**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-SIXTH PARLIAMENT

## FIRST SESSION

**Thursday, 7 February 2008**

**(Extract from book 1)**

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

**By authority of the Victorian Government Printer**

## The Governor

Professor DAVID de KRETSER, AC

## The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

## The ministry

| | |
|---|---|
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| Deputy Premier, Attorney-General, Minister for Industrial Relations and Minister for Racing | The Hon. R. J. Hulls, MP |
| Treasurer | The Hon. J. Lenders, MLC |
| Minister for Regional and Rural Development, and Minister for Skills and Workforce Participation | The Hon. J. M. Allan, MP |
| Minister for Health | The Hon. D. M. Andrews, MP |
| Minister for Community Development and Minister for Energy and Resources | The Hon. P. Batchelor, MP |
| Minister for Police and Emergency Services, and Minister for Corrections | The Hon. R. G. Cameron, MP |
| Minister for Agriculture and Minister for Small Business | The Hon. J. Helper, MP |
| Minister for Finance, WorkCover and the Transport Accident Commission, Minister for Water and Minister for Tourism and Major Events | The Hon. T. J. Holding, MP |
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| Minister for Public Transport and Minister for the Arts | The Hon. L. J. Kosky, MP |
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| Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians | The Hon. L. M. Neville, MP |
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| Minister for Education | The Hon. B. J. Pike, MP |
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| Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects | The Hon. T. C. Theophanous, MLC |
| Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs | The Hon. R. W. Wynne, MP |
| Cabinet Secretary | Mr A. G. Lupton, MP |

## Legislative Council committees

**Legislation Committee** — Mr Atkinson, Ms Broad, Mrs Coote, Mr Drum, Ms Mikakos, Ms Pennicuik and Ms Pulford.

**Privileges Committee** — Ms Darveniza, Mr D. Davis, Mr Drum, Mr Jennings, Ms Mikakos, Ms Pennicuik and Mr Rich-Phillips.

**Select Committee on Gaming Licensing** — Mr Barber, Mr Drum, Mr Guy, Mr Kavanagh, Mr Pakula, Mr Rich-Phillips and Mr Viney.

**Select Committee on Public Land Development** — Mr D. Davis, Mr Hall, Mr Kavanagh, Mr O'Donohue, Ms Pennicuik, Mr Tee and Mr Thornley.

**Standing Orders Committee** — The President, Mr Dalla-Riva, Mr P. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney.

## Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 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 COUNCIL**

**FIFTY-SIXTH PARLIAMENT — FIRST SESSION**

**President:** The Hon. R. F. SMITH

**Deputy President:** Mr BRUCE ATKINSON

**Acting Presidents:** Mr Elasmar, Mr Finn, Mr Leane, Mr Pakula, Ms Pennicuik, Mrs Peulich, Mr Somyurek and Mr Vogels

**Leader of the Government:**
Mr JOHN LENDERS

**Deputy Leader of the Government:**
Mr GAVIN JENNINGS

**Leader of the Opposition:**
Mr PHILIP DAVIS

**Deputy Leader of the Opposition:**
Mrs ANDREA COOTE

**Leader of The Nationals:**
Mr PETER HALL

**Deputy Leader of The Nationals:**
Mr DAMIAN DRUM

| Member | Region | Party | Member | Region | Party |
|---|---|---|---|---|---|
| Atkinson, Mr Bruce Norman | Eastern Metropolitan | LP | Lenders, Mr John | Southern Metropolitan | ALP |
| Barber, Mr Gregory John | Northern Metropolitan | Greens | Lovell, Ms Wendy Ann | Northern Victoria | LP |
| Broad, Ms Candy Celeste | Northern Victoria | ALP | Madden, Hon. Justin Mark | Western Metropolitan | ALP |
| Coote, Mrs Andrea | Southern Metropolitan | LP | Mikakos, Ms Jenny | Northern Metropolitan | ALP |
| Dalla-Riva, Mr Richard Alex Gordon | Eastern Metropolitan | LP | O'Donohue, Mr Edward John | Eastern Victoria | LP |
| Darveniza, Ms Kaye Mary | Northern Victoria | ALP | Pakula, Mr Martin Philip | Western Metropolitan | ALP |
| Davis, Mr David McLean | Southern Metropolitan | LP | Pennicuik, Ms Susan Margaret | Southern Metropolitan | Greens |
| Davis, Mr Philip Rivers | Eastern Victoria | LP | Petrovich, Mrs Donna-Lee | Northern Victoria | LP |
| Drum, Mr Damian Kevin | Northern Victoria | Nats | Peulich, Mrs Inga | South Eastern Metropolitan | LP |
| Eideh, Khalil M. | Western Metropolitan | ALP | Pulford, Ms Jaala Lee | Western Victoria | ALP |
| Elasmar, Mr Nazih | Northern Metropolitan | ALP | Rich-Phillips, Mr Gordon Kenneth | South Eastern Metropolitan | LP |
| Finn, Mr Bernard Thomas C. | Western Metropolitan | LP | Scheffer, Mr Johan Emiel | Eastern Victoria | ALP |
| Guy, Mr Matthew Jason | Northern Metropolitan | LP | Smith, Hon. Robert Frederick | South Eastern Metropolitan | ALP |
| Hall, Mr Peter Ronald | Eastern Victoria | Nats | Somyurek, Mr Adem | South Eastern Metropolitan | ALP |
| Hartland, Ms Colleen Mildred | Western Metropolitan | Greens | Tee, Mr Brian Lennox | Eastern Metropolitan | ALP |
| Jennings, Mr Gavin Wayne | South Eastern Metropolitan | ALP | Theophanous, Hon. Theo Charles | Northern Metropolitan | ALP |
| Kavanagh, Mr Peter Damian | Western Victoria | DLP | Thornley, Mr Evan William | Southern Metropolitan | ALP |
| Koch, Mr David Frank | Western Victoria | LP | Tierney, Ms Gayle Anne | Western Victoria | ALP |
| Kronberg, Mrs Janice Susan | Eastern Metropolitan | LP | Viney, Mr Matthew Shaw | Eastern Victoria | ALP |
| Leane, Mr Shaun Leo | Eastern Metropolitan | ALP | Vogels, Mr John Adrian | Western Victoria | LP |

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## THURSDAY, 7 FEBRUARY 2008

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## Thursday, 7 February 2008

**The PRESIDENT (Hon. R. F. Smith) took the chair at 9.33 a.m. and read the prayer.**

**Mr Dalla-Riva** — On a point of order, President, last night during the adjournment debate we noticed that, apart from the minister who was present, there were no Labor members in the chamber. We considered calling for a quorum under standing order 4.03; however, a number of matters had been raised by members. I note that had there not been a quorum present after the appropriate calling of members via the bells being rung, it is provided under standing order 4.03(3) that:

> If after the members have been counted —

and for whatever reason, the members are elsewhere —

> and a quorum is not present the President will, without putting any question, adjourn the Council to the next sitting.

The question on which I seek clarification is: given that a range of matters had been raised by members on this side of the chamber, had you called for the Council to adjourn to the next sitting date without putting any question, would that have meant the matters raised on the adjournment would not have been be referred to the ministers in the other chamber, given that the minister who was present would not have said anything about referring matters because the house had adjourned abruptly?

*Honourable members interjecting.*

**Mr Dalla-Riva** — I am seeking clarification through a point of order as to whether, under those circumstances, matters may have applied.

**Mr Lenders** — On the point of order, President, the issues raised by Mr Dalla-Riva are purely hypothetical, and therefore I think there is no point of order.

**Mr D. Davis** — On the point of order, President, I put it to you that they are not hypothetical matters but refer to a specific instance.

**The PRESIDENT** — Order! Naturally I was here. I did check the standing order covering the event that a quorum was called and found to be not present. I will say this: there is no requirement for members of the government to be here, other than the duty minister obviously. However, a requirement for a quorum itself is still a legitimate point to be made. There was one point during the adjournment debate when I believed there was not a quorum present in terms of the total number of people attending the house. I am not prepared to answer the questions the member raised right now, but I will take on board what he has said and get back to the house on the next day of sitting.

## INFRINGEMENTS AND OTHER ACTS AMENDMENT BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. J. M. MADDEN (Minister for Planning) on motion of Mr Lenders.**

## PETITION

**Following petition presented to house:**

### Water: north–south pipeline

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council of Victoria the proposal to develop a pipeline which would take water from the Goulburn River and pump it to Melbourne.

The petitioners are opposed to this project on the basis that it will effectively transfer the region's wealth to Melbourne; have a negative impact on the local environment; and lead to further water being taken from the region in the future. The petitioners commit to the principle that water savings which are made in the Murray–Darling Basin should remain in the basin.

Your petitioners therefore request that the state government abandons their proposal to pipe water from the Goulburn River to Melbourne and calls on the state government to address Melbourne's water supply needs by investing in desalination, recycling and capturing stormwater.

**By Ms LOVELL (Northern Victoria) (10 signatures)**

**Laid on table.**

## ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE

### Mandatory ethanol and biofuels targets in Victoria

**Mr D. DAVIS (Southern Metropolitan) presented report, including appendices, together with minutes of evidence.**

**Laid on table.**

**Ordered that report be printed.**

**Mr D. DAVIS** (Southern Metropolitan) — I move:

That the Council take note of the report.

This has been a very interesting inquiry. I put on record my thanks to my fellow committee members, including the chair, Christine Campbell, the member for Pascoe Vale in the other place; Brian Tee; Peter Crisp, the member for Mildura in the other place; Bruce Atkinson; Evan Thornley; and Marsha Thomson, the member for Footscray in the other place. I also want to put on record my thanks to the committee staff: Dr Vaughn Koops, Yuki Simmonds and Shanthi Wikramasurya — and please excuse me if I have not pronounced those names correctly.

This inquiry covered some territory that was covered by an earlier committee, at least in part. It looked at an area of developing interest. We have seen around the world a greater interest being taken in biofuels for two reasons: the perceived environmental benefits and energy security. To summarise what came from this inquiry — Mr Atkinson and Mr Tee may wish to say something about this as well — the committee did not believe that at this point mandatory targets for ethanol are appropriate in Victoria. The committee believed quite strongly that the evidence for environmental benefit is mixed and that the evidence in terms of economic and resource security is also mixed.

It is clear that the mandatory biofuels regimes that have been put in place in a number of other places in Australia but more particularly in other parts of the world, such as the United States of America and Brazil, have begun to have a significant effect on food prices, and there is a significant set of issues about whether these biofuels targets are helpful environmentally. In some cases the sources of these biofuels have very unsound environmental backgrounds. It seemed to me — I think most committee members strongly supported this — it is not clear that mandating in that way would lead to a suitable conclusion.

The committee saw it made good sense to encourage biodiesel because there is some evidence that low levels of biodiesel in normal diesel would lead to sensible outcomes. The committee also saw a stronger role for gas in addressing environmental issues. Given that gas is a significant resource in Victoria and other Australian states, it seemed to make a lot more sense to us, and I believe there is more work to be done on that.

