guns or submachine guns, which are dangerous weapons to have around. People should be discouraged from having the inclination to do that.

The bill also clarifies the storage and security requirements for licence-holders so that they understand how they have to store weapons and what sorts of alarm systems they have to have. An incident occurred at my neighbourhood gun shop when it was staffed by an elderly couple whose son had left early to go home from work. They were robbed and a number of guns were taken. They were also forced to open their wall safe to provide ammunition. That is a concern, and the bill tightens up the provisions on that issue so that there is better security not only for people who use guns and store them at home but also for dealers, so that they know what they can and cannot do and what sort of a security system they have to have, which is vitally important.

The bill further tightens up the regulations on carrying guns in different areas — for example, the magazine must be taken out and there must not be a bullet up the spout of a gun, so that when a person is walking or travelling with a gun it must be empty. The bill clarifies the situation for hunters who walk around with their weapons, as they do at times.

With all that, I get the message that other people want to speak in this debate. I conclude by saying that the bill also addresses the specified time limit for prohibiting people from having a licence when they have been in prison for an offence under the Drugs, Poisons and Controlled Substances Act. All those things, like police checks and so on, have been tightened up. Once again, I congratulate the Minister for Police and Emergency Services on bringing in the bill and also members of the house on their unanimity in supporting the bill.

Mr HODGETT (Kilsyth) — I rise to make a brief contribution, given the limited time available to conclude debate on this bill. Members have stated the purpose and main provisions of the bill. I do not intend to go over those again now but rather use my time to make one particular point — that is, that the use of firearms is a legitimate activity when they are used in accordance with the law. The debate surrounding firearms is always about a balance between respecting the recreational aspects of shooting and the community's expectations of having in place a strong regulatory regime to protect the community. It is about enhancing community safety while preserving the privileges of responsible firearms owners. That is an important point to note.

This is a very technical and detailed bill. It largely introduces a number of suggestions made by

stakeholders. As the overall objective of the bill is to enhance the regulation of firearms to improve their safe possession, carriage and use, I support the bill and wish it a speedy passage through the house.

Mr CRISP (Mildura) — In the short time I have I would like to make a contribution about interstate issues related to this bill, in particular those concerning interstate licence-holders and temporary visitors. The bill fails to recognise the genuine reasons interstate licence-holders have. They may be collectors or work as approved Victorian firearms safety course instructors in longarms and handguns or be required to use firearms for paintball and paintball marker usage or for other approved activities, such as with government agencies. Those activities and duties may include commercial activities such as in primary production and the marking of stock.

In border areas many people live in one state but are employed and work in another state. Also, they might be members of an approved club in one state and reside in another. As a resident of one state, they are required to comply with the firearms laws in that state, but if their activities centre around club activities or their employment in another state, the bill fails to recognise the genuine reason listed on their firearms licence.

There are numerous examples of these difficulties and we can go through some of them in brief, but mostly they are to do with show and tell for collectors clubs whose members are residents on both sides of a border. A New South Wales resident is also unable to be an approved firearms safety course instructor in Victoria because his interstate licence is not recognised for that genuine reason. Other areas worth noting include the training of members of police and government military agencies.

These agencies are using less lethal ammunition, such brands as Simunition and FX, which are low-powered rounds and are used for a projectile such as a paintball or similar. They are designed to be used in firearms that are adapted for use in reality-based scenario training. The current legislation has failed to include this as a genuine reason. That failure includes addressing the needs of interstate agencies that are coming to Victoria to use training facilities located in this state.

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 and I am required to put the following question on the Firearms Amendment Bill 2007. The minister has moved that the bill be now read a second time. To this motion the honourable member for Benalla has moved a reasoned amendment. He has proposed to omit all the words after 'That', with the view of inserting in their place the words which appear on the notice paper. The question is:

> That the words proposed to be omitted stand part of the question.

Question agreed to.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

FISHERIES AMENDMENT BILL

Second reading

Debate resumed from 19 September; motion of Mr HELPER (Minister for Agriculture).

The DEPUTY SPEAKER — Order! The question is:

> That this bill be now read a second time and a third time.

House divided on question:

Ayes, 67

Allan, Ms	Languiller, Mr
Andrews, Mr	Lim, Mr
Asher, Ms	Lupton, Mr
Baillieu, Mr	McIntosh, Mr
Batchelor, Mr	Maddigan, Mrs
Blackwood, Mr	Marshall, Ms
Brooks, Mr	Merlino, Mr
Brumby, Mr	Morand, Ms
Burgess, Mr	Morris, Mr
Cameron, Mr	Mulder, Mr
Campbell, Ms	Munt, Ms
Carli, Mr	Napthine, Dr
Clark, Mr	Nardella, Mr
Crutchfield, Mr	Neville, Ms
D'Ambrosio, Ms	O'Brien, Mr
Dixon, Mr	Perera, Mr
Donnellan, Mr	Pike, Ms
Eren, Mr	Richardson, Ms
Fyffe, Mrs	Robinson, Mr
Graley, Ms	Scott, Mr
Green, Ms	Seitz, Mr
Hardman, Mr	Shardey, Mrs
Harkness, Dr	Smith, Mr K.
Helper, Mr	Smith, Mr R.
Herbert, Mr	Stensholt, Mr
Hodgett, Mr	Thomson, Ms

Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr
Tilley, Mr
Trezise, Mr
Victoria, Mrs
Wakeling, Mr
Wells, Mr
Wooldridge, Ms
Wynne, Mr

Noes, 9

Crisp, Mr
Delahunty, Mr
Jasper, Mr
Northe, Mr
Powell, Mrs
Ryan, Mr
Sykes, Dr
Walsh, Mr
Weller, Mr

Question agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

WORKING WITH CHILDREN AMENDMENT BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

Remaining business postponed on motion of Mr BATCHELOR (Minister for Community Development).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Police: political statements

Mr McINTOSH (Kew) — I have a matter for the attention of the Minister for Police and Emergency Services. The matter I wish to raise with the minister is the unfortunate trend that seems to be creeping into the Victoria Police whereby a few sworn members of the Victoria Police are openly participating in a political debate. The action I seek from the minister is to urgently meet with the Chief Commissioner of Police in order to clarify the role of sworn members of police when they are entering into the public debate and making comments upon a clearly political issue.

As the house would be aware, the issue of crime statistics has been a matter of some public significance for some time, and opposition members and indeed government members have all been properly raising these matters in their own communities. Generally, and I can say this frankly after perusing a number of articles in papers, the response from Victoria Police has been an appropriate response. I have also noted that the Chief Commissioner of Police has appropriately entered into the discussion, and the Premier and the Minister for Police and Emergency Services have also participated in this debate in appropriate ways. However, as I said, there have been just a few examples where police seem to have transgressed the role of a police officer and are openly participating in that political debate.

I do not propose to name any of the specific members, but I would be happy to do so and provide exact details for the minister, if he so chooses, for use in discussions with the chief commissioner. In one case a member of Parliament, concerned about law and order in his community, was providing details of substantial increases in rape, sexual assault and weapons offences. While it is appropriate for a sworn police officer to provide an explanation about the rising levels of crime in their area and also what they are doing to tackle these issues, it is not appropriate for a police officer to argue that the member of Parliament is merely playing politics or that the member of Parliament does not understand the reasons behind the increase. That should be the role of politicians or other members of the community, but certainly not a sworn member of the police force.

In another example, during a morning radio program a sworn member of police was expressing surprise in relation to a member of Parliament making a public statement about a particular criminal event. The sworn member of police said that he was very critical of the member for not getting a briefing before making a public comment. This was despite the fact that a briefing had been sought from the Chief Commissioner of Police in writing and none was offered nor provided in relation to that particular event.

As I said, it is appropriate that police participate in these debates, but in a dispassionate, objective fashion. The politics should be left up to the politicians or other members of the community and police officers should not diminish Victoria Police by entering into an open political debate.

Casey: community facility grants

Mr DONNELLAN (Narre Warren North) — I rise tonight to seek action from the Minister for Sport, Recreation and Youth Affairs. The action I seek is a review of the current community facility funding program. Out of this review I want the government to focus the program on the outer suburbs where there are enormous shortages of quality sporting facilities.

Since I have been the member for Narre Warren North I have worked consistently to try to ensure that my local area has adequate sporting facilities. Many years of neglect are starting to have a major impact on my residents. Local councillors have been consistently inadequate in their representations. Crs Hetherton and Morland have not even sought capital funding in this year's City of Casey budget for the Timbarra basketball stadium, even though they have promised publicly many times to deliver on this desperately required facility.

My local council, the City of Casey, has a bad habit of hoping, even demanding, that others will pay for its responsibilities. Recently the council for six months sat on a contract which would have secured land for this very important Timbarra basketball facility and greatly assisted the Oaklanders Basketball Club. Of course the council hoped this land would be given to it by the department of education, even though it was told on many occasions that the land would not be given to it and it would need to pay for the land.

Local sporting facilities are a council responsibility, not a state or federal responsibility. We as a state government have had to step in to fill the void by introducing the joint use facilities program on education department land to give such councils access to land. I ask the minister to look at skewing funding more towards the outer suburbs to make up for such mismanagement and lack of strategic foresight.

For how long does the largest basketball club in Victoria have to wait and why does it have to wait for a training and playing facility? How is the City of Casey able to find $30 million for the Springvale Casey Scorpions and potentially the St Kilda Football Club on the Casey Fields complex in Cranbourne but nothing for people north of the highway? Why is local money being spent in this way, supporting the St Kilda Football Club, when residents are missing out? And why has the City of Casey promised the Springvale Casey Scorpions 95 poker machines for Casey Fields when, firstly, a council has no authority to make such a promise, and secondly, Cranbourne already has far too many pokies?

