PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 6 December 2007

(Extract from book 17)

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

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 Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
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Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Assembly committees

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

Public Accounts and Estimates Committee — (*Assembly*): Ms 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. 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

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Burgess, Mr Neale Ronald	Hastings	LP	Napthine, Dr Denis Vincent	South-West Coast	LP
Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Noonan, Wade Mathew [4]	Williamstown	ALP
Clark, Mr Robert William	Box Hill	LP	Northe, Mr Russell John	Morwell	Nats
Crisp, Mr Peter Laurence	Mildura	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
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Duncan, Ms Joanne Therese	Macedon	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
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Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Ryan	Warrandyte	LP
Helper, Mr Jochen	Ripon	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [3]	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] Elected 15 September 2007
[3] Resigned 6 August 2007
[4] Elected 15 September 2007

CONTENTS

THURSDAY, 6 DECEMBER 2007

CONTENTS

Thursday, 6 December 2007

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

STANDING ORDERS COMMITTEE

Select Committee on Gaming Licensing

The SPEAKER — Order! I have to announce to the house that at a joint meeting of the standing orders committees on 5 December, it was noted that the Legislative Council expressed its disappointment in the language of the resolution passed by the Legislative Assembly on 18 July 2007.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that under standing order 144 notices of motion 83 to 103 will be removed from the notice paper on the next sitting day. A member who requires a notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

NOTICES OF MOTION

Notices of motion given.

Dr SYKES having given notice of motion:

The SPEAKER — Order! The clerks will edit that notice.

Further notices of motion given.

Mr EREN having given notice of motion:

The SPEAKER — Order! I advise the member for Lara that his last notice of motion will be trimmed.

Further notices of motion given.

PETITION

Following petition presented to house:

Frankston Hospital: urology unit

To the Legislative Assembly of the Parliament of Victoria:

Residents who require treatment in the area of urology are currently required to travel to Clayton to seek medical assistance. The absence of a urology unit at Frankston Hospital is discriminative to residents who require medical assistance.

We, the undersigned concerned citizens of Victoria, ask the Legislative Assembly of Victoria to request the Victorian government to provide a urology unit at Frankston Hospital as a matter of priority.

By Mr BURGESS (Hastings) (179 signatures)

Tabled.

Ordered that petition be considered next day on motion of Mr BURGESS (Hastings).

ABORIGINAL AFFAIRS VICTORIA

Indigenous affairs report 2006–07

Mr WYNNE (Minister for Aboriginal Affairs), by leave, presented report.

Tabled.

DRUGS AND CRIME PREVENTION COMMITTEE

Overseas evidence-seeking trip

Mrs MADDIGAN (Essendon), by leave, presented report.

Tabled.

Ordered to be printed.

Misuse/abuse of benzodiazepines and other forms of pharmaceutical drugs in Victoria

Mrs MADDIGAN (Essendon) presented final report, together with appendices and minutes of evidence.

Tabled.

Ordered that report and appendices be printed.

DOCUMENTS

Tabled by Clerk:

Victorian Electoral Commission — Report on the Albert Park District and Williamstown District by-elections held on 15 September 2007

Financial Management Act 1994 — Report from the Minister for Skills and Workforce Participation that she had received the 2006–07 report of the TAFE Development Centre

Freedom of Information Act 1982 — Report of the Attorney-General on the operation of the Act 2006–07

Municipal Association of Victoria Insurance — Report 2006–07

Police Integrity, Office of — Report on the 'Kit Walker' investigations — Ordered to be printed

Statutory Rule under the *Supreme Court Act 1986* — SR 128

Subordinate Legislation Act 1994 — Minister's exception certificate in relation to Statutory Rule 128

Surveillance Devices Act 1999 — Report 2006–07 under s. 30L

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Reporting date

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

That the resolution of the house of 1 March 2007 providing that the Public Accounts and Estimates Committee be required to present its report on the inquiry into options for the next phase of strengthening government and parliamentary accountability in Victoria to the Parliament no later than the last sitting day of 2007 be amended so far as to require the report to be presented to the Parliament no later than 31 March 2008.

Motion agreed to.

BUSINESS OF THE HOUSE

Adjournment

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

That the house, at its rising, adjourn until a day and hour to be fixed by the Speaker, which time of meeting shall be notified in writing to each member of the house.

Motion agreed to.

MEMBERS STATEMENTS

State Emergency Service: Bellarine unit

Ms NEVILLE (Minister for Mental Health) — I recently had the great pleasure of officially opening the new extension at the Bellarine SES (state emergency service) facility in Drysdale. It was a great occasion and a pleasure to meet with SES volunteers and staff, their families and friends and the many local residents who support them. The government provided funding of $27 000 through the Community Safety Emergency Support Program and the local community raised $13 000 thanks to the hard work of volunteers from Rotary Ocean Grove, Rotary Drysdale, Clifton Springs Neighbourhood Watch, Drysdale-Portarlington Country Women's Association and the Leopold Lions Club.

The SES has proven time and again that it is a vital service and responds to emergencies right across the peninsula — at Leopold, Drysdale, Portarlington, St Leonards, Indented Head, Queenscliff, Point Lonsdale and Ocean Grove. It has a huge responsibility, covering a population of more than 40 000, with significant increases over the summer holiday period.

Congratulations and thanks to all those involved for the dedicated and courageous service provided by the unit to the Bellarine community.

Bellarine Tourism: seafood, wine and farm-gate trail

Ms NEVILLE — On another matter, I was pleased to visit the Bellarine Estate Winery recently to announce a grant of $29 500 to assist Bellarine Tourism in establishing a new Bellarine seafood, wine and farm-gate trail to promote the region's food and wine products. I congratulate them and wish them well with this exciting project that will benefit the whole Bellarine community and open an opportunity to really promote the growing food and wine industry on the Bellarine Peninsula.

Taxis: driver safety

Mr MULDER (Polwarth) — I am advised that Melbourne's taxidrivers are planning to strike next Monday in protest at this government's inaction on improving their working conditions and safety. The drivers just want a fair go, fair pay, protection from passengers who up and run without paying, some level of respect when they contact the police and report assaults, some real progress in relation to safety screens in their vehicles, a better deal for New Year's Eve work and the withdrawal of the 2-hour penalty. The previous Minister for Transport met with the drivers at a well-attended meeting at Flemington Racecourse which followed the deaths and bashings of their colleagues. The cabbies were promised the world by the former minister and got nothing. The current Minister for Public Transport has followed on with the same inaction and lack of respect for Melbourne's cabbies.

I have been advised that drivers are being asked to pay $10 per shift for vehicle insurance only to find that, if they have an accident, they are up for the first $2500

and as drivers they are not covered against the damage to the other vehicle in the accident. The safety screen trial has been abandoned, with indications that nothing will happen until at least 2009.

The drivers are very supportive of the Liberal Party policy of up-front fees between midnight and 6.00 a.m., along with the screens and advertising to offset the costs. So far they have been offered nothing by this minister or the Premier, who promised he would fix the taxi industry. The taxi industry was even excluded from the myki smartcard tender, showing just how little regard this government has for cabbies. Our cabbies are the slave-labour link in Labor's clapped-out public transport system. They just want what other workers get — protection in the workplace, a fair day's pay for a fair day's work, and the assurance that they will come home to their families in one piece at the end of a shift.

Shane Bourke

Mr PALLAS (Minister for Roads and Ports) — On 4 December Shane Bourke completed his term as mayor of the City of Wyndham, in fact concluding his fourth term as mayor. Shane was first elected as a councillor in 1988 and in 1994 served as the last mayor of the then City of Werribee. Having served as a councillor for the City of Wyndham between 1997 and 2000 and then between 2005 and 2008, Shane was elected mayor in 1997, 2005 and again last year. He has been an active councillor who has contributed greatly to his community. His participation in organisations such as the National Growth Areas Alliance, the Melbourne interface council forum and the western region council forum have strengthened Wyndham's ability to address issues relating to the rapid growth of the city.

Shane's dedication to and passion for the Wyndham community has seen him involved in many community committees, groups and events, resulting in his being named Wyndham 2005 Citizen of the Year as well as life governor of Wyndham Lodge Community Nursing Home. He was a founding member of Australia's Biggest Ever Trivia Night committee, which set an Australian record of 634 attendees, and has raised approximately $50 000 for Warringa Park School. He also served on the Cambridge Primary School council for five years and has been a board member of MacKillop Catholic College since 2004.

Shane has been a wonderful ambassador for Wyndham. I acknowledge his enormous contribution to the community over many years and the support of his wife, Kerrie, and children, Amanda and Cameron.

Disability services: supported accommodation

Mr JASPER (Murray Valley) — A critical issue within my electorate of Murray Valley is the lack of accommodation, on a respite or full-time basis, for people with a disability. I have been making representations to the government and successive ministers over many years seeking additional accommodation without success. In Moira shire, for instance, it is estimated that there are 38 people in need of immediate accommodation, with more than 70 requiring accommodation in the longer term. Some accommodation is available at Numurkah, with one facility at Cobram but nothing at Yarrawonga.

I should add, however, that excellent day-care arrangements are available at Numurkah's NOVAS centre, Cobram Gateway Services and Wangaratta's Merriwa Industries. So desperate is the situation for long-term accommodation that I have launched a $500 000 appeal at Cobram Gateway Services to fund the provision of a home for people with a disability for respite or long-term care. Another group recently established at Yarrawonga is seeking to raise over $600 000 to provide a desperately needed facility to house about five people with a disability.

The need for long-term and respite accommodation is at crisis point, with many people with a handicap being cared for by ageing parents who are most concerned for the future of their family members. I call on the Minister for Community Services to immediately address this desperate, drastic situation in my electorate of Murray Valley and provide financial assistance to build these urgently needed homes.

Monbulk Primary School and The Basin Primary School: upgrades

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — Yesterday I was very pleased to visit two of my local primary schools, Monbulk Primary School and The Basin Primary School, to announce Brumby government funding for significant capital upgrades. Monbulk primary will receive $500 000 to reconfigure a light timber construction building into a modern classroom and replace the toilet block to create a new facade for the school and provide a physical link to the new community centre in Monbulk.

The Basin Primary has received $400 000 to convert eight of its century-old, small classrooms into five larger, modern classrooms. This is fantastic news for these two very important and much-loved schools and will make a significant difference to their dedicated teaching staff and students.

Wantirna Health: facility

Mr MERLINO — I recently had the pleasure of attending the opening by the Minister for Health of the $30 million Wantirna Health facility. The new facility will provide better access to rehabilitation and palliative care services for residents of Melbourne's outer east. It was developed after a number of local members — Helen Buckingham, then a member of the Legislative Council, the then members for Bayswater and Ferntree Gully and I — got together with the local community to lobby the former Minister for Health for better palliative services for our constituents. The closest palliative care service for people in the outer east was in Kew.

What the Brumby government delivered is a new 60-bed facility — 30 for palliative care and 30 for geriatric rehabilitation — as well as a community rehabilitation centre. It is an outstanding display of this government's commitment to providing first-class health care to all Victorians and will be a most welcome asset to the outer east.

Joy Stewart

Mr MERLINO — I congratulate Boronia resident Joy Stewart, who recently won a Robin Clark award in the Making a Difference with Children, Young People and Families category. For 20 years Joy has assisted female offenders in the Victorian youth justice system, including for the past 13 years as manager at the Parkville Youth Residential Centre.

Poliomyelitis: funding

Mr BURGESS (Hastings) — If members think polio is a disease of the past and that we are now just dealing with the damage inflicted decades ago, they should think again. Polio is still with us and continues to wreak havoc with the lives of more than 70 000 sufferers across Australia. Polio is hitting these brave people all over again, with new, additional symptoms including renewed muscle weakness and pain, sinister fatigue, new muscle wasting and swallowing and breathing disorders. Some aspects of the disease are worse now than initially. Because of the thankfully long period since there was a case of polio, the vast majority of doctors have never even seen the disease. They therefore are prone to misdiagnose and often put new symptoms down to ageing or simply the effects of old symptoms.

Victoria has been the only state to provide funding for polio sufferers. Unfortunately this funding is provided as disability funding for rehabilitation services rather than for an ongoing health issue. While the number of patients wishing to access the polio-aware doctors, physiotherapist, occupational therapist and orthotist at Polio Services Victoria has quadrupled, funding has not increased at all since 1998. It is crucial to the lives of the thousands of sufferers across Victoria that the Brumby government urgently commit to providing a significant increase in funding; funding polio as a health issue; funding research into the numbers of sufferers, their disease and treatments; and using this research to educate the health industry about the reality of polio sufferers and their needs.

Peninsula Toy Run

Mr BURGESS — More than 450 riders assembled last Saturday to complete the annual Peninsula Toy Run. As a participant and rider on the day, I wish to congratulate all who assisted in raising more than $10 000 for toys and food for the peninsula charity Food for All. I would also like to congratulate Ulyssians John Smollen, Dave Lloyd, Tony Jenner and Barbara Maggs, and the other organisers.

Footscray: transit cities program

Ms THOMSON (Footscray) — In the May budget the Victorian government announced it would spend $52.1 million over four years redeveloping the centre of Footscray. The people of Footscray are very excited about the potential of the area. Footscray has a dynamic mix of many different ethnic groups. They have developed a marketplace of many cultures, which we actually want to keep in the area.

Last Wednesday, the Minister for Planning opened the shopfront in the Nicholson Street mall. This shopfront will be staffed by Maribyrnong City Council together with the state government, and will be a point of contact for the public and potential business investment. The project will include a new pedestrian footbridge at the Footscray station, the redevelopment of the mall in Nicholson Street, other works around the central business district of Footscray and some traffic movement management. It will also provide more green space for people to relax in and to enjoy the area in and around Footscray. It will include some affordable housing options amongst other housing projects. Finally, the famous Footscray Olympic doughnut van will remain!

This government has taken the lead on this project, the latest in a line of great transit city projects. Through sound planning, good communication and strong community liaison, the Footscray renewal will be good for the locals, good for Melbourne and good for

Victoria. I commend the work of the officers in the Department of Infrastructure, the Department of Planning and Community Development and the Maribyrnong City Council.

Trams: safety

Mr McINTOSH (Kew) — There is no doubt that an iconic feature of Melbourne life is its trams. Trams are of course designed to provide an efficient and effective means of public transport for Melburnians. However, six weeks ago a 15-year-old boy, Rohan Hardikar, was unfortunately hit by a car as he was getting off a tram on Doncaster Road, North Balwyn. He suffered severe fractures to the hip, shoulder and ribs together with serious internal bleeding and was rushed to hospital, where he thankfully survived. Rohan is likely to make a full recovery from his physical injuries and no doubt with the support of his family will overcome the emotional trauma. However, Rohan's accident raises the constant need to achieve better safety outcomes for all tram and road users.

Most trams are fitted with flashing lights or fixed stop signs which can be activated prior to a tram stopping to allow people to get on or off. Newer trams are fitted with highly visible and effective flashing lights that indicate the tram is slowing to allow passengers to get off; however, current road laws provide that motorists may not pass a stationary tram. Perhaps it is now time to consider a change in road rules that require motorists not to pass a tram when it is stationary or if its flashing lights are activated prior to stopping to let tram users on or off.

I had the opportunity of discussing this safety issue with the Minister for Public Transport recently. We are all keen to achieve an outcome, and this is an effective way of achieving it.

Des Parker

Ms GREEN (Yan Yean) — Today I rise to pay my profound respects to Des Parker, who lost his life to the dreadful disease mesothelioma on 11 November. Des Parker made a profound contribution to Whittlesea. At the time of his death he had been the Whittlesea Country Fire Authority captain for 18 years and 5 months and was awarded his 45-year service medal a week before his death. He was a life member of the brigade; he held the positions of lieutenant and foreman, and he was a coach of the brigade's renowned running team. He was awarded the national medal and a 20-year clasp. The Whittlesea fire brigade training track has been named in his honour. He was also a life member of the Whittlesea Football Club. In a fitting tribute, Des was accorded the honour of a firefighter's funeral, and it was a privilege to have joined the guard of honour.

Like my stepfather, Ron Hayes, and Bernie Banton, it is a tragedy that Des lost his life at only 61 to this dreadful disease. At his wake, despite her grief, his wife, Lynette, asked me to do all I could to get the necessary drugs onto the pharmaceutical benefits scheme. I am pleased that this has since occurred.

I wish to express my deepest sympathy to brigade members, to Des's wife, Lynette, and his children Janelle, Mark, Richard and Annette. Des Parker, it was a privilege to have known you. You made a profound contribution to the Whittlesea community, and we all mourn your death.

Movember 2007

Mr INGRAM (Gippsland East) — I rise today to recognise the four members of this chamber who participated in Movember. We are all rejoicing that it is now December and we have been able to shave off the facial fringes. Movember is about changing the face of men's health and raising awareness of and money to fight male depression and prostate cancer. This is a very important cause. Depression affects one in six men. Most men do not seek help, and untreated depression is the leading risk factor for suicide in men. Last year in Australia 18 700 men were diagnosed with prostate cancer, and more than 2900 died. This is equivalent to the number of women who die annually from breast cancer. Men are less likely to seek support or medical advice.

The results of the fundraising were: the member for South Barwon only raised $270, and I would encourage his colleagues to show him a greater level of support; the member for Hastings raised $660 and had strong support in the last few days. We have raised over $2000, which is a good effort considering it is the first time we have participated in this event.

St George's Anglican Church, East Ivanhoe: Sunday lunch

Mr LANGDON (Ivanhoe) — Today I pay tribute to the volunteers of St George's Anglican Church, East Ivanhoe. Once a month this year they have put on a Sunday lunch for those in need of a good feed and friendship. I would particularly like to thank the vicar, Reverend Barbara Colliver, and volunteers George and Thelma Grey, John Silverton, Pat Oswald, Angela Stanfield, John and Linda Fiske, Mary and Richard Hay, Rosemary Cotter and Ian James, as well as drivers

Margaret Whittakers, Caroline Southwell and Vicki Freeman. Thanks also go to Ivanhoe Girls Grammar students Bridget Draper, Erin Smith and Stephanie Lee, who have assisted, as well as the booking ladies Eileen Elliott and Rosalie Prince.

St George's has put on this lunch over the years, and I have been honoured in trying to assist them to get their numbers up. At the start of the year they had about 20 or 30 people coming along, and I can report to the house with a great deal of pride that at the end of the year it was getting up to about 80 people. I pay tribute to all those volunteers who put their efforts into producing the roast meals and the hot potatoes et cetera. It is very special to the people who come along. I can report that I heard one of the ladies say it is a fabulous atmosphere and they really enjoyed coming along. I commend those volunteers for all their efforts.

Former federal government: performance

Mr CLARK (Box Hill) — I rise to pay tribute to outgoing Prime Minister John Howard and his government. Under the Howard government Australia has seen far-reaching reforms including a far more competitive and equitable tax regime, the elimination of all net commonwealth debt, one of the best retirement incomes policies in the world, the introduction of intergenerational planning and the Future Fund, consistent surplus budgets, a restored focus on standards in schools, greater Reserve Bank of Australia independence, welfare reform, labour market flexibility, child disability funding reform and the Northern Territory intervention against child abuse. John Howard's government has received the same thanks from the electorate as did Winston Churchill and Jeff Kennett, but John Howard can leave office knowing that under his government Australia was strong abroad and prosperous at home.

Despite all the spleen of the Howard haters, the Howard government will be remembered as one that achieved great steps forward in the national reform movement of recent decades, provided 30-year low unemployment, record low strikes and steadily rising real wages, and played a vigorous, constructive and successful role in international affairs.

Unfortunately, I fear that subsequent generations will look back on the Howard government years not just as years of achievement, but as a lost golden age of peace, principles and prosperity, before the time when Australia became, in the eyes of the enemies of Western values, yet another despised weak horse in the Western stable and before the reforms of three decades and the values of two centuries became entangled in a mesh of complex regulatory schemes, labour market rigidities, the weakening of social institutions and government by spin doctors.

Australian Labor Party: federal member for Corangamite

Mr CRUTCHFIELD (South Barwon) — What a load of rubbish! I have great pleasure in congratulating the new federal Australian Labor Party member for Corangamite, Darren Cheeseman, on a wonderful campaign to win that seat. Darren and his team were extremely hard working, disciplined and focused on committing to things that had been ignored, rejected or opposed by the previous federal member. There were commitments to community-building projects in Torquay and Grovedale; sporting clubs such as South Barwon Football and Netball Club; water recycling at Black Rock; much-needed federal funding for stages 4A and 4B of the Geelong Ring Road; and the duplication of the Princes Highway to Winchelsea.

I acknowledge campaign manager Richard Morrow, Torquay branch president Mike Atkinson, Belmont branch president Ron Arthur and the Australian Council of Trade Unions workplace rights campaigner Andy Richards as representatives of the hundreds of people across the region from Colac to Queenscliff who worked with unparalleled vigour in this campaign. Only yesterday I was talking to someone who voted at Aireys Inlet and who congratulated the efforts and enthusiasm of the orange-shirted army at the booth. If ever there was a message to the Liberals about extreme labour laws and neglecting your electorate Corangamite is it. Watch out for Polwarth!

To Stewart McArthur I say: I genuinely wish you all the best in retirement, and look forward to catching you at the football. A good bloke, but shocking politics! I look forward to working with Darren and his team and delivering a better future for both our constituencies.

Public transport: Mornington Peninsula

Mr MORRIS (Mornington) — On 23 October the Minister for Public Transport issued three separate press releases proclaiming the wonders of the Brumby government's early bird travel. As we all know, to get a free trip you have to get into the city by 7.00 a.m. The only problem is that if you live in my electorate and for some reason cannot drive to Frankston — and many users of public transport do not have access to a car — then you have missed the train. If you live in Mornington, Mount Martha or Mount Eliza, the earliest bus gets to Frankston at 6.05 a.m. If you live in Mount Martha East or Mornington East, the first bus

gets in at 6.55 a.m., which is a bit unfortunate because the last train to get into the loop before 7.00 a.m. leaves precisely at 6.00 a.m. The only way you can qualify for the free trip is to catch the bus into Frankston the night before and camp on the platform.

The government may well have abolished zone 3, but it appears it has abolished service as well. Would the minister please stop blatantly discriminating against the people of the Mornington electorate and give us the same service as that enjoyed by the Frankston community!

Mornington Centre: landscaping

Mr MORRIS — On another matter, Speaker, I would like to recognise the tremendous work done by the Mornington Peninsula Rotary clubs, in particular Frankston North, Frankston, Mornington and Mount Eliza, in landscaping the grounds for the new Mornington Centre. Three days have been devoted to spreading gypsum, barrowing mulch and planting shrubs. There is more to be done, but the place looks fantastic and is a great credit to them all. Well done!

Norman Cross

Ms RICHARDSON (Northcote) — The author Norman Cross recently visited my office and generously presented a copy of his self-published memoirs *Around the Tracks*. He is also a co-author of the definitive account of Melbourne's trams, *Destination City*.

Norman has lived all his life on St Georges Road, Northcote. He worked as a mechanic at the Preston tram workshops from 1959 until the site was taken over by Alstom in 2002. His love of trams and workshops shines throughout the book *Around the Tracks*. In some ways it is a sad account. Norm began at the workshops when they were at their peak and witnessed their inexorable decline. Manufacturing at the workshops was wound down after 1983, and in 1992 the Kennett government announced that the workshops would be closed. Norm responded angrily to this decision, and his passion to save the workshops won the hearts of many in the community.

In 1986 filmmakers Nadia Tass and David Parker became acquainted with Norm when they sought assistance in making the acclaimed film *Malcolm*. They found his house adorned with tram parts, photographs and posters. Pride of place was given to 1:24 scale models of trams 268 and 1032. Norm's photo of a tram in Lisbon so inspired David Parker that the location became the setting for the final scene of the movie. Nadia Tass said to him, 'You really are Malcolm, aren't you?'. Norm generously donated his fee as adviser to charity.

Five hundred and eighty-four trams and 180 buses were built at the workshops from 1927 to 1973. Norm's pride in his work is typical of many working people in Northcote. In many ways the area is changing, but this sense of pride is forever constant.

Roads: regional and rural Victoria

Dr SYKES (Benalla) — Country roads are in desperate need of hundreds of millions of dollars for basic maintenance and upgrades. Let us hope the much-heralded new era of so-called cooperative federalism will see country Victorians and visitors to country Victoria provided with safe roads on which to travel. Key roads in the electorate of Benalla which urgently need upgrading include the Tatong–Benalla road, which is used by B-double log trucks from daylight to dusk. Many sections of the road are very narrow, necessitating oncoming vehicles going off the bitumen on to gravel to pass the log trucks. This can result in serious accidents, especially if the bitumen shoulders and gravelled sections have not been properly maintained due to inadequate funds.

The Witt Street–Hume Highway intersection in Benalla desperately needs a roundabout to safely cope with the large number of trucks and general traffic. The roundabout would cost about $400 000 and should be a top priority for grey spot funding, none of which has found its way into north-east Victoria yet. Creightons Creek Road in the Strathbogie shire is another death trap, because it is narrow with grossly uneven surfaces. It is totally inadequate to meet the needs of the growing population in the Strathbogie shire for safe travel for daily activities such as shopping and medical appointments.

We need a continuation of the federal Liberal-National government's very successful Roads to Recovery program, with matching additional funds from the state government. I call on the Minister for Roads and Ports to fix country roads to save country lives.

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

Australian Labor Party: federal member for Corio

Mr EREN (Lara) — It is with great pleasure that I make this statement today in the aftermath of the recent federal election, especially in relation to Geelong. I

congratulate Darren Cheeseman, the new Labor member for the federal seat of Corangamite, on putting an end to the 70-year rule of the Liberal Party in that seat. And of course I congratulate my good friend Richard Marles, the new Labor member for the federal seat of Corio, who won emphatically in his seat. I would also like to congratulate the Prime Minister, Kevin Rudd, and his whole team for their successful campaign.

In the short time I have I would like to mention the commitments that were made by the hardworking Richard Marles, the federal member for Corio, during the election campaign. If I had more time I would mention all of the commitments that were made, which would include Darren Cheeseman's, but as I do not have that long I will mention the announcements that will have an impact on my seat of Lara. They are: the Geelong port rail development, $50 million; the northern water treatment plant, $20 million; the DW Hope Community Centre, $1.5 million; the Corio Bay Rowing Club redevelopment, $250 000; the Skilled Stadium upgrade, $14 million; the duplication of the Princes Highway, $110 million; the Geelong ring-road stages 4A and 4B, $107.5 million; an innovative regions centre for Geelong, $20 million; new trade facilities for every public and private local high school, $20 million; improved water recycling at Black Rock, $10 million; a GP super-clinic for southern Geelong, $7 million; and closed-circuit television and lighting for the Geelong central business district, $300 000. I certainly look forward to working with the new Labor team to make Geelong a better place to live work and raise a family.

Education: Program for International Student Assessment results

Mr O'BRIEN (Malvern) — I rise because I am gravely concerned about the terrible results recorded by this state in the Organisation for Economic Cooperation and Development's Program for International Student Assessment survey, which was released this week. PISA is a global study involving more than 400 000 15-year-olds in 57 countries. It provides the latest report card on Australia's progress in providing an education system. This survey showed that Victoria was the worst ranked state on the Australian mainland for the testing of reading, maths and science. The reaction from this government has been absolutely terrible. The Premier, who has said that education is his no. 1 priority and who thinks we have a very good education system in our state, does not seem to think there is a problem.

If Victoria is the worst ranked state on the Australian mainland when it comes to fundamental building blocks of education like maths and reading and comprehension, what does it say for the attitude of this government towards education? It is particularly pertinent that I am raising this matter because we have a school in the public gallery this morning, as we often do. I think it is important that the students of this state understand that this side of the house is very concerned about the fact that this government has failed to deliver the best education system possible. When we are lagging behind every other state in Australia it means that this government has let this state down, it has let its students down and it needs to do far better in the future.

Narre Warren South electorate: Christmas wishes

Ms GRALEY (Narre Warren South) — In this last sitting week before Christmas and at a time that should be characterised by a spirit of generosity, I would like to give thanks. Also I hope for a few gifts for my community and myself in the New Year.

My thanks go to the Dixie Chicks for their song and film *Shut Up and Sing*. It has continued to motivate me on many a long day. Talent, style and courage always do.

In Narre Warren South the teachers, parents and students at my local schools, some of them dealing with a variety of challenges, are equally inspiring. I hope they enjoy their holidays. To the families of Narre Warren South, many of whom are doing it hard as they struggle to hold onto their family homes, I hope the economy under a Rudd government provides you with improved job security and better opportunities for your children.

To the churches in my electorate, thank you for welcoming me into your fold and spiritually guiding our community. Thank you also to such groups as the Casey North Community Information and Support Service, Connections, the South East Migrant Resource Centre, Windermere and the neighbourhood houses in my electorate for your care for those needing a little extra assistance.

I hope the new year is characterised by peace, good health and prosperity for all. I hope the Dogs win a premiership and their great season takes Ben Cousins off the front and back pages of the newspapers. I hope for a new era of productive federal-state relationships. I hope the level of bad language in film, on television, on trains and in public spaces declines. We can lift our standards this coming year.

I hope we can all return to our homes for Christmas and with our families acknowledge that we are all fortunate to live in the cosmopolitan, big-hearted state of Victoria — a great place to live, work and raise a family.

Agriculture: genetically modified crops

Ms LOBATO (Gembrook) — I wish to inform the house about some very wise, well-informed parliamentary representatives in the Liberal and National parties. However, I regret that they are not in this, the Victorian Parliament, they are in fact in the New South Wales Parliament. I was incredibly impressed last night as I read through the New South Wales Parliament *Hansard* on the New South Wales Gene Technology (GM Crop Moratorium) Amendment Bill.

The coalition's position was put by Nationals upper house member the Honourable Rick Colless in the debate on 4 December, in which he discussed the coalition's concerns about segregation and the coexistence of GM (genetically modified) and non-GM farmers, and the liability issues surrounding the production and marketing of GM crops. The Honourable Rick Colless discussed in detail how segregation is impossible despite the claims of the VFF (Victorian Farmers Federation), whose members have recently stated that they are prepared to accept liability.

Mr Colless cites Canadian experiences, given the fact that Canada is the biggest grower of GM canola. The Canadian National Farmers Union stated that GM crop agriculture is incompatible with other forms of farming — non-GM and organic, for instance — because GM crops contaminate and because segregation is impossible. The Canadian National Farmers Union also says that the introduction of GM canola would require the implementation of segregation and identity preservation in order to serve market demand. This would be extremely difficult, perhaps impossible, and extremely costly.

I also wish to acknowledge the contribution made by the Deputy Leader of the New South Wales Opposition, the Honourable Duncan Gay, a fourth-generation farmer — —

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

Buses: Ferntree Gully electorate

Mr WAKELING (Ferntree Gully) — I wish to raise concerns about this government's failure to deliver adequate telebus services in the Ferntree Gully electorate.

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

CRIMINAL PROCEDURE LEGISLATION AMENDMENT BILL

Second reading

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

Mr CLARK (Box Hill) — The Criminal Procedure Legislation Amendment Bill is a bill that will require judges to disclose sentence discounts for guilty pleas, will allow judges to give indications of sentences that accused persons would receive and will make miscellaneous amendments to criminal law and procedure.

The provisions that relate to sentence discounts for guilty pleas are contained in clauses 3 and 4 of the bill. They provide that if a court imposes a less severe sentence because an accused pleads guilty, the court must state the sentence it would have applied but for the guilty plea in cases where the offender is jailed or fined more than 10 penalty units for the offence or 20 penalty units in aggregate. In the case of the Children's Court, the but-for sentence must be stated if the child is sentenced to a youth attendance order, a youth residential centre order or a youth justice centre order. In the case of guilty pleas in other instances, the court has the option of stating what the but-for sentence would have been.

In relation to sentence indications in the Magistrates Court, the bill provides that at any time during a criminal proceeding the court may indicate that if the defendant pleads guilty at that time, the court would be likely to impose a jail sentence or sentence of a specified type. If the defendant then pleads guilty at the first available opportunity, the court may not impose a more severe type of sentence than indicated.

In relation to County Court and Supreme Court criminal proceedings, the bill provides that on the application of the accused with the consent of the prosecutor the court may indicate that if the accused pleads guilty, the court would or would not be likely to impose a jail sentence. Those provisions are contained in clauses 5 and 7 of the bill. Clauses 8 and 9 provide that the sentence indication provisions are intended to alter section 85 of the constitution to prevent appeals against sentence indications.

The bill also sets a maximum sentence of five years imprisonment for the common-law offence of wilful exposure. It provides that the striking out of charges in the Magistrates Court, if certain paperwork is not lodged on time, is to be in future discretionary, whereas currently it is mandatory, and that is provided in clause 13 of the bill. There are provisions in clause 14 of the bill regulating mentions hearings in the Magistrates Court.

Clause 15 provides that if an accused is committed for trial by a Magistrates Court, the accused must plead either guilty or not guilty — in other words, they can no longer reserve their plea as they are currently entitled to do. The bill also provides that the maximum value of damage for which a person can be tried summarily — that is, in the Magistrates Court — is raised from $500 to $5000.

The main provisions of the bill relating to sentence indication and sentence discounts are being introduced following a report of the Sentencing Advisory Council in September 2007. It conducted a detailed inquiry into these issues and provided a very detailed report. The preface to the report from the head of the Sentencing Advisory Council, Professor Arie Freiberg, makes clear that there were two reasons for the undertaking of the inquiry, the first being the Victorian sexual assault reform project, and the second being the government's justice statement of May 2004. The preface makes it clear that stakeholders consulted by the project team identified sentence indication as holding particular promise as a means of encouraging offenders charged with sexual offences to plead guilty.

An important objective identified in the justice statement was to modernise and streamline criminal procedure to increase the efficiency of administration of justice, and specifically to address the problem of delay — that is, the high proportion of proceedings that fail to proceed when they should. These two particular considerations giving rise to the inquiry are significant when one has regard to the recommendations that ultimately emerged from the inquiry and when one has regard to the provisions of the bill that is before the house.

In relation to both sentence discounts — that is, making explicit what the discount is that a judge gives to the sentence that an accused is given where the accused pleads guilty compared with the sentence that would have applied had they pleaded not guilty — and the issue of sentence indication — that is, for an accused to get an indication of what sort of sentence they might receive if they were to plead guilty — there is a range of competing considerations and arguments for and against, and those are very well set out and assessed in the report of the Sentencing Advisory Council.

In essence, the argument in favour of an explicit statement of sentence discounts is that it promotes greater transparency and accountability of the court system and promotes greater consistency of sentencing if a court is required explicitly to make public what sort of discount has been given for the accused to have pleaded guilty. If that is on the record, then it can be looked at by all concerned, and it makes it easier to assess whether or not the sentence given is appropriate and ensures that sentencing is consistent between an accused and different courts. That is the argument in favour. There is also a large number of concerns about how such a regime would operate in practice, which I will come to later.

In relation to sentence indication, again there are two main arguments in favour. The first is that accused persons are entitled to have a fuller range of facts available to them, or at the very least if you do not say that they are entitled to it, it certainly helps promote good outcomes in individual cases if they do have some idea as to what sort of sentence they would receive if they plead guilty. Flowing on from that, it could be said to promote a more efficient operation of the court system if accused persons are in that position on the assumption that that will lead a greater number possessing greater certainty and to plead guilty at an earlier stage in the proceeding and thereby spare the court system the time and the cost of trials, and also spare victims and witnesses the trauma of having to give evidence. But on the other hand, there are a range of issues about how a sentence indication regime should be structured and operate in practice to prevent a number of risks and potential weaknesses.

Both aspects of the legislation are very complex, and as I said, the Sentencing Advisory Council devoted a lot of attention to exactly how these reforms could be structured. We now have the bill that has come before the house. Given the complexity of these issues and given the very careful attention that the Sentencing Advisory Council gave to how to structure reforms on these two matters, it is a cause of great concern to the opposition that there are substantial discrepancies between what is in the bill and what was recommended by the Sentencing Advisory Council. It is of particular concern to the opposition that the Attorney-General's second-reading speech did not address these departures, and in one instance in particular it seems to me that the Attorney-General completely misrepresented the contents of the Sentencing Advisory Council's report. In referring to indicative sentences the Attorney General told this house that:

> The Sentencing Advisory Council also recommended that this process be extended so that it is available in the County and Supreme courts.

However, when one turns to the Sentencing Advisory Council's report itself, one sees that is completely untrue. As the preface makes clear at page ix in respect of the Sentencing Advisory Council:

> We consider sentence indication would be unlikely to have a significant impact on the timing of defendants' plea decisions in the Supreme Court or that court's case load and for this reason have recommended against the introduction of such a scheme in that court.

So we have a head-on inconsistency between what the Attorney-General told this house about the Sentencing Advisory Council's report and what the council itself recommended. That is of concern not only in relation to the assessment of this issue but in relation to the veracity of the statements that were made to this house by our Attorney-General and whether or not his conduct has been inadvertently or deliberately misleading or deceptive of this house. I believe the Attorney-General owes this house an explanation in closing the second-reading debate, if not a personal explanation, as to how he came to make a statement to this house in the second-reading speech that is completely at odds with what the Sentencing Advisory Council recommended.

There are a wide range of issues that the Sentencing Advisory Council addressed and made recommendations on that appear to have been brushed aside, ignored or departed from in the bill before the house. The opposition is very much looking forward to these discrepancies being addressed by government members during the course of this debate. For example, the Sentencing Advisory Council recommended that the sentence indication regime not be introduced at large for the Supreme and County courts — as the bill does. The council said that not only in relation to the Supreme Court, which I have just referred to, but it was explicit in saying that in the County Court sentence indication should be introduced as a pilot project. There is not a word about this being a pilot project in either the bill or the second-reading speech.

In recommendation 6 on page xv of the report there is a detailed prescription of the framework for a pilot sentence indication scheme recommended by the Sentencing Advisory Council, and there are many elements of that framework that are not addressed either in the bill or in the second-reading speech. In particular paragraph 2 of recommendation 6 says:

> There should be a requirement for the victim to be consulted if a request for the sentence indication is made.

In this instance that is referred to as being the intention in the second-reading speech, but it is not in the bill. The Sentencing Advisory Council recommended in recommendation 7 that:

> The Victorian government should review whether the current statute provisions governing the involvement of victims in criminal proceedings are adequate to ensure that victims will be consulted if a defendant requests sentence indication, and enact any amendments required to achieve this effect.

I would have thought that at the very least the second-reading speech should have addressed this issue and should have told the house whether or not the government had addressed and reviewed the adequacy of the current statutory provisions and provided some sort of assurance to the house that it had. If there had been any doubt about that matter, I would have thought the most straightforward approach would have been to make that requirement explicit in the bill before the house. One of the key concerns about the regime the government is introducing is that it is cutting out victims from the process.

The sentence indication takes place at an early stage in the proceedings before all the facts of the crime are before the court and certainly before it would be appropriate to bring a victim impact statement before the court. Therefore a victim can be locked out of the process. A sentence indication can be given, but it might be that down the track when further facts come out it transpires that the offence was far more heinous than appeared at an early stage, and by that time it is too late. If the victim is to have any input into the process, as follows from good principle as well as from some of the sentiments in the government's own victims charter, then it is vital to ensure the victim has a proper say, through the prosecution, as to whether or not the accused is able to apply at that particular stage for a sentence indication. Yet none of that is addressed in what has come before the house.

Other aspects that were recommended but are missing from the bill are:

> If the judge indicates that an immediately servable term of imprisonment will not be imposed, he or she should be required to state whether, but for a guilty plea being entered at that stage of the proceedings, a more severe type of sentence would have been imposed.