With those brief comments I conclude by saying that the committee looked at these issues very thoroughly and took a good deal of evidence. I thank the many people who made submissions to the inquiry. This is a balanced and sensible report that provides a very useful range of information for anyone looking at these issues.

**Mr THORNLEY** (Southern Metropolitan) — I was also a member of this committee. It did some productive work and the members had a good tripartisan conversation about a set of important issues. I thank my colleagues for the productive spirit in which the committee operated. In particular I thank the staff, who worked very hard: Vaughn Koops, the executive officer; Yuki Simmonds, the research officer; and Shanthi Wikramasurya; and I am sure there were many other people backing them up

As Mr Davis outlined, the committee has chosen not to recommend going down the path that a number of other jurisdictions have gone down with a mandatory ethanol blend requirement. That was not because the committee did not have an interest in the possibility of biofuels or a concern about potential economic benefits; it was because we did not see that mandating a blend diluted with a small amount of ethanol captured very many of those benefits, and because of the far greater cost of creating such a mandatory blend. In fact the committee had a quite detailed discussion about what we thought might be more valuable ways of pursuing some of these biofuel requirements. Not the least attractive of those was looking at the possibility of E85 fuel being made available, and of course the gating constraint with that is the state of the car fleet. Members of this place and members of the public who are interested can read some detailed evidence gathered from industry participants, academic experts and others considering that situation in quite a degree of depth.

Members of the committee certainly continue to have an interest in the possibility of the relatively low-cost opportunities to see the Australian car fleet move over time to a flexifuel situation that requires relatively minor adjustments in car technology, which, if they were implemented across the entire Australian car fleet, would be really very low cost on a per unit basis.

**Mrs Coote** interjected.

**Mr THORNLEY** — Indeed. Mrs Coote mentions the unfortunate passing of the Mitsubishi plant. It seems that that will not be one that will give us that opportunity. That only highlights the importance of the issue and one of the reasons committee members were considering it. For example, we note that Australia has flexifuel manufacturing expertise. Indeed, some of those engines are manufactured here and exported to, among other places, Brazil, where there is a strong E85 fuel availability.

As I am sure we are all trying to find a solution to the problem of finding the effective niche in the global production chain where Australia may have a role, that seemed one that is worth pursuing. It was outside the scope of the inquiry to continue that, because we were looking at mandating a small ethanol blend, but I just want to give members a sense of the importance of the issues we were discussing and some of the productive inquiries we were following down that path.

Committee members also considered a little and had some interesting scientific evidence on a couple of very interesting opportunities. The first is biofuels driven by algae. There is some very exciting technology there that we think may have a significant future in the medium-to-longer term. That in particular uses $CO_2$ as a feedstock. We can see some significant potential environmental benefits there, as an outtake for $CO_2$ emissions into that type of thing. Perhaps most exciting are the cellulosic ethanol possibilities, where there is an increasing capacity for ordinary fibre and other vegetable matter which is not otherwise used as food in the human food chain to be developed into bioethanol. I think that is the real opportunity that we are particularly excited about.

There is obviously an enormous amount of that potential feedstock, particularly here in Victoria and right throughout agricultural Australia. Its use would get us out of the jam that the world is increasingly in, which is that biofuels are utilising human feed and animal feed as feedstock, therefore leading to an inflation in food prices. As I said, that is a very exciting opportunity.

I might say there are very few things on which I agree with the Bush administration in the USA but when I was in California for the Australian American Leadership Dialogue a couple of weeks ago, we had an address on precisely this topic from a senior official in the Bush administration. I asked him what their view was on the challenges between food and bioethanol. He said that they are very focused on cellulosic ethanol as the future that will get us out of that constraint. I will always be willing to admit if there is anything that I actually agree with the Bush administration on, and this happens to be one thing — and one that I think committee members share an enthusiasm for.

As Mr Davis also mentioned, committee members were more excited about the opportunities in biodiesel, particularly with the smaller scale distributor plants which allow the fuel to be created close to where the feedstocks come from and then can be used again by those farmers and other people in those rural communities. We certainly made recommendations that that opportunity, as opposed to the mandated E5 blend, looked like a nearer term opportunity, and our government is promoting that.

Other opportunities around compressed natural gas and other fuels are also interesting, particularly in short-cycle, heavy-vehicle use. It is a productive report, and I commend it to the house.

**Mr ATKINSON** (Eastern Metropolitan) — I do not wish to cover the areas that the two previous speakers have addressed in regard to this report. Indeed they have given a very fair coverage of some of the considerations of the committee, both some of the opportunities that were within the scope of the reference given to the committee and some of the matters we touched on which were perhaps beyond that reference and were not able to be proceeded with but which were very pertinent to the issues of future fuel opportunities, energy and certainly improved environmental outcomes through the use of alternative fuels.

I simply want to touch on one thing that the two previous speakers did not mention in their synopses — that is, that the committee was of the view that this whole area ought to be revisited not later than five years from now. In fact there was a view on the committee that perhaps it would need to be revisited in a much shorter time frame. The major reason for that is that this is an area where globally considerable effort is being directed by many companies and governments to the impacts of fuel use and emissions on climate change, a recognition of rapidly changing technologies, experimentation, research and so forth. Members might have noticed that only a few weeks ago at the major motor show event in Detroit, USA, the head of the General Motors organisation said that they needed in effect to start looking at a change in their vehicle design and at being much more aggressive in pursuing fuel alternatives to power their cars. I think there is that recognition around the world now.

As has been indicated to the house in the past couple of days, the loss of Mitsubishi as a producer of cars in Australia is unfortunate. We will all be very sorry to see that happen, but it is interesting that part of Mitsubishi's demise has been attributed to their producing vehicles that the public simply did not want. Their 380 model did not meet contemporary consumer demand in terms of what the consumer was looking for in vehicle models.

It occurred to a number of us on the committee that Australian manufacturers need to spend more on and need to become a lot more involved in research and

development of alternative fuel options for their vehicles in line with the international trends that were outlined by the head of General Motors just a few weeks ago.

Members of this committee worked very hard on this report. It would be worth saying that a number of members approached the inquiry perhaps with a view that there were a lot of benefits in pursuing biofuels at this stage, that there would be significant environmental gains and so forth. However, as they worked through the process they found that the environmental footprint and credentials of some of the biofuels at this stage of technology development are not so great. But there is optimism. There is every reason to believe that further technological work by a range of countries and companies throughout the world, all with a mind to improving emission standards as well as to the diminishing oil and energy supplies we have relied on to this point, are likely to produce some new solutions and greater efficiency in the technologies that are already at an infancy stage.

It would be true to say the view of members of the committee actually in some ways moved and became a little more sceptical of the immediate benefits, but the members remained optimistic about the opportunities that were there. As I said, they believe it would be foolish for the government of Victoria, the national government and the other state governments — recognising that fuel supplies in particular and this whole area of energy use obviously have national implications — to take unilateral action given the level of investment in the industry and the interdependence between the Australian states.

This committee certainly believes there are opportunities for the future. I also commend the work of the staff; the chair, the member for Pascoe Vale in the other place, Christine Campbell; and the deputy chair, David Davis, for their work in leading this inquiry.

**Motion agreed to.**

## PAPERS

**Laid on table by Clerk:**

Office of Police Integrity — Report on exposing corruption within senior levels of Victoria Police, February 2008.

Freedom of Information Act 1982 — Report of the Attorney-General on the operation of the Act, 2006–07 *(in lieu of that tabled on 6 December 2007).*

## BUSINESS OF THE HOUSE

### Adjournment

**Mr LENDERS** (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 26 February 2008.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Bruce Greenland

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I am pleased to rise this morning to congratulate Mr Bruce Greenland, OAM, of Berwick on being awarded the Order of Australia medal on Australia Day this year. Bruce has been a long-time contributor to the community in Berwick over the last 30 years and has had a substantial involvement with South East Palliative Care, being a founding member of its board and having served for a very long period as treasurer, continuing to this day, and also having served a long term as chairman of the service.

The service provides substantial assistance to people in the south-east. and it is a great tribute to Bruce's work that it has been so successful over its life. Bruce has also made a substantial contribution through the scouts and Apex, and has been a long-term contributor in the south-eastern region. Bruce is one of nature's gentlemen and has made an enormous contribution to the local community. On behalf of the people of the south-east I would like to say thank you.

### Consumer affairs: LimeWire website

**Mr DRUM** (Northern Victoria) — I would like to take this opportunity to warn the people of Victoria about a potential financial trap awaiting those families with teenage children who use the extremely popular website LimeWire. I think any members of Parliament with teenage children or nieces and nephews would know about LimeWire. It is a file sharing site which enables people who purchase a CD to upload it to the site, making it available to the community of users of that site to download.

The warning applies to those families who have a limit on the amount of material they can download on their monthly account. Once you log onto a site such as LimeWire, which gives you access to thousands and thousands of songs, you will open your file, which enables people to download songs against your account**.**

Unless you take the specific action of blocking anyone from accessing your file, you will in fact leave your account open. If you are not careful, you can receive an account of up to $2500 or $3500 per month. This is a consumer affairs issue which Victorian families that may not know about it need to be made aware of. I hope the Parliament can raise awareness of the dangers associated with these very popular websites.

## Chinese new year: Year of the Rat

**Mr PAKULA** (Western Metropolitan) — Today ushers in the Chinese new year, the Year of the Rat. Last month I attended the Lunar New Year Festival in St Albans, along with colleagues from federal, state and local government. It was a fantastic event, attended not just by the Chinese community but by the sizeable Vietnamese population in St Albans, and in fact by locals from all walks of life and nationalities. The streets of St Albans were filled with fantastic examples of Asian cuisine and other products, rides for the kids, and a cultural display which included Vietnamese dance and fireworks. The event organisers, the St Albans Business Group Association, did a great job and I want to commend them for their courage in uttering the words 'Year of the Rat' around politicians.

That brings me to the opposition, and the question of which metaphor to use. David Davis might say that the rats have left the sinking ship, whereas Philip Davis might say that the current configuration of the upper house leadership is proof positive that it is in fact the Year of the Rat, and that it started early! With so many tantalising possibilities I should content myself simply by offering all of my constituents, especially those from east Asia, a very happy and healthy Year of the Rat.

**The PRESIDENT** — Order! Just to let Mr Pakula know, I was born in 1948.

## Land tax: increases

**Mr GUY** (Northern Metropolitan) — The year 2008 will be yet another tough year for Victorians trying to buy their first home. As we have in the years since the introduction of the hopelessly flawed Melbourne 2030 policy, land shortages and land banking have forced up the commodity value of land and thus housing costs are still skyrocketing. The average house price in Melbourne is now above $400 000. The state government, which usually exists to solve problems in communities, is the driver of this problem and a very happy bystander. Unfortunately, as land prices soar so do stamp duty bills on property transfers. So the Labor state government has no incentive, interest or will to help alleviate this problem.