The state government has generously committed $500 000 to the Timbarra basketball stadium from the Commonwealth Games surplus. We are committed, but we are waiting again while this council sits back and hopes the federal government will this time around pay for its neglect of Narre Warren North residents and build the Timbarra basketball stadium. Crs Hetherton and Morland, along with Jason Wood, promised everything at the last state election, including $5 million for a basketball stadium. It is about time it put up or shut up. I accept that there are pressures on outer councils due to the enormous growth they are experiencing.

The DEPUTY SPEAKER — Order! The member's time has expired.

Gippsland Water Factory: funding

Mr NORTHE (Morwell) — I raise a matter for the attention of the Minister for Water. The action I seek from the minister is that the state government commit additional funding to the Gippsland Water Factory project. The reason I raise this matter is to address the increase in projected construction costs. The purpose of the Gippsland Water Factory is to treat local wastewater for reuse by local industry, of which approximately 8 megalitres per day is to be utilised by Australian Paper, and to negate the odour issues associated with the open sewer channel linked to the regional outfall sewer, for which approximately 25 megalitres per day will be required.

The Nationals have previously raised concerns about the fact that 25 megalitres a day of treated wastewater will end up in the regional outfall sewer despite local industries, such as the power generators, facing the real prospect of having to reduce energy outputs due to a lack of water supply. When the contract for the Gippsland Water Factory was awarded in late 2005, it was budgeted to cost $128 million, to which the state government announced it would contribute $50 million. However, the projected cost of the facility has since blown out to $174 million. That is an additional $46 million that is now required — one-third of the original budget — after only two years.

While the cost is not as significant as the cost of the Wimmera–Mallee pipeline, news of such an increase has concerned many Gippslanders and should concern this government. There is no doubt that project costs have contributed to circumstances that will see our region's water rates jump by 22 per cent next year and double over five years. This proposed rate hike has left a particularly sour taste in the mouths of community members, particularly concession card holders, given the news that the Premier has intervened to cap metropolitan price increases at 14.8 per cent. When Yarra Valley Water applied to the Essential Services Commission for a 22 per cent annual increase and City West Water applied for a 16.8 per cent rise, the Premier stated that the increases were 'not acceptable to the government'. Why then has this Labor government failed to intervene and address what it has deemed to be unacceptable increases in regional Victoria?

I agree that the Gippsland Water Factory goes some way towards providing local solutions for local issues. However, state government assistance is imperative in order to relieve some of the financial impost on ratepayers. The state government receives substantial dividends from water authorities. The amount received since 1999 is somewhere in the vicinity of $2 billion, and that does not include the environmental levies imposed on water authorities, which further contribute to this government's coffers. Rather than imposing burdensome costs on consumers — the costs would not be so great had this government acted sooner to address water issues in the state — The Nationals advocate redirecting a proportion of this dividend to increase funding for projects such as the Gippsland Water Factory.

To reiterate the point in closing, the action I seek from the minister is for the state government to commit additional funding to the Gippsland Water Factory project.

Consumer affairs: aussiespeedingfines

Mr LANGDON (Ivanhoe) — The matter I wish to raise is with the Minister for Consumer Affairs regarding a pamphlet from a company calling itself aussiespeedingfines, which is being placed in local letterboxes. I ask the Minister to take urgent action to investigate the contents of this pamphlet, which I believe are most mischievous and indeed may well be unlawful and deceitful.

The pamphlet states:

> Never pay a
>
> speeding fine
>
> parking ticket or
>
> red light camera fine again!

It continues:

> Save your
>
> money
>
> licence and
>
> demerit points!

It goes on to say that every traffic fine in Australia — not just in the state but in Australia — is flawed. It states:

> Do not pay another traffic fine because the reality is that you do not have to!
>
> The Australian government and its agencies —

I assume that means the states, although I am not sure that the states would agree that they are agencies of the Australian government —

> are fraudulently extorting about $1 billion annually from innocent motorists under the false guise of road safety.

I take exception to that as a longstanding member of the parliamentary Road Safety Committee. Time and again we are told that speeding is one of the biggest dangers to motorists and that reducing speeding will save lives. I am not sure how a parking ticket will save a life, but I know that speeding is a fundamental flaw in what we do on our roads. This pamphlet would have you believe that the company can get you off speeding fines. It also says 'Freedom to drive — unhindered'. All our local streets would become autobahns. Are we all going to drive on autobahns? It also goes on to say, 'Get your 65-page e-book now'.

An honourable member interjected.

Mr LANGDON — It does not allude to the fact. This is where it is mysterious, because all this appears to be available for nothing. It is almost too good to believe. The Minister for Consumer Affairs told a meeting I was at that, if something is too good to believe, do not believe it. This could be a prime example. It is a nice little production in colour, and it refers to a website. I ask the minister to urgently investigate this pamphlet, which I believe could well be fraudulent. It is certainly dangerous for motorists who believe they can drive unhindered around the state — or in fact around Australia.