That has just disappeared as far as the bill is concerned. Similarly, recommendation 8 states:

> The Chief Judge should issue a note or direction to require a judicial officer, when providing a sentence indication, to state whether, but for a guilty plea being entered at that stage of the proceedings, a more severe sentence (an immediate term of imprisonment) would be indicated.

Again it may be the intention that there be a note or direction to that effect made under the regime in the bill, but it is not referred to.

Last, but certainly not least, is the caution set out by the Sentencing Advisory Council at the end of its recommendations at page xvi. I quote:

> The council cautions against the inclusion of sexual offence proceedings in a pilot sentence indication scheme and suggests that proceedings in relation to fraud, other property and illicit drug offences may be particularly suitable for inclusion in a pilot project.

Other parts of the report make clear that the Sentencing Advisory Council is of the view that sexual offences should not be included in the County Court pilot in view of their sensitivity. Yet the bill and the second-reading speech are totally silent on this point. It seems the government has determined to include sexual offences in this regime, contrary to the strong urging of the Sentencing Advisory Council. The opposition calls on government members and on the Attorney-General to address this point during the course of the debate.

It is not only the opposition that has grave concerns about many aspects of this bill. Certainly feedback I have received from a number of criminal barristers whose views I greatly respect backs up those concerns. It is fair to say there are other criminal barristers who are supportive at least of the general direction in which the legislation is going. But it is important that, if this legislation is going to proceed, we get it right and do not have a rushed, ill-considered regime that is going to substantially affect the rights and responsibilities of various parties to criminal proceedings and affect the operation of the criminal justice system as a whole.

On top of these sources of concern there is the report of the all-party Scrutiny of Acts and Regulations Committee. I have to say that I have seldom seen a more detailed and far-reaching critique of a bill brought before this house than the critique of the current bill in the report by SARC. SARC has raised a wide range of concerns, and it has referred many issues to the Attorney-General seeking further input. SARC's concerns raise many points that should give this Parliament real cause for pause before proceeding with the legislation. On page 7 of the Scrutiny of Acts and Regulations Committee *Alert Digest* No. 16 of 2007, 4 December, it states:

> The committee observes that neither this provision nor Victoria's courts have, to date, placed any quantitative limit on the extent of the discount that may be available for a guilty plea. The committee also observes that a substantial sentence discount for pleading guilty, if communicated to defendants, may place pressure on them to plead guilty.

SARC goes on to say:

> The committee observes that this procedure may place such defendants under heightened pressure to plead guilty, especially if the sentence indicated is a generous one.
>
> …
>
> The committee refers to Parliament for its consideration the question of whether or not the procedures provided for by clauses 3,4,5,7 and 15 may be incompatible with defendants' charter rights not to be compelled to plead guilty.

I should indicate at this stage not only that the SARC report raises a range of legitimate concerns about this legislation but also that it points out some of the convolutions which not only SARC but public servants, this Parliament and the court system are being and will in future be put through for no particular benefit as a result of the specifications in the Charter of Human Rights and Responsibilities Act. I have been very critical of that act in the past. The SARC report makes clear how many complex issues can be triggered, not necessarily with good cause and on their merits but by SARC doing its duty and applying the Charter of Human Rights and Responsibilities Act to this bill. It is ironic that this bill is an illustration of the fact that the Attorney-General himself is being tied up in the very red tape that he has created.

At page 9 of the SARC report the committee addresses the same concern that I have referred to earlier about the effects on victims' rights. It states:

> The committee observes that sentence indication hearings may occur at an early stage and that victims therefore may not be as involved as they are in regular sentencing hearings. The committee therefore considers these provisions therefore engage the charter rights of victims to liberty and security to the extent that these are advanced by participation in the sentencing of those who committed offences against them.

The committee goes on to talk about other discrepancies between the Sentencing Advisory Council report and the bill along the lines that I have previously mentioned. It talks about issues of whether the bill will cause delays in criminal trials. If a defendant does not plead guilty after receiving a sentence indication, the court needs to be reconstituted. How will that operate in practice?

At page 10 the committee indicates it is seeking further advice from the minister as to what mechanisms are in place to ensure that victims are adequately consulted prior to a sentence indication hearing, whether, if a defendant pleads guilty but the court is reconstituted prior to the sentencing, the new judge will be bound by the sentence indication, and whether there is a reason why not. It is also seeking advice from the minister on whether, if due to a reconstitution of the court or a

successful Crown appeal against sentence, a defendant who pled guilty after a sentence indication receives a higher sentence than the one indicated, the defendant will be automatically entitled to withdraw the guilty plea. These are all very fair and reasonable questions that should have been thought of and responded to by the government and the Attorney-General before this bill came before the Parliament.

SARC then goes on to raise a very interesting and legitimate concern in terms of following its duty to apply the charter, and that is in relation to the offence of wilful exposure. The committee refers to the charter provisions that provide that a person who commits a criminal offence the penalty for which is reduced before the person is sentenced is eligible for the reduced penalty. SARC goes on to make it quite clear that in some instances, as a result of setting a maximum sentence for wilful exposure, an accused ought to but would not get the benefit of this provision of the charter.

One might not have all that much sympathy for the people who commit wilful exposure, and the practical consequences of this issue may be minor indeed, but it is an illustration of the complexities that the Attorney-General has created for himself and for everybody else with the overly prescriptive provisions he has included in the charter. At page 13 of the SARC report the committee indicated it is seeking further advice from the minister about clause 13 of the bill, which relates to charges not being struck out if there are delays in paperwork, and whether that will impede the defendant's access to information and lengthen the period between commencement of proceedings and the trial. SARC also raises concerns about the requirement that people will no longer be able to reserve their plea upon committal in the Magistrates Court.

These are the concerns that SARC has. Some of them are founded in attention to good principle and the rule of law; others are founded in the provisions of the charter that may or may not be in accordance with good principle and the rule of law, but they all need to be addressed.

The opposition has particular concerns about the bill. I have already described our concerns about victims being cut out from consultation and the fact that a judge may well be locked into an indicated sentence despite further information that might become available during a sentence hearing. There is going to be enormous pressure on judges to give indications of non-custodial sentences in order to clear case backlogs and reduce workloads, and that is echoed by the fact that, as the council itself made clear, one of the motivations for this reference was the government's desire to address problems of delay and heavy workloads.

It is legitimate to some extent to provide a reduction in sentence for those who plead guilty, particularly when it is accompanied by indications of remorse and/or attempts at rehabilitation. However, the last thing we want is a government that goes even softer on crime than it already is simply for the purpose of trying to clear some of the massive backlog of cases that the government has allowed to build up in our court system. It should be working to make our court system operate more efficiently and to ensure that the state has an adequate number of judges rather than opening up the way to even more lenient sentences in order to try to remove some of the backlog.

In practice it is going to be difficult for courts to specify what the discount is purely for the plea of guilty compared with discounts for remorse, rehabilitation or other factors requiring a judge to determine. Requiring but-for sentences is going to add to sentencing complexity and open up potential grounds for appeal. There is also a risk of forum shopping in terms of defendants being able to force the reconstitution of a court by virtue of asking for a sentence indication and then pleading not guilty. The government has also not explained why it has included the Children's Court in the bill before the house when the Sentencing Advisory Council specifically decided not to address the issue of the Children's Court in its report.

Victim representatives that I have consulted are very concerned about departures from what was in the consultation process and the Sentencing Advisory Council report in terms of what is in the bill. Those concerns are understandable.

The opposition's position is that we are not going to oppose this bill in the Assembly, but the position we take on this bill in the Council is going to be very much determined by the future course of events and in particular what response we receive from the government and the Attorney-General, both in this debate and in the response to SARC, to the many concerns that we have raised.

This seems to be yet another example of a bill that has been rushed into Parliament by an Attorney-General more intent on big-picture items and on grand statements than on trying to do something about the backlog in crime, rather than by an Attorney-General who has carefully considered the issues, come up with a well-structured bill, balanced the many competing considerations and ensured the bill genuinely promotes

justice rather than being simply soft on crime in order to cut down on the backlog in the court system.

Mr RYAN (Leader of The Nationals) — The Nationals have reserved judgement in relation to this legislation because there are many elements of it about which we have concerns, and we would like the issues that have already been referred to by the member for Box Hill — and those many other issues that are dealt with by the Scrutiny of Acts and Regulations Committee in *Alert Digest* No. 16 — to be addressed before any final decisions are made by our party as to how we are going to approach this issue. That will become the focus of further discussion as the legislation moves to the Legislative Council.

I take the opportunity to say that the whole issue of sentencing and its being the subject of consideration in this legislation legitimately offers the chance to again put the case for the introduction of standard minimum sentencing in Victoria. It is a system which operates in New South Wales. It provides far more certainty to all stakeholders, particularly those who are charged with crimes and the victims of those crimes, the persons involved in the court system at all levels — from the judiciary to those who are there in a representative sense — as well as the community at large. We believe much comfort is offered to the community by sentencing that occurs in an environment where people are much better informed about how the process of dealing with those who are convicted of the most serious and heinous of offences will operate.

Members will be aware that under the system in New South Wales prescribed sentences for about 20 or 25 of the most serious offences are set out in legislation. The court then has a capacity which is inviolate, in that it can interfere with the extent of those sentences if it so wishes, so that the all-important ability of a judge to exercise their discretion to vary a standard minimum sentence is preserved, which is so fundamental to the way our system of law operates.

Just as members of the public can see references to the most serious of offences set out in that legislation — be it murder or sexual offences of different sorts or otherwise — equally, they can see in the legislation the standard minimum sentences that are applicable to them. Working from there the court then fulfils its important role of putting the two concepts together, so that if a judge determines that there should be a variation from a standard minimum sentence, they can vary that. The qualification is that the rationale for departing from the standard minimum sentence must be explained in the judgement and must be in conformity with the many criteria which are set out in the legislation. Needless to say, a variation on sentence can be either up or down. But I believe it gives everybody a much better starting point for having confidence in the way the sentencing system should operate.

This legislation is said by the Attorney-General to be reflective of — I think that is the term he used — not all but the majority of the recommendations arising from the report of the Sentencing Advisory Council. In 2005 the council was given terms of reference to consider these issues, and in September this year it delivered its final report in a substantial tome comprising about 150 pages.

I must say that our causes for concern are various. In the interests of time I do not want to again refer to the matters raised by the member for Box Hill, because I think he has accommodated well the conflict, and in some instances the open conflict, between the content of the recommendations made by the Sentencing Advisory Council and what is contained in this bill. Even worse, as the member for Box Hill has pointed out, the content of the second-reading speech does not conform — in part, at least — with the material from the Sentencing Advisory Council, despite the fact that within that speech there are assertions that such is the case.

These are fundamental points, and they go beyond the scope of the legislation now under discussion. The Attorney-General and other members of the government who intend speaking on this legislation need to explain to the Parliament the rationale behind these disparities, which are very obvious in some respects, as the member for Box Hill has pointed out. Therein lies our first element of concern about the operation of the legislation.

The second issue relates to a lot of fundamental points around the notion of having a carrot-and-stick approach to the way criminal trials are dealt with in Victoria. In addressing this you must make the distinction between the various developments in our civil jurisdiction over the years and what we are looking to do here insofar as the criminal jurisdiction is concerned.

Having practised for about 15 or 20-odd years, primarily in the civil jurisdiction, I became an advocate for the mediation system and for the notion of doing away with trial by ambush. I became a supporter of the fact that it is better to get the parties to a particular dispute around the table, particularly the bagman — the person with the money, whoever he or she might be — because ultimately if you are going to settle a case you have to have them there. In the civil jurisdiction you need to have the means whereby you can bring about

the resolution of a case as early as possible. That is a good thing, for all the obvious reasons.

The history of civil litigation is such that the vast majority of cases settle prior to trial — and historically settlements occurred with monotonous regularity at the proverbial door of the court. But the whole notion of introducing the system of mediation was to try to enable those settlements to be achieved at an earlier point in time than had been the case. That gave everybody certainty, and it was obviously better for the operation of the system of justice in that jurisdiction, because it permitted more cases to be dealt with.

It is a sort of carrot-and-stick approach, if you like, to the point where now it can be said that in all jurisdictions which are of a civil nature no case can actually go to court without having been subjected to a court-ordered mediation. I think that is a very good thing. But even bound up in the notion of the resolution of a case in the civil jurisdiction there are, by definition, issues of concessions having to be made by the parties involved. In the very broad, the concessions usually made are that the plaintiff does not think he ever gets enough and the defendant always believes he is paying too much. You are looking for the middle ground to try to bring those two fundamental forces together to achieve a resolution of which everybody is accepting, if not necessarily happy with, on the basis of getting finality and walking away from it.

The operating factors that are influential in the criminal jurisdiction are very different. They are different because you are talking about the probability of someone being subjected to having a criminal offence recorded against their name by way of a judgement arising from a court determination in whatever form. To be convicted of a crime has enormous consequences for the way in which we collectively live our lives. It is a perpetual stain upon the name of the individual to whom it applies. We should also remember that the criminal justice system, which governs the way in which criminal trials are dealt with, the way in which people who are charged with criminal offences are dealt with and the way in which those who are victims of crime are able to see justice delivered, is a system which, by definition, is extremely fragile in nature. It is very easy to damage it in a way which means we are not doing justice to people at the different levels of the system. It is something about which we have to be extraordinarily careful.

That applies in so many ways, and to the extent that I was involved in doing criminal work over the years I think particularly of those in the community who are disadvantaged financially or through some form of intellectual or physical impairment, those who find it hard to make a judgement as to what they ought do in any given circumstance, let alone when they are faced with the prospect of what might arise from a criminal trial. These people are critically important, and one of the true benchmarks of the way in which we operate as a community is how we look after these people and ensure that justice does properly apply to them. They are only one element — a significant element, but only one nevertheless — of the many stakeholders engaged at different levels of the criminal justice system. It is different in that sense from the civil system.

There are so many people doing so many different things within the criminal justice system whose interests need to be considered, all the way through from the police officers involved in the investigation of crime to those who are preparing the briefs, to those who are involved in the actual prosecution at whatever level of the jurisdictional system, to those who are then subject to those charges; and in the end to those who are the victims, those who have had offences committed against them, and to all of those who in turn are associated with those victims. The judicial system in all its forms, at all its levels, goes on and on and on. We have stakeholder representation here, which is also far more extensive in many respects than the civil jurisdiction.

The other factor which is important in this is that criminal trials are dynamic by nature. Although over the years we have increasingly introduced mechanisms whereby the facts of any given alleged crime are increasingly made known in the form of briefs which are exchanged between the parties so that everybody has removed this notion of trial by ambush, as I have already termed it, nevertheless the factual circumstances evolve as further investigations are conducted and as a trial is imminent, let alone in the course of a trial. I mention this in the context of the sentence indication process which is intended to be employed under the terms of this legislation, the finality of which applies to some aspects of the way the legislation is to operate. It concerns me. I know from my own experience that factual circumstances are very dynamic, and it is contradictory in a sense to getting a right and just outcome for everybody involved to have hard-and-fast rules in the nature of those that surround some aspects of the sentencing indication system which is set out here.

Those fundamental reasons to do with, I suppose, my own philosophy of how a fragile criminal justice system has to be protected make up the second reason why we as a party have some severe reservations about this legislation, while on the other hand not wanting to

have a voice against it in a complete sense or to vote against it here. But we do want these things resolved. As I say, that is the second reason for our concern.

The third reason lies in the expression of those concerns contained within *Alert Digest* No. 16. I echo the sentiments the member for Box Hill expressed in his remarks. He has not seen the like of this form of document come before the Parliament. Certainly in the four years I chaired the committee we did not prepare anything of this breadth. Of course most of this report comes under the charter report, which in turn forms an element of the Scrutiny of Acts and Regulations Committee reports to this Parliament. I say to all members of this house who are in the chamber now and those listening that the report in *Alert Digest* No. 16 bears consideration by anybody, and it should be all of us, who has an interest in these matters.

Under a total of seven different headings spanning 10 pages the Scrutiny of Acts and Regulations Committee has reflected its concerns about the content of this legislation in the context particularly of the charter and the way in which it sees there being numerous conflicts. On my count there are 17 individual queries which have been posed by the committee to the Attorney-General arising from the expressions of concern recorded by the Scrutiny of Acts and Regulations Committee. I go so far as to say that for us to be having this debate at a time when these numerous, fundamental queries have been made of the Attorney-General by an all-party committee of this Parliament is something which in itself ought be a concern to this place. We should properly have the answers to these questions that have been raised by the committee before we go to a consideration of this legislation.

I do not want to go through all the questions, because time is always an element, but ironically enough the very first issue that is raised under the terms of the charter report and appearing at page 7 is the compulsion which a person who is charged with a crime could inadvertently feel, through the fact of these propositions advanced in this legislation being applied to that individual, to thereby bring about a thought in his or her mind, 'I have to plead guilty to this'. For all the reasons I have set out already and for those that are reflected in the course of this report, this is amongst the most basic areas of concern to me and The Nationals.

The report reflects the fact that the charter provides that people charged with a criminal offence:

> … must not 'be compelled to confess guilt.' A confession of guilt includes a plea of guilty.
>
> The committee notes that the bill permits or requires sentencing courts to inform defendants, in three ways, about the impact of a guilty plea on their sentence …

The report then goes on at page 7 to reflect those three ways and says:

> The committee also notes that existing s.5(2)(e) of the Sentencing Act 1991 provides that courts (other than the Children's Court) sentencing defendants must 'have regard to whether the offender pleaded guilty to the offence and, if so, the stage in the proceedings at which the offender did so or indicated an intention to do so'.

The committee goes on to make the observation that:

> … neither this provision nor Victoria's courts have, to date, placed any quantitative limit on the extent of the discount that may be available for a guilty plea. The committee also observes that a substantial sentence discount for pleading guilty, if communicated to defendants, may place pressure on them to plead guilty.

This is the critical sentence which encapsulates our concern over this most basic of points. The report says:

> The committee therefore considers that clauses 3, 4, 5, 7 and 15 engage defendants' charter rights not to be compelled to confess guilt.

I worry that on just this one component of this legislation what we will do is introduce a system where people who are disadvantaged and not able to make the judgements which are so fundamental to their future will be under enormous pressure to plead guilty simply because they think that that course of action is better than going to trial — the discount they are being offered and the indication that has been given to them convinces them to think, 'Although I didn't commit this crime, I'm better to take this option of pleading guilty to the charge because it will spare me the effects of a trial in all its forms, personal, financial and otherwise'.

I think dreadful implications arise from this. The government has a clear incumbency to deal with the matters that have been raised by the committee in the course of the report. I am touching on only one matter; there are another six under the total of seven headings. The report is recommended reading to anybody in this place who has an interest in this — and, as I say, we all should. More particularly, for those of us who do regard our system of justice as fundamental to the way our communities function, these are basic issues which the government must address.

Mr LUPTON (Prahran) — I am pleased to make some contribution this morning in support of the Criminal Procedure Legislation Amendment Bill, which in the main deals with important reforms to our criminal justice system in relation to sentence discounts and sentence indications in our court system. The

legislation arises from a reference given by the government to the Sentencing Advisory Council to make recommendations to the government in relation to these sentencing issues. The council provided the government with a very comprehensive report, and the government has in the main brought the recommendations of the council to the Parliament in this legislation.

The opposition and The Nationals have raised a number of issues, some of which I will address in the time I have today. Other matters will be addressed by the government later in the debate. I should say at the outset that a number of the issues raised by the opposition and The Nationals in essence go to whether one in a sense philosophically supports the notion of sentence discounts and sentence indications being given by the courts. In a sense that also goes to the question raised by the Scrutiny of Acts and Regulations Committee that was referred to by the Leader of The Nationals.

The importance of sentence discounts and sentence indications is that they will enable our court system to more appropriately and efficiently deal with a number of cases that come before our courts. So long as the system of sentence discounts and sentence indications is set up in an appropriate way, which we believe this legislation will do, then the appropriate safeguards that need to be in place, the appropriate balance between prosecution and defence and the interests of victims in the criminal justice system are properly protected.

There are clearly many efficiencies that we can bring into our criminal justice system by an appropriate and sensibly balanced reform which gives some benefit to an earlier plea of guilty than is often the case now. In many cases that come before our courts an ultimate plea of guilty is made at a very late stage. If there is a sensible way, while protecting the rights of all the parties concerned, that that guilty plea can be made at an earlier point, then there is not only a saving for criminal justice but also an immense improvement in the way our justice system works, particularly for witnesses and victims in criminal trials. Particularly for victims but also for witnesses, the need to give evidence — often more than once — can be and is a traumatic experience. With this proposed process of giving the courts discretion in relation to sentence discounts and sentence indications, we will find that the criminal justice system works more effectively in terms of making sure that it is efficient and that the interests of witnesses and victims in particular are safeguarded.

I will deal just with issues of sentence discounts and reforms in the context of how the system works currently and how the changes will affect it. Currently the courts have an obligation to have regard to the timing of a guilty plea when they determine an appropriate sentence. As a result of a guilty plea being entered, they may impose a lesser sentence, as is contained in section 5(2)(e) of the Sentencing Act. At the moment there is no requirement for the court to indicate the weight of the guilty plea or its effect, if any, on the sentence that the court imposes.

Under this legislation the Magistrates, County and Supreme courts will be required to identify the amount of a sentence discount given for a guilty plea where custodial sentences and particularly large fines are imposed. If, for example, someone is sentenced to imprisonment or a combined custody and treatment order, a home detention order or an intensive corrections order, that will follow. These courts may also identify the amount of any sentence discount given for any other, lesser sentencing order, so they will have a discretion to do it in that situation. They will not be required to, but will have that discretion.

The Children's Court will also be required to identify the amount of a sentence discount given for a sentence order that includes detention. It is important to recognise that the courts will retain their full discretion on whether to give a discount and the amount of any discount. It is important that it is recognised that the courts will still have that unfettered discretion in their sentencing role.

The amendments made by the bill allow the courts to provide to an accused a sentence indication in addition to these matters of discounts. The Magistrates and Children's courts will be able to give accused persons an indication as to the type of sentence that will be imposed if they plead guilty at that time. Informal sentence indication processes for contested summary matters in the Magistrates Court have in fact been available since 1993. The reforms contained in this legislation will give that formerly informal process a sound legislative footing. The County and Supreme courts will also be able to provide sentence indications as to whether the accused would or would not be likely to receive an immediately servable term of imprisonment if they plead guilty at that particular time.

A sentence indication may be provided only once, following a request from the accused, and it has to be with the consent of the prosecution. There is not a limit on the number of times an accused can seek an indication, but once an indication has been given, that is the end of the matter. Further on the amendments, the Sentencing Advisory Council made recommendations that, where a decision to give or not give a sentence is

made, it be final and conclusive. Anyone looking at the matter logically would agree that, if there were review and appeal rights arising out of a sentence indication, then that would have the opposite effect from that intended. It would lengthen the trial process and make it more complicated, rather than the opposite, which is the intention of this legislation.

I think it is fair to say that in criminal justice matters not many situations arise where there is so much agreement among different interest groups about the way forward, but when sentencing discounts were announced earlier in the year there was quite a bit of media interest and the amount of agreement about the way forward was very significant. There were many media reports but I will just refer to one that appeared in the *Herald Sun* of 22 February this year, which was headed 'Approval for jail discount'. The report says:

> The verdict was unanimous yesterday when judges, lawyers and even crime victims all welcomed a proposed sentencing discount scheme.

It goes on to say:

> Chief Justice Marilyn Warren —

the Chief Justice of the Supreme Court of Victoria —

> said … early identification of cases where the accused was likely to plead guilty had 'significant benefits for victims, the criminal justice system and the community at large'.

The article continues:

> Law Institute of Victoria president Geoff Provis said the institute thought the discount plan was a good idea.

It goes on to report Criminal Bar Association chairman Stephen Shirrefs, SC, as saying that 'his members supported anything that could lead to more consistency, certainty and transparency'.

We can see that there is very significant support across a wide range of interested parties for this legislation, and I believe the interests of all parties in the criminal justice system are going to be well served by this process. Some of the concerns that have been raised by the opposition and by The Nationals, frankly, go to questions of whether or not our judiciary is to be trusted in making sure that people who plead guilty rightly plead guilty. Our judges and magistrates in this state are well positioned to ensure that this new system works properly in the interests of the people of Victoria, and I support the bill.

Mr WAKELING (Ferntree Gully) — It is with pleasure that I rise to contribute to the debate on the Criminal Procedure Legislation Amendment Bill. As the member for Box Hill and the Leader of The Nationals have done, I will also be raising concerns I have with this piece of legislation. I start by firstly thanking members of the department for their assistance in the bill briefing. It was quite interesting that when we asked specific questions of some of the representatives of the minister's department they were unwilling to provide us with an explanation of long-term objectives in regard to this bill. This identifies and articulates the concerns that many people have about this government's actions with respect to the criminal justice system.

We certainly have concerns about this government's approach to the way it deals with crime, particularly victims of crime. One has only to look at legislation that has come before this house this year to see that victims of crime and their concerns will be bypassed, and I will deal with that in a moment. Despite the spin and the rhetoric, this is a government that is soft on crime. One only has to talk to people in the community, as I do and as the member for Box Hill and other members on this side of the house do, to hear about the rise in criminal offences and how the criminal justice system is not adequately dealing with these issues.

In principle this bill sounds fine, but one can only assume that it is being used as a vehicle to clear the backlog of cases that are currently before the criminal justice system. As has been pointed out, this bill will introduce the ability for guilty pleas to ensure a reduction in sentencing. Judges will be required to provide an indication to the court as to what the sentence would have been had the offender not pleaded guilty. This is a consequence of the Sentencing Advisory Council's report, handed down in September this year.

We have a number of concerns about the way in which this government has sought to deal with the Sentencing Advisory Council's recommendations. In the second-reading speech the government indicated that the Sentencing Advisory Council had recommended that sentence indications be extended to the County and Supreme courts. Anyone who read the report of the Sentencing Advisory Council would understand that the council concluded against indications in the Supreme Court and recommended that County Court indications be initiated purely on a pilot basis. This government is seeking to use the report in a way the Sentencing Advisory Council did not recommend.

The Sentencing Advisory Council also cautioned against the inclusion of sexual offences in the County Court pilot program in view of the sensitivity associated with those matters. Of course that is not reflected in

either the bill or the second-reading speech delivered by the Attorney-General. The council also recommended that the prosecution consult with victims before consenting to a sentence indication request. The second-reading speech says that will occur, but it is still not provided for in the bill, and the speech does not address whether the existing legislation is adequate to ensure that it does.

As members can see, there are more issues raised than answered by the content of this bill. Like many pieces of legislation this government brings before the house, we will see further amending legislation back before the house in the not-too-distant future to deal with these issues and fix the mess because this government is unable to get it right in the first instance.

One very important issue raised by the member for Box Hill is the potential for victims of crime to be cut out of the sentencing process by this new piece of legislation. A judge is bound not to hand down a sentence higher than the sentence indication, therefore one can only assume that the influence of victim impact statements, which are so important and vital for people who are victims of crime, will be diminished as a consequence of this piece of legislation.

The judge will be locked into the indicated sentence, despite further information that the victim may well put forward during their impact statement which may highlight a more serious nature of the offence. I am concerned about victims of crime not being afforded their just rights with respect to their ability to put forward necessary information as part of a victim impact statement. Victims of crime certainly have a supporter on this side of the house; they have a supporter in me.

I would like to put on the record the wonderful work of my constituents Noel and Bev McNamara, who have fought tirelessly in the community for victims of crime. Often they have been the lone voice against a government that is unwilling to listen and take up the concerns of victims of crime. Noel and his supporters have vehemently fought to ensure that the rights of victims are heard loudly within the state.

But members should not take it from the Liberal Party or from The Nationals that there are concerns with this legislation; they should take it from the government's members on the Scrutiny of Acts and Regulations Committee (SARC). I would like to acknowledge and thank the chair of that committee, who is the Labor member for Brunswick. He had the fortitude to put his name to a report which indicates significant concerns with this government's own piece of legislation.

As the Leader of The Nationals indicated, in *Alert Digest* No. 16 of 2007 the Scrutiny of Acts and Regulations Committee identifies over 17 problems with this piece of legislation. That is unheard of. I listened with keen interest to the contribution from the member for Prahran, waiting for him to indicate that this government is willing to listen to the concerns raised by SARC, but not once did I hear the member for Prahran say, 'This is a government willing to listen. This is a government willing to stand up and say, "We made a mistake and we need to fix this piece of legislation"'. This is a government that says, 'We do not care about SARC; we do not care about the community'.

As we saw yesterday with the government seeking to introduce its annual statement, this is a government more interested in spin; this is a government more interested in headlines; this is a government more interested in how lauded the Premier and Deputy Premier are. It is not concerned about the views of the Victorian community. It is not concerned about the victims of crime, and it is certainly not concerned about the concerns of its own members, who both chair and comprise the majority on the Scrutiny of Acts and Regulations Committee.

The Scrutiny of Acts and Regulations Committee raised a number of concerns, but time does not allow me to go through them all. It raised concerns with respect to the compulsion for someone to potentially plead guilty as a consequence of this legislation. The committee linked those concerns with the government's own Charter of Human Rights and Responsibilities Act. It is interesting to note the number of times we hear the government talk about the charter and how important it is. It then has to spend half its time squirming its way out of having to explain why its own legislation breaches the very charter that it so proudly trumpets as being an important piece of legislation in this state.

Concerns have been raised about the sentence indication hearings. More importantly, as I indicated before, the Scrutiny of Acts and Regulations Committee — which is chaired by a member of the Labor Party — also raised concerns about the potential rights of victims. The Liberal Party is willing to stand up for the concerns of victims of crime in this state. We want to ensure that victims of crime have the best piece of legislation in place to ensure their rights are upheld. I can only hope this government will listen.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak on the Criminal Procedure Legislation Amendment Bill. This bill gives further effect to the government's commitment to ensure our justice system

is fair, accessible, open and transparent, but more importantly it gives effect to our commitment to ensure we address the pressures that exist on the system.

The Sentencing Advisory Council has made a number of recommendations in relation to sentence indications and discounts, which this bill addresses, which will reduce the pressures on our courts. They are recommendations which complement our commitment to reduce delays in the court system, to reduce the stress and trauma that victims experience in appearing in court and to ensure that justice is carried out expeditiously. Because of the reforms that have been introduced over the last decade, I think most of us are aware of the trauma that can be imposed on victims by unnecessarily protracted court cases. In many cases the need to go through the arduous, technical aspects of giving evidence can magnify the trauma that victims experience, and this bill will help to reduce that trauma. Of course those offenders who are charged with an offence have every right to the presumption of innocence. That is a foundation stone of our justice system. They have the right to have those charges contested in open court.

The opposition seems to have overlooked the fact that this bill changes nothing about the processes and the procedures that will operate in our courts. People will still have legal representation in the court. They will still have the right to contest each and every aspect of the charges. They still have the right, if they wish, to enter a plea of not guilty. But there are also many instances where offenders who are guilty have put victims, including children, through the quite unnecessary trauma of a trial and cross-examination. These reforms will encourage those who are guilty to plead guilty early.

Contrary to what the opposition has said, these reforms introduce far greater transparency into a process that in many instances has been operating informally. The bill will ensure that appropriate measures are in place to protect victims but also to protect the rights of the accused, and ensure that punishment is exacted in a more open and accountable way.

Under this bill, judges will be able to declare in open court what discount they have given for a guilty plea, if any, when passing sentence. They will be able to indicate that they are giving some discount on the sentence they might otherwise provide for an early guilty plea. Sentencing discounts are not new. They have been used by our courts under the current regime. Under this current regime a court must consider a guilty plea, and the stage at which it was entered, when determining a sentence. That is what happens now. This is not a reward or about letting people off lightly. This is not about saying, 'Okay, because you have pleaded guilty we are going to let you off lightly'. People will still be sentenced under this regime, and they will still be subject to penalties.

However, a guilty plea earlier in the process will bring greater closure for victims and their families, and it will help victims in the process of recovery. We know it is critical to the recovery of victims that the offender acknowledges not only the fact that an offence has been committed but also the impact that offence will have on the victim. A guilty plea will help do that. It has been suggested that in some way an early guilty plea is going to cut victims out of the process. That is absolute nonsense. The last speaker made the suggestion that somehow the impact of a crime upon a victim will not be considered. The prosecution, in making the case, and the judge, in determining the sentence that will be imposed, will still be required to give consideration to the impact of that crime on the victim.

Mr Clark — It is not in the bill.

Mr HUDSON — It is not changed by the bill. The member for Box Hill says it is not in the bill. There is nothing in the bill that changes whatsoever the consideration that the court will give to victim impact statements. Nor does it change the requirement that the judge take those into account. There is nothing in the bill that extinguishes that; there is nothing in the bill that in any way limits those provisions. They will continue to operate as they have operated before.

As I was saying, this bill is about formalising the process. It provides clarification for our judges in relation to early guilty pleas and sentence discounts. It will provide a much greater sense of accountability and openness, so that victims, the public, defendants and lawyers actually understand the court processes and how they work.

The Sentencing Advisory Council warned against courts adopting a specified sentencing discount scheme because set discounts would fail to take into account the individual circumstances of particular offences and can unfairly induce pleas and result in disproportionate and unduly lenient sentencing. We have taken note of that. However, what we are doing here is providing a framework around what judges are doing at the moment. I emphasise that, contrary to what the opposition has sought to put forward today, the stakeholders in this process are very supportive of these reforms.

According to an article in the *Herald Sun* of 22 February 2007:

> The Crime Victims Support Association said discounted sentences were acceptable as long as victims were included in the process.

As I have indicated, they will be included in the process, as they have been before. There is nothing in this bill that prevents them being included in the process. The article continues:

> The chief justice … said yesterday early identification of cases where the accused was likely to plead guilty had 'significant benefits for victims, the criminal justice system and the community at large'.
>
> …
>
> Law Institute of Victoria president Geoff Provis said the institute thought the discount plan was a good idea.
>
> Criminal Bar Association chairman Stephen Shirrefs, SC, said in principle sentence indication and discounts were 'a move in the right direction'.

Mr Shirrefs was fully supportive of the move. I do not know where opposition members are on this bill.

Mr Clark — We want answers.

Mr HUDSON — The member for Box Hill says they want answers. They are seeking answers in this bill which are already provided for in the processes of the court. This bill does not alter any of the ways in which criminal trials are undertaken. It does not alter any of the ways in which victim impact statements are given consideration. It does not alter any of the ways in which the court proceeds where people who wish to plead not guilty and have their cases heard in open court are considered. All it does is provide a framework around which early guilty pleas and sentencing discounts can be considered by the offender and the court.

This is excellent legislation. It will reduce delays in our courts. It will provide greater transparency around the issue of sentence discounts and early guilty pleas. It will spare victims the trauma of having to give unnecessary evidence in order to satisfy the technical requirements of not guilty pleas. I commend the bill to the house.

Mrs VICTORIA (Bayswater) — The Criminal Procedure Legislation Amendment Bill 2007 has many purposes, but essentially it requires judges to disclose sentence discounts for guilty pleas. It also allows judges to give indications of the sentences that accused persons would receive if they were convicted, and it makes miscellaneous amendments to criminal law and procedure.

Some of the main provisions are that, if a court imposes a less severe sentence because an accused pleads guilty, then the court must state the sentence it would have applied but for the guilty plea in cases where the offender is jailed or fined more than 10 penalty units for one offence or an aggregate of 20 penalty units. In the case of the Children's Court, the but-for sentence must be stated if a child is sentenced to a youth attendance order, a youth residential centre order or a youth justice centre order. In other cases of guilty pleas the court has the option of stating what the but-for sentence would have been. That is outlined in clauses 3 and 4. It is interesting to note that there is an option there, but in some of the lesser cases it is a must rather than an option.

At any time during a Magistrates Court criminal proceeding the court may indicate that, if the defendant pleaded guilty at that time, the court would be likely to impose a jail sentence or a sentence of a specified type. If the defendant pleads guilty at the first available opportunity, which is obviously what this is encouraging people to do, the court may not impose a more severe sentence than indicated. I will come back to that, because I think it is a pretty important point.

The bill also changes provisions applying to criminal proceedings in the County and Supreme courts. On application of the accused, and with the consent of the prosecutor, the court may indicate that, if the accused pleaded guilty at that stage, it would or would not be likely to impose a jail sentence.

A maximum of five years imprisonment is being set for the common-law offence of wilful exposure. Currently there is no maximum sentence for that offence, so that is a fairly interesting addition in clause 12. A provision that is worthy of note is that the striking out of charges in the Magistrates Court if paperwork is not lodged on time will now be discretionary, whereas in the past it was mandatory. This leaves a lot more scope for mistakes that may happen either with the prosecution case or with the filing of documents in some sort of inaccurate matter.

If an accused is committed for trial by a Magistrates Court they must now plead either guilty or not guilty; they can no longer reserve their plea. Ideally this will make the court system more efficient. It will allow for better direction when a case is being referred. There are some interesting changes there. There is also a change to the maximum value of damage for which a person

can be tried summarily in the Magistrates Court, the maximum rising from $500 to $5000.

I have consulted with a couple of criminal barristers over this, not having a legal background. They raised a couple of issues of concern. There seems to be some sort of discrepancy between what is in the Attorney-General's second-reading speech on this bill and what the Sentencing Advisory Council recommended in the review headed up by Professor Freiberg, the report on which was handed down in September this year. The differences include the recommendation that the County Court sentence indications be initiated on a pilot basis only. This was not mentioned in the second-reading speech. In addition the Sentencing Advisory Council report suggested that these items would not be beneficial in the Supreme Court. However, this bill actually extends to the Supreme Court. Looking at that you might conclude that the report by the Sentencing Advisory Council was not taken very seriously. If you are going to have that sort of report commissioned, you would think that you should be looking at its outcomes very closely and clearly.

One of the other recommendations was that it should not apply to sexual offences. That has not been taken into consideration, and sexual offences have not been excluded from the scope of the legislation. Some of the departures from the Sentencing Advisory Council recommendation seem to give the wrong impression and the wrong indication to the community.

One thing that alarms me here is that this may well give the impression that we are becoming softer on crime when what the public seems to want is a tightening up of sentencing and harsher sentencing. The reason I say this is that, if a person pleads guilty in the early part of a trial and the judge then indicates what their sentence will be and what their sentence would have been had they not pleaded guilty at that stage, that does not allow for victim impact statements to be heard and it does not necessarily allow for a perpetrator's or an accused's previous history to be taken into account. This disturbs me from a victims' point of view — victims may feel as though they have been cheated in some way and that they have not been taken seriously — and from the point of view that these procedural changes may in fact just be about clearing backlogs in the court system, which is of course very disturbing. The community expectation is that we provide adequate and appropriate sentencing, and this legislation would seem to weaken that.

One thing that I think this brings up is that we seem to be treating the symptoms rather than the causes. The government continually tells us how many extra police have been employed under the Bracks and Brumby regimes. However, if you speak to police on the beat and listen to command and to some information that is being fed back to me from internal meetings, you hear that even though the government talks about over 1000 new police coming into the force, that translates into probably only 100 operational police on the streets, and obviously the population has gone up, so proportionally that is highly inadequate.

I have a real problem with treating the symptoms rather than the causes. I have spoken this week about the big problem with crime, especially arson, we have had in my area over the last few weeks, with fires being lit at Boronia station, the Bayswater Netball Club and the St Vincent de Paul Centre. These are horrible crimes that have hurt many people and affected their lives in so many ways. In my opinion one of the things that we should be looking at is prevention, rather than trying to cure all once perpetrators get into the system.