The Melbourne 2030 policy is a joke. Its population forecasts are over 50 per cent out, its land supply forecasts are good for 10 years, not 25 years, and it has no integration with corresponding transport statements or state population policy. For the sake of first home buyers, who will have to find $400 000 to buy their first home as well as the additional $20 000 for stamp duty, I hope 2008 will be the final year of Melbourne 2030. I hope by the year's end the government will have done the right thing, heeded Liberal Party advice and scrapped this dinosaur of a policy that was conceived by some anti-land owning bureaucratic wonks, whose wizardry has left a legacy of home unaffordability to the generations of Victorians who are under 40 years of age.

## Planning: St Kilda triangle development

**Ms PENNICUIK** (Southern Metropolitan) — The City of Port Phillip is scheduled to decide tonight whether or not to approve the development plan for the St Kilda triangle site. I have raised concerns in this place several times about the massive overdevelopment proposed for the site, caused in large part by the government's refusal to provide funds to upgrade the Palais Theatre and other aspects of this important piece of public land.

Thousands of people agree with me. The council received 8000 submissions on the development proposal. An independent assessment of them found that the objections to the obliteration of views from the Upper Esplanade, the negative impacts on the Palais Theatre and the large-scale commercial and retail focus have merit. I say that the development plan is inappropriate for foreshore public land. It was found that submissions that say the development plan conflicts with the stated vision for the triangle site — in the council's urban design framework, which was supposed to protect the site— have considerable merit.

The unChain St Kilda group is calling for the development to be reduced by one-third; I go further and say that it should be one-quarter of the size proposed and that the proposed national retail chains, large supermarkets, the gymnasium and the TAFE college be removed from the proposal. They are completely inappropriate in a model of Crown land.

The council has the capacity to reject this current mega-development proposal; I urge it to do so and ensure that any future proposals adhere to the urban design framework, its own planning schemes and community expectations for legitimate uses of its public spaces.

## United Nations Holocaust Memorial Day

**Mr THORNLEY** (Southern Metropolitan) — On 27 January this year I was privileged to attend the United Nations Holocaust Memorial Day at the Melbourne Jewish Holocaust Museum. The Governor of Victoria was not only in attendance but he spoke very movingly and thoughtfully. Obviously many leaders of the Jewish community were in attendance. A number of parliamentary colleagues were also in attendance: Mr Danby, the federal member for Melbourne Ports; Mr Dreyfus, the federal member for Isaacs; Mrs Kronberg, who represented the Leader of the Opposition in the other place, Mr Baillieu; and I represented the Premier.

It is particularly appropriate in Australia to have the juxtaposition of Holocaust Memorial Day being the day after Australia Day. For the Australian Jewish community it is a chance to not only reflect on the country that many Holocaust survivors, their children and families have come to and, in most cases, where they have prospered and, in so many cases, made extraordinary contributions but also to reflect on where these people have come from, and on their enormous suffering and tragedy.

After the many moving speeches made by Holocaust survivors, what most appealed to many was a number of children, both Jewish and non-Jewish, reflecting on their learning about the Holocaust. That finished the day with a very uplifting spirit.

## Missing persons: online registry

**Mrs PEULICH** (South Eastern Metropolitan) — I am sure that members in this chamber would not be surprised to learn that 30 000 people go missing in Australia every year. At the moment Australia, including Victoria, does not have an official online site for missing persons, which is quite clearly a missed opportunity in terms of promoting communication and pursuing vital leads and information to bring about some sort of closure to many of the cases involving missing people, some of whom have been missing for many years.

In Cranbourne there has been a push for the establishment of this site, following the disappearance of a Cranbourne West resident, Gary Adams, who went missing in December 2003. His mother has been encouraging local councils to get behind her campaign. Cr Steve Beardon brought a notice of motion to the City of Casey, and the council supported it.

I call on the government to look at establishing an official website that has links to Crime Stoppers and obviously the police. There is an unofficial Australian missing persons register that is run by Nicole Morris; however, that is onerous and unfeasible. We need to take advantage of the internet and make sure that these people have the opportunity to bring closure — —

**The PRESIDENT** — Order! The member's time has expired.

## Government: statement of intentions

**Mr ELASMAR** (Northern Metropolitan) — I rise today to speak regarding the Premier's address in the other place on last Tuesday, 5 February. I was struck by the depth of vision in his statement and as I looked back on the last year in Parliament, which was my first year as a member of this house, I was amazed at the complexities and workings of the Victorian Parliament.

The Brumby Labor government has set the agenda for the future of all Victorians. Country cabinet meetings held last year in rural and metropolitan Melbourne made us not only more accessible as a government but, more importantly, more accountable to the people of this state. It is what I call the human touch. All communities appreciate being able to talk directly to ministers and to members of Parliament. I commend the Premier for his vision for the future of this state and for his tireless efforts in continuing to make Victoria the best place to be.

## Western Highway, Caroline Springs: interchange

**Mr EIDEH** (Western Metropolitan) — On 7 December last year, with the Minister for Roads and Ports, I was very pleased to attend the opening of a new section of the interchange on the Western Highway at Caroline Springs. This new section of the highway will facilitate the progress of construction on the western end of the project. My constituents will now start to see improvement to the roads. The project is due to be completed in 2009. Motorists will welcome the change, and the locals will gain sooner from the benefits of this road.

The opening of the interchange will divert the traffic across a bridge without causing any disruption to the works being undertaken underneath. This bridge is the first of 15 bridges that will be constructed as part of the 9.3 kilometre Deer Park bypass, the construction of which is being jointly funded by the Brumby Labor government and the federal AusLink bilateral agreement.

When this project is completed motorists will enjoy cutting 15 minutes from their travel time by avoiding 20 intersections and 6 sets of traffic lights. This is very good news for people who live in the western suburbs as the Western Highway is the major link between Melbourne and Adelaide. More than 70 000 vehicles use the highway daily. They travel through the busy commercial and residential areas of Deer Park.

This part of Melbourne has been recognised as one of the fastest growing corridors, thereby requiring better and safer roads. The Western Highway carries the second biggest concentration of interstate freight of all national networks. I thank the Brumby Labor government for continuing to invest in roads and infrastructure and improving the lives of all Victorians.

## Economy: interest rates

**Mr SOMYUREK** (South Eastern Metropolitan) — The life of state Labor members of Parliament is going to be a whole lot tougher now that we do not have the former Prime Minister, John Howard, to kick around. So, for the very last time I rise to condemn the former Howard government.

I condemn that government for failing to act on the Reserve Bank of Australia's repeated warnings over the years about inflationary pressures caused by capacity constraints, particularly skill shortages and infrastructure bottlenecks — factors that were instrumental in this week's interest rate rise. Despite giving a commitment during the 2004 election campaign to the Australian public to keep interest rates down, the Howard government refused to address these critical inflationary pressures.

As a consequence Australian families are now paying the price of the previous government's neglect — an 11th consecutive interest rate rise. South Eastern Metropolitan Region comprises the south-eastern growth corridor, which includes regions with some of the highest ratio of mortgagees in Australia. The Reserve Bank of Australia's decision to lift interest rates is a significant blow to families in my electorate who are already stretched by record high mortgage repayments.

I take this opportunity to congratulate the Rudd government for tackling the scourge of inflation head-on with a five-point plan. The five-point plan includes — —

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

## Aboriginals: federal government apology

**Ms MIKAKOS** (Northern Metropolitan) — Since the 1997 *Bringing them Home* report was tabled in the federal Parliament, Australians have gained a greater insight into the suffering experienced by Australia's stolen generations, their families and descendents. In both 1998 and 2000 the Victorian Parliament formally expressed its sorrow at the damage that poor policies and practices have inflicted on indigenous people in Victoria. On both these occasions the issues were addressed in a spirit of bipartisanship.

It is time for the federal Parliament to heal the hurt felt by indigenous Australians today and finally to express an apology on behalf of our nation. No nation can ignore the sins of its fathers, and the powerful symbolism and healing power of an apology cannot be underestimated. I hope that next Wednesday all federal parliamentarians will support an apology for the past actions of our nation, for which we all share political responsibility.

## SEM Fire and Rescue: Country Fire Authority tankers

**Ms PULFORD** (Western Victoria) — On Thursday, 24 January, I had the pleasure of joining the Premier, John Brumby, and my colleague in the other place the member for Ballarat East, Geoff Howard, on a visit to SEM Fire and Rescue in Wendouree to inspect the newest model Country Fire Authority (CFA) tanker. The first of 62 new 2.4C tankers, worth $273 000 each, are now being produced. They have many additional features which will enhance the safety of our firefighters. The cabins have rear access to provide better protection, the windows are fitted with fire curtains, the vehicles are fitted with a spray protection system, the water capacity of the vehicles is 2350 litres, and many other safety features are enhanced.

SEM manufactures a wide range of emergency vehicles. We had an opportunity to tour the factory. It produces an average of 130 vehicles per annum for the CFA and other emergency services. The company has been based in Ballarat since 1982. It employs 102 people, 13 of whom are apprentices. Fifteen per cent of the staff are CFA volunteers, so they know what they are talking about when they are designing our emergency services vehicles. The government has a strong record of supporting our emergency services. It was wonderful to have an opportunity to see some of the additional 520 firefighting appliances provided by this government since 1999. This is a great manufacturing story from regional Victoria.

# STATEMENTS ON REPORTS AND PAPERS

## Rural Finance Corporation of Victoria: report 2006–07

**Mr KOCH** (Western Victoria) — I rise to report on the Rural Finance Corporation of Victoria 2006–07 annual report. As we all know, Rural Finance has a very proud record in rural lending, and its logo 'Tackling the tough times together' certainly typifies its activities. For those who may not be aware of the activities of Rural Finance, I will give a brief profile. Rural Finance is wholly owned by the Victorian government, has a head office in Bendigo and, although the state is divided into six regions, employs a total of 105 staff. Rural Finance is a specialist lender to primary producers and rural businesses and was initially involved in the administration of the soldier settlement system post World War II.

Rural Finance is responsible for administering the young farmers finance scheme, the natural disaster relief schemes, the marine parks and sanctuaries compensation program and the industry rationalisation program. It also administers commonwealth and Victorian government-funded programs, such as exceptional circumstances interest subsidies.

Rural Finance's marketing strategy is built around the organisation's five competitive strengths. It has an experienced and emphatic lending team with strong personal relationships with their client base; it has a broad range of products tailored to meet individual needs; its regional office structure provides a full localised personal service, which I think is terribly important for their client base; it continues the practice of on-farm informed assessments, where it shares its experience with the bodies and people for whom it is arranging finance; and it has the unique fee structure of having no ongoing account or line fees.

Rural Finance had an excellent result in 2006–07, a year that has proven to be one of the worst drought years Victoria has had in living memory. It had a pre-tax profit of $22.2 million, returning $6.56 million to the government as its dividend, and it had record new farm lending of $234 million, which is an increase of $32 million on the previous year.

I have to say that it came as a surprise and somewhat of a disappointment when the federal government and state governments all around Australia talked down the banking industry for increasing interest rates without any schedules or any notification, when clients of Rural Finance, like many other financial institutions, were sent a letter indicating interest rate increases. For Rural Finance this took place from 1 January, with an interest rate increase of 0.1 of 1 per cent.