Consumer affairs: unlicensed brothels

Mr O'BRIEN (Malvern) — I also raise a matter for the Minister for Consumer Affairs, who has

responsibility for the Prostitution Control Act. I seek an assurance from the minister that he and his department will start taking effective action to close down illegal brothels operating in Victoria. In what should be highly embarrassing to the minister, the *Herald Sun* reported on 15 September that an illegal brothel was operating less than 50 metres from Consumer Affairs Victoria, the agency that is meant to control the prostitution industry in this state.

The Prostitution Control Act provides for serious penalties for operating an unlicensed brothel. This is as it should be, because of the serious dangers that unlicensed brothels pose. Unlicensed brothels are a magnet for organised crime and all that organised crime brings with it, including money laundering, tax evasion and, unfortunately, an increasing number of instances of sex slavery and human trafficking, and all the misery that goes with it. Of course unlicensed brothels are far more susceptible to the health risks that unprotected sex acts pose for both workers in these brothels and their clients.

The minister and the department have been the subject of criticism by the Municipal Association of Victoria's president, Cr Dick Gross. He is reported as telling the *Herald Sun*:

> CAV hasn't confronted this issue …
>
> We need legislative change to make it easier to close these things.
>
> And we need CAV to pull its finger out and get into it.

I note in passing that Cr Gross is a member of the Australian Labor Party and reputedly a former candidate for Albert Park, before he decided to stick to local government.

The article also refers to the Australian Adult Entertainment Industry spokesman, Mr William Albon, who said, quite fairly:

> If the CAV enforcement officers can't detect and close an illegal brothel operating under their noses, then what hope is there of them cracking down on Victoria's estimated 400 illegal brothels?

The minister said in response to a very relevant interjection by the member for Bulleen, who asked if the discovery of the brothel was an embarrassment, 'It is not ideal, is it?'. It is far from ideal, and what it takes is for him to get across his portfolio and take effective steps to ensure that illegal brothels are closed down. They are risks to the women and men who work in them, and they are risks to the community by encouraging the spread of organised crime. The time for buck-passing between Victoria Police, local councils and the state government is well and truly past. The minister needs to take urgent action, and I urge him to do so.

Housing: Cranbourne electorate

Mr PERERA (Cranbourne) — I raise a matter for the attention of the Minister for Housing. I ask the minister to work with other levels of government to improve housing affordability, not only for Cranbourne but for all of Victoria. On Friday, 14 September, I was very pleased to hold a housing round table in Cranbourne to examine this issue. The Minister for Housing attended, along with representatives from local housing support organisations and the local media, and Cr Paul Richardson from the City of Casey.

Addressing the decline in housing affordability is a huge challenge in Cranbourne. In the city of Casey there are more than 1600 families who receive commonwealth rent assistance but who are still paying more than 30 per cent of their income in rent — meeting the definition of rental stress. In the city of Frankston there are just over 1500 households receiving commonwealth rent assistance that are paying more than 30 per cent of their household income on rental costs.

Home ownership affordability in this area has also declined substantially for lower to middle-income households. If we use 30 per cent of income for loan repayments as an affordability guide, it is unaffordable for the bottom 60 per cent of families in the cities of Casey and Frankston to purchase an average-priced house. As we know, many families choose to pay more than 30 per cent of their income on housing, putting real financial strain on other areas of the family budget. This picture is repeated across Victoria.

There is also increasing pressure on the social housing system in my area. Much of the public housing stock is old and needs substantial redevelopment. With the tight conditions in the rental market and the decline in housing affordability, there are also many people who need assistance in accessing housing in Cranbourne.

I am pleased to be part of a state government that has worked to reduce disadvantage and to improve housing outcomes for Victorians. Since 1999 we have built or acquired over 420 new social housing dwellings in this area. This investment in social housing has also seen the waiting list drop from 5120 in 1999 to just over 3800 in the city of Casey today. More work needs to be done to improve housing affordability outcomes and to provide access to social housing for those people who really need it.

I urge the Minister for Housing to continue to take action on this issue, including working cooperatively with other levels of government to improve housing affordability in Cranbourne and right across Victoria.

Snowy Scientific Committee: establishment

Mr INGRAM (Gippsland East) — My adjournment matter is for the Minister for Water. The action I seek is for the government to put forward its two nominations for the Snowy Scientific Committee, which quite disappointingly is five years past its due date to be established. It was required as part of the Snowy corporatisation process and the intergovernmental agreements. The main role in the implementation of this committee is with New South Wales. Victoria has two nominations, and New South Wales up until this stage has not implemented that committee. This is causing incredible concern within the community, because the scientific committee is the watchdog for the environmental flows in the Snowy and the other rivers affected by the scheme.