This government abolished the Police in Schools program, which I think was a very good program, and certainly my local police are quite disturbed by that. They no longer have that connection with children at a very young age. Their belief was that it taught kids respect and responsibility, and there is now nobody in a position of authority to teach them that. Obviously teachers and parents can instil that into their children; but for somebody in a uniform to actually come in and say, 'Hi, I am not the enemy, and guess what, you have choices in life!', I think is a great thing, and it lets kids know that police are around. We need to increase police visibility and we need to start preventing crime rather than talking about how we are going to discount sentences when people are actually caught and charged and go to trial.

So there are a few things in this bill that I think are anomalies, to say the least. I believe it needs tightening up. I have reservations about supporting it, but I believe these issues will be addressed in the upper house in good time. I think we just need to get a little bit more serious about crime here in Victoria.

Mrs POWELL (Shepparton) — I am pleased to speak on the Criminal Procedure Legislation Amendment Bill 2007. We have seen a number of bills come into this house that suggest that the Attorney-General has listened to community anger about some lenient sentences that have been made by some judges, who the community believes are out of touch with community standards and expectations.

Like a number of members who have spoken on this bill, I hope it is being brought in because it is in the best interests of the victim, not just to try to expedite cases that are before court at the moment. When we are suggesting that an offender making an early guilty plea will mean that the case will be dealt with quickly, I think we need to make sure that we have the right balance between the protection of the victim and a fair trial for the offender.

The government released a justice statement in May 2004 in an attempt to modernise the justice system. My understanding is that the government is listening to the outrage in the community about some of the sentences provided by some courts. It asked the Sentencing Advisory Council to review the sentencing indications and also to look at whether it would be appropriate to introduce sentence discounts and what impact those discounts would have on the victim. The Sentencing Advisory Council found that a high incidence of matters were resolved when the defendant pleaded guilty at a later stage in the proceedings, so it therefore thought that many matters could be resolved 6 to 12 months earlier if the defendant pleaded guilty earlier.

The bill provides for defendants to be informed of the sentence that will be given if they plead guilty earlier. A number of members have spoken about the issue of a person pleading guilty, whether or not they are, just to make sure they do not go through the court system, and then in fact getting a reduced sentence for pleading earlier. We need to make sure that the community does not believe this is a bill that is going to be soft on some criminals. The bill requires the court to state the amount of discount to be given for a plea of guilty where there is to be a jail sentence, a fine of over 10 penalty units or a total fine of more than 20 penalty units.

As the Leader of The Nationals said in his speech, The Nationals are reserving judgement on this bill. We believe it has been rushed in and we have some concerns and severe reservations about some parts of the bill. I will not go through them because of time constraints, and the Leader of The Nationals spelt out many of our reservations in his presentation.

I have been spoken to by a number of people in the community who believe there should be no reduction in a sentence just because the offender pleads guilty. There is that view out there. I understand that sometimes it assists the victim if they do not have to give evidence. I know that makes it easier for the victim. There has to be a balance which looks at the protection of the victim as well as justice for the offender. The Sentencing Advisory Council has reviewed the issue and made a number of recommendations. I believe this bill reflects some of them. Sentencing is very difficult. There was a You be the Judge forum in Shepparton with the Sentencing Advisory Council. A number of cases were put before the people who were at the public forum. We understand that sentencing is a very difficult issue — it is probably one of the hardest things that judges have to do. We have to make sure that sentencing meets community standards.

As I said earlier, I believe the government has been tinkering around the edges since it brought forward the need to modernise the justice system. There are some steps in the right direction, but the government needs to go further. There is some anger in the community at lenient sentences for heinous crimes. About one and a half years ago I raised this issue in this place when two sisters, who came from Toolamba in my electorate, were raped and murdered in Altona, where they went to live to continue their work. Colleen was 23 years of age and Laura was 21 years of age. The murderer had a 20-year history of violent crime. He served two and a half years in jail for violent crimes of rape and bashing an elderly woman. He was out after two and a half years. The family and the parents, Shirley and Allan Irwin, were absolutely distraught and angry at the thought that a criminal could live next door to a house they had bought for their daughters. They thought they were safe in buying a house there.

I presented a petition in this house with 12 500 signatures. I would like to read it out because it goes to the heart of what we are debating here today:

> The petition of the residents of Victoria requests 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.

As I said, there were 12 500 signatures to that petition. We wrote to the Sentencing Advisory Council and asked it to consider The Nationals policy of standard minimum sentencing. They have standard minimum sentencing in New South Wales. The policy of The Nationals is that a judge should be able to vary a sentence that is given to a person. The judge has the final discretion, but that variation must be in legislation which must be passed by Parliament.

To try to rectify the community's belief that there are some lenient sentences being handed down and that some judges are out of touch, a number of bills have been introduced in this house. In September 2006 we

debated the Sentencing (Suspended Sentences) Bill when we discussed phasing out wholly suspended sentences by December 2009. The Sentencing Advisory Council will consider whether suspended sentences should be abolished completely.

In June 2007 the Courts Legislation Amendment (Judicial Education and Other Matters) Bill came before this house. We looked at professional development and continuing education and training of judicial officers in all courts in Victoria including the Victorian Civil and Administrative Tribunal. That was to try to counteract the fact that the community was very angry at the lenient sentences given to some people, particularly after some media reports of young children under the age of five who had been killed by a parent or a partner of a parent in the most extreme and hideous circumstances. The community was outraged that sentences could be given to those people resulting in them being out of jail within a short time. I understand the Director of Public Prosecutions has actually intervened in a number of those cases because he was not happy with the minimum sentences that were given.

I urge the government to look at standard minimum sentencing. The community needs to be confident that the judicial system reflects what the community believes are appropriate sentences for people who commit these dreadful crimes. We need to make sure they stay in jail for the appropriate time. It will also serve as a deterrent to people who think they can commit crimes and not get very much of a sentence at all.

Yesterday the Attorney-General introduced a bill to create a new offence of child homicide and to increase the maximum penalty for certain offences. This is a way to say to the community that we are doing something. It was because of a *Herald Sun* report last year about Cody Hutchings, a five year old who was beaten to death by his mother's boyfriend, Stuart McMaster, over a period of eight weeks. There have been many other examples over the years of young children who have been maimed, injured and killed by people who live in the house or are friends of the mother or father of a child.

The community needs to have confidence in the judicial system. We need to make sure that our laws reflect the views of the community, but more importantly, just as I hope this bill is doing, we need to make sure that the outcomes are the best thing for victims rather than just allowing the courts to make decisions more quickly. It is important that judges make the appropriate sentencing decisions. At the end of the day The Nationals will be looking at this bill again and making a further decision in the upper house.

Debate adjourned on motion of Mr FOLEY (Albert Park)

Debate adjourned until later this day.

LIQUOR CONTROL REFORM AMENDMENT BILL

Legislation Committee

The ACTING SPEAKER (Dr Harkness) — Order! I have received the following message from the Legislative Council:

> The Legislative Council requests the Legislative Assembly to grant leave to the Honourable A. G. Robinson, MP, Minister for Consumer Affairs, to appear before the Legislative Council Legislation Committee to give evidence and answer questions in relation to the Liquor Control Reform Amendment Bill 2007.

The question is:

> That the message be taken into consideration forthwith.

Question agreed to.

Mr ROBINSON (Minister for Consumer Affairs) — I move:

> That this house grants leave for the Minister for Consumer Affairs to appear before the Legislative Council Legislation Committee to give evidence and answer questions in relation to the Liquor Control Reform Amendment Bill 2007, if the minister thinks fit.

This motion has been worded with the assistance of the clerks. However, in response to the request and in keeping with the government's commitment to openness and accountability, I can indicate that I will attend the Legislation Committee at a time to be finalised.

Mr CLARK (Box Hill) — The opposition supports this motion. We believe it forms a valuable precedent as an example of good practice and the way in which relationships between the houses should be conducted on issues such as this. We congratulate the minister for the way he is handling this issue. We are pleased to support the motion.

Motion agreed to.

Ordered that message be sent to Council advising them accordingly.

CHILDREN'S SERVICES AND EDUCATION LEGISLATION AMENDMENT (ANAPHYLAXIS MANAGEMENT) BILL

Second reading

Debate resumed from 5 December; motion of Ms MORAND (Minister for Children and Early Childhood Development).

Mr HERBERT (Eltham) — I will be brief on this bill. Some excellent contributions have been made to this debate. It is good to see widespread support in this chamber for the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. The bill fulfils a commitment by the previous Premier that we would put in place legislative provision for the establishment of appropriate management plans and training in Victorian schools, preschools and child-care services to deal with children who have severe allergies known as anaphylaxis.

I am reminded of the human face of the issue. It was a couple of years ago when I must say I did not know a huge deal about this. We all know people who have some allergies, but what it means for the lives of people who have severe allergies is something many of us do not have day-to-day dealings with. I was at a community forum. Many members of this chamber have community forums where they make themselves available to speak with people at a local shopping centre, for instance. It was a couple of years ago that I was at a community forum in Apollo Parkways with the member for Yan Yean. The very first person who came up was a mother whose daughter had severe allergies to peanuts. She raised with me the issue of how dangerous it can be in schools for young children, particularly very young children in primary school. Most of us think that the issue is simply about eating or coming into direct contact with peanuts, for instance. But for many children who have anaphylaxis it can be any contact. As this lady explained to me, perhaps a knife that had been used for peanut butter was then used for another sandwich. If the child eats the sandwich it can threaten their life. Perhaps benches have had peanuts or peanut butter or other products on them or trace elements have been picked up in food preparation.

When you look at those sorts of severe allergies and the sort of regime that needs to be put in place to prevent the occurrence of a severe reaction in a child, you realise that this is not a simple matter. It is a matter that takes proper training of staff at the school, proper management procedures and proper practices in place for everybody — everyone from the mothers who use the school canteen to teachers, and they need to follow the proper practices at lunchtime, recess, morning tea et cetera.

It became clear to me that there is a human face to this issue. There was a great need for us to step up our action as a government and a society in protecting these young children when they are in care at kindergartens and child-care centres. I am absolutely delighted that this legislation is in place and will get the support of all members.

I would like to comment on some matters raised by the member for Nepean. It was generally a very good speech, but he raised the issue of staff training and the inadequacy of resources. I just want to point out that we are not really starting with a blank book with this legislation. Many schools have a lot of practices in place and have teachers who are trained in the use of EpiPens and a range of other procedures. That is one factor we should take into account when we are looking at the training regime.

Once this becomes law, it will also have ramifications in terms of teacher education courses and registration with the Victorian Institute of Teaching. Currently you have to be registered by the Victorian Institute of Teaching to provide teacher education. It makes sure that the courses you offer fulfil the needs of schooling and legislation in Victoria. Once it becomes law, this will undoubtedly mean that the management of anaphylaxis will form part of the curriculum for new teachers in training. I am sure that will also be part of the registration process by the Victorian Institute of Teaching.

Over time we will see that this will be a natural part of the training of every new teacher coming through the system, and they will certainly value-add to schools with children who have anaphylaxis.

In conclusion, this is an excellent bill, because it has ramifications for improving the level of service. It will save lives and certainly eliminate a lot of the distress that many parents experience when children of theirs with this condition go to school.

Mr THOMPSON (Sandringham) — I would like to make a number of preliminary remarks on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007. Firstly, I think it is important to acknowledge the grief of parents in Victoria who have lost their children in recent years through an allergy, and they include the parents of Alex Baptist and Nathan Francis. I would like to honour the memory of Alex Baptist through the

work of his parents on the bill before the house. I trust that through appropriate training and the administration of the available funding — and with more funding if necessary — all teachers and staff who have custody and care of children during the day will have not only a theoretical framework behind them but also practical experience so that should another event occur where a child has an allergic reaction those teachers and staff will have the skill and expertise to administer an EpiPen.

As a number of other speakers have already noted, anaphylaxis is a severe and life-threatening allergic condition that affects a significant number of children. Its effects include breathing difficulties, and it can cause sudden death if adrenaline is not administered promptly via an epinephrine auto-injector, which in Australia is called an EpiPen. Foods, insect bites, stings, medications and latex can trigger anaphylaxis.

In a former role as president of the Royal Lifesaving Society of Australia (Victoria branch) a decade ago, I was aware that there had been some 69 deaths by drowning in Victorian coastal waters and inland waterways. The government of the day saw that as an excessively large number of tragic and preventable losses of life, and a program was embarked upon through two campaigns that involved a significant investment in lifesaving infrastructure along the Victorian coastline and a significant investment in training through a public awareness campaign. Over the last decade the number of deaths by drowning has been reduced significantly, and it is hoped that through a program such as this, including community awareness raising and government investment and training, lives will be saved in the future.

I also wish to pay tribute to a number of people who have worked in this field. They include a support line worker, Sally Voukelatos, who as part of her daily work routine provides guidance and advice to parents on anaphylaxis; and also the Sydney barrister who represented the Baptist family at the coronial inquiry, Michael Vassili, who also acted in a Sydney case. I thank them for their dedication and their support for the legislation which is before the house today.

An interesting aspect of note is that this is the first chamber in Australia where legislation of this nature is being debated. It is the aspiration of those closely involved in the loss of their children that this legislation might ripple through to other jurisdictions in Australia. I say to the responsible minister and to government lawyers that the sooner letters can ripple out from this chamber to other jurisdictions and responsible ministers throughout Australia advocating that this be put on the agenda, the sooner similar legislation can be replicated in other states so that people are appropriately trained and further tragedy does not arise.

The comment has been made that, as part of this program, 5 minutes of training as part of a general lecture may not be enough. Those responsible for the care of children need to see the practical application of any training so that it is not a segment among many but a segment where they are appropriately and properly trained and so that, in the event of an emergency, they have the expertise and skill to administer the EpiPens appropriately.

A number of years ago there was a coronial inquiry in New South Wales into the death of Hamidur Rahman. A number of recommendations were put to the coroner, which included funding for the training of people who had the custody and care of children. At this stage those recommendations have not been put into effect in New South Wales. It is an excellent opportunity for the minister to lead the rest of the nation in ensuring that there is a rollout of comparable legislation in other states. I look forward to a report from the minister during the course of next year saying that those reforms have been implemented in other states and that there has been a legislative rollout so that deaths are prevented and tragedies are not encountered not only by Victorian families but by families in the New South Wales, Queensland, South Australia, Western Australia, the territories and Tasmania.

The opposition has a number of concerns which have been raised in debate, and for the record I would like to reiterate them. The implementation of the anaphylaxis policy still needs some clarification, despite the fact that a great deal of work was done in the lead-up to this legislation. There is still some uncertainty about how the policy will be rolled out and specifically who will receive training and when. For example, the policy must be operative by term 3, 14 July 2008, at the latest, and the following question has been posed: does this mean that teachers and staff will begin their training from this date forward, or will they all have received training by this date?

There needs to be an ongoing monitoring of training as part of the policy, although ensuring the regular and consistent monitoring of primary and secondary schools and child-service providers could present problems if it is not kept as a forefront requirement. So while there is this initial emphasis on training, it is important that that is maintained through succeeding years to ensure that everyone is up to speed on the issue, including the medical requirements involved in the use of EpiPens. A training budget of $1.3 million has been set aside by the

department. Considering the number of staff to be trained, this may prove to be too small an amount, noting that training needs to be undertaken on an ongoing basis. Therefore I encourage the minister to examine this on an ongoing basis to ensure the budget is appropriate.

The amendment in clause 1 refers to a requirement that certain schools have an anaphylaxis management policy. The opposition believes that ultimately all schools will be required to have a management policy. This remains an important issue.

In concluding my remarks I would like to once again honour the memory of Alex Baptist and the work of his parents in trying to place this issue at the forefront of government policy. I trust they will have the prospect of seeing this policy being rolled out across Australia so that other parents will not have to suffer the grief they have suffered in their circumstances.

Mr BROOKS (Bundoora) — It is an honour to rise in support of the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007. Given the number of government members who wish to contribute to this debate, I will try to limit my remarks to fit into a somewhat shorter time than that allotted.

The obvious reason for this legislation is the tragic result of a number of cases of anaphylaxis and also the increasing rates of allergic reactions presenting — for example, at the Royal Children's Hospital, where I understand they have tripled. I have taken the opportunity to look at some overseas legislation — known as Sabrina's law — which is very similar to the legislation that has been presented here, and also at some of the reports from coroners that have been mentioned by previous speakers.

It is important to acknowledge that the government has been acting on the impacts of anaphylaxis for some time. Previous actions include the commissioning of research into best practice strategies for anaphylaxis management in schools; the development of anaphylaxis guidelines for Victorian government schools; the development of an anaphylaxis management policy for children's services, which was released in the middle of this year; the establishment of an allergy working party to report to the Minister for Health on these sorts of issues; and providing funding for staff in children's services to be trained on how to recognise and respond to reactions and on the use of EpiPens.

The bill specifies that children's services are to have anaphylaxis management policies. It outlines how they are to conduct staff training and that they are to have individual management plans for diagnosed children. All schools with a diagnosed student need to have management communication plans in place with appropriate staff training. I acknowledge that there is an extra resource required by children's services and schools in complying with this, and I suppose in some regard it is another level of burden on them, but I think all members would agree that it is a worthwhile requirement to be met.

I commend all of those who have been involved in the production of this bill and for getting it to this point. In her second-reading speech the minister indicated those people. They include Anaphylaxis Australia, the Ilhan Food Allergy Foundation, the Australian Medical Association, the Royal Children's Hospital, the Asthma Foundation of Victoria, Ambulance Victoria First Aid and, as many speakers have mentioned, the many parents of children who have been affected by anaphylaxis. I commend the bill to the house.

Mrs FYFFE (Evelyn) — I am pleased to rise to speak on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. Unusually for someone in opposition, I would like to commend the government on the work it has done on this bill and for the anaphylaxis guidelines that were produced and are the basis of this bill. I would especially like to acknowledge the tenacity and hard work of the parents of one of the children we have sadly lost, who are here with us today in the gallery. To lose a child would be appalling, but to then have the strength to ensure that we in this Parliament react so that we can help prevent it happening to other people is to be highly commended.

This is enabling legislation and regulations are going to be the important part. Much work has to be done, as has been acknowledged. The training of people who are caring for children, whether in schools or in child-care centres, is most important, because the timing of the treatment is absolutely vital. There are areas where there will be difficulties in ensuring the training is conducted correctly, because there are issues with temporary teachers and casual relief teachers who may work in more than one school and who need to be aware of which children have adverse reactions. People who are involved in a school but who are not necessarily teachers, such as parents who are assisting at the school, will need to be trained. It is a long and complicated system. The onus will be on principals, and they will be faced with not only extremely difficult administration procedures but also with ensuring that

their teachers are responsible for every child who has been notified to them by the child's parents as having a reaction to certain foods, insect bites or whatever causes their reaction.

An area that concerns me is the emphasis in the various reports on the need for an ambulance response. We have great difficulty with ambulance response times in the Yarra Valley. Very sadly — and I have spoken about this in the house on two or three occasions — we lost a child at Yarra Glen from an asthma attack because the ambulance took over half an hour to respond. It must have been horrendous for the parents of that child to have to sit with the child waiting for an ambulance. It really brings into play not just that there should be training but also that the EpiPens should be stored correctly and be readily available in areas where children have these severe reactions.

We hear that peanut allergies can affect 1 in 100 children, and hospital admissions have tripled in the last five years according to statistics from the Royal Children's Hospital. It has been indicated, however, in a United States of America study that most reactions occur away from children's homes, particularly at schools. But parents may not know their child could have such a reaction until the child is exposed to the allergen that causes the reaction, so a school may not have been forewarned. These pens have to be available, and it is going to be very difficult for a school that does not have a child notified to ensure they have got someone who has been trained to be able to deal with anaphylactic shock.

This is an important bill. I realise several members want to speak on it, and I do not want to take up their time. I believe several members have children in their own families who have reactions to various foods. I commend the bill to the house, and I commend the families who have fought very hard for this legislation. I am honoured to be permitted to speak on it.

Ms THOMSON (Footscray) — I rise to speak briefly on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007 and do so in recognition of the families that have fought very hard for this legislation, and one in particular that triggered the former Premier's quick response to ensure action was being taken. Credit has to be given to the former Premier and the ministers who have been involved in ensuring that the legislation was moved on very quickly.

Dealing with allergies has become an issue not just for individuals and families but also for schools, kindergartens, child-care centres and the community at large in being able to deal with issues where diagnoses have been made about allergies. My own niece has an allergy to peanuts. She is gradually growing out of it, and I am pleased for her and her parents' sake. I have an electorate officer and staffer who is allergic to eggs, so in my environment both at home and at work we are very conscious of allergies and the effect they can have on individuals and of being responsible about that. This is about managing it and about legislating for it, and we are at the forefront in doing that. We are the first state in the country to do so and one of the first in the world.

All credit goes to the government for ensuring that we are protecting the young and most vulnerable and giving support to parents so they know that when their children go off to school or child-care centres the proper policies and practices are in place to take care of their children who have been diagnosed with anaphylactic allergies. That is really important, and I know it is of some comfort to parents who face wondering when they say goodbye to their children whether they will be properly cared for. That is a really big issue. Now they can have some comfort, knowing they can check and make sure the proper procedures are in place and there are properly trained people at the premises to ensure that their child is properly managed should an occurrence take place.

This is one piece of legislation that all in the chamber can be proud to have participated in the passing of, because nothing is more important than the very young and the very vulnerable and making sure that we are doing all we can to protect them when they are least able to protect themselves. I commend this legislation to the house. It is one of the most important pieces of legislation we have passed this year.

Mr BLACKWOOD (Narracan) — It is with pleasure that I take the opportunity to speak on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007. The purpose of the bill is to require all children's services and schools with a student diagnosed with anaphylaxis to have an anaphylaxis management program in place for commencement by the beginning of term 3 in 2008. The management program will establish mandatory minimum first-aid training for teachers and staff and establish storage guidelines for the EpiPen.

I believe it is a very good idea to have all teachers and staff undergo mandatory minimum first-aid training, and I can only assume and certainly hope that the training will include training in the use of the EpiPen. I believe that, if an EpiPen is not used correctly by a person with knowledge and training in its application, it

could pose significant risk to the person administering the adrenaline, not to mention the problems that will then arise for the child whose condition is life threatening. I also believe it is essential that this program is put in place in all schools, given that it is estimated that there are 5000 Victorian children with the condition.

I am very mindful of the extra workload and responsibility teachers are constantly being burdened with. I have a wife who is a primary school teacher, a daughter who is a kindergarten teacher and two stepdaughters who are secondary school teachers. Like most teachers they all work extremely hard and often in very difficult circumstances, as these days teachers do not seem to get from some parents the support they would have got in earlier times.

I also take this opportunity to remind this government of its duty of care responsibilities in this regard to teachers. Victorian teachers are not being treated fairly in the wage negotiations currently taking place. Their interstate counterparts are miles ahead in wages paid to them — for example, New South Wales teachers are currently 10 per cent better off and next year will be 15 per cent better off as their negotiated pay outcomes flow on.

The ACTING SPEAKER (Ms Green) — Order! The member for Narracan should confine his comments to the bill before the house.

Mr BLACKWOOD — Certainly, Acting Speaker. In recent times many teachers have undergone extra training in dealing with special needs children in the classroom, this being an alternative to providing a teacher's aide for the children in need of support. Here we are loading teachers — —

The ACTING SPEAKER (Ms Green) — Order! The member for Narracan has just defied the Chair's ruling. I ask him to refer to the content of the bill.

Mr BLACKWOOD — Certainly, Acting Speaker. As I said, it is imperative that an anaphylaxis management program be introduced as soon as possible, but the government must take a close look at the pressure it is putting on our teachers and ensure that it is manageable. The government must reward our teachers for their dedication and commitment and the care they give to our children every day of their working lives. It is no good introducing a management plan to deal with anaphylaxis if our teachers are too stressed to be able to implement it in an effective and foolproof manner.

There is real concern that the $1.3 million funding for training is going to be inadequate. With the number of teachers and staff involved in our schools and the preschool education system it seems that the funding allocated to training will not be anywhere near enough. There is also no mention of the funding being accessible to the Catholic and independent school sector. I call on the minister to immediately ensure that funding for the introduction of an anaphylaxis management plan and training be provided to Catholic and independent schools right across the state. The Catholic and independent school system provides education to a very large percentage of students in Victoria, so we can reasonably expect that a large percentage of the 5000 children at risk will be attending those schools. It is very important that education and child-care providers have staff trained and an anaphylaxis plan to ensure children are treated with the utmost urgency, but it also critical that the plan clearly outline the necessity to call an ambulance immediately a child is suspected of going into anaphylactic shock.

Over a five-year period the Bracks and Brumby governments have failed to meet the 13-minute code 1 ambulance response time. Instead of adding more resources to the ambulance service, this government increased the time of the target and lowered the standard to 15 minutes. That is far too long for people in urgent need, especially children suffering a life-threatening allergic reaction and needing to be assessed as to the cardiac effect of the EpiPen and to receive further treatment in hospital.

To summarise, this is a much-needed piece of legislation. We must remove wherever possible all risk to the safety of our children, and once the provisions of this bill are implemented, the risk will be substantially reduced with regard to anaphylactic reactions. As I have said, I am concerned about the impact on teachers and staff, which must be monitored, and I urge the minister to ensure that the funding being made available is adequate and accessible to all schools in Victoria. I strongly support the bill.

Ms GRALEY (Narre Warren South) — It is a pleasure and indeed a proud moment for me to be able to speak on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007, because this is a truly significant step forward in supporting Victorian families with children who have been diagnosed as being at risk of anaphylaxis. As we all know, anaphylaxis is the most severe form of allergic reaction. Many of us have come to understand that only in recent times through the incredible work and hard effort of many families in Victoria who have brought the issue of anaphylaxis to

our doors as members of Parliament and into the homes of most members of the general public. My constituents have been avid about the government taking some positive action on this very real problem for children, which they face every day in their homes and in the schoolrooms of Victorian schools, both private and public.

The bill actually fulfils the commitment made in October 2006 by the former Premier to legislate for minimum safety standards for children at risk of anaphylaxis in children's services and schools. It is a very proud moment for the government, because this is the first state in Australia to require all children's services and schools with students who are at risk to have an anaphylaxis management policy in place by July next year. I am very glad to have the support of the opposition for this bill. It is a special moment for families with children who suffer from anaphylaxis.

I have been impressed by some parents in my electorate. It was only a little over a year ago that I was elected to the Victorian Parliament. I must admit that two potent moments during my election campaign have stuck with me. I have kept in contact with one of the families whose children have this difficult problem with anaphylaxis. I remember doorknocking in Berwick and meeting the Verschaeren family. Joanne invited me in to meet her family and said that the key issue for her in that election was to get a proper management plan in place for her child, Jack.

Recently I visited Jack at school, where he showed me his EpiPen. He is a strong little boy, and he knows how to manage his allergic reaction. His is a very supportive family, as are many of the families whose children suffer from this allergic reaction. They go beyond the pale in their duty to look after their children. I commend their loving and caring work for their young ones. As I said, I was pleased to visit Jack and his mum at his Catholic school. I commend the Catholic Education Commission of Victoria, because it has had some management plans in process since 2005 and has been supportive of the program. It was great to see the people at that school supportive of Jack and his family.

Another poignant moment was when I received a letter from a Miss Jackie Davidson, who was not writing about her own child but about her nephew who is allergic to nuts and who is at school. It was one of the most heart-rending, loving and caring letters I have received. As members of Parliament we get some letters that are not like that, so it was nice to receive a letter from somebody who was wanting me to do something about an issue, and I was pleased to raise her issue with the minister. She was concerned about her special nephew, so today is a special moment for Jackie Davidson and her family. She knows that our government is behind her family in supporting her nephew at his school.

While this bill has been well supported by many families in my electorate and across Victoria, I take this opportunity to mention the Ilhan Food Allergy Foundation, which was set up by John Ilhan, or 'Crazy John' as many of us knew him, before he died. I never met him, but I commend the extraordinary work he did, not just as an entrepreneurial businessman in Victoria but also in the community, particularly in establishing this foundation, which will continue some much-needed research around anaphylaxis. I know that John and his wife, Patricia, decided to establish the foundation because one of their daughters, Jaida, has a severe allergy to peanuts. It is good to see a businessman and his family get behind the research that needs to be done in this field. I heard Dr David Hill, who has been involved in the management and treatment of allergies and anaphylaxis over the past 30 years, speak about the foundation's work. He said that it will carry on the vision and work that John Ilhan wanted the foundation to take up.

The bill has received much publicity for the good reason that it is much-needed legislation and is popular with the families and extended families of children who suffer from anaphylaxis. The sad fact of the matter is that in future many more children are likely to suffer. The research, the support for schools and the training that this bill requires for teachers and staff are much welcomed. Without further ado, and with great pleasure and a thankyou for the support of everybody who has raised this issue not only with me but with other members of Parliament, I commend the bill to the house.

Mr CRISP (Mildura) — The Nationals will not oppose the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007. The purpose of the bill is to amend the Children's Services Act and the Education and Training Reform Act to enable the minister to make suitable orders to allow for its implementation. The Nationals acknowledge the work that has been done by many people, in particular Nigel and Martha Baptist, who have gone beyond their tragedy and, along with many other groups, made a difference to Victoria. The Nationals consulted widely with a number of the groups involved, many of which have been mentioned already in the house.

The definition of 'anaphylaxis' is 'a sudden, severe allergic reaction characterised by a sharp drop in blood

pressure, some skin rash, and breathing difficulties that are caused by exposure to a foreign substance, such as a drug or bee venom, after a preliminary or sensitising exposure'. The reaction may be fatal if emergency treatment, including epinephrine, is not given immediately.

It is estimated that peanut allergies affect considerable numbers of children. Over the past five years hospital admissions have tripled, so this is certainly a growing concern in our community. While death from anaphylactic shock is rare, it does occur when adrenaline is not administered within the first 15 minutes of the reaction. Now Anaphylaxis Australia is considering the more complex issues associated with anaphylaxis and has produced a sheet to educate our schools, children, officers, child-care centres and occasional day-care centres. The Nationals acknowledge the work done by Anaphylaxis Australia, which highlights allergies which go beyond a reaction to peanuts. Other common reactions are to milk, eggs, fish, shellfish, sesame and soy. What separates this disorder from childhood illnesses such as epilepsy, asthma and diabetes is that anaphylaxis is sudden, severe and potentially fatal if it is not treated.

The bill enables the minister to make orders setting out the matters that are required to be included in an anaphylaxis management policy. Some issues arise with that program. Epinephrine emergency injection devices, known as EpiPens, can be expensive and they have a limited shelf life. This can be an added expense for schools and businesses, which I hope they can cope with. Some businesses and schools where there are no children who have been diagnosed with the disorder may ask for assistance with the expense of the EpiPens and in preparing staff.

While there will be a standard for the training that must be undertaken, guidelines and arrangements for certificates and qualified trainers are yet to be established. As I understand it, the training will be done by Ambulance Victoria First Aid and will be for a minimum of 2 hours. It may well be that we will have to ask whether this is enough training to enable schools and other organisations to comply with their duty of care. These are issues that will need to be explored as time goes on.

Anaphylactic fits ultimately end in an emergency situation. As has been highlighted by many other speakers, if you are faced with an emergency situation you dial 000 and get additional help as quickly as you can. That help is most likely to be provided by an ambulance paramedic. In country areas we have a problem with prompt ambulance service. There can be delays, and some of the delays can be quite lengthy and are frequently highlighted in the media.

I have had working groups in my office trying to establish better ways of dealing with ambulance responses, particularly to more remote locations. Rural numbering is a problem, and I acknowledge the work done by Bernie Sleep, a constituent from an outlying area in my electorate, who works with a special emergency response team that has had great difficulty with getting backup from ambulances sent to more remote areas. These delays have caused great difficulties, and they are mostly due to a lack of local knowledge from within the ambulance response process because we have a centralised ambulance dispatch system. Although many people try to deliver crucial local knowledge, I believe it is not able to be adequately handled within the dispatch system. It would be a shame if this lack of local knowledge and difficulties in getting ambulances to country locations were to cause an ongoing problem, particularly for people who are having anaphylactic fits.

We do not have time for an ambulance to get lost or break down. Country Victorians are being disadvantaged in the provision of a service that must work the first time. In remote areas there is limited backup. If there is a problem with an ambulance, the next one is a long way away, and that complicates the response times. I urge the government to continue to improve the dispatch system for ambulances and to recognise that local knowledge is important.

The Nationals are not opposing this bill and commend everybody involved in its drafting. I wish those for whom the risk of anaphylactic shock is part of life all the best and hope that this legislation improves their lives.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. As many members have pointed out, anaphylaxis is a severe allergic reaction that as a community we are becoming increasingly aware is not only more prevalent but in severe cases can be life threatening. As we are also increasingly aware, allergies are becoming more prevalent in the community. It may well be that this is because diagnoses are now more accurate. It may well be that we are more acutely aware that a symptom may be an allergic reaction but also may be due to other factors. It may be due to factors in the environment. It can also have something to do with the different types of foods we are eating these days. All this is raising very significant challenges for the community.

As other speakers have said, anaphylactic shock can be quite significant. It involves difficulty with breathing, the swelling of air passages and often the swelling of the face and lips. It can cause quite severe rashes, dizziness and vomiting and is obviously something to be treated very seriously. That is why ours is the first government to mandate that the management of and training on anaphylactic shock be required for children's services and schools. The reason we are doing that is quite simple. When these kinds of reactions occur away from the home — when they occur in schools, in kindergartens or in children's services — children are obviously most at risk. Anaphylactic shock can be dealt with in the first 15 minutes via the injection of adrenaline or an EpiPen, but if it is not properly treated as a serious medical emergency or if staff are not adequately trained in its management, the impacts can be quite tragic.

Clearly anaphylactic reactions are on the rise. Evidence has been presented to us which suggests that peanut allergies might affect as many as 1 in 100 children. I was quite surprised by those statistics. The Royal Children's Hospital indicates that hospital admissions from anaphylactic shock have tripled in the past five years. Again that is something I found quite shocking, and it raises some significant issues for us as a community about how our food is processed and labelled. There is a great need for Food Standards Australia New Zealand (FSANZ), the regulatory body responsible for food safety and the labelling of foods, to determine whether or not improvements can be made to our food labelling regime.

It is now over five years since the current food labelling requirements were established under the national code, and I believe it is critical that we now have a look at their effectiveness. All the surveys that have been done by the National Food Authority for Australia and New Zealand indicate that consumers are increasingly concerned about the accuracy of information on food labels. They are particularly concerned about nutrient information panels, which display the nutritional value of food and contain statements about the percentages of the characterising ingredients in food. They are also very concerned about the implementation of some of the current labelling requirements, including the legibility of labels — that is, whether you can actually read them clearly and easily when you are in the supermarket buying food. They are concerned about the prominence of warning statements, which manufacturers are required to provide on labels, and they are concerned about labelling practices — this is the most important element — for substances that may cause adverse reactions. This is an area that we need to address as a matter of urgency.

In a survey conducted by Food Standards Australia New Zealand nearly 9 per cent of Australians said they ranked food safety as one of their top three major concerns. When you consider all the other issues we have — we have drought, we have threats of terrorism and we have issues about water security, climate change and so on — and when nearly 9 per cent of Australians rank food safety as one of the issues they are concerned about, I believe it is something we need to look at further to make sure that consumers have good, accurate information not only about the origins of food and the ingredients in food but also about any trace elements that might have been introduced as a result of the processing and transportation of that food.

Clause 3 requires children's services to establish an anaphylaxis management policy. The regulations will also require all children's services to have individual management plans for children diagnosed as being at risk of anaphylaxis and a communication plan for staff and parents. In addition, all staff who are on duty at a time when a child who is at risk is enrolled will be required to have comprehensive anaphylaxis management training. All children's services staff, regardless of whether or not a child at risk is enrolled, will be required to have education in the use of adrenaline and auto-injecting devices or EpiPens.

While it will inevitably involve some additional burdens or requirements for children's services, these requirements will give some confidence to parents that when their child is in the care of a kindergarten or a children's service not only will there be a plan in place to deal with any adverse reaction — which may not have occurred before and which may be inadvertent and may occur in spite of the fact that the children's service has gone to the best lengths it can to ensure that it is not providing food that might cause allergic reactions — but also, if such a reaction should occur, the response will be immediate, it will occur within the first 15 minutes, there will be suitable medical treatment and the staff will know what they are doing in managing that allergic reaction.

The opposition has raised the issue of ambulance response times. Let me indicate to this house that no government preceding this one has invested as much as this government has invested in ambulance services. There has been a massive and exponential growth in ambulance services, and any suggestion that this government has not been responsive to the importance of providing ambulances in a timely fashion is completely wrong. Everyone knows about the major problems that existed structurally with the ambulance system under the previous government. Everyone knows about the blow-out in response times that

occurred as a result of the poor response times of the ambulance system, and this government has reduced ambulance response times to 15 minutes.

Mr Wells interjected.

The ACTING SPEAKER (Ms Green) — Order! The member for Scoresby knows that the appropriate form of raising a point of order is to stand in his seat and not to make comments from his seat. I ask for an apology!

Mr Wells — I apologise, Chair, and I wish to raise a point of order.

The ACTING SPEAKER (Ms Green) — Order! The member for Scoresby, on a point of order.

Mr Wells — On a point of order, Acting Speaker, I am just a little concerned about your ruling. You were very keen to pull the member for Narracan back to the bill. However, the member for Bentleigh has gone off the bill and is talking about the previous government and the ambulance system. I ask why you have not brought him back to the bill which is before the house.

Mr HUDSON — On the point of order, Acting Speaker, the opposition raised the question of ambulance response times in the debate, and I have responded to those issues.

The ACTING SPEAKER (Ms Green) — Order! The member's time has expired, so I think the point is moot.

Mr WELLS (Scoresby) — I rise to join the debate on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill, and I thank the government for bringing forward this important bill. I knew little or nothing about nut allergies, and in part the reason for that is that when you have a wife almost all the family medical issues are dealt with by her, and Judy deals with that. I guess I have learnt about it because of the media attention aroused by an incredibly tragic case, and every mother and father will feel enormously sad about the circumstances of the cases we have heard about.

In the last couple of months I went to visit a school which is on the border between the minister's electorate and my electorate, Mount View Primary School in Glen Waverley, which is an outstanding school. It is a school that has two nurses, Lisa Birkett and Faith Snowsill. The primary school has something like 890 students and about 80 staff, so it is enormous. When I walked into the nurse's station I could not believe that they had 13 EpiPens on the wall. I asked for a briefing on how they manage the situation, because I have to say that I was taken aback by that number of pens in one primary school. They went through a number of issues. As other members have said, you would think it would be easy to identify allergies, but it is not quite as simple as that. Most children have some form of allergy to nuts — any nuts — and, of course, when a child brings a peanut butter or a Nutella sandwich to school or muesli bars and the like and then uses the drinking taps or the toilets or the doors, you have a situation of risk, which at some times is greater than at others.

The other issue in a large school such as Mount View concerns casual relief teachers, or CRTs, who may not be as familiar with the children at risk as the other teachers. The management plan will address that issue to make sure that the permanent teachers are trained and that there is also a system in place to train CRTs. When I noted the EpiPens on the wall I asked why the children do not carry an EpiPen with them. It is a difficult situation, because you want your children to be in the playground as part of a larger group and to fit in, and if they are kicking a footy or doing other things then sometimes it is difficult to carry an EpiPen. Some children have pens that are in a bag, so when they go on an excursion they can fit it in.

I am concerned about the amount of money that has been allocated for training, and I hope the government will look at that further down the track if there is greater demand from the education department or if some schools are missing out on training or not everyone is being trained, especially the CRTs. I noticed that Mount View has a buddy system, so a child with an allergy is always with a buddy, and I think that is a great system. If something happens the buddy knows exactly what to do — fly up and grab the nurse. I guess it is stressful for some of the teachers who are dealing with this on a regular basis. Mount View is very lucky to have two nurses to deal with any situation.