The loans profile of Rural Finance shows that it is a big business with some 1400 commercial loans and 106 concessional loans, 87 of which are in favour of young farmers, which I think is an excellent outcome for young people who want to return to the land to make a career in pretty difficult times. Rural Finance has a marvellous scholarship scheme, which has been in place since 1992. To date $1.45 million has been afforded to undergraduate students who want to take on the land as a career. The young farmer finance has certainly been very well received over the years. Last year $14.8 million was afforded to 87 young farmers who made application.

In closing I congratulate the chairman, Jack Seymour, and the chief executive officer, Dugald Graham, on their ongoing efforts at Rural Finance, which is servicing rural Victoria in a very well-received manner.

## Essential Services Commission: water tariff structures review

**Mr HALL** (Eastern Victoria) — This morning I will comment on the report tabled in this house yesterday. The report by the Essential Services Commission entitled *Water Tariff Structures Review Final Report* is dated December 2007. I make the general comment that the Essential Services Commission performs a very worthwhile function in the state of Victoria, and some of its reports to Parliament have been most useful indeed. My experience with the ESC and the number of reviews undertaken by the chairperson and his organisation is that they do it in a very constructive and consultative manner. They are to be commended for that process.

When I first looked at the report I probably expected more, but my expectations were false. That was through no fault of the ESC but was perhaps because of the limited reference given to it for this inquiry. At page 1, under the heading 'Background and purpose of the review', the report states:

> On 4 September 2007, the Minister for Finance directed the commission to conduct an inquiry into tariff structures for the Victorian water industry.

It goes on to mention a couple of other minor details and talks about seeking comment on the way tariff structures could be evaluated. It was a very limited reference, and the inquiry was completed in the three-month period between September and December 2007. Although the report is of a limited nature, it contains some useful information, and I found it

interesting to look at the current tariff structures that are applied by urban water authorities across Victoria. I note that the way tariffs are structured varies. Some authorities have fixed charges and some have complete user charges, and there are different levels of tariffs applied in those user charges.

It is also interesting and instructive to have a look at the tariff structures that are proposed over the next few years by each of the urban water authorities. Page 36 of the report details the proposed tariff structures and the actual charges proposed by each of the urban water authorities over the next pricing period. It is also interesting to note that more authorities seem to be introducing a fixed charge in their water bills. That is at odds with the view of one of my constituents. Robert Hind of Yinnar has written to me on a number of occasions complaining about the fixed component of the water charge. Mr Hind believes it provides no incentive for people to reduce the amount of water they use. Any reduction in water usage results in only a small reduction in the bill, because no matter what level of water you use, you are still paying the significant fixed component of the bill in an up-front charge. There is validity in that argument.

The important and crucial issue in water pricing is the actual tariff levels that have been set. I note that the Essential Services Commission is undertaking a further review of Victorian water prices between 2008 and 2013. Together with my colleague the member for Morwell in the other place, Russell Northe, I have made a submission in regard to that issue. We are particularly concerned that the local water authority in the Morwell electorate, Gippsland Water, proposes to increase its water tariffs by 22 per cent in the next 12 months and that water prices will double over the next five years.

We were bemused when in August or September last year the Premier stepped in and imposed a cap of 14.8 per cent on increases that could be applied by the various Melbourne water authorities. We believe the government could have imposed a cap on increases by some rural water authorities similar to that imposed on the urban authorities. We were bemused that the Premier stepped in to cap water prices in Melbourne but not in country Victoria.

There is an absence from the report of any comment about alternative ways of augmenting water supplies, other than in Melbourne, the north–south pipeline and the proposed desalination plant. It seems to me that water prices are going to be very closely linked to ways in which future water sources are found, and there is an absence of any discussion on that. I find it intriguing that, for example, the business case for the proposed upgrade of the eastern treatment plant is going to take two years to complete, yet the business plan for the desalination plant seemed to be confirmed within two weeks. There seem to be anomalies there. This is interesting, but it is only part of a bigger debate.

## Beechworth Health Service: report 2006–07

**Ms BROAD** (Northern Victoria) — I wish to speak today to the sixth annual report of the Beechworth Health Service for the year ended 30 June 2007. In speaking to this report I take the opportunity to acknowledge and thank the president, John Herbst, the members of the board of management, the chief executive, Jan Webb, and the staff for their contributions to providing high-quality health and residential aged-care services in regional Victoria, especially for the Beechworth community and surrounding areas.

The report also outlines the outstanding contribution that many volunteers have made over the year. I add my voice to those who are encouraging members of the local community who might be able to spare some time to consider volunteering to help out at the service. It makes a real difference to what is possible.

I am pleased to say that the Brumby Labor government is also committed to providing high-quality health and residential aged-care services to regional Victoria, and that is the reason the government invested $12 million in Beechworth's state-of-the-art residential aged-care and acute facility, together with $3 million raised by the local community — an outstanding effort. I cannot help but place on record that the minister in the house today, the Minister for Environment and Climate Change, Gavin Jennings, was the minister who had the privilege of opening this terrific facility in a former ministerial life.

I had the very great pleasure together with the Minister for Health in the other place, Daniel Andrews, of visiting the Beechworth Health Service last November when a community cabinet meeting was held in Beechworth. We met with the staff to hear firsthand about their work as well as inspecting the new facilities. During the visit I am pleased to say that the minister took the opportunity to announce an additional $81 000 for a diabetes self-management program to help newly diagnosed diabetics to better manage their health and wellbeing. That funding is in addition to the existing funding for the program of $100 000 a year.

The diabetes self-management program is being run by three health services in the north-east — the Wodonga Regional Health Service, Glenview Community Care

and the Beechworth Health Service. This is being done through the Upper Hume Primary Care Partnership. The many benefits of this partnership approach include helping diabetes sufferers become effective self-managers of their health and hopefully preventing future complications from the disease, which is a significant cause of admissions to the hospital. This preventive approach is tackling the causes of chronic ill-health so that we can all live longer, healthier and happier lives. I am pleased to say that is an ongoing focus for the Beechworth Health Service and its staff.

The new facilities at the Beechworth Health Service provide 75 aged-care beds along with 13 acute beds — 88 in total — together with greatly improved facilities for staff, and primary and community health care. I am pleased to say that the results of this outstanding investment in the Beechworth Health Service by the Labor government are being replicated across regional Victoria. To name just a few in the north-east alone, in my electorate of Northern Victoria Region these include Yarrawonga, Seymour, Eildon, Numurkah, Wangaratta and Castlemaine. These investments are being made by Labor because it is committed to ensuring that all Victorians, including Victorians living in regional Victoria, have access to high-quality community services.

## Auditor-General: *Local Government — Results of the 2006–07 Audits*

**Mr VOGELS** (Western Victoria) — I would like to make some comments on the Auditor-General's report on the results of the 2006–07 audits of local government, which was tabled yesterday. We all understand the importance of local governments in developing our communities. They are at the coalface in planning and building community infrastructure such as roads and drainage, not to forget their involvement in community health and welfare, such as providing home and community care services. It is therefore imperative that local governments are well managed, have a vision for the future and receive the revenue they need to carry out their charter.

According to this report on Victoria's 79 councils there are three — Colac Otway, Central Goldfields and Moorabool shires — that are at high risk financially and another 18 that are at moderate risk. On page 55 of the report the Auditor-General's overall conclusion is that the councils' problems relate primarily to the widening infrastructure asset renewals gaps and their limited capacity to increase own-sourced revenues through rates.

The councils with the biggest problems are our small rural councils. With a low rate base they survive on state and federal government grants. The largest cost and the biggest and most expensive items for these councils are roads and bridges. I am sure that many of these small councils are very grateful for funding received through the federal government's Roads to Recovery program. It is a pity that the state government has not come on board and matched this funding, as the Liberal Party would have done if it had won the last election. That would have put an extra $63 million into local government. Looking through this report we can see that the biggest problem that small rural councils have is maintenance of their infrastructure and a very small rate base.

The Auditor-General's report also talks about the sustainability of the 12 regional library corporations (RLCs). It points out that five are working with negative capital, with another two in danger of joining them. The Auditor-General goes on to say:

> Without the financial support of their owners —

that is local councils —

> these RLCs would find it difficult to meet short-term commitments.
>
> The level of spending on capital is decreasing in comparison with the level of depreciation …

Victoria's public libraries are used by 90 per cent of the population and with some 30 million visitors are the most frequented local government buildings. The Brumby Labor government needs to decide whether it wants to support free public libraries or let them wither on the vine.

As I mentioned earlier, according to the Auditor-General there are 12 regional library corporations and two have failed in the past 12 months. He reports that half of those remaining are doomed to failure because they are not getting the support they need. We know, for example, that library funding is down to 20 per cent — 80 per cent now comes from local government and about 20 per cent from the Brumby Labor government. Many years ago it used to be fifty-fifty funding, but over the years the state government has progressively put less and less funding into libraries, expecting councils to make up the difference.

I point out again that the Liberal Party had a good policy before the last election to increase funding up to $9 per capita for local libraries, if it had won government. Once again, it did not. Had it done so, it would have restored funding to a level of about 40 per

cent from the state government instead of the 20 per cent councils are now getting.

In conclusion, in 2006–07 the local government sector collected $5.7 billion in operating revenue. That was an increase of $488 million, or 9.4 per cent, which is about three times the rate of inflation. It is interesting to note that this increase came from developer contributions, with an increase of 36 per cent; rates and charges, which last year rose by 7.8 per cent; and user fees and charges, which increased by 6.3 per cent. The Auditor-General concludes by stating that grant revenues from government remained constant, so there was no increase in revenue from government. As I said, all the increases came from user fees, rates and charges.

This says it all: as members know and have heard many times, when this Labor government was elected in 1999, annual government revenue was about $19 billion and now it is up to about $35 billion, so it has nearly doubled. The government has got funding — it has increased its own revenue base enormously. However, according to the Auditor-General, it is not sharing that revenue with local government.

## Country Fire Authority: report 2006–07

**Mr THORNLEY** (Southern Metropolitan) — I rise today to make a few comments and observations in response to the release of the Country Fire Authority's annual report for 2006–07. The CFA, as many members have commented, is an absolute institution in our community and in many regional communities throughout Victoria. It is highly regarded, and I applaud the courage of the 59 509 volunteer firefighters who put their lives on the line regularly to keep properties and livelihoods safe and protected.

Whilst firefighters are most visible across the summer season, of course they are everywhere every day. Their incident responses number in the tens of thousands, including everything from attending car accidents to having a strong presence at the tragic Kerang train disaster to helping with the East Gippsland floods last year. Increasingly we are seeing our CFA volunteers assisting in other states, as we draw on those in other states to assist us. Internationally we have increasing partnerships with those in California, Canada and elsewhere, where we help out across each other's fire seasons.

As all members are aware, the 2006–07 bushfire season was tremendously difficult and presented enormous challenges to Victoria. As the report suggests, these bushfires were the worst in living memory, burning over 1 million hectares and lasting for 69 days. It is an extraordinary credit to the CFA that there were no fatalities among the firefighters. Of course I recognise that there was a tragic road accident related to the bushfires.