One of the Victorian nominations is required to represent environmental interest groups. I would like to put on the public record that the Snowy Roundtable, which is an informal alliance of various environment groups such as the Australian Conservation Foundation, Environment Victoria, the Snowy River Alliance, Watermark, Waterkeepers, and the Gippsland Environment Group, as well as community members and scientists, has endorsed Dr Arlene Buchan from the Australian Conservation Foundation — she is the Healthy Rivers campaigner — as the environmental interest groups' nomination. There is general consensus — I have had numerous discussions with the Victorian government on this — that Professor Sam Lake should be the other Victorian nomination. My view is that Victoria needs to publicly state that these are the nominations. There is no reason for more procrastination by New South Wales.

Why is this important? Basically we are at the fifth anniversary, and there is supposed to be a review of the adequacy of the water licence. This is past the deadline for establishment. There were to have been five annual reports, and the committee was to build on them for the fifth year review. None of these things has occurred.

One of the other disappointing things that occurred recently is that a small turbine has been placed on the Jindabyne dam. Because of Snowy Hydro's recalcitrant attitude, it has basically been running the environmental flows as a flat line, but in the last few months there have been daily peaks in the flows. This coincides directly with the peak power prices in New South Wales — in other words, it is using environmental flows for the generation of electricity as a priority. This is outrageous and a disgrace. The New South Wales government needs to make sure that a scientific committee which is a watchdog is established. The Victorian government, I know, has written on a number of occasions to New South Wales, urging it to establish this committee. There can be no more excuses from New South Wales. This needs to be done as soon as possible.

Nuclear energy: plebiscite

Mr CRUTCHFIELD (South Barwon) — I wish to raise a matter for the Minister for Energy and Resources. I call upon the minister to take action to reaffirm this government's opposition to nuclear power and to oppose the location of nuclear power stations in Victoria without the consent of the Victorian people. It is no secret that the Prime Minister, and the Liberal Party generally, are very keen to establish a nuclear power industry in Australia. The Switkowski report produced by the Prime Minister's task force envisioned a functional nuclear power industry in Australia by 2020, with up to 25 nuclear power plants to be built by 2050. Just recently the Prime Minister signed up to George Bush's Global Nuclear Energy Partnership.

The issue of nuclear power, and in particular the question of where the stations will be sited, is of great concern to many Victorians. I know it is an issue that is worrying many people in my electorate of South Barwon. The Surf Coast area around Torquay — as the member for East Gippsland mentioned — and indeed Avalon in the city of Greater Geelong have been mentioned as potential sites for nuclear power stations.

It has created angst in local communities. This concern was highlighted on Tuesday night when the Surf Coast shire became the first local government body in the nation to formally agree to call on the federal government to conduct consultation forums followed by a plebiscite within the shire to gauge community feeling about the construction of a nuclear facility in the region. I would like to spend a bit of time congratulating Cr Rose Hodge and her council. Describing them as proactive is an understatement. The plebiscite is action the council is very confident the community of Surf Coast shire would be keen to participate in, and through which it would be very keen to send a message to the current federal government that nuclear power is not welcome in the Surf Coast shire and Victoria generally — and even Australia.

My constituents in South Barwon, indeed most Victorians generally, are aware of the dangers posed by

climate change and most people are supportive of measures to reduce the impact of climate change on our environment and our economy. But it is also clear that the majority of people do not feel that nuclear power is the way forward, and these people deserve the right to be heard in the event that the federal government seeks to impose a nuclear power facility upon them. That is why I call upon the Minister for Energy and Resources, who is at the table, to take action to support the initiative of the Surf Coast shire in seeking to give its residents a voice on this issue, and more generally to oppose the location of nuclear power stations in Victoria without the consent of the Victorian people.

Disability services: speech therapy

Mrs FYFFE (Evelyn) — My request for action is to the Minister for Education and is regarding the provision of speech therapists. I have been contacted by a mother concerned about her daughter. At seven months of age her daughter was diagnosed with glaucoma which affected her eyesight, and she now wears glasses. She receives 2 hours of vision therapy a week from Vision Australia. When this girl was three years old they discovered that she could not hear very well. This problem is treated every eight months or so with the insertion of tubes into her ears, and the problem has caused the late development of her speech.

In 2005 and 2006 she received speech therapy through Maroondah Hospital. She has had to stop seeing the therapist there since she started school. Her speech therapist at Maroondah Hospital sent a report to the school recommending that she be a high priority for the school's speech therapist. She was tested by the school's speech therapist early in second term and was deemed a high priority for therapy. Last week the mother spoke to the speech therapist at the school to find out why her daughter had not been seen. She was told that the speech therapist was booked up and had no time or funding left. She was then told by the speech therapist at the school that she should get the girl into a private speech therapist as soon as possible. The mother wrote to me:

> I can't afford to pay for private speech therapy, but on the other hand … can't afford … not to do this for her … She sees a VT from Vision Australia once a week for 2 hours this is only to help her with vision skills, she is not allowed to give help in other areas.