Having made those very few points I would just like to say that I think the government has done a great job in introducing this bill, and I hope it has a speedy passage through the houses.

Sitting suspended 1.00 p.m. until 2.04 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Schools: public-private partnerships

Mr BAILLIEU (Leader of the Opposition) — My question is to the Minister for Education. I refer the

minister to the promises of the former Minister for Education and Training, now the Minister for Public Transport, as reported in the *Age* of 23 November last year, referring to Labor's school building election policy — —

Honourable members interjecting.

The SPEAKER — Order!

Mr BAILLIEU — I refer the minister to the promises of the former education minister, now the Minister for Public Transport, as reported in the *Age* of 23 November last year, referring to Labor's school building election policy, that 'We won't be using private-public partnerships', and I ask: how does the minister now explain to parents and students that the government lied before the last election? Or in Victoria has honesty gone the same way as literacy and numeracy?

Ms PIKE (Minister for Education) — I thank the Leader of the Opposition for his question. I am having a great time telling parents right around Victoria that they are getting new schools. I am having a great time explaining to people right across Victoria that $1.9 billion is being spent in this term to renovate, modernise, upgrade or build new schools. That is what parents in Victoria want to know about.

I can only assume from the tenor of the Leader of the Opposition's question that the opposition is opposed to the innovative initiatives that the government has engaged in to make sure we get high-quality infrastructure in our education system. As I said, we have made a commitment to rebuild or modernise every government school over the next 10 years.

Honourable members interjecting.

The SPEAKER — Order! The members for Scoresby, Kew and Warrandyte! I ask for some cooperation so I can hear the answer from the minister.

Ms PIKE — That represents 500 schools in this term of government and several hundred more beyond. What a contrast this is to the policies the opposition took to the election: it said it was going to renovate nine schools.

I am very proud of the commitment this government has made to the community to invest in our public education system. The relationships we can form through public-private partnerships (PPPs) will mean we bring great innovation to the building of some of our new schools. It means we can relieve many of our principals and leading teachers of some of their obligations around maintenance, cleaning and all those other things that will become part of the structure of the PPPs so they can focus on what is ultimately their job and what is most important — and that is the education of our young people.

Schools: public-private partnerships

Ms BEATTIE (Yuroke) — My question is to the Premier. Can the Premier outline how the government is ensuring that families in the outer suburbs will benefit from the best facilities possible in their schools?

Honourable members interjecting.

The SPEAKER — Order! I ask the member for Scoresby and the Minister for Health not to carry on a conversation across the table.

Mr BRUMBY (Premier) — I thank the member for Yuroke for her question. When we were elected to government eight years ago we inherited an education system which had been completely neglected for seven years. We had seen thousands of teachers taken out of the system. We had seen class sizes increase. We had seen participation rates fall, and we had seen a complete absence of new investment in public school infrastructure.

We have set out to redress the imbalance that we inherited from the 1990s. The former Kennett government used to spend close to nothing every year on new capital works. We increased that in our first few years in government to around $200 million a year, and at the last election we promised $1.9 billion of new investment in our education system.

Honourable members interjecting.

The SPEAKER — Order! The member for Ballarat East need not shout from the backbenches. I ask the Leader of the Opposition not to interject in that manner across the table, as I ask the member for Scoresby, once again, to not interject in that manner.

Mr BRUMBY — We made a very clear commitment about investing in infrastructure. We committed $1.9 billion to the biggest school rebuilding program in this state's history. Today I announced, with the Minister for Education, that in the outer suburbs of Melbourne we will be involving the private sector, through PPPs (public-private partnerships) in the construction of 10 new schools, which I believe will be welcomed by local communities. I think it is instructive for the house to note that the initiative which we as a government are announcing today is one which is opposed by the Liberal Party in this place — a Liberal

Party which helped itself, selling off the school stock in this state. While the Leader of the Opposition's company might have sold off schools in this state, we are busy building them.

Honourable members interjecting.

The SPEAKER — Order! The Premier knows better than to use an answer to a question to attack the opposition.

Dr Napthine interjected.

Honourable members interjecting.

The SPEAKER — Order! The member for South-West Coast will cease interjecting in that manner.

Mr Batchelor — On a point of order, Speaker, the member for South-West Coast used an unparliamentary term, and I ask him to withdraw it.

Honourable members interjecting.

The SPEAKER — Order! Points of order will be heard in silence.

Dr Napthine — On the point of order, what I said is that he lied, and that is not unparliamentary. I did not call the Premier a liar — I could have called him a liar — but I did say he lied.

The SPEAKER — Order! I express great disappointment in the member for South-West Coast.

Mr K. Smith interjected.

The SPEAKER — Order! I ask for some cooperation from the member for Bass also. While I appreciate that this is the last sitting day for the year, the smooth running of question time, the dignity of this place and respect for fellow members should be upheld. I ask the Premier to continue his answer.

Mr BRUMBY — This is the Liberal Party which opposes the building of new schools and which in another place — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier to restrict his comments to government business.

Mr BRUMBY — The schools that we announced today will be built include Taylor's Hill Primary School, Derrimut Primary School, Cranbourne North East Primary School, Mernda Central Primary School, Lyndhurst Primary School, Cranbourne East P–12 School, Kororoit Creek Primary School, Truganina South Primary School and Point Cook North School, and one further school to be built in Melbourne's growing north-western suburbs. A number of these schools will be built in time for the 2010 school year. What they will do is ensure that — —

Honourable members interjecting.

The SPEAKER — Order! The member for Bass, as in most question times, has a decision to make: he can contain himself or he can leave the chamber.

Mr BRUMBY — So today's announcement of course has been welcomed — —

Dr Napthine interjected.

Mr BRUMBY — Speaker — —

The SPEAKER — Order! The Premier knows to ignore interjections. I warn the member for South-West Coast.

Mr BRUMBY — We will make sure these interjections are picked up in the *Hansard*! This is the Liberal Party which in another place of course is standing up for drunks and troublemakers — —

Honourable members interjecting.

The SPEAKER — Order! The Premier will confine his answer to government business or I will refuse to hear him.

Mr BRUMBY — Of course today's announcement has been very well received by a number of responsible groups like Infrastructure Partnerships Australia and like the Australian Education Union, which are committed to seeing the best possible education facilities provided in our state. Let me say this: in countries overseas — in the UK and Scotland — and in New South Wales, where PPP arrangements have been put in place, the educationalists, the principals and the teachers have universally acclaimed that these are a positive thing in terms of education. I believe this is a positive announcement and it is a good announcement. It is about investing in education, and it is about providing our children with the best possible education facilities. I think the people of Victoria can make a clear choice between, on the one hand, a government that is committed to education as the no. 1 priority and, on the other, a Liberal Party which is completely disdainful of our state education system.

Smoking: bans

Mr RYAN (Leader of The Nationals) — My question is to Minister for Children and Early Childhood Development. In the interests of Victorian children, does the minister support proposals to ban cigarette smoking in motor vehicles while a child is present?

Ms MORAND (Minister for Children and Early Childhood Development) — I thank the Leader of The Nationals for his question. What I support is all the reforms this government has successfully introduced since we came to government in 1999. There was a long period when not a lot was done in tobacco reform prior to this government coming in in 1999. We have banned smoking in restaurants and gaming venues. We have banned the point-of-sale advertising of tobacco products and introduced a range of tobacco control measures which I am very proud of.

Public transport: government initiatives

Mr NARDELLA (Melton) — My question is to the Minister for Public Transport. Can the minister outline the improvements in public transport delivered in 2007?

Mr Mulder interjected.

The SPEAKER — Order! The member for Polwarth should not interject even before the minister has uttered one word. That is a deliberately provocative act, and I ask him to show some regard and respect for other members in this chamber.

Ms KOSKY (Minister for Public Transport) — I thank the member for Melton for his question and, I have to say, his very longstanding interest in public transport. Those of us on this side of the house are very concerned about and interested in public transport. That is why we have made major investments in public transport in this state. Whilst I could spend quite a few days in this house speaking about all that is good in what we have done in public transport over the last year, I will confine myself to just 12 of our major achievements in 2007.

We have delivered the Craigieburn electrification and the new Roxburgh Park station — and I know the Premier was very pleased about that extension. We have delivered the abolition of zone 3 on metropolitan fares — —

Honourable members interjecting.

Ms KOSKY — We have delivered! We have also delivered on the slashing of V/Line fares by an average of 20 per cent, and we are seeing the results of that in terms of the numbers using our V/Line services. We have also delivered the expansion of the Connex timetable, with more than 200 extra services a week. We have delivered the largest level crossing upgrade program in the state's history over the last two years, with 153 upgrades.

Honourable members interjecting.

The SPEAKER — Order! I ask for people's cooperation. Even with the microphone, I cannot hear the minister's answer.

Ms KOSKY — I have heard that 'euphobia' is spreading on the other side of the house. It is a fear of good news, and it is spreading on the other side of the house.

The SPEAKER — Order! The minister, to confine her comments to the answer.

Ms KOSKY — But on this side of the house we are very committed to public transport and good news in public transport. We have also commenced the rollout of the $33.2 million level crossing safety package that we announced in June. We are rolling that out now. We have delivered grade separations at Middleborough Road and Somerton Road. We have delivered the expansion of free parking at railway stations, with extra spots at Tottenham, at Holmesglen and at Lara. We have delivered the early bird saver ticket in a trial on the Sydenham and Frankston lines. Early reports are that it is going extraordinarily well. We have delivered the expansion of Yarra Trams services on the 86 and 96 lines. We have also delivered the 40th brand-new V/Locity train on the V/Line network. We bought back the regional rail network.

They are just some of the achievements over the last 12 months. But we know there is more to be done, and we have made commitments over the last few months that will be rolled out over the coming years. On this side of the house we are committed to continuing the improvements in public transport. People are voting with their feet and are using public transport. I invite members opposite to do likewise.

Schools: public-private partnerships

Mr DIXON (Nepean) — My question is to Minister for Education. I refer the minister to the comments of the former Minister for Education and Training, now Minister for Public Transport, on 10 April 2006 following advice from the Auditor-General and the Department of Treasury and Finance on the use of public-private partnerships in schools, that 'the

financial benefit isn't there as it has been in other states and the UK', and I ask: why has the government now committed to selling off Victorian schools contrary to this advice, and will the government now release that advice to the public?

Ms PIKE (Minister for Education) — I thank the member for his question. I think it was 300 schools that were closed by the previous government — 300! We are not selling; we are not closing; we are building. Our primary concern is providing the best environment for our young people to learn. As part of the suite of activities — —

Mr Wakeling interjected.

The SPEAKER — Order! The member for Ferntree Gully is a consistent and persistent abuser of the standing orders in this place.

Ms PIKE — As part of the suite of building activities we are engaged in to improve the education environment for our young people in Victoria, we have been asked to investigate the possibility of using public-private partnerships.

Mr Baillieu — On a point of order, Speaker, the minister — —

Mr Holding interjected.

The SPEAKER — Order! The Minister for Water!

Ms Beattie interjected.

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

Mr Baillieu — The minister is debating the question. She was asked whether she would make public the advice upon which the former education minister relied when she said that the government would not be doing what it has today done.

Mr Hulls — On the point of order, not only is the minister not debating the question but she is addressing the false premise that was in the original question.

The SPEAKER — Order! As the Leader of the Opposition knows, minister's answers must be relevant to the question. The question — which he repeated in his point of order, which is also against standing orders — also contained information and a preamble. The minister's answer is being relevant to the question. I will, however, listen very carefully to ensure that she does not debate the question.

Ms PIKE — In August the Premier asked the Treasurer and me to prepare advice for him regarding the possibility of using the public-private partnership procurement method within the education system. We prepared that report, and the government has now made the decision to go ahead.

We have a very strong record in Victoria of working with the private sector and delivering excellent programs. In the health area the Casey Hospital, the Royal Women's Hospital and the Royal Children's Hospital projects are all being delivered with this procurement method. There is great value and great potential in using this procurement method in education. We have also made it clear that what the private sector will do is finance, build and maintain the facilities. The educational work that is undertaken by principals and teachers will continue.

This is a very promising and positive announcement. It is incredibly disappointing that the opposition has chosen to stand out so starkly against a proposal to build new schools for our Victorian children.

Mental health: school programs

Mr SCOTT (Preston) — My question is to Minister for Mental Health. Can the minister inform the house how the Brumby government is helping children who exhibit difficult and challenging behaviours to get the best start in life?

Ms NEVILLE (Minister for Mental Health) — I thank the member for Preston for his question and note his interest and support for mental health services here in Victoria. When it comes to treating mental illness, research tells us that early intervention works. Being able to spot the warning signs of mental illness, especially amongst young people, and seeking early treatment can make a big difference in boosting recovery. That is why we should aim to intervene early in life, early in an episode and early in illness. We know that approach will deliver the best chance of recovery.

Because the research is so strong, we are focusing our early intervention effort on children and young people. I was pleased last month to launch, with the member for Preston, a new program for primary school students in Reservoir. The schools early action program was launched at Burbank Primary School. The program is being rolled out in primary schools across metropolitan and rural Victoria in places like Melbourne's outer east and Melbourne's north and west, as well as Bendigo, Ballarat, Wangaratta and Wodonga, amongst other communities. It is backed by $2.2 million of annual funding from the Brumby government. It helps kids

stay on track when they present with challenging behaviours, which would indicate some early warning signs about the development of mental illness.

Those of us who are parents know that difficult and challenging behaviours in primary school students are often considered normal and are fairly common. Unfortunately for some children these behaviours can interfere with their social, emotional and academic development, and they may be at risk of developing conduct disorders. We know that around 5 per cent of 10-year-olds have severe disruptive behaviours such as conduct disorders, with boys who suffer from these behaviours outnumbering the girls by four to one.

There is good evidence that early treatment is more successful than waiting until children get older. Early pilots of this program have already been evaluated. Teachers and parents have seen enormous improvements in children's behaviours. We know the program is making a difference because parents are telling us that it is. One parent said in relation to her child, 'He is happier. He does not seem to be an angry young man anymore'. Another parent observed that, 'His behaviour has improved, which in turn is making him happier and more confident'.

Armed with this evidence, the Brumby government is acting. All prep to grade 3 children at participating primary schools will take part in a preventive program in which they will be taught social and problem-solving skills. Teachers and support staff will be trained. We will also support parents through the program. Of course this program comes on top of a whole range of strong investments we are making in mental health early intervention. For example, we are rolling out right across the state the youth early psychosis program, which is providing intensive clinical treatment for young people at risk of developing psychosis. We also support the KidsMatter program through our funding of beyondblue, which builds the resilience of schoolchildren, promotes a positive school community and boosts the social and emotional skills of children.

Each year we invest over $55 million in our child and adolescent mental health services. They are services that provide intensive support for children and young people at risk of developing a mental illness. The programs are a practical demonstration of the Brumby government's commitment to developing mental health services in Victoria and particularly to helping children get the best possible start in life.

Police: Caulfield assault

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I draw the Premier's attention to a statement from the Victoria Police chief commissioner's office of 12 February this year on ABC Radio that Victoria Police would continue to follow the OPI's recommendations, and I ask: why has Victoria Police rejected the Office of Police Integrity recommendations of 3 April this year that a senior constable be disciplined for his role in the Menachem Vorchheimer assault, and does the Premier endorse this refusal to implement OPI recommendations?

Mr BRUMBY (Premier) — This question I think displays the appalling ignorance of the Leader of the Opposition about the way in which — —

The SPEAKER — Order! The Premier!

Mr BRUMBY — Speaker, it does. The appalling ignorance of the way in which — —

The SPEAKER — Order! The Premier will confine his remarks to government business.

Mr BRUMBY — The Leader of the Opposition has asked me to interfere in what is an operational matter for the chief commissioner, and it shows, as I said, that he is completely ignorant of the way in which our police force operates. This is a matter for the chief commissioner.

Office of Police Integrity: police corruption

Mr PANDAZOPOULOS (Dandenong) — My question is to the Minister for Police and Emergency Services. I refer the minister to recent commentary in relation to the efforts of the Office of Police Integrity and Victoria Police in tackling police corruption, and I ask: can the minister advise the house of how the OPI report on police conduct tabled today demonstrates the importance of a fully funded and resourced OPI, and whether the government has considered any alternative policy?

Mr CAMERON (Minister for Police and Emergency Services) — I thank the honourable member — —

Honourable members interjecting.

Mr CAMERON — Here we go! Interfere, don't interfere — —

The SPEAKER — Order!

Mr CAMERON — I heed the warning, Speaker. As you know, the state Labor government established the Office of Police Integrity (OPI), the only government in the history of the state to do that. It is an organisation that has effective powers — effectively a standing royal commission — and it can deal with police and associated conduct. It has powers to summon witnesses — —

Honourable members interjecting.

The SPEAKER — Order! I ask the member for Malvern and the member for Kew not to interject in that manner.

Mr CAMERON — It can conduct hearings, it can go about own-motion investigations, it can do telephone intercepts and it can do covert operations. It is important that it be well resourced, and in the 2006–07 year we saw the OPI have a budget of $16 million. We saw the special investigations monitor and the commissioner for law enforcement data security, together with the OPI, have a combined budget of $18 million in the 2006–07 year. We want a well-resourced OPI and associated organisations.

We have actually gone further. We went to the last election saying that we wanted a well-resourced OPI, and what you have actually seen this year is an increase in resources of $4 million. The OPI has gone from a budget of $16.4 million to $20.9 million. We want well-resourced police, and we have a record budget — and a well-resourced OPI, with a record budget.

The chief commissioner tackles issues within the force, and she is prepared to make hard and tough decisions, as Operation Ceja has shown. She has driven the ethical standards department to bring about reform in the force. In the last financial year the OPI has charged 20 people — that is, police and non-police — with over 150 charges laid. That is more than has happened as a consequence of seven royal commissions and investigations during the history of the state of Victoria.

Today the OPI delivered a report on the Kit Walker investigations, and that was an own motion by the OPI. It looked, among other things, at conduct by the chief commissioner and her office, and the conduct of my office, which demonstrates that the OPI goes about its business without fear or favour. We have had claims by the opposition that the minister's office could not be looked at, but that is exactly what has happened. We have had suggestions from the opposition that my office acted inappropriately, and the OPI makes it clear that my office acted entirely properly. These claims by the opposition are wrong, wrong, wrong. These claims have been hit for six, and the opposition ends the parliamentary year with egg all over its face.

We need to have a well-resourced OPI, and the government has considered an alternative policy proposal. We have considered an alternative policy proposal that was put in the market last November. I have to say that we went to the last election promising a well-resourced OPI, and political parties are known by what they do at elections, not the hoopla in between. They are known by what they do at elections.

Mr Walsh interjected.

The SPEAKER — Order! I warn the member for Swan Hill!

Mr CAMERON — We have considered a policy proposal which would have seen the OPI gutted, we have considered a policy proposal which would have slashed expenditure by $34 million. This was not to commence this financial year; this was to commence last financial year. It was to commence the week after the last election. I have to reveal that as part of this policy proposal there was to be a reduction this year of $7 million compared to what we have done, with an increase of $4 million, and there was to be $34 million worth of decreases.

This is the policy of the Liberal Party to gut the OPI (Office of Police Integrity); this is a policy totally rejected by the Brumby Labor government.

Honourable members interjecting.

The SPEAKER — Order! I warn the member for Bass, and I ask the member for Bass to pay more attention to the question that is asked.

Drugs: youth website

Ms WOOLDRIDGE (Doncaster) — My question is to the Minister for Mental Health, with responsibility for drug and alcohol policy and services. I refer the minister to the schoolies section of the government's 'Youth central' website, which advises Victorian school kids that 'if you use drugs there are ways to reduce the risks involved', with examples including not taking all the drugs at once, and I ask: why does the government's own website for young people advise our children how to take drugs, without a single mention of the Ice — It's a Dirty Drug campaign?

Ms NEVILLE (Minister for Mental Health) — It is just incredibly ironic — and I should say thank you to the shadow minister: I think it has been over 260 days since I have had a question — —

The SPEAKER — Order! The minister, to confine her comments to the question.

Ms NEVILLE — I am very pleased to speak today in relation to this government's commitment in terms of drug and alcohol prevention and treatment in this state. It is this government that is leading the way across the country in responding to the alcohol — —

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! Under the standing orders I suspend the member for South-West Coast for half an hour.

Honourable member for South-West Coast withdrew from chamber.

Questions resumed.

Ms NEVILLE (Minister for Mental Health) — Really it is ironic: this is an opposition that last night voted down —

The SPEAKER — Order!

Ms NEVILLE — a major alcohol response — —

The SPEAKER — Order! The minister will not — —

Ms NEVILLE — Certainly, Speaker. This government is very proud of the range of strategies that it is putting in place across the board — —

Honourable members interjecting.

The SPEAKER — Order! The minister will be given an opportunity to answer this question.

Ms NEVILLE — As I was saying, this government has a comprehensive program of action around prevention, education and treatment when it comes to drug and alcohol problems in our community. We are taking this issue seriously. Whether it is through our safer schoolies week program, whether it is through the development of an alcohol action plan or whether it is through our major targeted campaign to stop young people taking up the dirty drug of ice, this government is taking action.

Honourable members interjecting

Ms NEVILLE — Victoria currently has — —

The SPEAKER — Order! The member for Warrandyte is warned. And I ask for some cooperation from the member for Caulfield.

Ms NEVILLE — As members of this house would be aware, the Premier recently put alcohol on the top of our agenda. It is a major social issue. This is a renewed focus by this government, through the development of an alcohol action plan that will look right across the board. It will look across the board at prevention, education, treatment services and also law and order responses. We have already put in place additional powers for police, strengthened liquor licensing penalties and put additional police — 1400 additional police — on our streets. Of course we are very keen to ensure that the new provisions we are providing in our Liquor Control Reform Act are supported by both houses of the Parliament. This is a very important piece of legislation to better protect the young people on our streets who are at risk of violence as a result of alcohol consumption.

Similarly we have a comprehensive education program in relation to the dirty drug, ice. We are taking this very, very seriously. It is a drug that is extremely addictive, and it is a drug that has a relationship with the development of mental illness. That is why we are running a major campaign targeted at young people — Ice — It's a Dirty Drug. It is a very well-targeted and well-focused campaign. Let us make no mistake: it is this government — and last night proved it — that takes the issue of drugs and alcohol seriously, and we are the ones to tackle this issue.

Health: government initiatives

Mr STENSHOLT (Burwood) — My question is to the Minister for Health. Will the minister outline to the house recent examples of how the Victorian government is delivering quality health services for all Victorians?

Honourable members interjecting.

The SPEAKER — Order! I suggest to the member for Caulfield that I think she has missed her opportunity to ask a question in this question time.

Mr ANDREWS (Minister for Health) — I thank the honourable member for Burwood for his question, and I acknowledge his longstanding commitment to providing the very best health services for families in his local community. I was asked to outline some examples of the efforts and the work of this government in providing better health care right across our community. I was very pleased last week to be out in

Melbourne's east with my friend the minister for sport, the local member for Monbulk, to open a brand-new $30 million Wantirna health site — a great new investment, and an investment that in many respects tells the story of this government's commitment to providing the very best health services not just in that community but in communities right across Victoria.

That is a 60-bed facility, with 30 geriatric evaluation and management beds, subacute beds for seniors, together with some community rehabilitation space, and also 30 palliative care beds, moving palliative care beds for dignified end-of-life care from Kew to the outer east. That was a proud moment for all those who were there, and it is an important reflection of our government's commitment and our government's record investment in the health services that matter, not just in the centre of Melbourne and not just in the outer suburbs but indeed in communities right across our state. It was a proud day. When I go to the outer east or out to the suburbs and visit hospitals I actually open hospitals and announce extra funding. I do not swan around hospitals bagging the staff and bagging the dedicated performance and the high standards of care that are offered. There are some who do that.

Mr Hulls — Name them!

Mr ANDREWS — It would be unparliamentary to name them, but there are some who do that. In stark contrast, we are committed to investing in the services that matter. On that day as well I visited Mornington and opened a $22 million similar facility in that local community which will support seniors and the broader community on the Mornington Peninsula. Again, that is part of this government's record $4.1 billion health asset investment program, the biggest health asset investment program in the history of our state. They are great examples of how we can move forward to meet the health needs of today and the substantial challenges of the future.

There are substantial challenges, and I have been up front about that. We do face serious challenges, and we have to work hard to build on our record to deliver even better care. I have often said, despite our very strong performance, how much better it might be if we had a commonwealth government that would work with us, share the burden and work in a true partnership to tackle the common health challenges that are important today and will define the future.

I am pleased that it is not just me talking about these issues. It is not just me calling upon the federal government to do more and to work with us. I am absolutely delighted to say that we have now been joined by some very recent converts to this. We now have a whole group of people who are now calling upon me, the Premier and our government to go to Canberra and get a better deal from Canberra. It is amazing! There are a whole lot of recent converts to this. We have been saying this for quite some time. Indeed for eight years we have been saying that a better future in health is about a proper partnership, about a joint effort, about working with states and territories, not against states and territories. Who might these new converts be?

Honourable members interjecting.

The SPEAKER — Order! The barracking from the government benches is not necessary, and I seek some cooperation from the opposition.

Mr ANDREWS — Who might these recent converts to a fair, proper and equitable partnership on health funding be? None other than those opposite — those opposite, who have been liberated by the change of government; those opposite who now have to be shameless apologists only for the Lord Mayor of Brisbane.

CHILDREN'S SERVICES AND EDUCATION LEGISLATION AMENDMENT (ANAPHYLAXIS MANAGEMENT) BILL

Second reading

Debate resumed.

Mr SEITZ (Keilor) — I rise to support the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007. This is a very important piece of legislation for young people in our society, whether in child care, kindergartens, schools or the teaching fraternity. It will make the community aware of this issue. As a former teacher when epilepsy was on the rise in the schools I had to go through a training system before students who could potentially suffer epilepsy attacks could be accepted at a school. I had two such students in my class at the time. I had to have some training, and the first-aid room at the school had to be prepared to handle it. I welcome this bill, because this is a new phenomenon that has arisen due to the various foods we have nowadays.

What separates this disorder from other childhood illnesses such as epilepsy, asthma and diabetes is that anaphylaxis is a sudden, severe and potentially fatal

allergic reaction that needs to be treated urgently — and that is the important word — and to be recognised by the people who are in contact with and looking after young children, because the sooner the treatment is carried out, the better for everyone concerned, particularly the child and their family. We do not want any mishaps.

Anaphylaxis can result from eating peanuts and different types of foods, so it is important for parents, teachers and child-care workers to read the labelling of food and to know what could bring on a reaction. We all know that children like to share and swap their lunches with other kids, so it is important that not only are adults educated but also that a child's peers know about it. We need to talk about it in schools and places where young children are cared for. That is very important. As any family that has suffered the loss of life of a loved young child in such a dramatic situation knows, it is a situation that some people never get over, even with all our modern-day counselling.

We as a government and as a Parliament must provide all the tools, assistance and funding that we can to schools, kindergartens and child-care centres so that teachers and staff can be trained and to ensure that the antidote is available, because it does not have a long shelf life and will need to be monitored. Some say training should occur at certain schools, but I say we should expand the training right across schools. We do not want a situation where children have to travel to schools far from their neighbourhood because there is nobody trained at their local school, kindergarten or child-care centre. I believe it is up to the government, after the legislation is introduced, to provide funds for the training processes and the development of management plans at schools, kindergartens and child-care centres right across the state of Victoria.

We know these attacks can be fatal, and we need to try to do our best to prevent them from happening across the state. People should have the same choices regarding the schools and care centres they send their children to. They should not be stigmatised by having to go to a certain school or have a situation where only certain principals will accept students who are likely to suffer an attack. It needs to be stressed to the community that this is something that can be prevented, and it is something that all primary, kindergarten and child-care teachers can learn to handle. When we first had epilepsy in the schools a lot of teachers were too scared to even learn about it and understand the symptoms, which is important in recognising an oncoming attack.

It is important that all those issues are addressed. As I said, for this disorder diet is important, and the labelling on food packaging is especially important. We are always saying that the labelling of food products needs to be made very clear. Now we see that some labels say that the food product could have traces of peanuts or other nuts in it. We do not know how the various bars, including the nutrition bars that are advertised and are attractive to children, and the chocolates that we buy these days are manufactured. They could have an adverse effect on children.

It is also important to have training in giving an injection. Teachers and first-aid people in a school need to know all the processes and be registered. Just as there have to be so many staff members at a school trained in first aid, it is important to gradually train people in all schools, not only certain schools that have children whose parents acknowledge that they could suffer an anaphylactic shock and therefore are eligible for training funds and support. The training should be extended beyond those schools.

I well remember that when under a previous government we introduced disabled children into normal schools it was difficult to get funding for ramps. Children were placed only in schools where there was a ramp and therefore parents had to travel out of their way to take one child to a particular school and another child to another school. We should certainly make sure that the training happens and the facilities are available for every school in the long term. I commend the bill and wish it a speedy passage through the house.

Mr MULDER (Polwarth) — I rise to make a brief contribution to the debate on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. May I commend the Minister for Children and Early Childhood Development for bringing before the house this very important bill. It is an important piece of legislation for the Victorian community in that any parent who has a child at risk of anaphylaxis or who suffers severe asthma attacks knows and understands the anxiety it causes not just for the child but also for the entire family. I think there is nothing stronger in human instinct than that of an adult wanting to protect the interests and wellbeing of a child, whether it is your own or any other child in the community.

I would have liked the bill to have been prescriptive in its nature, so that we had a lot more detail for the rollout of this program. I have to say that the bill is quite scant in terms of what is going to take place in the implementation stage in that it relies almost entirely on regulation, policy and management plans.

A couple of issues concern me. One is the $1.3 million that has been allocated across the state for training of staff in the schools and the facilities involved in the education of young children. That seems to be a very small amount of money, given what we are trying to achieve across the state. It is very small also given the fact that a number of teachers come and go, particularly at the end of each year — leaving schools, moving on. As we know very well, we have had an outflow of teachers interstate, looking for better pay and conditions, particularly in Western Australia.

I would like to know how the management plan addresses the issue of refresher courses for school staff, including teachers, and whether there will be ongoing funding for this program, to ensure that we do not have just one-off training. I refer to refresher courses because, if the teachers and other staff at schools do not have the opportunity for a long time to use particular training because of not having an event at their schools, they will need to be retrained due to possible changes in procedures, medication or the implements that are used.

I note also that the bill refers to schools that have been identified as being required to have the plans in place. This of course goes to both state government and non-government schools. I would like to have an assurance from the minister that particularly Catholic and independent schools will be included holus-bolus in this program in terms of any funding share arrangement for the schools so that the parents are not going to be asked to dip into their pockets and that those schools will be given the same opportunity and the same level of training and financial support that will be offered to state government schools. It must be remembered that the intent of this legislation is that all children, whether they attend state government, Catholic or independent schools, will be treated in exactly the same way.

I go to the regulations. Clause 4 on page 3 inserts after section 56(1)(f) of the Children's Services Act:

> (fa) requirements about anaphylaxis management including —
>
> (i) matters (including plans and procedures) to be included in an anaphylaxis management policy; and
>
> (ii) the development, implementation, maintenance and availability of an anaphylaxis management policy, including the plans and procedures required to be included in a policy; and
>
> (iii) the training of staff; and
>
> (iv) the storage and availability of anaphylaxis medication.

The issue I ask the minister to clarify relates to the storage of the medication and how the medication will be provided to the schools. Will the parents, the schools or the department provide this particular medication? How do we handle the issue of the use-by date of the medication? I understand that the common practice of chemists when dispensing this type of medication is to put out medication that has the shortest use-by date — in other words, if one lot of medication has a 12-month lifespan, you will not get it if there is another one with a 6-month expiry date. What methods, practices and procedures are to be put in place to ensure that if this medication is stored at schools someone will monitor use-by dates on a regular basis? It may well be that if we get a fresh batch all the medication expires on the same date. That would certainly be the best method of ensuring that we do not have out-of-date medication stored at schools.

I understand also that there is an issue about the temperature of the medication, in that it is not to be kept in refrigerators and usually is not allowed to get extremely hot. There is also a question about whether there will be a backup when an EpiPen is broken or spilt. There is a risk that someone who has been given all the training under the sun on the use of this particular medication could, on the day that is used, make a mistake and discharge the medication inappropriately. I would like to know how that issue will be handled.

Another issue is the absenteeism and turnover of staff and of staff and students heading off on school camps and holidays. We must make sure that we have in place procedures and policies to ensure that the particular staff who travel with students are part of the group who have been trained in anaphylaxis events.

Clause 5 in part 3 inserts after section 4.3.1(6)(b) of the Education and Training Reform Act:

> (c) if the school has enrolled a student in circumstances where the school knows, or ought reasonably to know, that the student has been diagnosed as being at risk of anaphylaxis —

and so on. The issue I raise is this: if a child who has enrolled at a school leaves that particular school and moves to another school, whose responsibility is it to inform the school receiving that child that that child is at risk in relation to an event? It could well be that where parents are separated one parent may believe that the other has given that information to the school receiving the child. That then leaves a risk that the school could enrol that child without that information being passed on. It may well be that the enrolment procedures pick up that particular issue. I would like

some assurances that that will be covered, because it is always the little things or the loopholes that let things down.

I refer to clause 8 on page 5, which provides for the training of relevant staff at the particular school or education facility, yet the second-reading speech states:

> The ministerial order will require schools with a student enrolled who is diagnosed at risk of anaphylaxis to develop plans and procedures for anaphylaxis management and the training of the majority of staff.

The second-reading speech refers to 'the majority of staff', yet clause 5 refers to relevant staff. We need to know which one is right. Are we going to have the majority of staff at a school trained, or is it just going to be relevant staff — and what do we actually mean by 'relevant staff'? Is that the classroom teacher? Is it someone who runs the canteen? Is it the principal? It is very important that the second-reading speech reflect the bill and vice versa. In this particular case it seems to be somewhat confusing.

I stress again that in relation to this bill Catholic and independent schools must be treated in exactly the same way as government schools. I want to make sure that when this program is rolled out it is better than the Active Cabbies Moving People program that the government launched back in August 2005 — a $400 000 program to improve the health of Victorian cabbies. A shed to house that program was dragged out to Melbourne Airport last week, 27 months after it was announced. So far we have 20 broken pedometers and a heap of water bottles that the taxidrivers do not use, and I think a few cabbies have had their blood pressure taken. The program has been an absolute disgrace. It has been a debacle, despite the great intentions.

I congratulate the minister for bringing this bill into the house, but the devil is in the detail. How well this program is rolled out and how well it is managed when the first two or three events occur will test whether or not the government has been successful and whether it has applied enough resources to ensure that it works properly. The program needs a good quality system for its operation and management, and it needs to be audited on a regular basis to make sure there are no loopholes so that we do not lose a child after all the great efforts to put this program in place.

Mr LIM (Clayton) — This is very special legislation: it is life-saving legislation, and this government ought to be congratulated for introducing it. There is no doubt that anaphylaxis is a severe and life-threatening allergic reaction by the human body to various substances which for most people are either benign or relatively harmless but which in some individuals can trigger major distress, collapse and even death.

The substance that has in recent times received significant attention in the media is peanut butter; however, there are a number of other triggers. These include other food substances such as fish, shellfish, wheat and eggs. Triggers can also include insect bites, in particular bee stings, therapeutic drugs such as penicillin, and vaccines such as that used for hepatitis B. The basis of an allergy is that the human body has an abnormal immune response to one of those substances. In mild allergic cases the signs and symptoms may include itching and sneezing. However, in severe cases the reactions can include constricted airways in the lungs, severe lowering of blood pressure, shock — that is why we call it anaphylactic shock — suffocation from swelling of the throat, and cardiac arrest. We now call these reactions anaphylaxis.

The minister in her second-reading speech mentioned current research, which estimates that 1 child in 200 has been diagnosed as being at risk of this affliction. This means that around 5000 Victorian children are at risk. One expert publication in the United States, entitled *Anaphylaxis in the United States — An Investigation into Its Epidemiology* and produced by Alfred I. Neugut, MD, PhD, Anita T. Ghatak, MPH, and Rachel L. Miller, MD, says:

> As such, we conclude that the occurrence of anaphylaxis in the United States is not as rare as is believed. On the basis of our figures, the problem of anaphylaxis may, in fact, potentially affect 1.24 per cent to 16.76 per cent of the US population.

That is pretty significant. The United States Food and Drug Administration Centre for Food Safety and Applied Nutrition estimates that each year in the United States anaphylactic reactions to food result in 30 000 emergency room visits, 2000 hospitalisations and 150 deaths. The United States National Centre for Chronic Disease Prevention and Health Promotion estimates that the prevalence of food allergies ranges from 4 per cent to 8 per cent of children and 2 per cent of adults.

A Victorian publication entitled *Anaphylaxis Training, Education and Management Strategy for Victorian Government Schools* is a joint overview of the literature by Swinburne TAFE and the then Victorian Department of Education and Training. It states that:

> … nationally there are approximately 25 000 preschool or school-age children in Australia who have had at least one anaphylactic reaction. Most of these children can expect a

recurrent episode every two years for food allergies and 7.5 years for insect venom.

American literature suggests that the incidence of recorded deaths is underreported. Whether or not anaphylaxis has been underreported in Australia, in my view it has not been sufficiently understood, and professionals such as teachers and child-care workers have not been adequately trained to deal with these emergencies. However, one thing is quite clear, and that is that in developed countries, including Australia, a significant number of children are at risk of a severe anaphylactic reaction. Without immediate intervention, for some this can lead to death.

This affliction can result in a medical emergency. However, anaphylactic reactions such as cardiac arrest and a sudden blockage of the airways cannot await the arrival of paramedics or medical professionals. These events require an immediate first-aid response, in the same way as the general population is encouraged to have knowledge of cardiopulmonary resuscitation (CPR).

Fortunately immediate treatment can be provided by an injection of adrenaline, which can be administered by an auto-injecting device with the brand name EpiPen. That is why other professionals with responsibility for children at risk of anaphylaxis, such as child-care workers and teachers, need to have anaphylaxis management training. The preparation of these professionals needs to include knowledge of the signs and symptoms of anaphylaxis, together with training in how to administer the EpiPen. Of course, prevention is always preferable, and that is why many facilities are now banning peanut butter. However we must not lose sight of the fact that this is only one substance that can cause anaphylaxis.

This bill protects children at risk of anaphylaxis and prepares staff to deal with emergencies by requiring: all children's services to have an anaphylaxis management policy; all schools with an enrolled student diagnosed as being at risk of anaphylaxis to have an anaphylaxis management policy in accordance with a ministerial order; and anaphylaxis management training of staff responsible for the care of students diagnosed as being at risk of anaphylaxis. Not only is this bill an appropriate response to managing the risk of anaphylaxis, but in the years to come it will undoubtedly save the lives of Victorian children. I commend the bill to the house.

Mr BURGESS (Hastings) — I rise today to speak on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007. The purpose of the bill is to require that all children's services and schools across Victoria have an anaphylaxis management program if — and this is the problem I have with the bill — they have a student who has been diagnosed with this allergic condition. As we have heard today, anaphylaxis is a severe, rapid and potentially fatal allergic reaction that involves the major body systems, particularly breathing and circulation.

On 15 September 2004 a precious little boy, Alex Baptist, died at his kindergarten from an allergic reaction to peanuts. I extend my deepest sympathies to Alex's parents, Nigel and Martha Baptist, who are present in the house today. Mr and Mrs Baptist have fought a long and hard battle that has culminated in the bill before us today. I congratulate them on their enormous courage and thank them for their selfless care for the children of our community. This bill — and this condition — is obviously of crucial importance to this community. It is of crucial importance to me also, because my 10-year-old daughter is allergic to peanuts. I thank God that her reactions to date have been comparatively mild, and I pray that they remain so.

