PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 22 August 2007

(Extract from book 12)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
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Legislative Assembly committees

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

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

Joint committees

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

Drugs and Crime Prevention Committee — (*Assembly)*: 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*): Dr Harkness, Mr Herbert, Mr Howard and Mr Kotsiras. (*Council*): Mr Elasmar, Mr Finn 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 Dixon, Mr Perera, Mrs Powell and Ms Wooldridge. (*Council*): 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.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

Acting Speakers: Ms Beattie, Ms Campbell, Mr Eren, Mrs Fyffe, Ms Green, Dr Harkness, Mr Howard, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, 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. M. BRUMBY (from 30 July 2007)
The Hon. S. P. BRACKS (to 30 July 2007)

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

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Mr E. N. BAILLIEU

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

Leader of The Nationals:
Mr P. J. RYAN

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

Member	District	Party	Member	District	Party
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Burgess, Mr Neale Ronald	Hastings	LP	Napthine, Dr Denis Vincent	South-West Coast	LP
Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Northe, Mr Russell John	Morwell	Nats
Clark, Mr Robert William	Box Hill	LP	O'Brien, Mr Michael Anthony	Malvern	LP
Crisp, Mr Peter Laurence	Mildura	Nats	Overington, Ms Karen Marie	Ballarat West	ALP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Pallas, Mr Timothy Hugh	Tarneit	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Pandazopoulos, Mr John	Dandenong	ALP
Delahunty, Mr Hugh Francis	Lowan	Nats	Perera, Mr Jude	Cranbourne	ALP
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Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Duncan, Ms Joanne Therese	Macedon	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
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Fyffe, Mrs Christine Ann	Evelyn	LP	Ryan, Mr Peter Julian	Gippsland South	Nats
Graley, Ms Judith Ann	Narre Warren South	ALP	Scott, Mr Robin David	Preston	ALP
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Haermeyer, Mr André	Kororoit	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Hardman, Mr Benedict Paul	Seymour	ALP	Smith, Mr Kenneth Maurice	Bass	LP
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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
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [2]	Albert Park	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
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

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WEDNESDAY, 22 AUGUST 2007

Wednesday, 22 August 2007

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.35 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 14 to 28 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 6.00 p.m. today.

NOTICES OF MOTION

Notices of motion given.

Mrs VICTORIA having given notice of motion:

The SPEAKER — Order! There is a previous ruling that says that where members give notice of similar motions but with a different example for each — that is, relating to each member's electorate — the notices are considered to be identical and therefore ruled out of order. I rule the member for Bayswater's notice of motion out of order.

Further notices of motion given.

Mr Walsh — On a point of order, Speaker, I seek clarification of that ruling. I believe that is stifling a member's rights to raise some issues in their electorate — —

Honourable members interjecting.

The SPEAKER — Order! The member for Swan Hill will have his point of order heard in silence.

Mr Walsh — If a member of Parliament raises a particular issue in a notice of motion and mentions something in their electorate, that then excludes every other member of Parliament from raising that issue in this house. I would ask that you reassess the ruling you have given and potentially change it.

The SPEAKER — Order! The member's interpretation of what I have just said is not accurate. The ruling is not stifling a member's ability to raise an issue in their electorate. It is about the wording of notices of motion being identical except for a different suburb or place being named. It is actually about the wording of the notice of motion. It is a ruling that was made in the last Parliament by the previous Speaker, and it is one that I am happy to uphold.

Mr Stensholt — On a further point of order, Speaker, I notice that in recent weeks there has been what you might call a serial repetition of notices of motion in terms of picking up letters from newspapers. Could you look at that as well, Speaker?

The SPEAKER — Order! I will rule on that particular point of order. None of those notices of motion has been ruled out of order, because while raising a similar issue they have all been expressed very differently. They have been expressed in the words of the people who have written those letters to the newspapers. While, as I said, the subject is very similar and there are common threads running through those notices of motion, they are not identical in the form to which I have just referred.

Further notices of motion given.

Mr WALSH having given notice of motion:

Mr McIntosh — On a point of order, Speaker, I draw your attention to your ruling that the notice of motion of the member for Bayswater was out of order. I want to clarify one matter in relation to that ruling. The member for Evelyn spoke about crimes against the person in the city of Brimbank. I understand that the member for Bayswater referred to the shire of Melton, official police statistics and a different crime that related to rape. They were two different subject matters. I ask you, Speaker, to reconsider that ruling, given that you now have before you the texts of the two motions I am referring to.

The SPEAKER — Order! I have before me the wording of the notices of motion of the member for Warrandyte and the member for Bayswater. I am happy to discuss the specific wording with the member for Kew, but I will not take up more time in the chamber this morning.

PETITIONS

Following petitions presented to house:

Coleman Road–Stud Road–Harold Street, Wantirna South: safety

To the Legislative Assembly of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the house the dangers posed to pedestrians and turning traffic due to obscured sight lines at the

intersection of Coleman Road, Stud Road and Harold Street, Wantirna South.

The petitioners therefore request that the Legislative Assembly of Victoria resolves that the Minister for Roads and Ports undertakes an immediate review of the intersection in conjunction with VicRoads, including the consideration of right turning arrows, with a view to ensuring the safe passage of all users of the intersection.

By Mrs VICTORIA (Bayswater) (229 signatures)

Planning: Lonsdale Lakes

To the honourable the Speaker and members of the Legislative Assembly of Victoria:

Rising sea level must restrict new home construction on Lonsdale Lakes.

This petition of certain electors of the electorate of Bellarine draws to the attention of the Assembly that under the provisions of the Planning and Environment Act and the Coastal Management Act, an environmental effects statement assessing the potential impact of global warming and rising sea levels on any proposed residential development across the Lonsdale Lakes corridor wetland, which connects coastal wetlands of international, national and state significance at Point Lonsdale in Victoria, requires the approval of the Minister for Planning.

The low-lying coastal land and waterways of Lonsdale Lakes are already subject to flooding from overland flows, and the risk and extent of flooding will be made worse due to rising sea level.

Global warming will cause sea levels to continue rising long into the future, ultimately exceeding predictions for the remainder of this century.

Knowingly allowing the release of land titles for the construction of homes, which will ultimately be compromised by an increasing incidence of flooding, cannot be tolerated by any government.

Your petitioners request the Assembly to ensure that any proposal to release land for the construction of people's homes on the most vulnerable coastal lands such as Lonsdale Lakes, which are already subject to flooding from overland flows, be rejected and declared unsuitable for housing given that no amount of engineering works can promise protection against the relentless rise in sea level.

By Ms NEVILLE (Bellarine) (100 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 Dr SYKES (Benalla) (305 signatures)

Doncaster East: liquor outlet

To the Legislative Assembly of Victoria:

The petition of the residents of Manningham draws to the attention of the house that it is proposed to close the Safeway supermarket at Jackson Court, Doncaster East, and replace it with a Dan Murphy liquor outlet.

The petitioners therefore request that the Legislative Assembly of Victoria inform the director of liquor licensing that such a move would have very serious detrimental effects on residents and traders in the vicinity of Jackson Court, Doncaster East, and such a move would be in opposition to the very strong wishes of the local community.

By Ms WOOLDRIDGE (Doncaster) (95 signatures)

Peninsula Community Health Service: future

To the Legislative Assembly of Victoria:

The petition of the residents of the Mornington Peninsula draws to the attention of the house or points out to the house as a separately incorporated community health service, Mornington Peninsula Community Health Service has a long and highly regarded history that has actively engaged the peninsula community in service planning and delivery.

We request that Peninsula Community Health Service remains as a declared community health centre under the Health Services Act.

For Peninsula Community Health Service to continue as a separately incorporated community health centre and re-establish a board of management consisting of community members.

The petitioners therefore request the Legislative Assembly of Victoria, that the Peninsula Community Health Service should stand alone and is able to:

ensure the delivery of high-quality clinical services to consumers within a comprehensive clinical governance framework;

achieve the delivery of integrated community-based services within the context of current government health policy;

support the workforce by providing appropriate work environments, professional training and support, career development et cetera;

achieve sound financial management of government funding;

actively pursue the growth of community health services to the Mornington Peninsula community.

By Mr DIXON (Nepean) (58 signatures)

Tabled.

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

Ordered that petition presented by the honourable member for Bellarine be considered next day on motion of Mr TREZISE (Geelong).

Ordered that petition presented by the honourable member for Bayswater be considered next day on motion of Mrs VICTORIA (Bayswater).

Ordered that petition presented by the honourable member for Benalla be considered next day on motion of Dr SYKES (Benalla).

DOCUMENT

Tabled by Clerk:

Prevention of Cruelty to Animals Act 1986 — Code of Accepted Farming Practice for the Welfare of Pigs (Revision No. 2)

MEMBERS STATEMENTS

Sspitfires basketball team

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I would like to say thank you to the Sspitfires basketball team for inviting me to their game last Saturday, 18 August. Founded in 2001 by the Short Statured People of Australia, the Sspitfires play each week in the Port Phillip Junior Basketball Association.

I was incredibly impressed with the skills, teamwork and love of the game demonstrated by the Sspitfires players. Several team members were also part of Victoria's successful team that took home the Rosemary Hobbs Trophy, defeating New South Wales. Congratulations to the Sspitfires who played on Saturday — Meredith Young, Jonathon Tripp, Oliver Lynch, Francis Kelly, Robert Paton, Nathan Stewart, Sam Millard, Matthew Myers, Michael Spain, Stefano Salemme and Anthony Koedyk — and to their coach, Margaret Daly.

Pam Glover and Greg Holman

Mr MERLINO — Great teachers are like precious stones — much sought after and highly prized. In the Monbulk electorate we are fortunate to have many such teachers who are valued by their peers and the wider community. Sadly we are losing two of these teachers who were jewels in the crown of our education system. Pam Glover retired last month after seven years as principal of Monbulk College, while Greg Holman will retire next month after seven years as principal of Upwey High School.

Renowned for her leadership, Pam Glover's prime focus was always on her students and their education. She took over the college when enrolments were declining, but as testimony to her career there is now a waiting list for enrolments. Similarly Greg Holman is respected right across the Dandenong Ranges community for his dedication to his students. He will be remembered for pioneering new state-of-the-art facilities and enhancing the school's reputation in music and arts.

I wish both well in their retirement and join many students in my community in saying thank you.

Abalone: virus

Mr K. SMITH (Bass) — I wish to condemn the minister responsible for fisheries, the Minister for Agriculture, and his department head, Dr Peter Appleford, for their apparent lack of concern for the important abalone industry here in Victoria. This is an industry worth tens of millions of dollars to Victoria. We had a good and clean abalone industry until the virus escaped into the wild off the west coast of Victoria. The virus has since run rampant over hundreds of kilometres in the seas off the west coast of Victoria, and the Department of Primary Industries does not appear to know what to do about it. In fact it does not want to do anything about this problem.

The department had a chance to quarantine the area when the original virus was discovered, yet it did nothing to help and in fact failed to properly identify the virus. It could have had expert help from overseas, yet it rejected that help. It has since carried out a vindictive campaign against the abalone divers and their organisation, it has cut funding to the scientific groups and organisations associated with a recent newspaper exposé on the department's failure and it has threatened Seafood Industry Victoria with action if it does not kick out members representing the Victorian Abalone Divers Association.

The department, Peter Appleford and the minister have failed to act in a professional way on this threat to Victoria's abalone industry. They think that making threats to industry members and those carrying out scientific research into this virus is easier than managing this disease, which will cost Victorians millions of dollars.

Tanja Liedtke

Mr HULLS (Attorney-General) — I wish to express my deep sorrow at the tragic death of young choreographer Tanja Liedtke. Whilst I did not know Ms Liedtke personally, I do know her father, whom I met in his capacity as head of Bosch in Australia during my time as Minister for Manufacturing Industry. Kurt Liedtke in fact played host to me on a trip to Germany, and I remember with fondness a dinner we shared in Stuttgart, his daughter's birthplace, at which I really impressed him with my previously undiscovered talent for ordering food in German. What he did not realise until later was that the menu handed to me actually had an English translation on the back!

Since that enjoyable occasion we have kept in touch in various ways, particularly as we both share a love of racing. The last time I saw Kurt Liedtke was earlier this year when he talked with joy about his daughter's extraordinary talent and her ability to translate the medium of dance to such a wide and varied audience. She had in fact just applied for the coveted position of choreographer with the Sydney Dance Company, and whilst she was viewed as an outside chance, Kurt and his wife, Gerlinde, were still very hopeful of her success.

Tanja, the youngest of three, was the apple of her father's eye, and he glowed as he shared his dreams for her. Kurt and Gerlinde were enormously proud of their daughter, just as they are of all their children, so it is with deep sadness that I express my heartfelt condolences to the Liedtke family on such a tragic loss not just of one they loved so well but of one who shared the beauty and grace of her art so generously with the world.

Preschools: departmental responsibility

Mr CRISP (Mildura) — I would like to welcome the inclusion of kindergartens into the education portfolio. I have attended a couple of kindergarten management committee meetings since the announcement, and I can advise that those committees have received no detailed information as yet regarding such issues as changes in management and administration, the transfer of employment and staff, future commitments to running costs and when it is all going to happen. Kindergarten Parents Victoria does not know anything either. Will the government be funding three-year-old groups? What will the classes be? Those and many other issues remain unresolved and unclear at this stage.

The movement of kindergartens from the community services portfolio to the education portfolio is a policy that The Nationals have supported for more than five years. We believe it is simply common sense. The Nationals have consulted widely with families throughout country Victoria, and we are aware of the strength of feeling amongst kindergarten teachers and aides and families with kindergarten-aged children.

Because of this shift preschool teachers should have access to professional development opportunities, and then some of the community burden for operating and managing kindergartens would be reduced. I would like to congratulate the kindergarten committees and the teachers themselves for their support of The Nationals in our efforts to get this great result.

Carnegie Primary School: classrooms

Ms BARKER (Oakleigh) — It is always a great pleasure to visit Carnegie Primary School, and it was certainly very pleasing to be able to visit the school last Friday to have a look at the work that has been undertaken in the junior school area following a grant of $100 000 in May 2006 through the previous Excellence for All school improvement program. Prior to this grant the junior school was difficult to manage, with a growing prep group of children and a school building which was not providing the opportunities for modern learning and teaching methods.

The school has redesigned what were four classrooms into three updated prep classrooms, which are open and connected to one another. Prior to this redevelopment some of the children needed to move through one of the classrooms to access the toilets and the library and IT area. This was obviously unsettling. As well as upgrading some of the classrooms, a hallway has now been installed to ensure appropriate access to the toilets. With the installation of this hallway and therefore a reduction in the size of what was a classroom the school now has a very valuable meeting room, which is used by the school community. There is also now an area in this room where two of the teachers have work space, which they did not have previously.

As is always the case when renovating old buildings, there were some interesting finds. When the old blackboards were removed it was found there was no

actual wall behind them. The rooms had a stage-type structure, and when that was removed it was found there were no floorboards underneath. However, they dealt with those extra little challenges very capably, as always. I pay tribute to the great leadership at this school. Elizabeth Mulhearn is a very caring, dedicated and professional principal who is constantly striving to ensure that children who attend Carnegie Primary School receive a high-quality education. She is very well supported by assistant principal, Michael McCarthy, a great team of teachers and a hardworking school community.

Hospitals: waiting lists

Ms WOOLDRIDGE (Doncaster) — I rise to condemn the government for the state of surgical waiting lists at public hospitals. My constituent, Mrs Lois Stewart of Doncaster East, has had her hip surgery at Box Hill hospital cancelled four times. After waiting more than a year she was booked to have the procedure on 2 July. It was later cancelled until 18 July, until 1 August and until 22 August, the fourth cancellation. She now has a new date of 5 September but has no confidence that that will not be cancelled as well. Mrs Stewart is 76 years old. She lives by herself, and although she believes she is only one of thousands in this situation, it does not lessen the pain — and she is not alone.

Another constituent, Mr Bassam Kamel, who needs surgery on his left knee, has had his appointment cancelled five times at Box Hill Hospital. Twice Mr Kamel was actually admitted and had undergone preoperative procedures before his surgery was cancelled. On the last occasion he spent 2 hours on a trolley with a drip in his arm waiting before he was sent away. The implications of continually delaying treatment for him are that he cannot work, he cannot exercise and he is experiencing symptoms of depression. It is appalling that both Mrs Stewart and Mr Kamel have had to endure such terrible delays, stress and uncertainty. The government must get serious about adequately staffing and resourcing Victorian hospitals.

St Peter's Primary School, Bentleigh East: RoadSafe award

Mr HUDSON (Bentleigh) — Last week I had the pleasure of presenting St Peter's Primary School with its RoadSafe accreditation award. It is only the second school in the state to receive this award from RoadSafe. The award is given to those schools that have made outstanding achievements in teaching their students about road safety. St Peter's has introduced an awareness of road safety into all aspects of its school curriculum, and this is evident in the posters produced by the children that are on display. These include sensible messages such as 'Slow down at orange lights', 'Always wear a seatbelt', 'Never cross a railway crossing when the lights are flashing' and 'Always cross the road at pedestrian lights'.

The school has also undertaken a considerable amount of work in informing the school community of the dangers to children caused by parking illegally, and it has promoted legal parking when dropping off and picking up children in its newsletters. In addition the school has promoted walking safely to school in groups through the school walking bus program in conjunction with the Caulfield community health centre. The school community has also successfully lobbied for the installation of 40-kilometre-an-hour electronic school zone signs in busy Centre Road.

It was very clear at the presentation of the awards that the students had an enormous interest in and knowledge of issues related to road safety. Congratulations to the school parents, students and teachers, ably led by the principal, Michael Juliff, and the vice-principal, Rob Horwood, who have instilled so well into the students at St Peter's Primary School the importance of road safety.

Premier: performance

Mr MULDER (Polwarth) — If the Victorian public ever needed a reason to mistrust the Premier of Victoria, they got it yesterday. In 1999 the then Leader of the Opposition, now the Premier, claimed that a Labor government was committed to keeping the transport system publicly owned. Yesterday we saw just what a hypocrite the new Premier is, as he once again backed down from a promise set in concrete. 'A hero in opposition, gutless in government' is the best way to describe the Premier.

Added to this, we have had further promises made, backed and costed by the former Treasurer, now Premier, in relation to public transport, only to see those promises go up in smoke as soon as an election has been run and won. There was Labor's promise to complete a full feasibility study into the rail extension to Rowville. Then of course there was the Cranbourne East rail extension, followed by the South Morang rail extension. Then came the rail link to the airport and a tram extension to Knox City, all dumped by the former Treasurer and now Premier of Victoria.

An honourable member — All lies!

Mr MULDER — All lies! It is one thing to mislead the public on one occasion and claim hard times, as the last Premier did with the Scoresby toll road, but this Premier's record in misleading the public knows no bounds. At the last state election members of the public believed they were voting for Steve Bracks, and who did they get? They got the Treasurer. It is a bit like sending a brood mare off to Redoute's Choice and finding it has been got at by the pony teaser!

Country Fire Authority: Plenty brigade

Ms GREEN (Yan Yean) — I was delighted to recently attend the Plenty Country Fire Authority's annual Christmas-in-July presentation night. As always the hearts, humour and red wine were warm and engaging, and the food filling and well finished off with Christmas pudding. The Christmas present auction was hotly contested and well organised by the auxiliary. Well-loved firefighter Trevor Boyd again won firefighter of the year, and Tony Smith won the captain's trophy.

The night was topped off by the awarding of the Country Fire Authority's most prestigious award, the national medal, to Captain Gavin Wright, who has since accepted a permanent position with the CFA in Kerang. Well done, Gavin, on your many years of service to the CFA and to the Plenty community. You will be sorely missed.

Country Fire Authority: Epping brigade

Ms GREEN — I was very pleased to attend the Epping Country Fire Authority's annual service awards, which had my friend, firefighter Deb Azzopardi, as a very good master of ceremonies. This is a great and very busy brigade which attended 388 calls over the past year, including fire calls and road rescue, and which in addition did some great community education.

The firefighter of the year award was presented to Wayne Mark, and there was a special presentation to brigade administrative support officer Virginia Lister, thanking her for her four years of service and wishing her well in her new role as region 13 training coordinator. The day was topped off by the award of the Country Fire Authority's most prestigious award, the national medal, to Charlie Cleary for his 27 years of service, including 20 as a volunteer, during which he has attended a herculean 5500 fire calls. A fine effort from a fine leader in the CFA.

Kelletts Road, Rowville: duplication

Mr WAKELING (Ferntree Gully) — The Rowville and Lysterfield communities can be rightly upset at the appalling manner in which the Minister for Roads and Ports has handled the current duplication of Kelletts Road in Rowville. At the intersection with Napoleon Road the government allowed for the height of the road to be increased by nearly 5 metres behind the houses of many Rowville and Lysterfield residents without any consultation with affected residents or with the Knox council. After significant community opposition, the government was forced to back down and reduce the height of the road to 2.2 metres. Despite the release of glossy brochures and much-heralded press releases, the government has now changed the height to 2.6 metres without any discussion with or explanation to affected residents.

The handling of this project by the Brumby government has been appalling, and residents have lost complete faith in this government's ability to adequately consult with the community to ensure that the road project does not significantly impact on the ongoing amenity of Knox residents.

Police: Rowville station

Mr WAKELING — I am also concerned about the Brumby government's lack of commitment to police resources in the Knox community. In 1999 the ALP promised the Rowville community that it would deliver a 24-hour police station if elected. Unfortunately the Rowville community was severely let down when it was only provided with a 16-hour police complex. Crime does not stop at midnight, nor should our police station. At the last election the Liberal Party promised to deliver enough staff to ensure that the station is operational 24 hours per day, something which this government is not prepared to do. I and the member for Scoresby will continue to hold this government to account to ensure that the Rowville police station is adequately resourced 24 hours a day.

Country Fire Authority: Geelong West brigade

Mr TREZISE (Geelong) — On Saturday night I had the pleasure of attending the Geelong West Country Fire Authority's annual report dinner at the Geelong West bowls club. This was the 124th annual report of the Geelong West fire brigade; hence 2008 will mark 125 years of service to the community. Taking this into consideration, members can see the lengthy and — I can assure them — effective service provided by the Geelong West fire brigade for many, many years to its community. Like all CFA brigades,

Geelong West consists of a band of dedicated members, with 28 operational firefighters currently on the rollcall. Since July 2006 the brigade has attended 324 calls, and in December the brigade sent a contingent of members to the north-east Victoria fires. The dinner was hosted by ex-captain Bruce Pickett whilst captain David Hoskin was presented a life membership of the brigade after 28 years of dedicated service.

The year 2008 will prove to be a busy year for the brigade, as construction of a new fire station will take place in McCurdys Road. I am proud to report that this move is the result of a million dollar-plus contribution of funding from the Brumby government. I take this opportunity to congratulate all members of the Geelong West fire brigade, and I look forward to working with them, especially through 2008 and beyond.

Ringwood North Primary School: achievements

Mr R. SMITH (Warrandyte) — I rise to draw the attention of this house to a school in my electorate, Ringwood North Primary School. I have been extremely impressed by the commitment of this school's principal and staff in striving to create an exemplary educational facility for their students. Ringwood North Primary School is fortunate to have an active and hardworking community of parents contributing to the operation of the school, and has achieved a great deal through the involvement of these parents.

In May 2006 Ringwood North Primary School won a Victorian education excellence award in the category of curriculum innovation, an award of which the school is justifiably proud. The staff consistently put a great deal of thought and effort into examining ways to improve the students' educational environment and are genuinely excited about the various possibilities that exist for the children in their care. It is because of this commitment to pedagogical excellence that we see parents travelling some distances to bring their children to this school.

I would encourage the education minister and her department to ensure they actively work with Ringwood North Primary School to help achieve the innovative objectives of the principal and his staff. It is through listening to those at the coalface and understanding their motivations that we achieve the best results for our young students. This school has the ideas and the enthusiasm to achieve great things. They need the support of the department to help make these ideas reality.

Melbourne Prayer Breakfast

Mr R. SMITH — I would also like to take this opportunity to commend the organisers of the Melbourne Prayer Breakfast, which I, along with the federal Treasurer, the Honourable Peter Costello, attended last Friday. The words of the speaker, Lisa McInnes-Smith, were truly inspiring, and I congratulate her on her frankness and openness.

Financial counselling: Narre Warren South electorate

Ms GRALEY (Narre Warren South) — The Casey North Community Information and Support Service (CISS) operates a financial counselling program which is staffed by Ken Harris, a retired financial counsellor who has been volunteering his services for over two years. Ken works miracles for his very worried clients. He currently works three days a week carrying the case load of a full-time position. Ken is passionate about assisting those who are experiencing extreme financial hardship, ensuring that they understand their rights and the options that are available to them, especially when dealing with large financial corporations and other creditors. This is very difficult and demanding work for all involved.

Casey North CISS also has a second volunteer who is currently undertaking the financial counselling course and who, under Mr Harris's supervision, will then assist with the provision of financial counselling. The importance of qualified and experienced financial counsellors providing this service cannot be overstated, as the issues and circumstances of the people that they are seeing are often of a paralegal nature and require that expertise and knowledge. Mr Harris would love to be able to provide more community education and promotion of the program, but at present the demand for qualified financial counselling is consuming all of his volunteer hours. Mr Harris deserves some more support.

At a time of increasing interest rates, credit card defaults and housing stress, this service is invaluable. In these difficult times for many people in Narre Warren South, Ken offers them hope not only of paying off their bills but often keeping their family together, as financial stress is a major contributor to family breakdown. It is a real shame in these hard times that there is only one federally funded financial counsellor in the area. Casey North Community Information and Support Service and Cranbourne Information and Support Service deserve all our support.

Crime: child homicides

Mr NORTHE (Morwell) — I rise today to comment on the Premier's recent plans to implement tougher sentences for those convicted of killing children. There is no doubt that crimes of this nature prick the emotions of us all, but unfortunately we have often seen the vermin perpetrators of these abhorrent crimes serve seemingly inadequate sentences from a community viewpoint. There have been recent examples highlighted in the media of these sorts of crimes being committed in Victoria, and in general the consensus supports the notion of tougher sentencing for crimes of this nature.

The Nationals have advocated a system of standard minimum sentences similar to that which has operated in New South Wales since 2002. Under the system a range of standard minimum sentences that reflect community expectations would be established for serious crimes. The sentencing judge would retain the capacity to vary the sentence, but only after detailing mitigating or aggravating circumstances as set out in legislation to justify that decision. I urge the Brumby government to extend this hardline approach on child homicides to other major crimes, including violent assaults and sexual offences, drug trafficking and all forms of murder, as community expectations necessitate such changes.

In 2006 the member for Shepparton tabled a petition in effect requesting that:

> … the Victorian government takes action to ensure the community of Victoria is adequately protected from habitual violent criminals who commit violent sexual crimes, violent crimes against children or violent crimes against vulnerable elderly people and calls on the Victorian government to impose minimum jail sentences for these habitual violent criminals.

In excess of 12 000 Victorians signed that petition. I have no doubt that all communities, including the Morwell electorate — —

The DEPUTY SPEAKER — Order! The member's time has expired.

Rail: Wendouree station

Ms OVERINGTON (Ballarat West) — On Monday I had the pleasure of announcing the name of the second Ballarat railway station, after a competition was held to seek a new name. Ballarat's second station, to be built in Gillies Street, will be called Wendouree. I congratulate Mrs Joan Munson, an 82-year-old lady from my electorate, who chose Wendouree as the name. Nineteen of more than 105 entrants thought 'Wendouree' would be an ideal name. It reflects the location of the station and the importance of the Wendouree region to the city of Ballarat.

A variety of names were suggested, with residents putting a great deal of thought into the competition. Nominations recognised the significance of local places and people, such as Ballarat West and Moneghetti, as well as historically important names such as Queen and Empress — paddle steamers that used to operate on Lake Wendouree. Other more humorous names included Swan Lake, Wendyville and Begonia. Entries were judged on their relevance to the local area as well as whether the name would be easily recognisable by local residents and visitors.

Once operational in 2008 Wendouree station will provide a much-needed service for approximately 27 000 people living in Wendouree and surrounding areas. The station will provide another 200 car parks to help ease parking pressures at the existing Ballarat station, with the potential to increase to 500 in the long term.

School Focused Youth Service: funding

Mr KOTSIRAS (Bulleen) — I call upon the Minister for Sport, Recreation and Youth Affairs to show some courage and stand up to his ministerial colleagues and demand more resources for young Victorians at risk. According to the government's web page, the School Focused Youth Service (SFYS) is a coordination of preventive and early intervention strategies for at-risk young people aged between 10 and 18 years, delivered by and through schools and community agencies.

A two-part review of the program occurred in 2006. During an information evening officers from DHS (Department of Human Services) stated that they are working on new guidelines for SFYS, which will commence on 1 July 2008. To go with the new guidelines, they are completely restructuring the way in which SFYS is delivered. It is proposed that within each of the new catchments there will only be one provider of the service. DHS will at a regional level encourage the provision of local solutions to try and determine who the providers will be in each of the areas. They are hoping that some existing providers will drop out and support others or that new consortiums of existing providers will be formed to provide new services in the new areas.

If areas are combined, there is a fear that the number of staff and social workers will be reduced. This is unacceptable, and I call on the minister for youth to

ensure that no area is worse off. In fact I encourage the Minister for Sport, Recreation and Youth Affairs to stand up to his ministerial colleagues and ask for more money to assist those young Victorians who are at risk. It is about time the minister did more than rely on rhetoric.

Slavery: abolition

Mr CARLI (Brunswick) — This year marks the 200th anniversary of the passing by the Parliament of the United Kingdom of an act for the abolition of the slave trade, called the Slave Trade Act 1807. This was a piece of legislation which is seen globally as a really important part of the campaign for the abolition of slavery. It was the culmination of a campaign conducted by a minority of anti-slavery campaigners in the British Parliament, led by William Wilberforce. It was a longstanding campaign, and they successfully passed a piece of legislation which banned the trans-Atlantic trade in slaves which had been going on for almost 250 years in the United Kingdom. It meant that in the United Kingdom you could not trade in slaves and that British ships could not carry slaves — and if they were caught with slaves, they would be fined £100 per slave.

It was not a piece of legislation which actually banned slavery — campaigners had to wait until 1833 for the banning of slavery in the British Empire — but nevertheless it was a really important piece of legislation, given that slavery continues to exist in the world. While most countries have outlawed slavery it is still practised around the world, so the struggle to abolish slavery continues today. Certainly the Slave Trade Act of 1807 marked a really important milestone, and since this is the 200th anniversary, it is a very important year — —

The DEPUTY SPEAKER — Order! The member's time has expired.

Clare Oliver

Mr THOMPSON (Sandringham) — I rise to pay tribute to a young Victorian who is struggling to see her 26th birthday this Saturday. On the *7.30 Report* last night she spoke eloquently about the dangers of melanoma. I might add that the wife of a very close friend of mine died of skin cancer a number of years ago as a result of overexposure to sunlight. In the case of Clare Oliver, it was the result of using an artificial tanning centre service, which is part of an industry that is unregulated in Victoria at the present time. According to the *7.30 Report*:

> The battle waged by health experts to convince young people in particular about the dangers of tanning appears to be a losing one. Clare Oliver, a young woman whose most precious wish is to live long enough to see her 26th birthday next weekend, offers heartfelt advice on the dangers of a deadly tan.

I support the aspiration of Clare Oliver to try and communicate her message more widely so that young Australians are not using a method to improve their suntan that is highly detrimental and highly dangerous to their health. Australia has one of the highest rates of melanoma in the world. That is something that we as legislators should look at very carefully to ensure that other young Australians have the opportunity of extending their lives.

Again I pay tribute to the courage and purpose of Clare Oliver, and I wish her all the best for her 26th birthday.

Tattersall's: enterprise and achievement awards

Ms MARSHALL (Forest Hill) — On 2 August I attended the 2007 Tattersall's annual enterprise and achievement awards. While each of the 12 monthly finalists receives $5000, a trophy and a $15 000 donation to a nominated beneficiary, the annual winner receives $15 000 and $75 000 for their nominated beneficiary.

This year's overall hero was Garry Prigg, a man who has made a striking difference to the lives of children with cerebral palsy and their families. Creating the Cerebral Palsy Education Centre (CPEC), Garry and his team have been recognised as world leaders in the delivery of services and innovative educational techniques, the culminated impact of which has revolutionised communication for cerebral palsy sufferers in much the same way as braille did for the blind.

CPEC's learning book communication CD will ultimately be provided to every English-speaking country in the world. This is an extraordinary outcome from a man who had no firsthand knowledge of cerebral palsy initially but held the view that no child asked to be born with cerebral palsy and that it was the community's duty to help these children. Garry Prigg and his team are the benchmark for community spirit and volunteerism — exactly what the Tattersall's awards not only recognise but inspire.

Vermont Secondary College: Premier's reading challenge

Ms MARSHALL — I attended Vermont Secondary College with the author Kirsty Murray, an ambassador

for the Premier's reading challenge, to talk to some of the students participating this year. Kirsty captivated students and teachers alike with her own perspective on the many applications of creativity, including everyone's own story of their life told through the lines on their hands. Last year more than 190 000 students took part. With over 4000 titles to choose from in 2007, that number is expected to rise. It will conclude on 31 August, and I look forward to personally presenting the Premier's certificates in term 4.

Professor Luong Minh Dang

Mr LIM (Clayton) — I would like to express my profound sorrow at the passing of Professor Luong Minh Dang last week. Professor Luong was at the forefront of alternative and complementary medicine in using universal energy to heal a range of ailments. His teaching has attracted a worldwide following and worldwide recognition and respect. Not only has his work touched the lives of thousands around the world, but it also generated an impressive and considerable economic spin-off in my electorate. Every time he held his teaching seminars, hundreds of students came from all parts of the world to attend. The sessions also would normally be broadcast live through satellite to different centres around the world.

Professor Luong was a generous philanthropist who was involved with a wide range of welfare activities in the Indo-Chinese community in Melbourne. His professional and philanthropic work were duly recognised by an award given to him by the Victorian Multicultural Commission for his service to the multicultural community in the area of health. I was moved to see that more than 500 people attended his funeral, many from around the world. His passing is a great loss to all concerned. He will be sorely missed.

Gas: Rockbank supply

Mr NARDELLA (Melton) — I bring to the attention of the house a petition by residents of Rockbank calling for:

> Natural gas to be installed in order that residents and local businesses in the Rockbank and surrounding areas can access natural gas supplies.
>
> The provision of this infrastructure would then make gas readily available and reduce significantly the cost of this important energy resource.

I thank Pauline Molloy and other members of the Rockbank action group for their hard work in organising this petition and bringing it to the house.

The DEPUTY SPEAKER — Order! The time for making statements has now concluded.

MATTER OF PUBLIC IMPORTANCE

Commonwealth-state relations: cooperative federalism

The DEPUTY SPEAKER — Order! The Speaker has accepted a statement from the member for Narre Warren North proposing the following matter of public importance for discussion:

> That this house congratulates the Brumby government for leading the push for cooperative federalism through its national reform initiative and continuing its work to convince the federal government to work in partnership with the state government to focus on delivering improved productivity, a more highly skilled workforce and a sustainable environment.

Mr DONNELLAN (Narre Warren North) — It is an honour to speak on this matter of public importance today. We all know how important the national reform agenda is. It was very much the Victorian government which proposed it and put it together in August 2005. It was agreed to as part of a COAG (Council of Australian Governments) meeting. We understood the importance of the need for a third wave of economic reform. We wanted to be more internationally competitive and to have better infrastructure, stronger productivity growth, a better health system, a skilled workforce and increased labour participation rates. As well the states are currently putting together complementary legislation across state borders to ensure it is not contradictory to make life easier for business.

Under the Keating Labor government we had a strong sense of cooperative federalism. We had a complete transformation of the energy market, we introduced national competition policy and we had productivity at twice the rate it is currently going at. At the end of the day we showed the way. What part of cooperative federalism has the Howard government taken up? Is it water? No, it will not deal with the overallocation in New South Wales and things like that. Is it carbon emissions? Nuclear power is its only solution. Is it education? No.

When it comes to cooperative federalism, the new formula is: if something is bad, it is the states' fault; if something is good, it is due to Peter Costello, the federal Treasurer. Let us look at what is called 'aspirational nationalism'. When interest rates went up, it was our fault because we were spending money on infrastructure. Let us look at what others have said about the absolute drivel that is coming from the other

side. Let us look at what Nassim Khadem said in the *Age* of 7 August 2007, where he referred to what Chris Richardson said:

> Access Economics director, Chris Richardson, said while both levels of government were putting pressure on interest rates, federal policy costs were significantly higher than those of the states. Moreover, the states were largely borrowing for infrastructure investment while Canberra had handed out the fruits of the mining boom through billions of dollars worth of personal income tax cuts. Macquarie Research head of economics, Richard Gibbs, said state spending on infrastructure in the longer term was good. 'Federal spending on (tax cuts and transfer payments) has been more inflationary'.

That is what we have to understand about the new aspirational nationalism — it is about blaming states for anything that goes wrong but taking credit for everything that goes well.

Let us look at what Ken Henry, the secretary to the federal Treasury, said recently. What did he tell the federal government and others? He said we needed to focus on participation, productivity and population. Let us look at which government has actually done that. Let us look at the Victorian government's record. Our employment growth since 1999 has been 18.7 per cent. Over the past year we have had an employment growth rate of 2.9 per cent. Our unemployment rate fell in July 2007 to 4.4 per cent, which is the lowest since 1990. We have gone forward 2.2 per cent since October 1999. Employment in country Victoria grew by 4.4 per cent in the June quarter, well above the national average of 3.6 per cent. We currently have a participation rate of 64.8 per cent, which really harks back to the days of the Bolte era.

If we look at population growth, Victoria's growth is 1.5 per cent compared to the federal figure of 1.4 per cent. We are punching above our weight. We are doing the right things and we are moving the economy forward. No-one could say the federal government is actually focused on any of that. It is all over the place. The only thing we see with the federal government in terms of cooperative federalism is very much a smashing exercise. It is a bit like the *Invasion of the Body Snatchers*. It has decided it wants to jump in on our market share and do whatever it wants. But let us look at its reforms since it came to office.

We have had a GST, which was meant to provide windfalls of money to the states. But if you are Victoria, the only windfall which is occurring is the wind is blowing the wrong way. The money is going elsewhere. We are getting only 88 cents of every $1 we put in, but we keep being insulted by the federal Treasurer and being told we have buckets of money. The federal government has also introduced WorkChoices. That seems to be one of those things not one Liberal in this house will stand by. We do not see Liberal Party members ever appear in advertisements, because they want everyone else to do their dirty work for them. They do not want to stand by WorkChoices; they are not actually comfortable with it. In 11 years we have had only two substantive reforms.

If you look at income tax, you see that the last time income tax was put up as a proposal for reform it was done by Malcolm Turnbull, the then parliamentary secretary to the Prime Minister. We know what happened to him — he got told he was a naughty boy and should not do it again, because Peter Costello does not like reform. He is a typical conservative who does nothing. He sits there and watches the world go by and nothing ever happens.

If we look at health, we see that we had the introduction of the Medicare safety net. Minister Abbott now admits that he knew the figures were dodgy and were never going to work. We have the federal government providing funding for the Mersey hospital in Tasmania. The Prime Minister is currently hovering around Australia looking for seats which are very marginal so he can dump a bit of money here and there. There is no proper policy — just ranting and raving, running around and pretending he can fix anything: 'I am your Do It Man, but I do not have a policy. I just have a lump of money and hand it out'. If you look at the current hospital funding agreement, you see that we put in 59 cents of every $1 and the federal government puts in 41 cents. At the rate things are going the federal government is going to drop below 40 per cent in its funding of Victorian hospitals. That seems to be all right for the federal government!

Let us look at who has had lots of money to undertake reform and who could have done some creative things. If you compare the federal government to a business, you find it has a flabby balance sheet. It receives 72 per cent of all the taxes collected in this country, and it has no idea what to do with it. Every time there is a surplus of money it goes into a future fund, because the federal government has no idea what it wants to do with it — either that or the Prime Minister grabs it for his pork-barrelling exercises.

If you are a company and you are just squirreling away cash, sooner or later you will be taken over because at the end of the day there are others with wiser minds who know what to do. These guys do not have an idea of what to do. It just keeps going into the Future Fund. We had another future fund set up this week. With a $17.3 billion surplus, the only idea they have is another

future fund, just throwing money around like a pack of whackers who do not know what they are doing.

The revenue as a percentage of gross domestic product that the federals have been getting is quite substantial. Since the 1970s the commonwealth tax revenue has grown at 24 per cent on an ongoing basis. The transfers to the states have reduced by 15 per cent in real terms. These guys are actually swimming in money and everybody says that, including Saul Eslake, and they all say the same thing. There are upward revisions in excess of $200 billion, but the federals do not have an idea what to do with it. Company tax has grown at 109 per cent over five years since 2001. The GST pool has grown by 48 per cent. These guys are swimming in money, and they do not know what to do with it. Never has there been so much with so little being done.

At the end of the day, what happens? Every time there is too much running around. We heard what the federal Treasurer had to say about the Prime Minister. He has grave concerns about this guy going on a porkathon every time there is surplus money: you get $500 if you are 55 and you are still working, you get $1000 if you are an apprentice or you get the family tax benefits. I am due for $5000 because I am having a baby. Everybody gets a bit of money. Does it actually improve services? No, it does not improve services. They are throwing money around like a drunken sailor.

Honourable members interjecting.

Mr DONNELLAN — And here we have Costello's clan, who all support this. This is a joke. If the federal government were on the Australian Stock Exchange it would be the biggest takeover target in town, because it has a whole lot of cash and it does not know what to do with it. If you were a sharp businessman, you would take it over straight away and grow the economy. But the federal government has not done much with it. It has sat still. Here in Victoria we would not be taken over, because we run a tight operation compared to these goofs.

Let us have a look at what the federal government does when it gets involved in state exercises. An article recently in the *Australian Financial Review* states:

> Analysis by leading economic consultancy Access Economics found the government had spent 5 per cent of gross domestic product, or about $48 billion a year, on discretionary spending since 2002.

I suspect it is a fair bit more now. We have another $17.3 billion, and that will just kick it up to about 10 per cent, but who knows! The article refers to comments made by Access director, Chris Richardson:

> The government has in a handful of years handed that away, it is 5 per cent of national income that they've thrown around in abandon, on tax cuts, family tax benefits, Slim Dusty museums and the whole shebang.

He continues:

> We've thrown around all this money … If it's not a permanent windfall —

he is talking about the resources boom —

> then our arse is hanging in the breeze. Or your arse, actually.

He is stating very clearly that there has been enormous wastage by this government and that never has so much been given to a government and never has so little been done.

Let us look at what happened when it started invading national literacy and numeracy schemes. This is a report about answers to Senate estimates committee hearings by Lenore Taylor in the *Australian Financial Review*:

> Answers to Senate estimates committees last year revealed that tuition payments of $4 450 000 had been made from the pilot scheme by June 2006, while $1 852 000 had been spent on the program's administration. Almost 30 per cent of the program's expenditure had gone into administration.

This is a federal government that tells us how to spend our money but does not seem to know how to provide services. It is not a service provider; it is a joke. It is starting to invade the territory, but it does not know how to do it.

An article in the *Sunday Age* of 4 March 2007 by Jason Koutsoukis and headed 'The big brush-off' is about the Sydney-Melbourne rivalry and refers to comments made by a Victorian Liberal, who said:

> We … also have a case with some roads funding which hasn't gone our way as much. I don't put that down to Howard not liking (Victoria) so much as the fact that the seats we are most likely to lose aren't down here.

That is interesting. It goes on:

> There aren't really any marginals in danger here, but there are lots in Queensland, NSW and South Australia, so, of course, they are going to get a lot of attention.

So you get a lot of attention if you are marginal, but let us not look at a proper policy, let us just be silly. It is a bit like water. Did Treasury actually get to look at the water policy? Of course not. And when it said it should have, Peter Costello said that it did not understand policy and did not understand water. It was a typical insult from someone who is incredibly arrogant.

The broadband policy from earlier this year was an absolute joke. An article in the *Australian Financial Review* of 6 March 2007 by David Crowe talks about the federal government's $150 million broadband initiative:

> The initiative will also repackage a $50 million program promised in 2004 for internet services on the edges of the main cities. Only $200 000 of it has been spent on actual services.

Here we go again. The government wants to invade the service provision but does not know what to do. In other words, we had $50 million allocated, it did not know what to do and only $200 000 got out the door.

This government has a history of pork-barrelling. It never stops. An article in the *Herald Sun* of 22 May 2007 reports on recent road initiatives:

> Of 89 road grants worth $250 million revealed in the Senate yesterday, 78 are in government or Independent electorates. Only 11 are in Labor seats — most of them marginal.

That is very interesting. In other words, the federal government does not have a policy, it has an idea of how to pork-barrel in seats it needs to win. The article further states:

> Australian Automobile Association research and policy director John Metcalfe said the government had not been transparent.
>
> 'What we really want to know is that the funding has been allocated to projects on the basis of a benefit-cost criteria,' Mr Metcalfe said.

He obviously was very concerned that it is not happening. That seems to be story of this government. It just never stops. In his opening article in the *Age* of 10 May 2007 Tim Colebatch said:

> The Howard government will give away $3.25 billion in one-off handouts to selected groups this year, in a pre-election splurge that some economists have warned will put pressure on interest rates —

and didn't that come true! At the end of the day the federal government does not do anything constructive with the money. It is all over the place: it does not have a policy, and it has no idea what it is doing.

Mr WELLS (Scoresby) — What a disappointing performance by the member for Narre Warren North. The matter of public importance (MPI) is very clearly about the work that the state government has done in focusing on delivering improved productivity, a more highly skilled workforce and a sustainable environment. The member for Narre Warren North had an opportunity to demonstrate to the house, through this MPI, what the state has achieved — that is what it is about — and how it wants to work with the federal government to make sure there is even greater improvement in productivity.

In 15 minutes the member could not identify one example of where this state has improved productivity, has delivered a more highly skilled workforce, or has been able to demonstrate it is developing a sustainable environment. Instead we heard more whingeing, more whining and more carping — which is a demonstration that this Brumby government has run out of ideas.

I will pick up on some of the points the member for Narre Warren North made — as he now runs out of the house in embarrassment, to think about things he can say. He spoke about the GST and how the Victorian government gets only 88 cents for every $1 it puts in. It is my understanding that the federal Treasurer, Peter Costello, would change the formula so long as all Labor premiers agreed to it. This again demonstrates that Premier Brumby is not able to get the other state premiers to alter the formula. Peter Costello has a full pot that he is able to share with the states so long as they are able to agree to a formula, but of course there is no way known that the Queensland Premier, Peter Beattie, is going to agree to change that formula.

It might also be worth noting, as the member for Bass pointed out to me, that the state receives $44 million a day in GST payments. If you extrapolate that, it amounts to over $16 billion that Victoria receives per year in GST payments. I pick up on another point made by the member for Narre Warren North when he attacked the federal government for decreasing income tax. I ask the member for Box Hill whether I have got that right?

Mr Clark — Yes, he did.

Mr WELLS — He attacked the federal government for decreasing income tax because he claimed it was inflationary. He said the federal government did not want to make any reforms and asked why should they be decreasing income tax. It is because the federal government sees this as a dividend to be paid back to the hardworking families in this state, who should be paying less income tax. I still do not believe that action can be argued as being inflationary.

The member for Narre Warren North took the extraordinary step of attacking the bonuses that are paid to apprentices. I would have thought the Labor state government would have been wanting the federal government to join it in assisting apprentices to get into the workforce and minimising their costs so that apprentices stick to their apprenticeships. He then went

on to attack the newborn baby bonus. I wonder where this government is going. I thought the idea was to assist families with their newborn, whether it be their first or second child, by giving them some money to make sure their finances at home are in a condition such that families are kept together and well looked after.

The member for Narre Warren North was unable, in his 15 minutes, to give one example of where this state has been able to improve productivity — and that is an embarrassment in itself. As I said, he attacked the federal government for decreasing income tax. He then went on to complain about the formula for the GST. He has, through being in government, the ability to alter that in cooperation with other states. He then went on to criticise the federal Liberal government payments to apprentices and the payment of the newborn baby bonus. His was an extraordinary attack.

The national reform agenda, as the member Narre Warren North mentioned, came out of a meeting of the Council of Australian Governments in February 2006. The focus of the national reform agenda was on a human capital stream, which includes health, education and the workforce. It then goes on to talk about regulatory reform and competition. You would have thought the member for Narre Warren North would have been able to give just one example from any one of those categories, but he was not.

It was interesting to hear him heap praise on Paul Keating and the reforms that he achieved in his time as Prime Minister. I remember when Paul Keating was Treasurer receiving interest rate bills of around 17 per cent.

It is also interesting that the MPI claims that the state government wants to work with the federal government in a cooperative federalism. Why would the federal government ever trust a state Labor government? I remember there being a rock-solid agreement between the commonwealth government and the state government over the Scoresby freeway. The federal Treasurer today says — and he makes the point very clearly — that this was the first time in the history of federalism that he can remember a deal between the state and federal governments being broken. He was talking about an agreement that had been signed in October 2001 between the commonwealth of Australia and the state of Victoria.

When we talk about federalism and better cooperation, this is clearly what it is all about. This is why the federal government could never trust a state Labor government. The responsibilities for Victoria in the agreement on the freeway are that Victoria agrees to provide 50 per cent of the construction cost of the freeway between Ringwood and Frankston. Further, at the insistence of the then transport minister, the following provision was included:

> (d) Victoria undertakes to ensure that users of the Scoresby freeway will not be required to pay a direct toll.

That is what the then transport minister, now the Minister for Community Development, Peter Batchelor, insisted on in this document. He signed it and federal minister John Anderson signed it. However, it went further.

Mr Walsh — There is more good news?

Mr WELLS — There is more good news. On 9 September 2004 — if you can believe it — the federal government increased its offer to the state of federal funds for the construction of the Scoresby freeway to $565 million. Only yesterday the Minister for Roads and Ports was talking about the poor share of what the state was receiving, saying that it was only 16.5 per cent. I wonder what the figure would have been had the government added this $565 million.

On the one hand the Labor government is complaining about the lack of funds, but on the other hand when the federal government, by agreement, wants to give the state $565 million, the Victorian government does not include that as part of the portion it receives from the federal government. Again it simply cannot get it right. As I say, why would you trust the state Labor government when the federal government wants to give it $565 million to build infrastructure to fix a problem and the state simply turns its back on the offer?

Another example of the federal government wanting to make an agreement with the state involved the reconstruction of the Melbourne Cricket Ground. The federal government wanted to give money to the state Labor government for the MCG.

Mr K. Smith — It was $77 million.

Mr WELLS — As the member for Bass points out quite correctly, the federal government wanted to give $77 million to the state, as the matter of public importance would say, with a view to developing greater cooperation and closer working ties with the government. To improve delivery standards and to improve productivity, the federal government was willing to give the state $77 million, but because the state Labor government could not get agreement with its union mates and the union thugs in the construction industry it said, ‘No, we are not going to take your

$77 million, because we have a closer working relationship with our union thug mates. The taxpayers of this state are going to pay for it, because we want to stand shoulder to shoulder with our union thug mates at the MCG'.

I have already covered the examples of the Scoresby freeway and the MCG. Then there is the situation with the Murray–Darling Basin, with the federal government wanting to give money to the state. It wanted to pour in billions of dollars to fix up some of the problems in that area. I remind members that I am talking about the government's matter of public importance, in which it claims it wants to work closely with the federal government and wants to improve productivity. Yet when it comes to a great example of cooperation, I could not think of a better example than the Murray–Darling Basin plan, with the federal government offering to pour billions of dollars into Victoria to ensure we have a more productive way of handling our water.

I also note that the part of the MPI that the member for Narre Warren North forgot to mention was improved productivity. He could not give this house one example of where the Victorian state Labor government has improved productivity. I refer to a couple of related issues. I note with interest that a headline in a local newspaper of 16 April screams 'Gridlock'. The article refers to Melbourne's traffic and states:

> Melbourne council says it costs the economy $2.7 billion in lost productivity and will cost $6 billion annually by 2015 unless rail and road links are built.

In his contribution to the debate and in support of his MPI the member should have been able to give examples or set out a plan of how his government is going to help business improve its productivity — by making sure we have roads that work, rail that works, and ports that have a proper intermodal system. I note that the Victorian Competition and Efficiency Commission report released in March last year puts the figure for that at $1.3 billion. Even so, it is this sort of lack of infrastructure and the money that is being spent that will bring this state to its knees.

The other example I would like to touch on is the dredging of Port Phillip Bay. The Liberal Party believes that, with the proper environment effects statements, the channel deepening needs to proceed. If the bay is not dug out, according to a report in the *Age* of 31 July 2007, the Victorian economy will become 'less competitive, raising prices and costing jobs'. We say that, with the proper environment effects statements and the proper environmental safeguards in place, the channel deepening in the bay should proceed.

Can I summarise by saying that I am absolutely at a loss in trying to understand why the state Labor government wanted to put this matter of public importance before the house. The presentation by the member for Narre Warren North showed that the government has no blueprint, no ideas and no foresight about fixing productivity problems. This government has no intention of working closely with the federal government. For this government to come into this place and criticise the federal government for collecting payroll tax and giving money to apprentices and the parents of newborns is foreign to us. We are talking about smaller government giving greater dividends. We do not understand why the government has proposed this matter of public importance.

Ms RICHARDSON (Northcote) — The Brumby government has long held the view that cooperative federalism is good for all of Victoria and the country as a whole. That is why it has led the debate on the need for national reform to clearly establish who is responsible for what services and to ensure that everyone receives a fair share of the revenue raised in order to deliver these services.

The leadership shown by the Brumby Labor government in advocating for national reform is critical for Victorians. It is especially critical now that John Howard, the Prime Minister, is spending money like a drunken sailor without regard to the national interest. John Howard darts about the country checking the place of communities on the electoral pendulum rather than making any assessment of their needs. We have seen where this leads to, with the $120 million injection of funds into the Mersey Hospital in Tasmania and no consultation with the Tasmanian state government. Meanwhile a man who appears to walk around looking like he has recently swallowed a live squid — namely, Peter Costello, the federal Treasurer — has been at pains to point out that Treasury knew absolutely nothing about these funds being allocated in Tasmania. He looked distinctly unimpressed about the antics of the Prime Minister in Tasmania. The head of federal Treasury, Ken Henry, warned his staff in March that prior to the election there would be:

> … a greater than usual risk of the development of policy proposals that are, frankly, bad.

This is precisely what we have seen in Tasmania: bad policies, bad economic decisions and bad politics. On the face of it, decisions which are made with no reference to the states are poor decisions, because money could be splashed about anywhere at anytime. There are in fact 699 public hospitals in Australia.

Multiply that by $120 million and there is little wonder why Treasury heads are issuing warnings.

But the heart of the problem is the federal government's unwillingness to embrace the need for national reform, to clearly establish who is responsible for services and to ensure that everyone receives a fair share of the revenue raised. Nowhere is this need for reform better illustrated than in the distribution of GST revenue to the states. In Victoria the Brumby Labor government has continually highlighted this fact. Put simply, the Howard government is ripping Victorians off and has been doing so since the GST agreement was struck. Victoria continues to receive far less GST revenue than is collected here. In short, Victoria receives back from the commonwealth only 88 cents of every dollar of GST raised in this state.