While some number of properties were lost, many more were saved. Indeed, given the magnitude of the bushfires, it is an enormous credit to the CFA and all the firefighting authorities that the damage from such enormous fires was limited as it was.

The CFA also provides a comprehensive education service to minimise the risks of and to aid in preparedness for fires. In our schools the CFA is providing the Brigades in Schools program, which is growing rapidly due to the program's ability to meet the aims of VELS (Victorian Essential Learning Standards), the Victorian curriculum in schools. The Victorian bushfire information line receives in excess of 64 000 calls per annum to find out up-to-date information about bushfires and important safety tips to protect homes and lives. Fire Ready Victoria is the name of the auspicing program that also administers an extensive media program and interactive community meetings. Its partnership with the Metropolitan Fire Brigade reminds us twice a year to change the batteries in our fire alarms, using the daylight saving changeovers as the trigger points.

If all this were not proof enough that the CFA is one of the most vital volunteer organisations in our state and nation, it has been calculated that CFA volunteers also contribute around $500 million to the Victorian economy annually. Equally if not more important is their contribution to the social capital in many of our regional communities. The CFA not only provides a vital service in protecting against and fighting fires but it is also one of the central community meeting points. Particularly for men in many communities, as we have gone through difficult periods of drought and other challenges, that social capital has been important.

We have seen the tragedy of the levels of suicide and other problems in many regional communities. The CFA is one of those organisations that, apart from its direct task, also helps keep people together and helps keep a sense of community. It gives men in particular in that community — it is by no means limited of course to the men in those communities; there are many tremendous women volunteers within the CFA as well — an opportunity to stay close to their colleagues and friends and hopefully gain assistance when they are in times of personal difficulty as well.

In summary, the CFA protects and assists countless people in our community every day and allows each

and every one of us to feel some sense of security, particularly in the bushfire season. The volunteer spirit that drives this organisation is vital to its success, and I cannot help but be a proud Victorian when I reflect on the achievements of the CFA.

## Office of the Public Advocate: community visitors report 2006–07

**Mrs COOTE** (Southern Metropolitan) — Today I would like to speak on the Office of the Public Advocate community visitors annual report for 2006–07 under the Health Services Act. It is important to put on the record at the outset exactly what this report is dealing with. The executive summary states:

> Supported residential services (SRSs) are privately run facilities registered under the Health Services Act 1988 to house and support people who require assistance with daily living. At 30 June 2007, there were 193 SRSs in Victoria.

I have spoken in this chamber before about the differences between SRSs. It is important for members to understand what the report deals with. The executive summary goes on:

> Of these, 77 are provided at the cost of a social security allowance ('pension-level') with about 2400 residents and 116 are provided at a cost above a social security allowance ('pension-plus') with over 4000 residents.

When reference is made to SRSs there is confusion between pension-level SRSs and the non-pension SRSs. Whichever they are, it is important to concentrate on the particular challenges in SRSs, which are highlighted by this report of the community visitors.

I suggest that community visitors are an excellent resource for the community. They provide a mirror and are a window into the living circumstances of a whole range of disadvantaged Victorians, particularly those in the pension-level SRSs. It is interesting to note some of the concerns listed in the report. I have two major concerns. On page 13, under the heading 'Findings', there are an excellent table and pie graph showing some of the issues raised as matters of importance. Health care is one, and maintenance and cleaning cause an enormous number of problems. I was pleased to see that abuse or neglect is low on the scale of concern and that confidentiality seems to have been addressed as well.

I am particularly concerned about fire. SRSs are places for people who are frail and not very mobile — they have a lot of mobility issues. I remind members of how terrifying it would be if there were a fire in an SRS. Fire safety in these facilities must be looked at properly and addressed because it would be horrendous if there were a fire. On page 20, under the heading 'Findings against the goal of safety for residents', there is a quite large section headed 'Fire safety issues continue to be of serious concern'. This has been mentioned before in the reports of community visitors. It does not seem that enough is being done about this particular concern. I bring this to the attention of the Minister for Senior Victorians in the other place so that she will make certain this is made a priority. Some of the concerns highlighted in chapter 9.3 of the report are:

> unsafe heaters
>
> bedrooms with stacks of highly combustible material
>
> flammable cleaning materials near a heater in a plant room
>
> residents smoking in bedrooms or upstairs living rooms
>
> combustible material in backyards, sometimes with cigarette butts among it
>
> fire exit doors or fire reel cupboards being locked, blocked or jammed
>
> …
>
> fire hydrants in need of checking
>
> exit signs missing.

That is an indictment. I think it is something that should be made a priority by this government. It is absolutely imperative that these issues, which are not difficult ones, are looked at as a matter of urgency. One fire would be one fire too many.

Other recommendations are quite extensive. Once again it brings to our attention the issue of young people in nursing homes who are inappropriately housed within these non-pension SRSs. May I put on the record that the former Howard government addressed the issue of young people in nursing homes extensively and put in substantial funding to make certain that young people in nursing homes were not inappropriately housed with older and disabled people. One of the recommendations is that the government urgently reviews the situation of all SRS residents under 35 years of age and creates more appropriate accommodation and support options for these people.

This is a continuing problem. It is not being addressed by the Brumby government. It should be looked at as a matter of priority, and I urge the minister to revisit this so that in the next community visitors report, this line item is dropped.

## Central Highlands Region Water Authority: report 2006–07

**Ms PULFORD** (Western Victoria) — It gives me pleasure to rise to make a few comments about the Central Highlands Region Water Authority 2006–07 annual report. As members know, it has been another dry year and the report from Central Highlands Water starts off by referring to storage deficits, some stream flows being the lowest ever recorded and the drought affecting groundwater supplies. Storages in the region are currently at 10.2 per cent so there are certainly challenges for Central Highlands Water.

The report details a great deal of work that has been done by Central Highlands Water in the last year with its identified aim of educating the population in the Ballarat region about reducing water use and easing the water shortages that are gripping the area. In December 2006 the then Minister for Water, Environment and Climate Change, John Thwaites, launched Project Aquarius, a scheme that aims to refit 5000 Ballarat homes with water-saving fittings that will save each household 18 000 litres of water annually. By May last year over 1000 households had taken up this offer.

Central Highlands Water has conducted a sustained and very successful campaign through local media and mail to households to encourage householders to cut back on their general water use. After the launch of its water-wise campaign in April 2007, household water consumption fell by 14 per cent in two months.

The crowning achievement in this period of Central Highlands Water will be the goldfields super-pipe, which it said would be built and funded regardless of CHW's not having secured funding from the then federal government. The federal government was much more interested in playing politics with the question of funding for the goldfields super-pipe, a matter of record in this place and a matter of record in the 6 per cent swing against the Liberal Party during the recent federal election, when Ballarat residents certainly understood the relationship between their vote, and their water security and water prices.

Central Highlands Water was determined for this pipeline to succeed so that Ballarat's water supply could be secured for a further 50 years. It proceeded to put in place a plan of action that would see that project delivered. The super-pipe will initially supply Ballarat with an extra 10 million megalitres per year, and it is now expected to begin to augment Ballarat's water supply in June this year. That project is certainly going very well.

There are other activities that Central Highlands Water has been involved in in recent times. In January I had the pleasure of joining the Minister for Water in the other place, Tim Holding, at the Ballarat North water reclamation project and the conclusion of that $30 million plant upgrade. The plant will treat 3000 megalitres of wastewater every year and will improve the quality of water flowing into Lake Burrumbeet. The new plant will produce recycled water above class A standard, which will assist in providing a reliable water supply for Lake Wendouree.

Central Highlands Water has also focused on conservation by industry and has a partnership arrangement with Eureka Linen, Hilton Fabrics, Imerys Minerals Australia, Joe White Maltings, Masterfoods, McCain Foods and St John of God Health Care System, to assist them in reducing their water use. These include of course some of Ballarat's greatest users of water but together they are certainly developing management plans and accessing funding.

In November the Minister for Regional and Rural Development in the other place, Jacinta Allan, announced a grant of $635 474 for Central Highlands Water and the McCain water minimisation project. This is one of many initiatives to provide critical infrastructure in regional Victoria.

Central Highlands Water faces considerable ongoing challenges. It has had a good year, as the report indicates, but once the super-pipe is delivering water in a few months time, much more work needs to be done, including in small town sewerage projects.

## Auditor-General: *Local Government — Results of the 2006–07 Audits*

**Mrs KRONBERG** (Eastern Metropolitan) — I would like to comment on the February 2008 Auditor-General's report on the results of the 2006–07 local government audits. The Victorian Auditor-General states that the report contains the results of the annual audits of financial and performance statements within the local government sector. In addition, the report encompasses an assessment of the financial sustainability of these entities with an audit opinion that has been expressed on each local government entity.

The report contains a detailed analysis of financial viability and sustainability with a risk rating being based on five key indicators, which has been the benchmark for the Auditor-General since 2003–04. However, we must now drill down deeply into the performance of councils beyond what has been

elucidated by the Auditor-General. We have to look at individual annual reports for the independently audited financial and performance statements.

The Auditor-General tells us that clear auditor opinions have been expressed on the financial statements, standard statements and performance statements for all councils. With regard to the quality of financial reporting the Auditor-General identifies concerns in relation to consistency and accuracy in the valuation and depreciation of infrastructure assets. He goes on to highlight the fact that this means the comparability of reported balances between councils would be impinged on over time, thus directly affecting their usefulness, which is code for saying, 'We are going to put pressure on councils', and the blame shifting will start.

One of the key findings in this area is the lack of formal processes and poor communication in some councils, which could possibly be due to staffing pressures. Typically poor communication between engineering and finance teams is cited and highlighted on numerous occasions throughout the report. Apparently these problematic areas go on to affect both the timeliness and accuracy of recognition of developer-contributed assets. This must be creating a lot of aggravation and concern amongst developers who are working with such councils. Everybody wants due recognition for their investment and effort.

The Auditor-General is calling for a standardised approach and benchmarking of the depreciation rates amongst like councils — like councils being in this instance, according to the Auditor-General's categorisation, inner metropolitan, outer metropolitan, regional city, large shire and small shire councils. Councils are advised to seek assurance through substantive evidence-based analysis before proceeding to use just any rate for their financial reports. Of concern to me is the recommendation that councils with significant non-current asset contributions from developers should review current practices to ensure that the quantities and break-up of transferred assets are referred to approved development plans and the value of assets received is benchmarked against councils' own cost data from recent capital works. When undertaking housing or other developments, developers are required by local governments to construct infrastructure such as roads, drains, footpaths and parks. Control over these infrastructure assets is transferred to council when completed and the maintenance period has expired.