At the Royal Children's Hospital anaphylaxis admissions have tripled in the last five years, and approximately 4000 Victorian children in child care, kindergarten or at school have suffered at least one anaphylactic attack. Anaphylaxis Australia states that a 2006 survey of all licensed children's services found that 1675 enrolled children were at risk of anaphylaxis, while 35 per cent of schools currently have a student enrolled who is at risk. This potentially fatal allergic reaction is clearly on the increase, and our children are more at risk every day.

An anaphylactic reaction can develop within minutes, and although death is not common, 90 per cent of all deaths occur when the reaction is not treated within 15 minutes of its beginning. However, with planning and training a reaction can be treated effectively by using an adrenaline auto-injector called an EpiPen.

The approach that is required, and it is one that I hope this bill will implement, is that comprehensive training should be provided by doctors, allergy nurse educators and other qualified professionals. The training needs to include strategies for anaphylaxis management, recognition of allergic reactions, and emergency treatment and practice with an EpiPen. EpiPens are not the simple devices they are made out to be. In fact not very long ago I was present at a function when a woman had an anaphylactic reaction. Fortunately — or unfortunately — a nurse who was present came forward to administer the EpiPen. She struck the EpiPen against the thigh of the woman who was having the reaction and promptly inserted it into her own

finger. Some people there thought that was funny. I did not.

I have had some experience with this. We had a person having an anaphylactic reaction without an EpiPen and a person trying to administer an EpiPen suffering from an overdose of adrenaline. The person trying to administer the adrenaline had to go off to hospital and have treatment, as did the person who was in anaphylactic shock. Fortunately both survived the incident and have lived to tell the story, but that serves to underline the problem we are facing with these situations.

Victoria is the first state in Australia to announce that it will mandate minimum safety standards for children at risk of anaphylaxis. This is a fantastic step in the right direction, and I congratulate the government wholeheartedly for its actions in responding to this challenge.

As I indicated earlier, my only concern is that perhaps the bill does not go far enough. It is difficult to tell whether or not it does, because it is hard to see exactly what the details will be. In my view it should be mandated that all schools and child-care facilities, with no exceptions, have anaphylactic training implemented immediately, and it should be mandated that EpiPens be made available. I say 'EpiPens', because the story I have just told is an example of where one EpiPen is not always enough.

I believe there is also another huge hole in the legislation. What we are talking about here is what happens when a particular school or child-care facility has a child who is enrolled with anaphylaxis. The difficulty is that there are children who have not yet been diagnosed. What do we do about them? Clearly they could be put at enormous risk because they have not been diagnosed, and if all of a sudden they have an anaphylactic reaction there will have been no training for the staff and no EpiPen at the facility to help them. I think we can cover that through this bill by having that measure mandated for all child-care facilities. Of course the budget of $1.3 million would not be anywhere near sufficient if that approach were taken, but I encourage the government to look at that and take that approach, because it is the only way we can be sure that we are doing the best we can to protect our children from this threat.

I was approached by a constituent whose six-year-old daughter suffers from anaphylaxis. She suggested that all yard-duty teachers should have an EpiPen with them instead of what is the government's requirement — it is what was communicated to me after my representations to the former education services minister — that they have a communication device so that an EpiPen could be accessed following their use of the communication device. I do not think that is good enough, and I think the government has recognised that it is not.

The other problem is that my constituent was required to have the conversation with the school itself. It was not something that was pushed or mandated through the department; it was up to the parent of the child to go to the school to get this to happen. We need to take steps to give parents confidence that their children will be looked after when they are in the care of the state. After all, our children spend one-third of their waking lives in these facilities.

The other problem — and I encourage the government to have another look at this as well, because more effort needs to be made — is that ambulance priority 1 responses are getting longer and longer.

As we pointed out, treatment needs to be administered within 15 minutes to have the best chance of getting a child to survive an anaphylactic attack. Currently the timing of priority 1 responses by ambulances in Victoria has drifted out to 13 minutes and seems to be drifting further. Instead of fixing that problem we are actually moving the goalposts and taking the standard back to 15 minutes. I encourage the government to look more closely at this so that we can have a priority 0 which recognises that a child's life is at risk and we need an ambulance to turn up much more quickly than that.

In conclusion, I encourage the government to look more closely at the detail of this legislation and to provide concrete clarification of the points I have made. As I said, I support this bill wholeheartedly, but deliberation must be undertaken and clarification must be made so that the requirements in this bill are implemented in the best possible way to provide our children with the best possible protection.

Mr LANGDON (Ivanhoe) — I will make a brief contribution to the debate on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007. I will make it brief, not because it is not an important issue — it is exceptionally important — but because I am aware that other members want to speak and I am well aware of the time and the constraints on this Parliament.

I would like to start off by commending the minister at the table, the Minister for Children and Early Childhood Development, who is responsible for this bill, for taking such action. I also commend the then

Premier, who in October 2006 made the announcement that the government had committed itself to this course. I would like to thank the family members who contacted me personally by email and phone leading up to the 2006 election and raised the difficulty they have with their children and anaphylaxis attacks and what have you. Being a parent who has sent children off to preschool, kindergarten, primary school and secondary school, I know you do not expect them not to come home. You expect them to arrive in the same condition you sent them in. The occasional bump and bruise, yes — they do play on the ground.

Dr Napthine — But a bit more educated.

Mr LANGDON — And a bit more educated, hopefully. But you certainly do not expect them to come to any harm. As many people have pointed out in this house, people who have allergies to nuts and other things can and have suffered severe effects. To those family members who have had to live with that, my sincere condolences. I know what it is like to care for and love children, and you do not want to see them harmed.

I would like to congratulate the government on this bill. As I said, this will be a brief contribution, but I again thank all those members of my electorate who came to see me or rang me or wrote to me for highlighting their concerns.

Mrs POWELL (Shepparton) — I am pleased to speak on this bill and to put on record that The Nationals certainly will not be opposing the bill. It is not a very big bill — it is only about nine clauses — but it is a very important bill which provides for the protection of children with peanut allergies. It amends two principal acts. It amends the Children's Services Act 1996 to require a children's service to have an anaphylaxis management policy, and it amends the Education and Training Reform Act 2006 to require education providers to have a management policy and to enable the minister to make orders setting out the matters required to be included in that anaphylaxis management policy. Schools will be registered if the management plan complies with the ministerial order.

As I said, this is a very important bill. As other members have said, we need to be able to protect our children at school, at kindergarten and at child-care services. I also understand the important role and responsibility it will put on teachers and principals. I was a principal for a day at Wanganui Park Secondary College in Shepparton. I shadowed the principal, Keith Gray. I understand firsthand the very strong role that principals play and the many roles they have in drug education, sex education and now obviously health education to make sure that the pupils and students and children who are in their care do go home at the end of the day.

I would also like to pay tribute to Nigel and Martha Baptist, who raised awareness of this critical issue after their son, Alex, sadly died at kindergarten in 2004. As other members have said, this must be every parent's nightmare. As a parent you are able to look after your child when they are at home, and you certainly do so. You hope that when they go to school or to kindergarten or to child care they are looked after in the same way that you look after them at home. My son has an allergy to eggs. At home I was able to look after him and made sure he did not eat anything with eggs in it, which was often very difficult. You constantly watch the labels on the products you have in your home, and most times when you go out for dinner you have to ask the chef whether there is egg or an egg product in a dish. I guess as a parent you are constantly making sure that a child with an allergy is protected at home. When they go to school you hope there is that same level of support and responsibility for your child. You hope they are not sharing sandwiches that might have peanuts or egg in them. Often a child is not particularly aware of the allergy and the seriousness of it.

I understand the Ilhan family has a daughter with a peanut allergy. The money they put into the Ilhan Food Allergy Foundation is also important. As we are able to better test what our young children are allergic to, we find there are more and more children who are allergic to all sorts of things that in the past we may not have known they were allergic to. It is important that not only that our schools are aware of that but that parents and their friends are aware of it.

My son was also an asthmatic. He used to go to school with a Ventolin inhaler. I guess that will be treated the same as an EpiPen. I know that even with an inhaler there is a way of using it so you correctly administer the product to the child, but there is also an incorrect way of using it which means the young person or whoever has asthma does not get enough of the Ventolin and that can cause problems. A number of members have talked about the administration of an EpiPen and the need to make sure it is dealt with properly. I was interested to find in the library information from a study where 100 doctors were recruited to test their ability to correctly use an EpiPen, and only 2 of those 100 doctors used the EpiPen correctly. Apparently there are six administrative steps, and if any of those steps is not done correctly then the adrenaline is not administered properly. The member for Hastings talked about how somebody had misused an EpiPen and

administered the adrenaline to herself. This could cause problems as well. It is really important.

I remember doing a 16-week Red Cross course, and if 6 months later you had asked me about some of the things I had to do to start a heart again, to start somebody breathing again or to splint somebody's injury, I would not have been able to do it. While the management plans for schools are to train up teachers and staff, there needs to be ongoing management to make sure that the ability to administer an EpiPen to a child is maintained. Some children might have an anaphylactic incident only once or twice a year, and principals and teachers need to make sure they are trained for that.

Another issue is when our young children go to school camps. It is a worry for a parent when your child goes to a camp if they have an allergy, whether it is to eggs, to peanuts or to bees, or if they have asthma. If the child is away from the parent you need to make sure that whoever is in charge of the children on the camp understands how to deal with a serious allergic reaction. That probably would need also to come down to the parents who go on the camp.

The issue of caring for children with some sort of allergy is being highlighted at the moment. The library briefing notes stated that peanut allergies affect 1 in 100 children. There has been other information provided by members here today saying that 1 in 200 children are affected. Whichever of those figures is correct, that is an enormous number of children who are allergic to peanuts. It is important that there is some money being put into research to find out why this is happening — whether it has happened before and we have not been aware of it or whether there is an increased incidence and what that increase is due to — and why some young people can have a non-life-threatening allergic reaction to peanuts while others who have the same exposure to peanuts react very badly.

I know that my son's allergy to eggs meant that if he touched anything which contained egg, or even licked a knife or spoon that had egg on it, his tongue immediately swelled, his throat immediately closed up, his eyes closed up and it became life threatening. Yet others with the same allergy just experience a tingling of the tongue. I think it is the same with the peanut allergy. We need to put much more effort into finding out what it is that causes such strong adverse reactions. The Royal Children's Hospital also tells us that hospital admissions due to allergies have tripled in the past five years. Again, that shows this is an important issue.

I commend the government for bringing in this legislation. I would like to congratulate Nigel and Martha Baptist for raising this issue. I am sure that while there is great sadness at losing Alex, their attempts to make sure that no other parent has to go through what they went through are helpful to them.

I know sometimes in this place we pass legislation that greatly impacts on members. This piece of legislation particularly does so, because most members in this house know a child who has an allergy of some sort. I think this is a start. It is a start to say that principals, teachers and staff have to be able to manage an allergic reaction to peanuts. It has to be ongoing, and there has to be ongoing management and identification of the allergy. It was unnerving to hear that a number of children have this reaction but that it is not found out in time. It is important that we make sure that teachers know the symptoms and what to look for.

I commend this bill to the house. Hopefully if we look at it later and find there are some problems or a need for more funding, then we can come back to this place and make sure that funding is assured.

Mr EREN (Lara) — I too am extremely pleased to be speaking in support of the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. I congratulate the Minister for Children and Early Childhood Development, who is the minister at the table. I think this is a great bill. It is yet another bill that this government is introducing which is seeking to protect the most vulnerable people in our society — children. Having five children of my own I know firsthand how anxious parents are when it comes to their children's health and wellbeing. Obviously when you send your kids off to school fit and healthy you expect that they will come back home fit and healthy. Hopefully this legislation will work to avoid, to some extent, the types of tragedies that have occurred in the past.

It is good to see that the bill is getting widespread support from all members of this chamber. It is not often that all members agree with each other, but there is certainly one thing that we all agree on, and that is the importance of protecting our children from tragedy.

I must mention my friend John Ilhan, who sadly passed away recently. As we all know, John had a terrible experience himself when one of his children, Jade, had an allergic reaction to peanuts. I recall when I spoke to him after that event that he told me how scared he was when he was confronted with this emergency. Basically — like many of us, I suppose, to a certain extent — he did not know how to deal with that

situation and it frightened him a lot. Luckily Jade was okay, but the incident obviously raised a lot of questions for John and Patricia.

Those who knew John Ilhan know that he was a man of action and that he was known for his generosity when it came to giving back to the community. There are many examples of his generosity, and as I have previously said in this place, he has certainly left us with many legacies. Obviously his most significant legacy is the Ilhan Food Allergy Foundation, which will have a significant impact on the lives of family members who have to deal with the problems associated with food allergies. That is what prompted him and his wife Patricia to kick-start the Ilhan Food Allergy Foundation with a contribution of $1 million towards research to try to come up with a solution to this problem.

I am constrained by time; obviously there are other members who want to speak on this very important bill. I want to thank John and Patricia for their assistance to the government on this important matter and for being such good corporate citizens, doing their bit to make this state a better place to live. There have been estimates provided to government that over 4000 children in Victoria have been diagnosed as being at risk of anaphylaxis. We also know that approximately 35 per cent of schools have a child enrolled who has been diagnosed as being at risk of anaphylaxis. This is a great bill, and I wholeheartedly support it. I commend the bill to the house.

Mr WELLER (Rodney) — I rise to speak on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill, and I commend the government for bringing it into the house. The safety and welfare of our children is very important, and is something we need to ensure in Victoria. The Nationals will not be opposing this bill, as the member for Lowan has already pointed out.

The problem that I see with the bill is that it does not go far enough. We need to be quite clear that adrenaline should be available in every school and every kindergarten, and we need to have a commitment to funding the initiatives to make sure they are not putting an extra financial load on kindergartens and schools. I fully support the bill, but I believe the government must fully fund the initiatives to make sure that kindergartens and schools are not put under financial pressure.

We know that the first 15 minutes are critical. We need to ensure that ambulance services are available as well to make certain that when there is an incident in country Victoria we are not disadvantaged. We need to have the government commit fully to this bill, we need a quick response by ambulances and we need to have the appropriately trained teachers and kindergarten people. We fully support the bill, and we need to have proper support across the state. Given that there are other people wishing to speak, I commend the bill and ask the government to fully support it financially.

Ms CAMPBELL (Pascoe Vale) — I too support the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. It builds on the work of the Victorian government and the work that has been undertaken to date to increase the safety of children at risk of anaphylaxis at children's services and schools. It is important for us to reflect on the fact that out of horror comes benefit for the wider community. As families grieve and struggle to come to terms with the ultimate horror of parents, their grief brings assistance to children born and yet to be born. The tragedy of families has highlighted the importance of improvements and building on work that has already been done.

Since 2005 the Victorian government has provided accredited training to staff in children's services and Victorian government schools in comprehensive anaphylaxis management, including the important use of the EpiPen. Importantly too, it has commissioned research into best practice management strategies in schools that looked at national and international experience. We understand why that had to be done when we hear examples of how people have not used the pen correctly. The government, through the department, has developed an anaphylaxis model policy for children's services which is critical to increasing expertise within government departments to assist those of us who, with the best will in the world, do not have that level of skill, training and experience. That is important because there is now detailed policy advice and a range of best practice management strategies for proprietors and principals.

Finally, of course, the important release of anaphylaxis kits to all children's services and schools and the fact that the kits contain similar materials but are specific to the training needs of staff in particular schools mean that children and families will in the future, we trust, have the resources, training, skills and the kits they need when a child needs an urgent response.

In the interests of time I will conclude yet again by stressing the importance to families of having this. I express my sorrow to the families who have suffered the loss of a child, sibling, family member or friend. This highlights the importance of a good, comprehensive response by the whole community.

Ms RICHARDSON (Northcote) — I am very pleased to rise in support of the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. It is a most important bill that will improve safety measures for children who suffer from anaphylaxis attending child-care centres, kinders and schools across the state. The bill provides, for the first time in Australia, measures that will undoubtedly increase confidence in parents of children who suffer from this terrible condition — confidence that has often been severely shaken following the tragic death of a child following a severe allergic reaction or anaphylaxis.

When I was recently participating in the Principal for a Day program at Alphington Primary School, I saw evidence of the problem facing our community. The pin board in the staff room was literally covered with photos of children at risk of anaphylaxis. Each photo had an EpiPen attached, along with a form providing medical details and the likely foods to bring on a severe allergic response. It was made clear to me by staff at Alphington Primary School that sadly the number of photos on the pin board each year is on the increase. When you consider that for some children just the slightest hint of a substance can produce a dangerous response, the need to implement proper measures to counter an attack is critically important. I am pleased to say this is precisely what this bill does. Kinders, child-care centres and schools will be required to implement and adopt a management plan that includes measures to deal with a child suffering from an attack.

For the record I would like to commend Nigel and Martha Baptist, who are actually in the house today and whom I was fortunate enough to meet for the first time this week. Their tireless efforts to increase awareness of this serious condition after their son, Alex, tragically died in 2004 cannot go unacknowledged. This bill is a credit to them, to the minister and to the state government — the first in Australia to take this most important step. I commend the bill to the house.

Ms MORAND (Minister for Children and Early Childhood Development) — I want to start by acknowledging the members of this house who have contributed to the debate, and I certainly thank them for their bipartisan support. They are the members for Caulfield, Lowan, Nepean, Bayswater, Bellarine, Morwell, Eltham, Sandringham, Bundoora, Footscray, Narracan, Narre Warren South, Mildura, Bentleigh, Scoresby, Keilor, Polwarth, Hastings, Ivanhoe, Shepparton, Lara, Rodney, Pascoe Vale, and Northcote.

The experts do not know why yet, but we know that the rate of anaphylaxis is significantly increasing across Victoria and Australia and in fact has tripled over the last five years in Victoria. That is why most of us would know someone who is at risk of anaphylaxis and why anaphylaxis has become an important and significant issue for so many people in our community. In my Mount Waverley community this issue was highlighted to me by Leith Pawsey, whose son, Scott, has anaphylaxis.

Therefore the government is extremely proud to be the first state government to introduce legislation that will improve the safety of children with anaphylaxis who are enrolled in Victorian children's services and schools. Other states may have guidelines around anaphylaxis management, but Victoria is the first state to legislate specifically on this important issue and to introduce requirements for both children's services and schools.

I also want to take the opportunity to acknowledge the work of ministers for children before me and the former Premier, Steve Bracks, in bringing forward this legislation today. This legislation will ensure that all staff who have direct care of children with anaphylaxis have up-to-date training in prevention management and response. This bill will continue the work that has already begun and complement work that has already been undertaken across Victoria. Since 2005 we have trained 16 500 staff in schools, kindergartens, family day care centres, crèches and outside-school services. We have worked very closely with our trainers and experts to ensure that the training provided is of the highest standard and reflects the latest knowledge in the field.

The Asthma Foundation of Victoria and Ambulance Victoria First Aid have done a great job with rolling out this training to children's services and schools. As the member for Lowan remarked earlier in the debate, this has allowed for a close collaboration between Ambulance Victoria First Aid and rural and regional areas in working together to reduce the risk of anaphylaxis in our communities.

I now turn to the issues raised in the debate by the member for Caulfield, the member for Lowan and others. First of all, I would like to clarify the machinery aspects of this legislation, which, as the member for Caulfield pointed out, is enabling legislation. The specific requirements of the legislation will be set out in regulations for children's services and a ministerial order for schools, both of which will be subject to consultation with the key stakeholders.

The regulations and the ministerial order will translate the policy and guidelines that are already in place in

children's services and schools into enforceable law. These guidelines were developed following extensive consultation and are considered best practice by the Australian Medical Association. The government has consulted closely with stakeholders in the development of the legislation and the policy and guidelines and is committed to continuing to do so as part of the process of developing the regulations and the ministerial order.

The member for Caulfield also questioned the role of parents under the new legislation. The specific details for children's services and schools will be set out in the regulations and the ministerial order. The current policy is that it is the parent's responsibility to provide advice to the children's service or school about a child's medical condition upon enrolment, if the child's condition changes, or upon diagnosis. It is their responsibility to provide the child's medication, to give authority to use the prescribed medication and to work together with the school to develop the individual management plan for their child.

The member for Caulfield, the member for Lowan and the member for Polwarth raised issues around the requirement for training under the legislation. The staff who are responsible for the care of students at risk of anaphylaxis will be required to have up-to-date training in anaphylaxis management. This is consistent with guidelines provided to schools earlier this year. The number of staff to be trained in each school will be determined by the principal of the school following an assessment of the needs of that school.

Factors that are to be taken into account, for example, are the number of children with anaphylaxis at the school and the number of staff in the school. In some schools, for example, it might be appropriate for all staff to be trained. In larger schools — and in some schools there are over 1800 or 2000 students — it might be more appropriate for the staff who are responsible for the care of students with anaphylaxis to be trained. It is ultimately the principal's responsibility for ensuring that appropriate numbers of staff are trained to meet the school's duty of care to their students.

In relation to school nurses, an issue that was raised by the member for Caulfield, it is envisaged that all relevant staff caring for and educating children be trained to respond to anaphylaxis immediately.

The member for Caulfield queried whether all staff will be trained by the third term of next year. The government has already been hard at work training schools in how to deal with the risk of anaphylaxis. By the end of this year approximately 6000 children services staff and 11 700 teachers will have received accredited training in anaphylaxis management, including the use of EpiPens. Children's services staff have received free retraining from the Asthma Foundation of Victoria, which is funded by the Victorian government. This initiative was extended to include training for staff in outside-school-hours care and family-day-care providers who care for children at risk of anaphylaxis. In September this year an anaphylaxis resource kit was provided to all children's services. This kit allows all staff at children's services to regularly practice the correct administration of an EpiPen and refresh their skills and knowledge.

Staff in government schools have received training from Ambulance Victoria First Aid — again funded by the Department of Education and Early Childhood Development. Government schools will continue to be able to access training through Ambulance Victoria First Aid. Many members, including the member for Lowan and the member for Caulfield, have raised concerns around training in independent schools. The Catholic Education Commission of Victoria and the Association of Independent Schools of Victoria have been closely involved over the past 18 months in the development of the anaphylaxis guidelines and this legislation. They will continue to be consulted on the development of the ministerial order and the implementation of the legislation. Catholic schools have had access to training through Ambulance Victoria First Aid since 2005. To date Catholic schools training has been funded through the Catholic Education Commission of Victoria. Independent schools have funded training for staff from their own school budgets.

The member for Caulfield inquired about the plan to monitor the policy in children's services and schools. In children's services, compliance will be monitored through the existing mechanisms set out in the Children's Services Act and the regulations. In schools, the Victorian Registration and Qualifications Authority will monitor compliance through the regular five-year review process. Schools with a student enrolled with anaphylaxis will be required to demonstrate how they are complying with the new legislation.

The member for Caulfield also inquired about the meaning of the term 'reasonably ought to know' in the amendment to the Education and Training Reform Act. Above all, parents have an obligation to inform schools of their child's condition. However, schools have an obligation to be proactive in seeking, on enrolment, information from parents about the particular health needs of the student. This also refers to the issue that the member for Polwarth raised. Including the phrase

'ought reasonably to know' means that schools are reminded of the need to take reasonable steps to find out whether their students have a severe allergy. This is the practice in schools already, and it is a requirement in the anaphylaxis guidelines. I think the parents in the chamber will be familiar with the number of times forms come home from schools asking them to fill out the details of any medical conditions and allergies their children may have.

The member for Lowan asked about the procedures that might take place while industrial action was under way at a school. I can assure the member that under their duty-of-care obligations principals and teachers are responsible for ensuring that adequate and appropriate arrangements are made for student care during industrial action. This includes ensuring that adequate numbers of staff who have been trained in anaphylaxis management are present where there is a student at the school who has been diagnosed with anaphylaxis. These duty-of-care requirements still apply when parents are engaged to assist in the supervision of students during stop-work actions. Parents working in a supervisory capacity are protected from liability by the normal legal liability protection that is provided to volunteers.

The member for Polwarth wanted to know about use-by dates. Like any other medications that a child might need at school, it is the parent's responsibility to ensure that this medication is not out of date. In addition, though, under the existing guidelines, which they already have in place, schools are required to check the use-by dates. Children's services regulations also require medications to be current. So a system is already in place to ensure that medications are current and not out of date.

In relation to the back-up EpiPen, this is really a matter for the discretion of the parents and the schools. It is a discretion whether or not the parent would like to provide a second, back-up EpiPen or the school may do so. It is the same as any medication that they might have; it is really up to the discretion of the parents, who provide the EpiPen in the first place. In relation to the question about going on school camps, schools will be and are required by policy to ensure that staff who have been appropriately trained accompany the students on a camp.

I am sorry that the member for Mordialloc is not here today, because she was connected very closely to the development of this legislation by the contact made to her initially by Nigel and Martha Baptist following the death of their four-year-old son, Alex. I know that the member for Mordialloc asked the Baptists if they would like to pass on any thoughts for the debate today. Because the member for Mordialloc is overseas, the Baptists have forwarded me an email that provides some insight into their story and I would like to share some of that story with the members present. I start with part of the email:

> In January 2005 we received Alex's death certificate. From the day we received Alex's death certificate and read that his death was 'consistent with anaphylaxis' we focused ourselves on increasing anaphylaxis awareness and doing what we could to make sure that such an horrific tragedy would not be repeated. Unfortunately there have been anaphylactic deaths since Alex died. Part of the great tragedy, apart from the obvious loss of life, is that anaphylaxis is preventable, is reversible and need not end in death.
>
> Victoria's new anaphylaxis law will not bring our beautiful Alex back, but hopefully we have learnt enough from Alex's death to save another family from losing their precious child.

I would like to thank the Baptist family for the sensitive and dignified manner in which they have campaigned so very strongly over three years, since the death of Alex. It is today that this legislation will be passed in the Assembly and will go on to be debated in the Council.

In conclusion I want to thank the many individuals who have been involved in the development of this legislation: the families, the organisations and indeed the department as well. I thank all the members who have contributed to the debate for their support for this legislation, and I commend the bill to the house.

Business interrupted pursuant to standing orders.

The DEPUTY SPEAKER — Order! The time set down for consideration of items on the government business program has expired. I am required to put the usual questions.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

CRIMINAL PROCEDURE LEGISLATION AMENDMENT BILL

Second reading

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

Motion agreed to.

Read second time.

Third reading

The DEPUTY SPEAKER — Order! As the required statement of intention has been made under section 85(5)(c) of the Constitution Act 1975, the third reading of this bill is required to be passed by an absolute majority. As there is not an absolute majority of the members of the house present I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

DOCUMENTS

Tabled by Clerk:

Geoffrey Gardiner Dairy Foundation Ltd — Report 2006–07 (two documents).

LEGISLATION REFORM (REPEALS No. 2) BILL

Statement of compatibility

Mr BRUMBY (Premier) 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. 2) Bill 2007.

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

Overview of bill

The purpose of the bill is to repeal a number of redundant acts of Parliament.

As part of the process for selecting the acts included in the bill for repeal, the department of each minister who is responsible for those acts conducted a careful review of that legislation, in consultation with parliamentary counsel. Those departments have advised my department (the Department of Premier and Cabinet) that the repeals will not engage any human rights protected by the charter.

In addition, section 14(2)(e) of the Interpretation of Legislation Act 1984 provides that the repeal of an act or a provision of an act, by itself, does not 'affect any right, privilege, obligation or liability acquired, accrued or incurred under that act or provision', unless the repealing act expressly provides for a contrary result. The bill does not expressly seek to affect any person's existing rights, privileges, obligations or liabilities, but simply to repeal the acts specified in schedule 1. As a result, this section should operate to prevent any unintended impairment of the rights or obligations of any persons that might result from the repeals.

Human rights issues

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

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

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

As the bill does not engage any of the rights under the charter, it is not necessary to consider the application of 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.

HON. JOHN BRUMBY, MP
Premier of Victoria

Second reading

Mr BRUMBY (Premier) — I move:

That this bill be now read a second time.

The bill before the house, namely the Legislation Reform (Repeals No. 2) Bill 2007, repeals a number of spent and redundant acts.

It is important for Parliament to review the legislation in the Victorian statute book on a regular basis and to repeal acts that no longer serve any useful purpose. This has usually been done through the statute law reform bills that the Parliament has passed in previous years.

The government has decided to give this process an increased priority, in an effort to reduce the total number of acts by at least 20 per cent, based on the number of acts in operation in 1999. Accordingly, the government has instituted a review of all acts across every portfolio.

The first results of this review were reflected in the Legislation Reform (Repeals No. 1) Bill 2007. That bill, which identified 15 acts for repeal, was introduced into Parliament on 21 August 2007 and was referred to the Scrutiny of Acts and Regulations Committee on 18 September 2007. Because these bills are part of a wider reform program that will involve more things

than the repeal of redundant legislation, it was not initially thought necessary to refer the bills to SARC. After further consideration, however, the government has revised this view and I wish to advise the house that all repeal bills in the legislation reform program will be referred to SARC for its review.

The bill before the house continues this process by identifying a further group of acts for repeal, falling within 13 separate portfolios. These acts are listed in schedule 1 to the bill.

Clearing the statute book of redundant acts, many of them with titles similar to active acts, will help make the task of consulting our legislation less confusing. This fits in with the government's policy of reducing the regulatory burden on the Victorian community wherever possible.

The government will continue its review of Victorian legislation, and intends to present further legislation reform bills to Parliament in future, as may be appropriate.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 20 December.

Referral to committee

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

> That the proposals contained in the Legislation Reform (Repeals No. 2) Bill be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report.

Motion agreed to.

CONSUMER CREDIT (VICTORIA) AND OTHER ACTS 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 Consumer Credit (Victoria) and Other Acts Amendment Bill 2007.
>
> In my opinion, the Consumer Credit (Victoria) and Other Acts Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.
>
> **Overview of bill**
>
> The bill will amend the Consumer Credit (Victoria) Act 1996, the Fair Trading Act 1999, the Sale of Land Act 1962 and other acts to implement the government's response to the consumer credit review. The bill will ensure that the regulation of credit in Victoria is effective, efficient and fair.
>
> The bill will enhance the credit provider registration scheme; introduce mandatory requirements for credit providers to be members of an external dispute resolution scheme; bring rent-to-buy contracts within the protections of the Residential Tenancies Act; simplify and clarify the vendor terms provisions in the Sale of Land Act and enhance and strengthen the enforcement provisions and remedies available to both the director of Consumer Affairs Victoria and consumers under the consumer credit code.
>
> **Human rights issues**
>
> ***1. Human rights protected by the charter that are relevant to the bill***
>
> The relevant rights under the Charter of Human Rights and Responsibilities Act 2006 ('the charter') which the bill will engage are:
>
> *Section 13: privacy and reputation*
>
> Section 13(a) 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 13(b) provides that a person has the right not to have his or her reputation unlawfully attacked.
>
> Part 2 of the bill amends the Consumer Credit (Victoria) Act 1996 ('the act') to establish an enhanced registration scheme for credit providers in Victoria. Under the new proposals, credit providers will be required to disclose certain information on an application for registration (particularly whether the applicant or associates have prior convictions). The type of information which will form part of the public register will also be expanded.
>
> The clauses of the bill which engage the right to privacy are:
>
> > clause 7 of the bill which expands the type of information that a person seeking registration as a credit provider must include on their application form;
> >
> > clauses 9 and 15 which give the Business Licensing Authority the power to conduct any inquiries and require a credit provider to provide any information it thinks fit in relation to an application for registration as a credit provider and the lodgement of an annual statement;
> >
> > clause 11 which expands the types of information which will be available on the public register to include the names of each director of a corporate applicant and details of any tribunal orders and undertakings given by the credit provider to the director of consumer affairs.
>
> Whilst the above provisions engage the section 13 right, they do not limit the right to privacy because the interferences with privacy are proportionate and not unlawful or arbitrary.

The interferences with privacy are not unlawful as they are provided for in this bill and occur in precise and circumscribed circumstances. The interferences with privacy are not arbitrary because of the safeguards provided in the amendments and other relevant legislation. In addition, the Business Licensing Authority is subject to the provisions of the Information Privacy Act 2000 in relation to its collection and handling of personal information.

Furthermore, there are significant public policy reasons to justify the requirements. The requirement that an applicant provide information as to their eligibility to be registered as a credit provider (and which would require them to disclose any relevant convictions) ensures that insolvent or unethical traders do not enter the sector. The expansion of the information forming part of the public register ensures that consumers who deal with credit providers are able to access significant information which will help them to make better informed decisions.

Section 25: right to be presumed innocent

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

Clause 33 of the bill inserts a new division 4 of part I into the Sale of Land Act 1962. This new division re-enacts, in plainer English, the current sections 3 to 7 and section 14 of this act.

New sections 29J and 29T allow the defendant to raise a lawful excuse for not complying with the notice served by the other party to the contract of sale. These sections provide that it is an offence for a vendor or purchaser (as the case may be) to fail to comply with a notice 'without lawful excuse' providing that an excuse may be raised by the defendant. The relevant sections also provide that a lawful excuse includes where the vendor disputes in good faith the purchaser's entitlement to serve the notice in the case of the offence under section 29J or, in the case of an offence under section 29T where the purchaser disputes in good faith the terms of the mortgage.

By placing this onus on the defendant, the provisions limit the right to be presumed innocent in section 25(1) of the charter. However, the limitation is reasonable and justified pursuant to section 7(2) of the charter.

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

The nature of the right being limited

The right to be presumed innocent reflects a fundamental common-law principle. However, the courts have recognised that the right may be subject to limits and have held that reverse onus provisions are more likely to be consistent with human rights if they require the accused to prove an exception, proviso or excuse rather than disprove an element of the offence; where the conduct regulated by the offence is generally unlawful; where the information required to exonerate the defendant is readily available to the defendant; and where the level of penalty is at the lower end of the scale.

The importance of the purpose of the limitation

The purpose of the limitation of the right is to provide the defendant with an opportunity to avoid liability for the offence in circumstances where the defendant has a lawful excuse for not complying with the notice served by the other party to the contract.

The nature and extent of the limitation

The onus of proving a lawful excuse creates an evidential rather than legal burden and only applies where a defendant seeks to rely upon the ability to raise a lawful excuse to the offence. 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 would have to adduce or point to evidence that suggests a reasonable possibility that the exception applies. That is, once the defendant presents or points to evidence of a lawful excuse, the onus returns to the prosecuting authority.

The relationship between the limitation and its purpose

The limitation is directly related to its purpose, namely to allow a defendant to avoid liability in circumstances where he or she has a lawful excuse.

Less restrictive means reasonably available to achieve the purpose

Whilst removing the ability for a defendant to raise an excuse altogether would not infringe the right to be presumed innocent, this would not achieve the purpose of enabling the defendant to avert liability in appropriate cases.

Other relevant factors

It is also relevant that these offences carry a relatively small penalty and do not involve issues of moral culpability. Further, the onus relates to matters that are within the knowledge of the defendant and not difficult for the defendant to establish.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions may limit human rights, those limitations are reasonable and proportionate.

HON. TONY ROBINSON, MP
Minister for Consumer Affairs

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Brumby government recognises the crucial role that credit plays in the Victorian economy and in consumers' lives. We are therefore committed to making credit markets work more efficiently and fairly, committed to promoting efficient, effective and fair credit regulation and, finally, to ensuring that vulnerable and disadvantaged consumers have access to targeted assistance.

Credit is widely viewed as a convenient and readily available service, but it is also debt. According to recent Reserve Bank and Australian Bureau of Statistics data,

levels of household indebtedness and over-indebtedness remain at record highs, and continue to rise. For example, credit card debt in Australia is currently in excess of $40 billion, compared with $31.5 billion as at 1995, with the average credit card balance now over $3000. There are currently more than 13 million credit cards in circulation, compared with 6.5 million as at June 1995.

The household debt-to-income ratio reveals that households owe a lot more than their annual earnings. Recent independent reports have suggested that as many as 400 000 Australian households are suffering mortgage stress. At the other end of the market, many consumers from disadvantaged households resort to small-amount short-term loans to soothe cash flow difficulties and cover expenses like medical bills, motor car repairs and utility payments. There is concern that some credit providers and finance brokers exploit these and other vulnerable consumers rather than offering affordable credit on fair terms. A recent industry report suggests that at least 40 000 Australian households are victims of predatory lending. Many of these households are in Victoria.

The government's social action plan, *A Fairer Victoria*, which was released in 2005, contains key social principles, one of which is to improve access to services, including access to affordable credit so that low-income households are not forced into a debt spiral by taking out excessively costly credit. The consumer credit review was initiated to determine how well credit markets are working, the effectiveness, efficiency and fairness of credit regulation and to ensure that all Victorian consumers — no matter what their circumstances — can get credit on fair terms.

I would like to take this opportunity to acknowledge the great contribution made by the member for Monbulk in chairing the consumer credit review. The comprehensive review included two extensive rounds of consultation, together with a series of successful public forums held in suburban Melbourne and in regional Victoria.

Although the review had a Victorian focus, the nature of consumer credit regulation and the credit market means that the way forward is a mixture of Victorian and state and territory cooperative action. Whilst the bill before the house implements a series of significant recommendations from the review, a number of initiatives are also being progressed at both the state and national level. I am pleased to say that the no-interest loans scheme has been expanded across the state to reduce the impact of credit debt and financial hardship — the government has provided $4.7 million for infrastructure costs over four years from late 2006 and the National Australia Bank has committed to providing $3.3 million in loan capital over four years. The government's infrastructure funding will expand no-interest loan availability from 41 to 77 local government areas and provide up to 4000 additional loans across Victoria per annum, compared with approximately 850 in 2006.

Other significant non-regulatory action is under way in Victoria, including:

research into credit advertising practices and standards and corresponding consumer behaviours;

promoting and encouraging bank and non-bank lenders to provide more access to affordable, small amount short-term credit — a successful affordable credit summit was held in late August 2007 to serve as a platform for continuing work;

work on developing industry guidelines to facilitate the application of the unfair contract terms provisions of the Fair Trading Act to consumer credit contracts.

The government is also actively involved through the Ministerial Council on Consumer Affairs in progressing those recommendations from the consumer credit review which involve national change. National legislation to amend the consumer credit code to address some of the practices associated with fringe lenders, including the misuse of business purpose declarations and the taking of security over household goods, has been released for public consultation. Draft template legislation for the nationally consistent regulation and licensing of finance and mortgage brokers is expected to be finalised during 2008. A major national policy consultation paper on responsible lending issues in the credit card market is also being developed.

Turning now to the bill before the house. This bill will implement a number of the recommendations from the review — namely, those which are Victoria-specific and require amendments to Victorian legislation.

The bill will introduce an enhanced registration scheme that will enable the director of consumer affairs to conduct targeted compliance monitoring and compliance advice programs and it will assist consumers to make more informed judgements about credit providers. The scheme will be funded by fees to be set at cost recovery level. The fees will be prescribed in regulations once the legislation has been implemented. The enhanced scheme will have the following features:

no pre-approval process but credit providers will be required to affirm that they meet objective eligibility criteria;

a risk-based approach to compliance and enforcement activity. This requires the director of consumer affairs to have access to basic information to identify the regulated community, and in a diverse industry such as consumer credit, the nature of the businesses and the products and services they provide.

The proposals will require all credit providers in Victoria to subscribe to an external dispute resolution scheme. Whilst this proposal recognises that many consumers already have access to such schemes, there is a gap amongst subprime lenders and fringe credit providers, many of whom are outside the 'mainstream' market. Registered credit providers in Victoria will be required to subscribe to one of the existing schemes approved by the Australian Securities and Investments Commission under the provisions of the Corporations Act regulating financial services licensees or any scheme which may be prescribed in regulations. This will ensure that all Victorian consumers will have access to affordable dispute resolution mechanisms in their dealings with credit providers.