On this basis, it is estimated that Victoria will be subsidising other states and territories by more than $1.2 billion in 2007–08. This equates to $232 for every Victorian man, woman and child. Queensland is one of the biggest beneficiaries of this redistribution, as it receives more GST than it raises in that state. This is despite its having one of the strongest performing economies in Australia. John Howard clearly cares more about Queenslanders than he does about Victorians, probably because he sees more votes for himself there.

The unfair way in which GST revenue is distributed restricts Victoria's relative capacity to provide taxation relief and provide additional funding in key areas like health and education. Meanwhile the commonwealth refuses to show leadership and do away with an antiquated system that siphons off $1.2 billion of Victoria's GST revenue to other states. Under the formula GST revenue is shared according to the needs of the states and their ability to raise revenue, and this is assessed over five years. This outdated and unfair method clearly discriminates against Victorians. The Brumby Labor government has always supported the smaller states keeping their cross subsidies, but it has argued against Victorian dollars being allocated to Queensland and Western Australia. That is why Labor has argued for an overhaul of this antiquated system.

Members should recall that Victoria has been a leader in cutting taxes and that it was the first state to meet all of its obligations under the original GST agreement by being the first state to fully abolish all agreed taxes. In spite of this we still receive only 88 cents of every dollar of GST raised in this state.

Victoria is similarly disadvantaged with respect to specific purpose payment (SPP) funding. Relative to its population share, Victoria receives less specific purpose payments from the commonwealth than any other state. Victoria received about 22 per cent of total specific purpose payments provided to the states in 2007–08, but this was some $500 million less than it would have been if the payments had been based on Victoria's population share, which is 24.8 per cent. This $500 million shortfall, combined with the unfair distribution of GST revenue, means that Victorians will be subsidising other states and territories by an estimated $1.7 billion in 2007–08.

With regard to the largest specific purpose payment (SPP), the Australian health care agreement, the commonwealth progressively reduced its share of funding to public hospitals from 49 per cent at the start of the last health agreement to 42 per cent by the end of 2003–04. On current estimates, the commonwealth share at the end of the current agreement in 2008 could be as low as 40 per cent. This is not a partnership; this is a rip-off. Think of the services we could deliver in Victoria if we had a fair and equitable distribution of commonwealth money. Imagine if John Howard or Peter Costello embraced the need for national reform and worked in real partnership with our state. The member for Scoresby explained earlier that Mr Costello would surely hand over money if only the states agreed. That is not leadership; that is classic Costello buck passing.

In stark contrast to the states, the commonwealth is swimming in money. The commonwealth's taxation revenue from major sources such as company tax has increased at a faster rate than GST and SPP grants provided to the states. For example, over the last five years company tax has grown by a whopping 109 per cent, compared to a 48 per cent increase in the GST pool. The growth of commonwealth revenue more than surpasses the commonwealth's own expenditure needs, as demonstrated by its large budget surpluses over recent years — $10.6 billion in its 2007–08 budget!

The commonwealth's revenue returns from economic growth are not going into the core services which are most important to Australians and which are managed by the states, such as public hospitals, government schools, police and public transport. Instead our taxes have been saved up for a pre-election spending spree in a frantic bid by Prime Minister John Howard to hold onto power. In an article in yesterday's *Age*, Tim Colebatch agreed, stating:

> The commonwealth is swimming in money while the states run much leaner governments.

He also stated:

> Five in every six dollars we pay in tax goes to the commonwealth. Yet almost half of government spending on us is by the states.

The states are at the front line of service delivery, while the commonwealth does nothing to fix up the arcane funding model that disadvantages Victoria.

The people of Victoria certainly cannot rely on the Liberal opposition to take up this fight for a fair share of GST revenue on their behalf. Not once will you hear a Liberal Victorian advocate on behalf of all Victorians. Not once will you hear a Victorian Liberal argue that it is unfair that for every dollar we raise, we get back only 88 cents.

In fact the member for Scoresby and shadow Treasurer even has the audacity to claim to be a champion of taxation reform, but not once will he advocate for Victorians to gain their fair share of GST revenue. Speaking to the Committee for Economic Development of Australia trustees on 19 April, the member for Scoresby stated, 'I propose that taxation reform is essential in the present environment'. Yet not once in his address did he advance or even identify the one area of greatest need for the benefit of all Victorians — that is, a fair share of GST revenue. The Brumby Labor government argues differently — simply that Victorians deserve this fair share.

I congratulate the Brumby Labor government on its leadership in addressing the need for national reform. Arising from this, I hope we can look forward to a fairer share of the GST revenue we raise. I hope we can look forward to a better deal from the commonwealth in relation to roads, health, aged care, policing, public housing and mental health. To achieve this we need a federal government committed to national reform — not a conservative, myth-making and lacklustre Liberal government whose time, to be frank, has come.

I hope that the weak-kneed and feeble-minded Victorian Liberal opposition will join the fight on behalf of all Victorians for a fairer share of the GST. I hope too that the federal government will at last honour its promise that no state would be worse off with the introduction of the GST.

Mr RYAN (Leader of The Nationals) — It is a pleasure to join the debate on this appalling matter of public importance (MPI) which is before the house at the behest of the member for Narre Warren North. I want to demonstrate this morning why it is that the principles that are set out in this matter are an absolute fiction, and I want to do so by addressing only three areas. I am limited by time, otherwise there would be many more.

First, the issue of GST: it is extraordinary to hear this Labor government whingeing about GST payments. The budget this year in Victoria is around about $34 billion, and 26 per cent of the income of the state of Victoria is now derived from GST payments. On top of that, another 20 per cent of the Victorian budget is derived from special purpose payments from the commonwealth. The Victorian government now receives 46 per cent of its budgeted income from the commonwealth — and still it whinges, still it cannot make it work and still it cannot provide the services that people are imploring it to provide for all Victorians.

While I am on this topic, one of the classic propositions we have had from the federal Labor opposition, led by Mr Rudd, is his proposition to cut the ties, if you like, in relation to these special purpose grants. What he wants to do is free up the marketplace, write out the cheque, hand it over to the state government — which is demonstrably inept — and allow it to do what it will in relation to this series of special purpose grants. Obviously this is poll driven. This has given a new meaning to the word 'polling'.

We in country Victoria in particular believe that if this were to be implemented, scores of communities would suffer as a result of this ill-fated policy by Mr Rudd. Stringing people along like this is most unfair. The bare facts are that if Mr Rudd knew his policy position appropriately, particularly in relation to the interests of country Victoria, someone surely would rain on his parade, and we would get a proper policy position produced by the federal opposition rather than having a situation which is obviously being structured around the notion of polling for the impending federal election. For the Victorian Labor government now to be complaining about all of this in a context where it is absolutely awash with this Aladdin's cave of money is nothing less than a disgrace. That is my first area of concern.

The second issue is in relation to water. We have an MPI here structured around the notion of cooperative federalism. If ever you wanted to see a classic example of where the state Labor government has turned its back on cooperative federalism, it is on the issue of the management of water. That has happened on a number of fronts. Just last week the legislation which underpins the Prime Minister's national water plan was at last passed through the federal Parliament. Unfortunately, as we know, Victoria has turned its back on this important proposal, and accordingly the legislation before the federal Parliament is not as we would all ideally like it to be.

Victoria has to come to its senses. The propositions it is advancing in relation to water and its management

simply do not stand up to scrutiny. We have had the Labor government lurching from one position to another in its desperate endeavours to avoid a situation which would ultimately end up with its not being able to build the famed north–south pipeline simply because this government knows that if it does sign up to the national water plan, it will mean it cannot get that 75 gigalitres of water each year that it so desperately craves from the irrigation areas — which are already stressed — in northern Victoria.

The government has got itself into this dreadful predicament because over the past seven or almost eight years it has taken something like $2 billion in dividends out of the water authorities. Yet what do we have to show for it? Worse still, the poor long-suffering customers here in Victoria, in this age of so-called federalism and cooperative federalism, are now going to be billed outrageous amounts of money by way of increases in water charges which are said by this government to be necessary simply because there has been an underinvestment in water-related infrastructure.

How does that work? This government has taken $2 billion in dividends over seven or almost eight years on the one hand, and on the other hand it is getting into the poor customers yet again to provide the funding that it should have been putting in place for water infrastructure. As the government wallows around in this huge amount of money — but in a policy vacuum with regard to water management — there are all sorts of casualties appearing on the government's scorecard.

For example, the Victorian Farmers Federation was once regarded by this government as being its most faithful supporter. We have had the now Premier of the state in here verballing the VFF over a period of weeks and months, alleging that he has the VFF's support, because it is such an important organisation and it is critical that the VFF is therefore lining up with the government on issues such as the national water plan and the north–south pipeline.

Now that the VFF has taken a position which supports the federal legislation — which, I emphasise, still leaves open the VFF's concern to see the terms of the intergovernmental agreement, and that is fair enough, too — and now that the VFF has made it very clear that it is opposed to the north–south pipeline, and indeed always was, we have the Premier now saying, not only in his own right but through those other people in the various departments, that the VFF does not count any longer and does not represent irrigators in northern Victoria.

I refer members to the very good letter from the VFF president, Simon Ramsay, printed in today's edition of the *Weekly Times*, in which Mr Ramsay points out some of the facts of the VFF's representation of the thousands of irrigators whose voice it brings to the public debate over these critical issues. Still we have Labor in here talking about cooperative federalism. If it were not so serious, it would be a joke.

The third element relates to the development of the wind farm industry. This again is a truly classic example of how Labor in Victoria says one thing yet practices another. It also reflects why there is no truth in the matters which are set out in the MPI before the house today. The wind farm industry in Victoria is struggling, to the point where one fears for its future. We heard overnight, unfortunately, news of the collapse of Vestas, the company that manufactures the blades for wind turbines. It is located in Portland in the seat of the member for South-West Coast.

The loss of jobs for the people concerned is nothing less than a tragedy, and the Labor government in Victoria has to bear the brunt of the blame for this. It is Labor in Victoria which has made a complete hash of the planning issues which should be the foundation for the development of this industry.

An honourable member interjected.

Mr RYAN — I saw it in my own electorate — to take up the interjection, which is disorderly.

However, I will mention in passing that I thought I heard someone near me say that my own electorate was to be the subject of a wind farm development but that the proponent has now pulled out. The proponent has pulled out of it because this government has made an absolute botch of the planning-related issues. Given the terms of today's MPI, we have the federal government attempting to develop a national code for wind farms across Australia. Will Victoria constructively cooperate in that process? Not on your nelly! Is Labor trying to make a contribution to it which is going to be of benefit? No, not at all! Worse still, we now have the government of the day in Victoria refusing to release the report arising from the panel investigation which was undertaken into the development of the facility at Foster in my electorate.

Thankfully the Minister for Planning cleared up the status of this document just yesterday in a radio interview, and I want to quote from the transcript of that interview. For those who love that wonderful piece of English comedy that deals with the way in which government functions — *Yes, Minister* — let me quote

a couple of answers to questions. When asked whether the document will be released the minister said:

> Well … let's just — I just want to clarify the status of this at the moment. It's no longer a report. It's not a report because there is no project, and the proponent has withdrawn.
>
> So in a real sense it's a draft document. It holds no legal status. So it's not a document in a true sense. It's a draft.

And this is a good line — —

The ACTING SPEAKER (Ms Green) — Order! I ask the member to return to the matter of the public importance. He is straying from the content of the matter.

Mr RYAN — I am indeed on the matter, Acting Speaker. This is the great bit. He says — wait for it:

> We have lots of draft things that float around government — —

The ACTING SPEAKER (Ms Green) — Order! The chair has asked the member to return to the matter.

Mr RYAN — In circumstances where cooperative federalism would surely see this industry able to be developed in a cooperative manner, the government has again failed Victorians, as it has across the board.

Mr CRUTCHFIELD (South Barwon) — I rise to join the debate on this matter of public importance (MPI). I would like to focus on road funding, and that certainly includes regional and country roads. In this place there has traditionally been a bipartisan approach to the funding policies of federal governments of different persuasions, and we have had very similar views on where Victoria has missed out in terms of funding for major road projects.

The Victorian government recently outlined its vision in its *Meeting Our Transport Challenges* statement, in which it has committed some $10.5 billion of investment to the state's transport system over the next 10 years. It is historically the single largest piece of investment undertaken in Victoria. We have increased expenditure on roads and ports from $416 million in 2005–06 to $935 million in 2007–08, and we continue to invest in roads.

While the Victorian government recognises the need for that investment in terms of improving efficiency and effective transport infrastructure — and The Nationals would, I hope, support that — we cannot truly achieve those efficiency goals in Victoria without substantial support and investment from federal governments of whatever colour. Victorian governments of all persuasions have been unwavering in demanding a fairer share of federal road funding over the years, and that goes back a considerable period of time. It is not about allocating blame, and it is not about political point scoring.

Mr Walsh interjected.

Mr CRUTCHFIELD — The member for Swan Hill was not in the Parliament back in 1992, but I point him in the direction of *Hansard* and to a couple of other issues I might allude to. Over the years it has been the bipartisan view that Victoria has not got its fair share of road funding in past decades. In respect of AusLink 1 we have argued that, rather than having a strategic plan like the plan the state government has with its Meeting Our Transport Challenges, the federal government has used it in a blatantly political way. We have not received our fair share of funding. In start contrast, the federal government stands accused of using that fund in a rather nakedly political manner.

We hope that does not occur with AusLink 2, and the state has put up some 30 projects for funding. I can list a couple which are in my patch, but others include the Melbourne–Sydney rail line upgrade, a major upgrade to the Western Ring Road, the Goulburn Valley Highway bypasses at Nagambie and Shepparton, stage 4 of the Geelong ring-road and the duplication of Princes Highway West between Geelong and Colac — just to name a few.

I would like to touch on a few facts that people in this house may have heard before, but they relate to something that in its previous incarnations this Parliament has had a bipartisan view on. Despite continuing to pay some 25 per cent of the fuel taxes collected by Canberra, despite handling some 25 per cent of the nation's freight task — and we would argue quite strongly, and I think the opposition parties would support this, that we are the freight hub of the nation — and despite being home to some 25 per cent of the Australian population and generating close to 25 per cent of its gross domestic product, we receive only 16.5 per cent of road funding under the current, I must emphasise, AusLink program. That penalises every Victorian. It is some $1.27 billion in road funding that we do not receive.

I have alluded to previous state governments, and I want to read from a press release which I am happy to table and which, may I add, is a very impressive press release. I will quote from it, albeit very briefly, because it alludes to some things that we as a state government have said over the last five or six years:

> The federal government had invented the 1990s version of highway robbery in its treatment of Victoria's road funding needs —

and I will not yet mention the name of the person saying it.

> … Victorian road users were being short-changed, with the state subsidising interstate roads by more than $100 million a year.
>
> Speaking at an RACV [Royal Automobile Club of Victoria] breakfast …

This person said:

> … Victoria contributed more than 25 per cent of the national total fuel excise revenue.
>
> 'On that basis we should receive $400 million each year in federal road funds. However we receive only about $290 million, or 18 per cent of the national total of federal road funding …

It has actually gone down now.

> Indicative projections show this could fall to $260 million, or 16 per cent next year —

and he was quite correct.

> Federal funding to all states should be in line with their levels of economic and social activities, because these activities are what determines the size of the road task.
>
> … Victoria accounted for 25 per cent of the national population and 26 per cent of national economic output.

I will not continue, but that press release is dated Thursday, 1 May 1997, and it came from the then Kennett government roads and ports minister, Mr Geoff Craige. I also bring to the house's attention the fact that in 1993 the then roads and ports minister, Bill Baxter — —

Ms Asher interjected.

Mr CRUTCHFIELD — Correct! The member for Brighton would well remember this. Bill Baxter, then a member in another place, thanked the Labor opposition at that time for its support in arguing for a fairer share from the then federal Labor government. There have been decades of arguing for a fairer share for Victoria, and there has been a bipartisan view that has underpinned Victoria's road policy for decades. What has changed?

The current shadow minister for roads is the member for Polwarth, and it is fortuitous that I have raised a couple of issues relating to the member's electorate. I mentioned Princes Highway West, and stage 4 of the Geelong ring-road would impact quite positively on his electorate. Both are included in AusLink 2, and we are seeking funding for those projects. The attitude of the member for Polwarth stands in stark contrast to the attitude of previous Liberal roads ministers. They argued quite strongly, arm in arm with the Labor opposition, against what was previously a federal Labor government and is now a federal Liberal government.

What has changed? The change is that the leadership of the Liberal Party has taken the view that it wants to put rank politics into road funding. The constituents of Polwarth are being penalised, the constituents of South Barwon are being penalised and the constituents of a number of other electorates across the state are being penalised by that view.

The Minister for Roads and Ports and I were at Colac in late July to present that argument to the mayor of Colac, as we did to a number of other south-west councils, which, as you, Acting Speaker, would be well aware, go all the way to the border with South Australia. The views expressed by the roads minister were very well received by those councils. They understood the anomalies in road funding, and they understood where the state government stood. They also understood where previous shadow roads and ports ministers stood, and they were confused about where the current state opposition stood in terms of policies for the adequate funding of road projects across Victoria.

They were bemused by the attitude of the federal member for Corangamite, Stewart McArthur, who has consistently opposed every single road project in the region. When the previous Kennett government was in power he opposed matching funding from the federal government for the Melba Highway. To the Kennett government's credit, it supported that, as I did when on the council and as did the Labor opposition. However, the federal member did not; he said again that it was a state responsibility.

On the Geelong ring-road the federal member again said, 'No, it is a state responsibility. It is not our responsibility. We should not fund that. We should fund other projects in New South Wales and Queensland'. He is saying the same about stage 4 of the ring-road: 'No, it is a state responsibility'. He is saying the same about Princes Highway West. It is an absolute disgrace. The situation there is certainly no different from the situation with Princes Highway East, which is duplicated through to Traralgon. The federal member for Corangamite stands accused of not standing up for his community.

Ms ASHER (Brighton) — What a lame contribution from the member for South Barwon, whose favourite

term is 'Whoopee doo'. One could make the same comment about his contribution to the house. I also want to join the debate on this pathetic little matter of public importance from the member for Narre Warren North. As I listened in my office prior to coming into the chamber, I was struck by three elements of that member's contribution.

Firstly, I was struck by the level of vitriol. As we have seen in this chamber time and again, if there is any opportunity for Labor Party members to use this chamber to attack the Howard Liberal government, then they will take it. Secondly I was struck by the favourable reference to former Prime Minister Paul Keating. I wondered how young the member for Narre Warren North actually was, because when I bought my first property, courtesy of Paul Keating I paid the 17.5 per cent interest rate on my owner-occupied property. Many small business owners in my era paid more. For us the name 'Keating' is synonymous with the worst economic management this country has ever had.

The third element that surprised me in the member for Narre Warren North's contribution was a reference to the federal Liberal Treasurer, alleging quite stupidly that he was not interested in tax reform. I thought perhaps I was asleep when the whole change to GST and to income tax was introduced. Perhaps I was asleep when the raft of the most substantial tax cuts ever under a federal regime have been delivered. Perhaps I dreamt all of this substantial tax reform from the federal Treasurer!

I want to just make a couple of comments about this state Labor government's view of cooperative federalism because like all of my colleagues I sit in question time every day and I hear what the government's real view is of cooperative federalism. And of course — —

Ms Richardson — A fair share!

Ms ASHER — It is not a fair share. It is all about animosity and bile.

I just want to take a typical question time. On Wednesday, 8 August, we had the first Dorothy Dixer, to the Premier, which was on this theme. It was obviously going to be his opportunity to big note himself over the next few years, and again he outlined areas in which he believed there was a deficiency in commonwealth-state funding. In particular I want to make mention of this issue of GST. I do not know if Labor members are actually arguing that they do not want to be part of a federation, but federation was introduced so that weaker states would be subsidised by stronger states. I am on record as saying that I think it is ridiculous that we subsidise Queensland, and the federal Treasurer is on record saying that if the Labor states actually want to fix this problem then they can. So if the Premier, the member for Narre Warren North and other participants in this debate want to start picking up that point, they have the solution in their own hands.

Again on Wednesday, 8 August, the second Dorothy Dixer went to the new Minister for Water who sheepishly told this chamber that he took cooperative federalism seriously. He then proceeded to talk about the very, very strong offer from the commonwealth to give Victorian irrigators billions of dollars, a deal to which of course this state government would not sign up.

The third Dorothy Dixer in that question time went to the new Minister for Education, who then went on to say that the commonwealth had been neglecting its responsibility. Again, one wonders how cooperative that is, because I would have thought that if commonwealth and state ministers — and I have been at ministerial councils — wanted to cooperate, there would be a dialogue, a sense of communication and a sense of laying reasonable requests on the table, not constant spraying. This is not cooperative federalism. Let us be blunt about it. This is an opportunity to spray your political opponent.

Let us take the fourth Dorothy Dixer on that day, one to the Minister for Skills and Workforce Participation. I do not think there is ever a question she answers without some reference to the commonwealth or to the previous Kennett government, completely absolving herself of any responsibility.

The fifth Dorothy Dixer on that day was something completely related to state responsibility. I note that the Minister for Public Transport must be completely deficient in Labor training not to have blamed the commonwealth on that particular occasion.

But that is a typical question time. This government is not interested in cooperative federalism. This government is interested in doing whatever it can to assist its own colleagues in the upcoming federal election.

I want to briefly look at what is the national reform agenda because a number of speakers in this chamber today have scarcely touched on it. The national reform agenda was initially proposed by former Premier

Bracks. And I will say this: I actually think he was genuine about it. He presented a national — —

An honourable member interjected.

Ms ASHER — I am being generous, it has been pointed out, but I will accept that castigation. Mr Bracks put forward a program. He indicated that Victoria's Department of Treasury and Finance had estimated that if this reform plan were adopted there would be an extra $65 billion added to Australia's annual gross domestic product by about 2015. I noted at the time that the plans were vague: they were a series of statements without a great degree of detail as to how those results could be achieved. But I want to draw to the house's attention the Prime Minister's response at that time, because I think his response on Monday, 15 August 2005, is one that needs to be borne in mind. He said:

> Any debate which is designed to improve cooperation at a national level between governments, which is directed to a further strengthening of the Australian economy, is a good thing.

What a shame we do not see that in this Parliament. I go on and again quote the Prime Minister:

> I guess I feel constrained to say though that the one conspicuous omission is any reference to workplace relations reform. I would argue that the best thing the Victorian government could do would be to persuade the other Labor states of the value of a national workplace relations system, because we in the 21st century live in a national economy.

That was the initial reaction to the propositions put forward by Mr Bracks. But in the time available to me I want to briefly look at the state government's performance in some of the areas outlined in the national reform initiative — first of all, in health. One of the goals of the initiative is to have better outcomes in health for disability and for chronic disease, and one aim of that is not only to improve, obviously, the quality of life for those people, but to improve workforce participation.

Again, if you want to look at the performance of the federal government in this area, we have the lowest unemployment level for 30 years in this country. We have an economy that is growing very strongly even in some difficult circumstances. The state government, however, has made little or no contribution to that, and again if you look at Victorian unemployment figures vis-a-vis whether they are above or below the national average, they are consistently underperforming in terms of the standard set by the federal government.

Skills are an element of this particular agenda, and again the aim of improving skills is a desire to improve productivity. Yet in terms of the state government's core business, we see 20 per cent of children leaving school who are functionally illiterate. I object very strongly to people coming into this chamber to talk about their commitment to cooperative federalism when they are not holding up their side of the bargain. In relation to a core business — literacy in schools — this government has failed.

Let us look at something like regulation. The government makes much of the reduction of regulation, which was also part of that agenda. I refer the chamber to a joke. The current Premier's view of regulation is expressed in a press release he issued as Treasurer on 31 March 2006 headed 'Indexed fees and fines go online for the first time'. The press release states:

> For the first time in Victoria's history a comprehensive list of indexed fees and fines have been posted online, making this information freely and easily available, Treasurer John Brumby announced today.

And then this man, who now we have to put up with as Victoria's Premier, linked it with the national reform initiative. This guy — the Premier of this state — is trying to say that putting fees and fines online is some sort of regulatory form consistent with national practice. Again, anything that the Victorian government has done in the areas where the commonwealth and the state are meant to be working cooperatively has demonstrated Victoria's own underperformance.

This matter of public importance is not about cooperative federalism. It is about trying to have a crack at the Howard government. This government needs to look at itself, stop the buck-passing, get on with the areas for which it is responsible and stop passing responsibilities on to others.

Mr HERBERT (Eltham) — It is a great pleasure to speak on this matter of public importance, because I fully agree with it. Like many people, I have had grave concerns about the direction of federal-state relations for a number of years now. There have been directions that saw the commonwealth shift from a position of consensus and discussion to a position of unilateral decision making. What is worse — this is not a blame game; any media commentary would acknowledge it — the problem with the commonwealth's unilateral decision making is that it is not based on areas of knowledge, it is not based on areas of expertise and it is not based on areas of constitutional responsibility. It is based on what the commonwealth thinks will get it a media hit at the time.

This is in quite stark contrast to what happened in previous administrations, not just federal Labor

administrations but the administrations of all political parties. This country has been built on some fantastic cooperative arrangements between the commonwealth, the states and local government in some parts. You need only look at the Snowy scheme and the cooperation that happened with that. You need only look at the building of our road and rail network, education and health. What has worked well in the past in cooperative federalism is where the commonwealth and the states have sat down and worked together around areas of expertise and acknowledged the best way forward and who was in the best place to go forward.

We should look at some of the great achievements of the past. There was the national housing agreement which was responsible for rebuilding public housing right around Australia. What have we seen over recent years? We have seen that slashed and burnt and in tatters. There was ANTA (Australian National Training Authority) — a commonwealth-state agreement to get nationally consistent training arrangements in place in this country. What are we seeing with that? It was dismantled with the stroke of a pen, with no consultation or discussion with any of the partners involved in ANTA.

We should look at the arts program. Do members remember Keating's fantastic One Nation arts program, built on cooperation to really raise the arts in this country? We do not see any of that anymore. When we saw Hawke with his consensus building, it was about developing an accord between employers and employees, but it was also between the states and those players. As to national health and immunisation schemes, we heard before that there is little cooperation by this government with the feds. That is just not true. When it comes to education and health programs, we have consistently sought to get national approaches to the problems we are facing.

I refer to the Hume Highway rebuilding program that the feds initiated some time ago. In the past we have seen some great achievements, great leaps forward in this country through a cooperative federalist model, but we do not see that now. We do not see any attempts at consensus; we do not see any attempts at bringing forward expertise; and we do not see any attempts to have proper discussions with the states around how we can take this country forward.

Today's relationships are not about federalism; they are not about efficiency; they are not about good policy. What we see from the federal government is all about votes in marginal seats. The federal government is simply about pork-barrelling votes in marginal seats rather than what this country needs. It thinks that is going to work. But of course we have now had many years of this tactic, and there is absolutely no doubt, as the polls are showing, that the public no longer believes it. People do not believe it when rhetoric flies in the face of reality.

If we have a look at this issue, we see that higher education and training are perhaps two of the pre-emptive issues whereby what the commonwealth has said now for several years flies completely in the face of its actions. What has happened to university funding since 1996 when the federal government brought in the savage budget cuts that decimated universities in this country? All universities are now facing funding crises. We have seen a dramatic decline in real terms of the commonwealth's contributions compared with total university revenue.

What does that mean in Victoria? In Victoria we have seen a decline from 54 per cent commonwealth contribution to universities' operating budgets in 1996 to just about 40 per cent today, certainly under 50 per cent, and that incidentally includes the investment they have put in in their most recent budget papers. It is 40 per cent. Is there any wonder we are seeing tens of thousands of young Victorians, qualified Victorians, able Victorians, smart Victorians missing out on university degrees? Is there any wonder we are seeing universities shift their focus from academic studies, from improving the quality of their qualifications, into ways of making money?

Is it even any wonder that they are complaining about the mind-boggling paperwork that the commonwealth has foisted onto them through the Backing Australia's Future 2003 higher education reforms and their other recent initiatives? What did the vice-chancellors say about those? Let us be clear on this. We hear Julie Bishop saying all the time, 'It's the states, red tape, red tape. We have got to take them over', but when you have a look at the study that was done by the vice-chancellors, what did they say? They said:

> There is no doubt that reporting requirements on universities have increased as a result of the policy and operational changes flowing from Backing Australia's Future …

They point out that the costs associated with implementing this one so-called reform of the commonwealth is estimated to be between $1.4 million and $1.84 million for an average university — simply paperwork. The commonwealth wants to take it over. What is the commonwealth government's response to all this? It is chest beating. It is about blaming the states, saying it is going to take over universities. It is absolute rubbish. It has created a crisis in our

universities, which it is now suggesting it will solve by taking over the crisis of its own creation.

This does damage to ordinary people, to institutions and students. I would like to highlight that fact by looking at the latest example of what has happened with the AMC (Australian Maritime College) at Point Nepean. It is a great example of the commonwealth acting unilaterally without any discussions with the state government. It decided that it was going to privatise the Point Nepean Quarantine Station. Strangely, the state government opposed it. Local residents, including Kate Baillieu, opposed it.

In the end the commonwealth was forced to back down. It decided to set up a national centre of excellence and scientific, biological and conservation training at the quarantine station. Did it discuss it with the universities? No. Did it discuss it with the state government? No. It helicoptered in its ministers; Greg Hunt, the local member, applauded it; and the commonwealth made an announcement that the Australian Maritime College was going to begin operations in a world-class facility to be built at the Point Nepean facility.

In the interim the commonwealth gave funding to 120 HECS (higher education contribution scheme) places and funded capital works. The AMC started up temporarily in Rosebud TAFE and students enrolled with high expectations. All of this was achieved without discussions with the state government. The end result was that in May this year the AMC announced it could not afford the rent demanded for the properties at Point Nepean so it was going to withdraw from Victoria and go back to Tasmania. So much for the opportunities for higher education on the peninsula which kids from Frankston and that area drastically need! So much for advancing scientific education! So much for a centre of excellence!

The AMC's reputation has been left in tatters because there was no consultation. There is a whole heap of students with nowhere to go except to try to shift to Launceston, which is not feasible for many of them. The provision of education on the peninsula in that general area has been left much worse off. Does the commonwealth listen? No. In a desperate bid to salvage the situation it announced that Melbourne University was going to take over, long before it had agreement with Melbourne University and after just preliminary discussions. There was no deal about what the rent would be nor how it would operate.

It seems the great solution is a part-time facility at the quarantine station used mainly by visiting dignitaries. There are no HECS-funded places, no positions for students currently enrolled who were duped by the commonwealth process and no additional higher education provision on the peninsula. Probably 120 places desperately needed in Victoria are going across to Tasmania. That is an example of how the commonwealth operates — it acts unilaterally, which results in disastrous outcomes for people and institutions. It is the result of not talking, not discussing and not building consensus around key issues.

Mr CLARK (Box Hill) — If we ever wanted an example of how the Bracks and Brumby governments have dumbed down this Parliament and turned this chamber into an empty talk shop, we need only look at this matter of public importance (MPI) before us today. It has been put up to recycle a whole lot of arguments we have heard before and to give the second string of the government backbench the opportunity to exercise their lungs in continuing the Bracks and Brumby governments' attacks on the federal government. One may well ask whether it is worth us on this side of the house even taking the MPI seriously, but it is probably worthwhile putting on record at least a few pertinent facts that anyone can read in posterity if they have an interest in doing so.

The MPI purports to be about cooperative federalism. The Bracks and Brumby governments' idea of federalism is to blame the federal government for everything that they fail to do or that goes wrong under their responsibility and to repeatedly call on the federal government to give them more money and take responsibility for things they should be looking after themselves. They then complain bitterly when the federal government steps in, bypasses the states and says that if the states cannot handle these matters themselves, then the federal government will get involved in handling them directly.

If there is any body in Australia that as a consequence of its policies is destroying and weakening the Australian federation, it is the Labor states. In the entire period of the Howard government they have seen their role as backing up the federal Labor opposition which has opposed just about every reform the Howard government has put forward. They have been prepared to do that by degrading and refusing to take on board their own responsibilities, which has produced the inevitable consequence of the commonwealth government finding itself unable to get any cooperation whatsoever out of the states except when it suits the states to go through the charade of cooperation. In frustration the commonwealth finds it has to step in itself.

The Deputy Leader of the Opposition was very generous in giving credit to the former Premier for possible good motives in announcing what purported to be a series of reform proposals the other year. Frankly that package of proposals was just an excuse for the Bracks government, having done nothing and seeking to avoid accountability for having done nothing, to put a list of a lot of new demands on the commonwealth government.

If you look at some of the arguments that have been put forward this morning, and if you take seriously the standing within the Labor Party of some of the speakers on the other side of the house — in particular the lead speaker, the member for Narre Warren North — you can see a remarkable own goal by the Labor Party. We heard through the member for Narre Warren North a condemnation of federal tax cuts, of financial assistance for families with young children, and of financial assistance to senior Australians to assist them in meeting their expenses in life.

If the member for Narre Warren North has any status whatsoever within the Labor Party, it would seem that he is foreshadowing some of the policies that are going to form part of the federal Labor platform and would be introduced if Australia ever had the misfortune to have a Rudd government elected. Clearly it is irresponsible, according to the member for Narre Warren North foreshadowing a commonwealth Labor government, to give tax cuts in times of surplus, it is irresponsible to assist young families with the cost of their children, it is irresponsible for a federal government to give financial support to senior Australians. If that is a foretaste of what would come under federal Labor, then heaven help Australians! I suppose the member for Narre Warren North has done some service to Australians in starting to let the cat out of the bag.

We have heard a lot today about the alleged 88 cents in every $1 that Victoria receives under the GST distribution. As the member for Scoresby and others have pointed out, that formula has been around for a long time, and the commonwealth Treasurer is very happy to alter it if the states can agree among themselves about what ought to be done. There are a couple of other points that need to be made. The first is that the vast bulk of that 12 cents in the dollar alleged discrepancy is one that is supported by Brumby government policy — —

Mr Stensholt interjected.

Mr CLARK — The member for Burwood should well know that, because the vast bulk of that cross-subsidy goes to the Northern Territory, Tasmania and South Australia, and the then Treasurer, now the Premier, has put it on the record that he supports that. The point of difference relates to cross-subsidy to Western Australia and Queensland, which is a very small component of the total. And — surprise, surprise! — the intelligent and best way for the state to get reform for a fairer system of commonwealth-state horizontal distribution, for which we on this side of the house have argued for a long time — and it is there on the record as to what I and others have said about it — is to work on persuading the grants commission to adjust the formulae.

The grants commission has now adjusted those formulae. On the latest figures that I have seen under the current forward projections of distributions, by the end of the current forward period both Western Australia and Queensland will be net contributors. The problem will have been solved by the sensible way of working behind the scenes to persuade the independent umpire to adjust the formulae rather than going through this political charade. If Victorians were ever inflicted with Wayne Swan as the commonwealth Treasurer, you can bet that rhetoric coming from those opposite would turn on a sixpence and all the calls of commonwealth government action would disappear in a trice.

Let me also refer to the strange remarks made by the member for Narre Warren North in relation to broadband in terms of national infrastructure building. It has been bizarre that federal Labor has fallen hook, line and sinker for the case put to it by the near-monopoly service provider in Telstra, which has been running a politically motivated campaign to game the system, to game the regulator and to try to bludgeon the federal government into giving it a big bucket of money with inadequate returns.

If there were any degree of responsibility within federal Labor, it would be not sucked in by this monopolist's case to extract extra money from the public or to have the rules stacked in its favour. Telstra can add value as long as Telstra is operating within the rules and competing to provide better service, but no side of politics should be succumbing to this sort of political campaign from a near monopolist to obtain an unfair advantage.

The other bizarre point about federal Labor's broadband policy is that it is committed to old technology, to running wires for hundreds and thousands of kilometres all around the nation. It may have escaped the notice of federal Labor and state Labor that Australia is a very big nation geographically, it has a lot of kilometres of distance in it, and yet they

are wanting to roll out wiring across all of that vast nation while overlooking the rapid advances in wireless technology, which is eminently suited to a large nation such as Australia and has the potential to deliver broadband technology far more rapidly and effectively than trying to wire up every nook and cranny of the nation. You need to use the fibre for your main nodes and then you use wireless broadband to extend coverage far more broadly and far more effectively than a wired-up system.

The other bizarre argument that we had from those opposite was the allegation that federal government surpluses are contributing to increasing interest rates. The federal government has surpluses based on a strong national economy, despite the substantial tax reductions it is giving. The states also have current account surpluses based on bracket creep and rapidly increasing levels of property taxes, but the big difference is that the federal government is not out there borrowing billions of dollars as the state governments are.

The state government's increase in borrowing is simply unsustainable. We are certainly well within AAA credit rating at the moment, thanks to the Kennett government reforms, but we are rapidly moving in the wrong direction at an unsustainable rate. The Brumby government needs to wake up to that fact.

Mr STENSHOLT (Burwood) — It is really tempting for me to respond to the member for Box Hill. On his last point he was talking about unsustainable debt. Let me tell the house what Ian Macfarlane said last year when appearing before the House of Representatives committee:

> I have no problem with states spending money on infrastructure. I do not even have any problem with the general principle of borrowing for long-lived assets like infrastructure.

He went on to say that the only minor problem was that they had not done it before.

But we have done it before in Victoria. Victoria has led the way, and I am delighted to speak on this matter of public importance regarding national reform initiatives because this is where Victoria has been leading the way in terms of national reform agenda — the third wave of reform. There was not much impetus from the federal government until the Bracks government, now followed up by the Brumby government, took leadership in the push for cooperative federalism. We have been out there doing it. Not only have we been out there building up Victoria — Victoria's infrastructure, Victoria's services — but we have been leading the way in the agenda setting and the policy setting at the federal level. The work that we are continuing to do is to focus on delivering improved productivity, a more highly skilled workforce and a sustainable environment. That comes through in the national reform agenda in a number of ways. Let me focus on one of them — namely, the human capital stream. I am happy to accommodate the member for Brighton and talk a lot about the national reform agenda. Within the human capital stream the health component is there to improve the delivery of health services and review the commonwealth-state specific purpose payments that significantly affect the health system, prior to their renegotiation — and I will talk about that a little bit more in a minute — in order to identify any elements that, if changed, could contribute to better health outcomes.

The second part of this human capital stream is improving workforce participation and productivity by reducing the incidence of illness, injury, disability and chronic disease. That goes on to the initiative that Victoria has taken for diabetes. Before I talk about the diabetes and other programs, I might add that in terms of injury at work, Victoria has taken the lead. Look at the downward curve in the figures for injuries at work and for deaths in the workplace; look at the reforms that were made in occupational health and safety. Victoria has led the way, and we have done it in a very sensible way by making these reforms and improving the WorkCover agency. We are going to continue that work and continue that focus so we can improve productivity by reducing injury and disability in the workplace.

The Productivity Commission has said that the majority of benefits are going to come from the human capital stream. We have had a focus, and there is a focus in the budget, on it. We have a proud record of investment and achievement in the health sector. In terms of the national reform agenda, we put up this proposal concerning the growing impact of obesity and type 2 diabetes. We produced a paper and put it to the Council of Australian Governments. It went to COAG in April this year and it was adopted. COAG agreed to a $200 million package to address type 2 diabetes — that is just one aspect. We have actually put money in this year's budget for that package.

We in the Bracks and now Brumby government have a proud record in terms of health. We have boosted recurrent health funding here in Victoria by 96 per cent over the last seven years. Every hospital has received increased funding under our government. We have been trying to negotiate with the federal government — but where is it at? I presume the opposition has actually read the budget papers, although we sometimes wonder, given the performances of the failed Treasury

spokesperson, the member for Brighton, and the current spokesperson, let alone the member for Box Hill, who seems to obfuscate everything. Budget paper 2 says at page 97:

> The upcoming renegotiations with the commonwealth government for a new Australian health care agreement provide an opportunity to encourage health system reform.

This is where Victoria is coming from — a constructive and cooperative federalist point of view. We wish to constructively discuss these matters. The budget paper goes on to say:

> The current agreement, which expires in 2008 —

that is, just next year —

> is the major funding instrument for joint commonwealth-state investment in the acute health system.

We want to be out there to identify elements which if changed could contribute to better health outcomes. That is what it says about the human capital stream in the national reform agenda.

What has the federal health minister, Tony Abbott, done? What has the Mad Monk done? He has refused to begin discussions with states on a new health agreement, including those agreements covering hospitals. I recall that Victoria got dudded last time by hundreds of millions of dollars. In actual fact the Australian government is now paying about $1.1 billion a year less than that recommended by an independent arbiter. You can read that in *Caring for Our Health*, which was put out in June 2007.

We believe in cooperative federalism and people paying their fair share. We are about a fair share. It is not a blame game, it is about people working together, putting their shoulders to the wheel and doing things. If the commonwealth government were funding them, and if the full amount recommended was being paid, then public hospitals around the country could manage an extra 350 000 admissions a year. What have we done here in Victoria? Since 1999 we have put extra money into the health system — an increase of 96 per cent. What has it actually produced in terms of people going through our hospital system each year? The answer is an extra 350 000 people. We have already done that, and we could have done more had the federal government been cooperative — but it was not.

In 1996 we also got dudded a cool $360 million over the dental system. In spite of the states wanting to begin negotiations on a new agreement, Tony Abbott has said, 'No, we can't negotiate, there is an election coming up. I can't talk about policies now, I can't talk about reform of the health system; we have got an election coming up, I am not willing to talk about it'. The state ministers are more than happy to talk about it, and we are more than happy to contribute to policy development, more than happy to negotiate a new agreement.

What have we got now? We cannot do anything before the election and suddenly yesterday — 'We have got a new health fund!' — a $2.5 billion fund called the health and medical investment fund. There must be some dark humour in Tony Abbott's office. Let me tell you about that. It is called the HAMIF fund — —

Mr O'Brien interjected.

The ACTING SPEAKER (Mrs Powell) — Order!

Mr STENSHOLT — That is the Health and Medical Investment Fund. I had to look twice at that one, because on paper it seemed to read as the 'HANIF' fund — reminding us yet again of another dark chapter in the Howard years. We know the record of the Liberal government on medical equipment. We all remember the imaging scandal of the Howard years: its first foray into medical equipment was not too flash. I am sure the member for Malvern will remember that; he probably had a finger in it as well.

Naturally I am not against the use of funds for medical equipment. What I am against, though, is poor planning, poor long-term infrastructure development and poor policy. And we have got poor policy here. I wonder whether from the Mersey hospital incident we are going to see an outbreak of pork-barrelling and little policy. Of course this is the 'Mersey beat' of the Howard government. Are we going to live in the 'Octopus's garden', or would we actually prefer to 'Come together' in the true spirit of the national reform agenda? The feds do not have the runs on the board when it comes to health reform, in terms of the management of the health system and contributing to national reform initiatives. We have got the runs on the board.

I will now talk about hospitals. We have invested $4.1 billion into rebuilding the health system. We remember what happened in relation to the health system. There was a hospital in Burwood. What did Kennett do? He bulldozed the hospital. We have rebuilt or upgraded 58 hospitals and aged-care facilities right around Victoria. We have saved and rebuilt the Austin and Mercy hospitals — the largest rebuilding to date in our rebuilding of health. We have rebuilt suburban hospitals like the Maroondah, Angliss, Northern, Sunshine and Dandenong hospitals. We have rebuilt

country hospitals — and I am sure you, Acting Speaker, will appreciate some of these — at Kyneton, Stawell, Ararat, Geelong and Ballarat. The first new hospital in over 20 years — Casey Hospital — has been built in Berwick, and I could go on.

If you look at the budget for this year, you will see that it talks about strengthening the health workforce. This is about a skills upgrade, which the matter of public importance refers to, and is part of the COAG (Council of Australian Governments) health workforce reforms. I have referred members opposite to the information in the budget press release on strengthening the health workforce. We are contributing to national reform initiatives. We are delivering improved productivity through infrastructure development and a skilled workforce.

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

Mr O'BRIEN (Malvern) — It is not hard to see why the member for Burwood's contribution has cleared the chamber on this side. I could go through the many flaws and ridiculous assumptions in his contribution, but I have something more important to talk about, and that is cooperative federalism.

Over the last 20 years or so governments of both political persuasions have acknowledged the need for micro-economic reform. I am prepared to pay tribute to those Labor governments that have done that. Unfortunately it is the sort of charity and generosity you would never hear from the other side, because the other side is not interested in good policy and not interested in cooperative federalism; it is just interested in making rank, politically opportunistic attacks on the Howard government. That is all this matter of public importance is about. All the empty, shallow and hollow rhetoric we have heard from the other side has been about attacking the Howard government, nothing more.

It was very interesting to see the media refer to the recent Council of Australian Governments meetings as a love-in. The premiers of the Labor states could not get into the photographs with John Howard quickly enough. They were patting each other on the back about what a great meeting it had been and how it was a true example of cooperative federalism. It is funny how the wind has now changed because all of a sudden members opposite think their comrades have a sniff of winning the federal election. All that idea of cooperative federalism has gone out the window. That is because they are not interested in cooperative federalism, they are just interested in political point scoring.

When Liberal governments have implemented micro-economic reforms in the past, invariably they have been met with opposition from the Labor Party. That is because the Labor Party will not put the interests of the country first, the interest of the state first or the interest of good policy first. It is far more interested in cheap and opportunistic knee-jerk reactions to micro-economic reform than it is in doing the hard policy yards to deliver longer term benefits for our communities. We need micro-economic reform because it delivers more productive workplaces, more efficient regulation and more competitive industries, and it gives better value to consumers.

The national reform initiative does have some positive aspects. However, it would be naive not to recognise that the financial implications for this and other governments of the end of the national competition policy process — and in particular this government's lack of access to the competition payments which resulted from the winding up of that process — were something which drove to a large extent this national reform initiative. Again on the Labor side this is about the dollars, not about the policy. Liberal governments have been far more willing to apply micro-economic reform, even to our traditional areas of support, than has the Labor Party. There can be no greater example of Labor squibbing on micro-economic reform when it comes to looking after its own mates than in the area of the industrial relations.

The Australian Chamber of Commerce and Industry said in September 2005 in a report entitled *Further Economic Reform Remains Imperative and Is Far From Complete*:

> ACCI particularly welcomes the commitment from the government of Victoria to a wide-ranging reform program, consistent with NCP. We hope that other jurisdictions will come to similar conclusions about the need for further economic reforms. ACCI is, however, disappointed that Victoria has not supported the need for ongoing workplace relations reforms.

This government and the Labor Party generally will not touch industrial relations reform because they are too wedded to the fortunes of the trade union movement to put the interests of Victorians and Australians first.

When we are considering a matter of public importance such as this, which seeks to congratulate this government for, amongst other things, leading the push for cooperative federalism, we need to consider where cooperation starts. I suggest a good starting point for cooperation is to respect each other's laws. It was the former, not lamented Prime Minister, Paul Keating, who, in one of his more lucid moments, noted that you

should never get between a Premier and a bucket of money. What on earth could cause the state Premier to turn his back on $90 million worth of federal funds? Sadly for Victorian taxpayers, Labor preferred to run a closed shop on the MCG redevelopment in defiance of federal law than accept $90 million of federal funding.

I am not going to accept any of the hypocrisy and cant that we have heard from the other side about how Victoria is missing out on its fair share of federal funding when these people in the Labor government had the opportunity to receive federal funding and knocked it back. They knocked it back on the MCG, and they knocked it back on the Scoresby freeway. They have no moral credibility in coming into this place and complaining about a lack of federal funding when they reject the federal funding that is offered because they are either too incompetent to run projects properly, as they were with the Scoresby freeway, or too wedded to the trade union movement to put the interests of Victorian taxpayers first, as they were with the MCG redevelopment.

This headline from the *Age* of 7 June 2002 says it all: 'Bracks says no thanks to $90m'. What sort of Premier would say no to $90 million? The answer is that a Labor Premier would say no to $90 million worth of federal funding. When we look at that MCG redevelopment, we remember that the state Labor government said it would accept the Workplace Relations Act and would even accept the national code of practice for the construction industry applying on the MCG site.

Mr Nardella interjected.

Mr O'BRIEN — The member for Melton should know that I was in fact an industrial relations lawyer prior to entering this place, so I know a little bit about this issue. I try to speak about things I know about, unlike the member for Melton.

But when it came to allowing the Office of the Employment Advocate access to the site, what happened? The Brian Boyd blackball was dropped. The Victorian government told the commonwealth, 'We will take your money, we will accept your laws, but we will not allow anyone on the site to verify that those laws are being complied with'. Why should the federal government have trusted the state Labor government? The state government said, 'We will not allow anyone onto the site to ensure that these laws are being complied with, but trust us'. Of course this government should not be trusted, because it and the state trade union movement have got form.

The Victorian government made a bizarre spectacle at the Cole royal commission when it admitted that it had engaged in inappropriate conduct on building sites in relation to the National Gallery of Victoria refurbishment. If you look at findings of the royal commission on a state-by-state basis, you find that there were 58 findings of unlawful conduct in Victoria.

An honourable member — How many?

Mr O'BRIEN — There were 58 findings of unlawful conduct in Victoria; 27 of those findings were against officials, organisers or delegates from the Construction, Forestry, Mining and Energy Union. One finding related to a raid by CFMEU officials, Martin Kingham and Bill Oliver, on the premises of the Masters Builders Association. This is a bunch of union thugs! We all saw what happened with Craig Johnston and his so-called run-through at Skilled Engineering. He frightened pregnant women by wearing a balaclava; these are the sorts of activities which are supported by members opposite.

Another example of how this government cannot be trusted with micro-economic reform and industrial relations is when it sets out to undermine industrial relations reform made at a federal level. The Premier has proudly said, 'I support a unitary industrial relations system; I supported it when I was the Leader of the Opposition'. But everything he and his predecessor have done has been an attempt to undermine that unitary system. We have seen a 30-year low in unemployment. This may tell members that industrial relations reform has delivered fantastic benefits for our community. But members opposite are not interested. What do they do? They set up a huge bureaucracy around the appointment of a Labor partisan as the workplace relations advocate.

Tony Lawrence is a former union industrial advocate and a former secretary of the International Centre for Trade Union Rights. You can imagine that someone who was the secretary of the International Centre for Trade Union Rights is going to be in favour of a flexible industrial relations system that cuts business regulation, delivers fairness and also delivers productivity growth. This centre is about bureaucracy that is completely unnecessary. It is about the undermining of the federal industrial relations system which the Labor Party says it supports out of one corner of its mouth, but then it takes every opportunity, whether it is through legislation, the creation of this bureaucracy, or through the actions of the Attorney-General, who is also the Minister for Industrial Relations, to try to undermine the system.

How can the Brumby government be congratulated for convincing the federal government to work in partnership with it when it spends its time and our money undermining, sniping and otherwise opposing real national reform? This matter should not be supported because there are no grounds for congratulating this government. This government has a very sorry tale to tell when it comes to industrial relations reform.

Mr BROOKS (Bundoora) — One of the most important reasons for the federal government to abandon its desperate and divisive attacks on state governments and to take up Victoria's model of cooperative federalism is housing affordability. Housing affordability is a key challenge facing many Australian families who are all ready under pressure from rising petrol and grocery prices and a shortage of GPs in many areas.

They are also under the attack of Howard's unfair IR (industrial relations) laws in the workplace. In recent years, thanks largely to the resources boom and solid infrastructure investment in Victoria, there has been strong economic growth with increasing employment and income levels. Unfortunately house price inflation has far outstripped income growth. This means that more low-income and even moderate-income households are being excluded from the housing market. The increase in house prices has flowed to the private rental market and has seen rents increase across the state. As people are excluded from the housing market, more are looking to social housing — a system that is under considerable pressure.

On 26 July this year the federal Minister for Families, Community Services and Indigenous Affairs, Mal Brough, pulled a cheap stunt by announcing a shake-up in the delivery of public and community housing. He said that the current arrangements under the commonwealth-state housing agreement have failed to deliver additional housing for those most in need. Funnily enough, at the previous meeting of the housing ministers in Darwin the federal government presented no new plans, did not respond to state reforms that were proposed and did not even send the responsible minister to the meeting.

The cold hard truth is that the commonwealth has slashed over $1 billion from the commonwealth-state housing agreement since 1994–95 which has cost Victoria over 5000 homes. Then when the Howard government's long-term neglect of public and social housing became a political problem, it rushed out a shoddy and ill-conceived statement. The federal government seems to have only one thing on its mind — win the election at all costs. Finding excuses and cheap headlines is the name of the game. This shameless behaviour by the federal government has the potential for a complete withdrawal of the commonwealth from public housing. It lays bare its disregard for nearly 75 000 Victorians who live in public and social housing. If the federal government was serious about housing affordability, it would start by appointing a minister for housing and establishing a national strategy to deal with housing affordability.

A six-point plan was presented by states and territories to the commonwealth at the housing ministers conference to provide a way forward for housing affordability. The plan set out steps to secure the viability of the social housing sector now and into the future; increase the supply of social housing; improve housing affordability for private renters; improve access to affordable home ownership; increase the supply and distribution of affordable housing through new developments and redevelopment projects; and improve housing opportunities for indigenous people.

As I said previously, the commonwealth has slashed over $1 billion from the commonwealth-state housing agreement since 1994–95 which has cost Victoria over 5000 homes. The Brumby state government has addressed this issue by providing additional funds over and above the commonwealth-state housing agreement. These additional funds will total over $780 million and an additional $140 million will be provided for homelessness initiatives. The additional investment by the Brumby government has allowed us to continue to grow total social housing supply. Since 1999 the statewide waiting list has decreased by 16.8 per cent, from 41 000 to 34 000. The Brumby government has recognised the importance of the not-for-profit sector as a cost-effective vehicle to complement the public housing system. To this end we have invested in the development of a regulatory environment to support the creation and viability of large and mature housing associations.

This year's state budget delivered a record $510 million — half a billion dollars — to improve and grow social housing in Victoria. Some $200 million of this was to improve and boost the supply of public housing with 800 new units, and $300 million was to increase the social housing supply and build housing sector sustainability, with 1550 new social housing units being taken up by the not-for-profit sector. The additional funding delivers a total budget of $1.4 billion for investment in social and public housing over the next four years and will provide almost 4000 new dwellings. This is the largest amount committed by a state government to social housing over and above the

commonwealth-state housing agreement, and it is a tangible and significant response to the disadvantage that exists within our community.

The private rental market is the most important source of housing for many lower income households, accounting for over 20 per cent of dwellings, but it has become too expensive for many families. The private rental market vacancy rate has been below 2 per cent for over one year, and rents increased over 6 per cent in real terms to March this year. The Australian government provides help to Centrelink recipients in the rental market through rent assistance, and it provides indirect supply-side assistance through tax incentives such as negative gearing, capital gains tax and depreciation. However, neither of these policy areas aims to increase the supply of affordable rental properties, and consequently the growth in the rental market has been in high and middle-range rentals, with actual declines in the total low-rent sector as the market has expanded.