One is left to ponder in an era of rampant cost shifting by the state government whether an increasingly frustrated local government sector is resorting to such measures as elucidated by the Auditor-General in order to provide itself with a buffer against the steady erosion of funding from the state. Whatever the real game plan is, what we are sure of is that developers, councils and ultimately ratepayers are shouldering a very large burden of infrastructure costs. The voters of Victoria expect the state government to fund infrastructure out of its development tax. In this finger-pointing exercise, which sets up the conditions for the public to view councils with some form of suspicion, the Auditor-General stresses that from a financial reporting perspective there are two key risks associated with the recognition of contributed assets. They are completeness, in that councils may fail to identify and record all infrastructure assets, and measurement, in that councils may not value these assets appropriately.

When it comes to reporting on regional library corporations there are five regional libraries in the government's firing line — 5 out of 12 of them being ranked as at high risk of short-term and immediate viability concerns. One that has been drawn out for closer examination is the Goulburn Regional Library Corporation, and elements of a letter from the chief executive officer are worth recording:

> The underlying 'going concern' concept you rely on is not valid for a regional library, which is no more than a vehicle for member councils to provide library services to their communities.
>
> …
>
> The debt is confined to relatively short-term lease payments of capitalised IT and furniture and equipment acquisitions and accrued employee benefits which are annual budget line items.
>
> As at 1 minute to midnight on 30 June 2007 the ratio is as you report, but at 1 minute past midnight … 1 July 2007, the corporation has additional current debtors (member councils and state government) of $2.2 million which provides an entirely different picture, further demonstrating that the measure is not valid in the context of the regional library.

**The PRESIDENT** — Order! The member's time has expired.

## Office of the Child Safety Commissioner: report 2006–07

**Mr ELASMAR** (Northern Metropolitan) — It is a great pleasure to rise today to speak about the child safety report 2006–07. President, you have often heard me say in this house how much I value our youth and that our community and long-term viability as a nation depends on the future generation. I am passionate about protecting and fostering their wellbeing, and I believe strongly that our state Labor government is doing its

very best to enshrine children's rights in the culture of the community and the public service.

In describing the report one can divide it into three issues: the functions of the child safety commissioner — and it is important that it provides advice to the minister about child safety issues; the mission; and the vision. When reading the report I was struck by the overall percentage of women employees in the Office of the Child Safety Commissioner, women who have dedicated their careers to looking after the interests of the defenceless in our community. I applaud and congratulate them. In addition to a multitude of services being provided, the Office of the Child Safety Commissioner also provides written and visual material to assist parents struggling with child rearing. They used to say that babies do not come with a rule book, but now I am very pleased to say there is user-friendly help out there for the asking.

The Working with Children Act is being monitored closely, and education sessions in the form of presentations and seminars, together with speeches and fridge magnets, are all designed to provide the very best up-to-date information, guidance and assistance to those who need it. I commend and congratulate the commissioner and his staff on a job well done.

## Sustainability and Environment: report 2006–07

**Mr P. DAVIS** (Eastern Victoria) — I want to make some comments in relation to the annual report of the Department of Sustainability and Environment for 2006–07 and remind members that that financial year encapsulated a period of great drama in natural resource management. We can all recall that in the summer period of 2006–07 there was a focus on bushfires. We had a massive conflagration which affected the eastern highlands, and as a result there were major impacts for both the department and the community, and it is really the community impacts I want to focus on.

Those fires were followed by some further traumatic natural disasters in the form of mudslides, floods in the last week of June and subsequent floods in October which were not as severe. These successive natural disasters in the Gippsland region have had such an impact as to affect the social and economic infrastructure of the region. Not only are assets destroyed when fires and floods occur but business activity is interrupted and social cohesion is affected. It is fair to say that those who work in a range of government agencies, local councils, water and catchment authorities, community members involved in business and farming, and residents and local volunteer organisations all pulled together and made a massive commitment to the recovery process.

There has been, it is fair to say, a spirit of cooperation, with the community working with government. While the tourism industry particularly suffered heavy losses — and I am referring particularly to the fires in the 2006–07 summer — the floods had an impact as well because of the perception that was created as to an adverse environment for recreational enjoyment in the region. The later floods in October in particular impacted on the industry, coinciding as they did with the Spring Racing Carnival, when people often take a longer than long weekend and go down to the Gippsland Lakes. However, it is clear that the tourism industry is recovering, particularly in the Bairnsdale, Paynesville and Lakes Entrance areas. Over summer things were much more active from a business and tourism industry perspective than it was feared they may be.

We still have the problem though of preparing the necessary infrastructure for the community to fully recover. We also have the problem of those who were affected in the wider community, whose economic viability was affected simply because of the downturn in activity during the fires and floods. Although they may not have been directly impacted by flooding or fire their usual activities were interfered with because there was no business being transacted during those periods.

Many of those people and small businesses have not really caught up. I am concerned about the long-term viability of some of those businesses because of the losses they incurred during that time. As most small businesses operate with a fairly small equity base, any natural disaster that has a severe impact will have an adverse effect, and clearly that has been the case. There are also some inequities in the way government assistance has been provided. The rules governing the way businesses are assessed have an arbitrary impact on small businesses, particularly family partnerships. I am concerned that the bureaucratic rules have not enabled some businesses to access government assistance.

## Auditor-General: *Local Government — Results of the 2006–07 Audits*

**Mr SOMYUREK** (South Eastern Metropolitan) — I rise to speak on the report, *Local Government — Results of the 2006–07 Audits*. I might say at this early stage of my contribution that this is the first time that a report on the results of the annual audit of councils and council entities has been produced in Parliament.

The report comprises five parts. Part 1 is the executive summary. Part 2 deals with the results of audits. Part 3 deals with the quality of financial reporting. Part 4 deals with the effectiveness of internal control. Part 5 deals with the financial sustainability of local government. The focus of my statement today will be on part 5 of the report, the financial sustainability of local government. Before I get to that I will skim through some of the other parts of the report.

Part 2 is entitled 'Results of audits'. The subheadings of this part include 'The reporting framework', 'Audit opinions issued', 'Timeliness of reporting', 'Councils', 'Comparative analysis of reporting dates achieved', 'Quality of draft statements' and 'Regional library corporations'. The key findings of this section are that clear audit opinions on all financial, standard and performance statements have been issued. Three councils failed to receive an audit opinion on their financial and standard statements and therefore did not submit an annual report to the minister by 30 September. Two of these councils were granted extensions. The Auditor-General recommends that those councils and regional library corporations that were not able to certify their statements by the end of August should review their reporting processes and target areas for improvement. There is more on that issue in part 5.

Part 3 is entitled 'Quality of financial reporting'. The subheadings in this section include 'Useful lives of infrastructure assets', 'Range of useful lives', 'Average depreciation rates' and 'Developer-contributed assets', the last being an issue which is topical at the moment. A key finding in this section is that the quality of information reported by local government entities in financial statements has contributed to improvement.

Another key finding is that there is a significant divergence in the useful lives adopted for certain classes of infrastructure assets, such as drainage, between councils with similar asset bases, especially small rural shire councils. Later in my contribution today I will present to the house a comparative analysis of the inner, outer and regional councils. The last key finding here is that a lack of formal process and poor communication between engineering and financial teams within some councils is adversely affecting the timeliness and accuracy of the recognition of developer-contributed assets.

The Auditor-General has issued some recommendations in this part as well. The first is that councils should benchmark the depreciation rates they use for major infrastructure asset classes with other like councils. Where significant divergence is identified, councils should seek assurance through substantive evidence-based analysis to support the rates they approve for use in their financial reports. This is a very good recommendation. Figures and ratios are meaningless unless they are compared with comparable sets of circumstances.

The report states:

> Councils with significant non-current asset contributions from developers should review current practices to ensure that:
>
> > quantities and the break-up of transferred assets are referred to approved development plans, and the value of assets received is benchmarked against councils' own cost data from recent capital works.

That is a very good recommendation.

**The PRESIDENT** — Order! The member's time has expired.

## Ballarat Health Services: report 2006–07

**Ms TIERNEY** (Western Victoria) — I rise to speak on the Ballarat Health Services annual report of 2006–07. This report is a remarkable achievement for Ballarat Health Services. It is particularly worth noting that the 150th anniversary of the Ballarat Base Hospital was celebrated in September. The foundation stone for the hospital was originally laid on Christmas Day one year after the Eureka Stockade, when 7000 members of the Ballarat community marched up Sturt Street behind the Masonic band to witness the laying of that stone. The very genesis of health services in Ballarat was brought about by the community, which continues to be the driving force of underpinning a fantastic health service for Ballarat and surrounding areas.

Through the reporting period the patient activity at Ballarat Health Services continued to reach record levels, similar to other health organisations throughout the state. A total of 30 309 patients were treated, which represents an increase of 5.52 per cent. That number of patients is actually more than the entire population of Ballarat when the foundation stone was laid.

Community support for the Ballarat hospital is not new and has existed for 150 years. As recently as at the time of this report, the fundraising from individuals in the community represented 10 per cent of funds that are contributed to the hospital. The state government provides significant contributions to the hospital. During this reporting year, the state government was able to provide significant funding to create a sixth operating theatre. A number of other foundations contributed to funding as well. There were generous

gifts, and an appeal raised over $1 million for necessary equipment.

Like all health services, the Ballarat hospital and Ballarat Health Services, more generally, are facing increased cost pressures, an increase in patient demand and a pressure for an increase in services. Ballarat Health Services now provides 80 specialist services throughout the community. They are listed on the back page of this report. Continuous change requires a 24/7 operation for the delivery of health. We obviously need sophisticated management that can identify problems when they arrive, predict problems and respond in an appropriate and timely fashion. The system needs to be nimble and alert. I am pleased to report that this is the case for Ballarat Health Services.

Ballarat Health Services had a surplus of almost $300 000; I am sure that every member in this chamber would agree that that is difficult and unusual to achieve in today's climate, given the pressure the health system is under.

I would like to highlight the Aboriginal task force which was set up during this reporting year. This is a partnership with the local Aboriginal community. The project has a specialist midwifery program and liaison officers for the local Ballarat community and Horsham community. I look forward to hearing more about that issue.

In conclusion I would like to thank all of the people involved in Ballarat Health Services, including Lynne McLennan and Andrew Rowe for their stewardship, and all the staff for their tireless work.

## CRIMINAL PROCEDURE LEGISLATION AMENDMENT BILL

*Second reading*

**Debate resumed from 6 December 2007; motion of Mr LENDERS (Treasurer).**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — The bill before the house makes a number of relatively small technical amendments to the sentencing legislation regime in this state. Notwithstanding the relatively small nature of the amendments, they will have a substantial impact on the way in which sentencing will operate in Victoria.

According to the Attorney General's second-reading speech, the bill is based on the recommendations of the Sentencing Advisory Council. It makes a number of changes with respect to discounts of sentences if a defendant pleads guilty, it introduces provisions with respect to sentence indications in order to provide an incentive for a defendant to plead guilty, and it makes a couple of other minor amendments with respect to certain sentences and the handling of certain other offences such as wilful exposure and wilful damage.