The provisions in the Sale of Land Act 1962, which provide protections for consumers who enter into vendor terms contracts to buy their home, will be simplified and clarified. The government recognises that the potential of the vendor finance protections will remain unrealised unless the expression of the legislative provisions is improved. This amendment also highlights the government's commitment to modernising legislation when the opportunity arises.

Consumers who enter into rent-to-buy arrangements will be given greater protection by bringing rent-to-buy contracts under the Residential Tenancies Act 1997. By bringing these contracts under the legislation, consumers who enter these arrangements will have the same protections as other residential tenants in Victoria, such as protection against unconscionable rent increases, rights in relation to repairs, controls on owners entering onto the property and access to dispute resolution at the Victorian Civil and Administrative Tribunal.

The Credit Reporting Act 1978 will be repealed. This is consistent with the government's commitment to reducing the regulatory burden on business and in light of the fact that the commonwealth Privacy Act 1988 covers most aspects of credit reporting. However, the consumer's right to take action in the Magistrates Court to compel a credit reporting agency to correct errors in a credit report will be preserved in the Fair Trading Act 1999 as this is not an avenue which is currently available to consumers under the Privacy Act.

The bill will introduce more flexible and targeted remedies available to the director of Consumer Affairs Victoria to enforce credit legislation. The director will be given the power to institute and defend actions on behalf of consumers in all proceedings under the consumer credit code. This is consistent with the director's current powers that already apply in respect of other consumer disputes as covered by the Fair Trading Act 1999. The director will also be given the power to choose to bring proceedings under the consumer credit code in either the courts or the Victorian Civil and Administrative Tribunal if it is in the public interest to do so, depending on the nature and circumstances of the case the director wishes to bring. This proposal will ensure that the most appropriate forum is used to hear consumer credit proceedings.

The bill will also take the opportunity to repeal the current exemption for pawnbrokers from the requirement to be registered as a credit provider under the Consumer Credit (Victoria) Act 1995. The existing exemption is confusing, out of date and unnecessary, as the consumer credit code already excludes any credit provided by a pawnbroker in the ordinary course of their pawnbroking business from the operation of the code.

The bill will also make minor and technical amendments to the Subdivision Act 1988, the Business Licensing Authority Act 1998 and the Transfer of Land Act 1958 as part of the implementation of the Owners Corporations Act 2006.

In summary, this bill is an important part of the government's commitment to implement the recommendations from the consumer credit review. The bill will ensure that Victoria's regulation of credit is as efficient and effective as possible, that consumers are more empowered and that vulnerable and disadvantaged consumers have better protection against predatory lending practices. Finally, it will make a contribution towards the alleviation of financial hardship and financial stress, a growing cause of concern to all Victorians.

I commend the bill to the house.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until Thursday, 20 December.

RELATIONSHIPS 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 (the charter), I make this statement of compatibility with respect to the Relationships Bill 2007.

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

Overview of bill

The bill will establish a relationships register in Victoria, which will provide for domestic relationships to be registered on a register to be operated by the registrar of births, deaths and marriages. Registration will provide conclusive proof of the existence of a domestic relationship. The bill will also provide a single location for provisions relating to property division and maintenance arrangements on the breakdown of a domestic relationship, and for the enforcement of relationship agreements. Finally, the bill includes consequential amendments to acts that currently recognise domestic partners and relationships.

The principles underpinning the charter of respect, equality, freedom and dignity tie closely to the objectives of the bill. These principles include that human rights:

> are essential in a democratic and inclusive society that respects the rule of law, human dignity and equality and freedom
>
> belong to all people without discrimination, and the diversity of the people of Victoria enhances our community.

The bill enhances the right to equality before the law for all Victorians by recognising domestic relationships, regardless of the genders of the couple. Equality before the law is a fundamental right enshrined in the charter, which is essential in a democratic and inclusive society.

Human rights issues

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

The relevant rights under the charter which the bill will engage are:

Section 8: recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law, is entitled to equal protection of the law without discrimination, and has the right to equal and effective protection against 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.

Clauses 5 and 7: definition of 'registrable relationship' and applications

Clauses 5 and 7 of the bill provide that in order to be in a registrable relationship and apply for registration, persons must not be married to or in a registered relationship with each other, or be married or in a registered or registrable relationship with a third person.

In relation to persons who are already married to each other, these requirements do not limit the right to equality because they do not give rise to any less favourable treatment. Marriage itself confers benefits and no detriment would be suffered as a result of a married couple not being able to register their relationship.

In relation to persons who are already married to or in a registered relationship with a third person, these requirements may limit the right to equality on the ground of marital status.

Clauses 5 and 7 of the bill also provide that in order to be in a registrable relationship and apply for registration, persons must be 18 years of age and over. This requirement limits the right to equality on the ground of age.

(a) The nature of the right being limited

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

(b) The importance of the purpose of the limitation

The purpose of the limitation regarding marital status is to ensure that a person is only in one registered relationship and is not married in order to register a relationship. Legal and practical difficulties would arise if a person had more than one registered partner or both a registered partner and a spouse, for example, where a doctor needs to discuss a person's medical treatment with the next of kin in an emergency situation.

The purpose of the limitation regarding age is to protect persons under 18 years of age who are more vulnerable than adults because of their age, and therefore are less likely to have the maturity and capacity to make an informed decision about registering a relationship and to understand the consequences of registration.

(c) The nature and extent of the limitation

The bill limits the right to equality only to the extent that a person cannot register a relationship if they are married or are in a registered relationship with a third person, or if a person in the relationship is under 18 years of age.

(d) The relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose of ensuring that a person is only in one registered relationship or marriage.

There is also a direct relationship between the limitation on registration to adults and the purpose of protecting persons under 18 years of age, who because of their age, are less likely to have the maturity and capacity to make an informed decision about registration and understand the intended consequences of registration.

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

In relation to marital status, there are no less restrictive means reasonably available to achieve the purpose of ensuring that a person is only in one registered relationship and is not married to register a relationship. It is also open to a person to divorce their spouse pursuant to the commonwealth Marriage Act 1961 or revoke registration under this bill to meet these eligibility requirements.

In relation to age, there are no less restrictive means reasonably available to achieve the purpose of protecting persons under 18 years of age who are less likely to have the maturity and capacity to make an informed decision about registration. The age limit involves a degree of generalisation without regard for the particular abilities, maturity and other qualities of individuals. However, it is necessary and reasonable for Parliament to set an age limit reflecting its assessment of when most persons will have sufficient maturity to ensure responsible decisions are made in relation to registration. It would place an unreasonable administrative burden on the registrar to require them to assess each individual aged 16 or 17 years to determine whether they have sufficient capacity to make the decision. The registrar is also not empowered to undertake judicial functions unlike a court who can authorise a person to marry when aged 16 or 17 in exceptional circumstances. Accordingly, this is not a reasonably available option.

(f) Any other relevant factors

Similar protections exist in the Tasmanian Registration Act 2003, which requires that a person must not be married or in another registered relationship to register a relationship and that a person must be an adult to register a relationship.

(g) Conclusion

Accordingly, the eligibility requirements in clauses 5 and 7 are reasonable and demonstrably justifiable limitations under section 7 of the charter.

Clause 39: definition of 'child'

Clause 39 engages the right to equality because it defines 'child' in a way that excludes children of same-sex domestic partners. However, the definition does not give rise to any less favourable treatment for same-sex domestic partners who have children. This is because, the relevant provisions relating to the making of property adjustment and maintenance orders take into account children who are accepted by the domestic partners as one of the family (which could include children of same-sex couples), as well as children as defined in clause 39 (see clauses 42, 45 and 51). Therefore, no detriment would be suffered as a result of the definition of child in clause 39.

Section 13: privacy and reputation

A number of clauses engage the right to privacy under section 13 of the charter, in that they relate to collection of personal information.

The bill provides that the registrar may: require applicants to provide any other document or information that the registrar requires for the purpose of determining an application for registration; conduct an inquiry to find out the particulars of an application, or whether the particulars of a registered relationship are correctly recorded on the register; and collect and maintain other non-registrable information. (See clauses 7, 8, 18, 26 and 27.)

To comply with section 13(a) of the charter a person's privacy must not be unlawfully or arbitrarily interfered with. The circumstances in which the bill will authorise the registrar to collect the information in question are circumscribed. The main purpose of obtaining information is to ensure that applicants meet the eligibility requirements for registration and that the register is correct. This is vital to the integrity of the register. Another purpose of obtaining information is to enable the registrar to provide additional services in relation to the registration of a registrable relationship (for example, recording the duration of a relationship prior to registration on a commemorative certificate). The exercise of these powers is therefore neither unlawful nor arbitrary.

Clause 19 engages the right to privacy because it enables the registrar to correct, amend and add to the register. The circumstances in which the bill will authorise the registrar to correct, amend and add to the register are circumscribed. Such changes to the register may only be made to ensure that the particulars of a relationship that are recorded on the register are accurate. The purpose of such powers is to maintain the integrity of the register. The exercise of these powers is therefore neither unlawful nor arbitrary.

A number of clauses engage the right to privacy under section 13 of the charter, in that they relate to access to and disclosure of personal information.

The bill provides that the registrar may, on application, search the register for an entry about a particular registered relationship and issue a certificate of the search results. The bill also provides that the registrar may allow a person or organisation access to information in the register or provide information extracted from the register. (See clauses 21, 22 and 24.)

The circumstances in which the bill will authorise the registrar to search and allow access to information on the register are circumscribed. Applicants must provide adequate reasons for requesting a search or access to information on the register. In deciding whether an applicant has an adequate reason, the registrar must have regard to a number of relevant factors. Further, clause 20 of the bill states that in providing information, the registrar must protect the persons to whom the information relates from unreasonable intrusions on their privacy (for example, by providing non-identifying information), and clause 23 provides that the registrar must maintain a written statement of the policies on which access to information is to be given or denied. The exercise of these powers is therefore not an unlawful or arbitrary interference with a person's privacy.

Section 15: freedom of expression

Clause 18 allows the registrar to require a person who may be able to provide information about the particulars of a relationship to provide such information. A person must not, without reasonable excuse, fail to comply with such a request.

This may raise the right to freedom of expression in section 15 of the charter, which includes the right not to express. However, section 15(3) of the charter provides that special duties and responsibilities attach to this right and it may therefore be subject to lawful restrictions reasonably

necessary to respect the rights and reputations of other persons or for the protection of national security, public order, public health or public morality. Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society.

Clause 18 constitutes a lawful restriction on the freedom of expression under section 15(3) of the charter for the purpose of public order and rights and reputation of other persons by assisting the registrar to ensure the accuracy of the information on the register and thereby maintain the integrity of the register.

Section 20: property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law. Clauses 40, 45, 51 and 58 of the bill deal with the powers of the court to make orders concerning the property and maintenance of domestic partners that seem just and equitable, having regard to a number of matters which are clearly articulated. The court's powers are formulated in a precise manner and will occur under powers conferred by legislation. The deprivation of property will therefore be in accordance with law, and there is no limitation of the right granted in section 20 of the charter.

Section 24: fair hearing

Section 24 of the charter states that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Clause 61 of the bill raises the right to a fair hearing in providing that in the case of urgency, a court may make an order or grant an injunction for the purposes specified in clause 58(1)(h).

(a) The nature of the right being limited

The purpose of the right to a fair hearing is to ensure the proper administration of justice. This right is concerned with procedural fairness (that is, the right of a party to be heard and to respond to any allegations made against him or her, and the requirement that the court or tribunal be unbiased, independent and impartial), rather than the substantive fairness of a decision or judgement of a court or tribunal determined on the merits of the case.

(b) The importance of the purpose of the limitation

The purpose of the limitation is to enable a court in emergency situations to make an order or injunction, to protect certain property and/or aid enforcement of a relevant order, in the absence of a party. For example, in situations where there is a need to make an order to stay the distribution of interests in property on the breakdown of a relationship, where one party cannot be located or delaying the making of such an order would result in serious injustice to the party making the application.

(c) The nature and extent of the limitation

The bill limits the right to a fair hearing to the extent that a court can make an order or grant an injunction ex parte.

(d) The relationship between the limitation and its purpose

There is a direct relationship between the limitation and its purpose. The court can only make orders ex parte in the case of urgency. Further, the power of the court is limited to the extent that any orders made under this clause will be for a specified time or until a further order is made.

The court has the power at the same time to give directions to serve the order or injunction on the absent party and to set the matter down for a further hearing, to enable time for the absent party to attend a further hearing to make submissions. This accords the absent party procedural fairness where temporary orders have been made in exceptional circumstances. Therefore the limit goes no further than is necessary to achieve the purpose of protecting property and/or enforcing an order, in circumstances where not having the power to make temporary orders, ex parte would result in serious injustice to the applicant. For example, where one party cannot be located or if there is a risk of a party disposing of the property in question.

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

There are no less restrictive means reasonably available to protect property and/or enforce an order. Due to the urgency of such matters, it is unreasonable for a court to delay making such an order until all parties are present.

(f) Any other relevant factors

A similar provision exists under section 293 of the Property Law Act 1958.

(g) Conclusion

Accordingly, the court's power to make orders and injunctions in the absence of a party in clause 61 is reasonable and demonstrably justifiable under section 7 of the charter.

Conclusion

I consider that the bill is compatible with the charter because to the extent that some provisions may limit human rights those limitations are reasonable and justified in the circumstances.

ROB HULLS, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

In April this year, the government announced that it would develop legislation for a statewide relationships register to be introduced by the end of this year. This promise is met today, with the introduction of the Relationships Bill 2007.

The bill establishes a relationship register for domestic partners who, although not married, are in a committed relationship. Registration will allow these couples

easier access to existing entitlements without having to argue repeatedly that they are in a committed partnership, or have to prove this in court. The bill also deals with financial and property matters in the event of a relationship breakdown.

This bill makes a great stride towards fulfilment of several promises, beginning with Labor's election commitment in 1999 to implement the recommendations of the *Same-Sex Relationships and the Law* report by the then Equal Opportunity Commission. That report recommended that ending discrimination against same-sex couples required a general scheme to recognise all couples, irrespective of gender, in Victorian law, and a registration scheme, which would provide proof of the existence of the couple relationship for the purposes of Victorian law.

We delivered on the general recognition scheme in 2001, when we amended almost 60 statutes to recognise the rights and obligations of partners in domestic relationships irrespective of the gender of the partners in the relationship.

The registration scheme is the subject of the present bill.

This bill and the Constitution Amendment (Judicial Pensions) Bill 2007 being introduced today honour a broader promise, found in the Charter of Human Rights and Responsibilities, to promote the values of equality, respect and dignity inherent in human rights.

Indeed, we are fulfilling these promises because this government believes in the goal of creating a fairer society that reduces disadvantage and respects diversity, as set out in *Growing Victoria Together*, our vision for Victoria. We also see it as part of encouraging a socially just and cohesive society, the subject of the government's social policy statement, *A Fairer Victoria*.

As I said in November 2000, when introducing the first of the two statute law amendment (relationships) acts, this government:

> … considers the achievement of substantive rights for lesbians, gay men and transgender people as being vitally important. Human rights necessarily involve a respect for the equal dignity of all persons, without discrimination. Lesbians, gay men, intersex and transgender people have historically been denied their human rights. This bill is an important step in redressing that historical injustice.

I repeat those words today, for what this bill does is to enable couples who want the dignity of formal recognition of their loving relationship to register it, to receive a certificate, and to have the security of knowing that their decision to commit to a shared life with each other is respected in Victoria. Their relationship is not only accepted without discrimination, as the 2001 reforms established and the Equal Opportunity Act 1995 requires, but the nagging fear that they will be put to the indignity of having to justify their relationship before disbelieving or prejudiced eyes, time after time, is dispelled by this bill. Being on the register, having a certificate of their relationship's registration, is all the proof they need.

For example, when discussing a partner's health information with a doctor in an emergency situation, the last thing someone wants is to have to argue that, 'Yes, this patient is my partner'. A certificate of registration gives everyone, hospitals included, certainty and peace of mind.

As with the 2001 reforms, the relationships register is for all couples, irrespective of gender, who do not wish to or who cannot marry. While the indignity of prejudiced disbelief may affect same-sex couples most often, the register, and the legal status of 'domestic partner' generally, is available to all committed couples.

A domestic relationship, registered or otherwise, is not, of course, marriage, over which the state has no constitutional power and which is defined by the commonwealth Marriage Act 1961 to exclude same-sex couples. The bill does, however, recognise and dignify the free choice of human beings to order their own lives and relationships in freedom, and respects that choice in terms of equality as far as Victorian laws are concerned.

The bill preserves, for those who do not register their relationship, the existing scheme of recognition established in 2001, and uses the same definitions of domestic partner. There will be no adverse inference for couples who do not register their relationship.

Our announcement in April this year indicated that we would consider adopting a registration model similar to the Tasmanian scheme established in 2004 by its Relationships Act 2003. One feature of the Tasmanian scheme that does not form part of the present bill is the registration of what it describes as 'caring relationships'. In Tasmania, a 'caring relationship' involves a concept of relationship that is broader than that of a couple and can be between two family members. The inclusion of such relationships in our registration scheme will be the subject of further consultation with a view to considering possible amendment in the future.

I acknowledge that several municipal councils have instituted their own schemes to give domestic partners a registration certificate. The Municipal Association of Victoria and the Law Institute of Victoria urged the creation of a single statewide scheme of relationship registration to avoid inconsistencies and duplication that might otherwise have resulted. Those bodies welcomed the announcement in April of the government's intention to do this.

Relationships register

I now turn to the register itself.

The register will be maintained by the registrar of births, deaths and marriages and will be open to unmarried couples anywhere in Victoria.

The bill describes the relationship that will be able to be registered as a relationship between two adults who are not married to each other but are a couple, where one or each of the persons in the relationship provides personal or financial commitment and support of a domestic nature for the material benefit of the other. A couple does not necessarily have to be living together to be in a registrable relationship, but it does not include a relationship in which a person simply provides domestic support and personal care to the other person for fee or reward or on behalf of another person or organisation.

Registration will be available for couples in a registrable relationship where both parties are adults, ordinarily resident in Victoria and not married, already in a registered relationship or in another relationship that could be registered in Victoria.

The application for registration will require a statutory declaration from each applicant that they meet these requirements and that they consent to the registration of their relationship. Just as in the Tasmanian scheme, the couple will not have to prove, other than by their declarations, that they meet the criteria for recognition as domestic partners. If the registrar is satisfied as to their eligibility, by identity, age and residence, and that they are not excluded by marriage or other relationship, then after 28 days the relationship can be registered.

A fee will be payable for making the application to register. It is intended that fees associated with the register will be set by regulations. Births, deaths and marriages is currently reviewing all of their regulated fees, and new regulations need to be made by the end of September 2008. However, these regulations will not be in place in time for the anticipated commencement of the register. Rather than delay the commencement of the register, the bill provides for interim fees, which will be taken to be the prescribed fees until regulations are made. The interim fee for an application to register a domestic relationship is $180.

The bill also provides for the revocation of a registration. Registration is automatically revoked by the death or marriage of either person in the relationship. It may also be revoked by an application to the registrar for revocation. The interim fee for a revocation application is $58.80.

The register will otherwise operate in a similar fashion to other registers maintained by the registrar. The registrar will control the information in the register and protect the privacy of the persons to whom the entries in the register relate.

Relationship agreements, property and maintenance

In addition to establishing the relationships register, the bill provides a single location for statutory requirements governing property matters in the event of a breakdown of a domestic relationship, whether or not that relationship is registered. The bill allows partners in domestic relationships that have broken down to apply for the adjustment of interests in the property of the relationship and also establishes a limited scheme for maintenance. While the bill specifies eligibility requirements to be met before an order for property adjustment or maintenance can be made, these requirements do not apply where the domestic relationship has been registered.

The bill also provides for the enforcement of relationship agreements. Relationship agreements deal primarily with financial matters between domestic partners and can be made in contemplation of entering into a relationship, at any time during the relationship, in contemplation of the relationship ending or after it has ended. Where a court finds that there is a valid agreement, it is not to make an order that is inconsistent with the agreement. However, a court will still be able to vary or set aside the agreement where serious injustice would result from its enforcement or where there has been duress or fraud.

To achieve this, the bill repeals part IX of the Property Law Act 1958, which currently deals with the property of domestic partners, and incorporates these provisions, making some amendments to accord with additional provisions relating to maintenance and relationship agreements.

I should point out that it is only necessary to enact these property-related provisions because of the Howard government's failure to act on Victoria's referral of

powers made by the Commonwealth Powers (De Facto Relationships) Act 2004 in respect of same-sex domestic partners. When it made this referral, the Victorian government recognised that the current situation, which requires former domestic partners to use both the state and federal jurisdictions, means that they are subject to greater expense and effort when dealing with the often difficult legal circumstances surrounding the breakdown of a relationship.

Consequential amendments

Lastly, the bill makes consequential amendments to those Victorian acts that currently recognise domestic partners and domestic relationships, in order to make provision for registered relationships. Where a relationship is not registered, the current definition that applies in various pieces of legislation, and the criteria to establish the existence of the relationship, will continue to apply. These criteria, currently located in the Property Law Act, are now located in this bill.

Conclusion

This bill is a culmination of a long process of overcoming discrimination and promoting human rights. By not only recognising but also enabling the registration of committed unmarried relationships, which this bill does, we contribute to the wider goal of promoting human rights and a fair and inclusive society, as well as benefiting individual Victorians, and their friends and families.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 20 December.

CONSTITUTION AMENDMENT (JUDICIAL PENSIONS) 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 Constitution Amendment (Judicial Pensions) Bill 2007.

In my opinion, the Constitution Amendment (Judicial Pensions) 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 contains amendments to the Constitution Act 1975, the Supreme Court Act 1975, the Attorney-General and Solicitor-General Act 1972, the County Court Act 1958, the Public Prosecutions Act 1994 and the Magistrates' Court Act 1989.

The bill will amend provisions in these acts, which govern the pension entitlements of Victoria's judicial and other constitutionally protected officers, to facilitate the adoption of the separate interest method for dividing the pension entitlements of judicial and other constitutionally protected officers under the commonwealth family law in divorce property proceedings.

The bill will also amend these acts to extend entitlement to a reversionary pension to de facto and same-sex partners of the judiciary and other constitutionally protected officers.

Human rights issues

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

Section 8(2) of the charter provides that every person has the right to enjoy his or her rights without discrimination.

Section (3) of the charter provides that every person is equal before the law and is entitled to equal protection of the law without discrimination and has the right to equal protection against discrimination.

The pension schemes of Victorian constitutionally protected officers provide that upon the death of the officer entitled to, or receiving, a pension, his or her spouse shall receive a portion of their pension (a reversionary pension). As the schemes currently do not provide a definition for the term 'spouse', reversionary pensions are only available to married partners of judicial and other constitutionally protected officers.

The amendments, which replace the terms 'spouse' and 'widow' with 'partner' to include de facto and same-sex couples, positively engage sections 8(2) and (3) of the charter. They remove discrimination on the basis of gender, marital status and sexual orientation and ensure that de facto and same-sex partners of Victorian constitutionally protected officers are afforded the same rights and entitlements as married spouses.

The amendments are therefore compatible with the charter.

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

As the bill has no impact on 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.

ROB HULLS, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill contains amendments that will modernise the pension schemes of Victorian constitutionally protected officers, by ensuring that they operate effectively in accordance with the commonwealth family law and comply with Victorian equal opportunity legislation.

Commonwealth family law legislation

Since the introduction of the Family Law Legislation Amendment (Superannuation) Act 2001 (Cth), superannuation entitlements have been divisible in divorce property proceedings by agreement or court order.

In 2003, Parliament passed the Superannuation Acts (Family Law) Act 2003 to ensure that the commonwealth's family law legislation applied to the Victorian public sector defined benefit superannuation schemes. The 'separate interest' method for splitting superannuation entitlements was adopted by that act.

Consistent with the government's approach to other defined benefit superannuation schemes, this bill adopts the 'separate interest' method of splitting superannuation entitlements in divorce property proceedings for Victorian constitutionally protected officers. Adoption of the 'separate interest' method has also been recommended by an independent actuary as being the most equitable method for dividing pension entitlements of constitutionally protected officers. The separate interest method provides greater certainty for divorcing spouses in that it places an actual value on the superannuation interest to be divided in divorce property proceedings and promotes a 'clean break' by providing for payment of a lump sum to the non-member spouse at the time of the divorce.

This will modernise the pension schemes of judicial and other constitutionally protected officers and ensure that they operate more equitably in accordance with the commonwealth family law.

Equal opportunity legislation

The Brumby government is committed to promoting equal opportunity and protecting the rights of all Victorians.

Drafted in the middle of the 19th century, pension schemes of judicial and other constitutionally protected officers made reversionary pensions available only to the married spouses of judicial and other constitutionally protected officers.

This bill replaces the terms 'spouse' and 'widow' with the term 'partner' throughout the governing acts. 'Partner' will be defined to include married, de facto and same-sex partners, in the same way as it has been defined in the State Superannuation Act 1988 and the Parliamentary Salaries and Superannuation Act 1968. It will also include partners in 'registered relationships' as defined in the Relationships Bill 2007, if passed by Parliament. In doing so de facto and same-sex partners of judicial and other constitutionally protected officers will be entitled to a reversionary pension under the schemes for the first time.

These amendments will make the Victorian schemes consistent with those in other states and bring these acts into compliance with the Equal Opportunity Act 1995, ensuring that de facto and same-sex partners of judicial and other constitutionally protected officers are afforded equal enjoyment of work-related entitlements.

This bill and the Relationships Bill 2007 being introduced today also honour a promise, found in the Charter of Human Rights and Responsibilities, to promote the values of equality, respect and dignity inherent in human rights.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 20 December.

INFRINGEMENTS AND OTHER ACTS 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 Infringements and Other Acts Amendment Bill 2007.

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

Overview of bill

The bill will introduce a number of more complex offences into the trial expansion of Victoria's infringement system.

Clause 5 amends section 113(1) and section 114 of the Liquor Control Reform Act 1998 to enable the offences set out therein to be enforced by infringement notice. Clause 9 amends the Summary Offences Act 1966 to permit a member of the police force to serve an infringement notice on a person that s/he has reason to believe has committed an offence against section 9(1)(c), wilful damage, section 17(1)(c), indecent or obscene language, or section 17(1)(d) offensive behaviour. Clause 10 inserts a new section 74A into the Crimes Act 1958 to establish an infringeable offence of shop theft as part of the trial expansion of the infringements system.

The bill will also strengthen Victoria's infringement system by making miscellaneous amendments to address operational issues that have arisen since the commencement of the Infringements Act 2006 (the act).

An amendment to the Supreme Court Act 1986 will also ensure that sheriff's officers will have appropriate powers to effectively execute civil warrants.

Human rights issues

The following analysis contains a discussion of each of the charter rights raised by 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 the equal protection of the law without discrimination. Discrimination means discrimination within the meaning of the Equal Opportunity Act 1985 (EO act) based on an attribute set out in section 6 of that act.

Trial expansion of the infringements system

Section 8(3) is arguably engaged by clauses 4–11 of the bill. These are provisions that create a number of the infringement offences to be included in the trial expansion of the infringements system.

There is a risk that these new infringement offences may impact disproportionately on groups within the community with one or more of the particular attributes referred to in section 6 of the EO act. These include impairment (for example, those with mental illness or intellectual disability and people experiencing serious substance abuse problems) or race (indigenous members of the community). The reason for the potential impact is that these members of the community are disproportionately represented in the criminal justice system.

It is my view that the protections introduced by the act in 2006 (for example, formal internal review procedures and a formal recognition of vulnerable members of the community with 'special circumstances'), together with the package of protections included in the operational guidelines which will be put into place as part of the trial expansion mean that this charter right is not limited. Accordingly, I have concluded that the provisions are compatible with section 8(3) of the charter.

Exemption from trial expansion for persons under 18 years of age

The bill provides that the trial expansion of the infringement regime, permitting some complex offences to be enforced by infringement notice, will not apply to children under 18 years of age.

Clause 5, which enables the offences set out in sections 113(1) and section 114 of the Liquor Control Reform Act 1998 to be enforced by infringement notice, provides that an infringement notice must not be served on a person who is under 18 years of age.

Similarly, clause 9, which permits an infringement notice to be issued for an offence against section 9(1)(c), wilful damage, section 17(1)(c), indecent or obscene language, or section 17(1)(d) offensive behaviour, in the Summary Offences Act 1966, provides an infringement notice must not be served on a person who is under 18 years of age.

Clause 10, which inserts a new section 74A into the Crimes Act 1958 to establish an infringeable offence of shop theft, also provides that an infringement notice for the offence of shop theft must not be served on a person who is under 18 years of age.

Prima facie, the exclusion of children from this trial constitutes discrimination in that it discriminates on the basis of the attribute of age under the EO act. However, in fact, the effect of this provision is to preserve a safeguard that operates for the protection of children's rights.

The limit on the right is reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(a) The nature of the right being limited

The right to equality before the law is not an absolute right.

(b) The importance of the purpose of the limitation

The proposed discrimination acknowledges that children are at a disadvantage due to their lack of independent legal standing. There is a recognised need to treat young offenders with a rehabilitative perspective and to apply an individualised approach.

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

These provisions will limit the opportunity for a child under 18 years of age to be issued with an infringement notice during the trial.

(d) The relationship between the limitation and its purpose

The removal of children from the scope of the trial means that young offenders will continue to be dealt with either though the formal cautioning program in place for children, or by the Children's Court. The court is the appropriate venue to offer an individualised approach to young offenders.

(e) Less restrictive means reasonably available to achieve its purpose

No other means are available.

(f) Other relevant factors

Other offences to be included in the trial also exclude young people via administrative enforcement policies. This ensures that there is a consistent approach to young people under the trial expansion.

(g) Conclusion

This is a reasonable limitation of the right to recognition and equality before the law because it gives appropriate recognition to the strong social concern for the protection of the interests of young offenders.

Section 20: property rights

Section 20 of the charter provides that a person must not be deprived of their property except in accordance with law. A deprivation of property is in accordance with law where the deprivation occurs under powers conferred by legislation pursuant to a law, which is formulated precisely and is not arbitrary.

Clauses 38 and 39(1) will amend the act to clarify that moneys owed on all infringement warrants against a person may be taken into account in determining whether the threshold levels for certain enforcement measures have been reached.

Parts 10 and 11 of the act deal with attachment of earnings and attachment of debts orders and charges over and sale of real property respectively. These enforcement measures only apply to persons with an outstanding infringement warrant for not less than the prescribed amount. The current prescribed amount is $1000 for part 10 and $10 000 for part 11. It is proposed to amend the act to clarify that parts 10 and 11 apply where a person owes the prescribed amount on one or more infringement warrants.

This provision engages the property right under the charter, but does not limit that right. Any deprivation of property arising from this proposal is in accordance with the law and will operate in a structured and confined way and I have concluded that the provisions are compatible with section 20 of the charter.

Section 21: right to liberty and security of person

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

Imprisonment of offenders

Clause 40 of the bill proposes to amend the act to ensure that the Magistrates Court has adequate powers to deal with infringement offenders who default upon partially discharged fines, by allowing the court to order imprisonment in default of the payment of a partially discharged fine.

This amendment engages with the charter right to liberty and security of a person as it provides for an offender to be imprisoned on default of a partially discharged outstanding fine. However, the provision does not limit the right as the power of imprisonment is specifically authorised and clearly confined by law. Section 158 of the act clearly outlines the circumstances in which an infringement offender can be imprisoned. Section 160(4) of the act provides that any warrant to imprison must be issued under section 68 of the Magistrates' Court Act 1989. This ensures that the general provisions in that act on the issue of and the directions in and authority of these warrants apply to warrants issued under the act.

Sheriff's powers to restrain persons

Clause 44 of the bill amends the Supreme Court Act 1986 to extend the existing power of sheriff's officers to temporarily restrain persons hindering the execution of warrants to civil warrants, in addition to the existing power in relation to criminal warrants.

This amendment engages with the charter right to liberty and security of a person but does not limit that right. Temporary restraint ensures that the resister's liberty is restricted to the minimum degree necessary to execute the court warrant. Section 82H(2) of the Magistrates' Court Act 1989, which provides the safeguard that a person restrained under the section 'must be released as soon as the activity that the person was hindering has been completed,' is replicated in the new clause. Training and operational procedures are in place to ensure that sheriff's officers only exercise the power when it is strictly necessary and in a consistent and appropriate manner.

In compliance with section 21(4) of the charter, operational procedures require officers exercising the power under this provision to explain to the person that they are being temporarily restrained.

Accordingly I have concluded that these provisions are compatible with section 21 of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities. Provisions of the bill engage with but do not limit rights conferred by sections 8, 20 and 21 of the charter. The provision of the bill that does limit human rights under section 8 of the charter is 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.

Background: the genesis of the current proposals

In November 2005, I introduced a bill to establish a modern administrative system to deal with minor breaches of state and local laws.

The new regime established under the Infringements Act 2006 created an overarching statutory regime to govern the issue, review and enforcement of infringement notices. The act, the regulations and ministerial guidelines combine to prescribe the steps involved in issuing a notice, the options available to a person who receives one, and the consequences that flow from a failure to pay the fine imposed.

The Infringements Act commenced in July 2006 and I was recently pleased to announce the first report of its operations. My first annual report, released in October

2007, noted that in 2006–07 approximately 4.1 million infringement notices had been issued. Some of the amendments being introduced in this bill will 'finetune' the Infringements Act 2006, reflecting the operational experience we have gained since the act commenced.

In March 2007, my department released a discussion paper, canvassing proposals for the further development of the infringements system. The paper proposed the inclusion of more complex offences in the infringement system on a trial basis. We received a number of submissions from over 20 organisations, including business, government and legal bodies.

The Infringements and Other Acts Amendment Bill 2007 creates the framework to conduct a trial expansion of the current regime. The purpose of the trial is to test the regime's capacity to deal with minor, but more complex offending than the breaches conventionally pursued through the infringements system.

The trial expansion of the infringements regime

Consideration has been given to trials in other jurisdictions and issues of concern to the Victorian community. Seven offences have been selected for the trial. The bill enables certain road safety, minor property and disorderly conduct offences to be dealt with by infringement notice.

Four offences included in the trial relate to disorderly or offensive conduct or alcohol-related issues. The trial expansion addresses two concerns that have emerged as a high priority in our efforts to build safe communities: the increasing prevalence of offensive and disorderly conduct in public places, especially entertainment precincts, and violence fuelled by alcohol.

For the purposes of the trial, two 'public order' offences in section 17 of the Summary Offences Act 1958 will be enforceable by infringement notice: using indecent or obscene language and offensive behaviour.

The trial expansion links in with initiatives introduced in the Liquor Control Reform Amendment Bill 2007, which was second-read on 1 November 2007. That bill introduces a regime to target disruptive, alcohol-fuelled conduct in entertainment precincts. It will authorise police to issue a 24-hour banning notice to a person who is reasonably believed to have committed one of a number of specified offences.

Two of the offences included in the trial expansion, offensive behaviour and being drunk, violent or quarrelsome and failing or refusing to leave licensed premises as requested, are also specified offences under the Liquor Control Reform Amendment Bill 2007. This means that if a police member reasonably believes that a person has failed to leave licensed premises, or has behaved offensively in public, the police can not only issue an infringement notice for those offences, but also issue that person with a 24-hour banning notice.

Following the precedent set by jurisdictions such as England, New South Wales and South Australia, we have also decided to include shop theft in the trial. The bill creates a new 'infringeable' version of the offence of theft in the Crimes Act 1958. This provision makes it an infringeable offence to steal goods valued at, or displayed for sale for, up to $600 from retail premises. The new offence is only to be used to deal with first-time, minor and 'one-off' offending, where restitution has been made or the retailer does not require it. It will not be used in relation to conduct involving repeat offenders, syndicates or workplace theft.

The infringeable offence of shop theft remains, like the 'parent' offence, an indictable offence that is also triable summarily. The powers and safeguards provided for the investigation of indictable offences apply in relation to the new infringeable offence. In practice, this will mean that police are able to use their investigative powers under the Crimes Act 1958 before deciding what enforcement action to take — i.e., whether to give a caution, issue an infringement notice or proceed by charge and summons. A defendant who receives an infringement notice for shop theft and elects to have the matter dealt with by the court has the same legal rights and liabilities as would apply if the matter had originally proceeded by charge and summons. If the police issue an infringement notice but subsequently find that, in the light of further information, it is preferable to take proceedings in court, the police may withdraw the notice and proceed by charge and summons.

The trial also permits the offences of wilful damage, under the Summary Offences Act 1958, and careless driving, under the Road Safety Act 1986, to be enforceable by infringement notice. The inclusion of the 'careless driving' offence in the trial expansion does not require legislative action; it can be achieved by amendment to the Road Safety (General) Regulations. Under the trial expansion, adults will be liable for a traffic infringement notice if detected committing a 'careless driving' offence. However, 'L-platers' and 'P-platers' who are detected driving carelessly will continue to receive a charge and summons. This is because it is important to ensure that drivers who offend at this early and crucial stage of their driving life are brought before the court, so that the nature of their

conduct and all its consequences can be addressed and communicated to them.

The operation of the trial

The trial is confined to matters involving adults. Where one of the trial offences is committed by a person aged under 18 years, the matter will continue to proceed by charge and summons.

The bill confirms that the principle of expiation will apply when infringement notices are issued for trial offences. This means that payment of the infringement fine will not be taken as an admission of guilt, that no further proceedings can be taken in relation to that conduct and that no conviction is recorded.

The bill provides for the trial offences to be infringeable in their current form. Where an offence includes a mental element such as 'wilfulness' in the offence of wilful damage, or a subjective element such as 'offensiveness' or 'indecency', operational protocols will guide police as to the matters they should consider when determining whether it is appropriate to issue an infringement notice. The shop theft offence preserves all the elements of the existing offence of theft, but confines it to theft from retail premises of goods valued at or offered for sale for less than $600. Preserving the offences in their current form allows the trial to test the extent to which they are capable of effective enforcement by infringement notice.

Monitoring and evaluation

Monitoring and evaluation is a key element of the trial expansion both in relation to offences already being trialled and the offences proposed for infringement in this submission. The operation of the trial will be subject to ongoing monitoring and will be evaluated after the first 12 months. The evaluation will examine, amongst other things, the impact of the use of infringement notices on resource implications, case length and case flow, the impact of the trial on vulnerable defendants and the effect, if any, on sentencing outcomes of trial offence matters that are determined by the court. Stakeholders will be involved in establishing the criteria for the evaluation.

Miscellaneous amendments

The bill strengthens Victoria's infringement system by making technical and miscellaneous amendments to address operational issues that have arisen since the commencement of the Infringements Act 2006.

Measures to consolidate and clarify enforcement powers

The bill extends the time available to an enforcement agency to proceed against a person who has defaulted on a payment plan in respect of a lodgeable offence.

The bill authorises the sheriff and her officers to restrain a person who hinders the execution of a civil warrant. This power is already available under section 82H of the Magistrates' Court Act 1989 for the execution of criminal warrants. The current amendment to the Supreme Court Act 1986 gives the sheriff an equivalent power for the execution of civil warrants. This amendment will not be retrospective.

The bill also authorises the court to make an order for imprisonment in default of payment when ordering partial discharge of a fine for which an infringement warrant has been issued.