I applaud the federal Labor Party's policy proposal to encourage new investment through the national affordable rental scheme, which is specifically aimed at making rentals affordable. The Brumby government is ready to work with the future federal government, whatever its political persuasion, to help deliver more affordable rental stock.

The great Australian dream of owning your own home is becoming a nightmare for many families, thanks to the Howard government. In the December 2006 quarter the median house price in Melbourne was $318 000 and in provincial Victoria it was $215 000, although there were wide variations across different suburbs and towns across the state. The Victorian government recognises that many first-time buyers are facing difficulty in purchasing their homes. Since the last federal election, when John Howard promised to keep interest rates at record lows, we have seen five consecutive rises. Interest rates have now risen nine times in a row, and these rises will cost families with an average-priced mortgage an extra $65 000 over the term of their loan. The latest interest rate rise means that families with a 25-year, $200 000 mortgage will have to find an extra $32 a month. Households are now losing a record 9.5 per cent of disposable income through mortgage interest repayments.

John Howard has lost touch and does not seem to care about the pressure that families are under, unless it means that he is under political pressure. Nevertheless the Victorian government plans to ensure that Melbourne maintains its status as the most affordable capital city on the eastern seaboard by focusing on four major areas. The first is financial assistance to first home buyers through the first home owners grant of $7000 and the first home bonus of $3000, or $5000 for Victorians buying newly constructed homes. The second area is stamp duty reductions. On 1 January this year the government cut stamp duty from 6 per cent to 5 per cent on homes valued between $115 000 and $400 000 and introduced a $2850 cut in stamp duty on houses valued between $400 000 and $500 000.

The third area is maintaining a 25-year land supply in growth areas. It was interesting to hear members opposite yesterday criticising developments in their local areas under the 2030 plan. The 2030 plan actually provides a 25-year land supply, which helps keep a downward pressure on house prices. The fourth area is securing a better deal for Victorian first home buyers through negotiations for a new national housing agreement. The federal Labor Party is committed to establishing a national housing supply research council and a $500 million housing affordability fund, which will address two supply-side barriers to development of affordable housing — the infrastructure costs of water and of sewerage.

Most Victorians would want the federal and state governments to work together to address these and other important issues. However, we have seen the Howard government putting self-interest before the national interest too many times.

Mr THOMPSON (Sandringham) — There are some key questions that need to be asked in relation to federal-state relations, and I put the following questions. Where was the Labor Party when it came to waterfront reform? Where was the Labor Party when it came to infrastructure reform? Where was the Labor Party when it came to local government reform? Where was the Labor Party when it came to tax reform? It was found wanting on each of those frontiers of major reform required for the development of the Australian nation and, in particular, the development of Victoria.

We also have the example of the Melbourne Cricket Ground site agreement. Some $90 million of federal funding was offered for that particular project. Did the Labor Party accept it? The answer is no. Whichever area you look at in terms of the key direction of the country, the Labor Party has been found wanting, and it has also been found wanting on important key areas of federal-state relations. The challenge ahead for the people of this state is to understand the difference between interest rates running at 17 per cent, or 21 per cent for commercial loans, under the Keating government with the recession that we had to have — —

The ACTING SPEAKER (Mrs Powell) — Order! The time for speaking on the matter of public importance has now expired.

STATEMENTS ON REPORTS

Environment and Natural Resources Committee: production and/or use of biofuels in Victoria

Mr LUPTON (Prahran) — I want to make some remarks in relation to the government's response to the Environment and Natural Resources Committee report on the production and use of biofuels in Victoria. This was a committee report that was researched and completed during 2006 in the period of the previous Parliament. The committee's report was tabled at the end of last year, and the government has made a considered response to the report and suggested a number of ways in which we may be able to continue to work to promote the use of biofuels in Victoria. I want to talk about a couple of the recommendations in particular which the government has signalled support for.

The ACTING SPEAKER (Mrs Powell) — Order! I remind the member for Prahran that he must also speak on the report and not just on the government's response.

Mr LUPTON — The report dealt with the way in which the Victorian government should act to promote the use of biofuels in Victoria and made a number of significant recommendations, which I will address. I will also deal with the way the government intends to look at those matters going forward. In particular, I refer to a statement called *Driving Growth — A Road Map and Action Plan for the Development of the Victorian Biofuels Industry*. This was launched on 18 April 2007 at a major ethanol conference held in Melbourne called Ethanol 2007, with the Victorian government supporting the event as the major sponsor. That conference attracted over 300 delegates from Australia and overseas.

By encouraging the establishment of a $5 million biofuels infrastructure grant initiative, the government is ensuring that the development and use of biofuels are encouraged in Victoria, which was of course a key element of the committee inquiry. It is fairly evident that this program, which is funded by the Regional Infrastructure Development Fund, can certainly help to drive industry-critical infrastructure development throughout Victoria, which of course is very important in terms of economic growth and prosperity around the state.

I want to specifically address two of the recommendations of the committee. Firstly, the committee recognised that there were additional areas that should be investigated further as a result of its reference, which was undertaken with some speed in the second half of 2006. The committee recommended that a joint investigatory committee of the 56th Parliament be allocated a reference to conduct an inquiry into the production and use of biofuels in Victoria. That recommendation certainly gained Victorian government support, and in order to facilitate further investigation into biofuels in Victoria the Legislative Assembly referred a reference to the Economic Development and Infrastructure Committee of Parliament in March this year in relation to ethanol and biofuel targets. I welcome that reference. I think it will go a considerable way towards furthering our understanding of the ways in which the ethanol and other biofuel industries in this state can be encouraged and the use of alternative fuels can be expanded.

Another recommendation of the committee that I want to refer to was that the government look at ways to ensure that government vehicles use biodiesel-blended fuels, where available. That recommendation has certainly also been supported by the government. The $5 million biofuels infrastructure grants initiative that has been announced as part of the biofuels road map and action plan will certainly consider support for infrastructure relating to the establishment of new biofuel production projects. That will certainly encourage extra use, and as far as the Victorian government fleet is concerned the government is certainly working to ensure that biodiesel-blended fuels are used, where appropriate.

Public Accounts and Estimates Committee: budget estimates 2007–08 (part 2)

Ms ASHER (Brighton) — I wish to make some observations about the Public Accounts and Estimates Committee's report on the 2007–08 budget estimates (part 2). I have previously commented on part 1 of the PAEC's report and made the observation that there was a very good minority report and that the level of analysis and commentary that one has traditionally expected of the Public Accounts and Estimates Committee has not yet appeared with this particular committee.

I particularly refer to a number of items in the appendix of part 2, in particular the transcript of evidence given by the previous Minister for Water and Environment

and Climate Change, John Thwaites, when he appeared before the committee. I want to illustrate what a nonsense it was in terms of the evidence he presented to the PAEC. At page 7 of the appendix the minister said:

> Finally, I should indicate that the water authorities are responsible for developing proposed water pricing schemes, and they are approved and oversighted by the Essential Services Commission.

What a change we have seen in this area. What has now happened is that the Premier has intervened, and in the case of the Melbourne water authorities he has overruled two out of the three retailers' submissions and effectively directed the Essential Services Commission to set these prices. As with many things that this minister told the PAEC, his testimony has proved to be incorrect.

I also refer to a question asked by Gordon Rich-Phillips, a member for the South Eastern Metropolitan Region in the other place, about a desalination plant on which the government was meant to have completed a feasibility study by 2006. In response to that question the former minister went on to say:

> The point is that you have to do the study properly, not jump in.

Again, I make the point that the fact that the government has not done the study is not the reason why we have had a delay in the augmentation of Melbourne's water supply. That is a complete fudge and a piece of nonsense from the previous minister. What we have seen is a series of incompetent and negligent acts by this government in failing to secure Melbourne's water supply. I refer again to the minister's testimony. It is not a matter of jumping in. The fact is that the minister and the government were well aware that there had been a significant decrease in rainfall. Indeed the previous minister talked constantly about climate change. He was singularly incompetent.

He could have built a dam, he could have built a desalination plant and he could have upgraded the eastern treatment plant. Those are all the things he could have done, but he simply offered the lame excuse about not jumping in. The public of Victoria actually wants the government to do something about the supply of water. We do not want the north–south pipe, which adversely affects the electorate of the Acting Speaker, but we do want to see this desalination plant. Again, the minister advised the committee that there had been an environmental, social and economic costing of large-scale desalination done, but we are still in a circumstance where the plant is not expected to be operational until 2011.

I also refer to the previous minister's and the current government's fiddling on water. The minister is quoted at page 15 of the transcript as saying:

> In the meantime I should emphasise that we have been working with industry of all sizes over the last seven years driving down water use …

That is seven years of working with industry, and what has this government asked of industry? It has asked industry to develop a plan. What we want from the government is an augmentation of supply. Everybody understands that the government cannot make it rain, but everyone also understands that the government is responsible for the supply of water. What the government should have done is to act way before now.

My colleague in the other place, Gordon Rich-Phillips, pointed out to the minister that the government's advertising campaign under the former Premier cost $12.9 million, yet in this year's budget the government only provided just under $10 million for water recycling projects for the financial year 2007–08. We see here the contrast between the government being prepared to spend $12.9 million on spin and yet only just under $10 million on water recycling. I advocate to other members of this house that they look at this testimony of a failed minister. I wish him well in his retirement, but it does not account for the fact that he is still a failed minister.

Public Accounts and Estimates Committee: budget estimates 2007–08 (part 1)

Mr SEITZ (Keilor) — I want to talk about the Public Accounts and Estimates Committee report (part 1). In particular I want to address the examination the committee has done into the Department of Human Services. Ministers gave generously of their time and spent quite some time addressing the committee and answering questions. They have also taken some questions on notice.

The report on Human Services shows in detail where the government is going and how it is caring for and looking after the community. It was good for the ministers to be present so that the committee could put questions directly to them. That is a great step forward for this committee because it is, as we have recognised, one of the most important committees of the Parliament. This has also been recognised by Parliament in the remuneration for its chair and extra remuneration for its deputy chair.

I note that the ambulance services were thoroughly examined in this detailed report. Of interest to me is that there will be an extension of the 24-hour ambulance

service in Melton and Sunbury as of 2008–09. That is part of servicing the regional area on the outskirts of my electorate. An important step forward is the fact that the committee has looked at all those decisions — not only what is in this year's budget estimates but at what will happen in the future.

An amount of $1.4 million has been allocated to the family choice program in the 2007–08 budget, and going forward. Maternity and obstetrics for rural Victoria is another matter the committee looked at. It also has gone very thoroughly through the whole budget estimates situation in the Human Services portfolio, including rural elective surgery, the Victorian health workforce program, Better Skills, Best Care; and bowel cancer screening, which is a national program which the Victorian government has also contributed to for people over 55.

It is particularly important that men aged around 55 to 60 have those tests, since they are prone to bowel cancer at that stage of life. Most men who contract the disease usually leave it too late because they will not go to their doctor for a check-up. It is a very important issue. I received in the mail at home, as part of a related survey, a package of literature and information encouraging me to have those tests done.

Another program examined by the committee is Nurse-on-Call, which is very good and has been well received by families. Children often wake up with a fever or a temperature, and new mothers or even new fathers can panic, and that phone number is very handy for them to ring. In the past they would have had to telephone the children's hospital for information, particularly if the concern was that their kids had taken some potentially poisonous substance. The Nurse-on-Call program is a very good service and is widely accepted in my electorate. The committee looked at the expansion and development of that program.

This government also supports bush nursing hospitals, which the previous government tried to abolish. We have provided funding and support for that with more than $7 million for 2007–08. It is excellent that the committee looked at that and has not forgotten about country Victoria.

We come then to counter-terrorism and disaster preparedness. The committee looked at how well our hospitals and health services would respond in those circumstances. They are adequately covered and funded in the budget. We are all concerned about those things. It is not only that we worry about tourism but we also have to be always prepared for natural disasters. I am constantly aware of the aeroplanes that fly over my electorate, into and out of the Melbourne and Essendon airports.

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

Scrutiny of Acts and Regulations Committee: regulation review 2006

Mr JASPER (Murray Valley) — I am pleased to comment on the recently tabled Scrutiny of Acts and Regulations Committee annual regulation review for 2006. By way of background, I have been a member of SARC's Regulation Review Subcommittee over many years, and I certainly have a longstanding interest in the regulations and their review by the subcommittee.

I stress the critical importance of regulations made under various acts of Parliament that have proceeded through the two houses and become law within Victoria. I also indicate to members that our current process for review of regulations is one of the most advanced in Australia, as has been recognised by many countries throughout the world. I recall in the 1990s the then parliamentary Legal and Constitutional Committee undertook extensive investigations into how regulations were reviewed in Victoria. The executive officer at the time, Jocelyn Scutt, worked very hard to make sure the committee looked at the changes to be implemented in the review of regulations generally. In reviewing the report presented recently to the Parliament, I wanted to make those opening comments to stress the importance of regulations to the Parliament and to the people of Victoria.

The report tabled indicates that in 2006, 179 regulations were scrutinised by the committee. The report provides an excellent overview. Chapter 1 provides an overview of the regulations, and page 4 refers to the disallowance procedures. It is very important to understand the disallowance procedures, which are utilised for regulations — should there be a disallowance made. I will not dwell further on that, but I indicate the importance of having those disallowance procedures. Importantly we need to look at changes to ensure that there is debate — that where there is disallowance of a regulation by the committee or by an individual member of Parliament, that that is debated within the period shown in clause 3 of the Subordinate Legislation Act 1994.

I refer to page 11 of the report, chapter 2, which sets out the significant issues looked at by the committee. Page 11 says that in 2006, five regulations were of particular concern to the committee. They were referred

back to the ministers of various departments for responses, and those ministers certainly were positive in their responses.

Page 22 of the report is worth referring to because of the changes which have been brought in by the operation of the Charter of Human Rights and Responsibilities Act, which has provided a further area for the scrutiny of regulations by the committee. It is important that we understand this is a critical part of the review of regulations which come before the committee. I also want to refer to a comment made on page 22 of the committee's report:

> The subcommittee commends ministers [for] the particular attention to detail —

in the presentation of information to the committee. The committee also acknowledged the certificates provided by and the information from the ministers. That indicates that over recent years there has been a more positive response from ministers where there have been areas of concern relating to regulations. They have responded positively, and in fact amendments have been made because of the comments made by the committee about this issue.

On the charter of human rights and responsibilities, I refer members to the three and a half pages in the report where detailed information is given on how the committee is now handling the particular clauses which are subject to the legislation and which refer to the reviews being undertaken by the committee.

I also want to pay tribute to the staff — Helen Mason, who was an executive officer for the Scrutiny of Acts and Regulations Committee in recent years and is now the executive officer for scrutinising regulations, and Sonya Caruana and Simon Dinsberg — for their support of the committee in the work they are doing.

Environment and Natural Resources Committee: production and/or use of biofuels in Victoria

Mr TREZISE (Geelong) — Like the member for Prahran who spoke earlier, I also am very pleased to be given the opportunity to speak briefly on the Environment and Natural Resources Committee's report on its inquiry into the production and/or use of biofuels in Victoria. I will also touch briefly on the response to the report by the government.

The report itself provides an assessment of the biofuels industry and manufacturing in Victoria. It also provides incentives for the increased use of biofuels in this state. Obviously this is very pertinent to the current debate that surrounds climate change across the globe. I say 'debate', because only last week we heard that some members of the federal Howard government actually doubt that some factors related to humans are causing climate change, despite all the scientific evidence before us today that our climate is heating up, with the primary cause being man-made pollutants. Some members of the federal Howard government are still burying their heads in the sand, which is an unbelievable scenario in 2007.

I must say that the report of the committee makes very interesting reading. It provides members such as me — and the wider community — with a very detailed account of biofuel use in Victoria, across Australia and the globe. There are countries, especially in Europe, where biofuels are already being extensively used. The committee gave the example of Germany, where biodiesel is extensively used in transport and the like. I believe that Australia would be very wise if it looked at those examples of European countries, particularly Germany which is leading the world with this initiative.

The report also sets out some very alarming facts or statistics that support the need for the future use of biofuels in Victoria and, as I said, in Australia. For example, it was noted in the report that 15 per cent of all greenhouse emissions are a result of the use of fossil fuels in the transport industry. That figure does not surprise me, but it should cause alarm bells to ring for the entire community.

It is further emphasised in the report of the committee that the estimate is that by 2010 there will be an increase of something like 40 per cent in greenhouse emissions from transport in comparison with 1990 levels. I think it also said there would be an increase of something like 70 per cent from 1990 to 2020 unless we do something about this dramatic increase. Given figures such as this, it is easy to conclude that as a state and as a nation we need to address the situation very quickly; and biofuels provide not all but part of the answer. I am pleased that with the support of the state government, a biofuels plant is being currently constructed in Geelong; it is ironic that that plant stands in the shadows of the Shell refinery on Corio Bay.

It is obvious to hopefully all members of this house that as a state we need to take steps to reduce our greenhouse gas emissions, and we do so through initiatives such as the development and use of biofuels. The state government has a proud record in addressing greenhouse gas emissions, and I commend the former Deputy Premier, and of course the former Minister for Water, Environment and Climate Change, the Honourable John Thwaites, in particular, for the role he

played in providing initiatives for this state since our election in 1999.

The report of the Environment and Natural Resources Committee into the production and use of biofuels in Victoria is excellent. It was interesting reading for me, and I must say I am far more educated and far more knowledgeable than I was prior to reading the report of the committee. I commend the report to the house.

Public Accounts and Estimates Committee: budget estimates 2007–08 (part 2)

Mr KOTSIRAS (Bulleen) — I wish to comment on the Public Accounts and Estimates Committee (PAEC) report on the 2007–08 budget estimates (part 2), and in particular I would like to make two points raised by the Minister for Sport, Recreation and Youth Affairs during the hearing. The first one relates to regional youth affairs networks, and the second is in response to the Youth Affairs Council of Victoria (YACVic). In relation to the networks, the minister said:

> There are 15 regional youth affairs networks that support a … partnership approach to discussing issues that relate to young people in the local area, provide a forum to gain information from young people and provide valuable input to government.

Unfortunately that is where it stops. This government provides no financial assistance to the networks to be able to carry out their work properly. In fact this government does not have to do anything with any recommendations that are put up from the network, except to say to the networks that they have noted those issues.

The second point relates to the organisations that the minister for youth claims to support. The first one is YACVic, and again during the hearing the minister said:

> YACVic is the peak body and leading advocacy group on young people's issues in Victoria.
>
> …
>
> YACVic continues to work across government to inform policy development related to a number of issues impacting on young people.

He goes on to say that:

> CMYI provides advice specifically around the needs of culturally and linguistically diverse young people.

I agree with the minister: they are two organisations that are working extremely hard for young people in Victoria. Unfortunately once again they are not getting the full support of this government. YACVic receives about $360 000 per year while CMYI receives about $220 000 per year from this government. That is not enough. I urge the minister to do more. The minister claimed during the inquiry that these two organisations are very important in ensuring that there is a bridge between youth and the government. Unfortunately, unless you put in the resources and you put in the money, nothing is done.

If the minister is listening to YACVic, as he claims, he should also read the document that YACVic has put out entitled 'Are you listening to us?'. In the report they urge the government to appoint a young people's commissioner. Unfortunately this government has always avoided appointing a person to that position, but if this minister for youth believes that YACVic is doing a good job and is serving a need, perhaps he should take this recommendation on board.

In this report 'Are you listening to us?' YACVic proposes that a children and young people's commission should be established and should have the following functions: one is to involve and engage young people to perform an advocacy role. The others are to review existing and proposed legislation; to monitor policies and practices; to initiate and conduct inquiries; to report and make recommendations to Parliament; to provide information, referral and assistance to complainants; to research crucial issues; to promote public education programs; to promote models of child and youth participation in decision making; and to form partnerships with other statutory bodies. It is something that Victoria needs. It is something that Victoria's young people need. Unfortunately, this government is refusing to appoint a person as a young persons commissioner.

At the PAEC the minister goes on to say that the Office of Youth Affairs has a staff of 30 people. When asked how many of those staff are under the age of 25, the minister responded, 'Four'. Four out of 30 is approximately 13 per cent. You would think if a unit in the department is responsible for young people, you would have more young people working in this unit. Unfortunately 4 out of the 30 are young people. It is also said that there are two young people there who are students, which takes it up to six, but there are only four young people working full time in the Office for Youth.

If you refer to what the minister said last year about the budget and you talk about 30 people in the office, you would say that the average yearly expenditure is about $1.5 million.

LEGISLATION REFORM (REPEALS No. 1) 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 Legislation Reform (Repeals No. 1) Bill 2007.

In my opinion, the Legislation Reform (Repeals No. 1) 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 gives effect to the Parliament's ongoing responsibility to identify acts that are redundant and to delete such legislation from the body of Victorian legislation. The specific acts to be repealed are:

Ballaarat Free Library (Borrowing) Act 1938

Heatherton Sanatorium Act 1944

Victorian Relief Committee Act 1958

Hairdressers Registration (Repeal) Act 1985

State Relief Committee Act 1986

Food (Amendment) Act 1991

Health and Community Services (Further Amendment) Act 1993

Food (Amendment) Act 1994

Children and Young Persons (Miscellaneous Amendments) Act 1994

Local Government (Amendment) Act 1994

Health Acts (Amendment) Act 1995

Housing (Amendment) Act 1996

Children and Young Persons (Miscellaneous Amendments) Act 1996

Local Government (Darebin City Council) Act 1998

Local Government (Nillumbik Shire Council) Act 1998

Human rights issues

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

The bill does not raise any human rights issues because it does not create or remove any legal rights or obligations. It simply repeals pieces of legislation that have completed their function and are without any continuing effect.

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

As the bill does not limit any 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 raise any human rights issues.

JOHN BRUMBY, MP
Premier

Second reading

Ms PIKE (Minister for Education) — I move:

That this bill be now read a second time.

The bill before the house, the Legislation Reform (Repeals No. 1) Bill, repeals a number of spent and redundant acts.

It is a matter of good housekeeping for the Parliament to regularly remove redundant legislation from the Victorian statute book. Legislation that has no ongoing function serves no purpose, and should be deleted.

To make the process of identifying redundant legislation more efficient, the government has instituted a program under which each department is reviewing the legislation under its administration and reporting on which pieces of legislation can be removed. This program is consistent with the government's commitment to improve the efficiency of government made at the last state election in the policy statement 'Efficient government — Reform Legislation'.

Clearing the statute book of redundant acts on a programmed basis in this way will help to achieve the government's goal of reducing the regulatory burden on the Victorian community, because it will help make the task of consulting our legislation cleaner and less confusing.

This bill represents the first results of that review, and seeks to repeal redundant legislation falling within the following portfolios: community services, health, housing and local government.

The 15 acts to be repealed by the bill are as follows:

1. Ballaarat Free Library (Borrowing) Act 1938
2. Heatherton Sanatorium Act 1944
3. Victorian Relief Committee Act 1958
4. Hairdressers Registration (Repeal) Act 1985

5. State Relief Committee Act 1986
6. Food (Amendment) Act 1991
7. Health and Community Services (Further Amendment) Act 1993
8. Food (Amendment) Act 1994
9. Children and Young Persons (Miscellaneous Amendments) Act 1994
10. Local Government (Amendment) Act 1994
11. Health Acts (Amendment) Act 1995
12. Housing (Amendment) Act 1996
13. Children and Young Persons (Miscellaneous Amendments) Act 1996
14. Local Government (Darebin City Council) Act 1998
15. Local Government (Nillumbik Shire Council) Act 1998.

Each of these acts is described in the schedule to the bill.

I commend the bill to the house.

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

Debate adjourned until Wednesday, 5 September.

FISHERIES AMENDMENT BILL

Statement of compatibility

Mr HELPER (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Fisheries Amendment Bill 2007.

In my opinion, the Fisheries 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 purpose of the Fisheries Amendment Bill 2007 is to amend the Fisheries Act 1993 ('the act') to give effect to a key initiative in the government's 2006 recreational fishing and boating policy statement. In particular, the bill will further enhance recreational fishing opportunities and encourage participation in Western Port bay by removing the entitlement from Westernport/Port Phillip Bay fishery access licence-holders to undertake commercial net fishing in Western Port bay and provide for a compensation scheme for affected fishers.

The Fisheries Amendment Bill 2007 also clarifies and improves some matters in the act that have been identified in the preparation of new regulations to replace the Fisheries Regulations 1998, which are due to sunset on 1 April 2008.

Human rights issues

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

The Fisheries Bill 2007 ('the bill') has been assessed against the Charter of Human Rights and Responsibilities ('the charter'). The right that has been identified as being impacted on by the bill is:

Section 20: property rights

Section 20 establishes a right for an individual not to be deprived of his or her property other than in accordance with law. This right ensures that the institution of property is recognised and acknowledges that the state of Victoria is a market economy that depends on the institution of private property.

The bill engages this right because it removes the entitlement for Westernport/ Port Phillip Bay access licence-holders to net fish in Western Port bay.

The removal of this entitlement will be in accordance with law as set out in the bill. The bill specifically provides that a holder of a Westernport/Port Phillip Bay fishery access licence is not authorised to use fishing nets in Western Port bay on and from 1 December 2007. The removal of this entitlement is clear and applies equally to each licence-holder.

There is an implied limitation on the power to make laws depriving persons of property that the laws must not do so in an arbitrary manner. 'Arbitrary' in this context may mean 'capriciously', 'unpredictably' or 'inconsistently': in other words, lacking in reason or proper policy justification. In this case, the purpose of prohibiting commercial net fishing in Western Port bay (and thereby removing the entitlement of current licence-holders to net fish) is to enhance recreational fishing opportunities and encourage participation in Western Port bay. The bill specifically provides that a holder of a Westernport/Port Phillip Bay fishery access licence is not authorised to use fishing nets in Western Port bay on and from 1 December 2007. The removal of this entitlement is clear and applies equally to each licence-holder. In this sense, the amendments cannot be said to be arbitrary.

Further, given the potential impact on fishing businesses, compensation may be made available to affected fishers, in accordance with criteria developed for that purpose. The criteria will be made available to affected licence-holders through the peak industry body.

Conclusion

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

JOE HELPER, MP
Minister for Agriculture

Second reading

Mr HELPER (Minister for Agriculture) — I move:

That this bill be now read a second time.

The Fisheries Act 1995 is the principal legislation for management, development and conservation of Victorian fisheries.

Recreational fishing is one of Victoria's most popular recreational pursuits. It is estimated that over 500 000 people recreationally fish every year in the wonderful fresh, estuarine and marine waters of Victoria. It is recognised that recreational fishing is a valuable contributor to Victoria's economic and social wellbeing, particularly in rural Victoria.

The government's vision for developing our recreational fisheries resources can be simply described as 'family-friendly fishing' — encouraging increased participation in fishing by women and children as well as traditional male anglers, young and old, and improving the recreational fishing experience through improved skills and better fishing opportunities.

Our marine and estuarine recreational fisheries provide quality experiences. The Port Phillip Bay snapper fishery is currently booming and is recognised as Australia's best snapper fishery. King George whiting are also abundant, as are calamari, garfish and gummy sharks.

I will now turn to the particulars of the Fisheries Amendment Bill 2007.

The proposed bill will give effect to a key initiative in the government's 2006 recreational fishing and boating policy statement. The bill will further enhance recreational fishing opportunities and encourage participation in Western Port bay following the removal of commercial netting in the bay.

In particular, the bill removes the entitlement from Westernport/Port Phillip Bay fishery access licence-holders to undertake commercial net fishing in Western Port bay and provides for a compensation scheme for affected fishers. Consequential amendments to the Fisheries Regulations 1998 will be introduced to remove the entitlement to use commercial fishing nets in Western Port bay.

The Victorian government has allocated $5 million to fund an adjustment package to compensate affected commercial fishers. The bill specifically provides that a holder of a Westernport/ Port Phillip Bay fishery access licence may be entitled to compensation. Compensation will only be paid to a licence-holder who has actively fished in Western Port bay in the last seven years.

The compensation scheme features either financial adjustment assistance or voluntary licence buybacks. Financial adjustment assistance will be offered to all licence-holders who have actively fished in Western Port bay over the last seven years. The compensation paid to licence-holders, by way of financial adjustment assistance, will be in the form of an income support payment and will assist the licence-holder to relocate their fishing activity. The amount of financial adjustment assistance offered will be calculated in accordance with developed criteria.

Licence-holders assessed under the developed criteria as being substantially impacted by the closure of Western Port bay can seek, instead of the financial adjustment assistance, assistance to leave the fishery in the form of a voluntary licence buyback package. The amount of compensation that they will be offered, by way of a voluntary buyback package, will again be calculated in accordance with criteria developed for that purpose. It will include consideration of the value of surrendering the fishery licence, a fishing equipment allowance, an income support payment, and reflect the costs of retraining for the licence-holder.

The proposed legislative changes will allow timely implementation of this policy commitment on 1 December 2007.

Key stakeholders, such as Western Port commercial fishers and the commercial fishing peak body, Seafood Industry Victoria, have been consulted on the adjustment package. Other stakeholders, such as the Victorian Recreational Fishing Peak Body, support the commitment as it will further enhance recreational fishing opportunities in Western Port bay.

Other minor amendments proposed in the Fisheries Amendment bill 2007 will clarify and improve some matters in the act that have been identified in the conduct of a review of the Fisheries Regulations 1998, which are due to sunset on 1 April 2008. Amendments include clarification of certain offences that relate to commercial aquaculture; clarification of the power to prescribe levies on the basis of areas specified in aquaculture licences; clarification of the power to make regulations authorising the selling of priority species of fish under an access licence; and expanding the kind of activity the secretary may authorise under a general permit. These amendments help to clarify the legislation as a result of the review of the regulations, and have no material impact on the relevant industry.

I commend the bill to the house.

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

Debate adjourned until Wednesday, 5 September.

Sitting suspended 1.05 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Water: charges

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to Labor's water tax slug, and I ask: will the Premier intervene to ensure increases in country and regional water charges are no higher than metropolitan increases, or is he really more divisive than decisive?

Mr BRUMBY (Premier) — I am pleased that the Leader of the Opposition has asked this question today, because we do have an issue with water prices in Ballarat. We have an issue with water prices in Ballarat because the people of Ballarat have been robbed and cheated and dudded by the federal government. We of course as a government have supported the super-pipe through to Ballarat, and we were seeking as a fair contribution to the cost of that super-pipe $90 million from the federal government. On Sunday the federal Minister for the Environment and Water Resources — —

Mr Baillieu interjected.

Mr BRUMBY — I did not think you would like the answer. You should not have asked — —

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question, not answering the question. He intervened in metropolitan Melbourne personally. Will he intervene in the country?

The SPEAKER — Order! There is no point of order.

Mr BRUMBY — The Leader of the Opposition asked me a question about country water prices, and I am answering it. The reason country water prices in Ballarat are increasing by a level more than they need to is that the federal government is not providing its contribution. You know, Speaker, every Australian — —

Mr Wells interjected.

The SPEAKER — Order! The member for Scoresby!

Mr BRUMBY — Every Australian who opened their newspapers today would have seen on the front pages, or very close to the front, the federal government's budget surplus this year of $17.3 billion — not million dollars, but billion dollars! — and despite this the federal minister for water resources was in Ballarat on Sunday — —

An honourable member — Snuck in.

Mr BRUMBY — He snuck into Ballarat on Sunday, went in there and was asked for $90 million and provided them not with $90 million but said all he could do was $30 million. The arithmetic is pretty simple here. You have $17.3 billion of federal government surplus. Here is the question: can the federal government afford to put $60 million into Ballarat? The answer is, of course, it can. The surplus — —

Mr Howard interjected.

The SPEAKER — Order! The member for Ballarat East!

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question. He is asking himself questions. This Rudd-oric does not address the question he was asked.

Honourable members interjecting.

The SPEAKER — Order! I ask government members not to interject in that loud manner while I am trying to hear a point of order from the Leader of the Opposition. I uphold the point of order and ask the Premier to come back to answering the question.

Mr BRUMBY — The simplest way for the price increases in Ballarat to be less than is currently forecast is for the federal government to meet its obligations and make its contribution towards water projects in that area. I will just say to the — —

Honourable members interjecting.

The SPEAKER — Order! Just as I have asked government members to be quiet while the Leader of the Opposition has the call, I ask opposition members to be quiet while the Premier has the call.

Mr BRUMBY — The federal government at the moment is of course trawling around every marginal seat in Australia ladling out money, and it is a pity — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier to restrict his answer to the question.

Mr BRUMBY — It is a pity that the federal government does not do what is the right and responsible thing and support the people of Ballarat.

Commonwealth-state relations: national reform agenda

Ms MUNT (Mordialloc) — My question is to the Premier. I refer the Premier to the government's commitment to reinvigorating the commonwealth-state relationship for the benefit of Victorian families, and I ask the Premier to update the house on how it is delivering on its commitment through the national reform agenda.

Mr Wells interjected.

The SPEAKER — Order! Before the Premier starts, I ask for some cooperation from the member for Scoresby.

Mr BRUMBY (Premier) — Through 2005 and 2006 the Victorian government worked very closely with the federal government to develop what has now become known as the national reform agenda. Essentially the national reform agenda is about all Australian governments coming together with a focus on how we drive productivity improvements and how we increase workforce participation. The modelling that was done by the Victorian Department of Treasury and Finance and then confirmed by the Productivity Commission showed that the national reform agenda could boost Australia's gross domestic product by around 11 per cent after 25 years, or around $100 billion a year. It is a great example, I think, of cooperative federalism and of governments working positively together.

We have now gone into this election time frame nationally where unfortunately cooperative federalism has become a dirty word. What we have now is a new alternative being prosecuted by the Prime Minister which is really a short-term, shameless, shoddy alternative which involves riding roughshod over the states. We are seeing this shameless trend towards centralism in relation to disability funding, public housing, indigenous affairs, hospitals and the management of the Murray–Darling Basin. Some people have described this as 'serial political opportunism'.

In a speech earlier this week the Prime Minister used the expression 'aspirational nationalism' to describe this approach. This is giving pork-barrelling new respectability! Tim Colebatch put it well in today's *Age*. He said that this aspirational nationalism is:

> … a euphemism for government plans to spend our money wherever it will buy votes, even if they are not areas of federal government responsibility. Your taxes at work to re-elect the government.

The Howard government is trawling around Australia trying to find marginal seats to pork-barrel. It is not about cooperative federalism and it is not about the long term, it is about short-term political opportunism.

Honourable members interjecting.

The SPEAKER — Order! The member for Ballarat East is now warned.

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question and not addressing the issues of Victorian government business. In his last answer he was begging for federal money; now he is seeming to reject it.

The SPEAKER — Order! I have been listening quite carefully to the Premier and believe his answer is relevant to the question.

Mr BRUMBY — We have a federal government that is just trawling through marginal seats around Australia, pork-barrelling in a way which we have never seen before. As I indicated in my previous answer, we have a $17.3 billion federal government surplus. We have projects in Victoria that could do with federal funding. We have a project in Ballarat, which I mentioned in my previous answer, that is looking for $60 million; we have a ring-road around Geelong that we are contributing to, but the federal government will not contribute its share of that project — and the list goes on and on.

There are 5 million Australians who do not live in marginal seats but who live in Victoria. They live in our state, and they deserve a fair go and a fair share of those resources. For the sake of those Victorians and for the sake of decent public policy in Australia, the Prime Minister should call the federal election. He should get all of this out of the way. He should bring on the federal election — —

Honourable members interjecting.

The SPEAKER — Order! I believe the Premier is straying a little from the question, and I bring him back to answering it.

Mr BRUMBY — Every day we wait there is another $1 million, another $10 million or another

$100 million which is just siphoned off into marginal seats in New South Wales, Queensland or South Australia. In terms of the interests of the people of Victoria, the sooner the federal election is called the better.

Water: goldfields super-pipe

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Water. Will the proposed bulk allocation of water that has been purchased from Goulburn Valley irrigators by Coliban Water for use in Bendigo have the equivalent security of supply as the water rights of the farmers from whom it was purchased?

Mr HOLDING (Minister for Water) — I thank the Leader of The Nationals for his question. The first thing I would say is that it is very important that Coliban Water is able to access this water in order to provide water security for the people of Bendigo and it is appropriate that it is able to do so. In fact the infrastructure that will enable them to do so is infrastructure that this government has funded and put in place to ensure that the people of Bendigo and ultimately the people of Ballarat will be able to access water through the goldfields super-pipe project and will in fact have water security for the next 50 years. That is a very significant investment that this government has made. It is an investment that this government has made without the support of The Nationals and without the support of the Liberal Party, which does not support those projects and in fact have resisted the investment that the state government has made.

Mr Ryan — On a point of order, Speaker, the minister is clearly debating the issue. The position of the Liberal Party or otherwise is irrelevant to the question that he has been asked. I ask you to have him answer the question.

The SPEAKER — Order! I uphold the point of order. The Liberal Party's position on this is irrelevant. Can the minister confine himself to answering the question.

Mr HOLDING — That is a ruling I certainly could not disagree with. The question of the status of the water that the Leader of The Nationals is referring to is quite clear. The water is taken from the water reserve, and it will be provided through Coliban Water in the usual way.

WorkChoices: long service leave

Mr HAERMEYER (Kororoit) — My question is to the Minister for Industrial Relations. I ask the minister if he would update the house on the implementation of the Victorian Long Service Leave Act.

Mr HULLS (Minister for Industrial Relations) — As you would be aware, Speaker, the Brumby government has introduced some 14 pieces of legislation in an attempt to protect Victorian working families from the onslaught of the policy formerly known as WorkChoices. Can I say that almost every one of those pieces of legislation has been opposed by those opposite. There was one piece of legislation that had support, the one the member referred to in his question. The Long Service Leave (Preservation of Entitlements) Act 2006 was supported by the Liberal Party — and I think The Nationals opposed it. That piece of legislation protected Victorian workers hard-earned long service leave entitlements from WorkChoices.

The act requires employers to tell staff if any new workplace agreement modifies or removes their long service leave entitlements. We did this of course because we feared for the long service leave rights of Victorian workers. We wanted to protect those long service leave rights. In supporting the legislation members opposite said, whilst they supported it, they did not think it was necessary because they did not believe WorkChoices would ever attempt to undermine Victorian workers long service leave.

It seems that the views of those opposite were wrong, because I have received a copy of correspondence from the federal Workplace Authority that actually advises that WorkChoices makes it illegal for aspects of the Victorian long service leave legislation to be included in any workplace agreement. In fact the letter, which is signed by the senior legal officer and delegate for the employer advocate, says to include section 87 of the long service leave act — that is, the Victorian long service leave legislation — —

Mr Clark — On a point of order, Speaker, the minister is quoting from a document, and I ask that he make it available to the house.

The SPEAKER — Order! Is the minister happy to make that available to the house?

Mr HULLS — I am happy to make the letter available. The letter says:

> I therefore conclude that section 87 contains content prohibited by regulation 8.5(8).

This letter is saying that the provision in the long service leave legislation in Victoria that was supported by both sides of the house that notifies an employee that

they may be signing away their long service leave entitlements is indeed prohibited content.

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is unacceptable. I ask members to cooperate with the smooth running of question time so that the minister can be heard in his answer.

Mr HULLS — What that means is that employees could be subject to fines of up to $6600 and employers could be subject to fines of up to $33 000 in relation to this matter. I have today written to the federal Minister for Employment and Workplace Relations, Mr Hockey, seeking that he urgently amend the Workplace Relations Act to ensure that Victorian workers' long service leave entitlements are indeed protected. I conclude by urging the Leader of the Opposition to join us in calling on Prime Minister John Howard and also Mr Hockey to repeal this outrageous WorkChoices legislation and to protect the long service leave entitlements of Victorian families.

Water: concessions

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer again to Labor's water tax slug, and I ask: will the Premier guarantee that existing water concessions for low-income households will be increased in line with price rises for each metropolitan and regional water authority to ensure that disadvantaged Victorians are no worse off?

Mr BRUMBY (Premier) — I know, of course, that since the election of the Labor government in 1999 the concessions budget has increased significantly. We have provided, for example, a virtual doubling of education maintenance allowances — I think there has been a 60 per cent increase in the secondary allowances — and we have provided significant increases across a range of concession areas.

We made it very clear last week that, in relation to water increases in the Melbourne area, there are obviously increases that are running through this year that were already in the pipeline, so to speak. From next year the increases in Melbourne will be no greater than 14.8 per cent, and that is from 1 July 2008 through to 30 June 2009. In relation to the regional water authorities, those authorities have submitted their regional plans and until they are considered by the Essential Services Commission there is — —

Mr Baillieu interjected.

Mr BRUMBY — Hang on! There is — —

The SPEAKER — Order! We will not have conversations across the table.

Mr BRUMBY — For the benefit of all members, particularly the Leader of the Opposition, we have a policy in Victoria of independent price regulation which is fully consistent with national requirements. The final price increases will be determined by the Essential Services Commission. In relation to the price increases which we have already identified for Melbourne, prior to that determination I have made it very clear that concessions will be increased, and those increases will occur in next year's state budget.

Geosequestration: issues paper

Ms DUNCAN (Macedon) — My question is to the Minister for Energy and Resources. I refer the minister to the recent report on geosequestration released by the commonwealth Parliament's Standing Committee on Science and Innovation, which was entitled *Between a Rock and a Hard Place*. Can the minister inform the house what action the Brumby government is taking to ensure carbon capture and storage is developed to help reduce Victoria's greenhouse gas emissions?

Mr BATCHELOR (Minister for Energy and Resources) — Geosequestration, or carbon capture and storage, is a process of capturing carbon dioxide and placing it in permanent storage in deep underground geological structures. The Brumby government is committed to the development of CCS (carbon capture and storage) as a central part of its strategy to address climate change.

We on this side of the chamber believe that climate change is real, as does the United Nations Intergovernmental Panel on Climate Change. The Brumby government recognises that human behaviour is actually changing the global climate. But not everyone recognises, despite the overwhelming scientific evidence, that this is in fact the case — but I will get back to that shortly.

Mr Ryan interjected.

Mr BATCHELOR — Yes, it is predictable, isn't it! Developing carbon capture and storage will reduce Victoria's greenhouse gas emissions. In addition to that, it will enable the use of our abundant brown coal resources. It will also enable us to make deep cuts in carbon dioxide emissions, the cause of greenhouse gas problems. Victoria is really fortunate in that it has abundant brown coal resources in the Latrobe Valley located very close to Bass Strait, which has been identified as an ideal site for carbon storage.

The government is taking action to facilitate the commercial availability of carbon capture and storage. Already we have provided some $6 million to support the Otway Basin trial of CCS. This is a world-class trial which will increase our understanding of the technology, the required regulatory framework and the requirements for community consultation, which will assist the development, particularly the commercial development, of CCS. In the Latrobe Valley we are also supporting the Monash Energy project, which has plans to use Victoria's brown coal to make diesel fuel. We will do this by implementing a carbon capture and storage policy — the first time that it has been envisaged that this will be used commercially here in Victoria.

In addition, this Friday I will be releasing an issues paper which will help the government, industry and the community to move towards a zero emissions future from brown coal in the Latrobe Valley — a very important step forward for the economy of the Latrobe Valley. The Brumby government is committed to tackling climate change. In Victoria the opposition is full of sceptics and the federal government in Canberra is full of sceptics in terms of the human causes of climate change. We have seen in Canberra suggestions that, because in places like Jupiter, Triton, Pluto and Neptune — —

Mr Ryan — On a point of order, Speaker, the minister is stargazing. Whatever might be happening in Canberra is irrelevant to the issues about which he has been asked as far as this Parliament is concerned.

The SPEAKER — Order! I uphold the point of order and ask the minister to confine his comments to the question and to Victorian government business.

Mr BATCHELOR — The issue of carbon capture and storage has been examined in the federal parliamentary report entitled *Between a Rock and a Hard Place*, and it identifies that human activity is a major contributor to climate change. However, there was a minority report in this parliamentary committee report that will impact directly on the economy of Victoria, because — —

Honourable members interjecting.

Mr BATCHELOR — I told you! You will never lead us out of the wilderness or the darkness.

Mr Baillieu — On a power point of order, Speaker, I think the power system has said enough about the length of the minister's answer.

The SPEAKER — Order! If I can see the clock down the back correctly, the minister has been speaking for 5 minutes. I think we will allow the minister to conclude his answer.

Honourable members interjecting.

Mr BATCHELOR — Clearly human activity is causing climate change here, and those who do not believe it are clearly off the planet. We will work here in Victoria, but what we would like is a little bit of support from the opposition in throwing away its cloak of climate change scepticism to assist us in this.

The SPEAKER — Order! I ask the minister to return to government business.

Mr BATCHELOR — We ask the opposition to support this issue and to support the initiatives I will be launching this Friday to further advance the process of carbon capture and storage here in Victoria.

Water: charges

Ms ASHER (Brighton) — Speaker, my — —

Ms Beattie — Soft light becomes you.

Ms ASHER — The member and I are of a similar age. My question is to the much younger Minister for Water. I refer to the minister's water tax slug, and I ask: can the minister guarantee that Melbourne's 14.8 per cent water price increase will be confined to usage charges and will not be extended to service or other charges?

Mr HOLDING (Minister for Water) — I thank the Deputy Leader of the Opposition for her question. We have made it very clear that, firstly, the price rises that were put to us in the draft water plans from Melbourne's water retailers were not acceptable and that therefore we would recommend to the Essential Services Commission that a 14.8 per cent increase for the Melbourne retail area be put into effect from 1 July 2008 and that further advice be provided on what the pricing structure should be going forward after that period.

That 14.8 per cent price increase will relate to the volumetric charges and the sewerage and water service charges but not to the parks charge and not to other elements of the charge. We have made very clear the elements of the water bill that that will apply to and the elements that it will not apply to. The parks charge will increase in the usual way in accordance with the consumer price index.

Hospitals: funding

Mr LANGDON (Ivanhoe) — My question is to the Minister for Health. Can the minister outline to the house how the Brumby government is properly funding Victorian hospital services?

Mr ANDREWS (Minister for Health) — I thank the honourable member for Ivanhoe for his question and for his ongoing passionate advocacy on behalf of health services in his local community. This government is absolutely committed to having the best possible health and hospital service system for all Victorians — a system that is best placed to meet the needs of today and the very considerable health challenges of the future.

That is why over the last eight years we have boosted recurrent funding for our health and hospital services by a whopping 96 per cent. That is why we have delivered the biggest health asset investment program in the history of this state — some $4.1 billion — to improve our health infrastructure right across Victoria. That is why we have funded 7200 extra nurses across our health and hospital system, and that is why we have funded more than 1500 extra doctors. In every respect this government is giving our health and hospital services the resources they need to treat more patients and to provide better care.

There was no better example of this than on Monday, when the Premier and I were joined by the member for Ivanhoe at the Austin Hospital to see firsthand the new $12 million day surgery centre. It is a day surgery centre with extra beds and two extra operating theatres that will treat some 20 000 Victorians each and every year. That new model of care, that brand-new service, that fundamentally important investment, is due to the commitment of this government.

Over the last few years I have been very pleased to visit the Austin Hospital on more than one occasion. It is always a great pleasure to visit the Austin, because in so many ways it tells the story of this government's investment in health services. We all remember that in 1999 that hospital was set to be flogged off, to be sold and to be privatised. We put an end to that — and what is more, this government has rebuilt the Austin Hospital from the ground up and provided record levels of funding. That new day surgery centre is a great example of this government's commitment to properly funding health and hospital services in that part of Melbourne and, indeed, right across Victoria. But we do face challenges.

Mr K. Smith — What about Wonthaggi?

The SPEAKER — Order! The member for Bass might like to visit Wonthaggi. I ask the member for Bass to cease interjecting.

Mr K. Smith — I will.

The SPEAKER — Thank you!

Mr ANDREWS — We do face considerable challenges, and as a government we are committed to meeting those. Just as new technology, new staff and additional funding are central to a better health system and meeting those challenges, so too is a proper funding partnership — a fifty-fifty partnership — with the commonwealth government that stands above state and federal divides. We need a proper partnership and a genuine partnership, and sadly we have not enjoyed that over the last eight years. This government and Victorians right across this state have been worse off because the commonwealth government refuses to appropriately fund the health and hospital services that are so important to Victorian families.

The SPEAKER — Order! I ask the minister to come back to the question.

Mr ANDREWS — When it comes to investing in the services that matter, proper funding, proper partnership and a joint effort are critically important, and they are critically important to meeting the health challenges of the future. We need good health policy, not bad health politics. Victorian families deserve and Victorian families need proper health policy, not health policy written by Mark Textor. We need proper health policy that is all about giving this state, and indeed all states and territories, an appropriate share of funding in a joint partnership to deal with the health challenges that we face in the years to come.

There are challenges, and there is more to be done. This government has a proud record of investment and achievement in building health services. There is more to be done, and notwithstanding the abject failure of the commonwealth government, this is the government to do it.

Water: infrastructure

Ms ASHER (Brighton) — My question is to the Minister for Water. I refer the minister to Labor's water tax slug, and I ask: given that the government took $207 million in dividends from the water authorities last financial year alone and has now raised water prices to pay for infrastructure upgrades, will the minister rule out taking any more dividends until these infrastructure upgrades are complete?

Mr HOLDING (Minister for Water) — I have to say that I thank the Deputy Leader of the Opposition for her question, because it gives us a chance to put a few things straight in relation to dividends. The Deputy Leader of the Opposition has been running around the state creating the impression that in some way the state government has been restricting the investment capabilities of our water authorities through the extraction of dividends. In fact what has happened is that the biggest investment in water-based infrastructure in this state's history has been taking place. In recent years we have had more than $4.7 billion — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Deputy Leader of the Opposition not to interject in that manner across the table. I ask the member for South-West Coast to allow the minister to answer the question in silence.

Mr HOLDING — We have had more than — —

Mr Haermeyer interjected.

The SPEAKER — Order! The comment by the member for Kororoit is not necessary.

Mr HOLDING — We had more than $4.7 billion in investment in water infrastructure across the state prior to the last budget — $1.7 billion out of the Consolidated Fund and more than $3 billion by our water authorities. Since that time we have had the announcement of the new investments which will occur as part of the next stage of the Our Water Our Future strategy. These are the measures that are being put in place to provide water security not only for Melbourne but also for the entire state through those investments in the water grid.

More importantly, in relation to the dividends, which were the basis of the deputy opposition leader's question, what we have in place is a dividend system which is consistent with the national water initiative and with all of the COAG (Council of Australian Governments) arrangements that have been in place in Victoria since 1994. The set of benchmarks that have been used by the Department of Treasury and Finance are the same benchmarks that were utilised by the former government when it was in power.

Opposition members are running around the state reflecting on the dividend policy this state has put in place when in fact all the dividend arrangements are consistent with the COAG agreements, are consistent with the arrangements agreed to by the states and territories and the commonwealth as part of the national water initiative and are consistent with the benchmarks that have been put in place and utilised by the Department of Treasury and Finance since the last government was in place.

Consumer affairs: credit reform

Ms BARKER (Oakleigh) — My question is to the Minister for Consumer Affairs. I refer the minister to the issue of credit provision reform to protect Victorian families and ask what action the Victorian government is taking in this area.

Mr ROBINSON (Minister for Consumer Affairs) — I thank the member for Oakleigh for her question on this important subject. A key challenge for the Brumby government is to maintain credit affordability in this state and to ensure that borrowers are protected from exploitation. It is an obligation that we seek to meet in a number of ways.

We seek to meet it primarily through our continuing work in response to the credit review, a landmark review that was undertaken in the last Parliament by the member for Monbulk in an earlier capacity. It is an outstanding piece of work that is widely regarded across the country. That is a review that proposed some 40 recommendations, a number of which have already been acted on, a number of which are under active consideration for future legislative implementation and a number of which have been dealt with by the Ministerial Council on Consumer Affairs, a very productive forum made up of the states and the commonwealth that is doing outstanding work. In coming weeks it is anticipated that it will release a model bill for further reforms of the national consumer credit code.

The state is also meeting its obligations through an affordable credit summit, which I had the opportunity of launching this morning. This is the very first summit of this kind undertaken in Australia. It brings together banks, credit unions, peak community bodies and government officials from across the country and is looking at ways in which more responsible lending practices can be entrenched — something I am sure all members would support. The government is also committed to furthering its work on the no-interest loans scheme. This is a scheme which was funded through some $4.7 million in last year's budget, and it is being partnered by the Good Shepherd Youth and Family Service organisation. We are also continuing our work on research projects in conjunction with some great organisations such as the Smith Family and the Brotherhood of St Laurence.

The member for Oakleigh may be aware that there have been recent calls for further action. Indeed on the weekend the federal Treasurer was calling for a crackdown on low-doc lenders. We appreciate the federal Treasurer's anxiety about this matter, although I have to say that we are a little bemused that his comments appear somewhat at odds with a submission made by the Reserve Bank of Australia and the Australian Prudential Regulatory Authority to a current House of Representatives economic committee inquiry into home lending practices. This is a federal parliamentary inquiry that is under way.

Amongst other things the joint submission from those agencies said of low-doc lenders — and I am quoting from the *Australian Financial Review* (AFR) of a few days ago — that the 'overwhelming effect' of these lenders 'has been to widen the range of households who can get access to finance'. I can assure all members of the house that the Brumby government as a general rule thinks that increased choice for householders is a good thing.

The AFR report went on to say that the rising popularity of so-called low-doc and non-conforming loans had led to the interest margins that lenders make on standard home loans shrinking from 450 basis points in the early 1990s to just 120 basis points today. Again I can say that as a general rule the Brumby government regards that as a very good thing. We do not quite understand where the federal Treasurer is coming from with these comments about a crackdown, but we accept that it is an important issue and we accept that he is seeking assurances from the states as to the work they will continue to do.

I want to assure the federal Treasurer that we will do a number of things. We will continue to cooperate with or through the ministerial council with our state and federal colleagues to further develop the model bill. I can assure the federal Treasurer that the Brumby government will continue its work on the vital initiatives I have already outlined to the house. I want to assure the federal Treasurer of one other thing — that is, of an enduring economic truth. It is that the biggest single determinant of credit affordability both in Victoria and in Australia was, is and remains interest rates. That is the case: interest rates are the key determinant. When interest rates go up, borrowers get hurt. When interest rates go up five times, borrowers get hurt even more.

In conclusion, we will continue to do our bit when it comes to credit affordability. We only ask that the Howard government does its bit and honours its promise to all Victorians that it would keep interest rates low, not high.

CRIMES AMENDMENT (RAPE) BILL

Statement of compatibility

Mr HULLS (Attorney-General) 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 Crimes Amendment (Rape) Bill 2007.

In my opinion, the Crimes Amendment (Rape) 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 Crimes Act 1958 ('the act') to clarify the jury directions relating to the offence of rape and to alter the offence of rape to include situations where an accused person did not turn their mind to the issue of consent. More specifically, the bill amends the act by:

restructuring the jury directions in relation to rape to improve the clarity of the provisions;

adding a new jury direction to correctly focus the jury on 'awareness' as the fault element in rape;

adding a requirement that the judge direct the jury in relation to consent issues in relevant cases;

amending the jury direction about belief in consent to provide more guidance on assessing the fault element in the offence and to strengthen the communicative model of consent; and

amending the offence of rape (and other sexual offences to which the issue of consent is relevant) to provide that inadvertence or indifference to the issue of consent is an alternate fault element.