This mother asks what is going to happen to her daughter. If she cannot learn to speak properly, she will not progress; she probably will not finish school, which means that she will not get a job and will be living on the dole. This mother has also asked me to work for other people. Checking with my schools, the speech therapist is shared between 10 schools and sees between one and five children per visit, depending on the need of each child. The speech therapist not only has to see the children for therapy but also fit in assessments of new children.

Receiving that letter this week and then getting the Auditor-General's report on the program for students with disabilities yesterday, it was so disappointing to see that the Auditor-General did not conduct an assessment of the unmet demand from children with disabilities in the state school system. The audit focused on the accountability framework and in fact highlighted the lack of accountability on what services are provided for children with disabilities. Nowhere in the report does it refer to the unmet demand, and that is very disappointing. I urge the minister to provide more speech therapists for the 10 schools in my electorate affected by this. If these children are not helped now — —

The DEPUTY SPEAKER — Order! The member's time has expired.

Housing: Coburg

Ms CAMPBELL (Pascoe Vale) — I raise a matter for the Minister for Housing. The action I seek is for the minister to follow up a recent Victorian Civil and Administrative Tribunal decision in relation to Munro Manor and to work quickly to add to the total stock of housing in my electorate by turning this site into good quality, affordable accommodation for singles on low incomes. There is a growing problem in my electorate with housing affordability, particularly for singles and those experiencing homelessness. It is a matter that requires considerable attention from my electorate office. I pay particular tribute to Jenny Lobato for the wonderful work she does in this regard.

My understanding is that the Australian Bureau of Statistics report *Counting the Homeless 2001* showed that Moreland had the second highest level of homelessness within suburban Melbourne. There is clearly a pressing need for more affordable accommodation to alleviate homelessness, in particular for single people. As of July 2007, according to the Office of Housing, approximately 55 per cent of the waiting list for housing in the Moreland LGA (local government area) was for single accommodation.

Outside of public housing there is also real stress in the private rental market. In fact, as I understand it, there are in excess of 5500 commonwealth rent assistance (CRA) recipients in the Moreland LGA. I am advised that, as at June 2006, over 1500 of those CRA recipients were experiencing rental stress — that is,

they were paying in excess of 30 per cent of their income in rent. Clearly the commonwealth government's policies are not working in private rental. On the other hand, I know that the Victorian government has been working hard to reduce housing stress on vulnerable Victorian families.

In fact in Moreland the director of housing owns 2090 units. With the recent budget commitment of $510 million for social housing and homelessness assistance — the largest one-off commitment ever made by a state government — I know the government will be working to build more accommodation in this area. In that regard I am pleased to hear that a planning permit has recently been issued by the City of Moreland for the upgrade of the Office of Housing property at 45–47 Munro Street, Coburg, into new accommodation for low-income singles.

I raise this adjournment issue today to pay particular tribute to Jenny Lobato, my electorate officer of 11½ years. Jenny has served my electorate particularly well with all the issues that come into the electorate office. Housing is one of the most complex issues that require the advice of an electorate officer. People who come into my office have always been respected. Jenny is a hero — she is regarded as a hero way beyond the Pascoe Vale electorate.

Responses

Mr BATCHELOR (Minister for Energy and Resources) — The member for South Barwon raised with me the issue of nuclear power and particularly his concern that such a generator could be located within the Surf Coast region. He highlighted the concerns he and his local community have about this possibility, particularly as demonstrated by the Surf Coast shire's recent decision to call on the federal government to allow a plebiscite within the shire to gauge public opinion about the construction of a nuclear facility in or around the Surf Coast shire.

The Victorian government has a longstanding commitment to Victoria being a nuclear-free state. The location of nuclear facilities on Victorian land is prohibited under longstanding legislation passed by the Victorian Parliament. Members will recall that earlier this year the government desired to add a legislative requirement for plebiscites to be held in Victoria should the commonwealth government seek to override that longstanding direction of the Parliament of Victoria. That proposal for plebiscites was, amazingly, voted out of Parliament by a coalition of the Greens political party and the Liberal Party. However, I can assure the member for South Barwon that the Brumby government remains opposed to the introduction of nuclear power in Victoria. I believe the majority of Victorians remain opposed to the location of nuclear power plants and nuclear waste dumps in their neighbourhoods.

I agree with the member for South Barwon that we must not let the government ignore the views of local communities. I guess that is why his local council, the Surf Coast Shire Council, has asked the commonwealth government to put its money where its mouth is and have a plebiscite before the federal election so this issue can be properly tested. Perhaps they could have it in conjunction with the federal election. We support the Surf Coast Shire Council because the establishment of a nuclear power facility in the Surf Coast region would create substantial, long-term security, environmental and health and safety problems, not only for this beautiful part of Victoria but for the wider community.