Measures to increase the responsiveness of the infringements system

The bill also provides measures to increase the capacity of decision-makers to take account of defendants' circumstances when determining an application for review or revocation of a notice. The bill enables an enforcement agency to grant an applicant for internal review more time to provide supporting material before the review is completed. It also allows an infringements registrar to vary (i.e., reduce) the costs and fees payable with respect to an infringement penalty where the registrar does not accept the applicant's claim of 'special circumstances', but considers it appropriate to reduce the costs or fees payable.

Finally, the bill makes certain minor miscellaneous amendments to the procedural provisions of the act to clarify its operation with respect to reinstated orders, multiple enforcement orders and warrants, and time lines for the lodgement and enforcement of infringement penalties.

I commend the bill to the house.

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

Debate adjourned until Thursday, 20 December.

LIQUOR CONTROL REFORM AMENDMENT BILL

Council's amendments

Returned from Council with message relating to following amendments:

1. Clause 4, after line 11 insert —

   "***homeless person*** has the same meaning as in the **Magistrates' Court Act 1989**;";

2. Clause 5, page 9, lines 30 and 31, omit all words and expressions on these lines and insert —

   "(j) that, under section 148E —

   (i) the notice may be varied or revoked; or

   (ii) the person may appeal to the Magistrates' Court against the decision to give the notice.".

3. Clause 5, page 11, line 20, after "**notice**" insert "**and appeal to Magistrates' Court**".

4. Clause 5, page 11, after line 28 insert —

   "(3) A person to whom a banning notice applies may appeal to the Magistrates' Court against the decision to give the notice.

   (4) A person may appeal under subsection (3), and the Magistrates' Court may hear and determine an appeal under that subsection, whether or not the period for which the notice applies has expired.

   (5) On an appeal under subsection (3), the Magistrates' Court must —

   (a) redetermine the decision to give the notice; and

   (b) hear any relevant evidence tendered by the appellant or the relevant police member who gave the notice; and

   (c) without limiting its discretion, take into consideration anything that the relevant police member ought to have considered.".

5. Clause 5, page 23, line 17, after "origin" insert "or were homeless persons".

6. Clause 5, page 23, after line 29 insert —

   "(2) The Chief Commissioner must cause the information to be collected that is necessary to enable reports to be prepared under this section.

   (3) The Chief Commissioner must submit a report under this section to the Minister within 2 months after the end of the financial year to which the report relates.

   (4) The Minister must cause a report under this section to be presented to each House of Parliament within 7 sitting days of that House after the report is received by the Minister.".

7. Clause 5, page 23, line 30, omit "(2)" and insert "(5)".

8. Clause 15, after line 28 insert —

   "(2) Before making a late hour entry declaration referred to in subsection (1), the Director must consult the Chief Commissioner.".

9. Clause 15, line 29, omit "(2)" and insert "(3)".

10. Clause 15, page 31, line 1, omit "(3)" and insert "(4)".

11. Clause 15, page 31, line 13, omit "(4)" and insert "(5)".

12. Clause 16, after line 24 insert —

    "( ) At the end of section 87 of the Principal Act insert —

    "(4) A licensee may apply to the Tribunal for review of a decision of a senior police member to suspend a licence under section 96A.

    (5) A licensee may apply under subsection (4), and the Tribunal may hear and determine an application under that subsection, whether or not the period of suspension has expired.".".

13. Clause 19, page 35, line 18, omit "under" and insert "in accordance with".

14. Clause 22, omit this clause.

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

That amendment 1 be agreed to.

At the outset may I thank the Leader of The Nationals for his support. Certainly we hope that as a consequence the Liberals and the Greens will now, having been exposed, buckle at the knees. Unfortunately we have a Legislative Council where there are smart-alec obstructionists who play political games at the expense of the community. It is all too systematic of what we are seeing in the Legislative Council with the unholy Liberal-Greens alliance.

On behalf of the government I thank the *Herald Sun* for exposing them, which has enabled this matter to progress today. The government, The Nationals and Victoria Police want this matter to progress today, and what this will mean is that there will be laws which we want in place by New Year's Eve. As a result of these amendments the liquor licensing director will not have the powers that we want him to have. Certainly the government will have to revisit this matter at a later time, as we believe it is essential that liquor licensing reform, being a very major contributor to dealing with

antisocial behaviour, is addressed. We accept that the Liberals and the Greens are supporters of drunks and thugs who create mayhem, and we call on them — now they have been exposed — to buckle at the knees.

Mr O'BRIEN (Malvern) — I am amazed that the Minister for Consumer Affairs has not seen fit to address the house on this bill. He has obviously been nobbled by his own side. The government has decided that, despite the Minister for Consumer Affairs having had the carriage of this bill in the first instance, Sideshow Bob, the Minister for Police and Emergency Services, has to come in over the top of him and — —

The DEPUTY SPEAKER — Order! I ask the member for Malvern to use the appropriate terms for other members of this place, and I bring him back to the bill.

Mr O'BRIEN — This is the government's fault. It is unable to bring legislation into this place which is up to scratch and does what it is supposed to do. What we see here is a government that not only brings flawed legislation into the house but brings it in late, and when this side of the chamber has the temerity to point out to the government the obvious flaws in the bill and its unintended consequences, including the fact that it would have made criminals of members of the Country Women's Association who decided to take a snifter of sherry on a road trip — that would have been the effect of this government's mishandling of this legislation and a consequence of the ridiculous nature of its proposal — the government says the opposition is opposing it. That is nonsense: we have never opposed this bill.

Unfortunately the Attorney-General was not in the chamber to have the benefit of my contribution to the second-reading debate. The Liberal Party's position has always been that it would not oppose this bill. We think it contains some important measures that should be introduced as soon as possible. We were arguing for these measures at the time the Minister for Gaming was still running racehorses with the lottery licence probity auditor. In fact well before that time we were arguing for provisions like this to come in. Unfortunately we have a government which is so incompetent that it cannot do it properly. They just cannot do it properly, can they, Deputy Speaker?

Honourable members interjecting.

Mr O'BRIEN — I am very pleased that this amendment, which was supported by the opposition in the other place, is being agreed to by the government. The government is happy to support this particular amendment — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I am having some trouble hearing the member for Malvern. I ask members to keep the interjections down.

Mr R. Smith interjected.

The DEPUTY SPEAKER — Order! It is absolutely inappropriate for the member for Warrandyte to carry on interjecting when I am trying to bring some order to the house. I ask him not to do that again.

Mr O'BRIEN — The opposition is pleased to support this amendment. The government has been dragged kicking and screaming to support a number of very sensible amendments. If this government had got its act together in the first place, put a decent piece of legislation before this chamber and accepted the opposition's amendments in a lot of these areas, we would not be needing to have this debate on a Thursday afternoon.

Mr RYAN (Leader of The Nationals) — After much toing and froing, probably self-evidently common sense has prevailed across the chamber. We support the motion moved by the government to agree to the first of the Council's amendments. I think one of the themes of this whole conversation has been that it is important that when legislation comes before the Parliament it is always subjected to robust discussion. People take positions, and that is fine; that is the way it goes. Someone remarked to me a little earlier this afternoon that sometimes the way these things are resolved is a bit like sorting out a court case, which I and others have done in years gone by. I am pleased to say that this is one element of what would appear to be the solution.

Having this legislation passed so it can take effect coming into the Christmas period is a concept sought by all concerned. Hopefully with a bit of luck, a fair wind and just a touch more common sense, we will be able to get there.

Mr ROBINSON (Minister for Consumer Affairs) — I am very pleased to contribute briefly and back up the comments made by the Minister for Police and Emergency Services. We used to have felicitations and now we have replaced them with a bit of a last-Thursday-night colour-and-movement special. All I can say to the member for Malvern is that he needs to get with the program. I am not sure his colleagues in the

upper house bothered to inform him that I did attend its Legislation Committee. I enjoyed a sandwich, it was very convivial, and we indicated at that point that we would seek to negotiate an outcome. I cannot be held responsible for the member for Malvern not being informed by his colleagues about what has transpired during the day. I suspect the member for Malvern is still answering questions on his side about responding to the front page of the *Herald Sun*, which I believe very accurately reflected the situation we have at the moment.

The DEPUTY SPEAKER — Order! I would prefer to hear debate on the amendment.

Mr ROBINSON — The point we are at at the moment is putting the rhetoric to the test. Let us put it to the test. Let us get into these amendments, see exactly where the Liberal Party stands and find out whether its empty words today have any substance to them or if its members are going to continue to back thugs and criminals against decent, law-abiding Victorians.

Dr NAPTHINE (South-West Coast) — It is a pity that whenever the government is on the back foot it gets loud and abusive rather than being constructive. My understanding is that in the other place there was a constructive approach to dealing with this legislation. There was a constructive debate and some positive conclusions, including, as I understand it, the government recognising that there is a fundamental error in its legislation. It is a pity that the Minister for Consumer Affairs is not gracious enough to admit that there is a fundamental error and that the house of review has done its job and identified that fundamental error and brought it to the attention of the minister so there are not enormous, untoward consequences of that error across regional and rural Victoria.

I would have expected that, in the spirit of the last sitting day before Christmas and in the spirit of the cooperative way in which the other place has worked, the ministers would be better off swallowing their egos and pride and recognising the excellent work done by the member for Malvern and by the Liberal, National, Democratic Labor and Green opposition parties in the other place to make this legislation better and more effective for all Victorians and particularly those in country Victoria. Rather than having rancour and abuse, I would have thought the ministers would say thank you to the Liberal Party and congratulate the Liberal Party and particularly the member for Malvern for his leadership on these issues and say a good compromise has been reached.

There are some proposals that the Liberal Party has put and firmly believes in but is prepared to compromise on in the interests of getting the legislation through. We all fundamentally agree with the main thrust of the legislation. There has been universal support for the main thrust of the legislation. The member for Malvern has put forward some proposals which we are prepared to compromise on, even though we believe that in a short space of time we will be back here introducing amendments to bring forward the ideas the member put forward. In the area of party buses and the impact of licences for buses in country Victoria, whether they are going to the Dunkeld races, coming back from the footy in Mount Gambier or going on the bowls trip from Mildura to Manangatang, in all those cases we do not need red tape, bureaucracy and a response which is counterproductive in terms of the responsible use of alcohol and common sense.

All in all this has been Parliament working at its best. The ministers need to tone down their rhetoric — and that is how you say it — and congratulate the member for Malvern and the Liberal Party and the other parties in the other place for their positive contributions to getting better legislation. Even with those compromises we on this side of the house still do not think it is perfect. However, as we have always said, right from day one, the fundamental thrust of the legislation is something that the Liberal Party not only supports but has championed. We led the way on this in terms of our policies at the last election and in terms of our leadership out in the community, where we have been advocating strongly on these issues for some years.

In the spirit of Christmas I urge government members to calm down, to recognise that this is Parliament working at its best and to congratulate the Liberal Party on its positive contribution to improving this legislation, just as we recognise that the fundamental thrust of the legislation is something that we have all supported. Therefore I would like to record my personal congratulations to the member for Malvern for his leadership on this issue. The members of the Liberal Party in the Legislative Council have done an excellent job in this case, as they have done all this year. I think it goes to show the effectiveness of a strong house of review.

Mr HULLS (Attorney-General) — I will be very brief. We all know that alcohol-related violence around licensed premises should not be tolerated. We know that legislation has been introduced into this place to enable police to ban troublemakers from either all licensed premises in a designated area or from a designated entertainment area for a period of 24 hours where they believe it is appropriate.

We know the legislation was passed in this place. We know that it went to the upper house, and we also know that as a result of the work done by the *Herald Sun* and today's front page article, a crisis meeting was called by the Liberal Party today. We know that recalcitrant upper house Liberal members were called into line. That came about as a result of the *Herald Sun* exposing the Liberal Party for wanting to oppose this legislation that would indeed ban drunks and troublemakers from particular areas.

The fact is that the exposure by the *Herald Sun* has meant that there has been a crisis meeting of the Liberal Party and upper house Liberal members have been pulled into line, and that is why these amendments are now before the house. We will ensure that the legislation gets through in time to implement its recommendations prior to the new year. That is the intention of the legislation, and I thank The Nationals for their support. The fact is that the Liberal Party has been dragged kicking and screaming as a result of the exposure in today's *Herald Sun*.

Mr McINTOSH (Kew) — The Attorney-General may be somewhat punch drunk. I do not know where he has got this idea about a crisis meeting. Perhaps that punch from Perc Jones made him suffer too much. There was no crisis meeting. The only meeting that I am aware of was that the upper house, as part of its constitutional requirement and opportunity, had a meeting of the Legislation Committee during the break — to which the minister had been invited and to which we as a house granted the minister permission to attend — to consider this particular legislation. As the member for South-West Coast and the member for Malvern have indicated, it was to try to get this important piece of legislation right. It had nothing to do with any crisis meeting.

The only other meeting that occurred was as a result of a desire to perhaps filibuster in this place. The Leader of the House asked me to get my lead speakers ready for the Classification (Publications, Films and Computer Games) (Enforcement) Amendment Bill, to pad out the debate and to ensure the bill went through. Accordingly we had a party room meeting at a quarter past 4 to consider our position in relation to the film classification bill. That is nothing out of the ordinary. There was no crisis meeting. Obviously the Attorney-General continues to be punch-drunk and does not know what he is talking about.

The reality is that this is Parliament at its best, and it does not need to be debased by people like the Attorney-General or indeed the Minister for Police and Emergency Services suggesting something occurred that did not. The fact is Parliament is actually working to try to resolve this matter. The minister himself attended the Legislation Committee meeting of the upper house, which met during the break. As the Leader of the Opposition said, the opposition had a different view, and that is its right — we all have a different view — but at the end of the day it is about trying to get it right, and this is a further stage in trying to get it right.

The fact that we are all still here debating this important bill to get it right is an indication that there is a spirit of goodwill. Nobody is opposing this bill, and that has been our position from the very beginning. If the Attorney-General deigned to listen rather than going to the pubs during lunchtime and getting into fights with Perc Jones, he would have understood and listened to the member for Malvern, who would have outlined our clear and unequivocal position from the outset.

We were not opposing this legislation. Yes, we had concerns; many of those concerns have been addressed by the upper house in these amendments — not all of them, and some of the amendments do not necessarily take the bill any further. However, the most important thing is that at the end of the day we all have to work together to get this important piece of legislation through, because it is critical. It is something that the Liberal Party recognised years before this government came to its conclusion, and it is another example of the Labor Party pinching Liberal Party policy.

Motion agreed to.

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

That amendments 2, 3 and 4 be disagreed with.

These amendments 2, 3 and 4 from the Legislative Council are what make the bill unworkable when it comes to banning notices. As you are aware, Speaker, the unholy alliance of the Liberals and the Greens has been exposed. As a result of the enthusiasm of the government, and its arrangements with The Nationals and Victoria Police, we want to see this put in place. This is now the opportunity. This is when we will see the outcome of the crisis meeting of the members of the Liberal Party: will they vote the way they voted in the upper house or will they buckle at the knees?

Mr O'BRIEN (Malvern) — I notice that the Minister for Consumer Affairs has again been sidelined. He is not there, he has been shunted aside. He is Peter Garrett with a bit more hair. He has been pushed aside in this matter.

The Liberal Party's position on these amendments has been clear all along. We believe that if you can challenge a parking fine in court, you should be able to challenge a banning order in court. We are of the view that this provision does not add to the bill at all. It makes it a worse bill. But having said that, our position is, as it has been all along, that we are prepared to see this bill legislated; we are prepared to support it.

However, I will say this to members opposite: I would lay London to a brick that they will be back before this house before the term of this Parliament is out to clean up their mess. We have tried to clean up their mess for them. I notice that they are accepting a number of opposition amendments, so if that is buckling, let us have more of it. Let us have more buckling if it involves accepting opposition amendments. But while the other side might be prepared to play politics with this, the Liberal Party is not. As our amendments have indicated, we are always committed to good policy. We are not prepared to stand in the way of the passage of this bill because we want to make sure that it can be implemented in time for Christmas.

Mr BATCHELOR (Minister for Community Development) — We have just seen the demise of the once-great Liberal Party. They have sent a boy to do a man's job. No-one else was prepared to take it on. He has been sent in here to do the biggest backflip of all time.

Honourable members interjecting.

Mr BATCHELOR — He will be next then; it won't be a problem.

This is making sure that the unholy alliance between the Greens and the Liberal Party to create trouble in the inner suburbs of Melbourne in particular has not come to fruition. The member for South-West Coast indicated that it needed some Christmas spirit. The problem with what the Liberal Party is trying to do is that it is trying to wreak havoc by allowing drunks and people who are drug affected to rampage through communities, venues, shopping centres, neighbourhoods and streets, and we are not prepared to stand for that. We are going to oppose these amendments that have come from the upper house. We will watch with interest the reality of what the alliance between the Greens and the Liberal Party means in effect. This is not student politics; this is not some undergraduate farce. This is serious. You ask people who live near these venues and whose streets are affected by people who are drunk charging around the suburbs — they know that these laws are important and need to be supported.

The opposition should do it graciously. Buckle quickly, and get on with it!

Mr RYAN (Leader of The Nationals) — The Nationals are comfortable to a degree with not insisting on the passage of these three amendments from the upper house. I must say as a matter of general principle we think the amendments themselves are common sense and sensible, because the notion of a banning notice being issued in the manner which is contemplated by the bill is something which ought as a general principle carry a right of appeal. I accept of course that this is a 24-hour notice, but again in the spirit of concessions being made to get this where we all want to go, we will not object to what has been put by the minister.

Mr HULLS (Attorney-General) — There is an old Latin saying — res ipsa loquitur. It means that the facts speak for themselves. The facts do speak for themselves when you have Liberal members in the upper house moving amendments to a bill and those amendments are not supported by Liberal members in the lower house. Therefore what that means is that it is absolute confirmation that not only was there a crisis meeting, but it was one at which I would have loved to be a fly on the wall. As my colleague said, the once-great Liberal Party is at its worst ever ebb here in Victoria. Today's proceedings absolutely prove that. It is rudderless and leaderless.

The fact is that the honourable member for Malvern spoke about appeal rights and said: if you can have an appeal right for a parking ticket, there should be an appeal right here. What we are talking about is a 24-hour banning notice. The police believe this will assist in maintaining law and order in relation to these particular areas. The amendments moved by the Liberal Party in the upper house would be totally ineffectual and would undermine the primary purpose of the legislation. The fact is that my advice to the members for Malvern and Kew and the Leader of the Opposition is that they should do their party a favour and buckle with dignity.

Mr CLARK (Box Hill) — There are two possible explanations for the remarks that the Attorney-General just made. The first is that he just does not understand Parliament at all; the second is that he is being wilfully deceptive in what he is saying to this house. I would have thought the Attorney-General has been in this place long enough to know that a party in a house can advocate a position on a bill that seeks to improve it and can move amendments without any intention of defeating the legislation but of arguing the case and

hoping the other side will listen to the debate, seeing it put to the vote — —

Honourable members interjecting.

The SPEAKER — Order! The Minister for Sport, Recreation and Youth Affairs and the member for Prahran! I will not have that level of interjection made against the member for Box Hill.

Mr CLARK — The position we have been putting is consistent throughout. We support the thrust of the legislation — indeed, as others have said, we have been calling for similar reforms ourselves — but we believe that in this and several other respects the bill is deficient and needs to be improved. We have moved both amendments. The other place has agreed to them and it is up to this house to decide its position. The government is clearly not going to accept them, and again as others have said, we are not going to insist on them. There is absolutely nothing inconsistent in that, and for the Attorney-General to carry on as though it is otherwise suggests either that he does not understand parliamentary procedure and the Westminster tradition or else he is deliberately seeking to mislead whoever might be listening to his remarks here today.

The second point that needs to be made in respect of what the Attorney-General has said is how absolutely appalling it is for the Attorney-General to be seeking to deny to citizens a right of appeal to the courts to clear their name and to have the law upheld. The Attorney-General has been trumpeting the length and breadth of the state the virtues of his Charter of Human Rights and Responsibilities Act, the rule of law and the ability of people to resort to courts to have their rights upheld. It is absolutely amazing that the Attorney-General, of all the ministers in the government, should be coming into this house and saying that this is a bad amendment and that citizens of this state should not have a right to appeal to a court to have their grievances redressed.

To deal further with the point the Attorney-General made, we have never been saying that a banning notice should not be able to take effect. The point of this amendment that we have been arguing for is that a person has the right to have the issue referred to the court and determined. But that in no way cuts across the effective operation of a banning notice in order to achieve its objectives.

I would have thought the Attorney-General, the member for Prahran and other members of this house from a legal background would have supported the right of citizens to resort to the courts. We would have thought they would have accepted this amendment. For some reason they have not. We have indicated all along that we believe it is important that this legislation go through this house. For that reason we are not going to insist on this amendment. That does not in any way detract from the merits of the amendment that we have moved. You would have thought the Attorney-General would have had the grey matter and the understanding of parliamentary procedure to appreciate that point.

Motion agreed to.

Mr ROBINSON (Minister for Consumer Affairs) — I move:

That amendments 5 to 11 be agreed to.

I do this with some regret, because the government would have preferred the original proposition it put forward in relation to this. Nevertheless, we have managed to reach an accommodation with The Nationals on this. We are very appreciative of The Nationals' efforts to revisit this. As we said to The Nationals representatives, from our point of view this is not ideal. One of the problems we have in relation to the proper enforcement of liquor licensing conditions is that on a number of occasions through the process it can readily become a lawyer's picnic. The provision with which we just dealt was a very good example of that.

You can just imagine it: you could have Alphonso doing all sorts of antisocial things in Chapel Street. Under that earlier provision a police officer would come up and try to give him a banning notice. Alphonso would say, 'Hold on, I've got my lawyer here. I want you to withdraw the banning notice. We will see you in the Magistrates Court tomorrow, and we will sort out the propriety of the banning order which is meant to apply now. We will sort that out in two or three weeks time'. That is what the Liberal Party's obstinacy on this matter would have created. It would have been a lawyer's picnic.

In regard to the director's powers, we accept that we may well have to revisit that. We put on the record now that we do not believe the agreement that we are going to reach here would be as effective as what we initially proposed. Nevertheless, in order to move some way towards the desired protections for those honest, law-abiding, decent Victorians against the hooligans and the antisocial behaviour in nightclub precincts, we are prepared to agree to those amendments.

Mr O'BRIEN (Malvern) — I am fascinated that the minister talks about buckling when, from reading the *Daily Hansard* of the other place, it is quite clear that

when Ms Hartland's amendment 7 to clause 5 — it is now amendment 5 — was put to that place, the minister responsible for the passage of this bill in the other place, the Honourable Justin Madden, said:

> The only comment is to assist you, Deputy President. The government opposes the amendment.

The government opposed the amendment. Not only did it oppose it, it divided on it: it called a division to make sure its opposition to this provision was on the record. Let there be no mistake where the government stands on this amendment — it opposes it. It called a division and government members had their names recorded in *Hansard*. It is desperately opposing it. Now government members come into this place and are moving the amendments.

The Attorney-General and the minister have no idea what they are doing. This has been the problem with this bill all along. They are not up to actually drafting a piece of legislation that does what it is supposed to do. We find the government not only moving amendments in this house to adopt proposals from the Greens, but, despite all the vitriol that has been directed at this side of the house, it is also adopting a proposal that I moved in this house. They are adopting an opposition proposal to make this legislation better. Government members have all gone very quiet now, because they know that by adopting this proposal they are improving a piece of flawed legislation.

We thought it was a pretty sensible idea to ensure that before a temporary late-hour declaration is made by the director of liquor licensing there must be consultation with the Chief Commissioner of Police. Since the trigger for a temporary late-hour entry declaration is whether there is a threat of violence, we thought the police commissioner might be somebody who could contribute to the decision-making process on that. Of course when the bill was in the Assembly the first time round, the government thought this was a terrible idea. When it went upstairs, was it supporting it? No, it was not supporting it. When it has come down here again, government members have finally accepted that we have got it right and they got it wrong. If there is any further mention of buckling in this house, then it really goes to show that the government does not have a leg to stand on when it comes to these amendments.

On behalf of the opposition, I indicate that we support the amendments, because they are our amendments.

Mr RYAN (Leader of The Nationals) — We support the amendments 5, 6, 7, 8, 9, 10 and 11. The first three of those — 5, 6 and 7 — were moved by the Greens in the other place; no 8 is the one of real substance; and 9, 10 and 11 are consequential upon the passage of 8. In so far as amendment 8 is concerned, we think it is important because this issue of the late-hour entry declarations is very important from a business perspective. It is vitally important, of course, that the balance be struck between the prevailing circumstances which one would contemplate when one of these late-hour entry declarations is being made.

It is a fact of life that in this day and age, in various parts of Melbourne but also regrettably in some elements of provincial and then country Victoria, there are instances where the sorts of behaviour which all members of this house do not want to tolerate and which we all oppose have to be dealt with in a manner which requires some speedy action being taken in a way which is going to mean that there will be a better capacity to control the movement, particularly of those people who are conducting themselves in an inappropriate manner, be it around pubs or nightclubs or wherever that activity might be.

It always seemed to us that the people best positioned to make the judgement about the necessity for this sort of order being made are the police, because they are the ones at the pointy end of the stick who have to be involved in dealing with this completely inappropriate conduct. We think therefore that the notion of the director having to consult with the Chief Commissioner of Police is a good one. This requirement puts together the director, who is involved in her important task, with the commissioner of police likewise, or the commissioner's delegate, as the case may be, and it will better ensure that we achieve the proper outcome by way of the balance between the competing influences.

The last thing that we want to have happen is this ongoing spate of violence around these different locations. By the same token it is important, before what is pretty draconian action is taken, as represented by the provisions of new section 58C — that is, the application of the temporary late-hour entry declarations — that that be done with all the prevailing circumstances being satisfied not only in accord with what the director may well think about things but also from the point of view of the police who, as I say, are at the pointy end of all this. I think this is a sensible amendment, and so it is that The Nationals are supporting it.

Mr CAMERON (Minister for Police and Emergency Services) — As I outlined in the introductory comments, this is the accommodation that the government and The Nationals have come to. As I said and reaffirm, liquor licensing reform is something that is essential. It is something that the government

will be revisiting because it understands that liquor licensing and the regime around liquor licensing are very much an important issue when it comes to antisocial behaviour.

Mr McINTOSH (Kew) — At this late hour, on our last sitting day before Christmas, this should be seen to be a celebration of Parliament working. The fact that the government opposed these amendments in the upper house does not mean that there should now be any indignity in its supporting them in this place, because we are all working to achieve an outcome. The government opposed an amendment that was not just supported by the Liberal Party but moved by the Liberal Party and supported by The Nationals, the Greens and also the DLP. This is a strong indication that it had strong support across a range of different political persuasions.

I am very pleased that the government has seen fit to support this amendment.

Motion agreed to.

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

That amendment 12 be disagreed with.

In the original bill, a deputy chief commissioner or an assistant commissioner was given the power where it was appropriate to do so to close licensed premises for 24 hours. The upper house made amendments which are completely unacceptable to the government and to Victoria Police. Again I thank The Nationals for their accommodation in being able to progress this. I appreciate that the Liberal Party and the Greens are opposed to it, but I hope that as a result of the crisis meeting today the Liberals and The Nationals have agreed to buckle at the knees on this matter, just as they have agreed to buckle at the knees in relation to the banning orders.

Mr O'BRIEN (Malvern) — On this amendment, similar to one of the previous amendments, the opposition believes it would actually improve the legislation. The government disagrees. We believe, as I indicated, that before the end of this Parliament the government will come back on this. It will have to make an accommodation of these matters because it is important, just as a matter of natural justice, that a business which can be subject to an immediate shutdown by the decision of a police officer should have the ability to have that matter reviewed by an appropriate tribunal. However, as I previously indicated, the opposition is supporting this bill being passed in terms of its operation prior to the festive season. On that basis, the opposition will not be insisting on its amendment but places on record its belief that it does improve the bill and that the government will be back.

Mr LUPTON (Prahran) — I want to make some brief comments in opposition to the amendment moved by the Legislative Council and in support of the comments made by the Minister for Police and Emergency Services. I again place on the record the government's support for the notion that rogue licensees need to be subject to strict and severe penalties in relation to their behaviour. There are many licensees of venues who behave properly, run their licensed establishments in strict accordance with the law and do not cause trouble in the vicinity of their licensed premises, but there are some licensees who do not behave in that way. This legislation will definitely act as an incentive and an encouragement to make sure that licensees behave properly and understand that their responsibilities extend beyond the front door of their premises into the surrounding area.

It is important for visitors and residents to know that their locality is safe and secure. Making sure that senior police have the power, through this legislation, to close down rogue licensed venues for 24 hours is an appropriate and proper procedure that this government supports. I certainly support it strongly. We again thank The Nationals for their cooperation in relation to this matter.

Mr RYAN (Leader of The Nationals) — We are prepared to forsake this amendment. In a sense we do so reluctantly, because again there is a provision in new section 96A which deals with the capacity of the police to shut down a business. That is an extraordinarily significant thing to do, and to leave the owner of a business without a remedy is of itself a matter for disquiet. The thing that has ultimately persuaded us to concede this point is the definition of 'senior police member', which appears in new section 96A. In new subsection (3) a 'senior police member' is defined as the 'Chief Commissioner, a Deputy Commissioner of Police or an Assistant Commissioner of Police'. That being the case, we accept the involvement of those senior members of the force as being, in the context of this debate, a compromise position. It is not ideal, but in the spirit of the negotiations that have occurred between all parties in this place with a view to getting this important legislation over the line, we are prepared to concede the point, albeit reluctantly, as a matter of practicality.

Mr CLARK (Box Hill) — I want to make just one brief point, in addition to the points that have already

been made from this side of the house, about what the member for Prahran said. To put it beyond doubt, we on this side of the house fully support the notion that rogue licensees should be capable of having their licences suspended. There is no doubt at all that recalcitrant conduct on the part of a number of licensees has been the cause of a great deal of trouble with violence, disorder and other problems. So we have no objection whatsoever to the notion that a rogue licensee can have their licence suspended. We support it, and that is fully consistent with the tough approach to street crime that we on this side of the house have taken.

The one point of difference is whether a licensee who is suspended under that mechanism has the right to apply for a review of the decision. That right would not in any way stop the suspension coming into effect. It would take its full course in accordance with the provisions that are in the legislation. But it is simply a question of justice, and as much as we might like to think otherwise, not all police officers act perfectly on all occasions. I am sure there are many members on the other side of the house who, in many different contexts, would support the need for and the importance of citizens having the right to apply for review and redress in instances where they believe the police have acted inappropriately.

We are not advocating anything that would stop the suspension taking effect, but we believe that licensees should have a right to justice, in the same way that all other citizens, even those accused of the most heinous of crimes, have a right to their day in court. That is the reason why we have put forward the amendment. We still think it is a good amendment, and we regret that the government is not accepting the arguments we have put. It is for that reason that we are not insisting on it.

Motion agreed to.

Mr ROBINSON (Minister for Consumer Affairs) — I move:

That amendments 13 to 14 be agreed to.

These amendments flow very much from the Legislation Committee procedure at lunchtime today. At that committee meeting I indicated that, in order to proceed with this matter rather than bow to the Liberal Party's insistence that it be stalled ahead of the summer period, I would be prepared on behalf of the government to have the party bus provisions — —

An honourable member — You've got it wrong!

Mr ROBINSON — We will come to that in just a minute. By doing so we have saved the Liberal Party from itself. We believe there is a problem with commercial party bus operators, and we heard that the Liberal Party shares that concern. We had lengthy discussions on this earlier this week, and we indicated to the other parties how we intended to deal with this. We accept up to a point that there are some genuine concerns about clubs and how this would impact on them. We proposed that we would have well-developed enforcement guidelines which would be able to take into account the principal purpose of any particular bus trip. It was certainly the government's intention that if the principal purpose of a bus trip was the transportation of players to sporting activities, the bus would not be deemed in any way, shape or form to be a party bus.

What the Liberal Party came up with — and this is the nub of the issue — was a disastrous amendment that would have created a legal loophole for clubs, if they chose to use it, to operate their own party buses. In fact, having looked at the Liberal Party's amendment over the last couple of days, it would have created a situation where a club could have said, 'We'll put a big bus on, and we'll operate it exactly as a party bus. We'll let people come on board with as much alcohol as they like. We'll sell alcohol on board, we'll have loud music and we'll go and act like absolute yahoos. As long as we don't stop and as long as we don't have as a destination a licensed venue, the law won't apply to us. We'll go down to the beach or we'll go down to the park or we'll go right around town without stopping, and the law won't apply to us'.

We have saved the Liberal Party from itself on this matter. We have decided that it would be a better thing for Victorians to not have to confront the circumstance where clubs are given the opportunity to exploit the law in that way. We think it would be better to have that deleted entirely. It is not our preferred position, but it is a position we are prepared to advance in order to get some progress on this matter. That is why we are proposing that these amendments, which have flowed from the Legislation Committee's proceedings today, be agreed to. We will, however — and we indicated this to the parties through the week — have to revisit this matter. We have given some undertakings, certainly to The Nationals, on how we would be prepared to deal with it.

It is not an ideal situation. We would have liked to give effect to the wishes of the director of liquor licensing, who has been very keen to get additional powers to deal with this particular problem. Nevertheless, in order to progress the matter we have gone to the Legislation Committee and we have given the undertaking, and the amendments which flow from that will mean that the

party bus provisions will be deleted. It is not ideal, but it is better than leaving Victorians without the protection that the rest of the legislation, subject to the amendments, will provide.

Mr O'BRIEN (Malvern) — We would have accepted a little graciousness and gratitude from the minister. That is all we are asking for. The provision that the minister had was terrible, and to demonstrate that I am happy to refer the minister to the words of the Honourable Justin Madden in another place. He was asked a question by one of the Greens, who said:

> … we do have some concerns with regard to buses used by pensioner groups or bowling clubs that might be travelling long distances. How will the bill affect bowling clubs and pensioner groups? If members of those groups drink alcohol while on their buses, what are the requirements under this clause?

The minister responded:

> I am advised that when a club has a club licence, that licence can be used, in a sense, for a bus, but that when the club does not have a club licence, then that club is not able to use a bus under those conditions.

So the minister was saying that members of a Probus club or a Rotary club or the Country Women's Association would be turned into criminals if they had a drink of alcohol on a bus. That would have been the effect of this minister's flawed legislation. We talk about saving people from themselves. We are saving the government from its own incompetence, and in doing so we are trying to protect those salt-of-the-earth community groups, volunteer groups and social groups that constitute the fabric of our society. This government wants to close them down. This government wants to make their lives difficult. This government wants to stop them socialising and having trips. This government does not care about road safety. This government would prefer to see people drinking in private cars than going on a bus and having a responsible, designated driver driving the bus to and from places.

The fact that this minister has had to come into this house with his tail between his legs and move a motion to take out the entire regulation of party buses that he had in his own bill indicates that he got it wrong. For the minister to come out with a fig leaf of an argument, trying to criticise the opposition's amendments when he is withdrawing the entire measure of his own amendments on party buses, just shows the shallowness of his argument and the desperation of his position.

In indicating that the opposition supports these amendments, I note that amendment 13 was circulated by the opposition in this house and moved by the opposition in the other place and that, again, the government is picking it up. This is something which relates to compensation. The bill provides that if the director of liquor licensing suspends the liquor licence of an organisation under the act, no compensation is payable. What the opposition has proposed is that the word 'under' be replaced with 'in accordance with', making it quite clear that, where the director of liquor licensing acts lawfully and in accordance with the act, no compensation should be payable. This is just a question of drafting precision, and again the opposition has been constructive in its proposals to make this a better bill. The fact that the government has now accepted this proposal and moved it in this chamber just indicates that the opposition is far better in terms of coming to this place with good policy.

Honourable members interjecting.

Mr O'BRIEN — Members of the government seem to spend a lot of their time copying our policies and implementing them as their own. I could go on for a longer period, but I will conclude by noting that a number of the measures proposed by the government are in fact opposition measures — and they make this a better bill. It is not as good as it would have been had other opposition amendments been adopted, but we look forward to the opportunity to work constructively with the government. Even if the government is not particularly polite about accepting our amendments, the fact is that they make it a better bill, in the interests of Victorians. I cannot speak for the other side, but members of this side of the house are here to make this bill and all legislation better for all Victorians.

Mr RYAN (Leader of The Nationals) — We support these amendments. The prospective problem with the party bus provisions as originally drawn was that there were going to be unintended consequences, particularly insofar as a lot of country-based, small organisations were concerned. We are pleased to see these amendments before the house.

Mr HULLS (Attorney-General) — On this issue the Liberal Party is like Nadia Comaneci. They get a 10 for a double backflip with pike.

Dr NAPTHINE (South-West Coast) — It is extraordinary that the Attorney-General talks about double backflips. It is my understanding that amendments 13 and 14 are amendments which were originally proposed by the Liberal Party. The people who are doing the backflips are in the government — but we welcome their backflips. They are very good backflips — they are 10-out-of-10 backflips — because they recognise that the proposals being brought forward

by the Liberal Party actually make this better legislation.

Mr Robinson interjected.

Dr NAPTHINE — I am sorry, but the minister introduced the bill with clause 22 in it, and the motion that the minister has moved will take his own clause out of the bill. I would have thought if anybody has changed their position on clause 22 it is the minister who introduced the clause but who now recognises, because of the debate in this house and the debate in the other house, that it is fundamentally flawed. It is wrong. It would have unintended consequences that would hurt people in regional and rural Victoria in particular. Speaker after speaker in this house, including me, raised concerns about clause 22 during the second-reading debate. We raised concerns about people taking buses to the Dunkeld races, taking buses to weddings and taking buses to and from football matches and about social clubs taking buses to events from Portland to Melbourne and having glasses of champagne on the way. We raised all those concerns.

I welcome the fact that the minister has listened to those concerns and has now recognised that clause 22 as he presented it to the house has fundamental flaws in it. It would have had unintended consequences which would have been bad for Victoria, particularly country Victoria. He has, as a result of his conversion on the road to Damascus between here and the other place, recognised that there are some problems with clause 22. He has now moved a motion, following the issues raised by the Liberal Party, by the Greens, by the Democratic Labor Party and by The Nationals, in recognition of the fact that there is something fundamentally wrong with clause 22 and that it needs to be redrafted. There may be an issue with party buses, but this clause is not the way to address it. I welcome the fact that the minister is going back to the drawing board, and I hope he will get it right. But what we need to say is that he should make sure it does not have the unintended consequences that would have flowed from this clause.

With respect to the Attorney-General, who inspired me to get up and speak when he suggested that there had been some double backflips, I am recognising that there have been but that the double backflips on amendments 13 and 14 have been on that side of the house, not on this side of the house. This side of the house has been consistent.

In conclusion let me say that this is a very good example of the Parliament working properly. Points of view have been raised, amendments have been moved, considerable debate has been had and members of all parties have made a contribution. As a result of that process, where there has been the counsel of many counsellors, the resulting legislation has been improved. I pay particular tribute to the member for Malvern, who has done an excellent job on this.

Honourable members interjecting.

Dr NAPTHINE — He has done an outstanding job. I also acknowledge the role of the minister, who has been a minister for only a short time but has already shown himself to be flexible and responsive to the community and the Parliament. I welcome that. I acknowledge also the role that the Legislative Council has played. The legislation is better for having gone through this process, and I welcome the fact that the government has listened to the sensible contributions and has accepted the amendments put forward by the Liberal Party on a number of these issues, particularly in relation to clause 22, which was of enormous concern across the length and breadth of regional and rural Victoria.

Honourable members interjecting.

Dr Napthine — On a point of order, Speaker, the member for Kororoit made some interjections which were in extremely poor taste and very offensive. Rather than repeat them, I just ask the member to withdraw and apologise.