Human rights issues

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

There are three human rights protected by the Charter of Human Rights and Responsibilities Act 2006 (the charter) that are relevant to the bill. Each of these rights together with the relevant clauses are outlined below.

Right to a fair trial and the right to be presumed innocent

Clauses 5, 6, 7 and 8 of the bill amend the offences of rape, compelling sexual penetration, indecent assault and incest respectively. Consequently, they have the potential to raise the right to a fair trial (section 24 of the charter) and the right to be presumed innocent (section 25(1) of the charter), should the amendment in any way shift the legal or evidential burden from the prosecution to the accused. However, the bill does

not alter either the legal or evidential burden, which remains with the prosecution. Consequently, these rights are not engaged and therefore, are not limited.

Retrospective criminal laws

As the alteration to the offences set out above broaden the offences, the bill could potentially raise the right not to be subject to retrospective criminal law set out in section 27(1) of the charter. However, clause 9(2) of the bill provides that the amendment to these offences only applies to offences alleged to have been committed on or after the commencement of the Crimes Amendments (Rape) Act 2007. Consequently, it will not operate retrospectively and therefore the right is not engaged and therefore is not limited.

Conclusion

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

do not raise human rights issues; or

to the extent that some amendments do raise such issues, these amendments do not limit human rights.

ROB HULLS, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill is the third bill to be introduced by the government in response to the findings of the Victorian Law Reform Commission's *Final Report — Sexual Offences Law and Procedure*. In its report the commission found that there is a high incidence of sexual assault, a low disclosure rate, serious health consequences for victims of sexual assault, relatively low prosecution and conviction rates and a criminal justice response that, in many cases, causes further trauma to victims.

The commission made a large number of wide-ranging recommendations in recognition of the need for a broad systemic response to the problem of dealing with sexual assault. Most of the commission's legislative recommendations have already been implemented with the passage last year of the Crimes (Sexual Offences) Act 2006 and the Crimes (Sexual Offences) (Further Amendment) Act 2006. As with the earlier legislative changes, the amendments in this bill represent one component of a broader policy initiative to make the criminal justice system respond to sexual assault in a fairer way, and in a way that does not re-traumatise victims.

In summary, the bill:

restructures the jury directions in relation to rape to improve the clarity of the provisions;

provides a new jury direction to correctly focus the jury on 'awareness' as the fault element in rape;

includes a requirement that the judge direct the jury in relation to consent issues in relevant cases;

amends the jury direction about belief in consent to provide more guidance on assessing the fault element in the offence and to strengthen the communicative model of consent; and

amends the offence of rape (and other relevant sexual offences) to provide that inadvertence or indifference to the issue of consent is an alternate fault element.

Amendments to jury directions

There have been previous amendments to these aspects of the law relating to rape, primarily in 1991 and 1997. However, the commission found that those amendments had not been as effective as intended in achieving a fair balance within a rape trial between the rights of an accused person and the rights and needs of a complainant to preserve, as far as possible, her or his dignity.

The commission raised concerns about the operation of the statutory jury directions contained in the current section 37 of the Crimes Act 1958 including the circumstances in which a judge is required to give such directions. Of particular concern to the commission was the distinction between the current direction relating to an accused person's 'belief' in consent and the fault element of the offence of rape, which is 'awareness' of lack of consent or 'awareness' that the complainant might not be consenting. The relationship between these two concepts has caused confusion.

The amendments to the jury directions in the bill are designed to provide this much-needed clarity by taking a more narrative approach to the directions. The directions are restructured to directly relate to the elements of the offence. They also provide that, where relevant to the facts in a particular case, the judge must provide the appropriate direction, and relate that direction to both the relevant facts and element of the offence. Conversely, they provide that the judge must not give those directions when not relevant to the facts of the case.

On the issue of consent, in addition to retaining the existing directions on consent, the bill requires the judge, where relevant, to direct the jury:

> on the meaning of consent under the act; and
>
> that the law deems a circumstance set out in section 36 to be a situation where the complainant did not consent. Section 36 includes such things as the complainant was unconscious or incapable of understanding the sexual nature of the act, or they submitted to the act because of force or fear of harm to themselves or anyone else; and
>
> if the jury finds that one of these factors exists, they must find that the complainant did not consent.

This is intended to further promote the communicative model of consent.

The bill provides for separate directions in relation to the fault element of the offence of rape, namely, the awareness of the accused regarding consent. These amendments recognise that it is common in sexual offence trials for an accused person to assert that they believed the complainant was consenting. This evidence or assertion is most likely to arise either when police interview the accused or when the accused is giving testimony.

Where this occurs the bill seeks to assist the jury with the task of assessing what, in their view, was inside the mind of the accused when determining whether the prosecution has proven beyond a reasonable doubt that the accused was aware that the complainant was not or might not be consenting. The jury will have to make an assessment of that evidence or assertion in order to come to a conclusion about whether the prosecution has proven this element of the offence.

The directions provide some guidance to juries about assessing the evidence or assertion about the accused's state of mind. In cases where an asserted belief in consent is relevant, the jury will be directed to consider whether that belief is reasonable in all the circumstances. Those circumstances include whether the accused was aware of a vitiating factor set out in section 36, such as where the complainant is asleep or unable to understand the sexual nature of the act, and whether the accused took any steps to ascertain whether the complainant was consenting and, if so, what those steps were.

The directions make it clear that an asserted belief in consent, even if accepted by the jury, is not the end of the story. The jury must proceed to decide whether the prosecution have proven beyond a reasonable doubt that the accused was either aware that the complainant was not or might not be consenting. That is to say, belief in consent and awareness of the possibility of an absence of consent are not mutually exclusive.

New alternate element of inadvertence

As previously indicated, these amendments seek to clearly support the communicative model of consent. In a rape trial, Victorian law currently requires the prosecution to prove that the accused was aware that the complainant was not or might not be consenting to an act of sexual penetration. This requires the accused to have actively turned their mind to the issue of consent. That is to say, if an accused person effectively does not care one way or the other whether the person they are having sex with is consenting, and therefore does not even turn their mind to this issue, then the offence of rape is not committed. This also applies to a range of sexual offences which have the same fault element.

The community expects that where someone is intending to engage in a sexual act with another person, they will ensure that the other person is freely agreeing to engage in that act. It is not acceptable for a person to engage in a sexual act whilst being completely indifferent to whether the other person agrees. Where there is any doubt in the mind of the person instigating the sexual act, there is a responsibility upon that person to communicate with the other person in order to remove that doubt.

These amendments make it clear that a person will be guilty of the relevant sexual offence both if they are aware that the other person was not or might not have been consenting to the sexual act or if they do not turn their mind at all to the issue of consent.

General

The amendments in this bill pertaining to the fault element of a number of sexual offences will apply to offences committed after the commencement of the bill. The remaining provisions, which relate to jury directions, will apply to any trial that commences after the commencement of the bill.

In conclusion, this bill seeks to support the communicative model of consent to sexual relations and assist juries in relation to the determinations which they are required to make on the elements of the offence of rape. It is part of the much broader package of reform this government has delivered aimed at improving victims' experience of the justice system.

I commend the bill to the house.

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

Debate adjourned until Wednesday, 5 September.

WORKING WITH CHILDREN AMENDMENT BILL

Statement of compatibility

Mr HULLS (Attorney-General) 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 Working with Children Amendment Bill 2007.

In my opinion, the Working with Children 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

Amendments to Working with Children Act 2005

This bill amends the Working with Children Act 2005 ('the act'), which commenced operation on 3 April 2006. The purpose of the act is to assist in protecting children from sexual or physical harm by ensuring that people who work with, or care for, children have had their suitability to do so checked.

The act established a scheme, mandating a 'working-with-children check' for persons involved in child-related work. Child-related work applies to people who work or volunteer in connection with certain occupational fields and as a result of that work, have regular, direct contact with children which is not supervised.

The working-with-children check assists in preventing those who pose a risk to the physical and sexual safety of children from working with them, either in paid or voluntary work. The working-with-children check considers and assesses relevant criminal records in relation to serious sexual, violent or drug offences and relevant findings from prescribed professional bodies. The act established a minimum statewide standard for assessing the suitability of those persons who undertake child-related work.

Under the act, in considering an application, the Secretary to the Department of Justice must take into account criminal offences listed as relevant together with relevant prescribed findings. In exercising discretion to not issue an applicant with an assessment notice the secretary must have regard to listed factors which include the nature and gravity of the offence, the period of time since the offence/s occurred, any information given by the applicant and the likelihood of future threat to the physical or sexual safety of children. Prior to a person being refused an assessment notice they are provided an opportunity to explain why they believe they should be issued with a check. Following the submission process, an applicant who has been refused a WWC check may appeal the decision to the Victorian Civil and Administrative Tribunal (VCAT).

The objective of this bill is to promote the wellbeing of children by enhancing the existing protection mechanisms contained within the act. The bill amends the act to enhance existing assessment processes within the scheme and to ensure that persons with serious criminal histories are assessed for their potential risk to the physical and sexual safety of children. This is a direct response to practical issues that have arisen during the first year of operation of the act.

The bill includes new offences which are defined as 'relevant offences', due to the correlation between the offences and the potential for harm to the physical and sexual safety of children (for example, the offence of 'stalking' where the victim is a child).

The bill also provides the secretary with a limited 'exceptional circumstances' discretion to consider persons with offences which, while the offences are not prescribed 'relevant offences', there is nevertheless a significant link between the offending behaviour and potential risk to the physical and sexual safety of children. In such cases, the presumption is that the person will be issued with an assessment notice unless it can be established that an unjustifiable risk to the safety of children exists.

The limited 'exceptional circumstances' discretion will also apply to circumstances where a person has applied and is awaiting an outcome, or where their application has been finalised. The applicant or assessment notice holder (in the case that the application is finalised) must first be informed of the intention to reassess their application or assessment notice.

Amendment to the Children, Youth and Families Act 2005

The amendment to section 82 of the Children, Youth and Families Act 2005, ('CYFA') will incorporate carers as registered foster carers and out-of-home carers within the meaning of s. 82, where between December 2002 and 23 April 2007 they:

> acted as a volunteer foster carer by having a child placed with them by an out-of-home-care service; or
>
> were employed by an out-of-home care service for the purpose of providing care to a child and did provide care to a child for this purpose.

This will allow for independent investigation and potential referral to the suitability panel of carers who have allegations made against them for conduct occurring within three years before the date upon which the CYFA was proclaimed.

One of the key aims of the CYFA is to strengthen the safety and quality of out-of-home care services. Accordingly, the CYFA spells out a new process for responding to allegations of physical and sexual abuse of children living in out-of-home care, by:

> enabling independent investigations of allegations of physical and or sexual abuse of children who are in out-of-home care;
>
> establishing the suitability panel to disqualify registered carers who pose an unacceptable risk to children from

volunteering as a foster carer or being employed as a carer by a residential care service.

It was intended that the CYFA allow for reports to be made about allegations of physical or sexual abuse relating to conduct occurring on or after not more than three years before the date on which the CYFA received royal assent. This would allow for reports to be made regarding conduct occurring after 7 December 2002.

However, the CYFA as currently worded, significantly limits the retrospective effect of these provisions. Sections 81 and 82 specify that the allegation must relate to a person who is or was a registered foster carer or residential care employee. The concept of 'registered' carer is created by the CYFA. This limits the application of the provisions to carers who were registered carers on or after the commencement of the CYFA.

This limitation excludes carers who were engaged by an out-of-home care agency to provide care between 7 December 2002 and 23 April 2007, but were not registered as carers when the CYFA commenced. The objective of this amendment is to overcome this unintended consequence.

Human rights issues

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

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 5 of the bill promotes recognition and equality before the law for people with an impairment by providing an exception to the existing legislative requirement that a person personally sign their working-with-children check application form.

Clauses 8 and 9 of the bill add new offences as 'relevant offences' under the act. Clause 8 adds the specific offences of 'loitering near schools etc.' and 'stalking' where the victim was a child as category 2 offences under the act.

Under category 2, it is presumed that the applicant will be refused an assessment notice unless the secretary is satisfied that doing so would not pose an unjustifiable risk to the safety of children.

Clause 9 adds 'causing injury recklessly or intentionally' and 'obscene exposure' as category 3 offences under the act. Under category 3, it is presumed that the applicant will receive an assessment notice unless it is appropriate for the secretary to refuse to give one.

The inclusion of these offences enables their consideration for the purposes of assessing the suitability of a person to engage in child-related work, and provides the secretary with the attendant discretion to take into account the particular circumstances relating to the person and the commission of the offence.

Clause 10 of the bill provides the secretary with a limited 'exceptional circumstances' discretion to consider applications with criminal records containing offences which are not currently considered, having regard to specified criteria, and where there is a significant link between the offending behaviour and risk to the physical and sexual safety of children. The presumption is that the person will receive an assessment notice; the onus is on the secretary to demonstrate that exceptional circumstances exist, and there is a significant link between the offending behaviour and the risk to the sexual and physical safety of children.

As a person's suitability to work with children is assessed on the basis of criminal record, these provisions may limit section 8 of the charter by discriminating against persons on the basis of race or impairment, which are attributes protected under the charter. Specifically, there could potentially be an indirect and disproportionate impact on groups who are more likely to have an extensive record for offending. For example, indigenous groups and people with an intellectual disability, who are overrepresented in the criminal justice system, may be disproportionately affected.

Section 13: privacy and reputation

The charter outlines that a person has the right not to have his or her privacy, family, home, or correspondence unlawfully or arbitrarily interfered with. In addition, a person has the right not to have his or her reputation unlawfully attacked.

Amendments to the Working with Children Act 2005

The act allows for the collection and disclosure of personal and sensitive information in relation to offences that are relevant to a working-with-children check. No clause of the bill specifically provides that information is required to be provided by a person. However, the right to privacy is engaged because by expanding the relevant offences under the act and providing for an 'exceptional circumstances' discretion in relation to other offences, the bill will mean that the provisions in the act permitting the collection and disclosure of personal information in relation to relevant offences will now also apply to the new offences incorporated by virtue of this bill.

The act requires that as part of the application for an assessment notice, certain personal information is required to ascertain that person's identity for the purpose of a criminal history check.

Where that person has a relevant criminal history, that information is used in order to make an assessment of the suitability of a person to work with children, taking prescribed matters into account including the gravity of the offence, the time since the offence, the age of the victim and the offender and other relevant issues.

The act provides that the secretary may seek additional information from applicants; as well as take into account a notice given by a prescribed body; and make any other inquiries to, or seek advice or information on the application from, the Director of Public Prosecutions.

The act also provides that copies of assessment notices, interim negative notices or negative notices (all of which contain personal information) are provided to an applicant's employer. This also applies in instances where the secretary has revoked an assessment notice and issued a negative notice following a reassessment. Employers have specific responsibilities under the act, which provides that it is an

offence to engage a person in child-related work if the person does not hold an assessment notice.

Unlawful and arbitrary interference

The bill does not limit the right in section 13 of the charter as the interferences with privacy are not unlawful or arbitrary for the reasons outlined below.

The requirement that an interference with privacy not be unlawful means that the interference must be provided for in the law and that the law must specify in detail the precise circumstances in which interferences with privacy may be permitted.

In this case, the bill introduces new offences which will be relevant for a working-with-children check. Collection and disclosure of information is only permitted under the act where a criminal history check reveals information which may pose a threat to the safety of children. The use of the personal information for this purpose is consistent with the aims and the intention of the act, namely, to protect children from physical or sexual harm.

The act sets out in detail the circumstances in which privacy may be interfered with for the purpose of ensuring that people who work with or care for children have their suitability to do so checked by a government body.

Consistent with current practice, the collection and use of information must comply with the information privacy principles and the confidentiality provisions already existing within the act. Section 40 of the act relates to confidentiality and prohibits (subject to the exceptions contained in section 40(2)) the giving to any person, whether indirectly or directly, any information acquired by the person from, or in the carrying out of, a working-with-children check. Section 40(1) is very broad and prohibits the giving of information that is likely to cause harm to the public interest as well as information that is not likely to do so.

As the circumstances in which personal information may be collected are set out in detail in the act and there are constraints concerning the disclosure of the information, it is considered that the interference with privacy is not unlawful.

The requirement that an interference with privacy not be arbitrary means that any interference with privacy should occur in accordance with the provisions, aims and objectives of the charter and should be reasonable in the circumstances.

The interference with privacy is consistent with one of the important aims of the charter, to provide special protection for children. For example, section 17 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 him or her by reason of being a child.

The use and disclosure of personal information is also reasonable in the circumstances, as the collection and use of the information in relation to the new offences (envisaged under clauses 8, 9 and 10 of the bill) is a proportionate response to the risk that those offences pose to the safety of children.

The new 'relevant offences' and the new limited 'exceptional circumstances' discretion require that there is a nexus between the offending behaviour and the potential risk to the sexual and physical safety of children.

The new offences to be included are:

> the two offences of 'loitering near schools etc.' and 'stalking', where the victim is a child as 'relevant offences' within category 2; and
>
> the two offences of 'causing injury intentionally or recklessly' and 'obscene exposure' as 'relevant offences' within category 3.

For example, the offence of 'loitering near schools etc.' is specifically aimed at predatory behaviour in relation to children. An outcome of being convicted of this offence is to be subject to reporting requirements under the Sex Offenders Registration Act 2004. To be charged with the offence, a person must:

> have been charged with a specified sexual offence (all of which are currently included as 'relevant offences' under the act); and
>
> be in or near a place frequented by children, 'without reasonable excuse'.

In relation to the offence of 'obscene exposure', trivial behaviour (such as urinating in a public place) as compared with sexual offending, will not be considered as demonstrating a clear nexus between the behaviour and potential risk to the physical and sexual safety of children. As such, information will not be able to be collected and disclosed in relation to these minor offences.

A sufficient nexus between the offender's history and the safety of children is also required in relation to the 'exceptional circumstances' discretion given to the secretary. The bill provides for a new limited discretion which will enable the secretary to refuse to give an assessment notice (or to revoke an assessment notice) if satisfied that 'exceptional circumstances' exist to justify refusal or revocation of the notice. In making this determination, the secretary must have regard to whether the person's offending behaviour indicates that there is an unjustifiable risk to the safety of children, as well as prescribed factors including the period of time between offences. The discretion can only be exercised when a clear nexus exists between the person's offending behaviour and potential risk to the physical and sexual safety of children.

Therefore, the collection of information in relation to offences that may pose a risk to children is considered to be proportionate and not arbitrary. As such, it is considered that expanding the range of offences that will be relevant to a working-with-children check does not limit the right to privacy as the interference with privacy is neither unlawful nor arbitrary.

Amendments to CYFA

The consequential amendment to section 82 of the CYFA also engages the right to privacy and reputation in section 13 of the charter.

The CYFA establishes a legal framework for investigating retrospective allegations made against a carer of children who are in the care of the state. The CYFA clearly defines the period of retrospectivity (December 2002 to the commencement of the act on 23 April 2007). With this amendment, the CYFA also clarifies the class of persons who

may be disqualified from providing out-of-home care as a result of a previous allegation of physical or sexual abuse.

The CYFA amendment engages the right to privacy because of the type of information that will be exchanged between the secretary of DHS and the out-of-home care service in determining the status of a carer. This may include information of a personal nature and information regarding the allegation/s of physical and sexual abuse. The amendment also engages the right to privacy in relation to the subsequent information flow between the secretary of DHS and the suitability panel if proceedings are instituted regarding the allegations of physical and sexual abuse and information of a personal nature. However, privacy is not unlawfully or arbitrarily interfered with.

Unlawful interference

The report of alleged abuse by a carer regarding a child in out-of-home care can be made by any person but is confined to grounds of physical and sexual abuse and is time specified in the legislation. It is the intent of the CYFA to strengthen the safety and quality of out-of-home care services. Accordingly the CYFA spells out a new process for responding to allegations of physical and sexual abuse of children living in out-of-home care. As such, any interference is precise and circumscribed and in accordance with law.

Arbitrary interference

In providing clear parameters around the type of allegations, that is, alleged physical and sexual abuse of children, the interference with persons' rights is limited to these matters and the amendment also ensures that any interference with a person's privacy is relevant to the alleged allegations. Any interference with privacy in relation to this amendment is therefore not arbitrary.

In addition, the CYFA spells out strict safeguards to protect the privacy and reputation of carers who are the subject of alleged abuse in care. These protections include:

- limitations on the disclosure of information about investigations and hearings by the secretary;
- confidentiality of information acquired by an authorised investigator;
- confidentiality of proceedings of the suitability panel, in relation to any allegation or status of an investigation into the allegation (s. 127, 129 and 130 CYFA).

Allegations of physical or sexual abuse of a child in out-of-home care can be lawfully disputed by the carer. Additionally, the carer has a right of appeal from decisions made by the suitability panel to VCAT.

As such, it is considered that the right to privacy is not limited as the interference is neither unlawful nor arbitrary.

Section 17: protection of families and children

The bill engages this human right by enhancing and promoting the safety and wellbeing of children when children are in the care of persons other than their family.

Section 26: right not to be tried or punished more than once

The charter provides that a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

Section 26 is designed to protect an accused person against 'double jeopardy'. The rationale for this protection is to ensure fairness to the accused and finality in the system of justice by preventing repeated attempts to gain a conviction of a previously acquitted person.

The bill enables government to place restrictions regarding work on individuals with records for certain types of offences. However, the international jurisprudence suggests that this sort of consequence of conviction for certain offences does not constitute a punishment for the purposes of section 26 of the charter. For example, the New Zealand Court of Appeal has held, in relation to a corresponding right in the Bill of Rights Act 1990 (NZ), that it would be erroneous to treat the word 'punished' in that context as 'embracing punishment outside the ambit of the criminal process and its associated enforcement of the public law'. *Daniels v. Thompson* (1998) 3 NZLR 22.

As such, it is considered that the bill does not engage section 26 of the charter because the 'punishment' referred to in section 26 does not include penalties imposed outside of the criminal law.

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

Recognition and equality before the law

It is considered that the limitation of this right is justifiable under section 7, as set out below.

The nature of the right being limited

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

(a) the importance of the purpose of the limitation

A person's suitability to work with children is assessed on the basis of criminal record. This may limit the right in section 8 of the charter because of the potential for groups of people with certain attributes (e.g. impairment, race) to be disproportionately affected as they are overrepresented in the criminal justice system (i.e. indigenous persons, people with an intellectual disability).

Assessment on the basis of criminal record is important because certain types of offending behaviour (i.e. serious sexual, violent or drug offences) are considered relevant when assessing whether a person is suitable to engage in child-related work. It is important for the secretary to consider the specific new offences, and to exercise a limited 'exceptional circumstances' discretion in determining whether a person is suitable to engage in child-related work.

(b) the nature and extent of the limitation

Indigenous groups and people with an intellectual disability, who are overrepresented in the criminal justice system, may be seen to be disproportionately affected by an assessment based on criminal record.

There are a number of safeguards within the act which limit the potential discrimination as set out below:

> The act currently provides for assessment of a person's suitability to engage in child-related work, on the basis of criminal record and findings from prescribed professional bodies. For the purposes of assessment, only certain serious criminal offences are considered relevant due to their particular nature and potential risk to the sexual and physical safety of children.
>
> The act provides criteria which the secretary must take into account when exercising discretion. The criteria relate to the particular circumstances of each case, including the time since the offence was committed; the gravity of the offence; the age of the victim and offender; and the person's behaviour since the offence.
>
> Finally, in the event that a person is assessed as unsuitable to engage in child-related work, the act provides for a full range of appeal rights to the Victorian Civil and Administrative Tribunal (apart from a person subject to reporting obligations under the Sex Offenders Registration Act 2004; or an extended supervision order under the Serious Sex Offenders Monitoring Act 2005).

These existing safeguards will not be altered by the bill.

In addition, while indigenous groups and people with an intellectual disability may be overrepresented in the criminal justice system, it is considered unlikely that the offending behaviour of individuals within these groups will fall within the range of the serious sexual, violent or drug offences which are considered 'relevant offences' for the purposes of the bill.[1]

The safeguards set out above will continue to allow for a consideration of individual circumstances.

(c) the relationship between the limitation and its purpose

An assessment on the basis of criminal record is rationally connected with the purpose that the bill seeks to achieve. The purpose of the bill is to amend the Working with Children Act 2005 to enhance the efficiency of the act, whose main purpose is to 'assist in protecting children from sexual or physical harm by ensuring that people who work with, or care for, them have their suitability to do so checked by a government body'.

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

There are no less restrictive means reasonably available which would not compromise the purpose of the act.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it limits human rights but those limits are reasonable and proportionate.

ROB HULLS, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Working with Children Amendment Bill 2007 aims to enhance the existing assessment mechanisms established under the Working with Children Act 2005.

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 to do so checked by a government body.

Victorians have demonstrated their commitment to protecting children with a high number of applications for working-with-children checks. Since the commencement of the scheme, over 100 000 applications have been received. It is notable that a significant number of people have applied well in advance of their required date.

During the scheme's first year of operation, 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 purposes of assessing or reassessing a person's suitability to engage in child-related work. The bill seeks to address these issues.

The bill will enhance the mechanisms within the act to assess the suitability of persons to work with children, which is the main purpose of the legislation. The bill will achieve this in two fundamental ways.

Firstly, the bill provides for the inclusion of four additional offences to be considered relevant in assessing an application.

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[1] The Victorian response to the *Review of Recommendations of the Royal Commission Into Aboriginal Deaths in Custody Report*, section 3 'Statistical information on indigenous over representation in the criminal justice system 2005' notes that:

- In 2002/03 the highest alleged offences for both indigenous and non-indigenous persons apprehended by police was assault'.
- The next highest offence category for indigenous persons was 'Justice procedures (includes breaches of court orders) and property damage offences'.
- This data was further analysed and showed that three in five alleged indigenous offenders (62 per cent) who were apprehended for assault were specifically charged for 'intentionally / recklessly cause injury', 'unlawful assault' (21 per cent) and 'assault police' (18 per cent)

The bill inserts the offences of 'loitering near schools etc.' which is an offence under the Crimes Act 1958 under the heading of 'Loitering by a sexual offender', and 'Stalking' where the victim is a child, as offences which are relevant for classification of applicants as category 2.

'Loitering near schools etc.' and 'Stalking' where the victim is a child have been included in category 2 due to their predatory nature and the specific risk these offences may pose to the physical and sexual safety of children. As offences which are relevant for classification of applicants as category 2, the Secretary to the Department of Justice will have discretion to consider the offences. The secretary must refuse to issue an assessment notice unless satisfied that doing so 'would not pose an unjustifiable risk to the safety of children' having regard to the prescribed criteria.

To be charged with the offence of 'loitering near schools etc.', 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 two thresholds operate to restrict the scope of the offence. It is clear that, for example, parents waiting to collect children, including estranged parents denied contact with their children (who may be breaching an intervention order or Family Court order) would not be committing this offence. In the latter situation, the person may be breaching an order — or committing a different criminal offence — not the offence of 'loitering near schools etc.'.

The bill also inserts the offences of 'causing injury intentionally or recklessly' and 'obscene exposure' as offences which are relevant for classification of applicants as category 3. They will be included in category 3 in recognition that the offences may cover a range of behaviours. As an offence relevant for classification of applicants as category 3, the Secretary to the Department of Justice must issue an assessment notice unless it is inappropriate to do so, having regard to the prescribed criteria. In the context of 'obscene exposure', where, for example, someone has urinated in a public place, it is unlikely that this would be regarded as posing a risk to the physical and sexual safety of children.

The inclusion of the above offences as offences which are relevant for classification of applicants as categories 2 or 3 means that they will be considered in the final determination regarding risk to the sexual and physical safety of children.

Secondly, the bill enhances assessment mechanisms within the act by providing the secretary with a limited 'exceptional circumstances' discretion. In the scheme's first year of operation, it has been the experience of the Department of Justice that persons with certain types of criminal histories which do not otherwise fall into categories 1, 2 or 3, should be assessed in terms of whether they pose an unjustifiable risk to the physical or sexual safety of children. Such criminal histories could include, for example, an extensive and consistent pattern of violent offences.

The amendment will allow the department to assess potential risk to the physical and sexual safety of children and, if warranted, refuse an assessment notice. This will occur in exceptional circumstances and where there is a significant link between the applicant's criminal record and the potential risk to the physical or sexual safety of children.

In these circumstances, there is a presumption that the person will pass the check unless the Secretary to the Department of Justice is satisfied that the giving of an assessment notice would pose an unjustifiable risk to the physical and sexual safety of children. In making a decision about whether a person should pass the check, the Secretary to the Department of Justice must have regard to a number of factors including the time since the offence(s) occurred and the conduct of the applicant since the offending. These are considerations which already exist in other areas within the act.

Anyone who receives a negative notice because of these additional provisions can, of course, appeal the decision to the Victorian Civil and Administrative Tribunal. This bill does not affect this existing right in any way.

The administration of the act is reviewed by the child safety commissioner on an annual basis. The enhancement provisions contained in this bill will of course be part of the review by the commissioner.

The bill will also place two specific 'carnal knowledge' offences within category 2. This will enable the secretary to exercise discretion in determining whether to issue an assessment notice. 'Carnal knowledge' offences are historical, and experience has shown that they often encompass situations where the 'offender' and 'victim' engaged in sexual behaviour as boyfriend and girlfriend. The presumption is that the secretary must refuse to give an assessment notice, however may exercise discretion to do so, provided that doing so does not pose an unjustifiable risk to the safety of children.

The bill also makes provision for the Victorian Civil and Administrative Tribunal to make interim orders pending the final determination of a matter. The

purpose of this amendment is to limit any serious implications for applicants and any children in their care, if there is a delay in hearing a matter.

Accordingly, 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 the Victorian Civil and Administrative Tribunal has issued a stay order.

Finally, the bill makes a range of minor technical amendments to clarify some terms within the act. These technical amendments will enhance the clarity and efficiency of the act. The bill also makes minor technical amendments to other acts.

I commend the bill to the house.

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

Debate adjourned until Wednesday, 5 September.

FIREARMS 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 Act 2006, I make this statement of compatibility with respect to the Firearms Amendment Bill 2007.

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

Overview of the bill

The bill amends the Firearms Act 1996, the Crimes Act 1958 and the Magistrates' Court Act 1989 to further provide for various matters relating to the regulation of firearms in Victoria.

Human rights issues

The provisions of the bill raise a number of human rights issues.

1. Provision of information

Section 13 of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

The right is based upon article 17 of the International Covenant on Civil and Political Rights. The United Nations Human Rights Committee has referred to the notion of privacy as revolving around protection of 'those aspects of a person's life, or relationships with others, which one chooses to keep from the public eye, or from outside intrusion'.

A number of provisions of the bill require provision of information by persons for the purpose of regulating the use of firearms (see, for example, clauses 5, 6, 18, 20, 22, 24, 26, 31, 33, 34, 35, 39 and 48). In many cases the provision of the information would not interfere with a person's private life. However, to the extent that it may do so it is necessary for the purposes of proper regulation of firearms in the interests of safety of the community. It cannot be regarded as arbitrary and accordingly does not limit the right.

2. Display of firearms

Section 15 of the charter protects freedom of expression.

Clauses 21 and 22 of the bill amend the provisions of the Firearms Act which restrict the circumstances in which firearms and cartridge ammunition can be displayed and impose penalties upon persons who fail to comply with permits to display firearms or cartridge ammunition.

However, the right to free expression may be subject to lawful restrictions reasonably necessary to respect the rights of others, including for the protection of public order.

The restrictions imposed on the display of firearms by the provisions are necessary and reasonable. Accordingly the provisions are compatible with the right to free expression in s. 15 of the charter.

3. Property rights — s. 20

Section 20 of the charter establishes a right not to be deprived of property otherwise than in accordance with law.

The bill amends a number of provisions relating to the surrender, forfeiture and disposal of firearms (see clauses 19, 42 and 43).

Section 20 only prohibits a deprivation of property that is carried out unlawfully. As the surrender, forfeiture and disposal of firearms occur in accordance with the processes set out in the act any deprivation of property that occurs as a result of the amendments would take place under powers conferred by legislation, in accordance with the law. There is an implied limitation on the power to make laws depriving persons of property that the laws must not do so in an arbitrary manner. 'Arbitrary' in this context may mean 'capriciously', 'unpredictably' or 'inconsistently'.

In this case, the amendments are not arbitrary. They improve the existing provisions to enable regulation of firearms, including surrender, forfeiture and disposal, in the interests of safety of the community. Accordingly, the provisions do not limit the property rights in s. 20 of the charter.

4. Search of persons and vehicles

Section 21 of the charter protects the liberty and security of persons. Section 13 of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

Section 149 of the act enables police to search, without a warrant, persons and vehicles for firearms where the officer

has reasonable grounds for suspecting that a person is committing or is about to commit an offence against the act and that person has a firearm in his or her possession. Clause 41 amends s. 149 of the act to include cartridge ammunition, silencers and other prescribed items within the search powers.

The search of a person or their vehicle may interfere with a person's private life. However, it cannot be regarded as arbitrary as it is limited to the search for firearms and related items in circumstances where a police officer has reasonable grounds for suspecting that a person is committing or is about to commit an offence. The police officer is required to inform the person of that suspicion as well as the officer's name, rank, place of duty and identification (unless they are in uniform). Accordingly, the provision is compatible with s. 13 of the charter.

The search of a person, and sometimes a vehicle, will necessarily involve some restriction upon the liberty and security of the person. However, the limit upon the right is clearly reasonable and justifiable in a free and democratic society for the purposes of s. 7(2) of the charter having regard to the following factors:

the nature of the right being limited;

the right to liberty and security is expressed in broad terms, but can clearly be limited such as where the rights of other persons are at stake;

the importance of the purpose of the limitation;

the purpose of the limitation is to protect the safety of the community and protect the rights to life, liberty and security of others. Those rights are expressly protected by the charter (ss 9 and 21).

The nature and extent of the limitation

The person being searched will be detained for the purpose of the search. Their physical security will also be affected as they will themselves be searched.

The relationship between the limitation and its purpose

The limitation is directly connected to its purpose. The search power can only be invoked where a police officer has reasonable grounds to believe that an offence is being committed or is about to be committed. It is necessary to be able to search persons and vehicles for firearms in such circumstances in order to prevent firearms offences.

Less restrictive means reasonably available to achieve the purpose

There are no less restrictive means reasonably available to achieve the purpose. In circumstances where police believe that a firearms offence is being or is about to be committed, the police must be able to act quickly to detect firearms in the interests of their own safety and that of the community. Accordingly, the provision is compatible with s. 21 of the charter.

5. Strict liability offence in clause 38

Clause 38 of the bill inserts an offence of possessing or carrying a part of a firearm that is capable of being used to alter the category of a firearm in the person's possession, carriage or use so that it becomes a different category of firearm to that which the person is authorised to possess, carry or use under his or her licence. The offence contains exceptions of 'without lawful excuse' and prior consent of the chief commissioner. The offence carries a penalty of 30 penalty units.

Section 130 of the Magistrates' Court Act 1989 would apply on summary prosecution so that a defendant claiming he or she had a lawful excuse or prior consent of the chief commissioner would have to adduce or point to evidence that suggests a reasonable possibility that the exception applies. Only then is the prosecution required to prove beyond reasonable doubt that the exception does not apply.

It is questionable whether this provision actually transfers the burden of proof, because once the defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove beyond reasonable doubt the absence of the exception raised.

In any event, any limitation upon the right is reasonable and justifiable in a free and democratic society having regard to the factors in s. 7(2) of the charter.

The offence is a regulatory offence and does not carry a severe penalty. The onus is on the prosecution to prove that the person is not authorised under his or her licence to carry that category of firearm. A licence is the principal means by which possession of a firearm is lawful. It is reasonable to presume that a person whose licence does not permit the possession of that weapon is doing so unlawfully. It would be a considerable burden, both in terms of use of resources and in terms of costs, if the Crown had to investigate and bring evidence of all other potential matters that could give rise to an exception in order to disprove a negative.

Accordingly, the provision is compatible with s. 25 of the charter.

6. Provision of information to the chief commissioner

A number of provisions of the bill require provision of information to the chief commissioner. It is possible that this information may disclose a criminal offence or later be used in the prosecution of an offence. In particular, clause 31 of the bill enables the chief commissioner to require the holder of a licence to provide information relating to the acquisition, disposal, possession, hiring or loaning of firearms and related items. Failure to comply with the notice attracts a penalty of 60 penalty units or 12 months imprisonment.

Section 25(2)(k) of the charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or to confess guilt. At the time the person is required to provide information to the chief commissioner he/she will not have been charged with an offence. On this basis the right in s. 25(2)(k) of the charter would have no application. However, similar rights in other jurisdictions and the broader right to a fair trial have been interpreted to provide some limited protection at the investigation stage.

Even so, the rights have not been extended so far as to protect persons from providing information necessary for the monitoring and enforcement of compliance in relation to a regulatory regime. In accepting a licence, a person is presumed to know, and to have accepted, the terms and conditions associated with the licence, including the provision

of information to the chief commissioner to monitor compliance with those terms and conditions. In the circumstance in which the information is provided there can be no concern about false confessions or ill treatment of suspects, which the right is designed to protect. Accordingly, the provision is compatible with s. 25 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 do raise human rights issues:

these provisions do not limit human rights; or

to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

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 read a second time.

In the aftermath of the Port Arthur incident in April 1996, the Australasian Police Ministers Council (APMC) entered into the national firearms agreement. Under that agreement, broadly uniform regimes for the regulation and licensing of firearms were put in place in all states and territories.

States and territories have entered into two subsequent agreements to enhance community safety, while preserving the privileges of responsible firearms owners.

The first, the national handgun control agreement, arose from the tragic Monash University shootings in 2002 and the community's resultant demand to restrict the availability and use of handguns, particularly concealable handguns, for target shooting purposes to minimise the risk of future tragedies. The second, the firearms trafficking policy agreement, provides a broadly national approach to allow police to better detect and deter the illegal trade in unregistered firearms.

Within the framework of these agreements, this bill makes a range of technical amendments to the Victorian regulatory regime, designed to:

enhance the regulation of firearms to improve their safe possession, carriage and use;

fulfil the government's 'hunting and 4WD opportunities in Victoria' election commitment to secure access through grazing land for hunters to ensure better access to game reserves;

address technical and remedial issues identified by stakeholders including Victoria Police and the Victorian firearms consultative committee; and

contribute to fulfilment of the government's election commitment to reduce the administrative burden of complying with regulation.

I will now turn to the provisions of the bill.

The bill implements an election commitment in the 'government's hunting and 4WD opportunities in Victoria' policy to 'amend existing firearms legislation to allow hunters unrestricted access to cross into … game reserves'. It does this by amending section 131 of the Firearms Act to allow hunters to carry (but not use) a firearm on Crown land over which there is a licence, for the purpose of hunting, without having to obtain consent to do so.

The national firearms agreement provides for graduated access to firearms in accordance with their firepower. Weapons are categorised, and the category of a firearm determines the purpose for which a licensee may hold it. Developments in firearms technology since 1996 mean that firearms can be manufactured to technically fall within categories A, B or C (the categories of firearms for which a licence can be obtained for recreational use) but in terms of their actual capacity, should be classified in the more restrictive categories D or E which are only available for restricted occupational or official purposes. The bill allows the chief commissioner to declare a firearm to be a category D or E weapon, and requires that the declaration is published in the *Government Gazette*. The declaration will last for 12 months, which allows sufficient time for regulations to be made categorising the weapon appropriately.

The bill also amends the act to prohibit a person from increasing the magazine capacity of a firearm, if that would cause the firearm to become a different category of firearm unless, before doing so, the person obtains the consent of the chief commissioner.

Firearms collector licences are graded according to the type of handgun collected. A category 2 collector licence, which is the most stringent, applies to collectors of modern handguns manufactured on or after 1 January 1947. A category 1 collector licence is required to collect long arms of any manufacture date and handguns manufactured between 1 January 1900 and 31 December 1946. An antique handgun collector's licence is required to collect 'antique handguns' as defined in the act.

The bill amends the definition of 'antique handgun' under the act to exclude those handguns for which cartridge ammunition is commercially available. Those handguns will become subject to the more onerous 'collector 1' licence regime. Whilst these handguns are not modern weapons, the availability of cartridge ammunition increases the risk they can be used, and it is therefore appropriate they be subject to the more stringent category 1 licensing, display and storage regime.

The bill also amends the act to provide that a category 2 licence also authorises possession of category 1 and antique firearms, and a category 1 licence authorises possession of antique firearms.

The bill will also allow firearms collectors clubs to obtain collective permits for display or use at commemorative or historical events. Only individuals can obtain such permits now. This amendment will reduce the administrative burden on firearms collectors without reducing the existing controls that apply to the conduct of these events.

The Firearms Act currently requires some licence-holders to install an 'effective alarm system' on premises at which firearms are stored. The bill provides greater certainty to licensees by defining what an 'effective alarm system' system is, by reference to the relevant Australian standard, in accordance with current Victoria Police policy.

The bill requires the executor or administrator of a deceased estate, to comply with the storage requirements of the act in relation to a firearm that is part of that estate, or alternatively allows them to arrange for a licensed firearms dealer or a person who holds a current firearms licence that permits possession of the firearm in question to store the firearm on their behalf. It also clarifies the timing requirements for notification of the chief commissioner of the death of the original licensee.

In accordance with the principle of the national firearms agreement that a person must demonstrate a genuine reason to hold a firearms licence, the bill clarifies the information-sharing arrangements between the chief commissioner and firearms clubs, to require the chief commissioner to notify the licence-holder's club and/or employer when a licence is suspended and any subsequent reinstatement or cancellation of that licence. This requirement applies to clubs or employers that the chief commissioner is aware are related to the licence-holder's genuine reasons for holding a firearms licence (for example, a handgun target-shooting club or a security guard firm).

The bill also requires that firearms owners provide the chief commissioner with more accurate and timely notification of the location at which firearms are ordinarily stored by requiring a firearms owner to notify Victoria Police of any change to the information relating to the firearm, including the address where it is stored, within 14 days.

The act provides that a person may be licensed for possession, use or carriage of a firearm for occupational purposes, including a private security guard. The bill strengthens and clarifies certain features of that regime.

Firstly, the bill clarifies that a person applying for a firearms licence must also be licensed under the Private Security Act 2004 to perform security guard activities for which a firearm would be required — that is, as an armed guard or cash-in-transit security guard.

Secondly, the bill enables private security handgun licence-holders to possess, carry and use non-factory manufactured ammunition (see item (a) of the definition of 'restricted ammunition' in section (3) for training and requalification purposes (but not otherwise in the course of security guard duties). However, it does not allow such licensees to use over-calibre, non-recommended, magnum or full-metal-case projectile ammunition without a specific individual authorisation in exceptional circumstances.

Thirdly, the bill allows private security businesses that are appropriately licensed under the Private Security Act 2004, to possess, carry or use multiple handguns providing that, in the opinion of the chief commissioner, the number is commensurate with the genuine needs of the business. These handguns must be registered to the security business. This amendment will not allow security guard employees of security businesses be permitted to possess, carry or use more than one handgun for private security purposes.

Fourthly, the bill amends the act to require security guard firearms to be stored at the premises of the person who employs the licence-holder as a security guard, and to whom the firearm is registered.

Fifthly, the bill allows for a person who has previously accepted compensation for all of his or her legal handguns and surrendered his or her licence within the previous five years to be issued with a handgun licence for necessary and legitimate occupational purposes.

The bill also makes a number of amendments to the regime applying to handgun target shooters. It clarifies that both target shoots and matches or a combination of both can be counted for assessing compliance with participation requirements.

Under the national firearms agreement the chief commissioner must cancel a firearms licence immediately upon becoming aware that the licence-holder is a 'prohibited person'. Currently a person is deemed prohibited if they are serving a term of imprisonment for an indictable offence, an assault or an offence under the Drugs, Poisons and Controlled Substances Act, or had within a specified time served such a term of imprisonment. The bill expands this list to include persons who are found guilty of offences under the Control of Weapons Act. Offenders who have shown a propensity to illegally possess or use non-firearm weapons in the commissioning of serious offences should not be able to obtain a firearms licence.

Another ground for prohibition is being the subject of an intervention order. The bill provides that where a person becomes prohibited as a result of an intervention order, their licence will be suspended for a period of three months and then cancelled unless they lodge an application to have their prohibited status overturned within that three-month period. If such an application is lodged, the applicant's licence then remains suspended until the application is finally determined by a court. If the court declares that the person is not a prohibited person, their licence may be reinstated if the court deems it appropriate. If the court declines to declare that the section 189 applicant is not a prohibited person, their previously suspended licence is automatically cancelled.

Section 5(3) of the Crimes (Family Violence) Act 1987 provides that an order under section 5(1)(h) takes precedence over any provisions of the Firearms Act. This amendment will not affect that provision.

The bill also makes a number of further technical and clarificatory amendments relating to:

hiring and loaning of firearms by dealers;

the requirements placed upon an instructor of an unlicensed person in handgun target shooting;

service of notices under the act;

interstate licences and permits;

collective display permits;

imitation firearms; and

the powers of the chief commissioner to request information from licensees.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Wednesday, 5 September.

PLANNING AND ENVIRONMENT AMENDMENT BILL

Second reading

Debate resumed from 21 August; motion of Ms NEVILLE (Minister for Mental Health).

Dr NAPTHINE (South-West Coast) — I rise to speak on the Planning and Environment Amendment Bill, and I particularly wish to refer to clause 4 which inserts section 8A into the act and makes it clear that municipal councils are planning authorities.

The second-reading speech refers to a report done by a former member of the upper house, Ms Elaine Carbines, entitled *Cutting Red Tape in Planning*. The second-reading speech states, in part:

> The government has introduced a faster process for planning scheme amendments …

In my speech I will highlight that that is absolutely incorrect and that we have planning problems across Victoria, particularly with the Glenelg Shire Council. Perhaps if the Labor Party were not so quick to dump Ms Elaine Carbines from its team, we might have had some better response and better action to her report *Cutting Red Tape in Planning*, but after she did that report the Labor Party dumped her and replaced her with two union hacks from Melbourne to represent Western Victoria.

Other speakers in the debate have spoken about government interference in planning processes, and I want to start by talking about government interference in planning processes and how that is detrimental. I particularly want to refer to an absolute tragedy in the Portland community with the announcement last night of the closure of the Vestas wind blade factory, with 136 people being thrown out of their employment, with them and their families being affected by that terrible decision.

When we look back at the history of that, it is a history that is linked to the planning issues of the day. I quote from the transcript of a *Stateline* television program aired on 15 August 2003. Josephine Cafagna said:

> Planning Minister Mary Delahunty told Parliament in May this year, 'As part of the planning approval, we also sought the meeting of certain manufacturing criteria, NEG Micon

> establishing a manufacturing base in Portland, I understand, with some 50 jobs in the short term'.

Mr Jeff Harding from Pacific Hydro said:

> It is a planning precondition agreement with the government that we have with the state government.

He said further:

> We have the agreement with the government.

Mr Harding said further:

> It's an undertaking that there will be local manufacturing, local manufacturing.

Further he said:

> Take it from me, take it from me, the three cape sites at Portland will not be built without local manufacturing of at least a blade factory.

Further in the program Pat Lennon, representing NEG Micon, said:

> The government have provided small support to the project.

Josephine Cafagna said:

> How much?

Pat Lennon said:

> That's confidential between the government and ourselves.

Jeff Harding concluded by saying:

> The Portland wind project will only go ahead if there is local manufacturing of blades. NEG are our supplier, okay, so at the end of the day if I tell you that it will only go ahead with locally manufactured blades, there is no alternative.

Despite this secret deal, this secret planning agreement, this secret funding of Vestas — NEG Micon later became Vestas — we now find that Vestas has closed, 136 jobs have been lost, and we are just starting to build wind towers at Cape Bridgewater. The government has let down the people of Portland, it has lied to the people of Portland, it has deceived the people of Portland and it has conned the people of Portland.

In the election campaign last year this was a very big issue. In the Hamilton *Spectator* of Saturday, 11 November 2006, an article under the heading 'Jobs threat' states:

> Labor candidate for South-West Coast, Roy Reekie, said VRET was an investment in jobs that would secure the economic future in the area.

Minister Theophanous in the other place said that Vestas's employment was important to the state government.

An article in the Warrnambool *Standard* of 14 November 2006 stated:

> The Portland wind industry and the state government slammed the Liberals' plan last week, claiming hundreds of wind energy positions would be lost and major projects cancelled.

The same article said that the Labor Party would secure those jobs.

The Portland *Observer and Guardian* of 20 October 2006, in the heat of the campaign, quotes Roy Reekie as saying:

> I want to make sure that these workers keep their jobs, and I want to make sure that their jobs are secure for years to come.

Twelve months later, Vestas has closed and 136 people have lost their jobs under a dirty planning deal done by the Bracks and Brumby Labor governments.

Mr Baillieu — It was a con.

Dr NAPTHINE — It was a deception, it was a con and it was based on the government interfering in the planning process.

There was an advertisement in the local Portland *Observer and Guardian* of Friday, 24 November 2006, just before the election, headed 'Wind power jobs … vote Labor'. Those jobs have been blown away by the wind power of Labor. The people have been lied to and deceived. They were told that if they voted Labor, their jobs would be secure. They were told not to vote Liberal but to vote Labor and their jobs would be secure. Less than 12 months later the factory has gone and the jobs have gone.

The wind energy industry itself had an advertisement headed 'The Liberal Party wants to take the wind out of 400 jobs in the South West', which it placed in the Portland *Observer and Guardian* and the Warrnambool *Standard.* But the reality — under the dirty deal, the con, the deception of the Labor state government — is that it was proud to claim it had delivered jobs to this area, and when the jobs disappear, when they are blown away in the wind, it says that it is the federal government's fault. It is absolutely disgraceful behaviour. It is absolutely disgraceful interference in the planning process — —

The SPEAKER — Order! I bring the member back to the bill.

Dr NAPTHINE — The bill is about the role of the municipalities in planning, and in this case the role of municipalities was usurped by the interference of a planning minister and a government who interfered in

the planning process and said that they had a secret agreement to deliver jobs in return for a planning approval for a wind energy project. The project had hardly started, and the jobs have been blown away. Now the state government wants to blame the federal government. It is an absolute disgrace — and that is not the only planning crisis we have in the South-West Coast electorate.

I refer to an article in the Portland *Observer and Guardian* of 13 August 2007, headlined 'Planning backlog crisis workshop', and I quote:

> The Glenelg Shire Council will hold a crisis workshop meeting tomorrow as it attempts to move forward on a backlog of more than 150 planning permit applications — some stemming from as far back as June 2005.

Some of those directly involve the government. I refer to the case of 35 Rossdell Court, which matter has been called in by the Minister for Planning in the other house and is still to be decided despite the fact that I understand the call-in date was July 2006. I refer to an article in the Portland *Observer and Guardian* in August 2006. It says:

> State planning minister Rob Hulls has intervened on an application to create an 18-lot residential subdivision in South Portland because it may interfere with the strategic plans of the Port of Portland.
>
> …
>
> Landowner Dean Winfield bought the land at auction in 2001 off the state government because it was deemed surplus to the port's requirements.
>
> The land was rezoned residential 1 at the time to make it more attractive to potential buyers and to gain a higher sale price …
>
> Mr Winfield, who lives in Horsham, lodged a planning permit application in April … to subdivide the land.
>
> He took the council to the Victorian Civil and Administrative Tribunal … because the council had failed to consider the matter —

and the Minister for Planning called the matter in. The Victorian Labor government declared this land surplus to requirements. The land was rezoned residential 1, and the government sold it to a young fellow in Horsham to maximise the dollars. Then, when he wanted to subdivide it for residential purposes, the minister called it in and said, 'You cannot subdivide it for residential purposes because it might interfere with the port'. Yet the government, only five years earlier, sold the land because it said it was surplus to requirements for the port. It is an absolute disgrace!

It may be that the minister is right to protect the port's interests in this case, but the least he could do is provide appropriate compensation to the person concerned, Dean Winfield, who bought this land in absolute good faith. As I said, the matter was called in on 27 July 2006 but is still to be resolved. I think that is appalling. That sort of delay is unacceptable, and I think there needs to be a huge bomb put under the Minister for Planning and the planning process in Victoria.

Mr NORTHE (Morwell) — It gives me pleasure to make a contribution to the debate on the Planning and Environment Bill 2007. As alluded to by earlier speakers from my party, The Nationals will not oppose the bill. Part of the purpose of the bill is to clarify the general responsibilities of councils as planning authorities within their districts. Councils have always been recognised across the community as the local planning authority and this bill will ensure that that is the case.

The Latrobe City Council services the majority of the Morwell electorate, and the Wellington shire makes up a small component of it. In many circumstances I am sure that councils would prefer not to be the local planning authority due to a number of issues that arise. I feel some compassion for councils, which not only have to deal with irate and frustrated customers on a regular basis but also have to deal with the complexities of the planning act.

As a matter of course, my office receives many queries relating to planning issues — from local residents wishing to a erect a shed, to developers wishing to develop an office complex. Many in the community certainly feel that the planning process is ambiguous, complicated, time consuming and costly. If this bill can assist in alleviating some of those concerns, then it should be supported.

The Latrobe Valley is unique in many ways, and local governments there contend with more than most in planning issues. That is, obviously, because we are in the heart of coalmining land. There is no doubt that coalmining licences, buffer zones, coal protection overlays and the like add to the complexity of local governments determining outcomes on planning issues. Further to that, in these situations interaction with government departments such as the Department of Primary Industries (DPI) and Department of Sustainability and Environment (DSE) in certain cases is imperative, but there are still major concerns in these situations, and I will refer to a couple of examples in a minute. Particularly in the Latrobe Valley, we need to be conscious of balancing the need for future residential development and growth with the resources required for necessary power generation.

However, currently there are many land-holders who are really uncertain of their futures, particularly those who have purchased significant quantities of land which are impacted by coal reserves at the moment. There has been a lot of local media in recent times outlining the issues that some of the residents face in those areas, one of them being the proposed north-west development in Morwell which was proposed for future residential growth. There is much community concern and confusion out there at the moment about what particular land-holders can and cannot do. This is further confused by whether they refer to mining licences, buffer zones, coal protection overlays and the like when determining what the outcome might be. Unfortunately on some of these occasions, local government has not been able to offer great assistance.

It is an extremely important issue to many in the Morwell electorate, particularly given we also have the Traralgon bypass inquiry currently being undertaken by the government, and that threatens to stifle future residential growth between Traralgon and Morwell. I referred to this earlier this year in Parliament. This secondary inquiry into the bypass, which was initiated by DPI despite a recommended proposal, W4B, being agreed upon, was supported by Regional Development Victoria (RDV), and it was accepted as a preferred option back in 2004.

The W4B Traralgon bypass proposal was decided on in the best interests of the vast majority of the community and interested parties, and allowed for the continued residential growth of both Traralgon and Morwell. In recent times, certainly in Traralgon, we have seen a 2.7 per cent increase in residential growth, and we have very limited land available for further use. It is important that we have land available but issues such as this threaten to stifle that. I have certainly backed the City of Latrobe's cause. It has made a submission to the inquiry and supported the original route so it can move on and develop urban growth in the Traralgon and Morwell corridor.