I will run through the key provisions of the bill. Part 2 contains the main provisions relating to sentence discounts and sentence indications. Clause 3 introduces parallel provisions with respect to the Magistrates Court, the County Court and the Supreme Court relating to the handling of discounted sentences when a defendant pleads guilty to a charge. Under clause 3 if a court, being a court of one of the three jurisdictions, imposes a less severe sentence on a defendant because they plead guilty, the court must state what sentence would have applied had the person pleaded not guilty in cases where the sentence would be a custodial sentence, otherwise defined as a sentence under division 2 of part 3 of the Sentencing Act, or a fine exceeding 10 penalty units or an aggregate fine exceeding 20 penalty units.

A similar provision is inserted by way of clause 4, which amends the Children, Youth and Families Act 2005 with respect to proceedings before the Children's Court. In that instance, if a sentence discount is given where the sentence would be a youth attendance order or a youth residential centre order or a youth justice centre order, the court must record what the sentence would have been had the defendant not pleaded guilty. In instances where sentences other than those of the type prescribed by those two clauses are not given, the court has the discretion to record the sentence that would have been given had the defendant not pleaded guilty to the relevant charges.

The second key element of the bill deals with sentence indication. This is a mechanism whereby a court — and again it applies to the Magistrates, County and Supreme court jurisdictions — has the capacity to give a sentence indication to a defendant as a way of providing an incentive for the defendant to plead guilty. This arises from recommendations of the Sentencing Advisory Council and is laid out in clauses 5, 6 and 7.

The bill provides with respect to proceedings in the Magistrates Court that the court may indicate that if a defendant pleads guilty at the time, the court would be likely to impose a jail sentence or sentence of a specified type. If the defendant, having received a sentence indication from a magistrate, pleads guilty at the first available opportunity, then the court is bound not to impose a sentence more severe than that which was indicated by way of the sentence indication.

Similar provisions are introduced with respect to the County and Supreme courts. However, an application is required from the defendant or their counsel and must be agreed to by the prosecutor. Again, the court at its discretion can provide a sentence indication as to whether the defendant would receive a custodial sentence. If the defendant pleads guilty at the first available opportunity after receiving the sentence indication from the judge of the relevant court, then at a subsequent sentencing the court is bound not to impose a sentence more severe than that which was indicated by the sentence indication.

The decision to provide a sentence indication is left to the discretion of the court in each instance. The bill provides that the court's decision as to whether or not to provide a sentence indication is not appealable, and accordingly clauses 6 and 8 each insert in the relevant acts a statement of the intention to alter or vary section 85 of the Constitution Act to provide that the Supreme Court cannot hear an appeal with respect to a decision by a court to provide or not to provide a sentence indication under this provision.

**Mr Lenders** interjected.

**Mr RICH-PHILLIPS** — The Treasurer tells me by interjection that this is the first section 85 variation of this Parliament. I guess that lowers the average, given the number that flowed through this place over the course of the last Parliament.

**Mr Lenders** — Surely you mean between 1992 and 1999, Mr Rich-Phillips?

**Mr RICH-PHILLIPS** — I mean between 2002 and 2006. The bill also makes a couple of unrelated changes with respect to other offences. The first is to introduce, by virtue of clause 12, a maximum sentence for the offence of wilful exposure. It inserts into section 320 of the Crimes Act a maximum sentence of five years imprisonment for wilful exposure whereas currently no maximum sentence has been prescribed.

The bill also increases from $500 to $5000 the value of damage or injury below which a wilful damage charge can be heard summarily, so that more wilful damage charges can be dealt with in the Magistrates Court rather than in the superior courts. The bill seeks to introduce new provisions with respect to contest mentions in the Magistrates Court and makes a change to the provisions with respect to committal hearings. Whereas currently a defendant who is committed to stand trial as a consequence of a committal hearing has the option of reserving their plea — that is, to not give a plea of guilty or not guilty at the time the matter is committed for trial in the superior court — the option of reserving the plea will now be withdrawn. It is my understanding — this is a matter that might be fleshed out further in the committee stage — that a court would be required to ask a defendant to give a plea of guilty or not guilty.

Those are the key provisions of the bill. The Liberal Party has concerns about a number of matters and will be seeking to have them fleshed out further. At this point it is the Liberal Party's position not to oppose this legislation. That was the position taken in the Legislative Assembly. However, that is subject to the satisfactory resolution of the matters of concern. It is the Liberal Party's position that the bill should be referred to the Legislation Committee, and I understand the government will agree to that proposition.

In his second-reading speech and in his accompanying media release entitled 'Greater transparency on sentencing' released on 19 September 2007, the Attorney-General stated that this bill is based upon the recommendations of the Sentencing Advisory Council. However, there are a number of departures from the recommendations of the council in this bill and a number of departures from the Attorney-General's own media release about the bill and the actual content of the bill. The first matter raised by the Attorney-General, and indeed recommended by the Sentencing Advisory Council, was that introducing sentence indications was to be a pilot program. That is stated in the Sentencing Advisory Council's recommendations, and I understand the recommendation was that the pilot program be conducted in the County Court only.

The Attorney-General's press release notes that the bill would introduce a pilot program. However, there is nothing in the bill that would indicate that these provisions are to be a pilot program, and also there is nothing in the bill that would indicate that these provisions are restricted to only the County Court. In fact it is clear from the clauses I dealt with earlier that sentence indication provisions would apply to the Magistrate's Court, the County Court and the Supreme Court.

The second point picked up in the media release by the Attorney-General, which again flowed from the Sentencing Advisory Council recommendations, was that the pilot was not to apply to the offence of murder or to sex offences. That was a recommendation, particularly with respect to sexual offences, from the Sentencing Advisory Council. However, the bill is silent on restricting the provision of sentence indications from those offences. There is nothing in the bill as it is written that prevents sentence indications

being given where defendants are charged with the crime of murder or various sexual offences.

One of the key concerns the Liberal Party has — and it is a matter that we will seek to have further clarified by the government — is the role that victims and victim impact statements will have where a sentence indication is given. That was a concern that was expressed by the shadow Attorney-General in the other place in his contribution to debate on the bill.

If a court gives a sentence indication and that same court is bound to follow that sentence indication or at least not impose a more severe sentence in the event that the defendant pleads guilty, the information that comes out later in proceedings, in particular with respect to victim impact statements, will not be able to be taken into account when the sentence is handed down. That is a matter of significant concern. To a certain extent the matter was picked up by the Scrutiny of Acts and Regulations Committee (SARC) in its queries posed to the Attorney-General on this bill.

I have to say that the response by the Attorney-General, which appears in the *Alert Digest* tabled this week, does not really clarify exactly how those concerns about victims rights will be dealt with consistent with the sentencing indication provisions.

The concern was raised by the Sentencing Advisory Council in its report that the rights of victims and victim impact statements be preserved and protected in the event that sentencing indication provisions were introduced. It specifically recommended a review of the statutory provisions to ensure that that occurred. It is not clear from this bill, or indeed from the response by the Attorney-General to the Scrutiny of Acts and Regulations Committee, that those recommendations have been taken up.

Further concerns the Liberal Party expresses about this legislation relate to the requirement for a court to indicate the sentence that would have applied but for a guilty plea, which is the first provision of the bill. The concern is with respect to how a court is to draw a distinction between the elements that are taken into account when providing a sentence. Yes, it is a fact that a court may take into account the fact that a defendant pleaded guilty and therefore impose a reduced sentence, but it is also the case that a court may take into account factors such as remorse and the capability of a defendant to be rehabilitated when it imposes a sentence.

It would seem that by specifically requiring a court to indicate what the sentence would have been but for the guilty plea, the court is also required to make a distinction between the other elements that can be taken into account when a sentence is handed down. It would seem impractical for a court to make a distinction between a reduction given for a guilty plea versus a reduction given for remorse versus a reduction given for the potential for the defendant to be rehabilitated.

While we understand the reason and the intent of this provision of declaring what the sentence would have been in the absence of the guilty plea and recording that in the court record, we believe there may be impracticalities in how it is implemented in making the distinction between the elements that are considered in imposing a sentence.

One of the other concerns with sentence indication is the capacity for it to be used to clear the courts and in doing so provide lighter sentences than would otherwise prevail. We all hear about the backload that exists across the court system, particularly in the superior courts — the County and Supreme courts — and there is no doubt that introducing sentence indications will provide an incentive for defendants to plead guilty and have their matter disposed of and removed from the court.

The potential must exist if the court is overloaded and the court list is extensive for a judge to provide a sentence indication that is lower than otherwise would be so as to have a matter disposed of quickly in the court. That is something that we would like to see addressed. Presumably it is something that can be addressed through the court rules. Clearly, where there is such an overload of cases in the superior courts the temptation to dispose of matters quickly by expediting the sentence process and getting guilty pleas must be considerable.

Another concern that was expressed was about the provision that removes the capacity for a defendant to reserve a plea when being committed for trial. This is a matter that we would like to flesh out further during the committee stage. We are concerned that if it is the case that a defendant is required to give a guilty or a not guilty plea, that would lead to a reduction in the capacity of the prosecution and defence to negotiate outcomes and get a smoother passage through the legal system without a long trial following the committal process. Therefore we would seek further clarification about exactly what the removal of the capacity to accept a reserve plea actually means.

A number of matters are of concern to the Liberal Party. Our position in the other place was to not oppose this legislation. That was subject to the satisfactory

resolution of these matters in the course of the consideration by the Legislation Committee. Having placed those matters on the record, I look forward to there being a more fulsome consideration of those matters when this bill comes before the Legislation Committee.

**Mr HALL** (Eastern Victoria) — I am pleased this morning to make some comments on behalf of The Nationals on the Criminal Procedure Legislation Amendment Bill 2007. This is not a lengthy bill in itself, but it arises from some fairly detailed work that has been undertaken by the Sentencing Advisory Committee, and it has generated some substantial comment from the parliamentary Scrutiny of Acts and Regulations Committee, and in turn, some detailed comment by the Attorney-General in response to that committee's report.

If members peruse *Alert Digest* No. 1 of 2008 that was tabled in Parliament this week, they will get the flavour of the response provided by the Attorney-General to the many issues that have been raised by the Scrutiny of Acts and Regulations Committee.

Before talking about the bill I make the comment that this is an excellent example of the value of the work undertaken by parliamentary committees. The Scrutiny of Acts and Regulations Committee has been able to spend its time raising a whole range of issues which probably would not have been raised directly in parliamentary debate. It is an excellent demonstration of the value of a parliamentary committee's ability to provide proper scrutiny to government legislation and in this particular example the committee has done it very well.

The bill, in the very broadest terms first of all, will mean that the requirement that the amount of a sentence discount awarded for a guilty plea will be accounted for as part of the sentencing comments made by a magistrate or judge, and it also provides in some instances for sentence indications. The detail of that has been outlined by Mr Rich-Phillips and was also outlined by the minister in the second-reading speech. I will not go to the exact details in every circumstance in which those provisions apply, but essentially it requires the sentencing judge or magistrate to account for any discounts given for an early plea of guilty. As I said, it also provides in some instances for indicative sentences if such pleas are given. Those particular provisions are contained in clauses 3 to 11 of part 2 of this bill.