Electricity produced from nuclear generation may be effectively carbon free, but it is not plutonium free. These reactors have high capital costs. They require high water usage, and they leave these problems for future generations to manage. We have alternative energy sources. That is why under this government we are developing a new energy hub down in the south-west of Victoria, so there is no need to have these sorts of considerations entered into. One wonders why the federal member for this region, Stewart McArthur, is such a strong advocate of nuclear power.

In addition to the health and safety problems where nuclear power exists, it is very costly. It is perhaps up to 50 per cent more costly to operate than the conventional power stations that are currently operating. Further adding to the operational costs is the question of insurance for nuclear power stations, which cannot be obtained in the private market. That would mean that the government and the local residents wherever it was built would need to be prepared to cover that cost now and for many, many years to come.

Rather than relying on a single technology to meet the needs of a carbon-constrained present and future, we believe we need to adopt a range of alternative policies and technologies. We believe developing clean coal technologies, for example, and renewable energy sources really offers better opportunities than going down the nuclear path. This approach is supported by other state premiers and other populations around Australia. We call on the federal government to acknowledge this request from the Surf Coast Shire Council and to give a commitment to have a plebiscite well in advance of the federal election.

Over the last 12 months we have seen John Howard slowly revealing his plans. He knows what they are, and he has been slowly and systematically revealing his plans for a nuclear power industry here in Australia. The latest evidence was revealed when he signed the new bilateral nuclear collaboration agreement with the United States.

What is of great concern, clearly expressed by the motion of the Surf Coast shire, is the real possibility that the Surf Coast is an ideal location, according to the Switkowski report, which recommended that some 25 nuclear power plants be built around Australia. Why is it an ideal location? Because it is very near big population centres where energy is needed, such as Geelong, with all its heavy industry, and a little further afield, Melbourne. But importantly it has access to transmission lines. There is the transmission line that goes from Melbourne all the way down to Portland — very near to the Surf Coast shire — and there are the transmission lines that go from the Anglesea power station down into Geelong itself. These transmission lines identify the locations the federal government is most likely to have its eye on as sites for a nuclear power station. That is why the Shire of Surf Coast is undoubtedly concerned about this very issue.

We know that Stewart McArthur sees himself as Mr Burns out of *The Simpsons*. He sees himself as Mr Burns here in Victoria. He is a staunch and long-term supporter of nuclear energy. He is desperate to do this. We know that Stewart McArthur would be down there building the nuclear power stations with his own hands if he could get them up and operated. That is why the Surf Coast council has identified its area as a key target — because of the enthusiastic support for the proposals by Stewart McArthur and the existence of the big transmission powerlines, such as the one from Anglesea, where a coal-fired power station currently exists, or the Portland–Melbourne powerline, which would provide an ideal transmission method to get power to big markets in either Geelong or Melbourne. We are solidly in support of the Surf Coast council.

Mr ROBINSON (Minister for Consumer Affairs) — I refer to the issue raised with me by the member for Malvern, which pertains to a report of an illegal brothel. This was brought to my attention in a report in the *Herald Sun* on I think Saturday. Importantly it refers to allegations of an illegal brothel operating in Bourke Street.

Mr O'Brien interjected.

Mr ROBINSON — It is interesting that the member for Malvern, as a lawyer, would outside this place defend the view that they were accusations and allegations. He would go to great lengths to say they were only allegations, and would probably get paid by the day to extrapolate the argument that they were allegations. But in here he has a different test, and automatically the accusations stand. They are allegations.

The government takes these reports seriously. Each year Consumer Affairs Victoria receives many, many reports of illegal activity across a whole range of trades and professions.

Honourable members interjecting.

Mr ROBINSON — I will come to that in a moment. The licensing of brothels has historically in Victoria involved a number of agencies. It has involved, for example, Consumer Affairs — this is true; this is the case made out by the member — and the Business Licensing Authority. It has involved Victoria Police, and the member is quite correct in saying that the police have a role in oversighting and investigating illegal behaviour. Thirdly, it is true that local councils, through the issuing of planning permits and maintaining the integrity of planning schemes, have a role to play.

The member referred to the Municipal Association of Victoria and to comments made by Mr Dick Gross. I have very high regard for Dick Gross and his organisation. And it is true, as the member stated, that that individual was an ALP preselection candidate in Albert Park. I thank the member for Malvern for reminding me about the Albert Park preselection and indeed the by-election, which was held last week. And in case the member for Malvern did not catch up with it: we won, and we won very well! What a contrast, that we on this side had an embarrassment of riches when it came to preselection candidates for the Albert Park by-election, in stark contrast to the members opposite who, when it came to the contest, squibbed it. They did not put up a single candidate — they withdrew. We are intrigued on this side of the house as to whether the member for Malvern was with the camp that wanted to run a candidate or with the camp that did not want to run a candidate. We might get an answer; we would love an answer.

Mr O'Brien — On a point of order, Deputy Speaker, I am happy to explain to the minister at an appropriate time my views on these matters, but this is not the appropriate time, and I would ask him to come back to answering on a very serious issue.