My office has had concerns raised by constituents. As an example, an elderly widowed lady who, despite obtaining a building permit some years ago but then not proceeding to build, eventually attempted to sell her land. She was advised that her land had been rezoned and effectively no residence could be erected on it. You can imagine how absolutely fragile an elderly widowed lady with little family support nearby was in this situation. These situations should not occur.

Another recent example was a constituent who attempted to apply for a planning permit for a caretaker's residence in an industrial zone. His frustration culminated in basically a complete lack of confidence in the planning process due to the ambiguous nature of the current regulations on what is, in his opinion, a caretaker's residence. Another example was a local developer who was unable to commence work on a shopping and office complex until native title issues had been resolved. All these things not only take considerable time to resolve but come at a significant cost to developers. In these situations developers and the community in general lose faith in the system.

Ultimately these examples lead me to The Nationals policy of the need to offer better support to our local government and councillors. We should look at implementing programs to address the shortage of suitably qualified rural planners. I am sure all people from rural communities could agree with that. Certainly this would be done in conjunction with the Municipal Association of Victoria. The plan would be to establish a program to encourage graduate planners to seek employment with regional councils and to work with the Planning Institute of Australia and other professional planning bodies to put the best program in place and improve the skills of professional planners throughout rural and regional Victoria.

The second component of that, which I think is very important, is to ensure training is available to councillors upon the implementation of the Planning and Environment Act. Certainly as part of that, The Nationals believe training should be available for councillors about the operation of the act. That effort would certainly reduce the number of proposals that we believe are unnecessarily referred to VCAT by councils, therefore taking away local community decisions, which is another important point.

One of the other purposes of the bill is to change the planning scheme review cycle from three years to four years in line with the four-year review cycle for council plans required by the Local Government Act. I will not elaborate too much on that; that is just a sensible and practical approach. Another point is to facilitate the use of current technology for the planning register. That makes common sense, with today's technologies. It is an important point, particularly for those living in urban and regional areas. The ability to access electronic forms and the like obviously saves people travelling into town to discuss it with local government agencies. It is sensible for them to be able to complete online any forms and the like.

There is also provision in the bill for a procedure to ensure that those with permits issued at the discretion of VCAT are able to amend or cancel their permits.

Certainly a lot has been said about the role and performance of VCAT. Now more than ever there seems to be an inclination for planning application permits to be referred to this authority. A much-preferred option is what I just mentioned — that is, local issues to be resolved by local resolutions and local authorities.

I am conscious of the time, so I will conclude. A number of clauses were mentioned in the second-reading speech. I will not go into that too much, but clauses 11, 12, 13 and 14 refer to the role of VCAT. Clause 15 refers to the costs and expenses of panels appointed under the act. It goes on about what role they will play, but I certainly raise some concern, which the member for Box Hill alluded to in his address, about the lack of detail and the open-ended interpretation of the clause. I believe this presents some cause for concern. I do not have time to address the zoning issues and the like that apply in the planning act.

In summary, a clearer, more concise, more streamlined and more efficient planning process will ultimately benefit homeowners, builders, developers, local government and the community in general. This bill goes some small way towards addressing these concerns, and consequently The Nationals will not oppose it.

Mr K. SMITH (Bass) — The Liberal Party does not oppose the Planning and Environment Amendment Bill 2007. However, I have some concerns with the bill, which I would just like to raise in the house today.

Two or three short months ago the Minister for Planning in the other place said he was going to set up a separate panel to deal with planning issues and take some of the control in planning away from local government. That worried me to the extent that, in my capacity as shadow Minister for Local Government, I wrote to the councils in my area asking where they stood on this issue. I was eager to hear from them, and I received a large number of responses. They all indicated they believed they were doing a good job in planning. I did not see any reason why the minister would set up a separate independent panel to take away the local input into planning issues.

The minister has since come out and said, 'No, that is not what we intended to do at all. It is not the way that we work'. When I read this legislation I thought, 'There is already a separate panel that has been set up — that is, VCAT'. This bill is extending the powers of the Victorian Civil and Administrative Tribunal. It can cancel or amend planning permits that have been issued at their direction. The power is going from local government in a very underhanded way through this piece of legislation. The minister would have been more honest if he had come out and said, 'Yes, we are going to give more powers to VCAT. We are going to take control from the hands of local government'. It just seems a bit strange.

The shadow Minister for Planning in the other place, Matthew Guy, contacted the Victorian Local Governance Association and the Municipal Association of Victoria. He sent them a copy of this piece of legislation, seeking their input and asking whether they had any concerns; but those peak bodies did not even respond. I would have thought that both those peak bodies, which represent local government, should have responded to Matthew Guy's request to input some of their concerns. It worries me that they have not had any input into the issue.

We are all aware of the workings of local government. Yesterday the member for Ballarat East put some blame at the feet of local councils because too many of them will not make a decision. They are more than happy to handball tough decisions to VCAT and allow it to make decisions. I must say that I do not disagree with him. I think there are a lot of councils that are not prepared to make the tough decisions which they think are right because they know that either the developer or the people who will oppose any decision of the council will take the matter to VCAT. In a way councils are a bit to blame for the changes that are in this bill, in that further control is being given to VCAT.

We are very much aware of the different decisions that are made in our own electorates and of the number of times that issues are sent to VCAT. I received some responses from councils. Most of the councils quoted 98 per cent as the percentage of decisions that are made by council, probably because most of the matters on which decisions that are made are small and obscure. Only about 2 per cent of matters are sent to VCAT for a decision, and they are the tough ones.

We have a matter on the Bass Coast on Phillip Island which we refer to as the Fox development. Lindsay Fox is proposing a development of a 400 or 500 houses on a huge area that also has an international-standard golf course with good accommodation. A couple of councillors have said no — I think some of them do not like Lindsay Fox — and there have been other councillors who have said yes. At the last meeting the council made a decision that it would oppose the development. The issue has been dragging on for some months now in the knowledge that it will be sent to VCAT. A decision will be made by VCAT, and councillors will wipe their hands of it and say, 'Look,

that was not a decision we made. We voted against it'. To me that is a weak way for a council to deal with it.

We know there was a decision made by the Frankston council about three to five years ago involving the bulky goods area. The developer was represented by Rogan Ward, who was an ALP candidate at one stage. Rogan was buying up lots of land in what is now known in Frankston as the bulky goods area, which they were looking to extend. We know that deals were done with Cr Mark Conroy. We know that Matt Viney, a member for Eastern Victoria Region in the other place, who was the local member at that stage, was also involved in what I would say were some dodgy deals to try to get council decisions to be made regarding the bulky goods area.

In recent times, during the last council election period, this government decided that it would bring the Mitcham–Frankston road in through Seaford, which is to the north of Frankston. This will cause a huge bottleneck around the bulky goods area. The Liberal Party committed $250 million to the Frankston bypass, but at that stage Cr Mark Conroy, Matt Viney and Rogan Ward all together again said, 'No, we don't want this particular thing to go ahead'. You have to look at this issue and wonder why those people were involved in it again. They did not want the bypass to go around the bulky goods area; they wanted people to be funnelled right in so they would go past this particular development.

I do not know whether we can talk about corruption occurring there or about kickbacks to councillors or to other people who may be involved. They are all members of the Labor Party, so I am surprised that no member has jumped up and said, 'You can't talk about this'. But I believe that there is some sort of underhanded business going on in Frankston. Maybe this is an issue that should be taken out of the hands of council and sent to VCAT — not that I am proposing that that would be a good thing, because local councils should have a lot of input into the decisions they make with regard to developments in their areas.

They should consider whether a development is suitable for the local community, whether it is something that the local community can accept and whether it will be of benefit to the local community. They are the things that councillors have to do: they have to understand the feelings of their communities and whether they do or do not want something to go ahead, and they have to make the tough decisions. This issue may be one that should have been taken out of the hands of those Labor people — although most of the council down there is Labor, anyway.

Some of the funny decisions that have been made by the Frankston council over the years include the decision on the Bayside shopping centre, particularly when you look at who the mayor was at the time and who was also running the BLF (Builders Labourers Federation) on the site down there. Some of the things that have happened in Frankston have been very wrong. I do not think what has occurred in Frankston of recent times regarding the bulky goods area and the three people I have mentioned has been good for Frankston. I do not think some of the stupid decisions that have been made in Frankston from time to time have been good for the council or for the reputation of the council.

I think the people down there really should have a bit of a look at who is representing them. It would be far better if they were prepared to vote in some people who had more interest in the local community than in filling their pockets with money from developers.

Mrs VICTORIA (Bayswater) — The amendments proposed to the Planning and Environment Amendment Bill 2007 look like they are technical, and I have to say that when the second-reading speech was delivered there was a little bit of glossing over of some of the important bits; I will get to that in a second. What we need to remember is that the potential reach of these amendments is quite large, and we should not underestimate them.

The early clauses of the bill deal predominantly with procedural aspects, and that is fine, but the important ones are threaded through the bill, and, as I said, they have been a little bit glossed over. In fact in her second-reading speech the Minister for Mental Health provided a step-by-step explanation of the sections of the act subject to change by this particular bill, and when it came to dealing with the amendments that related to the Victorian Civil and Administrative Tribunal (VCAT), which is what most people have spoken about today, the minister stated:

> Clauses 11, 12, 13 and 14 provide for a straightforward procedure to ensure that those with permits issued at the direction of the Victorian Civil and Administrative Tribunal are able to amend or cancel those permits.

What the minister did with that statement was try to minimise the importance of the changes that are likely to take place with the passage of these amendments. These clauses will allow the authority to consider, cancel and also amend a planning permit. The feedback I have been getting from people in my electorate is that it is these changes to VCAT's powers that they are finding so offensive. These changes may not appear superficially to be a substantive shift away from what VCAT is currently able to do, but they provide for

some variations to orders via applications by interested parties. However, the changes are continuing to push VCAT further and further away from an adjudicative role, which is what it was designed to have, and are starting to give it an interpretive role.

VCAT is a fantastic forum. It provides for a cost-effective and time-efficient method of reconciliation and negotiation between parties. That has worked well until now, but if we give it more powers, which effectively is happening here, we could be looking at dangerous precedents further down the track. Shifting the role of VCAT away from being a quasi-judicial forum to one which requires an interpretation of the intent of local and state planning legislation and regulation is what is in question here.

Any increase to the powers of VCAT raises the issue of the blurring of powers. The legal powers of VCAT will allow the tribunal to cancel or amend permits on its interpretation of the legislation, and this amounts to a final determining role. Either VCAT is there to maintain the legal standard or it is there to act as an alternative to the planning departments of local councils, and I do not think that is the role it should be playing. People elect their local councils — in my case Knox and Maroondah — to represent the views of their area, and I do not think the choice is really something that we should be dictating here. The council should in fact continue to have the predominant say over what goes on in the local area, with the right to appeal in some circumstances, of course.

If I were a cynical type — which I would say I am not usually — I would say this could be just another ploy by this government to avoid responsibility for taking the hard decisions on planning. I know that Melbourne 2030 has been an abject failure and that the government was not particularly good during its last foray into the field of planning, and I do not know that this is going to make its reputation any better in the world of planning. The impact that these amendments will have will not actually allow for procedural fairness. The thing that probably upsets my constituents the most — those who have come to me and said, 'We are doing small developments' or 'I have a small building business and I want to make a little bit of profit from very small developments' — and the thing that they are really worried about is the cost shifting and the fact that the new arrangements may in fact leave the new system open to abuse.

With the cost shifting, of course, there is now going to be provision for what are being termed as moderate charges to be thrust upon third parties, but there is no definition of 'moderate'. What may appear moderate to a large building company may not be moderate to a small home builder or those just seeking to develop one or two units. There is no clear definition there, and I find that a little dangerous. It certainly may be a great deterrent to those who want to get ahead in life and put their necks on the line to do a small development.

This is a sloppy piece of legislation at best, and its composition allows very small but very significant increases in the powers of VCAT. To my mind it is just another clear indication that this Labor government plans to remove community input from planning in our state. Having said that, I am not opposing the bill, but I do think we need to be very, very cautious.

Mr HODGETT (Kilsyth) — It is a pleasure to rise to make a contribution to the debate on the Planning and Environment Amendment Bill 2007. I note that the second-reading speech states:

> In 2006, the then Parliamentary Secretary for Environment, Elaine Carbines, conducted wide-ranging consultation to improve the operation of the planning system. Ms Carbines produced an excellent report, *Cutting Red Tape in Planning*, making recommendations for a program to improve the operation of the planning system. Many of these are procedural, while the implementation of others requires legislative change.

Members making contributions to this debate today have spoken about the purpose and the provisions of the bill. I do not intend to do that in my contribution. I should say at the outset that I am speaking not to oppose the bill but rather to raise three points in relation to it. The first is that I think we all agree that streamlining of the planning system is something that we need to focus on. As a former councillor and mayor of the Shire of Yarra Ranges, I am well aware of the process and the length of time that local government and local planning authorities go through to make decisions in relation to planning applications. Some of those time frames are quite lengthy and some of the processes are very complex, depending on which local government authority is involved and how complex its planning scheme is.

I have been well aware of this in the past as I have received a number of contacts from local members of the community, from objectors and from developers in relation to applications, and they have raised their concerns about the length of time that what they perceive to be very basic applications are taking to go through their local government planning department. Constituents still raise that issue with me as a state member, expressing some concern when, from time to time, their planning applications in my local government areas seem to take a lot longer than they think is fair and reasonable. I think we are all in

agreement that streamlining the planning system is a good aim, a good objective and certainly a good goal to focus on, in particular for those planning applications that are deemed or considered to be very simple applications, not the ones for large or complex developments. I state at the outset that that is a good objective to have.

The second point I wish to make is that it was disappointing for me to note that during the Liberal opposition's consultation with a number of the relevant stakeholders on this bill it was found that both the Municipal Association of Victoria (MAV) and the Victorian Local Governance Association (VLGA) did not bother making a submission on this important matter. As a former councillor of our shire I know that a number of local councils are members of these local government bodies, and I believe this is an abdication of their responsibilities. When a planning and environment amendment bill comes up it is incumbent upon both the MAV and the VLGA to make a submission, so I express my extreme disappointment and will take that up separately with those peak bodies. I support them and the work they do — they do some terrific things in the local government area — but I am disappointed that they did not bother to make a submission on this important matter.

That brings me to my final point, and it is the thing I am most concerned about. It has to do with the powers that have been given to the Victorian Civil and Administrative Tribunal under this legislation. Clauses 11 to 14 of this bill hand VCAT new powers to consider, cancel or amend a planning permit. Whilst that might seem a small step, it is also a significant step in taking power away from local government. We all know, despite what the Minister for Planning in the other place says, that this government later intends to remove planning powers from local government. As the member for Bayswater pointed out, the government's blind trust in VCAT, an unelected body, is a shame and gives me great cause for concern.

I will give two examples that occurred during my time as a councillor of the Shire of Yarra Ranges to demonstrate my concern about having blind trust in VCAT. The first relates to the application by the Croydon Golf Club to relocate the course at the intersection of Victoria Road and MacIntyre Lane in the Shire of Yarra Ranges. When that application first came to council there were a number of concerns expressed by objectors, and we worked through the process, but at the end of the day the shire made a decision to approve that application. An objector subsequently appealed the council's decision to VCAT, and VCAT overturned the council's decision and disallowed the application.

The developer then made a second application on exactly the same matter to relocate the golf course to that parcel of land in the beautiful Yarra Valley. As I said, the first application had been approved by the shire but VCAT had knocked it off. Based on the precedents set by VCAT in that first decision, the Shire of Yarra Ranges refused the second application. That application was again appealed to VCAT and, lo and behold, VCAT approved it. Where is the sense in that? How can you have trust in VCAT and in the system? The golf club's application was approved by the shire, then knocked off by VCAT. A new application was subsequently refused by the shire and then approved by VCAT.

My second example relates to a logging application in Hoddles Creek, again in the Shire of Yarra Ranges. This area had the strongest possible environmental overlays permitted under the planning scheme. There was strong community opposition and strong community objection to it. The council vehemently opposed the application to log the forest area and subsequently refused it. The application was then appealed to VCAT and overturned. Again it beggars belief that where you have the strongest possible environmental overlays and the council takes into account the strong community objection to the application, considers the matter from a local perspective and knocks it off, it can then go to VCAT and be approved.

It causes me concern that we are just placing blind trust in VCAT and handing it the new powers outlined in clauses 11 to 14 to amend council planning permits. I go back to my earlier comment that no-one is against streamlining the process for dealing with bulk, run-of-the-mill applications, but we can see from some of the examples I have mentioned that VCAT cannot be trusted when it comes to making local planning decisions and taking into account local sentiment.

In conclusion, I am supportive of making planning in Victoria easier, and I am supportive of making it easier to do business in Victoria, but I have grave concerns about a bill that just gives more powers to VCAT. I have given two examples, but there are many more out there involving other local government authorities. We all know this is leading to the government eventually removing all planning powers from local government, and that would be an absolute disgrace.

Mr BATCHELOR (Minister for Community Development) — I thank the 16 members who have

spoken during the debate on the Planning and Environment Amendment Bill and have indicated their support for the bill and the amendments. They have raised a number of issues, and I will deal with those separately. In particular I would like to thank the members for Box Hill, Shepparton, Yuroke, Mornington, Ballarat, Ferntree Gully, Macedon, Evelyn, Pascoe Vale, Mildura, Seymour, South-West Coast, Bass, Bayswater and Kilsyth for their contributions.

This legislation is consistent with the state government's *Cutting Red Tape in Planning* report, which many people have commented on. This report was delivered after extensive consultation. It recommended a number of actions to streamline the planning process, and this bill does just that — it cuts red tape in planning. Specifically, some of the improvements that are made by this bill facilitate a number of actions in three other bills. Firstly, it changes the Planning and Environment Act by aligning the planning scheme review requirements with the four-year council planning cycle under the Local Government Act. It also improves the rights of land owners, occupiers and developers to seek through the tribunal the cancellation or amendment of planning permits issued at the direction of VCAT.

It provides a legislative basis for recovering miscellaneous costs associated with planning panel hearings consistent with that for advisory committees under the Planning and Environment Act and inquiries under the Environment Effects Act. It makes changes to the Transfer of Land Act by authorising the electronic provision of forms required by the Transfer of Land Act when registering a land transaction. It makes changes to the Subdivision Act by seeking to clarify and update appeal and review terminology used in that act. Together these changes proposed in the bill, whilst they are technical in nature — and a number of members have acknowledged that — are responses that form part of an ongoing improvement program to facilitate the efficiency and streamlining of the Victorian planning system.

In the contributions made by some 16 members a number of issues were raised that relate directly to the proposed changes, and there was a raft of others that do not and are extraneous to the debate. I want to spend the time I have largely dealing with the issues that relate to the specific piece of legislation before the chamber. A number of comments were made that asked whether the interests of concerned neighbours are being excluded, particularly in relation to clauses 11 to 14. I can inform the chamber that clauses 11 to 14 of the bill will introduce a new mechanism which enables the Victorian Civil and Administrative Tribunal to cancel or amend permits that were issued at the direction of VCAT upon a request by the permit-holder.

The member for Box Hill in particular expressed concern that the new mechanism for the amendment of permits could potentially exclude objectors from the planning process. The member for Box Hill I think suggested that developers could get multiple bites at the cherry in that a permit could be granted against the wishes of objectors and that the permit could then be amended time and again in a way that might cause greater detriment to those who were the original objectors. I can inform the house that that is not intended to be the process, and there is no basis for concern as outlined by the member for Box Hill. VCAT already has a power to cancel or amend permits; there is no doubt about that. That includes permits issued at the direction of VCAT and permits issued by council on their own initiative, so that ability already exists.

If the member for Box Hill doubts that, he should look at sections 87 to 89 of the Planning and Environment Act. Those provisions include section 90, which obliges VCAT to give the council a reasonable opportunity to be heard in relation to any request to cancel or amend the permit. In addition the tribunal also has a discretion to enable other concerned people to be heard in relation to this kind of request. The member should look at section 90(2) which clearly contemplates concerned neighbours and people who may have been objectors in relation to the original permit application; it clearly contemplates their role.

Section 90 will apply to the new mechanism in exactly the same way as it applies to the existing mechanisms. This will oblige VCAT to inform councils of requests made under the new section — that is, new section 87A. This would also enable VCAT to inform concerned neighbours or objectors to requests made under the new section 87A and enable those people to be heard in relation to that request. That answers the concerns raised by the member for Box Hill and a number of others.

It is true to say that not every application to amend a permit warrants broader public notice, and this is why the discretion is necessary. It really is there to enable the decision-maker to have regard to the nature of the amendment that is being sought and to whether there may be potential for impact on others arising from the particular amendment being considered. VCAT has been most responsible in the way that it has exercised this discretion so far. VCAT routinely requires notice to be given to the owners or occupiers of neighbouring land when there is some potential for negative impact

upon them. So you can see, Acting Speaker, from the point of view of historical practice and also from the point of view of the intention going forward that the fears expressed by the member for Box Hill are unfounded.

The member for Box Hill also referred to correspondence from the Law Institute of Victoria to the Minister for Planning dated 11 July and particularly to the fact that the bill does not provide for the insertion of a definition of 'permit' in either section 87 or section 87A. What the member for Box Hill did not go on to acknowledge was that the president of the Law Institute of Victoria received a response to that letter clearly setting out the relevant circumstances. Mr Geoff Provis received a response from Kirsty Douglas, the director of legal services within the Department of Sustainability and Environment, in which Ms Douglas said:

> Your concern relates to a perceived inconsistency between two separate regimes for the amendment of permits under the Planning and Environment Act …
>
> You have noted that the regime found at part 4 division 1A enables an application to be made to the responsible authority for the amendment of plans approved under a permit.
>
> Your concern is that part 4 division 3 does not provide for a request to be made to the Victorian Civil and Administrative Tribunal … for the amendment of plans approved under a permit. Rather, it is confined to requests to amend permits themselves.
>
> I note at this point that this perceived inconsistency relates to existing provisions of the act. It is not a new distinction that would be introduced by the bill.
>
> As you are aware, the two regimes, namely division 1A and division 3 of part 4, have something in common, but they also differ in significant ways. The bill does not seek to make these regimes 'symmetrical'; they would remain quite distinct.
>
> As you will be aware, conditions on planning permits frequently require plans to be approved by the responsible authority. It is common for the responsible authorities to approve plans pursuant to such conditions, included amended plans. This applies equally to permits issued at the direction of the tribunal. Plans are frequently amended in this way without the need for either of the statutory regimes to be invoked (either division 1A or division 3 of part 4).
>
> Existing mechanisms enable plans to be approved and amended by responsible authorities, subject to possible review before the tribunal.
>
> The bill does not seek to alter the existing mechanisms for the amendment of plans approved under permits.

On the one hand the member for Box Hill was raising concerns presented to him by the Law Institute of Victoria, but on the other hand he failed to acknowledge the response. Maybe he did not know. Maybe the law institute did not pass on the response to the member for Box Hill, but I am happy to do that today on behalf of all members in the house so they are aware not only of the issue raised by the law institute but also of the response by the Department of Sustainability and Environment.

The members for Mornington, Ferntree Gully, Evelyn and others have expressed concern that clauses 11 to 14 of the bill represent a significant increase in the powers of the Victorian Civil and Administrative Tribunal. It is worth noting that VCAT already has the power to cancel or amend a permit at the request of a wide range of people. The new mechanism proposed by clauses 11 to 14 does not increase the classes of people who are able to make such a request nor does it enable VCAT to make any new kinds of order beyond the orders it can already make — that is, I remind members, to cancel or amend permits.

The new mechanism gets rid of some procedural hurdles. This new mechanism is a common-sense provision. Its purpose is to reduce regulatory red tape rather than to add to the powers of VCAT. I remind members that this whole process is triggered by a desire to cut red tape, and that is what these clauses are doing. They are cutting red tape rather than increasing the powers of VCAT.

Clause 15 relates to the recovery of costs of planning panels. It seeks to put into place a mechanism whereby those who are going to be the financial beneficiaries of planning changes should contribute towards the cost of doing that. Fees, allowances and administrative costs will be recovered in cases where a person or authority would obtain some benefit from the approval of the matter being considered by the panel, and it is reasonable that these panel-specific costs be carried by the beneficiary rather than by taxpayers generally. Relative to the fees and allowances of members and the other costs of implementing the project, the administrative costs are minor and have been customarily met by proponents. The proposal makes the provision for panels consistent with those related procedures.

There are a number of other matters that can be addressed when this is dealt with in the upper house, so given the time I wish the bill a speedy passage.

Motion agreed to.

Read second time.

Consideration in detail

Clauses 1 and 2 agreed to.

Clause 3

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

1. Clause 3, line 8, omit "Sustainability and Environment" and insert "Planning and Community Development".

2. Clause 3, lines 11 and 12, omit "Sustainability and Environment" and insert "Planning and Community Development".

As you can see, the amendments that have been circulated for some two days now seek to change in the bill the name of the department from 'Sustainability and Environment', its old name, to 'Planning and Community Development', its new name.

Dr NAPTHINE (South-West Coast) — The opposition understands the need for this name change, given the rearrangement of government departments. What we would seek on behalf of the taxpayers of Victoria is that, when departments change and ministers change, we do not throw out all the old letterheads immediately and recycle them but use them constructively so that the cost to taxpayers of these constant name changes of departments and ministers is kept to a minimum.

Mr BATCHELOR (Minister for Community Development) — These are not name changes just for the sake of it. They represent the establishment of a new department that takes the planning areas of government out of their previous home, the Department of Sustainability and Environment, and puts them together with the previous Department for Victorian Communities to make a new department, Planning and Community Development. In that context the government and the ministers involved in that new department are conscious of the need to be frugal and will seek to use letterheads and other existing resources for as long as it is possible and where it is appropriate. New letterheads and other acknowledgements of the new department will be delivered in due course.

Ms ASHER (Brighton) — Again, as has been indicated by the member for South-West Coast, the opposition does not oppose that name change, but we want to make the general point that there have been a number of structural changes under this government and that there are costs associated with structural change on all occasions. I particularly want to raise the issue of the environment and the use of paper, because the government has made many promises in this area. I recall very vividly during the election campaign the Treasurer saying that one of his promises was going to be funded by double-sided photocopying within the bureaucracy. The Treasurer said that was going to drive significant change, so it is a significant point.

I note that the minister is also responsible for handling environment and climate change issues in this chamber and that he speaks a lot on those issues. Again, in terms of a serious approach to the environment, all the paper which is generated by all the changes should be used properly. I want to reiterate my support for the very valid environmental point made by the member for South-West Coast and again hope that the government considers it seriously.

Mr BATCHELOR (Minister for Community Development) — The government will take on board the comments and the manner in which they have been made, and will give them the appropriate consideration.

Amendments agreed to; amended clause agreed to.

Clause 4

Dr NAPTHINE (South-West Coast) — Clause 4 inserts a new section 8A into the Planning and Environment Act, which is the nub of this bill, to clarify the responsibilities of municipal councils as planning authorities. In my contribution in the second-reading speech I raised a number of issues with respect to planning problems in the Glenelg Shire Council.

One of the problems that I did not have a chance to elucidate in my contribution concerns development plan overlays and the impact they are having on planning problems in the Shire of Glenelg. I appreciate the opportunity in the consideration-in-detail stage to raise this so that the minister representing the Minister for Planning in this house can respond, or at least take on board some of the issues of concern to my constituents and make sure the Minister for Planning addresses them as a matter of priority.

We had a situation in the Glenelg Shire Council where development plan overlays were imposed on a range of areas across the shire. In July last year the Minister for Planning, then Minister Hulls, granted exemptions to the shire for the areas covered by development plan overlays, locally known as DPOs 1, 2, 3, 4 and 6. The exemptions provided by the minister allowed the shire to continue to make planning decisions and issue building permits, development permits and other relevant planning permits for the areas covered by DPOs 1, 2, 3, 4 and 6, but at the time the minister specifically excluded DPO 5.

DPO 5 comprised a range of areas in the Glenelg shire, and the fact that the minister intervened rather than letting the municipal council, as the planning authority,

make its own decisions meant that the people who owned land in those areas were frozen out from making any decisions. Those people could not apply for building permits to build their dream homes on their blocks of land and they could not erect sheds. We had the ludicrous situation where somebody had a shed blow over in a storm and when they applied for a permit to replace it with exactly the same type of shed they could not do so. Because they were in DPO 5 they could not even replace a shed that had blown over. This was a very considerable burden for the community of the Portland district and to the Glenelg Shire Council.

It became a considerable issue in the lead-up to the state election, and indeed there was a large public meeting on the DPO 5 issue in November 2006. After the election and the appointment of the new Minister for Planning, visits to the area were undertaken by me and the new Liberal shadow Minister for Planning, Matthew Guy, a member for Northern Metropolitan Region in the other place. We had a meeting with members of a very active community group, who were very agitated about the DPO 5 issue. They put pressure on the new minister, and the new minister lifted the restrictions on DPO 5 so that those people could proceed with their proposals.

However, in that process the minister created a new overlay area called DPO 7. This is a smaller but significant area of land between Narrawong and Portland. There are a number of landowners in that area who have paid for subdivisions, paid development levies, paid recreational levies to council and paid hundreds of thousands of dollars to developers but who are now in planning limbo. They are in no-man's land. They have been frozen out. There is nothing they can do to proceed with any development, to proceed with any building permits, to get any decisions made.

It is firmly in the court of the Minister for Planning in the other place and he, nearly 12 months later, is doing nothing to deal with the problem of DPO 7. It is a serious problem. People and families are at financial risk, yet the minister continues to procrastinate about DPO 7 in the Glenelg shire. I am asking the Minister for Community Development, who represents the Minister for Planning in the other place, to give an assurance that the Minister for Planning will act immediately to deal with this issue, make a decision one way or another, be decisive and give the people who own land in DPO 7 some degree of certainty so they can make decisions and move forward and can at least know where they stand. If they need to take legal action to recover costs, then they can, but they need — —

The ACTING SPEAKER (Ms Beattie) — Order! The member's time has expired.

Mr BATCHELOR (Minister for Community Development) — We are talking about clause 4 which inserts into the principal act new section 8A. This clause does not deal with changes to DPOs. The member for South-West Coast, in his inimitable style, has tried to use clause 4 to ventilate issues that are of concern to him.

Dr Napthine interjected.

Mr BATCHELOR — They are not of concern to him — I stand corrected. They are of concern to his electorate.

Dr Napthine interjected.

Mr BATCHELOR — I do not mind if he speaks again. However, clause 4 inserts new section 8A, which is a new requirement which goes forward. It does not deal with DPOs or the situation the member for South-West Coast referred to. This amendment seeks to bring into effect a new provision that will allow municipal councils to prepare amendments for planning schemes, but the municipal councils must first be authorised to do that by the minister. This is a new provision that has not been raised in the debate as a problem by the members of the house.

However, as I indicated, the member for South-West Coast has used this as a parliamentary opportunity to raise an issue. Whilst I cannot give an assurance as to how this clause will address the issue he has raised — in fact I do not think it will, because it is a new section going forward and cannot apply to the particular circumstances he described — its having been raised in this debate will I am sure mean that it will be brought to the attention of the Minister for Planning in the other house.

Clause agreed to; clauses 5 to 23 agreed to.

Bill agreed to with amendments.

Third reading

Motion agreed to.

Read third time.

LAND (REVOCATION OF RESERVATIONS) BILL

Second reading

Debate resumed from 8 August; motion of Mr BATCHELOR (Minister for Community Development).

Ms ASHER (Brighton) — The Liberal Party does not oppose the Land (Revocation of Reservations) Bill 2007. It is a very simple bill; these sorts of land revocation bills have come before the house on numerous occasions. The bill represents a number of revocation of reservations and Crown grants and represents broadly agreed positions by the government and a range of stakeholders. The Liberal Party does not oppose it, as I said earlier.

Four parcels of land are the subject of this particular bill. The first one relates to Lake Condah in the electorate of the member for South-West Coast. The bill applies to the bed and banks of Lake Condah, a 244-hectare piece of land. The schedule to the bill sets out very clearly the history and the precise acreage or hectarage, or whatever you call it these days. The date of the reservation was 1881 and the purpose of the reservation was for public purposes.

The reason the bill is brought before the house is because this piece of land was subject to a native title claim for the Gunditjmara people. This claim was settled in March 2007 between the state, the Gunditjmara people and others. In March 2007 the Federal Court of Australia made what is called a consent determination. In essence the state government has agreed to transfer freehold title to the Gunditjmara people's representative organisation, the Gunditj Mirring Traditional Owners Aboriginal Corporation. The bill transfers the Lake Condah reserve and two pieces of Crown land.

I want to refer specifically to the statement of compatibility under the Charter of Human Rights and Responsibilities, which the minister — in this case, the Minister for Community Development — tabled as part of the obligatory process of seeing whether the government's charter of human rights applies to every single bill brought before the house. At the time of the passage of the charter of human rights the Liberal Party made much of the fact that we thought there were better ways to look after human rights in this state than have this charter. This is an example where the charter and the principles within it have clashed with something that is also dear to many people in Parliament — that is, their recognition of native title.

I just want to go through, as I said, this particular statement of compatibility. The human rights issues that are raised by the bill are outlined on page 1 of the statement of compatibility. It states:

> Section 12 of the charter which protects the right to freedom of movement is relevant to the bill. Section 12 stipulates 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.

On the face of it, members of Parliament would think that that is something they would support, but the problem is that sometimes important principles supported by political parties and supported by individuals clash, and this is an example where important principles have clashed. Again at page 1 of the statement of compatibility the minister said:

> When the bill removes the public purposes reservations for Lake Condah the public's ability to enter and pass through these areas will be limited. This consequence can be perceived as a limitation on the right to freedom of movement protected by section 12 of the charter.

That is self-explanatory, and the person who signed the statement — the minister — obviously has to work out how this limitation on the freedom of movement is justified. It is done so on the basis of information provided on page 2, saying:

> To the extent that the right to freedom of movement will be limited, I consider that the limitation will be reasonable …

The minister then goes on to articulate a number of reasons why the limitation on freedom of movement is reasonable. The first refers to the nature of the right being limited, and the second is that it is part of a native title settlement. The third one headed 'the nature and extent of the limitation' states in part:

> From investigations for the mediation in the native title claim, historically limited public access occurred, due to restricted access points and seasonal inundation. People will still be able to move freely elsewhere, including around the perimeters of this area.

The final point raised by the minister as to why this bill does impinge on the charter and restricts freedom of movement is that:

> There are no less restrictive means available …

The minister's conclusion is that the bill is compatible. I think, and the member for Box Hill raised this point in his contribution the other day, that the bill is not compatible. I think the bill is reasonable, but how it is compatible with the Charter of Human Rights and Responsibilities is beyond my comprehension given the points that the minister has articulated. The minister goes on to say that it is compatible:

> because it will not limit the property rights protected by section 20, and, although it will limit the right to freedom of movement, the limitation is reasonable.

Like the member for Box Hill, I would like to urge the government to perhaps have a look at the charter again, because there are many examples where bills come before this house that are reasonable bills but do limit the freedom because of other important issues that have to be considered.

I want to make reference to the Gunditjmara people in particular and some of their more prominent citizens. Many in this house will know that I am a very strong Essendon supporter. Norm McDonald was an Essendon great. He was from the Gunditjmara people, and he was one of the first Aboriginal players to play what was then Victorian Football League. Also one prominent member is Nathan Lovett-Murray, who plays for Essendon at the moment. He is also a Gunditjmara man. My club was a pioneer in supporting Aboriginal players in the league under the great Kevin Sheedy. I hope Nathan Lovett-Murray will continue to improve his career; he has been a very strong performer for Essendon this year in particular, a very proud representative of his people, and I look forward to seeing many more — —

Mr Crutchfield — From my electorate.

Ms ASHER — Many more come from the member for South-West Coast's electorate. I look forward to not only seeing him on Sunday when I farewell the great Kevin Sheedy and the great James Hird, but I hope I also see Nathan Lovett-Murray playing at his best.

On the arts side, Gunditjmara people of note have been Archie Roach, the singer, and Richard Frankland, the playwright. There have been a number of people of interest, and that is just part of my broad presentation as lead speaker for the opposition on the bill. I move back to the bill, Acting Speaker.

The second parcel of land that the bill refers to is land at Cecil Street, South Melbourne. I have been on this site, the former St Vincent's Boys Home, which was in my previous electorate of Monash Province, and I had occasion to visit that facility when it was operational. This land is 8122 square metres and the date of reservation was 1889. The purpose of the reservation — to use the antiquated language in the schedule of the bill — was 'for a Roman Catholic orphan asylum. The bill revokes the reservation and Crown grant. The Catholic Church wants to do new things. It wants to refurbish, so on and so forth, and in October 2006 the previous Premier agreed to remove the reservations and trusts associated with this site. Understandably the Catholic Church needs certainty before it expends money to invest on the site. The bill contains the possibility of a possible part sale back to the state for some form of social service.

The third parcel of land is situated at Beechworth. It is a site of 1.745 hectares, and the date of this reservation is 1865. This was reserved for benevolent asylum purposes. The land is of the former Beechworth hospital, and there is possible provision in the bill to sell the land. The Indigo shire is very supportive of this element of the bill. It has a new development in mind, with possibly some office accommodation. There are heritage considerations on the site, but all of those matters have been attended to according to the departmental officers who advised us.

The final site covered by the bill is in Daylesford, a very small site of 715 square metres.

The date of reservation of that site was 1887. The purpose of the reservation was to create an asylum. The Daylesford Ladies Benevolent Society has a building on the site. The building is sited half on the land that is the subject of the bill, with the other half on land which it owns. The effect of the legislation will be to remove the permanent reservation to allow the sale of the block so that the Daylesford Ladies Benevolent Society can rationalise its activities. As I said in my opening remarks, this bill is a very simple one; we see this type of land bill before the Parliament regularly, and the opposition does not oppose it.

Mrs POWELL (Shepparton) — I am pleased to speak on the Land (Revocation of Reservations) Bill 2007 on behalf of The Nationals, who do not oppose this legislation. The bill changes the status of four parcels of Crown land reserves. As the member for Brighton said, this is the type of bill that comes into Parliament from time to time to remove reservations from Crown land.

The purpose of this bill is, firstly, to revoke the permanent reservation of the bed and banks of Lake Condah to allow for the transfer of that land to the Gunditjmara people; secondly, to revoke the permanent reservation and the related Crown grant of the Roman Catholic Orphan Asylum land at South Melbourne; thirdly, to revoke the reservation for asylum purposes of land at Daylesford to allow for the sale of that land; and fourthly, to revoke a reservation and the Crown grant for benevolent asylum purposes of land at Beechworth to allow for the sale of that surplus land.

I will go into the detail of those parcels of land and deal firstly with the public purpose reserve on Lake Condah,

which is in south-west Victoria. On 30 March 2007 the Gunditjmara native title claim was settled by agreement between the state, the Gunditjmara people and about 170 respondent parties to the native title claim. The agreement was to transfer the Lake Condah reserve, and two additional parcels of Crown land which adjoin Lake Condah, to the Gunditjmara people. This land, including the bed and banks of Lake Condah, was reserved on 23 May 1881. The state was legally committed to revoke part of that reservation to allow for the granting of the land to the Gunditjmara people under the native title agreement. The revocation deals with 244 hectares of land, which includes the bed and lake banks around Lake Condah.

The Gunditjmara people first lodged the claim in 1996. It was settled by mediation in March this year, 11 years later, but I understand the mediation and discussion took place over three years. The Gunditjmara people were able to demonstrate that they have a long-term association with the land. Any recognition of native title requires that evidence is given of long-term association with the land by the Aboriginal community.

Evidence was presented to the Federal Court of Australia, and it was accepted by the state government, that proved that long-term association and that the Gunditjmara people were the traditional owners. There were a number of pieces of evidence tendered to the Federal Court. These included some distinct stone huts. Quite a number of those are still in evidence. There were some fish or eel traps still in evidence, which the Gunditjmara people used to fish — to capture eels and fish in those traps — both for themselves and to sell as a form of commercial fishing. There were other indigenous structures, some of which were thousands of years old. This is a fairly unique area of Victoria.

The lake was drained in the 1950s to create pasture for grazing. At the briefing I was told that there is one farmer who still has a grazing licence but that that licence expires in October this year and is not being renewed, and that has been accepted by the farmer. A Church of England mission was established at Lake Condah, housing Gunditjmara people. It was called the Lake Condah Aboriginal Mission. It closed in 1919, but some of the people stayed and settled in the area. The rest of that land was divided up and settled as soldier settlements, which the Aboriginal people could not purchase.

I emailed the Glenelg council to find out its position on this piece of legislation; it has no opposition to the bill. It endorsed restoring water to Lake Condah, which I understand the Gunditjmara people would like to be able to do. They would also like to restore the wetlands and the church site that is there. There is a section 173 agreement on the site which relates to the management of the land, including the management of weeds and other things. That agreement has been signed by the Gunditjmara people, the state government and others.

The second parcel of land is at 237 Cecil Street, South Melbourne, which was permanently reserved on 28 May 1889 for Roman Catholic orphanage asylum purposes. This site was commonly known as the St Vincent's Boys Home, and there have been many different reservations and trusts on that land over the years. This bill removes those permanent reservations to allow for refurbishment of the existing buildings and for the Minister for Finance, WorkCover and the Transport Accident Commission to sell or transfer the remainder of the site for other purposes. The Roman Catholic Trusts Corporation then ceases to be a trustee of that land. This is accepted by that trust.

The third parcel of land is the former Beechworth hospital site. This was reserved as a site for benevolent asylum purposes on 20 November 1865. This bill will revoke that reservation and any related Crown grants. The site itself includes several parcels of land, including some freehold land that is now surplus to Department of Human Services needs since the establishment of new facilities — namely, the Beechworth Health Service residential aged care facility, which is now in Sydney Road, Beechworth. When the reservation is removed the intention is to sell the land at the valuation price. The land can transfer to private ownership. There have been some discussions, I understand, with the Beechworth campus of La Trobe University, which will probably be ongoing.

Once the reservation is removed the Indigo Shire Council intends to rezone that land. It needs to take into account the heritage significance of the site and a number of environmental constraints, which will require the alienation of some of the land due to environmental issues that have developed over the years. A report was commissioned by the Department of Treasury and Finance to prepare a request for a planning scheme amendment to rezone the land. That was prepared by the Environmental Design Management group.

This site has a long and interesting history, and much of it is documented in the report. The Beechworth Asylum, as it was then known, was opened in October 1867. The title has changed over the years to reflect the changing attitudes of the community to mental illness and to reflect the changed approaches of governments of the day to the treatment of mentally ill people. Until

1905 this institute was known as an asylum. It was a place of detention for lunatics, which was the phrase then used, rather than a place that treated patients in the belief that they could be cured. I think it is a wonderful thing that we have been doing over the years. We are now not incarcerating people, taking them out of the community and putting them away for many years but instead actually understanding that mental illness is now treatable and curable and that we should be doing that within the broader community.

The Beechworth Asylum, which was later known as the Mayday Hills Mental Hospital, was closed in 1995. At its peak Mayday Hills accommodated over 1000 patients and was known as one of Victoria's major mental institutes. I entered Parliament in 1996, when I was elected to the Legislative Council. Beechworth was in my province, so I have been to that area a lot of times and I have seen Mayday Hills. Can I just say, firstly, that I spoke to a patient at Mayday Hills who was fairly upset when it was closed. She went there as an outpatient, if you like, and she stayed there for a while when she suffered bouts of depression over the years. She felt very safe in that building. The grounds and the building are quite beautiful.

Whenever she had depression and needed some treatment she would go into the accommodation part, where she would feel very safe and very secure. She understood that she received good treatment, because the medical people there provided very good care and her family were able to visit her. She stayed there for a period of time and then left when she felt she was ready. Over the years she went into that area quite a few times. She was very saddened to know that that area would no longer be open.

Sometimes we think of institutes as those terrible places we see in movies like *One Flew Over the Cuckoo's Nest*. Mayday Hills at that time had some very respected people who serviced the community, but it also had the stigma that comes with buildings that house mentally ill patients, particularly when in the past the buildings had been called lunacy asylums. I am really pleased that over the years that term has stopped being used. We now see people with a mental illness who can actually be cured. That stigma hopefully has been removed.

As we put people with a mental illness into the broader community we will hopefully make sure that there is some sort of support for them out there and that they are not just thrown out of these institutes and left to fend for themselves. I hope that a number of those people can get the treatment they deserve. Research papers I have seen suggest that one in four adults will have a mental illness over their lifetime. Most of those people can be treated long term with medication and the sort of help they can get from their doctors. While I say that certain institutes have had their day, there are still some people who perhaps need to be put into some sort of care to have their treatment monitored and to be assessed by doctors while they are in a safe environment rather than nobody looking after them while they are out in the community.

The fourth site is at 26 East Street in Daylesford. This was reserved for an asylum on 24 October 1887. The Daylesford Ladies Benevolent Society approached the minister for finance for this site, which it manages as a committee of management. There is an historic building on the site on the boundary of the society's freehold land. It is a mill workers residence which is heritage listed on the council's planning scheme but is not listed on the Victorian scheme. The society does not have the funds to maintain that building or to upgrade it. I saw this happen when I was a councillor and a commissioner.

Beautiful buildings are often left derelict because an organisation, whether it be a church group or a welfare group, does not have the funds to maintain them because the work must be done to a certain standard and to certain specifications. I think this is putting a burden on the society. Its members are getting older, and they are not able to gain funds from the broader community. They are concerned that this building is now falling into disrepair, and they are seeking to have the reservation removed so they can consolidate the two parcels of land. The society wants to purchase the Crown land once the reservation is removed. They will then sell the consolidated land and perhaps put the money into the other facilities that they have for the care of the elderly and other accommodation uses.

I looked up the minutes of the Hepburn Shire Council of 21 November last year to see what the council thought of this proposal and whether it supported it. There was a recommendation that the council offer no objection to the proposed revocation of the asylum reserve and that it advise the Department of Treasury and Finance accordingly. Two councillors spoke against the motion, and they asked that their names be recorded. The names of councillors Bill McClenaghan and Heather Mutimer are recorded on those minutes. There was some opposition to it, for whatever the reason — no reasons were given in the minutes. Obviously whenever heritage listed properties are put up for sale to the broader community there are some people who have huge concerns about selling off such assets and about who will buy them and what they will turn them into.

As I said, this is not a large bill, because it revokes reservations on only four parcels of Crown land. It is interesting that one of those reservations involves a return of land to the Gunditjmara people under the native title agreement, but the other three are about revoking the reservations for asylum purposes on those parcels of land. Hopefully this is because we have moved on from putting people in asylums and because we are now looking for better uses for those buildings and sites. The Nationals do not oppose this legislation.

Mr CRUTCHFIELD (South Barwon) — I rise to join members of The Nationals and the Liberal Party in speaking on the Land (Revocation of Reservations) Bill 2007. These types of bills regularly come to Parliament when there is a need to reflect changes in land use, changes in town planning requirements or the fulfilment of government commitments to hospitals, in this case at Beechworth, or other government institutions. This bill removes permanent reservations in four areas. I would like to emphasise that, importantly, no public open space is taken away by the bill. Most of the land other than Lake Condah already has buildings on it. My understanding is that revocations are supported by all stakeholders. I will allude to that later.

Clause 3 applies to Lake Condah and the Gunditjmara people. The member for South-West Coast is their local member. The member for Brighton has alluded to a number of famous people who come from that area of whom I am also well aware. I have spent much time with my family at Mount Eccles having barbecues and camping nearby. I would like to pay my respects to the Gunditjmara elders both past and present. I would like that to be formally on the record.

This particular bill outlines the commitment to the native title claim which was settled on 30 March 2007. It was an agreement between the state and the Gunditjmara people. As a part of the commitment to transfer the Lake Condah reserve and two smaller parcels of land adjoining Lake Condah to the Gunditjmara people, clause 3 makes the required revocation of the permanent reservation. The member for Shepparton has certainly spoken at length about the historical and cultural significance of the land to the Aboriginal people. She talked about this significance in terms of the indigenous remnants from the aquaculture industry and also some of their permanent dwellings. She noted that the Glenelg Shire Council is supportive of the revocation.

Clause 4 refers to Cecil Street in South Melbourne which was a permanent reserve for asylum purposes and still is today. There has been a memorandum of understanding between the previous Premier, the Roman Catholic Trusts Corporation for the diocese of Melbourne and MacKillop Family Services, which is contracted to run the services for the Roman Catholic Trusts Corporation. They are all committed to removing the reservation of the land at Cecil Street. The reservation restricts the development or improvement of the services that are already provided by the Roman Catholic Trusts Corporation which is the current trustee of the site. As previous members have mentioned, it is the site of the former St Vincent's Boys Home and it has been subject to the Crown for the purposes of an orphan asylum since 1888.

The removal importantly allows MacKillop Family Services to expand. It is constrained in terms of its ability to both repair and refurbish current buildings. Members will be well aware that, because it does not have freehold rights of the property, it is very difficult to go to bankers or other organisations for loans to both renovate and expand services. This legislation provides some security and certainty for the Roman Catholic Trusts Corporation. I note that the City of Port Phillip, the local planning authority and local council, is also supportive of this.

Clause 5 of the bill refers to the surplus land in Daylesford that is owned by the Department of Human Services. The bill refers to the Daylesford Ladies Benevolent Society, which has initiated this revocation of the reserve that abuts its land. As previous members have mentioned, the historic building straddles the reserve but most of it is on the society's freehold land. The building is no longer used by the society which provides low-cost units for the elderly in Daylesford. The revocation of the reserve will allow the society to sell the property. My understanding is that it intends to purchase other land to build cheaper housing units for the elderly in Daylesford. Hepburn Shire Council is also supportive of this particular revocation.

Clause 6 refers to the Beechworth benevolent asylum. The revocation of that land reservation which held the previous Beechworth hospital land has been declared as surplus by the Department of Human Services. It will be sold on the bases of a valuation of the highest value and the best use of the land by the public. I know that the Indigo Shire Council is certainly interested in that particular parcel of land. Whether the land becomes owned by the council or a particular developer, the council has agreed to prepare a planning scheme amendment to rezone the property from a public use zone 3 to a mixed use zone and a residential zone 1.

I note that there are some environmental and heritage constraints of which the council needs to be aware. I am

sure the Minister for Planning will hear of those constraints at a later date when they cross his desk. With those few words, I support the Land (Revocation of Reservations) Bill 2007.

Dr NAPTHINE (South-West Coast) — The Land (Revocation of Reservations) Bill covers a number of pieces of land across Victoria. Clause 4 provides for the revocation of land in Cecil Street, South Melbourne, which was previously St Vincent's Boys Home and is now operated by MacKillop Family Services. I have an interest in this area because MacKillop Family Services was established through the amalgamation of a number of Catholic family and children's services agencies during the time I was Minister for Youth and Community Services, and I helped shepherd that legislation and that amalgamation through the Parliament.

Paula Linossier, the chief executive officer of MacKillop Family Services, has spoken to me recently about this land. We are very supportive of this revocation, because it allows MacKillop to redevelop the land to establish headquarters for itself and to enable it to improve the service delivery to former residents of St Vincent's Boys Home and their families. I strongly support clause 4.

I want to concentrate my contribution on clause 3. Before I start on clause 3, which relates to land at Lake Condah, may I also pay my respects to the elders of the Gunditjmara people, both past and present. The land covered by clause 3 relates to the bed and banks of Lake Condah in western Victoria. It proposes to revoke the reservation so that the land can be provided to the Gunditj Mirring Traditional Owners Aboriginal Corporation. I want to quote from a letter I received on 21 August from that corporation about this decision. It states:

> The return of Lake Condah to its traditional owners is an important part of the native title settlement between Gunditjmara people and 170 respondent groups. Lake Condah is the heart of Gunditjmara country.
>
> The Gunditjmara people have engaged with the broader community, through the Lake Condah sustainable development project, to advocate and plan for the restoration of permanent water to Lake Condah to enhance its natural and cultural values.
>
> At this time, the proposed restoration of permanent water to Lake Condah has achieved full public support …
>
> The return and restoration of Lake Condah offers Gunditjmara people, the broader south-west community and all Victorians an important healing. The restoration of permanent water to Lake Condah and the transfer of the title back to the lake's traditional owners is reconciliation at its best.
>
> The titles of Lake Condah are intended to be held by Gunditj Mirring Traditional Owners Aboriginal Corporation, which is the prescribed body corporate under the Native Title Act 1993 …
>
> We would be pleased if you conveyed our total support for the revocation of Lake Condah land to the Victorian Parliament on behalf of Gunditjmara native title holders in the far south-west.

It is signed by Damien Bell, chairman. I also want to place on record my recognition of the good work Damien Bell does as chairman of the Gunditj Mirring corporation and his community.

The Lake Condah sustainable development project is an important project which has widespread support, and I strongly support it. The sorts of things it does are outlined in a Hamilton *Spectator* article of 10 April 2004, which states:

> The Lake Condah sustainable development project aims to develop the Lake Condah-Tyrendarra area as a major national heritage park and a hub for sustainable development in the south-west.

The article goes on to state that the aims include restoring water to Lake Condah; revitalising the original wetlands; restoring the Lake Condah church; restoring the system of weirs, ponds and traps at Lake Condah and Tyrendarra; and recognising the density of stone huts in that area. It is a very important issue. The basis of this is the fact that over the past 4000 years the Gunditjmara people have constructed an elaborate aquaculture system to propagate and harvest the short-finned eel. Once harvested, the Gunditjmara would either consume the eel or smoke the meat for storage. The Gunditjmara also developed an economic relationship with neighbouring groups through the trading of smoked meat.

It is believed that the Gunditjmara transformed the natural environment into a constructed system of weirs, channels and ponds that replicated the eel's natural environment and in some places greatly enhanced the natural components to promote the growth of eels. Also in the indigenous protected area of Tyrendarra and in the Lake Condah area there is a system of stone huts. This fundamentally overturns what has been the traditional view of Aboriginal communities in Victoria as a nomadic people without permanent homes and without any tradition of farming, because this shows that the Gunditjmara people were actively involved in a very sophisticated aquaculture system and also in permanent settlements in their stone huts.

I think this is an area that is absolutely unique. It is an area that we ought to promote, develop and help restore, not only for its cultural heritage value but also

for its opportunity in terms of tourism and promotion of an increased understanding between indigenous communities and other Australians. Indeed the commonwealth has supported this area quite significantly. I refer to an Australian government fact sheet, which states.

> The Budj Bim National Heritage Landscape at Lake Condah in Victoria's south-west was one of the first three places to be listed on the National Heritage List in July 2004. This one landscape contains two separate areas that are on the National Heritage List — the Tyrendarra area and Mount Eccles-Lake Condah area.
>
> Dating back thousands of years, the area shows evidence of a large settled Aboriginal community systematically farming eels for food and trade in what is considered to be one of Australia's earliest and largest aquaculture ventures.