Mr Nardella — Under what standing order?

Dr Napthine — Under the standing order of common sense and decency.

Honourable members interjecting.

The SPEAKER — Order! I ask the member for Kororoit whether he is prepared to withdraw his comments and apologise to the house.

Mr Haermeyer — I see no need to apologise to the house over the remarks I made about the impact of the particular matter that we are talking about here. What the government was trying to do was avoid a certain incident such as occurred on a bus down in Caulfield.

The SPEAKER — Order! The member for Kororoit has been asked to withdraw his comments. Will he withdraw those comments?

Mr Haermeyer — If someone can inform me as to which provisions of the standing orders I may have breached, I am happy to try to deal with it.

Honourable members interjecting.

The SPEAKER — Order! I will ask the member for Kororoit one more time. Offence has been taken at comments he has made. I ask the member to withdraw those comments.

Mr Haermeyer — I do not know which standing orders I have breached by my comments. A certain amount of debate goes on in this place, and if people do not like what people say, will we get to the point where people can be asked to withdraw anything? That is ridiculous!

The SPEAKER — Order! I have asked the member on three occasions to withdraw the comments he has made.

Mr Haermeyer — May I ask what comments?

Debate interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! Under standing orders I ask the member for Kororoit to withdraw from the house for an hour and a half because of his now obvious disrespect for the Chair.

Honourable member for Kororoit withdrew from chamber.

Debate resumed.

Motion agreed to.

Ordered to be returned to Council with message intimating decision of house.

CRIMES AMENDMENT (CHILD HOMICIDE) 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 (Child Homicide) Bill 2007.

In my opinion, the Crimes Amendment (Child Homicide) 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 objective of the bill is to create the offence of child homicide and to increase the maximum penalty for the offences of negligently causing serious injury (NCSI) and dangerous driving causing death.

Human rights issues

The provisions of the bill engage, but do not limit, certain human rights issues.

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

Child homicide

Section 17(2) protects the right of every child to such protection as is in his or her best interests and is needed by him or her by reason of being a child. Section 9 protects the right to life.

The child homicide amendment in the bill positively fulfils both of these rights. It does so by recognising the particular vulnerability of children under 6 years old and emphasising the distinctly heinous nature of homicides where children are the victims.

Section 27(2) provides that a penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

The new offence of child homicide will not apply retrospectively because it has different elements to manslaughter and enables higher penalties to be imposed.

Negligently causing serious injury

Section 27(2) provides that a penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

The amendments in the bill regarding increasing the maximum penalty for the offences of negligently causing serious injury and dangerous driving causing death seek to introduce new sentencing initiatives. The increased penalties will not be applied retrospectively, and therefore avoid the imposition of greater criminal penalties than would have been imposed at the time the offence was committed.

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.

ROB HULLS, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The death of Cody Hutchings on 25 March 2006 was a tragic reminder that there are very few crimes that provoke as much sorrow and anger as violent crimes

committed against young children. A number of recent cases have raised the question of whether the laws that cover the death of a child adequately reflect the nature of this crime against some of the most vulnerable and defenceless members of our community.

A civil society demands protection of the most vulnerable members of our community and that people who perpetrate violence are held accountable. To this end this bill creates a new offence of child homicide.

The bill also responds to concerns about sentences that are being imposed for the offence of negligently causing serious injury. It does this by doubling the maximum penalty for that offence.

Our system of criminal law places a strong emphasis on subjective fault in serious offences. In other words, ordinarily a person will be guilty of a serious offence only if the prosecution can prove that the person actually intended to cause the relevant harm, or at least that he or she was aware of a substantial risk that his or her actions would cause the relevant harm.

The offences of manslaughter, child homicide and negligently causing serious injury are unusual because they do not rely on subjective fault. Instead, they rely on a serious failure of the person to comply with an objective standard of care.

This means that the penalties for such offences are necessarily lower than for offences involving comparable harm but with subjective fault. However, the government considers that in some situations the current penalties for manslaughter involving children and for negligently causing serious injury are too low, and that they can fail to properly reflect the gravity of the harm that has been caused. For this reason, the bill encourages the courts to increase the sentences that are being imposed in such cases.

It is important to ensure that the criminal law enables the courts to impose appropriate sentences on a person who kills an infant or young child. It is also important to seek to understand the complex reasons why a person (frequently a parent) may end up harming an infant or young child, and to establish appropriate strategies to ensure that, as far as possible, support and intervention is available to prevent these tragic cases. This bill is just one part of a broader suite of strategies by the Department of Human Services and Victoria Police.

I will now turn to the bill in more detail.

Child homicide

The bill creates a new offence of child homicide in response to a series of cases over the past decade in which a person charged with the murder of a young child has pleaded guilty to manslaughter and been sentenced for manslaughter.

In each of the cases, the accused was a parent of the child (whether a biological parent of the child or the partner of a biological parent). In most of the cases the accused was male. In all of the cases except one the victim was between three weeks and three years old.

The lowest sentence was 5 years and 6 months with a non-parole period of 3 years. In all but one case, the highest sentence was 10 years with a non-parole period of 7 years. Most of the sentences were in the 7 to 9 year range.

These cases have been the subject of significant public criticism. Much of that criticism emphasised that the sentences for manslaughter in such cases are too low, having regard to the maximum penalty of 20 years for the offence.

On 17 August 2007 the Premier announced that the government will introduce legislation to deal specifically with the killing of a child. The Premier announced that the offence:

> will fit into the manslaughter-related group of offences, with a maximum penalty of 20 years imprisonment;
>
> will be intended to encourage the courts to impose sentences that are much closer to the maximum term than the current sentences for manslaughter; and
>
> will identify the age and vulnerability of the victim as an aggravating circumstance.

This bill delivers on that commitment.

The new offence of child homicide will have the same fault elements and maximum penalty as manslaughter but it will highlight that the victim was a young child. Emphasising the vulnerability of the victim aims to encourage the courts to impose sentences that are closer to the maximum term.

The new offence will apply in cases where the victim is under 6 years old. Children under this age are generally more likely to become victims of homicide than older children. This is due to a range of factors. They include the greater physical vulnerability of babies and very young children compared to older children. They also

include the particular stresses posed by caring for babies and young children and the fact that physical abuse of children under school age is less likely to be detected through social contacts than the physical abuse of older children.

The task of a judge in fixing an appropriate sentence for a particular offender is complex and difficult. This is especially the case where the evidence falls just short of proof beyond reasonable doubt that the offender had the necessary state of mind for murder.

The Sentencing Act 1991 requires courts to take a range of factors into account when sentencing an offender. One of those factors is the maximum penalty for the offence. Another factor is current sentencing practices. In a case in June 2007, *R v. Arney*, where the victim was a baby, the Court of Appeal indicated that the sentencing practices in manslaughter cases 'appear to ill accord with the requirements of just punishment' and have resulted in sentences that fail to represent the seriousness of the cases.

By introducing a new offence, the government will give scope to the courts to establish a new sentencing practice. As the new offence will be closely related to manslaughter, the sentencing practices for manslaughter will continue to be relevant, but may be less constraining than they have been in the past.

This new offence will ensure that the law will operate in a way which is more effective and responsive to community values and expectations and recognises that the killing of a young child is a distinctively serious form of homicide.

Negligently causing serious injury

In a recent report, the Sentencing Advisory Council has concluded that the maximum penalty for the offence of negligently causing serious injury is inadequate. In contrast to the situation that I have just outlined in relation to manslaughter, where the concern is with sentencing practices rather than with the statutory maximum, the concern with negligently causing serious injury is that the statutory maximum is too low. The council has recommended that the maximum penalty be increased from 5 years to 10 years imprisonment. This will recognise the harm caused by the offender more adequately than the existing maximum penalty.

Many of the most serious negligently causing serious injury offences are connected with motor vehicle collisions. This fact gives rise to an unsatisfactory outcome if a single collision has resulted in death to one person, resulting in a charge of culpable driving which carries a maximum penalty of 20 years, and serious injury to another, resulting in a charge of negligently causing serious injury, which carries a maximum penalty of only 5 years.

The bill increases the maximum penalty for negligently causing serious injury to 10 years imprisonment. This places greater emphasis on the harm caused by the offence, in line with the government's continuing commitment to road safety.

Dangerous driving causing death or serious injury

The offence of dangerous driving causing death or serious injury involves a lower degree of fault than the related offences of culpable driving causing death and negligently causing serious injury.

In order to clarify the hierarchy of these offences, the bill will split the offence of dangerous driving causing death or serious injury into two offences. The penalty for the offence of dangerous driving causing death will be increased from 5 to 10 years. The maximum penalty for the offence of dangerous driving causing serious injury will remain at 5 years.

This change places greater emphasis on the harm that is caused by the offence and is consistent with the policy behind the creation of the child homicide offence and the increase to the penalty for negligently causing serious injury.

This bill is an important, measured response to very difficult cases.

I commend the bill to the house.

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

Debate adjourned until Thursday, 20 December.

PROFESSIONAL BOXING AND COMBAT SPORTS AMENDMENT BILL

Statement of compatibility

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

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

In my opinion, the Professional Boxing and Combat Sports 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 this bill is to amend the Professional Boxing and Combat Sports Act 1985 ('the act') by means of a range of provisions designed to promote safety, control the industry and reduce the risk of malpractice in the professional boxing and combat sport industry. In addition this bill seeks to augment the role of the Professional Boxing and Combat Sports Board ('the board') by allocating to the board proposed powers and operational powers currently exercised under delegation from the minister, while strengthening the power of the minister to direct the board.

Human rights issues

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

Freedom from torture and cruel, inhuman or degrading treatment

The bill provides for regulations that will require contestants to undergo medical examinations and testing during the term of their registration. These provisions engage section 10(c) of the charter, which provides that 'a person must not be subjected to medical or scientific experimentation or treatment without his or her full, free and informed consent.'

However, the right is not limited as contestants currently and will continue to provide full, free and informed consent to medical examinations and testing. Professional contestants will be aware of the formal requirements regarding certification of fitness and testing before they seek registration, and will agree to be bound by the legislative scheme when they complete their applications. A contestant may withdraw their consent to undertake a medical test and accept the consequences — suspension or cancellation of their registration. This is an acceptable consequence within the context of combat sports, on the basis of safety. In addition, nothing in this legislation proposes to intervene in the patient-doctor relationship and associated protocols and standards.

It should be noted that this bill promotes human rights by removing an inappropriately severe penalty for failure to undertake a compulsory pre or post-contest medical examination and replacing it with a practical and enforceable consequence — cancellation or suspension of registration. In addition this provision has been amended to require a contestant to 'present' himself or herself to a medical practitioner for examination, rather than 'submit' himself or herself.

Privacy

Among measures proposed to protect the health and safety of contestants, the bill provides the power to make regulations with respect to medical tests and fitness assessments, to determine a contestant's fitness. This provision raises a prima facie issue under section 13 of the charter relating to privacy.

Section 13 of the charter states that:

> A person has the right —
>
> (a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and
>
> (b) not to have his or her reputation unlawfully attacked.

The collection of personal health-related information and the proposed ability of the board to require a contestant to undertake medical tests both engage the right to privacy, in that contestants are required to provide personal medical information and undergo medical testing in order to participate in professional combat sports promotions.

However, the right to privacy is not limited by these provisions. The interference with privacy is not unlawful or arbitrary, as the medical examination of contestants and collection of information is directly and proportionately related to the objective of ensuring contestants' health and safety and ensuring the board is able to maintain its duty of care to contestants.

It is vital to conduct thorough medical checks to ensure that a contestant has no existing conditions which may significantly impair his or her ability to fight or greatly increase his or her risk of injury. In addition, it is essential to ascertain contestants' health status where contestants' skin is frequently broken, increasing the risk of cross infection of blood-borne diseases. Regular monitoring of each contestant's health ensures early identification of emerging medical problems that may be exacerbated by continued participation in contests.

The collection and retention of health information is regulated by the Health Records Act 2001 and no changes are proposed to the management of this information.

Recognition and equality before the law

The power to suspend or cancel a registration where a contestant does not have the required skills to compete may give rise to issues in relation to the right to recognition and equality before the law.

Section 8 of the charter states in part that:

> (2) Every person has the right to enjoy his or her human rights without discrimination.
>
> (3) Every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

The proposed requirement for contestants to provide certificate of fitness annually under the regulations is an essential measure to protect the health and safety of contestants. It does not directly discriminate against individuals on the basis of attributes identified under the charter as characteristics by which it is unlawful to discriminate, specifically, impairment or physical features. The application of this requirement could, however, indirectly discriminate in this way, but is vital for safety reasons.

The 'required skills' provisions involve an assessment of whether contestants possess certain capabilities. While these provisions make no reference to matters of appearance, it is theoretically possible that the application of the skills criteria could also indirectly discriminate on the basis of impairment

or physical features. The provisions are, nevertheless, essential to promote contestants' safety.

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

(a) The nature of the right being limited

Section 8 of the charter proscribes discrimination on the basis of particular attributes set out in the Equal Opportunity Act 1995. The right of an individual to be treated equally before the law means that legislation developed by government must not unjustifiably discriminate against possessors of these attributes, either directly or indirectly.

(b) The importance of the purpose of the limitation

Physical fitness and the capacity to use all physical faculties are essential to the ability of a contestant to participate in professional combat sports. Physically impaired contestants competing in a professional combat sports promotion are not only at greater risk of immediate injury than non-impaired contestants, but also of permanent incapacity.

(c) The nature and extent of the limitation

The limitation occurs only where the impairment of an applicant affects their ability to compete. For example, contestants with hearing disabilities have participated in promotions as their impairment does not affect their ability to fight or place them at unacceptable risk of incapacitation.

The extent of the limitation may be substantial as a person with impairment may be completely excluded from participating in professional combat sports promotions. However, it should be noted that persons with a physical impairment affecting their fighting capacity rarely seek registration as a professional contestant.

(d) The relationship between the limitation and its purpose

The limitation of this right is essential for ensuring the health and safety of individuals seeking to enter the professional combat sports industry.

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

There are no less restrictive means of protecting individuals with an impairment affecting their fighting capacity than to exclude them from professional contests.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it only limits, restricts or interferes with a human right to a minor extent, being the right to freedom from discrimination under section 8 of the charter, and the limitations are reasonable and proportionate. This is in view of the important objective of the legislation, which is to introduce key additional provisions to protect the health and safety of professional contestants.

JAMES MERLINO, MP
Minister for Sport, Recreation and Youth Affairs

Second reading

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

That this bill be now read a second time.

The purpose of the Professional Boxing and Combat Sports Act 1985 ('the act') is to control professional boxing and combat sports, reduce the risk of malpractice and promote safety.

These purposes perfectly express the challenges that arise in the professional boxing and combat sports industry. It is an industry that requires controlling. It is also an industry that requires a high level of alertness about safety issues and the risk of malpractice.

Unlike other professional sports there is no non-government organisation that controls all aspects of professional boxing and combat sports. That is why it is governments' responsibility to control the industry through legislation. In Victoria we are ably assisted to do that by the Professional Boxing and Combat Sports Board ('the board').

The act provides a framework under which professional boxing and combat sport contests are required to be approved. Only people who are registered or licensed under the act are permitted to participate in these contests. It is an efficient scheme.

The act needs to be amended to address a number of issues that have arisen from legal matters, the evolution of standards in medical and fitness testing for contestants and the availability of new tests, new technology and from other sources.

A case heard at VCAT revealed that the act may not provide clear authority to refuse, suspend or cancel the registration of a contestant because he or she lacks the required skills. This is a real safety issue. If fighters who lack the required skills are allowed to compete, the risks inherent in boxing, kickboxing and other combat sports are magnified. In addition, Victoria will continue to attract applications from fighters who have been refused registration in other jurisdictions, because as soon as they are registered here they can fight interstate under reciprocal arrangements.

The bill allows the board to cancel or suspend a contestant's registration if they consider that the person lacks the required skills. In making this decision, the board will have to consider a comprehensive range of factors as follows:

the contestant's defensive skills, including evasive skills and speed of reaction;

the contestant's mobility and ring generalship;

the contestant's strategic and tactical awareness;

the contestant's endurance and stamina; and

any other factors relevant to the contestant's ability to defend himself or herself.

This provision will complement the existing provision that requires suspension or cancellation if a contestant is considered to be unfit to compete.

Another important safety measure addressed by the bill is that of medical tests and fitness assessments. In a sport such as boxing and combat sports it is critical to test for infectious blood-borne diseases on a regular basis throughout a contestant's period of registration. The board currently seeks serology tests for HIV, hepatitis B and hepatitis C every six months, but this is not specifically provided for in the act. There is a need to formalise this excellent practice which protects the health of all concerned. There is also a need to provide for tests such as MRIs to be ordered on the basis of medical advice. The bill provides for regulations to be made regarding regular tests and assessments and for one-off testing where indicated.

The bill reduces the risk of malpractice in the industry in various ways, but particularly by enabling the board to exercise some control over timekeepers. The act and regulations are currently silent on timekeepers and there is no control over who promoters engage to perform this important role. This creates significant risks in relation to the integrity and standard of contests and the safety and wellbeing of contestants. An incompetent or corrupt timekeeper can time the rounds of a contest too short or too long, creating unfairness and/or increasing the danger of injury to either fighter. The bill allows the board to maintain a list of people who have the skills and knowledge to act as timekeepers, and it requires promoters to engage only persons on the list to perform this role. The board may remove a listed person if they no longer have the required skills or knowledge or if they are unfit having regard to their conduct.

The bill also adds significantly and strategically to the board's ability to control the industry under the act. It provides for a power to enable the board to attach conditions to contestant registrations. This is identical to the current provision for permits and licences which can be granted subject to conditions. The board already seeks contestants' cooperation with a number of practices, largely related to safety, and this amendment will formalise that process.

The bill makes use of suspension or cancellation of registration or licence as a consequence for breaches such as non-compliance with conditions. This is an appropriate and proportionate approach that is effective because it can be used by the board when required. This will give the board much greater leverage to maintain and improve safety standards and conduct.

Another important element of controlling the industry, reducing the risk of malpractice and promoting safety is the power to make regulations under the act. The current regulations expire on 30 June 2008. The bill consolidates the regulation-making provisions to ensure that the current regulations and proposed improvements will be supported by an appropriate head of power and can be put into place at that time.

The bill contains a number of other provisions that add to the act's purpose of controlling the industry, reducing the risk of malpractice and promoting safety.

The bill also includes a landmark change in the roles of the minister and the board under the act. It provides for a substantial overhaul of roles and responsibilities.

The roles and responsibilities outlined in the act all reside with the minister and many of them relate to operational matters such as registration of contestants and licensing of other industry participants such as trainers. Successive ministers have delegated these powers, duties and functions to the board on a long-term basis.

It is unusual for powers relating to day-to-day operational processes such as registering a contestant or issuing a licence to reside with a minister. Registration and licensing functions usually reside with boards, such as the Nurses Board of Victoria and other boards established under the Health Professions Registration Act 2005, that have the industry specific knowledge and expertise and dedicated resources to carry out these functions.

The bill provides for new arrangements that create clearer and more appropriate roles and responsibilities. The key elements of this are:

the board to assume responsibility for powers, duties and functions of an operational nature;

the minister to retain key higher level powers including the power to appoint and remove board members; and

a power for the minister to give the board directions and a requirement for the board to comply.

In addition to those powers, duties and functions it already exercises under delegation, the board will also be responsible for making 'rules for the proper conduct of professional contests'. In addition, the board will have the same power as the minister in being able to commence legal proceedings for an offence against the act. The offences specified in the act all relate to operational matters regulated by the board.

The Professional Boxing and Combat Sports Board is chaired by Mr Bernard Balmer. I thank Mr Balmer for the board's advice on issues in the industry. That advice has contributed to the bill.

In addition to the chair, the act provides for the board to include a member of the Victorian police force and up to five persons who have a good knowledge of boxing or combat sports.

I would like to say a few more words about the board. It is a very hardworking board. In addition to monthly meetings, members attend weigh-ins and promotions held under the act, giving up a number of evenings each month. Their task of administering the requirements of the act and the regulations is often challenging, but they carry it out effectively. They bring commitment, experience, vigilance and great people skills to their roles.

I thank Bernie and the other members of the board for their contribution.

The allocation of operational powers to the board in its own right has highlighted provisions of the act that impact on how the board operates. As a result the bill also includes new and revised provisions to assist the board to carry out its roles and responsibilities. These include:

more flexible meeting arrangements;

delegation powers;

the ability to engage persons with special experience without the minister's approval; and

the ability to regulate its own procedure without the minister's approval.

In summary, the bill tightens the provisions of the act in relation to control of the industry and key safety and probity issues. It also makes a significant improvement to the operation of the act in terms of roles and responsibilities.

I commend the bill to the house.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until Thursday, 20 December.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Schools: maintenance

Mr DIXON (Nepean) — I wish to raise a matter with the Minister for Education regarding maintenance in Victorian schools, and I ask the minister to increase maintenance funding for Victorian government schools. I have some examples here of the sorts of maintenance issues that we have in our schools, and they are the sorts of things that I would like the minister to address.

The sorts of issues I will highlight actually come from a hearing which was part of the Education and Training Committee's inquiry into dress codes and school uniforms in Victorian schools. The students came into this chamber and held a mock Parliament and debated the issue of school uniforms. As part of their day they also had an adjournment debate in which they could raise any educational issues. The majority of the students raised maintenance-type issues in their schools, and I would like to run through some of those issues as examples.

First we had the Apollo Bay P–12 College. The student there raised the issue of maintenance. He said:

Our school has many leaky roofs. We also use portables for our library, one of our main computer rooms as well as several of our classrooms. The heating systems in our school are insufficient. Half of them produce heat but do not blow it anywhere so it sits there and becomes a fire danger.

This is also said of many other rural schools in our region.

Then we had another student also talking about school maintenance. He said:

How can students in Victorian schools feel safe using toilets with broken doors, disgusting environments and outdated facilities that also do not comply with, the energy-efficiency regulations required to erect a rainwater tank … how can we do this when our learning environment is not valued by those who enforce these messages?

> Our school has been quoted a $500 000 cost to bring the junior toilet blocks up to scratch. This is money we cannot get through funding. Why is that? Because the Building Futures program is focused on upgrading schools with portables. These portables are up to date and working, and smaller projects like toilets and other necessities are overlooked.

Another student also talked about maintenance. She said:

> Our school is literally falling apart at the seams. Kyneton Secondary College is at the top of the list of schools needing money to be fixed up. Our rooms are falling apart, the paint is flaking, tables are missing legs and the tops come off. It is shocking. Fans fall out of the ceilings. It is pretty bad. We have leaking roofs. It is terrible. I swear that in our toilets you could find 10 new diseases that have never been noticed before.

You can see from this colourful language that these are the real issues that students find in their schools. They were not told what they had to say. They talked about the things that came to mind in their schools. I think it would be very good if the minister took notice of what the students in our schools are saying regarding school maintenance.

Public sector: human rights charter

Mr FOLEY (Albert Park) — My request is to the Attorney-General. The specific action I seek from him is that he identify the steps that are to be taken by the Department of Justice and other Victorian public authorities to ensure that as of 1 January 2008 they are aware of and ready to deal with their requirements under the Victorian Charter of Human Rights and Responsibilities Act, and more particularly that they are ready to act in a way that is compatible with human rights and that their decisions and considerations as of that date reflect their responsibilities and obligations under the Charter of Human Rights and Responsibilities Act 2006.

In many respects this request extends to all ministers, and indeed all of us in Parliament and those who are involved in leadership roles in public authorities in this state. I say this noting that the charter is based around the notion of building support for the right of all Victorians to be treated by public and government entities with respect, equality and dignity, and maintaining their right to freedom. This obligation upon Victorian public authorities is to ensure that the people who live in Victoria have some basic protection in regard to human rights, such as freedom of expression, freedom of religion and protection from cruel, inhuman or degrading treatment. This groundbreaking Victorian legislation gives some legal protection to these rights where previously the ground was perhaps unclear. But it does so in a manner that protects and enshrines the sovereignty of the Parliament and its democratic decision-making role by ensuring there is constant and evolving dialogue between all parts of government, the executive, the courts and the Parliament. It does so in a manner that ensures the community is involved in and is brought along with that dialogue to make sure the process is focused on embedding the notion of democratic rights in all that the public sector does, and so builds our democratic tradition in a modern and flexible way into the 21st century.

I know that the model has created wide interest in other jurisdictions and that the new federal Attorney-General has previously advocated for something quite similar to this approach. The smooth implementation of this charter becomes even more important when we consider the wider national context. It is therefore of some strategic importance that Victorian public authorities and entities be well versed and well prepared to play their part in ensuring that all people who live in Victoria and who come into contact with Victorian laws are treated on the basis of their rights to freedom, respect, equality and dignity being observed. I have every confidence that the Attorney-General, and indeed all ministers, will ensure my request is acted on.

Central Gippsland Health Service: funding

Mr RYAN (Leader of The Nationals) — I wish to raise an issue for the Minister for Health. I do so on behalf of the Central Gippsland Health Service, which is based at Sale but has campuses at Maffra and Heyfield and which, through its many services, looks after numerous people and communities throughout the central and eastern Gippsland regions. The assistance I seek is that the government provide funding to help with the construction of accident and emergency facilities which is being undertaken at the Sale campus of the health service and with the cost of the renovation of the existing dialysis unit. Although the hospital has done extraordinarily well over the past few years, any assistance the government could bring to the fore in this instance would be much appreciated.

It is true that there has been a measure of turmoil at the health service over the past two, three or four years, but I am pleased and proud to say that the facility has now emerged from that period and almost everybody has moved on. About 1000 people come together every day across the three campuses to provide the excellent health service for which the organisation is so well known. Among those people are the visiting medical officers. There are 32 of them, and among them are two paediatricians, Dr Austin Erasmus and Dr Mark Painter. Both of these gentlemen are of South African

origin. They have brilliant qualifications and they have recently joined Central Gippsland Health Service to add their wonderful skills to the provision of paediatric services to our region. They came to Sale under guidelines set out in the Area of Need program, which have been observed faithfully by the Central Gippsland Health Service in the recruitment of these two wonderful practitioners.

I am delighted to say that they have settled in well in our community. They have been welcomed with open arms and we are delighted to have them amongst us. Although there has been some commentary from certain quarters opposing the presence of these two gentlemen and their wives and families, the overwhelming response from our community has been to welcome these folk.

The 32 medical practitioners who comprise the visiting medical officers at Sale are amongst those who have been providing that support. They are from the medical staff group, and on 30 October this year they took the very unusual step of writing a letter signed by all of them confirming that these two great doctors are being welcomed amongst us. In conclusion, I seek the minister's help. It would be another stage in the development of the Central Gippsland Health Service.

Yan Yean–Diamond Creek roads, Plenty: turning lane

Ms GREEN (Yan Yean) — I wish to raise a matter for the attention of the Minister for Roads and Ports. The action I seek is for the minister to inform my community when the much-needed turning lane at the intersection of Yan Yean and Diamond Creek roads will be constructed. My community was delighted when a funding announcement for such a turning lane was made in the state budget earlier this year. This announcement was part of the state government's anti-congestion measures. It is important to act on congestion at this intersection because Yan Yean Road is a very important road which forms the spine of the Yan Yean electorate.

Yan Yean Road carries lots of traffic from the existing suburbs of Plenty and Yarrambat and from the wonderful, burgeoning suburb of Doreen. It is also an important road because there are two bus routes that use the road. It will be an important corridor for the proposed orbital bus route. I am very familiar with this road as I use it often. My office is now located not far from this intersection, so I witness the way traffic builds up along the road.

Local residents have raised this issue with me. They have seen some works occurring right now in Diamond Creek Road and they want to know whether this means the project has begun, and if not, when it will begin. It will be very useful when it is completed. I am pleased that the government has paid attention to this road. It has recognised that the road needs future planning and has funded a study for the long-term realignment of the road. In the meantime, a turning lane at that intersection would be a short-term measure. I look forward to it being constructed and to the minister's response.

Trams: safety

Mr McINTOSH (Kew) — I have a matter I wish to raise with the Minister for Public Transport. Some of our newer trams in Victoria have highly visible flashing lights. Regrettably, some of our older trams do not have those large flashing lights. I ask the minister to investigate the possibility of retrofitting all trams on the Melbourne network with the large, highly visible flashing lights that exist on our newer trams, and to do so if that is appropriate.

I have previously raised in this house the unfortunate accident involving Rohan Hardikar, a constituent of mine who was struck by a car as he was getting off a tram in Doncaster Road, North Balwyn. Rohan is 15 years of age and was coming home from school when the accident happened. Unfortunately he suffered severe injuries as a result of that accident and had to be taken to hospital. Luckily he survived. I have seen him recently and he still has his arm in plaster. Hopefully he will make a full recovery. The prognosis is good, and with the help of his family he will no doubt get over the emotional trauma attached to that accident.

The important thing is that this highlights something which would no doubt cost money but which would be of significant benefit to the commuting public in Victoria. The 109 route, which is the other significant tramline through my electorate, has those modern, long, multicarriage trams with large flashing lights. The older trams have small, indicator-type lights on the sides, but they do not create the same degree of visible presence that one sees on the newer trams. Those trams activate the lights as they are slowing and before they even stop. It is true that the doors do not open until the tram is completely stopped, but the lights give a clear indication that the tram is stopping to allow the travelling public to get on or off, and that would be a significant benefit.

Although it is not appropriate to call for legislative change in the adjournment debate, I have previously raised the issue of a legislative change that would

clarify in the law that motor vehicles cannot pass a stationary tram or a tram that has activated its warning lights. I think that change would be of significant benefit to the community, and if anything good is to come out of Rohan's accident, I am hopeful that this could be it.

Housing: Preston

Mr SCOTT (Preston) — I wish to raise an issue for the attention of the Minister for Housing, who I know is in the house, relating to public housing in my electorate. The action I request is that the minister meet with the local Darebin council, particularly the new mayor, Cr Peter Stephenson, to discuss future cooperation between the council and the government to improve the public housing stock in the Preston electorate. My electorate has a large number of public housing units and houses. Many of these units and homes are old and require significant refurbishment, and in some cases replacement.

The minister announced in question time yesterday funding for the first stage of a cooperative agreement between the City of Darebin and the government to explore innovative projects for affordable housing. This announcement builds on the neighbourhood renewal program in my electorate and the announcement of $9.6 million for the redevelopment of a public housing estate in East Reservoir, which the minister made in my electorate.

These are very significant developments, but more still needs to be done. Thankfully we have a minister and a local mayor committed to affordable accommodation in Darebin. It is my belief that a face-to-face meeting between the minister and the mayor will assist the development of innovative solutions to the problem of housing affordability in my electorate. I urge the minister to take action.

Templestowe Road, Lower Templestowe: upgrade

Mr KOTSIRAS (Bulleen) — I wish to raise a matter for the attention of the Minister for Roads and Ports. I ask the minister to investigate and to provide sufficient funds to fully upgrade Templestowe Road as a result of the recent road safety audit that has taken place.

In October of 2006 Manningham City Council sought a report from council officers on what safety measures could be implemented in Templestowe Road. In order to assess safety along this road council commissioned an independent road safety audit of the existing condition of the road between Bridge Street and Thompsons Road, which was conducted by Road Safety Audits Pty Ltd. That was done, it was finalised and the audit was provided to the council, and I quote from a letter from the council:

> The audit concludes that the ideal solution to address all the issues would be a full construction of the road to current road design standards that would include improvements in the vertical alignment, the provision of appropriate sight distances, appropriate lane widths and the provision of kerbing and underground drainage.

Having considered the report on the audit, the council resolved at its meeting on 25 September to advise all of the local members of its view and to immediately request appropriate funding to ensure the full upgrade of Templestowe Road.

I have raised this issue on numerous occasions in the house. Unfortunately the minister is refusing to listen. Now that there is a report out which advises the council that something has to be done before someone gets hurt, I urge the minister to at least take some time to come and visit Templestowe Road. I know, for instance, that the member for Eltham travels along Templestowe Road on his way to Parliament, and the member for Eltham agrees with me that it is a disaster and something needs to be done urgently.

Mr Herbert interjected.

Mr KOTSIRAS — But unfortunately the Minister for Roads and Ports does not think much of the member for Eltham, because he is also refusing the member for Eltham. I ask the minister to at least come to the electorate of Bulleen and inspect Templestowe Road. And I invite the minister, if he wishes to come, to come with the member for Eltham — I am more than happy to organise coffee and biscuits — just to have a look at the poor condition of Templestowe Road.

An honourable member — Greek biscuits?

Mr KOTSIRAS — Some Greek coffee and baklava. I am more than happy to organise it, but the member for Eltham needs to lose weight so I will maybe hold off the baklava. But the money needs to come urgently before someone gets hurt. I urge the minister to provide sufficient funds to fully upgrade Templestowe Road.

Sunshine Hospital: teaching, training and research facility

Ms THOMSON (Footscray) — I raise a matter for the attention of the Minister for Health. I ask the minister to take action to ensure that funding is

provided for the Sunshine Hospital teaching, training and research facility. The government has committed to expanding the Sunshine Hospital, with the construction of a new wing for inpatients, ambulatory care and office facilities, including 64 additional beds, a four-bunker radiotherapy facility and an expanded medical imaging area — and it is most welcome in the west.

These facilities will assist in the continuing provision of world-class medical services to Melbourne's western suburbs, which we know are the fastest growing area in Melbourne at the moment. In addition to these existing redevelopment commitments, the proposed teaching, training and research facility will see the Sunshine Hospital become a regional centre of education excellence.

In partnership with the University of Melbourne and Victoria University, this facility will provide training for undergraduate and postgraduate medical students, as well as doctors, nurses and health care professionals. I am pleased that since the recent federal election the federal Labor Party has already committed $7 million to the Sunshine Hospital teaching, training and research facility.

Mr Wynne — Seven million?

Ms THOMSON — Yes. It would not have happened without Labor's contribution and support. Nothing was coming from the former government, now the federal opposition.

Therefore, I ask the minister, given that there is some expectation in the community, to take action to ensure that funding of the Sunshine Hospital teaching, training and research facility occurs and that we continue to support medical excellence in the west.

Agriculture: 1080 bait accreditation

Mr WALSH (Swan Hill) — The action I seek is from the Minister for Agriculture. I ask the minister to provide financial assistance to agricultural chemical retailers to help them meet the considerable cost of gaining accreditation to sell 1080 baits for vermin control — a service previously carried out by the Department of Primary Industries. The Nationals commended the decision by the minister to allow agricultural chemical retailers to sell 1080 baits because there had been constant concern from landowners about the unwillingness of the Department of Primary Industry to supply 1080 carrots and liver baits for rabbit and fox control.

The Nationals believe the provision of a free chemical handling update for the users of 1080 baits was a good initiative of the minister. After some confusion from the Department of Primary Industries as to where these courses would be delivered, in excess of 4000 users of 1080 baits have taken up this course. But there is a risk that, because of the high cost of accreditation of premises and staff, chemical retailers may be reluctant to get involved in the selling of 1080 baits. The cost is $330 per store to have that retail premises accredited and a further $302.50 per staff member to accredit any staff member who will handle 1080 baits.

Significant savings will be made by the Department of Primary Industries when it relinquishes responsibility for the sale of 1080 baits in the new year. Some of these savings should be directed to provide one-off assistance to help Victorian agricultural chemical retailers meet accreditation costs. Farmers and Landcare groups have been waiting to have access again to 1080 liver baits and 1080 carrots — the weapons of choice for fox and rabbit control. Farmers have been unsatisfied with the results of 1080 oats for rabbit control and prefer 1080 liver baits to other options for fox control.

I call on the minister to complete the trio of initiatives to improve the access to 1080 baits: the sale by agricultural chemical retailers, which the minister has done; assisting 1080 users update their chemical handling certificates, which the minister has done; and to complete the trio I would like the minister to provide financial help to agricultural chemical retailers so that they can be accredited to sell 1080 baits and not have the big costs they currently face. We would then make sure there are chemical resellers who will actually provide the 1080 baits so that farmers and Landcare groups can get on with the excellent job they do in controlling vermin in Victoria.

Australian Maritime College: accreditation

Mr HERBERT (Eltham) — The matter I wish to raise is for the attention of the Minister for Skills and Workforce Participation. I ask that the minister refer the proposed 2008 Australian Maritime College course delivery at Rosebud TAFE to the Australian University Quality Agency for investigation. Specifically I ask that the minister request that the AUQA undertake a full quality and academic audit of the proposed course delivery to ensure it meets the standard expected and required of an Australian undergraduate course.

The AMC entered Victoria with great fanfare — I have spoken on this before — and was to bring state-of-the-art marine education to the peninsula. Students were enrolled and temporary facilities were

constructed at Rosebud TAFE. Following a change in its strategic plan, the AMC decided to withdraw from Victoria and merge with the University of Tasmania. One hundred and twenty Victorian higher education contribution scheme-funded places that were given to the AMC appear to have been useful to the University of Tasmania and a sweetener in the merger negotiations. I know the minister will be interested in pursuing this matter, which clearly disadvantages Victorians.

Importantly the AMC appears to have essentially abandoned its enrolled Victorian students, but for legal reasons it will continue to provide degree studies through videoconferencing and online facilities — not that this in itself is such a bad thing. As Glyn Davis from the University of Melbourne pointed out in an article headed 'A world without gatekeepers', this is the direction many higher education providers are heading in. However, all here would know that this is a difficult proposition when it comes to the marine biology and conservation courses offered by the AMC and the practical components of those courses.

In particular, many fear that the provision being offered at Rosebud next year is the cheapest option open to the AMC, which offers totally inadequate support to young people struggling to undertake a challenging degree under extreme circumstances. While through its actions the AMC clearly thinks little of its academic credibility, the new Australian government and the Victorian government care about academic standards. Hence I believe it is crucial that the quality of the proposed provision in 2008 be assessed by the agency which has responsibility to oversee quality provision in our universities.

Responses

Mr WYNNE (Minister for Housing) — I am pleased to respond to the member for Preston, who has a longstanding commitment to public and affordable housing, particularly in his area. I would be delighted to meet with him and the new mayor of the City of Darebin to discuss future opportunities for cooperative arrangements between the state and the city council. Indeed, as the member would be aware, yesterday I announced an important planning project that is being funded in the city of Darebin, which of course shows yet again the excellent leadership role that that city has taken in looking for opportunities for more affordable housing.

As the member would be aware, a few weeks ago we went out together to make a really important announcement — the complete reconstruction of 28 units at Cheddar and McMahon roads in Reservoir. That is an excellent project which will potentially deliver 39 brand-new units in the area, and I know the local residents were absolutely delighted with the announcement, particularly one elderly resident who had lived in that block since 1954, when it was first constructed. The support of the residents was testimony to the work the local member has put in in that area.

There are future developments that we certainly want to do in the Reservoir area. I have asked my department to undertake master planning for further redevelopments, potentially with a mix of public, private and housing association involvement. I am sure the member will be keenly watching that. I have also directed my department to undertake more design work to be carried out in smaller estates in East Reservoir, particularly around the Bolderwood Parade area. There is really great potential for further improvements, particularly to security, car parks, children's playgrounds and the general amenity of the area.

Finally, Reservoir is an important public housing area, and we are looking at spending in excess of $2 million in the next 12 months to undertake 130 upgrades throughout the East Reservoir area. These are important initiatives for the member for Preston. I know of his strong support for them. I very much look forward to working with him next year and indeed meeting with the mayor of Darebin. We will be doing some good works going forward.

I will refer the matters raised by the Leader of The Nationals and the members for Nepean, Albert Park, Yan Yean, Kew, Bulleen, Footscray, Swan Hill and Eltham.

I wish everyone a happy and safe Christmas.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 6.40 p.m.