The DEPUTY SPEAKER — Order! I uphold the point of order and ask the minister to come back to the matter raised.

Mr ROBINSON — I wholeheartedly agree that another time would be an appropriate opportunity for us to understand why they are all tip and no iceberg over there when it comes to a real contest.

I understand why the MAV (Municipal Association of Victoria) would be frustrated. Because what is required in all these instances is effective coordination between the agencies that have a responsibility for the licensing of brothels. I accept — and in the last few weeks I have had discussions with Consumer Affairs Victoria (CAV) — that the coordination between the different agencies needs to be improved. I accept, and I think I commented in the media last week, that we need to do better in ensuring that the licensing scheme we have in place remains a strong and respected one.

I can assure the member that, in specific response to the allegations of activity at the premises in Bourke Street, CAV officers have visited those premises — they were requested to do that by me earlier this week — and have had discussions with the owner about the claims being made. Those inquiries will continue. I will let those inquiries continue. That is the case, as it should be the case. That is the proper procedure. It is incumbent on all of us to ensure that, where we see suspicious and shady activity, we report it to the relevant agencies, whether that be the police, the council or the CAV. My advice to the member for Malvern is that, if he comes across any shady activity in the vicinity of his office, he should ring the responsible agencies.

The member for Ivanhoe raised with me a very important issue, and I thank him for it. He is not the only member who today has drawn this to my attention; I think the member for Oakleigh also brought this to my attention. It is about a circular that is being put into letterboxes encouraging people to purchase products which will allow them to never pay a speeding fine. I have noted the contents of the circular, and I am concerned about the outrageous and blatantly dishonest claims that it makes. The member referred to some of them, and I just want to point out two. The claim that I found truly offensive is as follows:

> The truth is that our roads are not safer as a result of these speed detection devices …

That is an outrageous claim to make. The member quite properly referred to the leading role that the Road Safety Committee — a bipartisan committee that is well respected throughout Victoria and indeed nationally and internationally — has played in improving road safety in Victoria. Its contribution over many years is well known — —

Mr Batchelor interjected.

Mr ROBINSON — And supported ably by a succession of ministers, including the minister beside me in a previous role! It is an outrageous claim, and it is clearly offensive.

The other claim that is made, and I think the member referred to it, is:

> The Australian government and its agencies are fraudulently extorting … dollars … from motorists under the … guise of road safety.

What an absurd claim to make. It does not stand up to any scrutiny at all. I took the opportunity today to visit the website of this company, and it makes a number of other quite startling claims. For example, it claims that 'we have full political party backing'. The website reads:

> We have been officially told by the spokesman for the new One Nation party — Mr Mark Aldridge — that they are 100 per cent behind us and we have their full support! How's that for powerful backing in just four short months.

My response to that on behalf of every member of this house — and I hope every member would support me in it — is that it is a pretty sad indictment that of all the political parties in the country it resorts to an endorsement from the most discredited of all, in all its reincarnations. There is further material on the website about the sorts of companies that sponsor the company putting out this material. There is an intriguing reference here to 'www.thewaterengine.com', and it reads as follows:

> Not just any water engine — the water engine!
>
> Working with a not-for-profit organisation in open-source research and development of water-powered cars and suppressed inventions.

The best thing that can be said about this truly wild and wacky reference — and added to it is a dose of conspiracy theory, which is what you would expect from people that have anything to do with One Nation — is that we would all be very confident that anyone driving a water-powered car would never break any speed limit. That is being pretty generous. That is the best that could be said about that.

This material goes on, and it is quite bizarre. Interestingly the circular has no name attributed to it, it has no postal address and it has no phone number. The material carries with it a bizarre disclaimer, which reads:

> Please note, this leaflet is to be used without prejudice towards the authors, printers and distributors. This is not to be construed as legal advice, it is provided for informational purposes only.

Anyone with legal training would look at this disclaimer and say that it is not worth the paper it is written on. It is a bizarre circular. I will refer it to Consumer Affairs Victoria. It is inviting people to purchase products, and that would seem to me to bring it within the ambit of legislation that outlaws deceptive and misleading conduct. Certainly I will be encouraging Consumer Affairs Victoria to investigate it thoroughly and to liaise with its fellow interstate agencies.

I also want to say, finally, that anyone who picks this up out of their letterbox ought to give it the treatment it deserves and put it promptly into a rubbish bin.

Mr BATCHELOR (Minister for Community Development) — The members for Cranbourne and Pascoe Vale raised different matters for the Minister for Housing, and I will pass those on to the minister.

The members for Gippsland East and Morwell raised separate matters for the Minister for Water, and they will be passed on to the minister.

The member for Kew raised a matter for the Minister for Police and Emergency Services.

The member for Narre Warren North raised a matter for the Minister for Sport, Recreation and Youth Affairs.

The member for Evelyn raised a matter for the Minister for Education.

I will make sure all those matters are passed on.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 4.55 p.m. until Tuesday, 9 October.