The fact sheet states further:

> They built stone dams to hold the water in these areas, creating ponds and wetlands in which they grew short-fin eels and other fish. They also created channels linking these wetlands. These channels contained weirs with large woven baskets made by women to harvest mature eels.
>
> The modified and engineered wetlands and eel traps provided an economic basis for the development of a settled society with villages. Gunditjmara used stones from the lava flow to create the walls of their circular stone huts. Groups of between 2 and 16 huts are common along the Tyrendarra lava flow, and early European accounts of Gunditjmara describe how they were ruled by hereditary chiefs.

While all that is very good, there are some concerns that I wish to raise. These concerns have been raised by local indigenous leaders in the south-west. They argue that Aboriginal society is a collective society, and they are concerned that this decision gives one group — or, as they describe it, one mob — exclusive rights to the important land area of the Lake Condah bed and surrounds.

They are concerned that this excludes other indigenous people who have an interest and a legitimate role to play in the Lake Condah area. They say that neighbouring indigenous groups were not in agreement and did not consent to this exclusive use. They are concerned that this could lead to problems linked with factional and/or family group interactions. Unfortunately we do have a history of that in the Aboriginal community in south-west Victoria.

I refer to the Condah Aboriginal Mission site. An article appearing in the *Victoria 150 Years* publication of May 1984 states:

> The mission will be restored in a $750 000 project described by the Premier, Mr John Cain, as 'a major recognition of the special nature of Aboriginal history' …

An article appearing in the *Portland Observer and Guardian* of 6 July 1987 under the headline 'Lake Condah land is handed over' states that the land was handed over by the federal Aboriginal affairs minister. Subsequently an article in the Warrnambool *Standard* of 11 February 1989 states under the headline 'Lake Condah in disarray — Aborigines' that the management of the mission is appalling and that there are disputes between the KerrupJmara corporation and another corporation. Another article appearing in the *Sunday Press* of 2 July 1989 headed 'Where's the money gone?' states:

> There's trouble at the Lake Condah Aboriginal Mission. The Aboriginals are getting restless.
>
> …
>
> Phones have been cut off, tourists turned away …

It goes on to say that the mission was virtually deserted, that money had been wasted and that there were disputes within the Aboriginal community.

The Warrnambool *Standard* of 9 February 1990 states under the headline 'Lake Condah probe ordered':

> Federal Aboriginal affairs minister Gerry Hand has instigated an investigation into the KerrupJmara Corporation, which has allegedly squandered more than $85 000 in running the Lake Condah Mission project …

Then as late as 1996 an article under the headline 'Third World living at Lake Condah' states that there were ongoing problems with the management of the Lake Condah project. There are problems, and there are concerns that there may be issues with the freehold title with regard to ongoing management, lack of control of vermin and noxious weeds and lack of adequate conservation protection of native flora and fauna.

In summation, while we support the revocation and the handing over of this land, there needs to be ongoing support, supervision and appropriate management to ensure that there are no internal disputes, that the Lake Condah area is managed well and that the reflooding occurs as quickly as possible.

Mr ROBINSON (Minister for Consumer Affairs) — I am pleased to make a brief contribution to the debate on the Land (Revocation of Reservations) Bill. The tradition in this place is that land revocation bills allow for broad-ranging debate. That is fitting, given that land has a very emotional and direct connection with people and events in this state. As a precursor to my contribution, I seek the indulgence of the Speaker and other members as I relate in perhaps the same vein as the member for Brighton and others the achievements of one particular family that is

directly connected to the land at Lake Condah, which is one of the subjects of this bill.

As the bill facilitates the native title settlement at Lake Condah, it allows me the opportunity to relate the outstanding opportunities of one particular family — the Lovett family — who have an enduring and incredibly strong connection with that land. In her contribution the member for Brighton noted the extraordinary contribution that the Lovetts and the Lovett-Murrays have made to football. That is the case, and I have no argument with that, but they have made a far greater contribution in their military service to this country and this state.

In my capacity of assisting the Premier and the former Premier on veterans issues earlier this year I became aware of a claim being put around by the Imperial War Museum in London about the service rendered by the Lovett brothers. The claim was made that four brothers from the Lovett family at Lake Condah had achieved something that to the best of the knowledge of the museum in London had not been replicated anywhere else. They had actually served in both the First World War and the Second World War. By anybody's measure, that is an extraordinary achievement. I sought clarification of this claim from the Australian War Memorial a few weeks later, and in a letter to me from Dr John Connor, its senior historian, I was advised:

> While it is impossible to definitely state whether the … service of the four Lovett brothers in the Australian army in both world wars is unique, it is certainly extraordinary and worthy of recognition.

I wholeheartedly agree with that. Dr Connor provided me with some information that I would like to relate to the house.

Dr Napthine interjected.

Mr ROBINSON — The member for South West Coast has said, and I was going to say, that the federal Department of Veterans' Affairs has named its building in Canberra after the Lovett brothers. However, I am sure the member for South-West Coast would agree with me that the achievements of that family are still not widely enough recognised.

The Australian War Memorial provided me with some information on the Lovett brothers' military service, and I will run through that quite briefly. The brothers involved were Alfred Lovett, who enlisted in 1915 and served with the 12th battalion. He was discharged in 1918 with rheumatism. His brother, Edward, enlisted in 1915 and served with the 13th Light Horse Regiment. He was demobbed in 1919 but in 1940 enlisted and served as a corporal in the 12th Garrison Battalion. Frederick Lovett enlisted in 1917 and served with the 4th Light Horse Regiment. He served for a couple of years and in 1941 enlisted again and served as a corporal in the Australian Army catering corps before being discharged six years later.

Herbert Lovett enlisted in 1917 and served with the 5th Machine Gun Battalion. He returned to Australia in 1919 and again in 1940 enlisted and served in the Australian Army catering corps for five years. Leonard Lovett enlisted in 1916 and served with the 39th battalion. He was wounded in action in Belgium in 1917 and returned in 1919. He again enlisted in 1941, serving with the 23rd Garrison Battalion. Samuel Lovett enlisted during the Second World War and served between 1940 and 1945. Those are extraordinary achievements in anyone's book.

I want to conclude with some commentary that was made earlier this year in the *Sydney Morning Herald* in an article entitled 'Brave family spurned by land they served'. This gets right to the point about the significance of native title settlement to the Lovett family and their relatives and the way in which this bill facilitates it. The article talks about the extended Lovett family — and the member for South-West Coast talked about the importance of the extended family in Aboriginal communities.

It talks about how the service of the family has gone beyond just the four Lovett brothers, who served in both world wars, and comments that Reg Saunders was the first Aboriginal to become an officer in the Australian armed services. He fought with the 6th Division in the Middle East, New Guinea and then Korea. The article goes on to say: 'Others fought in Vietnam. Ricky Morris, grandson of Frederick Lovett, who served in both world wars, went with peacekeeping troops to East Timor'. This family is making an enduring contribution.

One of the key points in the article — and I will conclude on this point — is the following paragraph, which reads:

> The saddest point is that while other returned Australians were offered blocks of land on which to settle and welcomed back to the bosom of society, the Aborigines had their applications for land rejected — even for land they once owned — and were turned away by some RSL clubs, pubs and other public organisations.

I sincerely hope that this bill, albeit in a very modest way, through its contribution to a native title claim settlement helps to address some of these historic injustices. I certainly commend this bill to the house and commend the example of the Lovett family and

their extended connections for the profound contribution they have made to the service of this country.

Mr TILLEY (Benambra) — I rise to make a contribution to the debate on the Land (Revocation of Reservations) Bill 2007. In particular I want to speak about the Beechworth hospital site. I will refer to it by a number of names because they are all historically significant to the 1.745 hectares detailed on page 6 of the bill.

Historically, the construction of the Ovens Benevolent Asylum began in 1862 on an elevated site overlooking the township of Beechworth. At the time of construction the building contained two dormitories and a number of smaller rooms. In 1867 two additional wards and a third dormitory were constructed. A second building was constructed in 1899 with the purpose of providing a ward for females.

Back in 1852, gold was discovered in Beechworth and surrounding areas like Chiltern, Rutherglen and Cornishtown, but it was in the following year, 1853, that Beechworth was declared a town. In 1857, when the gold rush peaked, Beechworth became the administrative and legal centre for north-east Victoria, and a short time after that, in 1863, it became a municipality. As time went by many administrative and other buildings were constructed, including the lunatic asylum, the Ovens Benevolent Asylum and a number of iconic churches. Those who have been to that lovely little area in the electorate of Benambra in modern times may have visited the Beechworth bakery and tried its magnificent bee sting. I hope to see as many people as possible from both sides of the house come to Beechworth and indulge in those bee stings.

Ms Beattie — Your shout.

Mr TILLEY — No, bring your money with you. Support our local business!

When we look at the tourist precinct of Beechworth and the likes of Beechworth prison, where the Ned Kelly trial was held, we can see that the town has been maintained particularly well. Beechworth jail was sold in recent years, and I look forward to the successful outcome of that sale as the developer sees through to fruition the dreams he has for the future of Beechworth tourism and Beechworth business. I am encouraged by the developer's vision for the future, though he still has a long way to go.

Beechworth continued to grow, and residentially it continued to flourish, if to a lesser extent. Principally it was a government town and administrative centre for north-east Victoria. The Ovens Benevolent Asylum was renamed the Ovens Benevolent Home in 1935 and the Ovens and Murray Home in 1954. During that time many buildings were added to the site. From 1960 in particular extensive internal renovations were carried out to the original buildings. Development has gone on for many years there.

The Ovens and Murray Hospital for the Aged in Beechworth is of architectural and historical significance to the state of Victoria. Why is it significant? It is an unusual example of Flemish-influenced design from the 1860s. Although the facade has been partly obscured, it remains intact and is an important example of early buildings that were designed for the specific purpose of aged care. The Flemish gables remain as a dominant form in Beechworth's urban landscape. The historical significance of the hospital is also due to its association with the early development of Beechworth and its dominant siting within the town. As I said earlier, it overlooks the tremendous little town that is Beechworth. To this day it also displays evidence of the civic development that took place from the time of the gold rush, when Beechworth was emerging as the administrative centre of north-east Victoria, to this day.

This brings me to the future of the site. The Indigo shire currently spends somewhere between $135 000 and $150 000 annually on the duplication of shire offices. The shire currently splits its office space between Beechworth and Yackandandah and holds its formal meetings at the Chiltern Senior Citizens Centre. The need for a central base has been a long-running concern for the council. Current arrangements raise a number of occupational health and safety issues for council staff. In essence the Indigo shire does not have real home or a real council chamber; nor does it have a mayor's office or a central place for councillors to meet their constituents.

This concern has been expressed by the Indigo Shire Council. A government member from the other place who recently had meetings with the council has no doubt been consulted, and councillors have shared their concerns for the future as well. Some of the things councillors would like to see for the future include its use as a site for a Montessori preschool and primary school, which is currently operating elsewhere in Beechworth; a site for future council offices and a main shire administration centre; a site for an upgraded and expanded neighbourhood centre and other community facilities; a site for a business incubator and commercial development; and a site for retirement homes.

The initial advice provided to the shire by the Department of Treasury and Finance was that the government does not intend to deal with the council in relation to its community's interests, in effect saying, 'We are not particularly worried about the community interests of Beechworth.'! It was also advised that Indigo shire would need to provide a submission as part of a normal tendering process. The council is currently seeking to negotiate to acquire the site through a negotiated process rather than through a commercial tendering arrangement. If it cannot achieve this, it considers that as part of a full commercial tendering process decisions should be based predominantly on the community benefit rather than the highest possible yield from the site. I hope this government will work with the Indigo Shire Council to ensure that community benefit is of the foremost importance. I hope that decisions in the future will benefit the shire of Indigo and the township of Beechworth so that they can realise their full potential. I will most certainly be watching with great interest the future and the benefit of the land revocation to the Beechworth community.

In closing, I will not be opposing the bill. I hope the government will make every attempt possible to engage with local governments to see that their future prosperity prevails.

Ms BEATTIE (Yuroke) — This type of bill comes before the house quite frequently, because we are regularly required to modify various parcels of property throughout the state to reflect changes in land use and planning requirements, and to fulfil government commitments. Temporary reserves may be removed by an order in council but legislation is required to remove permanent reserves in almost all circumstances. This bill provides for the revocation of four permanent reserves; and I would like to go through them, one by one, because each is interesting and has a story to tell.

First of all I would like to talk about Lake Condah, which is a permanent public purposes reserve. In March 2007 the Gunditjmara native title claim was settled by agreement between the Gunditjmara people, the state and 170 other respondents. Part of the government's commitment was the transfer of the Lake Condah reserve and the additional parcels adjoining Lake Condah to the Gunditjmara people. Revocation of the permanent reserve is required to effect that transfer.

It is my understanding that Lake Condah is both historically and culturally significant to the Gunditjmara people and to the state of Victoria. Evidence of indigenous aquaculture can still be found there, as can the remains of permanent stone dwellings. This makes a nonsense of terra nullius because Aboriginal people did have permanent settlements and were a very cultured society. Certainly it is one of the points that I often make when giving speeches in my new role as Parliamentary Secretary Assisting the Premier on Multicultural Affairs.

When we think back to when white settlement came to Australia, although many terrible things were done — and for those I offer my sincerest apologies — on the whole we were welcomed with open arms. We have a special responsibility to newly arrived migrants to extend that same hospitality and open-heartedness that was extended to white men when we first came to this country. I always make a point of saying that, unless you are a full-blooded indigenous person, you do not have to go too far back in any of our heritages to find that we all came from another land.

In talking about Lake Condah, I would like to pay my respects to the Gunditjmara people and to their elders, both past and present. I also want to talk about the permanent reserve in South Melbourne. Some of the language surrounding these reserves is language that is quite outdated these days — a permanent reserve for asylum purposes. I have heard this place unkindly called the Spring Street asylum, but I will not go into that.

In a memorandum of understanding between the Premier, the Roman Catholic Trusts Corporation and MacKillop Family Services, the government and other parties committed to removing reservations and trusts over the land. It is the site of the former St Vincent's Boys Home in Cecil Street, South Melbourne, and it has been subject to a Crown grant for the purpose of an orphan asylum since 1888. Following removal of the reservation, those parties will undertake urgent repair and refurbishment works to the existing building to improve family welfare services that are delivered, and delivered with care and consideration, on that site. The bill also allows the Minister for Finance, WorkCover and the Transport Accident Commission to sell or transfer the remainder of the site for appropriate development.

The Daylesford land is quite interesting in itself. Again I look at the language — the Daylesford Ladies Benevolent Society Incorporated — where the society is the committee of management of the reserve. A historic building straddles the boundary of this reserve and the adjoining freehold owned by the society. I have seen photographs of the building, and indeed it is a very old building. It is no longer used by the society and the society is unable to restore the building to its original condition. If the society is able to purchase the land, it intends to consolidate the parcel with the adjoining

freehold and sell the consolidated parcel. I know from various trips to Daylesford that there is a bit of a tree change occurring in that area.

Ms Allan interjected.

Ms BEATTIE — One only has to go there any weekend and Daylesford is certainly thriving, as the minister says. I know the minister has been up to Daylesford to one of those day spas, and very relaxing it is. I know that the ladies society is supportive, as all the stakeholders have been supportive, of the land revocation.

The revocation of the Beechworth permanent reserve and related Crown grant for asylum purposes is proposed by the Department of Treasury and Finance to allow consolidation of those parcels of land which were vacated by Beechworth hospital and which have been declared surplus to the requirements of the Department of Human Services. Following revocation and consolidation the land will be sold at a valuation based on the highest and best use.

With those few words, I would say that land revocation is one of those things that occurs from time to time in this house. This is a regular update of those. It occurs with the stakeholders all being consulted and the stakeholders all requesting the revocation of those parcels of land. I commend the bill to the house and wish it a speedy passage.

Mr THOMPSON (Sandringham) — In commenting on the Land (Revocation of Reservations) Bill 2007, I seek to confine my remarks principally to the purpose that relates to the revocation of the permanent reservation of the bed and banks of Lake Condah for the purposes of transferring that land to the Gunditjmara people.

That part of western Victoria is quite spectacular. Its geomorphology is volcanic. I note a press release earlier in the year announced the recognition of native title rights for the Gunditjmara people in the south-west of Victoria. It represents Victoria's first agreement to cooperatively manage a national park with the native title holders, the traditional owners, and there is the wider element of the area of land, including Mount Eccles, which is a spectacular part of this state. In addition, the agreement relates to the settlement of the claim which entails the transfer of the freehold title of the Lake Condah reserve to the Gunditj Mirring Traditional Owners Aboriginal Corporation.

The member for South-West Coast alluded to some of the concerns of other indigenous Victorians in the area, that they might be precluded, owing to familial ties, from having an immediate interest in that area of land. I think it is a disappointing feature that there is not a wider inclusionary level. The historic claims to the area certainly relate back to the spectacular channels, volcanic and handmade, through the use of stones, that led to the cultivation of eels as a source of food in that area — certainly in the area of Lake Condah, which is an area that fills with water. It had been drained at one particular point in time, and it will be interesting to see the vista of the land once it has been managed over a number of years, and I trust wisely managed.

One of Australia's great soldiers grew up at Lake Condah on the Lake Condah mission, Reg Saunders. Reg's father and uncle served in the first Australian Imperial Force, and Reg served in a number of theatres of war. His brother was killed in New Guinea. Reg had a most distinguished war history. He served in North Africa at Benghazi; he served in Greece; he had 12 months behind the lines on Crete; he served on the Kokoda Track; and he served as a company commander at Kapyong and fought at Hill 317. He was awarded a Member of the Most Excellent Order of the British Empire, the 1939–45 Star, the Africa Star, the Pacific Star, the Defence Medal, the 1939–45 War Medal, the Australia Service Medal 1939–45, the Korea Medal and the UN Medal for Korea.

Reg no doubt would have also served alongside or under one of Australia's generals, George Vasey, during that time. George was one of Australia's great generals. He asked his wife, when he was serving overseas, to make sure that she looked after the widows of the men he led who died in battle in case he did not return himself, because he held the view that 'the bloody government would not look after them'. He was described in his biography by David Horner as one of Australia's great generals, and he used a quote which ran along the lines that compassion is a necessary ingredient of leadership and that unless a leader understands the torments suffered by those that he leads, he is unfit to command.

It is interesting that Reg Saunders had the opportunity to serve in a division which would have been close to the leadership of George Vasey. At one point when Reg Saunders had been promoted, he received a letter on behalf of the Aborigines Friends Association of Adelaide from its secretary, the Reverend Gordon Rowe, who wrote him a letter of congratulations to which he replied on 18 December 1944:

> Thank you very much for your kind wishes and congratulations.
>
> My philosophy is that once a person undertakes to do something, no matter how big or how small, that person

> should do it to the best of his or her ability. Which may account for my very small part in helping pave the road to ultimate victory.
>
> Many thanks for your book. Many of the people mentioned in it are very familiar to me.
>
> You mentioned in your letter an attitude towards people of my race. I am sorry, but neither you nor I can change that attitude, because (the) changing of it rests with the Aborigines themselves, and my contribution towards helping them is just simply by setting myself up as an example — not by words which are cheap, but by deeds.
>
> Once again, sir, I thank you and wish you and your fellow workers all the best of luck.

It is signed 'R. W. Saunders'. Reg spent the remainder of the war as a lieutenant in charge of a platoon of up to 30 Australians. The Saunders are among other people who came from the area. The member for Brighton outlined the football prowess of the Lovett family and their sporting success in other arenas of battle.

I trust that with the development of native title claims in Victoria there can be parallel progress made in other important areas. Some of the chief indicators that measure a community's wellbeing might relate to health, education and the disproportionate engagement of its members in the criminal justice system which are in part features of Victoria's indigenous community. There would not be one Victorian who would not aspire to seek greater outcomes against those benchmarks.

In my capacity as a former chair of the all-party parliamentary Law Reform Committee, I conducted a number of hearings throughout Victoria looking at issues relating to access to law in rural and regional Victoria. Public hearings were held in Portland, Warrnambool, Mildura, Robinvale, Echuca, Swan Hill, Geelong, Bendigo and Ballarat, to name a few of the settings. The report made a number of recommendations to utilise technology and to adopt or implement Koori courts, which I note have been a feature in the last few years in Victoria where I understand there have been improved outcomes in the administration of criminal justice. Against the key criteria of engagement in the wider community, strong educational outcomes and disengagement from the criminal justice system, there are important levels of progress that can be achieved.

In western Victoria Darryl Rose has been an important indigenous community leader who has made a significant contribution to the development of a number of important indigenous issues. The opposition will continue to focus its attention on indigenous outcomes in this state. There was concern raised by way of a notice of motion yesterday regarding the incidence of alcohol foetal syndrome and its impact on indigenous health. I know that when the Law Reform Committee met in eastern Victoria in Bairnsdale and Morwell there was significant concern in Morwell regarding the level of chroming amongst young indigenous Victorians. One day chroming is one day too many in terms of the impact it can have on the life of a young Victorian. It is important there is an elimination of matters that impact adversely on indigenous health.

The opposition notes the importance of the settlement to the indigenous community in western Victoria and supports the permanent revocation of the bed and banks of Lake Condah for the purposes of transferring that land to the Gunditjmara people.

Ms GRALEY (Narre Warren South) — I am very pleased today to spend some time speaking on the Land (Revocation of Reservations) Bill 2007. Listening to members who have previously spoken in the house, I understand it is rather a regular occurrence that such bills come before the house, but it is the first time I have had the opportunity to speak on such a bill. The purposes of this bill, as set out in clause 1, are:

> (a) to revoke the permanent reservation of the bed and banks of Lake Condah for the purposes of transferring that land to the Gunditjmara people;
>
> (b) to revoke the permanent reservation and related Crown grant of the Roman Catholic Orphan Asylum at South Melbourne;
>
> (c) to revoke a reservation for asylum purposes of land at Daylesford to facilitate the sale of the land;
>
> (d) to revoke a reservation for benevolent asylum purposes of land at Beechworth and the related Crown grant to facilitate the sale of surplus land …

As many people in this house know, I have had experience — it is some time ago now; I cannot believe how time flies — as a councillor and mayor of a very good local government area, the Mornington Peninsula shire. My experience on the council when the issue of public land came up for sale, and especially when it concerned public open space, was that it could be quite a drawn-out, tiresome and divisive issue in the community. I am very pleased to say that I had many experiences where that was not the case, and in many ways they turned out for the benefit of the community.

I had to learn as a councillor that my first reaction, to want to keep land and store it away for future generations, was not necessarily the right reaction in many cases. I learnt from my experience of dealing over a period of six years with many of these issues that the needs of the community and the government change over time, that often the sale of land can be of greater

benefit to the community than just holding on to the land and that in fact the proceeds from the sale of land can be better used. Often too a change of ownership can lead to better outcomes for the community. There can be better owners of land than those who nominally own it in the first place.

That was particularly the case, I must say, in a very large campaign I was involved in to save some land in Mount Martha where we dealt with South East Water over three years through the courts and community consultation processes. It ended up leaving a large tract of land for the public and the shire to take care of for future generations, with the provision of not only public open space but playground and skateboard equipment. I note with some reservations though that council has not acted upon that issue. I would challenge the member for Mornington, who unfortunately is not in the house, to take up the issue and make sure that the battle that was fought by the community is finalised by getting that park up to the standard that the community fought so hard to achieve.

I would like to commend the government, the local authorities and the community members who have been involved in the revocation of these specific parcels of land for the very positive way in which they have gone about this process. I note that in a number of cases community groups have approached the minister's office to initiate the revocation of the land, and that is a positive step by those community members.

I also note that many of the community members and councillors in these cases have recognised that the community interest is better served by changing the purposes for which the land or the institution is being used at the time, and that is a good thing. Even though we have some gorgeously quaint names associated with these pieces of land — for example, the Daylesford Ladies Benevolent Society — I know that the people involved have the interests of their community at heart in the way they are going about using the land and developing services in the future. I think that will be a good outcome for the people of Daylesford.

I would also like to commend a number of the organisations that have gone about trying to get a positive result for the communities they serve by going through this process. I refer in particular to MacKillop Family Services, which as a result of this bill will be much better placed to provide services to the community.

As I said, I have been involved in a number of divisive campaigns around changes in land ownership, and these have usually taken place when public open space was going to be taken away. I would like to reiterate a feature of this bill so that people are not concerned when they read about it in future years. No public open space is being taken away by the bill, and I think we need to confirm and reaffirm that. I would also like to reaffirm that all of these processes have been supported by all the stakeholders, and that is a very good thing.

One of the things I have done recently, which the member for Benambra encouraged us all to do, is visit Beechworth. I did not have a bee sting, but I did have a big chocolate éclair, which was quite delicious. I must admit that the area around Beechworth is very attractive, and I hope that tourism continues to thrive there. I stayed at the old asylum site, where Latrobe University is also located. It is a terrific site that has tremendous potential for local development not only for tourism purposes but, as the member for Benambra was suggesting, for civic purposes as well. It is also good to see that this land and these buildings are becoming available, because our government, through the Department of Human Services, has established new facilities in the area.

I also would like to comment on the Lake Condah situation. It is refreshing to see that this land is being returned to the traditional owners, and in such an amicable manner as well. It is uplifting to see that the local Gunditjmara people will be involved with the management of this Crown land, including the Mount Eccles National Park. All bodes well if the local people can manage it and reap the rewards that tourism and other development may bring from them owning their traditional land.

In finishing, I congratulate the government on going about this in such a progressive and consultative manner. I also congratulate the community groups that have also been involved in the process for taking up the issues and working closely with the government and with officers of the respective departments to bring such a complete and purposeful bill to the house.

Mr BATCHELOR (Minister for Community Development) — I would like to thank all those members who joined in this debate. In particular I thank the Deputy Leader of the Opposition and the members for Shepparton, South Barwon, South-West Coast, Mitcham, Benambra, Yuroke, Sandringham and Narre Warren South. As the members who joined in the debate have pointed out, the bill will revoke or partly revoke four permanent reserves to facilitate this government's commitments, and it will also facilitate the ongoing rationalisation of the public land portfolio through the disposal of surplus lands — both important but separate objectives.

The first land parcel dealt with by the bill is around Lake Condah. The reservation covering the bed and the banks of Lake Condah in south-west Victoria is being removed. The bill will allow for the granting of land to the Gunditjmara community as part of the mediated settlement of the Gunditjmara native title claim. The second parcel of land is in South Melbourne and involves the reservation over 237 Cecil Street, which was formerly the St Vincent's Boys Home. This too is being removed to facilitate the refurbishment of the existing premises to be retained by the Roman Catholic Trusts Corporation and the appropriate development of the remaining land.

The third area is in Daylesford, and it involves the revocation of a reserve for asylum purposes in East Street, Daylesford. This will allow for the sale of the land to the Daylesford Ladies Benevolent Society. The society will consolidate this land with adjoining freehold land. The society plans to sell the consolidated land and its historic building. The fourth and last parcel of land relates to Beechworth. The former Beechworth hospital site is reserved for benevolent asylum purposes. The removal of the reservation will allow for the disposal of the site, which is surplus to the requirements of the Department of Human Services. These revocations do not remove any public open space and are supported by all stakeholders. Any resulting sale of Crown land will be made in accordance with the government's procedures on the sale of Crown land.

The only issue I think I need to respond to is that raised in some comments made by the Deputy Leader of the Opposition in relation to the Charter of Human Rights and Responsibilities, when the member questioned the assessment I have made that this legislation, although it does impose some limitations, does not breach the Charter of Human Rights and Responsibilities. The limitations resulting from this bill will affect people only insofar as their current restricted ability to move around the bed and the banks of Lake Condah may be further limited as a result of a native title settlement.

These changes in planning and reservations stem from a native title settlement. From the investigations that took place as part of the mediation in the native title claim, it is clear that historically there has been limited public access to the banks and the bed of Lake Condah due both to restricted access points and seasonal inundation. Because of the reality of the geography and climate, people have had restricted access. This bill seeks to be part of the process of settlement of the native title claim. The restriction on people's movements does not apply outside of the perimeters of the area of this claim's settlement and the reservation changes that will take place as a result of this. People will still be able to move freely around those.

Whilst there is some limited and technical interference with the human rights of people to be able to move freely around the state, I think in the context of resolving a native title claim, which has broad support right across the Victorian community as expressed by the support within this chamber, in this case that restriction is not unreasonable. In those circumstances it is my view that the bill does not breach the Charter of Human Rights and Responsibilities, and I have signed off accordingly.

I thank the house for the support it has given to this bill and I wish it a successful passage from this chamber to the other place.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

JUSTICE AND ROAD LEGISLATION AMENDMENT (LAW ENFORCEMENT) BILL

Second reading

Debate resumed from 19 July; motion of Mr CAMERON (Minister for Police and Emergency Services).

Dr SYKES (Benalla) — I rise to speak on behalf of The Nationals on debate on the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007. The Nationals will certainly not be opposing the bill because it seeks to make a series of changes which we believe are generally in the interests of improving the ability of the police to carry out their functions and to ensure that we have a safe community in which to live, work and raise a family.

I would like to commence by thanking Department of Justice staff, particularly Marisa De Cicco, Lissa Zass and Joe Calafiore, for the briefing I was given and also for following up in providing information that I had requested during the briefing. It certainly encourages informed debate and informed contribution on the subject.

The purpose of the bill is to amend a number of existing acts, in particular the Magistrates Court Act 1989, the Police Regulation Act 1958, the Road Safety Act 1986 and the Sex Offenders Registration Act 2004. In developing our position on the bill, The Nationals consulted a number of groups, in particular the Police Association and the Victims of Crime, and we also had feedback from the Law Institute of Victoria. I should say that in a letter of 31 July from Mr Paul Mullett the Police Association indicated that it had perused the draft correspondence and that:

> … there do not appear to be any issues, as far as we are aware, that will unnecessarily impact on the ability of our members to undertake their tasks in ensuring a high standard of community safety. The proposed legislation appears to be to the contrary in that the provisions provide our members with an enhanced ability to protect the community.

It is good to see that the police are happy with that aspect of the government of the day's actions, albeit they are not necessarily happy with some other negotiations they are having with the government of the day — but I would not risk straying down that track in case members on the other side choose to be unhappy.

The Law Institute of Victoria has raised some concerns in a letter it has written to the shadow Minister for Police and Emergency Services, the member for Kew. In essence its concerns seem to focus on aspects of making the photos available for use to help identify more crimes committed by known offenders. I will leave it to the shadow minister to detail those concerns raised by the Law Institute of Victoria. At this point I would also like to thank the shadow minister for allowing me to speak first to fit in with some other commitments that I have, so I wish that to be acknowledged.

The key implications of the bill are manyfold. The key implication of the amendments to the Police Regulation Act 1958 is that the legislation allows for photographs of convicted criminals to be released to authorised media outlets to assist in obtaining additional information about other possible crimes committed by the offenders. This change arises as a result of a challenge to such action being previously taken by the police. It was felt there was a need to firm up the ability of the police to use photographs of convicted criminals to flush out further information about additional crimes that those persons may have committed.

A series of safeguards will then be put in place to protect victims of crime and to take into consideration the rights of the convicted criminals. There will also be increased penalties for serving police officers who misuse information. Those increased penalties will also apply to former police officers who misuse information. That offence will now be indictable. Again this change arises from a perceived misuse of confidential police information in the past. It makes sense to have a more significant deterrent, which this legislation provides for.

The amendments to the Road Safety Act 1986 principally make it an offence for someone to fail to obey directions to stop a motor vehicle when requested to do so by the police. The objective of this amendment is to reduce the number of high-speed police chases that now occur. High-speed police chases are obviously reported very enthusiastically by the media when they occur, and regrettably on occasion fatalities occur. Fortunately the fatalities with high-speed police chases tend to be one or two a year, although on the information provided to me by the Department of Justice we see that in 2001 seven people were killed in high-speed police chases, and in 2003 there were three fatalities. That was apparently not so much because there was an increased number of high-speed chases but because there were more people in the vehicles that were being pursued.

Creating an offence of failing to obey a direction to stop is seen as a means of reducing the likelihood of high-speed police chases and therefore reducing the possibility of deaths or serious injury to those individuals in the vehicle being pursued, to innocent passers-by or to other members of the general public. There is also an amendment to the Road Safety Act which increases the time available in which speeding motorists detected by fixed cameras can have their cars impounded in the event that they exceed the speed limit by 45 kilometres per hour. That is a practical approach enabling the system to have time to work so that people who clearly and stupidly violate the speed limit by 45 kilometres per hour can have their vehicles impounded.

Touching on the broader issue of irresponsible or hoon driving, it seems that the current legislation which has enabled impoundment has been quite successful in reducing the level of hoon driving. Even in Benalla we have situations where people are woken by the screeching of tyres and the irresponsible behaviour of some young people. I know as I drive into town each day from my property I see evidence of doughnuts and burnouts having been done on the roadway. Unfortunately the people involved — and it is often young people — do not seem to appreciate the risks at which they are putting their own lives and the lives of their passengers or other people. Continued pressure on reducing hoon driving will be supported by all responsible citizens.

The other piece of legislation that has been amended in this bill is the Sex Offenders Registration Act. There are amendments that seek to close a loophole by removing an exemption that was available for convicted sex offenders who had not received a custodial sentence or community-based order. That exemption allowed those people not to be listed as sex offenders. As I understand it, the legal process involved has meant that someone may have been convicted in one particular case whereas there may have been a string of cases involved, and some of those people, while serious offenders, have in fact been able not to have their names included on the serious sex offenders register. This bill seeks to close that loophole.

The bill also reduces the reporting time from 14 days to 3 days for sex offenders who have unsupervised contact with children. That is another common-sense move. I know when the original legislation was debated in the Parliament the time period of 14 days was debated. In reality it was a situation where the processes of handling the information were probably not as refined as they are now. It is now recognised that reducing the time to three days is important in protecting the lives and wellbeing of the young people we seek to protect.

Importantly the bill also contains amendments which will require agencies to share information regarding sex offenders. I have to say that this is common sense. It never ceases to amaze me how the privacy provisions in legislation can be used to interfere with the common-sense application of laws — in this case, to protect the innocent and the delivery of services. There may be situations where there are service providers in one organisation who have adjoining offices. Due to their interpretation of the privacy provisions an individual could end up providing information to each officer two or three times. In terms of the existing legislation, that problem could be overcome if the provider of the information signed a small document agreeing to the transfer of information. The amendment relating to sex offenders provides a legal basis for the sharing of information — and that is a plus.

The bill also removes the anomaly of a self-employed sex offender not being required to register under the Sex Offenders Registration Act 2004. This is a matter that had just slipped through because of definitions and choices of words, but as a result of the operation of the existing act this amendment was found to be necessary. There is also an amendment to restrict sex offenders in changing names, and this is in line with the Serious Sex Offenders Registration Act 2005. I do not think there will be any negative impact from that amendment. In fact it is a plus, because it will protect victims and make it easier to keep track of sex offenders.

In relation to the sex offenders issue, it is interesting that the Department of Education and Early Childhood Development has recently announced a new set of guidelines for dealing with sexual assaults in schools. That is to be commended.

Ms Allan — It was the last thing that I did.

Dr SYKES — Good! The Minister for Regional and Rural Development, who is at the table, has indicated that that is the last thing she did as education services minister. That is a great contribution. From my understanding of the reporting of it, one of the positive implications of that move is that there will be an increase in the police presence in schools. That is fantastic, but it leaves me scratching my head as to why the government pulled out the police in the police schools involvement program.

Ms Allan — You know we didn't!

Dr SYKES — I can you tell, Minister, that — —

The ACTING SPEAKER (Mr Stensholt) — Order! The member is to speak on the bill and through the Chair.

Dr SYKES — Through the Chair, it is always someone else's fault!

Honourable members interjecting.

Dr SYKES — I would not want to join the government side and mislead the house. Let it be said that I at least — —

Mr McIntosh interjected.

The ACTING SPEAKER (Mr Stensholt) — Order! The member should speak on the bill, and the member for Kew should calm down.

Dr SYKES — I welcome the return of the police involvement in schools. I say to the Minister for Regional and Rural Development, through you, Acting Speaker, that unfortunately there are a number of police officers who policed the schools who have resigned from their positions because of their disenchantment with that action.

Another issue that is of interest in relation to the original legislation concerns making information about sex offenders available to third parties. The existing act does not provide for this undertaking. The situation in Victoria, as I understand it, is similar to the situation in New South Wales. Having weighed up the pros and cons of making information about the whereabouts and activities of recorded sex offenders available to third

parties, both states have chosen not to do it. This is in contrast to the USA, where in 20 of the 50 states third parties can be notified about the whereabouts and activities of known sex offenders.

There are risks associated with vigilantism and the failure of sex offenders to fulfil their obligations to report changes of address because of their concerns about the community impact of third-party notifications in cases where they are attempting to rehabilitate themselves. By comparison, in the UK there is no such notification. It appears that Victoria's position of not notifying third parties of the whereabouts and changes of address of sex offenders is consistent with the position in New South Wales and the UK.

The other aspect of this bill which I and The Nationals commend is its targeting of sex offenders as risky people. I will compare this bill with another piece of legislation which has been passed by this house and which will be reviewed as a result of the Working with Children Amendment Bill having been introduced today. That legislation requires people working with children, including volunteers and those in salaried employment, to undergo police checks. My concern is that that is a very broad-brush approach. Probably hundreds of thousands of people will have to be checked in order to detect a small number of people with known records.

The progress report given to me by the Department of Justice shows that 62 465 assessment notices had been issued, of which 16 had been declared interim negative notices, 6 had been declared negative notices and 3 were being reviewed. In the worst case scenario, somewhere between 10 and 20 sex offenders have been detected as a result of testing nearly 63 000 people. It raises the issue of whether that particular strategy is good value for taxpayers in comparison to the targeted approach that is included in this legislation.

I think the government of the day should always be reviewing the effectiveness of the legislation. I hope that this bill will ensure we get best value for money. I also hope that the implementation of that legislation will be streamlined, because there are many practical difficulties out there amongst people in country communities, who rely so much on volunteers to help their young people.

In summarising the bill from The Nationals point of view, it is a piece of legislation that we see merit in because it is consistent with a sound approach to legislation — that is, you do a review on what is going on elsewhere in similar jurisdictions; you attempt to ensure uniformity within a country such as Australia; you monitor the implementation of the legislation; you interact with the people who are applying the legislation; you interact with the people who are impacted on by the legislation, whether it be the criminals or the victims; through that review process you identify opportunities to modify the legislation to ensure that it functions as intended and as efficiently as possible; you do those modifications; and then you continue the review process.

This bill seems to fit that basic principle of a sound approach to legislation. The Nationals believe that the proposed amendments are sound, so we are very comfortable in not opposing the legislation, as we can see that continued efforts are being made to ensure that people throughout Victoria have the opportunity to live and to raise their families in a safe environment.

Mr McINTOSH (Kew) — The Liberal opposition also supports this legislation. Occasionally a bill comes through the house on which all parties can agree. Certainly you may have a view that a bill could go further or that there should be some degree of further clarification about rights and so on, but sometimes you can agree with the general tenor of a piece of legislation. While this is an omnibus bill that covers a number of amendments that deal with different aspects of the four acts it amends, the opposition takes the view that it is a bill that improves the ability of the authorities to deal with a large number of diverse crimes ranging from sex offences to hoon drivers on the roads. Anything that does that will be supported by the Liberal opposition, and we support this legislation.

That does not mean that the Liberal opposition does not provide a degree of criticism in the sense that the bill could go further with some aspects, and I will deal with that during the substance of my contribution to the debate. I am also very grateful for the opportunity to follow the member for Benalla and his very erudite exposition of this omnibus bill, which certainly covered a large number of the aspects of it, and I certainly do not propose to rehash all of those, apart from merely touching on those matters. Perhaps before the dinner break I will touch on those things that he has explored in significant detail.

The member for Benalla dealt with the amendments to the legislation that are concerned with a driver failing to stop when directed by police to do so and with the substantial increase in penalties for that failure to stop. Above all, he dealt with the fact that the amendments will fall within the ambit of Victoria's hoon legislation. As the member for Benalla quite properly said, there have been a large number of high-speed car chases, and regrettably a few of those have led to deaths.

The legislative amendments are not just in relation to high-speed car chases. As members realise, exceeding the speed limit by 45 kilometres per hour is an appalling offence. We keep hearing harrowing tales of people travelling in excess of 200 kilometres per hour, being picked up by the police and saying, 'I did not really know what I was doing'. We are all appalled by such behaviour, and this bill adds to the armoury of the hoon legislation — something which the Liberal Party took to the 2002 election as a policy. That policy was certainly adopted by the government, and we are very grateful for that.

This bills adds to the armoury that the police have to deal with hoon drivers. Imposing a fine may be all well and good, but the ability to deprive hoon drivers of their car for 48 hours, even on a first offence, is certainly a profound wake-up call for and to the detriment of hoon drivers, and is to be commended. The consequence of committing a third such offence, which is rare, is that an application can be made for forfeiture of a car to the Crown. As a side matter, I mention that in this day and age, when we are all concerned about drunk drivers and drug drivers, the community is also concerned about drivers failing to stop at the direction of police and about high-speed car chases, but it is also concerned about excessive speed on the roads.

It has been a consistent theme of this government, supported by the opposition, to try to reduce speed on the roads. Likewise, the issue of drink-driving and drug-driving is a matter that is of profound concern to everyone. While there are stiff penalties for those offences, the opposition has always taken the view that people caught drink-driving and drug-driving should be considered in a similar vein to people caught exceeding the speed limit by a minimum of 45 kilometres per hour. While there may be some latitude given to drivers on a first and subsequent such offence, apart from .05 offences, it may be logical to deprive those drivers of their car.

During a recent visit to Horsham in the electorate of the member for Lowan I was speaking to the local police who patrol the Western Highway. They were very concerned about their inability to confiscate cars from drivers who are pulled over and blow in excess of .05, or when they are under the influence of drugs. The police said there should be an extra power to deprive such a driver of their car, because when the police get back into their car and continue on their way down the Western Highway, there is a likelihood that that person will get back into their car and drive home, even if they have been booked. I know there is a regime for depriving people of their drivers licences in certain circumstances, but that is certainly something that the Liberal opposition has been advocating.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Mr McINTOSH — Prior to the dinner break I had just concluded my remarks on the amendments in the Justice and Road Legislation Amendment (Law Enforcement) Bill, which provides that a person who continues to drive a motor vehicle when directed to stop by a police officer is guilty of an offence that carries a sizeable penalty and now becomes part of the prescribed hoon legislation. There are also amendments in the bill, which the member for Benalla discussed at some length, that increase the time a vehicle caught by an electronic device can be confiscated from 10 days to 28 days. That too probably enables proper enforcement of that law.

The member for Benalla made a considerable contribution to the debate in relation to the Sex Offenders Registration Act; he certainly explained at length many of the provisions in that legislation. The opposition supports those provisions. However, there are a couple of matters that the member for Benalla did not quite cover. The bill gives the Chief Commissioner of Police permission to block a registered sex offender from changing his or her name. All registered sex offenders will have to apply to the chief commissioner in writing to seek approval for their change of name. There is no doubt that such a provision appeals to the opposition.

There is certainly an increasing number of cases involving matters ranging from sex offenders through to people who have committed substantial frauds, who later have sought to avoid the scrutiny of law enforcement agencies by changing their names. The opposition has been alert to this for some considerable time. While I support the proposition that the Chief Commissioner of Police should be made aware of a sex offender changing their name, there is one serious vice: it sounds like a good idea but in practice it may be somewhat difficult. Again it would require the sex offender to notify the chief commissioner of their intention to change their name.

There does not appear to be any automatic provision in this bill for the chief commissioner to be informed by the registrar of births, deaths and marriages, who would keep that register, apart from the general provision about agencies sharing information in relation to sex offenders. I understand that, but I would have thought it should be a specific requirement of the registry of births, deaths and marriages to notify the chief commissioner about people who are on the sex register

and that notifications about such people should also be provided to the registry of births, deaths and marriages to cover all bases. Given that this amendment deals with a serious issue, I suggest that that should be the case.

The Liberal Party has likewise taken the view that there are a number of other crimes that could be relevant here, particularly fraud. Indeed prosecutions have occurred where it has come out that people have changed their name. The ability to change one's name is a matter of profound concern. Police officers have represented to me their belief that police ought to be informed about any name change so they can keep their records up to date. I know there are serious privacy issues in relation to those matters, as there are serious privacy issues in relation to the Sex Offenders Registration Act and in relation to the ability of a person to change their name without scrutiny.

Those privacy issues need to be resolved, and they need to be resolved also with respect to a whole raft of other occasions when people for all of the wrong reasons change their names. This is just one example of that. While the opposition is grateful that the legislation is to be amended in this way, I think the bill could go far further generally in relation to name changes. As things stand it is your right to change your name, but you certainly have no right to change your identity, and that is a crucial difference.

The bill also makes provision for ensuring that the details of a person on the sex offenders register is kept up to date, with full residential details as well as descriptions of their jobs. For the first time — and I think this is also very important — any internet service provider details will also be included. The relevance of that can be borne out by a program last night on *Lateline* about paedophiles — the very people who would be on the sex offenders register, as a result of either class 1 or class 2 offences. These are the very people this is directed at.

The internet has had a very significant impact, turning paedophilia from a local crime 30 or 40 years ago into a worldwide phenomenon where people on the other side of the world can prey on innocent children. As I said, this will affect the very offenders who will be on the sex offenders register. That amendment is very sensible and timely and will certainly assist the police in detecting those sorts of crimes by people on the sex offenders register who have shown that appalling propensity.

Finally, I turn to the Police Regulation Act. The member for Benalla dealt in some detail with the mechanism whereby for a period of six months from the date of conviction a media agency can apply to the Chief Commissioner of Police for a copy of a mug shot — that is, a photograph taken in the course of police activity at the time of an arrest or otherwise. That mug shot can be given to the media up to six months after conviction.

While it is all about community policing and law enforcement, a strict and very detailed regime has been developed as a result of this bill which will enable media organisations to make that application. The member for Benalla mentioned that he had received a copy of a letter from the Law Institute of Victoria, which has been also sent to me, to the minister and to the Greens in relation to this legislation. The institute makes a number of very important points, and as the member for Benalla indicated, I might just touch on the matters it raises.

The law institute commends the government for codifying — my word, not theirs — what was a very loose arrangement up until this particular point in time. Indeed it arose from the case of *Smith v. Victoria Police* which involved the release of a mug shot of a man who had been jailed. This man lodged a complaint with the privacy commissioner about the impact upon his privacy, which regrettably was his right. He took that action, and he took his case to the Victorian Civil and Administrative Tribunal. The privacy commissioner intervened and was joined as a party by VCAT.

The second-reading speech mentions that the privacy commissioner, Victoria Police and others have had an involvement in the drafting of this legislation, so it is safe to assume that the privacy commissioner is satisfied with the outcome. While it does impact upon the privacy of a person who has been convicted of an offence, it is resolved because there are certain circumstances set out in this bill that provide for the release of a mug shot in the public interest. I have also taken the opportunity of speaking to a couple of journalists, including Mr Ashley Gardiner who, I understand, is the dean of the press corps in Parliament House. He certainly takes the view that this is a worthwhile step in the provision of public information about people who have been convicted of crimes. There is always a need to balance individual and community policing interests, and the chief commissioner will do that.

As I have said, everybody seems to be comfortable with the process that has been put in place in relation to media organisations. It is largely a step forward in codifying what was previously a fairly loose arrangement. It takes into account privacy issues, public

interest in these matters and also the interests of law enforcement. That balancing act is prescribed in the legislation.

The law institute expressed its concern that the taking of identification photographs by police is completely unregulated, and it is of the view that the government, as part of this process of regulating media applications, would address this issue in the bill. I would ask the minister to take on board the comments of the law institute and if necessary to regulate this matter in accordance with its views. The institute also said it felt that, while there is a mechanism that can exempt publication of these photographs, the Sex Offenders Registration Act, the Victims' Charter Act, the Children, Youth and Families Act and the Judicial Proceedings Reports Act all have provisions that prohibit in certain circumstances publication of details about an offender.

I will just deal with the issue of the Children, Youth and Families Act. There is enormous debate going on at the moment about the publication of details of young offenders. Indeed there was an article in the *Age* yesterday about the publication of the name of an offender who I think was guilty of manslaughter in the end but was certainly guilty of killing a lady. The Liberal Party has always taken the view that for serious offences like murder, manslaughter and rape at least the details and identity of the accused should be released. That is certainly the Liberal Party's position, and I think we differ from the government on that matter.

The concern that has been raised by the law institute in this regard is that, rather than just being an exception or a bit of a byword that the chief commissioner takes into account in considering the release of photographs, those acts should in certain circumstances absolutely prohibit that. However, the institute says that the exemption that can be taken into consideration somewhat waters down the prohibition in those acts.

I call upon the government to consider all these matters. Certainly in relation to child offenders and serious offences, particularly murder or manslaughter — which is the alternative and which would have to be tried not in the Children's Court but in an adult court, although rare, as I understand it, along with the opportunity to deal with other serious offences — my own view is that the details of the offences and the details of the offenders should be made public as soon as those offenders attain adulthood, because they are matters that I think the public has a right to be informed about. That is certainly the Liberal Party's position.

I will briefly raise two other matters that concern two new offences in relation to the release of confidential information held by members of Victoria Police. They involve a mechanism that is provided for already, although as a result of a report by the OPI (Office of Police Integrity) suggesting that it needs to be looked at and significantly ramped up, it has now been extended. There is no doubt that the government has taken on board the OPI's recommendations and has addressed this by creating essentially two new offences. Perhaps one is a rewrite, but certainly the unauthorised release by a member of the police force, a former member of the police force or anybody in the employ of the police force, such as a full-time public servant, of information or documents held by Victoria Police is a very serious offence. The penalties have been increased from 20 penalty units, or $2000, to 240 penalty units, or $24 000, or two years imprisonment. That $24 000 is approximate, but it is certainly of that order.

As I said, the penalties are in line with the recommendations of the OPI, and the Liberal Party has over a number of years expressed profound concern and distress on behalf of the community at the large amount of information that has been released by accident or otherwise from the law enforcement assistance program (LEAP) database. Even a former Minister for Police and Emergency Services appeared to access material and use it in this house. There was also the episode involving some 20 000 pages of private information mistakenly being dumped in a dumpster. All of these matters give rise to profound concern. The OPI has made that recommendation and the government has followed it. I think it is certainly a worthwhile step.

There is also a new indictable offence, the penalty for which has increased to 600 penalty units or five years in jail, where a member or former member of the police force or public service discloses intentionally or recklessly unauthorised information that leads to the endangerment of life, assists in the commission of an indictable offence or impedes the administration of justice. That demonstrates the seriousness of the impact when it is done intentionally, and the penalty of 600 penalty units or five years in jail seems to be in accord with that.

This is an omnibus bill that covers a wide range of different matters. While the Liberal Party would wish to expand it in certain areas and to take it a bit further, in many regards it is something the Liberal Party supports.

Ms GREEN (Yan Yean) — It is with great pleasure that I join the debate on the Justice and Road Legislation Amendment (Law Enforcement) Bill. As

previous speakers have said, it is an omnibus bill that deals with a number of areas and, in particular, amends the Magistrates' Court Act, the Police Regulation Act, the Road Safety Act and the Sex Offenders Registration Act. This bill gives voice and contributes to fulfilling the government's 2006 election commitments to make Victoria safer through crime prevention programs. It is another example of this government's dedication to ensuring that Victoria remains the safest state in this country to live, work and raise a family. I am pleased that both the lead speakers for The Nationals and the Liberal Party have said that their parties will be supporting this bill, as they should be.

I will deal firstly with the changes that relate to the Police Regulation Act. The bill strengthens an existing offence relating to disclosure of police information and expands it beyond just sworn police members to include other police personnel. I would like to correct an assertion — I think it was the result of a misunderstanding, not intentional — by the member for Benalla who said that this was applying to police members for the first time, when it is in fact applying to police personnel. It is broadening it out to increase the penalties and covers both indictable and summary offences for accessing, making use of or disclosing information gained by police personnel in carrying out their functions or by virtue of their office. I think the member for Benalla simply misunderstood and thought it was police members that this applied to, when of course it was already applicable to police members and is now being expanded to cover other police personnel.

The bill also deals with a Victorian Civil and Administrative Tribunal decision in *Smith v. Victoria Police*, which includes a process where the police commissioner may disclose a mug shot of an offender post conviction, which was the point at issue in *Smith v. Victoria Police* in 2005. The house should be aware that the matters to be considered by the chief commissioner before authorising the giving of a mug shot include, to the extent that these matters are ascertainable at the time of the decision, the public interest, the interests of any victim and witnesses, and the interests of the offender and whether the application is received from a media organisation within six months of the finding of guilt against the offender. Victoria Police will establish detailed internal instructions and processes to support the release of mug shots in Victoria in these circumstances, and the existing power to release mug shots pre-conviction for law enforcement purposes is not affected.

As I detailed at the outset, this omnibus bill makes some amendments in relation to road safety. The government has been very proud of its introduction of hoon laws. It is something the community certainly has welcomed, and we have seen that the actions of the police in enforcing these laws have been very successful in dealing with the community's concerns with hoon behaviour. There is a need for the government to introduce a new offence that addresses the danger caused by persons who fail to stop vehicles when directed to do so by police.

I was particularly pleased to hear the member for Kew saying that the Liberal Party supported this and that it shared the community's concern about drunken and drugged drivers, and it was also concerned about excessive speed, but I think that concern runs counter to expressed Liberal Party policy. Prior to the last election the populist policy talked about liberalising speeding tolerances, but this is something that we will not do. Reduced tolerances are really working in keeping our community safe. We will keep those speed tolerances and keep that strong message to the community. This change in relation to pursuits will be welcomed.

The bill also makes some changes in relation to sex offenders. I want to correct some concerns raised by the member for Kew. The amendments include an expansion of the list of personal information that registered sex offenders are required to provide to police to include their telephone numbers, their internet service providers and their email addresses. It also importantly clarifies the capacity of various government agencies and statutory authorities with responsibility under the existing Sex Offenders Registration Act to share information. It will give the Chief Commissioner of Police the authority to prevent a registered sex offender from applying to have their name changed.

I take this opportunity to assuage some of the concerns expressed by the member for Kew. There is an existing process in the registry of births, deaths and marriages that actually flags the names of offenders registered under the Sex Offenders Registration Act. They are already flagged in the system, so I can assure the member that the police commissioner would automatically be notified should an offensive name change come into the system, but this bill will strengthen those sharing powers.

As I said earlier, this bill is another example of the government's dedication to keeping this a safe state and was part of the government's commitments going forward to the election. We went to the election with a strong policy on strengthening justice and democracy, and said that we would make Victoria safer through crime prevention programs and provide increased powers and resources to our police. I am pleased that

the police are supportive of these changes, but the community also wants to be assured that there is accountability for the use of police powers. There must be that balance in this respect.

In relation to the government's commitment to road safety, it has very strong road safety policies. The Arrive Alive initiatives relating to speed and driver behaviour, which the community has welcomed, have resulted in a reduction in road deaths, road trauma and accident numbers and have improved community safety.

There has been concern about police pursuits involving collisions. They have decreased significantly from 2002 with improved police policies, education and training. In 2006 there were 528 police pursuits, down from a high of 723 in 2005. Nonetheless, since 2002 there have been a total of six fatalities arising from police pursuits, but the numbers have diminished over the period. However, the number of pursuits remains too high. There is a need for a specific offence as a deterrent measure against drivers seeking to evade police. The community will welcome this additional power for police, along with the previous actions that we have taken in relation to hoon driving offences. I commend this bill to the house. It is another contribution to making Victoria the safest place to live, work and raise a family.

Mr MORRIS (Mornington) — It is a pleasure to rise to speak in support of the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007. The bill seeks to amend the Magistrates' Court Act; to allow the changes that are introduced under clause 8 involving the disclosure of information under the Police Regulation Act; and to allow the changes that are introduced under clause 16 involving the reporting obligations under the Sex Offenders Registration Act. It enables those last two changes to be considered as indictable offences which may be heard and determined summarily.

The bill also seeks to amend the Police Regulation Act to allow the release of agency photos, as we have heard, and to greatly strengthen the unauthorised disclosure of information provisions, which, as we all know, have been problematic to say the least. It also seeks to amend the Sex Offenders Registration Act to bring the current legislation into line with community standards.

Part 1 of the bill sets out the preliminaries and part 2 makes amendments to the Magistrates' Court Act. Part 3 is where the serious stuff starts in terms of this bill. Clause 4 is in effect the first clause in the amendments to the Police Regulation Act. It, firstly, brings in the additional definitions required and, secondly, specifies precisely what is intended by the reference to a person who is guilty of an offence.

Clause 5 seeks to extend the delegation powers of the chief commissioner to pick up the actions that are inserted by clause 7. Clause 6 simply increases the penalties for disclosing information obtained in carrying out the functions of the Office of Police Integrity. It is when we get to clause 7 that the real substance of the amendments to the Police Regulation Act starts to bite. Clause 7 inserts a new part VIC, somewhat colourfully described by the minister in the second-reading speech as the 'mug shots provision'. It proposes a new framework to allow the chief commissioner to authorise the distribution of agency photos to the media, establishes an appropriate process, identifies the factors that need to be taken into consideration in terms of the release, and creates an offence for the misuse of agency photos. It also has several other process provisions.

I have noted the comments of the privacy commissioner in her submission to the Scrutiny of Acts and Regulations Committee. She took the view that the proposed amendments to the Police Regulation Act:

> … unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the Information Privacy Act …

She further said that the proposed amendments are incompatible with the human rights set out in the Charter of Human Rights and Responsibilities and, lastly, that the bill makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions.

I have noted those comments, but certainly from my viewpoint I simply do not agree with them. I mean that not in a legal sense — the legal view expressed is in fact almost certainly absolutely correct — but based on the point of principle that in my view the public is entitled to know not only which persons have been convicted of offences but what they look like. The legislation clearly limits the time frame available to within 6 months of conviction, so we are not going to have photos released 5 or 10 years down the track, when it may become an issue in terms of the rehabilitation of the offenders. In my view, a simple question needs to be asked — not whether it invades their privacy but whether the measure inhibits the opportunity for a convicted person to be rehabilitated. I think it clearly will not.

The other substantial change to the Police Regulation Act is in clause 8. I am delighted to see clause 8 in this

bill; it inserts a new section 127A(1) into the principal act, which deals with the unauthorised disclosure of information and documents. Essentially two changes are made: the ordinary offence penalty is increased from 240 penalty units and an option of two years jail is added, which is a substantial penalty increase in anyone's language. Also added is the new offence of reckless disclosure of information that may endanger life, assist in the commission of an offence or impede or interfere with the administration of justice. It applies to both serving and former members of the police.

The collection and analysis of data is an essential tool, as is intelligence in terms of modern policing. It is essential that if we are going to have this data, if it is going to be collected and is to be available for us and put to effective use in everyday policing — and technical changes mean that more and more data is going to be collected — then it is essential not only that the data is secure but also that the community believes the data is secure and has faith in the data collection process. In my view, this provision will certainly assist in that process, because it will underline very clearly that the disclosure of this information is an offence which Parliament views very seriously.

Part 4 of the bill relates to amendments to the Road Safety Act. It creates a new offence of failing to stop a vehicle when directed to do so by the police. As we all know, it is becoming more and more difficult to reduce the road toll. We need to do something about deterring potential offences as well as enforcing the law and dragging people in when they have actually committed offences. There are substantial penalties, as the member for Kew noted. The loss of licence will be mandatory, and you could finish up losing your car. It sends a very powerful message, and I certainly welcome those changes.

Clause 11 removes an unnecessary impediment to the operation of section 84F(1) of the Road Safety Act. It also extends the time, following the detection of an offence by a prescribed device, to 28 days, which is also entirely appropriate.

The hoon legislation was an important initiative, and these amendments strengthen that initiative. I make the observation that it is a pity that in my seat of Mornington, like so many other parts of this state, the hoons get away with the offences again and again because we simply do not have enough police on general duties out there to enforce the law.

Part 5 of the bill amends the Sex Offenders Registration Act. Other members have covered the associated issues, and the only observation I will make because I am mindful of the time is that all the proposed changes effectively bring the legislation far more closely into line with community expectations, and that is a welcome thing.

The 33-odd pages of this bill, while essentially finetuning the existing legislation, create an awareness, particularly through increased penalties, of the importance of the appropriate use of information, the appropriate use of vehicles and the necessity to keep up to date with new technology, such as changes to internet service provider details. It reinforces the armoury of police in fighting the road toll and beefs up what are essentially good existing acts. I commend the bill to the house.

Mr EREN (Lara) — I am pleased to be speaking on and supporting the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007, which will attempt to make Victoria safer and also strengthen police accountability. The bill will amend the Magistrates' Court Act 1989, the Police Regulation Act 1958, the Road Safety Act 1986 and the Sex Offenders Registration Act 2004 and for other purposes. Many of us here understand that from time to time we discover loopholes and deficiencies in our legislation that need to be fixed, and the bill does this on a number of fronts.

As the chair of the parliamentary Road Safety Committee I see and learn about the horrors of road carnage almost every day. It baffles me that at times people think they can get away with risking their lives — not only risking their lives but of others as well — without real-life consequences. We often see high-speed police chases in the movies, but in real life they are not exciting at all. The consequences can be fatal and have been fatal as a story in yesterday's *Age* reported. I would like to put it on the record. It states:

> A teenager on a suspended P1 P-plate licence died when the car he was driving crashed into a tree during a police pursuit … in Albury in the state's south …
>
> Police on patrol on Mungabareena Road near parkland in the town's east spotted the 19-year-old driving a Holden Commodore sedan about 3.45 a.m.

He was not alone in the car; there were others — an 18-year-old, a 17-year-old, a 15-year-old and a 32-year-old — and all were from Albury. The article continues:

> The 19-year-old was 'driving erratically' and, police said, when they indicated that the driver should stop, he instead accelerated away.
>
> The police pursued … for about 2 kilometres before he lost control and slammed into a tree.

> He suffered critical injuries during the crash and died at Albury hospital this morning.
>
> Three others were taken to Albury hospital. The woman and the 15-year-old were treated for abdominal injuries. The 17-year-old was treated for a broken arm.
>
> The 18-year-old climbed out of the car and fled the scene. He was later arrested by police.

What a sad and senseless waste of a young life. I would say the police involved would also have been devastated by this tragic loss of life. When you think about it, what a tough job they have. I imagine this incident would be on their minds for a while.

While the number of police pursuits involving collisions has dropped since the introduction of improved Victoria Police policies, there were still 528 police pursuits in 2006 compared to 723 in 2005. By bringing in a specific offence to deter drivers from trying to evade police, Victoria will come into line with similar laws adopted in South Australia and Queensland. The bill before us implements recommendations from the coroner aimed at preventing and managing police pursuits — namely, trying to stop them happening in the first place. If you are approached by the police and you drive off, you will be breaking the law with that very act alone, never mind what you were being approached for in the first place.

Just for the record I want to highlight the penalties involved for people who decide to take off when they are asked by the police to pull over, as outlined in clause 9 which inserts section 64A. A first offence attracts a maximum penalty of 60 penalty units, which is about $6600, or six months imprisonment, or both. A subsequent offence attracts a maximum penalty of 120 penalty units, about $13 200, or 12 months imprisonment, or both. They are certainly very serious fines and highlight to the community that this sort of behaviour will not be tolerated.

As members know, this government has also been very strong in cracking down on hoon drivers. We have brought in laws to ensure that everyone knows that if they put themselves and others at risk through dangerous driving, there will be significant consequences. We are doing this to make our roads safer. Since the law came into effect, we have impounded more than 2000 cars, which will make their owners think twice about doing the wrong thing in the future.

Another aspect of the bill relates to the tightening up of the Sex Offenders Registration Act 2004. I believe this bill will go a long way towards helping the community to feel somewhat safer, knowing that the government is doing what it can to keep an eye on sex offenders. One of the requirements is that registered offenders notify the Chief Commissioner of Police of their telephone number, email address and internet service provider, as applicable. This is a very important change, considering the number of paedophiles and sex offenders we read about in the newspapers who use the internet to attract unsuspecting children.

Other responsibilities placed on the sex offender include a requirement that a registrable offender report within three days any changes to them having regular unsupervised contact with a child. This will significantly enhance the chances of the police obtaining evidence to support a prosecution in the event that an offence is committed. The bill amends the offence of disclosure of personal information held on the register under the act. It provides that it is not an offence to disclose that information for purposes of law enforcement or judicial functions or activities as required by law, or additionally where the chief commissioner or a person authorised to have access to the register believes on reasonable grounds that to do so is necessary to enable the proper administration of the act.

The bill makes a change to the definition of ‘employment’ which will mean that a registered sex offender will be prohibited from engaging in child-related employment if it constitutes gain or reward, other than through a contract of employment or contract of service. The bill inserts new section 70F to require any application for a change of name by a registrable offender to have the prior written consent of the Chief Commissioner of Police. The bill inserts new section 71A to authorise a supervising authority to disclose personal information if they believe it is reasonably necessary for the proper administration of the act, despite the provisions of the Information Privacy Act 2000. The changes to the law that will occur if this bill passes are necessary. Sex-related offences are heinous crimes. They are something that we do not like talking about, but they happen, and we have to do all we can to stop them or at least attempt to stop them from happening.

Another part of this bill deals with the amendments to the Police Regulation Act 1958, which will strengthen police accountability for the protection, proper use and disclosure of sensitive police information by providing a process to release mug shots, which balances individual and community policing interests, and modernising the offence for improper access and release of police information.

Amendments will be made also to the Magistrates' Court Act 1989 to make provision to allow certain indictable offences to be heard and determined summarily. Therefore I commend the bill to the house.

Debate interrupted.

DISTINGUISHED VISITOR

The ACTING SPEAKER (Mr Kotsiras) — Order! Before I call the member for Benambra, I acknowledge in the gallery Mr Rollie Fabi from the Philippine Council of Young Political Leaders, who is here as a guest of the Australian government.

Debate resumed.

Mr TILLEY (Benambra) — In making a brief contribution to debate on the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007, I will speak specifically to clause 9, which inserts section 64A, creating the offence of continuing to drive a motor vehicle after being directed by the police to stop. During the second-reading speech members heard that South Australia and Queensland already have similar offences in their legislation, and it is my understanding that New South Wales is formulating similar legislation.

When you take this into consideration, and given that the distances between our state boundaries are getting smaller each day and people are travelling and crossing those boundaries more, the significance of interstate convictions for traffic offences is evident. The last Liberal government saw fit to ensure that offending drivers upon conviction were dealt with appropriately, and that was done with corresponding laws for subsequent offences. We saw that offenders transgressing laws were not automatically dealt with as first-time offenders — which is most appropriate when you consider that in each and every part of Australia we continually find serious road trauma and fatalities.

Recently this government, by way of the *Government Gazette* on 17 July, I believe, amended the legislation to include, by way of regulation, drug-driving offences. It certainly is to be applauded that those offenders on conviction are dealt with most harshly and cannot be seen as first-time offenders when they have prior convictions from other states of Australia.

I will offer a little bit of insight to the debate, if I may, from my experience of a number of years spent patrolling our state's highways as a member of the traffic management unit. From the pursuits that I have personally been involved in, particularly working on the border between New South Wales and Victoria — you often see it in movies — some drivers really believe that if you cross that imaginary line between the states while still ahead of the police, you are no longer liable for any offences committed in the other state. Tragically we have seen quite a number of these pursuits end in fatalities and other unfortunate incidents. Just yesterday another death occurred on local roads in Albury as a result of a police pursuit.

There are very strong protocols in place for police engaging in this type of activity on our roads. Certainly I commend the members of Victoria Police on their training, their expertise and the amount of effort that goes into ensuring that their lives and the lives of members of the community are kept safe. Entering into a pursuit is certainly not done lightly. At the end of the day you certainly do not want to put your own life or the lives of members of the public at risk, because you want to go home to your family. That was always the foremost consideration in my mind and the minds of my past colleagues — that is, making it home at the end of the day.

I would like to take the opportunity, if this bill goes into the consideration-in-detail stage, to ask a couple of questions about the way forward and why this legislation does not necessarily address the issue of subsequent offences.

This legislation will not only cover our borders, it will affect the whole state. Some people from interstate live in metropolitan Melbourne but do not necessarily take up permanent residence in Victoria, so they do not have to change the details on their drivers licences. They may come to live and work for a short period in Victoria, yet they may come with prior offences. I understand, as I mentioned earlier, that South Australia and Queensland already have similar legislation and that it is only a matter of time before New South Wales will also have this sort of legislation. Common legislation is something to work towards in the future, and I encourage it. I hope this government will address the issue of people who transgress these laws being treated as first-time offenders.

I would like to emphasise one point from the second-reading speech, and that is:

> This government has demonstrated over an extended period its commitment to improving road safety.

Certainly there is more to be done. This could have been addressed right at the outset with this bill, but it has not been so far. There should have been an amendment to the interpretations under section 48. Quite often in this place we see that the work behind

the introduction of some bills is lacking. The way that legislation will affect our community at the coalface is not necessarily taken into account. I hope the government works a little bit harder in the way it goes about constructing its legislation. Having made those remarks, I will be supporting this bill.

Mr TREZISE (Geelong) — Like all other members of the house, I am pleased to speak in support of the bill before us this evening, the Justice and Road Legislation Amendment (Law Enforcement) Bill of 2007. I am pleased to support the bill because I think it once again highlights the Brumby government's commitment to community safety and road safety in this state. Since being elected in 1999 the Labor government has ensured that community safety and road safety are major priorities. We treat both community and road safety as being of paramount importance, which is one reason why we have seen a dramatic decrease in deaths on Victorian roads.

I must say that I listened to the member for Benambra with great interest, given his background in the traffic management unit. As a member of the Road Safety Committee, like the member for Lara, I will also address the bill from a road safety perspective, although I recognise that other very important initiatives are also contained in this omnibus bill. Since 1999 we have also seen police recruited in this state in record numbers, and the bill before us re-emphasises the Brumby government's commitment to community safety and to road safety. From a road safety perspective this bill builds on the previous initiatives implemented by the government that have been mentioned by a number of members tonight. I believe the community of Victoria has widely applauded the introduction of the road safety laws that have seen a dramatic drop to record low levels of deaths on our roads.

One prime example, which will go hand in glove with this legislation, is the hoon legislation, which has proven to be very effective across Victoria, especially in my electorate of Geelong, and particularly in the area of Eastern Beach, where the community was devastated by a number of drivers who consistently hooned their cars up and down local streets. The peaceful lives of neighbours and the community were shattered. Since the introduction of the hoon legislation a couple of years ago something like 2000 vehicles have been impounded from predominantly young men who were a danger not only to themselves but also to other road users. This was a particular problem in my electorate of Geelong.

The bill before us today builds on those types of initiatives which have been introduced in the past. As has been mentioned by a number of speakers, it introduces a new offence that aims to address the danger caused by drivers who ignore an instruction by police to pull over. As the member for Lara alluded to, we have recently seen the tragic death of a 19-year-old male driver — it is typically a male driver — in Albury. While failing to pull over he wrapped his car around a tree, not only tragically killing himself but also injuring three or four of his mates. That young driver did not deserve to die, and no doubt it has devastated his family and the wider community of Albury.

We often hear the same tragic story of deaths and carnage caused by drivers who fail to stop after a police instruction to do so. Under this bill a new offence of driving to evade police will be created. I give my full support to that initiative, which is consistent with similar successful laws which have been introduced in South Australia and Queensland and which are also currently being considered in other states of Australia, including New South Wales. Importantly the new offence will also be subject to the hoon impoundment laws in this state. This is an important step forward in protecting not only the lives of Victorian motorists but also — and I take note of the statements by the member for Benambra — the lives of police who are out on our roads.

When introduced the law will provide a more effective deterrent to police pursuits and hence go a long way towards minimising such pursuits. It must be remembered — and I have mentioned the member for Benambra a number of times now — that a number of police have also been, at the very least, severely injured in police crashes whilst pursuing vehicles at high speed. I was surprised to hear tonight from other members that in 2006 there were 528 police pursuits, and in 2005 more than 700 police pursuits occurred in this state. As far as I am concerned as a member of the parliamentary Road Safety Committee, I think that is a disgraceful figure; it is far too high. When you consider that in 2005 two police pursuits took place nearly every day of the year, those figures are far too high. This legislation will at least assist in minimising those pursuits.

I also support the legislation as it applies to the public release of mug shots by Victoria Police. I think we all can remember the case in 2005 when the police released a mug shot on the basis that further information would be provided of certain offences which were not known at the time. The offender at the time appealed to the Victorian Civil and Administrative Tribunal. The bill addresses this situation by allowing the chief commissioner to release a mug shot of an offender, taking into consideration a number of factors

including public interest, the interests of Victorians and, importantly, the interests of the offender.

There are obviously other important issues, some of which have been addressed by previous speakers, in this omnibus bill — for example, the handling of police information in relation to sex offenders and, importantly, the list of information those sex offenders must disclose. This is obviously a very important piece of legislation. It really highlights the Brumby government's commitment to community safety and road safety in this state. I am pleased to see that not only the government but The Nationals and the Liberal Party are supporting this important bill, and therefore I wish it a speedy passage through this house.

Mr WAKELING (Ferntree Gully) — It gives me pleasure to rise to join the debate on the Justice and Road Legislation Amendment (Law Enforcement) Bill. As has been put by other members of the Liberal Party — and firstly by the member for Kew — the Liberal Party will certainly be supporting this piece of legislation. This is an omnibus bill which will be amending the Magistrates' Court Act 1989, the Police Regulation Act 1958, the Road Safety Act 1986 and the Sex Offenders Registration Act 2004.

As is explained in the explanatory memorandum, in short the bill amends the Magistrates' Court Act 1989 to make provision to allow certain indictable offences to be heard and determined summarily. It amends the Police Regulation Act 1958 to make provision for certain types of photographs to be released to the media and to clarify and strengthen offences relating to the release of information by police personnel. It amends the Road Safety Act 1986 to create a new offence and make provision for certain matters relating to the impoundment, mobilisation and forfeiture of motor vehicles, and it amends the Sex Offenders Registration Act 2004 to make further provision in relation to registrable offenders, the reporting obligations of registrable offenders, confidentiality of personal information, the change of name applications and other matters.

Looking at the specific provisions of the bill, as the member for Geelong has just explained with respect to police regulation, the bill will, amongst other things, amend the provisions relating to the issuing of agency photographs or mug shots. This has been brought about as a result of the 2005 matter before the Victorian Civil and Administrative Tribunal in *Smith v. Victoria Police*. As a consequence of that decision this legislation enables the Chief Commissioner of Police to provide upon application a copy of an agency photograph or a mug shot up to six months after a criminal has been found guilty of a particular crime.

Another aspect of the bill which is certainly of interest increases penalties for the offence of misusing the law enforcement assistance program database. There has been an assorted history associated with access to the database. One only has to look back to events prior to the 2002 state election when the files of a now member for Northern Metropolitan Region in the other place, Mr Guy, were accessed while he was a candidate for the Liberal Party. I believe the file of Ms Kay Nesbit, who was a candidate for the seat of Bass, was accessed as well.

The Liberal Party took up the cudgels over that issue and took a strong position on it. This government has been dragged kicking and screaming, but it is pleasing to see that finally it has done something about this important issue. The bill will also create a new indictable offence with increased penalties for the disclosure of unauthorised information where it intentionally or recklessly endangers life, assists in the commissioning of an indictable offence and/or impedes the administration of justice.

In regard to the amendments to the Road Safety Act 1986, the bill will create a new offence relating to the driving of a motor vehicle when directed to stop by the police. I listened with interest to the contribution of the member for Benambra, who is a former member of the traffic management unit with the Victorian police force, and the interest he has in this matter particularly regarding interstate pursuits. Certainly he raises an interesting point which I believe the government will need to consider.

The bill creates a new offence, and we will be supporting the government on the creation of that offence. Any death on the roads is one too many, and the examples that were provided by the member for Lara certainly indicate that, if there is anything that we as legislators can do on this important issue, it is incumbent on us to take that action. We certainly supported the provisions of the anti-hoon legislation because we believe it is responsible legislation which we as a party have supported for a long time. We are keen to support any provisions that improve road safety.

The Sex Offenders Registration Act will also be amended. The bill gives the Chief Commissioner of Police the ability to block a registered sex offender from changing his or her name. All registered sex offenders will have to apply to the chief commissioner in writing to seek approval to change their name. On

the surface one would be supportive of this provision, but we believe more can be done on this piece of legislation. We believe it is incumbent on us to give the Chief Commissioner of Police access to various changes to the records of Victoria's births, deaths and marriages, because it is important that every available effort is made to restrict the operations of notorious sex offenders.

I believe it is incumbent on us as legislators to ensure that we exhaust every possible means we have at our disposal to ensure that we do what is best in the interests of the Victorian community to try to prevent sex offenders from continuing their abhorrent behaviour. Whilst we are supportive of the provisions which change the Sex Offenders Registration Act, we certainly believe more could have been done to give the chief commissioner the greatest powers. I would hate to think that something could occur in the future that would leave us thinking that if only we had tightened the legislation now we may have potentially prevented an individual, particularly a vulnerable child, from becoming a victim of one of these creatures.

Together with other members of this house, I am pleased to support the legislation. I believe it is important that we tighten police regulations, the Road Safety Act and the Sex Offenders Registration Act, but some of these provisions could have been introduced earlier. Unfortunately like a lot of legislation that comes to this house — and we in opposition quite repetitiously highlight the fact that this government has been lax in its legislative regime — —

Ms Marshall — No!

Mr WAKELING — I am pleased that the member for Forest Hill agrees with me regarding that proposition! We will continue to hold this government to account; and we will continue to ensure that this government makes the necessary legislative changes to ensure that the Victorian community moves forward. I commend the bill to the house and I wish it a speedy passage.

Debate adjourned on motion of Mr HUDSON (Bentleigh).

Debate adjourned until later this day.

JUSTICE LEGISLATION AMENDMENT 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 ('the charter'), I make this statement of compatibility with respect to the Justice Legislation Amendment Bill 2007 ('the bill').

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

Human rights issues

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

The bill raises human rights issues in the following regards.

Control of weapons

Section 25(1): presumption of innocence

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.

Clauses 6 and 7 of the bill amend sections 6 and 7 of the Control of Weapons Act 1990 to provide that carrying controlled weapons or dangerous articles without lawful excuse in or around licensed premises is an offence. A controlled weapon includes a knife, baton, spear-gun, bayonet, imitation firearm and cattle prod. A dangerous article is one that has been adapted or modified so as to be capable of being used as a weapon or any other article carried with the intention of being used as a weapon.

These offences engage section 25(1) of the charter because, pursuant to section 130 of the Magistrates' Court Act 1989, the accused is required to present or point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish a lawful excuse.

The prosecution need not prove absence of lawful excuse unless the defendant discharges the evidential burden by adducing or pointing to that evidence. However, once the defendant discharges that burden, the prosecution must prove absence of lawful excuse beyond reasonable doubt.

In respect of possession of dangerous articles, the definition of what amounts to a dangerous article is such that the absence of lawful excuse is not central to culpability for the offence. In that case, the prosecution must prove that the article has been adapted for use as a weapon or is carried with the intention of being used as a weapon.

Similarly, the inherently dangerous nature of controlled weapons is such that the absence of lawful excuse is not

central to culpability for the offence of possessing or carrying a controlled weapon in a public place.

Accordingly, it is questionable whether the right to be presumed innocent is limited by these provisions. However, to the extent that it may be, the limitation is reasonable and justifiable, having regard to the factors in s. 7(2) of the charter.

Nature of the right

The right to be presumed innocent is an important right. It is already recognised at common law, but has always been able to be subject to statutory exceptions.

Importance of the purpose of the limitation

In the context of controlled weapons and dangerous articles, any lawful excuse is a matter peculiarly within the knowledge of the defendant. In the absence of a requirement to disclose the lawful excuse to the police it would be difficult, if not impossible, for the police to investigate and prove a negative, that is absence of any lawful excuse.

The nature and extent of the limitation

The burden only applies to the defence of lawful excuse. It does not relate to the central elements of the offence. Further, it only places an evidential burden on the accused. Once the accused presents to or points to sufficient evidence to raise the defence, the burden is on the prosecution to disprove the lawful excuse beyond reasonable doubt.

Less restrictive means

There are no less restrictive means reasonably available that would achieve the purpose of the provisions.

Victims register

Section 13(a): privacy

Clauses 14 and 17 of the bill will amend the Corrections Act 1986 to clarify that victims of offences of culpable driving causing death, dangerous driving causing death or serious injury, and failing to stop and render assistance at an accident where a person has been killed or injured are entitled to be included on the victims register.

The purpose of the victims register, which has been in operation since August 2002, is to provide a measure of support and protection for persons who have been victimised by criminal acts of violence. Victims of certain violent crimes who are entitled to be included on the victims register will receive particular information about the administration of the offender's sentence of imprisonment including the length of the sentence and the date and circumstances in which the prisoner is entitled to be released.

This amendment engages the right to privacy in section 13(a) of the charter; specifically, the right of persons convicted of the above offences not to have their right to privacy unlawfully or arbitrarily interfered with.

However, prisoners' rights in this regard compete in this instance with the right of victims to liberty and security of the person, protected by s. 21 of the charter; and also their right to privacy under s. 13(a). That is, without the relevant information to which a victim is entitled under the victims register, a victim's right to liberty and security of the person, and privacy, may be limited. It is noted that under the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power[1] (which is incorporated by the Victims' Charter Act 2006 (Vic)) states are obliged to provide victims with the necessary social assistance through governmental means; and that the responsiveness of administrative processes to the needs of victims should be facilitated by taking measures to minimise inconvenience to victims and to protect their privacy and safety. Thus the proposal to include a new class of victims on the victims register serves to protect the rights of victims in ss 13 and 21 of the charter, and satisfies this obligation of the state.

The proposed use of information about the offender's sentence of imprisonment is 'lawful', as it is prescribed and circumscribed by the Corrections Act 1986. Information about an offender's sentence of imprisonment will also be released to victims of such crimes in accordance with the principles enshrined in privacy legislation.

Further, the proposed amendment is not considered to be 'arbitrary' as the proposed use of the information is reasonable in the particular circumstances and in accordance with the objectives of the charter. There is therefore no limitation on the right in section 13(a).

Clarification of governors' powers to intercept or censor letters

Section 13(a): privacy and reputation

Clause 17 of the bill engages the right to privacy in section 13(a) of the charter; specifically, the right of persons not to have their correspondence unlawfully or arbitrarily interfered with. Under the proposed amendment, this right is engaged in four particular situations:

> when prisoners seek to write to victims or other intended recipients;
>
> when an intended recipient is prevented from receiving a letter from a prisoner;
>
> when a person is prevented from sending a letter to a prisoner; and
>
> when a prisoner is prevented from receiving a letter from a person.

It is noted, however, that the right in s. 13(a) is only limited if an interference with privacy, family, home or correspondence is 'unlawful' or 'arbitrary'.

'Unlawful' means that no interference with privacy can take place except if the law permits it. The United Nations' Human Rights Committee has said that a law which authorises any interference with privacy must be precise and circumscribed so that governments are not given broad discretions in making such authorisations. This means that:

> legislation must specify in detail the precise circumstances in which interferences with privacy may be permitted; and

[1] Adopted by the General Assembly of the United Nations by resolution 40/34 of 29 November 1985.

> a decision to interfere with privacy by a public authority should be made on a case-by-case basis in accordance with the merits of each case.[2]

The proposed amendment to clarify governors' powers to intercept or censor letters that contain distressing or traumatic content cannot be characterised as 'unlawful', given that the amendment will clearly specify the circumstances in which the interference with correspondence can take place. Further, the proposed amendment allows prison authorities to exercise their discretion in considering whether to intercept or censor letters under the relevant section (i.e. the governor may intercept or censor a letter based on his or her reasonable belief). This ensures that interferences will only occur on a case-by-case basis in accordance with the merits of the particular case. In other words, the letter can only be stopped or censored, if that interception is assessed as being 'proportionate' to the relevant risk.

In order to avoid being characterised as an 'arbitrary interference', the interference must be in accordance with the provisions, aims and objectives of the charter and should be reasonable and justifiable in the particular circumstances.[3] Further, arbitrariness must be interpreted broadly to include elements of inappropriateness, injustice and lack of predictability.[4]

Protecting the community from harm is a key principle underpinning the charter (and other similar human rights instruments) that is implicit in the enumerated rights of the charter and its preamble, insofar as it refers to 'human dignity' and 'freedom'; and a 'democratic and inclusive society that respects the rule of law'. The proposed amendment is therefore in accordance with the provisions, aims and objectives of the charter, as it seeks to protect victims against harm that could flow to them from correspondence that is distressing or traumatic, and thereby compromising of their 'human dignity', etc.

It is also in accordance with the interests of justice that correspondence to prisoners be stopped or censored if it would be regarded by a victim as traumatic or distressing. As suggested above, and as envisaged by s. 5(1) of the Sentencing Act 1991, three important objectives associated with custodial sentences are that prisoners are rehabilitated; the potential for recidivism is reduced; and the community is protected. It is therefore not 'unjust' to stop or censor correspondence that may jeopardise these outcomes by adding to a victim's distress or trauma; or glorifying, encouraging or excusing criminal behaviour.

As noted above, under the proposed amendment a decision to interfere with prisoner correspondence to a victim is made on a case-by-case basis. However, the proposed amendment clearly defines the basis upon which such a decision is made (i.e. on the basis of a reasonable belief that it would be distressing or offensive to a victim); and as such, the nature of the interference is reasonably 'predictable', whilst allowing for a necessary degree of discretion to be applied in each particular case.

In view of these principles the proposed amendment in clause 17 is not 'arbitrary'.

As the interference with correspondence is not 'arbitrary' or 'unlawful', clause 17 does not create a limitation on the right in section 13(a) of the charter.

Section 15(2): freedom of expression

Clause 17 also engages the right to freedom of expression in section 15(2) of the charter. Under this section, every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, whether orally, in writing, etc.

The proposed amendment potentially limits the right to impart information, insofar as it may prevent prisoners from writing to victims or other intended recipients; and it may prevent any person from sending a letter to a prisoner.

It also potentially limits the right to receive information, insofar as it may prevent intended recipients from receiving a letter from a prisoner; and prisoners from receiving a letter from any person.

However, s. 15(3) of the charter qualifies the right to freedom of expression, by recognising that special duties and responsibilities are attached to the right; and that it may be subject to lawful restrictions reasonably necessary to (inter alia) respect the rights of other persons (s. 15(3)(a)).

The proposed amendment sits within the exception envisaged by s. 15(3)(a). This is because:

> the proposed amendment is 'lawful': this characterisation applies, as the amendment itself will set out grounds upon which correspondence may be censored or stopped;
>
> the proposed amendment serves a 'legitimate purpose': the principal purpose of the proposed amendment is to prevent any further harm flowing to victims of crime. In other words, the proposed amendment seeks to protect the 'rights' of 'other persons' — a necessary component of a free and democratic society[5]. By way of analogy, in *Otto Preminger Institute v. Austria* (1991) 19 EHRR 34, ECt, HR it was held that the seizure and banning of a film which was potentially offensive to Christians was justified as pursuing the legitimate aim of protecting the religious rights of others guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms. Similarly, the rights of victims of crime have been given 'legitimacy' in this jurisdiction, through, for instance, the Victims' Charter Act 2006 ('the victim's charter'), the objects of which are based on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.[6] Thus

[2] United Nations Human Rights Committee, General Comment No. 16: *The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation* (art. 17): 08/04/88.
[3] Ibid.
[4] *Van Alphen v. The Netherlands*, Communication No. 305/1988: 15/08/90, UN Doc CCPR/C/39/D/305/1988

[5] *Shayler* (2003) 1 AC 247
[6] Adopted by the General Assembly of the United Nations by resolution 40/34 of 29 November 1985. This relevantly recognises that victims should receive the necessary social assistance through governmental means; and that the responsiveness of administrative processes to the needs of

in seeking to protect the 'particular needs of persons adversely affected by crime' (which are acknowledged in s. 6 of the victims charter) the proposed amendment serves a 'legitimate purpose';

the power to intercept or censor distressing or offensive correspondence is 'reasonably necessary': prison authorities are responsible under s. 21(1) of the Corrections Act 1986 for the 'safe custody' of prisoners. Implicitly this duty includes the duty to protect the community from any harmful contact that a prisoner might engage in if he/she were otherwise at liberty and not in the secretary's custody. On account of this and other provisions in the Corrections Act 1986 conferring duties on the secretary, the community (and in particular victims) have a right to expect such protection; and moreover, it constitutes a 'pressing social need'.[7]

In seeking specifically to protect the community from harm, the proposed amendment is also distinguishable from cases where interferences with prisoner communication have been found to be incompatible with the right to freedom of expression, insofar as it does not posit a rebuttable 'blanket ban' on communication.[8]

It is a well-established principle in European case law that it is necessary for the party seeking to justify the interference with a right to show that the doctrine of proportionality has been complied with.[9] Thus the proposed amendment would fall foul of this principle, if, for instance, a blanket ban applied on all correspondence to a victim as if it were all distressing or traumatic, and the onus was on the prisoner to demonstrate why his or her letter should not be automatically stopped, or why it was not 'distressing or traumatic'. In contrast to *Hirst v. Secretary of State for the Home Department*, where a blanket ban on prisoners' oral communication with the media was found to be outside the exceptions envisaged by article 10(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, in this instance the restriction on the right is limited solely to communication that is reasonably considered to be traumatic or distressing (i.e. harmful) by a victim. It does not interfere with the crucial right of communication with the classes of persons listed in s. 47(1)(m) of the Corrections Act 1986. Further, the onus is on the governor of the prison to assess whether a letter should be stopped or censored. In exercising this discretion, the governor would be obliged to weigh up the interests of the prisoner to freely express him or herself and the interests of the public in hearing matters of social importance; against the right of the victim to be protected from harm, thus ensuring that any interference is 'proportionate'.

In Hirst the High Court of Justice also recognised that some restriction on freedom of speech is an inevitable feature of incarceration.[10] However, it was acknowledged that freedom of expression could not be restricted where the interference was directed at an important right of a citizen (such as communicating with a lawyer). Thus the case law suggests that the 'qualitative value' of the speech in question must be identified and dealt with accordingly, when considering whether to limit the right to freedom of expression.

Where prisoners' speech is likely to cause harm then it is reasonable to restrict it and in doing so to construe that constriction as an 'inevitable consequence of [prisoners'] detention in custody'.[11] For example, as stated by Lord Steyn in Simms, 'no prisoner would ever be permitted to have interviews with a journalist to publish pornographic material or to give vent to so-called hate speech'.[12] In such a case 'the prisoner's right to free speech is outweighed by deprivation of liberty by the sentence of a court, and the need for discipline and control in prisons'.

Thus it is clear that where an interference is directed at preventing harmful contact with prisoners and therefore the 'rights' of other persons, then it might be said to follow from a sentence of imprisonment and can be justified as an exception under s. 15(3) of the charter.

As the proposed amendment therefore falls within the exceptions envisaged by s. 15(3)(a), the right in s. 15 is not limited.

Offence of sending a distressing or offensive letter

Section 13(a): privacy and reputation

Clause 18 of the bill engages the right to privacy in section 13(a) of the charter, specifically, the right of persons not to have their correspondence unlawfully or arbitrarily interfered with.

This right is potentially limited insofar as the creation of the offence has the effect of limiting a prisoner's capacity to send the relevant correspondence.

However, as noted above, the right in s. 13(a) is only limited if an interference with privacy, family, home or correspondence is 'unlawful' or 'arbitrary'.

The proposed offence is not 'unlawful', as it is precise and circumscribed as far as is possible to do so, whilst allowing a necessary degree of discretion to be applied by authorities in assessing the nature of any given correspondence and whether it could reasonably said to be 'distressing or traumatic' to a victim.

It is also not 'arbitrary', as it seeks to protect the community from harm — an aim that is in accordance with the provisions, aims and objectives of the charter. Providing the recipients of such correspondence with an effective legal remedy (by seeking to have the prisoner charged with the proposed offence) is also an aspect of the proposed

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victims should be facilitated by taking measures to minimise inconvenience to victims and to protect their privacy and safety.

[7] *Observer and Guardian v. United Kingdom* (1991) 14 EHRR 153, ECt HR

[8] *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602; *R (Daly) v. Home Secretary* (2002) UKHL26

[9] *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602, Mr Justice Elias at 29; *R (Daly) v. Home Secretary* (2002) UKHL26, *de Freitas v. Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing* (1999) 1 AC 69

[10] *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602, at 42

[11] *R v. Home Secretary ex parte Simms* (2000) 2AC 115. Note also that 'community protection' is also an objective of sentencing under s 5(1) of the Sentencing Act 1991.

[12] *R v. Home Secretary ex parte Simms* (2000) 2AC 115, Lord Steyn, p.127

amendment that accords with the provisions, aims and objectives of the charter.[13]

It is also 'reasonable and justifiable in the circumstances' (hence not arbitrary), given that prison authorities may not always have the operational capacity to intercept every potentially distressing or offensive letter, while the creation of this offence ensures that prisoners instead turn their minds to the question of whether their correspondence may be distressing or offensive to a victim, before seeking to send it. In other words, the creation of the offence has an important deterrent effect.

Ensuring that victims do not receive unnecessary letters from prisoners that are distressing or offensive is also not an 'unjust' objective. Nor is it 'unjust' to create an offence in relation to such correspondence, given the very real harm it may cause victims (i.e. it is readily conceivable that correspondence to a victim from a prisoner would add considerably to the victim's trauma).

Where there is potential for harm in certain conduct, it is 'appropriate' that an offence be created to deter and prevent that conduct. In addition, it is 'appropriate' to impose criminal penalties on those who do cause harm or attempt to engage in conduct that causes harm to others.

In view of these principles the proposed offence is not considered to be arbitrary.

As the interference with correspondence that is posited by the proposed offence is not 'arbitrary' or 'unlawful', there is no limitation on the right in section 13(a).

Section 15(2): freedom of expression

The proposed offence also engages the right to freedom of expression in section 15(2) of the charter. Under this section, every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, whether orally, in writing, etc.

The offence potentially limits the right to impart information insofar as it may prevent prisoners from writing freely to victims and other intended recipients.

It also potentially limits the right to receive information, insofar as it may prevent intended recipients from receiving a letter from a prisoner.

However, s. 15(3) of the charter qualifies the right to freedom of expression, by recognising that special duties and responsibilities are attached to the right; and that it may be subject to lawful restrictions reasonably necessary to (inter alia) respect the rights of other persons (s. 15(3)(a)).

The proposed offence sits within the exceptions envisaged by s. 15(3)(a). This is because:

the proposed offence is 'lawful'. This characterisation applies as the offence will be provided for by way of statute law, and will include clear elements;

the proposed offence serves a 'legitimate purpose'. That is, it prevents any further harm flowing to victims. In other words, the proposed offence seeks to protect the 'rights' of 'other persons' — a necessary component of a free and democratic society. To be characterised as 'necessary' for this end does not mean it need be 'indispensable'; rather, it suffices if it would be 'useful', 'reasonable' or 'desirable';[14]

the creation of the offence, in addition to the power to intercept or censor distressing or offensive correspondence is 'reasonably necessary', given that prison authorities cannot be expected to stop or censor every letter containing potentially distressing or offensive material. It therefore deters prisoners from writing such letters and places some responsibility on them to ensure that they cause no further harm to victims through contact in writing;

it is also 'reasonably necessary', insofar as it is necessary to stop persons serving a custodial sentence from having harmful contact with victims. Other legislation in this jurisdiction (and in many in other states and territories and overseas) which seeks to prevent 'harm' through words (e.g. vilification or 'hate speech' legislation) often uses offence provisions to deter that conduct.[15] This supports the notion that it is 'reasonably necessary' to create an offence in respect of correspondence by prisoners which causes harm through distress or trauma. As noted above, it is readily conceivable that a letter from a prisoner to a victim could cause both.

As noted above in relation to clause 17, European case law suggests that it is necessary for the party seeking to justify the interference with a right to show that the doctrine of proportionality has been complied with.[16] This principle is satisfied in respect of the proposed offence, as naturally if police sought to prosecute a prisoner for the offence, the onus of proof would be on the police to demonstrate to the court that the elements of the offence are made out.

Further, in construing the words 'distressing or traumatic', the court would need to bear in mind both the prisoner's right to freedom of expression and any other public interest matter that the correspondence may invoke by way of subject matter. This element of the offence could not be made out where, for instance, a prisoner wrote to his victim, who happens to be his wife, and informs her that he is seeking a divorce. The victim may find this correspondence 'distressing' in the ordinary

[13] Similarly, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (which is incorporated by the Victims' Charter Act 2006) states that judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Providing a mechanism whereby redress can be sought by the victim for ongoing distress and offence caused by a prisoner therefore satisfies this principle.

[14] Lord Bingham of Cornhill in *Shayler* (2003) 1 AC 247 at 286, para 23; *Handyside v. United Kingdom* (1976) 1

[15] For instance, ss 24 and 25 of the Racial and Religious Tolerance Act 2001 (Vic), create offences in relation to serious racial and religious vilification (these also attract a maximum penalty of 6 months imprisonment). Similarly, s. 471.12 of the Criminal Code of the commonwealth creates an offence of using a postal or similar service to menace, harass or cause offence.

[16] *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602, Mr Justice Elias at 29; *R (Daly) v. Home Secretary* (2002) UKHL26; *de Freitas v. Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing* (1999)1 AC 69

sense of the word, but it is anticipated that courts would recognise that the 'distress' associated with such correspondence is not of the kind contemplated by the section. Instead it is directed at distressing or traumatic communications to victims that are unwarranted or uncalled for; and not necessary or unavoidable communications.

Further, it is noted that the offence also does not capture communications with the classes of persons listed in s. 47(1)(m) of the Corrections Act 1986, thereby ensuring that these crucial rights of communication are maintained.

As the proposed amendment therefore falls within the exception envisaged by s. 15(3)(a), the right in s. 15 is not limited.

Use of firearms

Section 9: right to life

Clause 20 of the bill will prima facie restrict an individual's right to life by ensuring that prison officers are properly authorised to discharge firearms in the limited situations prescribed by regulation 10 of the Corrections Regulations 1998.

The validity of this power was raised in the Supreme Court case of *DPP v. Federico* (2006) VSC 24. This case involved the murder trial of prison officer Fab Federico as a result of an incident in which Mr Federico shot and lethally wounded remand prisoner Gary Whyte whilst he was trying to escape from St Vincent's Hospital. In this case Justice Cummins suggested that regulation 10 could be invalid as it may extend beyond the regulation-making power in the authorising act, or beyond common-law powers to use force without clear statutory authority.

2. Consideration of reasonable limitations

Firearms — limitation on s. 9 of the charter: right to life

(a) the nature of the right being limited

Section 9 of the charter states that 'every person has the right to life and has the right not to be arbitrarily deprived of life'.

The right to life is an 'absolute right' that is recognised in international law under article 6 of the International Covenant on Civil and Political Rights (1980) ATS 23; and article 3 of the Universal Declaration of Human Rights, adopted in 1948 by the General Assembly of the United Nations.

However, section 7 of the charter states that '[a] human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors'.

In recognition of the philosophy underpinning section 7 of the charter, when considering the right to life, the UN Human Rights Committee ('HRC') has acknowledged that it may be limited in certain situations. In particular, the HRC has stated that where killings are perpetrated for the purposes of the defence of self or others, the execution of an arrest, or the prevention of an escape, they may be justified.[17]

These exceptions mirror the express 'law-enforcement' exceptions to the right to life in article 2(2) of the European Convention of Human Rights. This states that:

> 'Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force that is no more than absolutely necessary:
>
> (a) in defence of any person from unlawful violence;
>
> (b) in order to effect a lawful arrest or to prevent escape of a person lawfully detained;
>
> (c) in action lawfully taken for the purpose of quelling a riot or insurrection'.

Similarly, principles 9 and 16 of the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide that firearms may be used in defence of others against the imminent threat of death or serious injury and to prevent a prisoner's escape, and only when less extreme means are insufficient to achieve that objective.

International jurisprudence on the right to life and its relationship with the lethal use of force has also established a number of principles intended to safeguard the circumstances in which such force is used.

Principles enunciated include that any use of force must be no more than 'absolutely necessary'[18] and 'strictly proportionate' to achieving a clearly defined lawful purpose[19]. Lethal force should only be used when other means are insufficient to achieve the objectives of preventing escape, self defence, or the execution of an arrest warrant[20]. Law enforcement operations should be planned and controlled to minimise to the greatest extent possible recourse to lethal force or incidental loss of life[21] and States should ensure that strict limitations are in place on the use of lethal force[22].

Clause 20 of the bill and policy informing this principle accords with these principles of international law. The proposed amendments to the regulation making power in the act assist in circumscribing the 'lawful' purposes for which correctional officers may use firearms, so that it may be resorted to only in a select few situations.

It is proposed that the Corrections Regulations 1998 ('the regulations') will further enshrine strict limitations on the lethal use of force by correctional officers, in terms of when firearms may be issued and when they may be used. Under the current power, prison officers may only use a firearm

[17] *Suarez de Guerrero v. Colombia*, HRC 45/79

[18] *Hugh Jordan v. the United Kingdom*, Eur. Court HR, Application no. 24746/94 (4 May 2001)

[19] Ibid

[20] UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

[21] Ibid

[22] HRC *Concluding Observation on Cyprus*, 1994

where such use is the only practicable way to prevent escape or defend themselves or others. Officers are also trained to appropriately assess security risks and apply the use of force at a level that is proportionate to the relevant risk, and to utilise lethal force only where it is their assessment that no other options would achieve the purpose of preventing escape or defending themselves or others. Thus the bill balances the necessity of prison officers to have lawful authority to use firearms for the purposes of safety and security, against a number of safeguards on the exercise of this power.

(b) the importance of the purpose of the limitation

Clauses 20 and 21 of the bill primarily serve an important purpose in confirming the power to make regulations for the use of firearms in restricted circumstances; specifically to prevent death or injury against another person in the prison, or in respect of an officer acting in the course of their duties or a prisoner outside the prison, and to prevent the escape of a prisoner.

The primary purpose of the policy underpinning the limitation is to ensure the security and safety of others in the community and within the corrections environment. This purpose has a number of aspects, as follows.

Operational experience suggests that high-security and maximum-security prisoners also present a danger to the community, as they may use violence to further their escape and to avoid recapture if they are at large in the community. A risk of serious injury or death in the community is reasonably foreseeable as reasonably 'imminent', given that some prisoners will resort to violence to maintain their freedom.

The issuance and hence, potential use of firearms also serves the important purpose of deterring prisoners who might otherwise contemplate escaping custody. Given the rarity of the actual use of firearms, the greatest utility of firearms in the corrections context is this deterrent effect, rather than their actual use. By corollary, without the authority to use firearms, it is likely that there would be an increase in the number of prisoners who attempt to escape from custody and of the willingness of other people to assist them in doing so. This would then pose an increased risk to the safety of officers, prisoners and the community; and compromise the good order and security of prisons.

The bill also serves the purpose of meeting important community expectations that prison officers are able to use force, including lethal force if necessary, to prevent a high-security or maximum-security prisoner from escaping. This expectation forms part of a broader and legitimate expectation that prison authorities and correctional officers fulfil their role in contributing to public order and public safety.

Similarly, by taking responsibility for prisoners in his or her custody under part 1A of the act, the Secretary of the Department of Justice implicitly has a duty of care to the community to ensure that high-security and maximum-security prisoners are retained safely in his or her custody and cannot cause further harm to others in the community. Further, the bill necessarily provides for a discretion to issue firearms in any circumstance where they are believed to be necessary (i.e. where their use would be 'proportionate') for the security or good order of the prison or for the safety of a prisoner, correctional officers or other persons.

The secretary also has an implicit duty of care to ensure a safe working environment for escort officers, which may require the use of a firearm to prevent a risk of serious injury or death to any person in a prison (staff, visitors and prisoners), a prisoner outside a prison, or to any officers acting in the execution of their duties outside a prison. Therefore, it is necessary that correctional officers be equipped with the means to control these prisoners and keep such criminal conduct in abeyance.

These purposes of ensuring the safety of a range of persons and protecting public order have also been recognised in the Siracusa Principles on the Limitation and Derogation Provision in the International Covenant on Civil and Political Rights as legitimate purposes for limiting human rights, so long as there are adequate safeguards and effective remedies against abuse.

Public order is expressed as 'the sum of rules which ensure the functioning of society or the set of fundamental principles on which society is founded'.[23] It is suggested that maintaining the security of high-security and maximum-security prisoners forms a vital part of the effective 'functioning of society' and the maintenance of such 'public order' and community safety.

(c) the nature and extent of the limitation

The extent of the limitation on the right to life is limited to exceptionally rare circumstances, and, in accordance with principle 34 of the Siracusa Principles on the Limitation and Derogation Provision in the International Covenant on Civil and Political Rights, and the limitation is circumscribed by a number of safeguards on the exercise of the power.

For example, regulation 10 of the Corrections Regulations 1998 currently provides that firearms may only be discharged if a prison officer believes it is the only practicable way to prevent:

> the escape of a prisoner; and
>
> a person using force or threatening force from causing death or serious injury to any person in a prison, a prisoner outside a prison, or to any officers acting in the execution of his or her duties outside a prison.

In addition, regulation 10 currently ensures that before discharging a firearm at a person, the prison officer must, where practicable, give an oral warning to the effect that the person will be shot at if he or she does not stop escaping, attempting to escape or using or threatening force; and the prison officer must also satisfy himself or herself that shooting at the person does not create an unnecessary risk to any other person.

Existing operational procedures also ensure that the use of lethal force is always proportionate to the relevant safety risk and an absolute last resort. For instance, correctional officers, in their assessment of potential risks to the safety of all

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[23] United Nations, Economic and Social Council, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, UN Doc E/CN.4/1985/4 (1985); principle 22.

persons, may only use such force as is reasonable and necessary to resolve the situation and must identify possible courses of action that involve the use of all other tactical options before having to resort to the use of lethal force to manage those risks.

(d) the relationship between the limitation and its purpose

There is a rational connection between preventing death or serious injury to community members and those in the prison environment and empowering correctional officers to use firearms to prevent those outcomes where necessary.

Whilst the use of firearms may result in a lethal use of force in exceptionally rare circumstances, it is likely that community members would consider this a proportionate response to the risks outlined above and in guaranteeing the purposes of this proposal.

(e) 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. The current scheme provides that firearms may only be used when there is no other 'less restrictive means reasonably available' to protect life and prevent harm to a community member. As noted, the regulations currently provide that the use of firearms be only resorted to when it is reasonably believed that use of a firearm is the only practicable option to:

> prevent the escape of a prisoner; or
>
> prevent a person from using or threatening force against any person in a prison, a prisoner outside a prison, or to any officers acting in the execution of his or her duties outside a prison.

In other words, prison officers must firstly consider other tactical options or 'less restrictive means' under a 'hierarchy' of force. These include:

> verbal direction, communication, dialogue or negotiation;
>
> open hand/closed hand techniques;
>
> OC spray;
>
> chemical agents; and
>
> canine teams.

If a high-security or maximum-security prisoner attempts to escape the custody of a correctional officer and these other options are not available (such as when a high-security or maximum-security prisoner is running away from a prison officer and an approved dog is not available to detain them), then the use of firearms may be the only way of ensuring that the prisoner does not escape and threaten the safety of the community. It is therefore an absolute last resort.

Conclusion

To the extent that amendments to the Control of Weapons Act 1990 may limit the rights in the charter, the limitations are reasonable and justifiable when measured against the importance and significance of their objective, which is to support individual and community safety and to reduce violence in the community.

The powers of escort officers to use firearms to prevent the escape of a prisoner and injury or death to other persons are in keeping with international human rights principles on the lethal use of force by authorised officers. They also support individual and community safety, the rule of law and the integrity of the justice system — factors that are essential to a 'free and democratic society'. As such, the implicit limitation on the right to life that is posited by the bill can be justified.

Additionally, the power of prison governors to intercept or censor distressing or traumatic correspondence; and the related offence of sending, attempting to send or causing to be sent such correspondence accords with the philosophy underpinning human rights, that is, protecting the community from harm. As such, these aspects of the bill do not limit the charter rights of privacy and freedom of expression.

I therefore consider the bill is compatible with the Charter of Human Rights and Responsibilities.

BOB CAMERON, MP
Minister for Police and Emergency Services
Minister for Corrections

Second reading

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

That this bill be now read a second time.

This bill will implement a range of important community safety initiatives that will build upon existing measures introduced by the government.

The bill implements one of the government's 2006 community safety election commitments; to fight violent crimes that are of concern to the community by strengthening the weapons control regime.

The bill will also enhance protections for victims of crime and their families. The bill will introduce amendments to enable prison governors to stop or censor letters from prisoners to victims which may cause further trauma and distress. The bill will also extend the application of the victim's register to the offence of failing to stop and render assistance after a motor vehicle accident causing death, and confirm its application to the offences of culpable driving causing death and dangerous driving causing death or serious injury. This measure is in recognition of the profound effects of such crimes on the victim's surviving family members.

Control of Weapons Act 1990

Part 2 of this bill fulfils the government's election community safety policy commitment to 'take a zero-tolerance approach' to offences involving

weapons other than firearms, such as knives and daggers.

In December 2006, the government introduced a bill to deal with the first element of the commitment — the doubling of penalties relating to the possession of either prohibited or controlled weapons. The increased penalties commenced on 1 July 2007.

This bill will now implement the second phase of the government's election policy commitment by further amending the Control of Weapons Act 1990 to:

increase most penalties under that act;

treat carrying a weapon in or around licensed premises as an aggravating circumstance, with even higher penalties;

ensure that 'dangerous articles' cannot be carried for self-defence; and

clarify the obligations of individuals, corporations and other entities authorised to possess, carry or use prohibited weapons.

This current package of amendments will further strengthen efforts to reduce disorder and violent crime involving weapons in our community.

In particular, the amendments will clamp down on crimes involving weapons in and around licensed venues such as hotels, clubs, bars and restaurants. Excessive consumption of alcohol by persons carrying weapons is often a contributing factor to the aggressive use of such weapons. The presence of weapons in or near licensed venues, where alcohol-related aggression is more likely to flare, significantly increases the threat of serious injury or death resulting from the use of weapons and puts public safety at risk.

To deter alcohol-related violence at such venues and make existing sanctions more effective, the penalties for unlawfully possessing, carrying or using weapons or dangerous articles in and around licensed premises will be doubled.

These new penalties will apply both in licensed premises and in any public place within the immediate vicinity of licensed premises. The term 'immediate vicinity' is defined in the bill as being within 20 metres of licensed premises. The objective is to deter violent behaviour involving weapons not only in licensed venues but immediately outside the venues to prevent these areas becoming a focus for disorder and violent crime.

The venues that are subject to the new penalties are licensed pubs, hotels and taverns, licensed clubs, and licensed restaurants, bars and cafes.

The bill also increases penalties for a number of other offences under the Control of Weapons Act 1990, such as failing to comply with requirements for the sale of prohibited weapons. The increased penalties for these offences will better reflect the seriousness of crimes involving weapons, and enhance deterrence.

Under the Control of Weapons Act 1990, the carriage of prohibited or controlled weapons for self-defence is already prohibited. To further safeguard public safety, this bill now removes self-defence as a lawful excuse for carrying dangerous articles.

A 'dangerous article' is any item (for example, a broken bottle or a pair of scissors) that is adapted or carried for use as a weapon. It is not appropriate in our society that such articles should be carried solely for self-defence when their use could result in serious injury or death.

However, this amendment is not intended to adversely impact on persons forced to use everyday items to defend themselves if attacked. An example would be a tradesperson on the way home who is attacked and uses a screwdriver in self-defence. In such cases, the lawfulness of the possession and use of the item in response to an attack will be evaluated by the court.

The bill makes a range of other amendments to the Control of Weapons Act 1990 to clarify the obligations of corporations, partnerships and their employees when carrying or using prohibited weapons under authorisation. It is important that when weapons are carried or used for lawful reasons, they are handled responsibly and safely, and that organisations and their officers and employees understand they will be held accountable if they are found to have contravened the act.

Corrections Act 1986

This bill amends the Corrections Act 1986 in two ways with intention to further strengthen the recognition that this government has given to the needs of, and harmful effects of crime on, victims as follows.

Extension of governors' powers to intercept or censor letters

The emotions of victims and the general community are still raw 20 years on from the tragic Hoddle Street massacre in which Julian Knight's rampage left 7 people dead and 19 people injured. The trauma

continues to haunt Julian Knight's victims, and indeed the community.

The recent judgement of the Supreme Court case of *Knight v. Anderson* (2007) VSC 278 which granted Julian Knight leave to commence an application for judicial review in relation to the stopping of the letter to one of his victims has caused community outrage.

The government recognises that crime affects each person differently, often leaving its victims devastated and violated, and that such effects can be severe and long lasting. There can also be an enormous toll on the families and friends of victims, as well as on their communities and on society at large.

In response, the government gave a commitment to further protect victims' rights by giving correctional officials the power to stop offenders, such as Julian Knight, from contacting their victims. The government has acted swiftly to fulfil this commitment.

This bill will amend the Corrections Act 1986 to enable prison governors to intercept or censor letters sent by prisoners to any person if they reasonably believe that the letter contains material that may be distressing or traumatic.

This amendment will validate the prison governor's decision to stop the letter that Julian Knight wrote which was the subject of the decision of the Supreme Court in *Knight v. Anderson.*

This bill will also make it an offence for a prisoner to send, cause to be sent, attempt to send or cause to be sent, a letter to a victim, or the family member of a victim, that contains such material and that the prisoner knows or ought reasonably to have known would be regarded in this way. The maximum penalty for this offence is six months imprisonment.

This new offence is intended to capture situations where a prisoner writes to their victims or their family members or where another prisoner writes to victims (other than victims of their own offences) or family members of these victims, and thereby causes distress and trauma.

The Victorian correctional system has had experience of situations in the past, where one prisoner uses another prisoner to cause distress to their victims and their families.

This amendment will protect victims and their families from such communications and thereby protect them from experiencing any further distress or trauma.

I now turn to changes with respect to the victims register.

Victims register

In recognition of the profound effects on victims and their families of these crimes, the government is also taking action to clarify the application of the victims register to victims of the serious road safety offences of:

culpable driving causing death;

dangerous driving causing death or serious injury; and

failing to stop and render assistance in a motor vehicle accident where a person is seriously injured or killed.

The victims register, which has been in operation since 30 August 2004, enables specified victims to be given information about the administration of the offender's sentence of imprisonment. Information that victims may receive includes the length of the sentence and the date and circumstances in which the prisoner is likely to be released. Persons included on the victims register may also make a 'victims submission' to the adult parole board for consideration in determining whether to make a parole order.

Currently, victims of the offence of failing to stop and render assistance after a motor vehicle accident causing death or serious injury are not eligible to be placed on the victims register, and therefore, to receive information about the administration of the offender's sentence of imprisonment and to make victims submissions.

This is because the definition of 'criminal act of violence' in section 30A(1) of the Corrections Act 1986 includes an offence that involves 'an assault on, injury, or threat of injury to a person which is punishable by imprisonment'. It is arguable that this offence does not fall within this definition as the offence occurs after the act of driving causing the death of or serious injury to the victim.

The bill therefore clarifies that victims of failing to stop and render assistance after a motor vehicle accident causing death or serious injury, as well as culpable driving causing death and dangerous driving causing death or serious injury, are eligible to be placed on the victims register.

In recognition of the profound effects on victims and their families of these crimes, it is considered appropriate that victims of these serious road safety

offences be eligible for inclusion on the victims register.

The effect of these amendments will be to provide victims of these offences with a greater degree of security by enabling them to receive important information relating to the sentence of the perpetrator of a crime against them. Assisting victims of crime to recover from the effects of offences committed against them benefits both victims and the community generally.

I now turn to the last of the amendments to the Corrections Act 1986.

Use of firearms by correctional officers

The bill amends section 112 of the Corrections Act 1986 to improve the effective operation of the Victorian correctional system by confirming existing powers set out in regulations in relation to the issue to, and use of, firearms by prison officers.

It is the intention of the government to review these regulations with a view to making new regulations that set out the circumstances in which firearms are issued to prison officers. These new regulations will reflect current practice, whereby firearms are issued for the escort of high and maximum-security prisoners, and otherwise only in emergency situations, or where safety and security considerations require it.

The issue of, and hence potential use of, firearms serves the important purpose of deterring prisoners who might otherwise contemplate escaping custody. Given the rarity of the actual use of firearms, the greatest utility of firearms in the corrections context is this deterrent effect, rather than their actual use. The escape of prisoners from custody would pose an increased risk to the safety of officers, prisoners and the community, and compromise the good order and security of prisons.

This amendment also addresses the expectation in the community that prison authorities and correctional officers can fulfil their role in contributing to public order and public safety.

The integrity of the justice system is maintained through the safeguards that are required of officers in the exercise of the power to use firearms. The principles governing the use of force ensure that the use of lethal force is proportionate to the safety risk posed by prisoners and is considered as a last resort. Correctional officers, in their assessment of potential risks to the safety of all persons, may only use such force as is reasonable and necessary to resolve a situation and must identify possible courses of action that involve the use of all other tactical options before having to resort to the use of lethal force to manage those risks.

Legal Aid Act 1978

Part 4 of the bill makes an administrative amendment to the Legal Aid Act 1978 to extend the maximum period that a practitioner may be included on a specialist panel convened under section 29A of that act, from three to five years. In practice, the current arrangements mean the panels must be reconvened every three years, which involves a considerable administrative burden for both Victoria Legal Aid and the applicants to the panel. The proposed extension of time will reduce this administrative burden.

In relation to the commencement of the bill, clause 2 of the bill provides that certain provisions will commence operation immediately upon the bill receiving royal assent. The provisions relating to the extension of prison governors' powers to stop or censor letters will be deemed to have commenced on 1 July 2005. All provisions of the bill will be operational by 1 July 2008.

This bill demonstrates the government's continuing commitment to strengthening community safety and protecting victims of crime and their families from further trauma and distress. The amendments proposed in the bill build on a range of initiatives introduced by this government to tackle crime and violence.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Wednesday, 5 September.

JUSTICE AND ROAD LEGISLATION AMENDMENT (LAW ENFORCEMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Police and Emergency Services).

Mr HUDSON (Bentleigh) — It is a great pleasure to speak on the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007. I am particularly keen to speak in relation to the pursuit offence contained in clauses 9 and 10. The government has had a significant commitment to improving road safety. This bill includes a specific pursuit offence which will act as a deterrent to those drivers who seek

to evade police by driving away at high speed. Hopefully this pursuit offence will help to further decrease the risk of road accidents from such high-speed chases.

It is worth looking at the number of police pursuits that have occurred over the years. In 2005 there were 723 such pursuits, and in 2006 there were 528. While there has been a reduction since then, the number is still far too high. In 2002 there were 358 police pursuits resulting in road collisions where drivers failed to stop when asked by police. There have been a number of recent incidents which have reinforced the need for this law.

In June this year a motorcyclist reached 210 kilometres an hour during a police pursuit through Werribee. In May a man pleaded guilty to killing one teenager and seriously injuring two others in a crash after a police pursuit in Doveton. The police had ended that pursuit before the vehicle hit an electricity pole. In December last year a 16-year-old driver's car hit a tree and burst into flames after a police pursuit had ended. The two teenage passengers were lucky enough to be rescued by police.

While the police have changed their operations in relation to police pursuits in order to reduce the risk of injury and death, it is quite clear from the coronial inquest into the deaths of Pepper, Harrison, Alexe and Terpea that there is still a need to look at alternative methods of preventing and managing police pursuits. The new laws are very clear. They provide tough new penalties for those who are willing to ignore police when asked to stop. Previously a failure to stop saw a fine of $1000 for a first offence and $2200 and up to four months imprisonment for a second offence.

The new offence covered by clause 6 carries a maximum penalty of about $6600 or six months imprisonment or both for a first offence. A subsequent offence attracts a maximum penalty of $13 200 or 12 months imprisonment or both. As members can see, these are very significant penalties. If you couple those with the fact that drivers also face a loss of licence for a minimum of six months for a first offence and up to 12 months for a subsequent offence, you can see that these laws are a very significant deterrent.

This is combined with the capacity of the police to impound the vehicles of offenders in the first instance for up to 48 hours, up to three months for subsequent offences and permanently for a third offence. We believe that, combined with laws covering a range of other serious road offences, these laws will help to create a much safer situation on our roads in relation to pursuing and catching offenders.

The second aspect of the bill that I want to comment on is the sex offenders registration provisions. It has become apparent over recent years that it is absolutely important for us to have in place not only a registration scheme but a robust registration scheme. Under the present scheme there are a number of loopholes and areas which need to be addressed in order to significantly strengthen the legislation. I want to focus for a moment on the fact that a number of the amendments to the bill recognise the risks to children posed by the increased use of the internet by child-sex offenders. What we are doing under this bill is requiring child-sex offenders to provide the name of their internet service provider, and there are very good reasons for doing this.

In July this year United States authorities revealed that more than 29 000 convicted sex offenders have profiles on the popular social networking site MySpace. When you consider that 26 per cent of Australia's 3.8 million MySpace users are under 18 years of age, there is clearly a real need to address the possible risks posed to users of the site by sex offenders who use the internet to groom young people.

It is quite clear that use of the internet is on the rise amongst young people, and the risk to our children from online sexual predators is quite real. The internet chat tool Skype allows users to register for a free profile within minutes, and there is a minimum age limit of only 13 years. There is no mechanism at all for checking that a user's profile is accurate, and there is no way at all to screen out offensive users of such a site. It is interesting to note that British police are currently investigating the possibility that there are organised paedophile rings using Skype as a mechanism for grooming young people.

It is also sobering to note that in March, Operation Auxin, a nationwide crackdown on cybersex offenders, revealed that during its inquiry Victoria had the highest number of suspects of any state who were using the internet in this way. The federal police commissioner, Mick Keelty, has stated that global authorities have seen a convergence of paedophile activity on the internet which clearly must be tackled. This bill, I believe, will help us to do that.

It is also worth noting that in a recent report the *Herald Sun* used profile details from an internet social networking site and was able to find the home phone numbers and addresses of five Melbourne teenage girls within an hour. The *Herald Sun* was able to

demonstrate how quick and easy it is for a sex offender to find out identifying contact details of young women. A recent survey also revealed that more than 80 per cent of Australians in their teens are using these social networking sites. That is why the government has chosen to act on this issue, and that is why under the sex offender registration provisions we have recognised the problems posed by the internet and sought to toughen the provisions, requiring sex offenders to make available the details of their internet service providers.

The other provisions I would like to comment on briefly are the amendments to the Police Regulation Act of 1958. These amendments will strengthen police accountability in relation to the management of sensitive information. They will also strengthen the offences relating to the handling of that information, and I believe they will create a lot more confidence in the integrity of police operations. They follow on from a report tabled in late 2005 by the Office of Police Integrity on a book called *One Down, One Missing*.

The director, police integrity, found that Joe D'Alo, a serving police member, had produced a so-called tell-all book on the inside story of the Lorimer task force investigation into the murders of Sergeant Gary Silk and Senior Constable Rodney Miller in 1998. The report found that *One Down, One Missing* disclosed sensitive operational methodologies used by Victoria Police. Indeed there were instances where informers were identified in the book as well as the circumstances in which they supplied information and the actual information they supplied. The director concluded that the existing section 127 of the Police Regulation Act was insufficient to deter the inappropriate revelation of this kind of material.

This bill considerably strengthens the provisions of the Police Regulation Act and increases the relevant fines. I think these are good measures, and I commend the bill to the house.

Mr NORTHE (Morwell) — It is a great pleasure to make a contribution to the debate on the Justice and Road Legislation Amendment (Law Enforcement) Bill. As alluded to earlier by the member for Benalla, The Nationals do not oppose the bill, which contains wide-ranging amendments to various pieces of legislation.

Amongst other things the purpose of the bill is to amend the Magistrates' Court Act 1989 to allow certain indictable offences under the Police Regulation Act 1958 and the Sex Offender Registration Act 2004 to be heard and determined summarily and to amend the Police Regulation Act 1958 to make provisions concerning the giving of certain types of photographs taken by law enforcement agencies to media organisations and the confidentiality of certain types of information and other matters.

I will elaborate for a minute on the Police Regulation Act 1958, which has been discussed earlier in relation to allowing photographs of convicted criminals to be released to authorised media to assist in obtaining additional information about other possible crimes committed by them. The member for Kew alluded to this earlier, as other members have. I think it is really important with respect to community safety. In terms of protecting our community, it is a sensible and practical piece of legislation, so I certainly support that amendment. The bill will also increase the penalty for the misuse of information by serving police officers and will apply the same penalty to former police officers — and that offence will now be indictable. That again has already been addressed in this chamber tonight, and relevant examples have certainly been raised.

The main focus of my address will be on the Road Safety Act 1986. These amendments will make provisions concerning further offences under that act as well as certain matters relating to the impoundment, immobilisation and forfeiture of motor vehicles. As a relative newcomer to Parliament, I was quite taken aback to see that the amendments to this bill will make it an offence to fail to obey directions to stop a motor vehicle. I would have thought that would have already been part of legislation — but apparently not.

Certainly this initiative to reduce the number of high-speed police chases is one that we should be supporting. If we can reduce the number of high-speed police chases we will certainly see a reduction in the road toll. As we all know, we have seen a reduction in the road toll across Victoria over a period of time, and that is fantastic. But as has been mentioned in this house previously, it is not true of country areas where we have seen a rise in the road toll and that is something which we need to address. Unfortunately high-speed police chases contribute to the number of road fatalities.

There is a familiar saying in this chamber which we should all be aware of, and that is: 'Fix country roads, save country lives'. The member for Mildura might have put it another way, but we knew what he meant. While it is important to increase funding to fix country roads, there is also another side to the issue, and that is to educate our youth as they come through the system. When they obtain their drivers licence it is important that they receive the right education.

I attended a VicRoads strategy conference some months ago — a 10-year improvement to road safety — and one of the points I made at that forum was that it is important that youth have a say in how we promote and advertise road safety to them. The message does not appear to be getting through to the majority of our youth. We are still seeing them driving in a senseless way for a lot of the time. The hoon legislation has eradicated the problem to some extent, but I think there is more that can be done. Driver education is an important element.

It is important to look at The Nationals policy in regard to driver licence age. Not only do a disproportionate number of fatalities occur on country roads, but among that number young people predominate. Perhaps we may have to look at different alternatives such as a restricted licence for 17-year-olds, a limit on the number of passengers, curfews and the like. The mandatory 120 hours is very much encouraged.

Recently I had the privilege of having two 17-year-old netball girls billeted at my home and we talked to them about road safety. One of the things they mentioned was that they had restricted licences and it was interesting to hear of some of the current legislation that is in place in New South Wales in relation to roads and licences. Acting Speaker, you may not be aware of this, but these are some of the issues that we have faced with cross-border anomalies. I think we could take a lead from New South Wales in eradicating further trauma on our roads.

I can attest to the fact that I live on a busy thoroughfare with a 50-kilometre-an-hour speed limit. Some of the practices that occur on my stretch of road are really quite alarming, particularly when you have three young children. They are alarming not only to me but also to other residents in the area. While it is fantastic to have legislation in place to hinder these practices, such as the hoon legislation, we really do need police on the beat to capture the people who are breaking the law and make them face the full force of the law.

Another part of the bill amends the Sex Offenders Registration Act 2004. The amendments are aimed at closing a few loopholes, and one of them removes the exemption for convicted sex offenders who did not receive a custodial sentence or community-based order from being listed on the sex offenders register. I think that is a very practical and sensible approach to take. For whatever reason it may be that such a person has not received a custodial sentence or community-based order, but by rights they should be listed on the sex offenders register. That is very important.

Another sensible amendment in this bill is the reduction in the reporting time from 14 days to 3 days for sex offenders who have unsupervised contact with children. That again is a tightening up of the laws in respect of community safety and the safety of our children, which is very important and something that I mentioned earlier today in my members statement. It requires agencies to also share information on sex offenders and removes the anomaly of sex offenders who are self-employed not being required to register, which was mentioned by the previous speaker. It also restricts serious sex offenders in changing their names, which is in line with the Serious Sex Offenders Registration Act 2005.

All these amendments I see as practical and sensible. At the end of the day they will obviously assist community safety. As mentioned by the member for Benambra, it is important to note that it is not only community safety that we are looking at with this piece of legislation, it is also the safety of our police. The importance of protecting our police force would, I am sure, be acknowledged by all in the house.

In closing I want to say that one of the things The Nationals have advocated for some time is our belief that it would make a huge difference if we could have police back in our schools, because it was a fantastic initiative. The more we have police interacting with our youth, hopefully the fewer instances of law-breaking there will be — for example, on the roads. It is an important program that I think we should all acknowledge. There is a raft of amendments proposed in this piece of legislation, but ultimately they are designed to protect the community, and consequently The Nationals do not oppose this bill.

Mr LANGDON (Ivanhoe) — It is with a great deal of pleasure that I add to the debate on the Justice and Road Legislation (Law Enforcement) Bill. As a member of the parliamentary Road Safety Committee since 1996 I am very pleased to add to any debate on road safety legislation or indeed any legislation to do with any aspect of our roads, be it hoon legislation or whatever.

I think I heard a speaker from the opposition say that the government has not acted quickly enough in taking the measures we should be taking on road safety, and I would like to comment on that. As a member of the Road Safety Committee I think this government has acted extremely efficiently on all the recommendations made from time to time by the committee in its many reports. Indeed every month or so when Parliament sits there is always some road safety legislation before the

house. I can remember speaking on bills of this and a similar nature over quite some considerable time.

This is an omnibus bill that contributes to the 2006 commitment we made to making Victorian roads safer through crime prevention programs, increasing the powers and resources of the police and increasing police accountability. A particular aspect of this bill strengthens the penalties relating to the release of police information. Police are important, and as members know the information they hold has gone astray at times. This bill strengthens an existing offence relating to the disclosure of police information. It broadens the scope of the offence to include other police personnel and increases the penalties to make it both an indictable and a summary offence to access, make use of or disclose information gained by police personnel.

Other parts of the bill deal with the release of mug shots. The bill includes a process whereby the police commissioner may disclose a mug shot of an offender post conviction. This follows a decision by the Victorian Civil and Administrative Tribunal in 2005 and will certainly assist the process. It is vitally important that the police commissioner, being in charge of the police, get those powers.

The bill also contains a number of road safety amendments. It contains a new offence that aims to address the danger caused by a person who fails to stop a vehicle when directed to do so by the police. The police on our roads need those reinforcement powers constantly, and this bill has that effect. It also amends the sex offender legislation and expands the list of personal information that registered sex offenders are required to provide to police, including the sex offender's telephone number, email address and other information.

All those amendments are part of the omnibus bill, but I particularly emphasise how the amendments to the road safety legislation will enhance police powers and assist in keeping down the road toll. The government's commitment to reducing the road toll by 20 per cent is certainly on track. I commend the members of all parties in the house. Road safety is a matter that all parties have taken seriously ever since I can remember, and I commend the members who constantly support road safety bills.

I am aware that other government speakers may wish to speak on the bill, so I am pleased to commend the bill to the house.

Ms MARSHALL (Forest Hill) — It gives me a great deal of pleasure to rise and speak in support of the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007. The older we get, the more we understand not only our individual roles in the community but also the role that the community plays in our lives. A community is defined by the collective impact of the decisions we make as individuals and the responses and expectations we all have as to what constitutes acceptable behaviour.

Whilst by far the majority of Victorians obey not only the laws that govern us but also the unwritten rules of what is seen as socially acceptable behaviour, we understand that the police are there to protect us and the laws that apply to us must also be equally applied to the members of the police force as a whole.

This bill amends the Police Regulation Act 1958 and weighs the need for the public to have access to information regarding convicted criminals and the need for a person's privacy to be protected. Within the detail of the bill the issue of the release of mug shots by the media is addressed, ensuring that the police can fulfil their function of policing the community, so acting as a deterrent to any would-be criminals and providing a greater sense of security and safety to people living in Victoria. The option of releasing the image of a convicted criminal will only be considered by the police once all criteria have been looked into in detail.

A second amendment to the Police Regulation Act 1958 concerns the handling of private and confidential information by police. The obtaining and disclosure of such information by virtue of their office was an existing offence, but the penalty applied in such circumstances was out of date with the community's expectation of the gravity of such an act and, as such, has been updated to reflect these changes.

The Brumby government has an enormous commitment to road safety in general, and as with all aspects of governance, the rules that were once acceptable can change rapidly with developments in technology and changes in our attitudes and expectations. Whilst better education and training of the police force has had a significant impact since 2002, the greatest change has been in the effect the laws have had on the behaviour of drivers more generally since that time. We are all aware that the rules that govern us whilst on the road are there to protect us whilst in the car and to prevent injury and death to innocent pedestrians by culpable drivers.

The bill will create a new offence for people wishing to evade police once they have been asked or notified to stop. Erratic driving at high speed is a recipe for disaster, and we understand the risk to the community

includes not only the risk to the person driving the car but also the excessive risk they pose to innocent bystanders possibly caught off guard by an out-of-control vehicle. Reducing the number of police pursuits will automatically reduce the number of vehicles involved in collisions.

There are also some amendments regarding the impounding of vehicles, which action statistically has had an enormous impact on driver behaviour in recent years. Whilst almost 2500 cars have been impounded statewide, in my area 55 drivers in the city of Whitehorse alone have lost their cars. Very few drivers have had their cars impounded for a second or third time, so from looking at that statistic we can say that changes in driver behaviour have definitely been made and that the impact we would wish the measure to have has obviously been achieved.

I have had many calls, firstly, from concerned constituents prior to the new legislation coming into effect saying that the quiet, safe streets of the Forest Hill electorate were being taken over by people who did not feel they had very much to lose in their efforts to have some sort of juvenile fun; but secondly, from constituents who actually applauded the government's legislative changes, having seen firsthand the immediate and drastic impact it had had. The Forest Hill electorate, like most other electorates, has an increasingly elderly population and their reduced mobility and desire for a very strong, close-knit community was being undermined by a small group of antisocial people. This bill seeks to further strengthen the ability of the police to provide safety on our roads and to protect law-abiding citizens.

One final aspect the bill seeks to address is the issue of sex offender registration. It is widely considered that sex offences are particularly heinous in nature and that sex offenders have a disproportionately high level of reoffending, often proving to be a lifelong threat to some of the most fragile in our community. It is for this reason that the Sex Offenders Registration Act 2004 recognised the need for further and continued monitoring of these criminals.

The sex offender amendments in this bill are aimed at reducing the likelihood of registered sex offenders reoffending and assisting in the investigation and prosecution of any future offences, might they occur. The amendments are technical in nature but are quite simply designed to strengthen the ability of the Victoria Police to fulfil their job requirements and reduce the risk posed to the community by any such offender. I commend the bill to the house.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak on the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007. The bill amends the Magistrates' Court Act 1989, the Police Regulation Act 1958, the Road Safety Act 1986 and the Sex Offenders Registration Act 2004.

The bill gives the Chief Commissioner of Police the ability to block a registered sex offender from changing his or her name. This is needed. It is overdue, and I am very happy that the government has finally decided to introduce it. All registered sex offenders will have to apply in writing to the chief commissioner to seek approval to change their name. Again I think it is appropriate. It is something that needs to be done, and it is good that the government has decided to bring this in.

The bill removes a provision allowing a sex offender, if convicted of a single class 2 offence, to avoid registration on the sex offenders register. The bill requires sex offenders to provide police with internet service provider details as well as up-to-date contact and residential details. Again, this is very important; it was needed, it was missing previously, and I am glad the government has decided to bring in this amendment.

Ms DUNCAN (Macedon) — I rise this evening to speak on the Justice and Road Legislation Amendment (Law Enforcement) Bill 2007. I concur with the comments of the member for Bulleen. This is an omnibus bill that does a number of things, including providing police with additional information and strengthening existing offences relating to the release of police information. It also regulates the release of mug shots after a person has been convicted.

Of particular interest are the road safety amendments which contain new offences that aim to address the danger caused by persons who fail to stop a vehicle when directed to do so by the police. This is intended to cover those offences which may not amount to dangerous or culpable driving, and it is specifically aimed at deterring potential offenders before their behaviour becomes dangerous. I commend the bill to the house.

Mr SCOTT (Preston) — The Justice and Road Legislation Amendment (Law Enforcement) Bill 2007 makes an important contribution to the enforcement of law in Victoria, particularly the new internet provisions which provide an important mechanism for tracking sexual offenders. It will deal with a new group of issues that have arisen with changes to technology.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING SPEAKER (Mr Nardella) — Order! The question is:

That the house do now adjourn.

Racial and religious tolerance: education

Mrs SHARDEY (Caulfield) — The issue I raise is for the Premier as Minister for Multicultural Affairs. I refer to the increasing incidence of anti-Semitism in Victoria and in particular to the events in my electorate which have seen people physically bashed and racially and religiously vilified on the street. I also draw attention to the reports I have received about Jewish children in primary schools being racially vilified by other children as young as eight years of age.

I note that in the part of my electorate where these violent incidents have occurred there has been an increase of some 7.5 per cent in the number of crimes against the person, from 2004–05 to 2005–06, with nearly 1000 incidents last year. Rabbis are now telling me that parents are reluctant to let their children out of the house for fear that they will be harmed.

I remind the Premier that as shadow Minister for Multicultural Affairs in 2001 I gave my support to the racial and religious tolerance legislation. In particular I supported the plan as announced by the then Premier that there would be a focus on a range of non-legislative measures to promote tolerance and combat prejudice through education of the community. Surely it is now time to ensure that education programs that promote acceptance and tolerance within our community are a priority, particularly in our schools.

I call on the Premier to put in place and implement the range of comprehensive and long-term education measures promised by his party in 2001. There was an initial allocation of some $700 000 of funding in the 2000–01 budget which was carried over to the 2001–02 year. If that money and further money has not been expended on the promised programs, then this matter should be actioned by the Premier as well.

I further call on the Premier to ensure that justice is done in relation to those subjected to racial and religious violence on our streets. The Racial and Religious Tolerance Act is not meant to be pure window-dressing. It is meant to offer the community proper protection and to punish those who vilify and abuse people on the basis of their race or religion. If we are going to speak so proudly about the diversity and harmonious nature of society, we have to really do something positive to preserve that which we hold so dear.

Youth: Narre Warren South electorate

Ms GRALEY (Narre Warren South) — I would like to raise an issue with the Minister for Sport, Recreation and Youth Affairs, and this is in the context of the huge numbers of young people who live in my electorate. I request that he visit Narre Warren South to meet with local young people to hear their stories, the challenges they face and their hopes for the future.

As many other parliamentarians whose electorates are out in the south-eastern corridor would know, our part of Melbourne is experiencing an explosion in population numbers. The Narre Warren South electorate, which I am very proud to represent, is exclusively located in the city of Casey, which is Victoria's fastest growing municipality. Sixty-five new families are moving to Casey every week, so on any one day at any time of the year about 10 new families are arriving in my electorate to live there for the very first time.

When we look more closely at the statistics for young people, we see that whilst in 2001 there were less than 40 000 Casey residents aged between 10 and 24 years, by 2006 this figure had jumped to nearly 50 000. Census projections indicate that these increases are not going to slow down; in fact by 2011 it is predicted that Casey will be home to nearly 60 000 young people aged between 10 and 24 years. These percentage increases and the actual increases are far higher than in any other interface municipality around Victoria. With population shifts to these interface council areas, in the future a much higher proportion of our young people will be found in these outer metropolitan areas than has previously been the case.

As my fellow parliamentarians would be aware, the challenges in providing appropriate education opportunities and associated activities for such quickly burgeoning numbers of young people are significant. They and their education providers depend heavily upon the opportunities provided by projects such as the Advance program. Advance is a flexible program that provides great opportunities for young people to participate in community life. It encourages students to develop partnerships with local organisations and work on projects that help to build and strengthen their community. So far during 2007 a record 404 campuses across Victoria have already introduced Advance, and I am very pleased that each of the secondary colleges within my electorate is participating in this program.

Only this Monday I visited the Fountain Gate campus of Eumemmerring Secondary College and met with students in their Advance program. The students I met were Casey Klose, Jordan Savage, Daniel Seddon and Dean Scanlon, and they were accompanied by Steven Kehayas, the teacher in charge of the Advance program who said the program 'takes students out of their comfort zones by presenting them with new challenges. At the same time it helps them to form new friendships which are also very positive'.

I call on the Minister for Sport, Recreation and Youth Affairs to come and meet with the young people of Narre Warren South and also with the providers who work so hard on behalf of the youth to establish the best possible facilities and services in the area. I also call on the minister responsible for youth affairs to advise the Parliament about any new state government services and initiatives that are now available for young people.

The ACTING SPEAKER (Mr Nardella) — Order! Before I call the honourable member for Shepparton, I remind honourable members that they can request only one action per adjournment matter. The second part of the adjournment matter raised by the honourable member for Narre Warren South is out of order.

Benalla Road, Shepparton: safety audit

Mrs POWELL (Shepparton) — I would like to raise an issue with the Minister for Roads and Ports. The issue concerns traffic management and road safety along a section of Benalla Road in Shepparton. It is the particular stretch of road between Florence Street and the Doyles Road roundabout on Benalla Road. The action I seek is for the minister to urgently conduct a road safety audit in an effort the determine the best engineering and traffic management solution to rectify the congestion and safety issues that have arisen due to the increased commercial development on that road.

Benalla Road is a major road in Shepparton, and it is part of the Midland Highway. This section of road has become very dangerous because of the increase in the number of businesses and industries that have developed along that route. The section between Florence Street and the Doyles Road roundabout is becoming even more dangerous and confusing to motorists. It is now a single lane with a number of entrances and exits merging onto Benalla Road. There are many shopping centre complexes, a Big W store and car yards, more recent developments such as Bunnings, Water Plus and Spotlight, and there are now more developments being allowed on that road.

There have been complaints from motorists and from business operators, who say their customers cannot find the entrances to their businesses. In my own experience, I have followed motorists along the road and watched them slowing down, even though it is a 70-kilometre-an-hour zone, to try to find the entrance, and then, not being able to find the entrance, having to overshoot and go around another way. These entrances are confusing, and motorists are disobeying some of the road signs. Where a sign indicates not to turn right, they do it anyway because they do not want to turn left and go into the roundabout, which has a mix of heavy traffic, including B-doubles, caravans, bikes and cars. A mix of traffic from four roads goes into that single-lane roundabout, and one of those roads is part of the Shepparton alternative truck route.

I have received a letter from Mr Ted Ball of Shepparton East dated 3 January. He uses the road regularly and is concerned about the standard of Benalla Road and the safety of motorists. He also raised a number of planning issues. He has written to the City of Greater Shepparton and VicRoads. I wrote to the City of Greater Shepparton councillors on 18 January and met with them on 5 February to discuss this issue. This stretch of road cannot be ignored by the government any longer. I am concerned that this section of Benalla Road would not even meet VicRoads own safety standards. I ask the minister to urgently conduct a road safety audit before a tragic accident occurs on this unsafe, busy, congested and confusing stretch of road.

Mentone Primary School: synthetic playing surface

Ms MUNT (Mordialloc) — The matter I raise this evening is for the attention of the Minister for Sport, Recreation and Youth Affairs. The action I seek from the minister is to provide funding for Mentone Primary School to install a multisport facility in its playground. Eleven state primary schools have already been identified to receive a synthetic turf playing surface to encourage more sport and informal play as a result of surplus Commonwealth Games funds. These schools have limited or overused grass areas that have struggled to cope with the demands of the children at play. Synthetic surfaces therefore make good sense for these schools.

This surface would also make good sense for Mentone Primary School, which has over 300 students who play on a pocket-sized square of grassed play area, so it is a great candidate for funding for this opportunity. Mentone Primary School has struggled to keep the grass on the oval, which is a great place for the children to play. The oval has a unique and difficult history.

When the school first opened well over 100 years ago there was a rail siding that came from the Frankston line near Mentone train station and serviced the timber mill that sat on the oval. Timber was cut and then loaded onto the goods trains right next to the school and the playground. I once sat and spoke with a 100-year-old former student who recalled playing in the mill at playtime. How would that be seen by today's parents? I do not think they would approve.

In the 1970s the Nepean Highway was widened, and the authorities at the time thought it was a great idea to use the leftover gravel and dirt to re-lay the oval. This has settled into a completely impenetrable barrier — nothing grows through it! Water cannot drain, and the soil is completely barren. On occasion in recent years attempts have been made to add a new layer of soil, to drain and to re-seed, and the children have been kept away by barriers, but nothing works. As soon as the children return it is a dust bowl again, or a pool when it rains. Mentone primary is a lovely school. It has recently been rebuilt by our government, but the children need somewhere to play at playtime — to run and roll in the grass, kick a ball, do a somersault and let off steam at lunchtime. The grass will never grow on that surface no matter what the school and the parents do, and because of its tiny size and history it will always be under pressure.

Congratulations to the school council and the principal, Chris Chant; the former principal, Richard Bruce; and the wonderful staff who have worked so hard over so many years to provide the facilities that the children need. I hope this improvement to the playground can be delivered from Commonwealth Games savings, and I certainly recommend this improvement to be given to Mentone Primary School for the benefit of all the children.

Rail: Somerville level crossing

Mr BURGESS (Hastings) — I raise a matter for the attention of the Minister for Public Transport. I ask that she urgently allocate funding and resources to better protect the level crossing at Bungower Road, Somerville.

Mr Geoff Young, 57, of Tyabb was killed when his light truck hit a passenger train on the Stony Point–Frankston line at 10.45 a.m. today. I speak on behalf of all members of Parliament when I convey my deepest sympathies to the family and friends of Mr Young.

Today's tragic collision at the Bungower Road, Somerville, crossing between a tray truck and the 10.15 a.m. train from Stony Point to Frankston follows an epidemic of truck-train collisions across the state at Trawalla, Lismore, Cressy and Kerang over the past 18 months. Including Somerville, 13 train passengers and 3 truck drivers have been killed in five collisions. The community does not want to hear that creating grade separations or installing boom gates is too expensive or too hard. The community has the right to ask this government: what price a life?

The Bungower Road level crossing has lights and bells, but no boom gates. There are seven other crossings on the Frankston–Stony Point line in the same dangerous condition. How many times do we have to say, 'What a tragedy!', to express our regret at the loss of life and to say how much sympathy we have for the family and loved ones of the person or persons who died before we say, 'Enough is enough!', and fix the cause of these deaths?

Some would say that bells and lights give plenty of warning and that we must look more broadly at things other than boom gates to stop the carnage. That is true, but it is not an excuse not to act. People are dying on level crossings. We can reduce those deaths by installing boom gates, and we can eliminate this particular cause of death by implementing grade separations. The community is justified in asking this government why it has not acted more quickly and more thoroughly.

Today's collision is a tragedy for the family and friends of the deceased, and it is another needless loss of life due to this government's failure to make rail safety a priority for commuters and motorists. This carnage must stop. Road users risk their lives across this state every day, attempting to cross inadequately marked or protected level crossings. Today it was in my community, and I am here with a message from my community that this government must act — and act now.

There are eight level crossings on the Frankston–Stony Point line that have flashing lights and bells only. Of these eight crossings Reid Parade at Hastings is the only one earmarked by Labor for an upgrade to boom barriers. The community again has the right to ask this government why. An accident at the Reid Parade crossing in 2005 further highlighted the need for boom barriers at all crossings that are not grade separated. Thankfully on that occasion the driver and passengers involved in the accident walked away. Victoria has 2267 level crossings, but only 361 are protected by boom gates.

Solway Primary School, Ashburton: synthetic playing surface

Mr STENSHOLT (Burwood) — The action I seek tonight is of the Minister for Sport, Recreation and Youth Affairs. I would like to ask the minister if he could take action to provide some artificial turf at Solway Primary School in Ashburton.

As I often do at my local schools, I was down there talking to the principal just recently. I said, 'Look, that's a bare patch of dirt out the back'. It is supposed to be an oval, but it is actually rectangular because there is a very small space at that particular school, and it is just bare, with no grass on it. Hundreds of kids have to play out the back. There is just no grass there, and it has had no grass for more than a year now. Members of the school council have been practically tearing their hair out, saying, 'What can we do for the kids?', because it is an absolute mess. I know it has been dry and so it is dusty, but then when it rains it becomes muddy. They have not been able to do anything about it. They planted some grass, but it all died because they could not water it as a result of the drought. So they have a plan, and I put this to the Minister for Sport, Recreation and Youth Affairs.

Their plan is for an area for year-round use for participation in sport by all the kids, to stop them from being obese. They would be able to get out there and run around. They want to put artificial grass on the main oval, which will cost $136 000, and synthetic turf on the mini oval on the side — it is not really an oval but an extra playing space on the side where the little kids can play — which will cost $35 000. To keep the kids active, they want to put a running track around the oval, which will cost $16 000. Around the oval they want to put 10 of those fitness stations where you can do step-ups, step-downs and a few other things. They cost $800 or $1000 each, so that will be another $10 000. Overall, it will be about $200 000.

It is a great school, and it is an excellent project. Just last week I looked around the oval. I must admit that I did not run around it — it is pretty hard to, because it is all rock and rubble. I told the principal, Julie Wilkinson, that I would talk to the minister this week and say, 'If there's any money left over from the Commonwealth Games, can we give it to this school?', because I think it is a brilliant idea to do this for the kids. They really have nowhere to play, and this would make a big difference to Solway Primary School. It is a school that we have rebuilt in two stages, 1 and 2, and the toilets have been fixed up as well, which is very important. I am now looking at the crème de la crème to finish off the project of looking after this school, with an all-weather, year-round playground for the kids. I hope the minister will consider this very carefully and come up with a positive result for Solway Primary School in Ashburton.

Emergency services: Warrnambool helicopter

Mr McINTOSH (Kew) — The matter I wish to raise for the attention of the Minister for Health is the desperate need for an air ambulance down on the south-west coast, perhaps located at Warrnambool. The action I seek from the minister is to provide that air ambulance for the south-west coast as a matter of urgency. My call comes a week after another tragic incident in Portland. It involved a 46-year-old lady who while she was walking was hit by a utility and was unfortunately severely injured. That occurred at about 6.30 in the morning. She was transported to Warrnambool hospital, where she waited for 4 hours before a helicopter arrived from Melbourne, and she did not arrive at the Alfred hospital trauma centre until 2.30 in the afternoon.

This is indicative of a matter that is of profound concern. In commenting about this, the Minister for Health said he was assured that all the treatment that she was provided with was adequate in all the circumstances. I have no doubt that the treatment at Warrnambool and at the Alfred was more than appropriate, but the speed of the transport of such people from Warrnambool to Melbourne is the critical issue and is a matter of profound concern.

I have had the opportunity of meeting with a number of local representatives. Indeed the member for South-West Coast is a strong advocate for the air ambulance in that area. He was able to facilitate a meeting with Mr James Tait and Mr Stephen Lucas, who represent the community and have been strong advocates for this air ambulance service. There is a desperate need for this service, which would not stop with only providing transport to the Alfred trauma centre. The helicopter could be used in bushfires, it could be used for emergency evacuations around the south-west coast and indeed at some of the offshore facilities. All these uses should be taken into account. There is a desperate need, and I ask the Minister for Health to listen to the local community and consider this request favourably.

Most importantly it seems that representatives of the government understand there is a need. I refer to the Warrnambool *Standard* of 6 July this year, in which the Minister for Police and Emergency Services revealed for the first time that the area has an air ambulance

issue. Accordingly, I ask the Minister for Health to act on the issue.

Liquefied petroleum gas: rebates

Ms DUNCAN (Macedon) — I wish to raise a matter for the attention of the Minister for Community Services. The action I seek from the minister is to ensure that the rebate for bottled LPG (liquefied petroleum gas) and/or non-mains-metered power is extended for the winter of 2007.

Last winter over 550 households in the Macedon Ranges shire received a rebate on bottled LPG gas or non-mains-metered power. These concession households rely on bottled LPG and/or non-mains metered power for domestic cooking and heating. I urge the minister to ensure similar rebates for eligible households in my electorate are extended for 2007. While the main reticulation lines into seven towns in the Macedon Ranges have been completed under the natural gas extension program, and individual homes will continue to be connected over the coming months, there will still be eligible households in my electorate who may not be connected before the end of this winter. It is critical that these households continue to receive the LPG gas rebate until those connections are complete.

In every town, even when all the reticulation work to individual homes is completed, there will still be homes that, due to their distance from the centre of town, will not be connected. These households will continue to rely on bottled gas. Members will be aware of the high cost of LPG and non-mains-metered power. Bottled gas is approximately $88 a bottle — or it was the last time I bought a bottle, about two weeks ago — and in some households these bottles may last little over a week. This means the cost of heating and cooking is very high. Eligible households need this rebate to continue their cooking and heating. Even in a town like Sunbury there are a number of homes — in Emu Bottom, for example — which rely on LPG for their heating, cooking, hot water and so on.

There will always be households which, because of their location, rely on these more expensive forms of providing energy, heating and hot water services. For eligible households in this situation, these concessions are very necessary. I ask the Minister for Community Services to ensure that these rebates continue for 2007 so that Victoria — and particularly the electorate of Macedon — remains a great place to live, work and stay warm.

Water: irrigators

Mr WELLER (Rodney) — I wish to raise a matter for the attention of the Minister for Water regarding the reforms to Victoria's water entitlements which came into effect on 1 July this year. As part of the reforms the water entitlements held by irrigators and diverters on regulated water systems in northern Victoria were unbundled to improve the management and use of Victoria's water supplies. The action I request is for the minister to provide compensation for people affected by the government's inept handling of the process of unbundling water entitlements.

In recent weeks I have been contacted by numerous constituents in northern Victoria who have been disadvantaged by the government's shoddy handling of this issue, and I would like to share some of their concerns with members. There is the story of the husband and wife from Echuca who recently sold their farm but are still waiting to be paid for the sale because Goulburn-Murray Water is still trying to establish that they own the water to be sold with the farm. Despite the fact that the settlement date has passed, this couple are unable to buy a new house because they still do not have the money from the sale of their property. At the moment they are staying in the old house only thanks to the good grace of the purchaser, which is a totally unacceptable situation.

There is also a story of a couple from Bamawm who are wanting to sell some of their permanent water while the prices are high but are unable to do so because Goulburn-Murray Water has to first establish the ownership of the water. There is the story of the farmer from Cohuna who bought a house in town to shift into but cannot settle on the sale because there is a megalitre of water attached to the property. Again the hold-up is Goulburn-Murray Water. Essentially each of these farmers is currently unable to finalise property sales or trade water because the government has not finalised the paperwork to enable Goulburn-Murray Water to process the transfer of water.

Another impact of the poor handling of the water reforms has been that customers are currently unable to utilise online technology to trade water, as they were able to do last year. Currently they are required to lodge their original paperwork directly with Goulburn-Murray Water, and the associated costs and inconvenience are significant. Last year an online transaction cost $25. This year it is $80, and they have to drive to a Goulburn-Murray Water office.

Prior to the introduction of these reforms the state government gave a commitment that it would resource

Goulburn-Murray Water so there would be a smooth transition come 1 July. That clearly has not happened. The government has known since the middle of 2004 that unbundling was to come into force from 1 July 2007. It has had three years to ensure that the necessary processes are in place to deal with the reforms, but it has clearly failed in this regard. I urge the Minister for Water to act immediately to compensate the many farmers who have been disadvantaged by the government's poor handling of this reform process.

Public transport: regional and rural Victoria

Ms OVERINGTON (Ballarat West) — I wish to raise a matter for the Minister for Community Development. I call upon the minister to take action to address transport disadvantage in rural and regional Victoria. In the city of Ballarat there are many residents with complex needs stemming from geographical isolation, disability and financial disadvantage. For those who live in areas far away from larger townships, access to educational, social and medical services is limited, as are employment opportunities. This affects a very broad cross-section of the community — young people, people with a disability, older people, carers and individuals who have no or limited access to a motor vehicle.

In 2005 the Ballarat Splinta Youth Council conducted a survey of 270 young people living in Ballarat and adjacent municipalities, and access to transport was identified as one of the top 10 issues affecting youth. Wendouree West neighbourhood renewal has also identified transport access as one of the main issues affecting financially disadvantaged members of the community as well as single-parent families. As I am sure the minister is aware, access to transport is important in reducing isolation. It has been well established that social isolation has negative health impacts.

Access to transport is also important in delivering educational benefits. Young people in smaller communities deserve the opportunity to go on to further training after they leave school. We have a good school bus network in Victoria that helps students to get to primary and secondary schools, but not everyone gets a car when they finish school, so we need to make sure that when people finish secondary school they have access to local transport to get to TAFE or university. Without this many young people may choose to not undertake higher education, because it is just too hard to get there.

This is why I am calling upon the minister to take action to address issues of transport disadvantage and reduce social isolation in the more remote parts of regional and rural Victoria.

Responses

Mr BATCHELOR (Minister for Community Development) — The member for Ballarat West raised with me concerns about transport disadvantage in rural and regional Victoria. I absolutely agree with her that adequate access to community transport is a very important issue that needs to be taken into account when addressing issues of social isolation. There is undoubtedly a link between mobility, social inclusion and community wellbeing. Greater mobility allows for greater community participation and connectedness, which in turn results in a sense of inclusion, which is integral to the strength of any community. In this sense transport disadvantage is just as serious a problem as other forms of disadvantage, as was so adequately pointed out by the member for Ballarat West.

I also acknowledge how important transport access is in encouraging young people to pursue further study after they finish secondary school. This is why the Brumby government has invested $18.3 million into a program called Transport Connections, which is being delivered by a partnership of government agencies from the Department of Planning and Community Development, the Department of Infrastructure, the Department of Education and Early Childhood Development and the Department of Human Services. Transport Connections is about communities working together to improve local transport. It is designed to help communities in rural and regional Victoria and outer metropolitan areas develop strategies to address their transport needs using underutilised and idle but existing transport assets like taxis, school buses and community buses. The program relies on volunteers and is designed to help communities help themselves.

Transport Connections brings together community groups and organisations, individuals, transport providers and local businesses to develop tailored transport solutions through new and coordinated approaches, primarily using volunteers and underutilised or idle local transport assets. The Brumby government will now deliver a Transport Connections program in Ballarat, and I am sure that will go a long way towards addressing the issues raised by the member for Ballarat West.

Transport Connections projects across the state have already been successful in connecting people to their local communities and improving access to services. For example, in Golden Plains shire, where Transport Connections was launched three years ago as a pilot

program called Golden Connections, the sparsely populated area had virtually no public transport and no school or community buses to tap into for community use. Now, after three years of successful pilot operations, the project has 23 volunteer drivers and three 12-seater community buses out on the road ferrying passengers to medical appointments and taking people on a range of outings around the district of Golden Plains.

The Southern Mallee and Wimmera Transport Connections program, also conducted as a pilot, has yielded some very innovative outcomes. A partnership comprising Tyrell College, the Sea Lake District Hospital and members of the community brokered the first deal in the state to allow senior citizens on a school bus route. In addition to this the local hospital uses its community bus to collect residents from Nullawil, Culgoa and — —

An honourable member interjected.

Mr BATCHELOR — And how does 'Berriwillock' sound?

An honourable member interjected.

Mr BATCHELOR — Very good?

An honourable member interjected.

Mr BATCHELOR — You could name all the people in it? I am sure you could.

The community bus brings these people into the town. The Hume transport links project is another example of the sorts of things that are being achieved through the Transport Connections program. By using community vehicles that lie idle for most of the day, the project has seen the creation of a destination flexi-route service, collecting people from their homes and dropping them off at their requested destinations. This is the beauty of the Transport Connections program: there are just so many options, and each project is tailored to meet the needs of the community it is actually servicing.

This government has to date provided funding for 29 Transport Connections projects around the state. These projects have been established in Bendigo, Mildura, Casey, Mornington Peninsula, Bass Coast, Benalla and Melton, just to name a few. The member for Ballarat West will now also be pleased to learn that we have one operating for Ballarat. The Transport Connections program has been and will continue to be an amazing success. I look forward to seeing more innovative transport solutions arise from these new projects around the state — and in particular in Ballarat, due to the good work of the member for Ballarat West.

Mr MERLINO (Minister Assisting the Premier on Multicultural Affairs) — The member for Caulfield raised serious concerns about the number of racially motivated incidents targeting the Jewish community. Can I begin by reiterating the comments of the Premier during question time yesterday. Victoria has a proud bipartisan record of promoting and enhancing its multicultural society. It is on any measure a great social and economic success. I think it sets Melbourne and Victoria apart from the rest of this nation and is a beacon around the world.

The Racial and Religious Tolerance Act expresses in legislation the extent of our support for multiculturalism and the benefits of our diversity. Acts that incite hatred can be pursued through the Human Rights and Equal Opportunity Commission. The member referred to a number of incidents including a quite serious incident at the weekend, and the Victorian government is greatly concerned about the alleged assault of Jewish youths in Balaclava on 18 August. Police responded promptly to those incidents and are continuing their investigations. As that matter is the subject of a police investigation, it is not appropriate for me to comment further.

The member also raised the issue of public education programs promoting multiculturalism and more specifically public education regarding the existence and benefits of the Racial and Religious Tolerance Act, which provides people with the freedom to follow their religious beliefs free from vilification. That is vital. I can assure the member that further public education programs are being developed by the Victorian Multicultural Commission as we speak. In addition to those brief comments I will also refer this matter to the Premier, but I can assure the member that public education is certainly a priority from my perspective.

Mrs Shardey — On a point of order, Acting Speaker, I seek some clarification from the minister in relation to his comments. Perhaps he can give me some examples of the programs he referred to.

The ACTING SPEAKER (Mr Nardella) — Order! There is no point of order. This is not a consideration-in-detail stage where requests for further information can be made.

Mr MERLINO — I thank the member for Narre Warren South for her adjournment question, and I would be delighted to visit youth services providers and local secondary schools in her electorate to see the

Brumby government's successful Advance program in action. The Brumby government is committed to Victoria's young people, and there are a number of initiatives and services available to support, assist and encourage them. One of the latest is our revamped Youthcentral website, and I urge the member for Narre Warren South to talk to her local providers and schools in her electorate and encourage them to have a look at the Youthcentral website to get even more ideas of how to support and encourage young people.

Youthcentral was already one of the most popular government youth websites in Australia. It has now been relaunched with a new look, and it has some fantastic extra information for young people, including interactive jobs and careers content, learning tools and videos, podcasts and digital stories, as well as great competitions. It is a great place where young people can access information on government services. It has articles on everything from managing money to health and relationships, travel and transport and how to deal with cyberbullies.

Young people can access information about what is on in their local area and the latest reviews of CDs, movies and games. It also has information on how young people can enrol to vote. Such information is more crucial than ever before given the Howard government's changes to the Electoral Act. These changes require the closure of the electoral roll on the day the election is called, having the effect of disenfranchising thousands of young people who have reached voting age but have not yet enrolled to vote.

Many articles and reviews on Youthcentral are written by our young roving reporters, who contribute reviews, interviews and articles to Youthcentral on a regular basis, and this really sets this site apart. It also sets apart some of our other programs, such as FReeZA and Youth Foundations Victoria. This is about young people having a say in the areas that affect them. I certainly look forward to visiting Narre Warren South again and talking to those youth services providers and the local schools.

The members for Mordialloc and Burwood raised the issue of upgrading turf at their local primary schools to a synthetic playing surface. As was pointed out, the program was born out of the Commonwealth Games dividend, and this is a good time to reflect on the many, many benefits Victorians continue to enjoy following the success of the Melbourne 2006 Commonwealth Games, unanimously regarded as the best games ever. Games savings of $25.9 million have been ploughed back into Victorian sport and are currently delivering a range of wonderful programs and capital improvements at a community level.

Through these savings we have seen the highly successful uniform grants program; funding for new basketball stadiums in growth areas; increased funding for regional sports assemblies and state sporting associations; new pools for Sunshine, Frankston, Geelong and East Bentleigh; and as members have just mentioned, funding for 20 schools to receive playing surface upgrades. Nearly 18 months on, the Commonwealth Games continue to provide benefits to Victorian sports lovers.

The opposition, which just does not like good news, described the games as just being a good party that delivered little else. That party has continued for the hundreds of sporting clubs around the state which are reaping the benefits of the $25.9 million we have ploughed back into grassroots sport. This will continue over the coming months, when I will announce further successful Commonwealth Games dividend projects. At a time of drought, having synthetic surfaces in our local schools and communities right across the state will be increasingly important. I assure the member for Mordialloc and the member for Burwood that I will closely consider their requests.

The ACTING SPEAKER (Mr Nardella) — Order! The Minister for Sport, Recreation and Youth Affairs to respond to the honourable members for Shepparton, Hastings, Kew, Macedon and Rodney.

Mr MERLINO — I will raise those matters with the relevant ministers for their responses.

The ACTING SPEAKER (Mr Nardella) — Order! The house is now adjourned.

House adjourned 10.41 p.m.