There are also some other amendments contained in clauses 12 to 22 in part 3 of the bill. Some of those include the abolition of reserved pleas, meaning that a person facing trial must either plead guilty or not guilty. There are also amendments relating to the setting of a maximum penalty for wilful exposure, amendments allowing for an increase in the amount for which wilful damage cases can be tried summarily and amendments which give magistrates greater discretion when considering whether or not to strike out charges on administrative grounds.

Essentially, whilst that is what the bill does in those two main components, certainly the commentary has been centred around the practicalities and implications surrounding sentence discounts, and it is to that area I will address my comments. From the outset I do not pretend to understand the many intricacies of the law, but I think a layman's perspective on this matter is equally important in this debate and therefore I will make the following observations.

First of all, in relation to sentencing, members of the public often make comment, and certainly people come to me at times and express astonishment at the variance in sentences delivered within our justice system. Frequently we hear comment from members of the public suggesting that in their view a sentence has been too lenient. In a lesser number of cases some people argue that a given sentence has been too harsh. In probably an in-between number of cases people will say that there is seemingly an inconsistent sentence applied between what would appear to be very similar cases.

All of those comments at times give rise to some lack of confidence in our judicial system and therefore I think it is important that we as legislators do what we can to restore such confidence in our system. I am not about to suggest that sometimes the criticism by the public with respect to the level of sentences is a result of the views of our judges and magistrates. Not by any means would I imply that, for some of the blame rests within the legislation itself and therefore we as legislators, on behalf of the Victorian public, should share some of the responsibility for trying to improve the level of confidence in sentencing in this state.

Some of the criticism of sentences is caused by an absence of knowledge about the law and also the factors that are taken into account when a sentencing judgement is applied. The consideration of all of those matters requires a look at the sentencing framework that we currently have in this state. The criminal laws in this state provide some guidelines for magistrates or judges when delivering verdicts. For some offences we have a legislated maximum sentence; therefore we as legislators provide some guidance to the judge or the magistrate. The judge or the magistrate also takes into

account a whole range of other issues in delivering sentences which could include the motives for a crime, the level of remorse that a guilty person has since demonstrated, whether any rehabilitative steps have been taken, or whether a plea of guilty has been entered in the particular case. There is a whole range of particular circumstances and facts relating to every case that goes before a magistrate or judge that need to be considered when a sentence is actually given. The judge or magistrate generally outlines their considerations of these matters in their sentencing comments.

I think we as the Parliament and legislators of the state should take some responsibility for ensuring that the sentencing framework is as clear and transparent as it could possibly be. It is in this regard that The Nationals believe the sentencing framework can be improved. We can make it more transparent with the introduction of standard minimum sentencing. That is the position we have advocated for a long period of time. It would simply mean that in many of the criminal acts committed in this state a judge would be able to adjudicate the sentence applicable to that particular case within a maximum and minimum framework. As I said before, for some particular crimes there is a maximum that is already set by legislation.

Certainly we believe the adjudicating person therefore would have some flexibility between a maximum and minimum in applying sentencing. We have even said that with a system of standard minimum sentencing if a judge or a magistrate wished to deliver a sentence below that minimum they would be required to justify that particular action. Again, that would help improve the transparency of the sentencing system in this state.

We also acknowledge that there is merit in what the government is proposing in part 2 of this bill, which provides the judge or magistrate with the ability to give discounts when a person pleads guilty at an early stage of a trial. While that ability exists at the moment, this bill means that the judge or magistrate needs to inform the public of exactly what that discount has been in their determination. We believe that too has the ability to improve the transparency of the sentencing framework in this state.

We agree with the principle of what this bill attempts to achieve in part 2, but at the same time we acknowledge that there are some important issues that need to be considered in providing those measures. We acknowledge that early guilty pleas have benefits. They can reduce the trauma of trials on victims, they can reduce the costs associated with trials for all parties and they can alleviate congestion in the court system. On the other side of the argument they can give rise to a whole range of issues. I think most of those issues have been canvassed in the Scrutiny of Acts and Regulations Committee report. One of the significant concerns raised by SARC is the rights of victims and whether they are eroded under this system whereby early guilty pleas are taken into account in the sentence being delivered. However, I note that the consent of the prosecution is needed before a judge or magistrate can deliver an indicative sentence.

Other concerns raised by the Scrutiny of Acts and Regulations Committee include the section 85 statement of an intention to vary the Constitution Act to provide that a decision on whether to give or not to give a sentence indication is final and not appealable. I noted the government's comments in the second-reading speech and in its response to SARC on this matter, and I have to say that I agree with the government. I think in this case the application of a section 85 statement is warranted. Another issue is whether sentence discounts encourage a guilty plea by someone who is not guilty but who is prepared to cut their losses, so to speak, in respect of the matter for which they are facing trial. Those and other issues were detailed in great length in the last *Alert Digest* of 2007 and were responded to by the Attorney-General in the other place in *Alert Digest* No. 1 of 2008.

I will not canvass in detail all of the provisions raised by SARC. I think the committee has done well. As I said at the outset, I think it has helped us in our consideration of and deliberations on this piece of legislation. We essentially agree with the government's intent with this legislation — that is, to try to achieve a greater level of transparency in sentencing. I think that is an admirable intent, and it should be pursued. As I have said in the course of my contribution, The Nationals believe it could be made even better with the implementation of standard minimum sentences in Victoria, as happens in New South Wales. We do not oppose this piece of legislation. I appreciate that there are matters that need to be further explored in the committee stage. We welcome the chamber as a whole giving some consideration to those other matters. At this point in time I can indicate to the house that we will not be opposing this legislation. However, we will be watching the effects of what is being proposed here on future trials and sentencing, in particular whether it improves public confidence in sentencing.

**Ms PENNICUIK** (Southern Metropolitan) — As has been outlined by previous speakers and in the second-reading speech, this bill implements recommendations made by the Sentencing Advisory Council, particularly recommendations for the introduction of sentence indications and discounts. The

bill also makes a series of small amendments to the Crimes Act, the Magistrates' Court Act and the Summary Offences Act. I will not go into those amendments in detail because they were outlined in detail by Mr Rich-Phillips and referred to by Mr Hall.

Regarding sentencing discounts, whether a defendant pleads guilty is already a factor that a court must take into account under the Sentencing Act. The court has discretion in whether to give a discount and the amount of any discount. One of the major intents of this bill, as I understand it, is to make that process more transparent by requiring the court, in relation to more weighty penalties like custodial sentencing orders, fines of more than 10 penalty units and aggregate fines of more than 20 penalty units, to state whether such a discount has been made, and if so, the quantum of that discount. The aim is to make the current practice more transparent and open. That is a good thing, and we support it. For other sentencing orders, such as community-based orders and orders made in the Children's Court, the court has a discretion whether to identify the amount of the discount. The second-reading speech states as the reason for this that a discount is sometimes hard to identify for lower sentences and the value of identifying the discount increases with higher sentences — it is of more interest in higher sentences. The idea is to help to resolve matters earlier.

Giving an indication of the likely sentence will help some defendants to decide whether to plead guilty to an offence, particularly those defendants whose main concern might be whether there is a possibility of a conviction or an immediately servable sentence of imprisonment or detention. The goal is to improve the efficiency of criminal trials with improvements to the way our justice system works, particularly for witnesses and victims. The need to give evidence can be a traumatic experience and an early guilty plea removes that requirement for victims and witnesses. This process already occurs informally in the Magistrates Court in relation to summary offences. The Sentencing Advisory Council recommended that this be formalised by giving it a legislative basis. Clause 7 of the bill allows the County and Supreme courts to use a sentence indication on the application of the accused person in criminal proceedings. The indication is narrower than the indication the Magistrates Court may give — it is whether the accused would be likely to receive an immediately servable term of imprisonment.

In respect of the County and Supreme courts the recommendations of the Sentencing Advisory Council are not being implemented exactly. The council recommended that indications be introduced in the County Court initially by way of a pilot project. This is one of the concerns that has been raised. The advisory council said this would allow the scheme's impact on case flow, sentencing, the interests of victims and defendants, and the operation of the relevant participating agencies to be monitored before a commitment was made to make sentence indication more broadly available on an ongoing basis.
Mr Rich-Phillips raised a concern about why this recommendation was not implemented. We have been advised that the Sentencing Advisory Council will be monitoring what is going on, but there is nothing in the bill that provides either a process for the monitoring or a mechanism whereby amendments could be brought in to address issues or problems identified through the monitoring, other than, I presume, another amending bill — a criminal procedure legislation further amendment bill. It seems that the recommendation by the Sentencing Advisory Council to run a pilot in the County Court would probably have been a good thing to do. Perhaps that issue can be explored further in the committee stage. It has been raised by previous speakers, and we look forward to hearing more about it.

Other concerns have been raised. Mr Hall mentioned the lengthy report produced by the Scrutiny of Acts and Regulations Committee, which, as he said, was very helpful in attracting the attention of MPs whose level of technical knowledge of the legal procedures in the various courts might not be as high as that of others. That report has been very useful. We received the response from the government only this week, but it too is interesting. It raises more issues that we hope can be explored in the committee stage. One of those issues was the role of victims and victim impact statements. Mr Rich-Phillips raised this issue, and it is a concern we have.

The government says that issue is addressed in terms of the processes and procedures that are already in place for victims' involvement and that prosecutors are already required to involve victims and make known to them as soon as practicable whether applications have been made by the accused for sentence discounts and so forth. I would like to hear more about that, perhaps in the committee stage of the bill, because it is a concern that has been raised by victims' groups and by the Scrutiny of Acts and Regulations Committee.

Another concern I have with the bill is how a court can provide advice on the sentence that would have applied had a guilty plea not been entered. Not being a criminal lawyer I am not sure how a court that has not heard all the evidence — because a guilty plea has been entered and therefore all the evidence is not heard — is able to give an indication of the sentence that would have applied had the guilty plea not been entered. I will be

asking that question in the committee stage because it appears to me that that could not possibly be known without having heard the evidence.

I am also concerned about the requirement at the end of a committal for the accused person to enter a plea and to do away with reserved pleas. It is not clear to me what the costs or benefits of that would be.

One other concern I would like to raise before concluding my remarks is the possible downside of sentencing discounts and indications. A discounted sentence may encourage a guilty plea as the sentence indicated must be adhered to. Once the sentence has been indicated by the court, the court is required to impose that sentence. This may result in a situation in which, if the whole of the evidence been heard in a case, by virtue of the seriousness of their actions a defendant would have received a much higher sentence.

I conclude by saying that the Greens are not going to oppose this legislation but there are many questions the bill raises about the intricacies, technicalities, practicalities, benefits and costs of these changes to criminal procedures.

**Business interrupted pursuant to sessional orders.**

## QUESTIONS WITHOUT NOTICE

### Public transport: ticketing system

**Mr D. DAVIS** (Southern Metropolitan) — My question is to the Treasurer. Has the Treasurer sought or received a report from the Transport Ticketing Authority (TTA) on the current cost of the new myki ticketing system?

**Mr LENDERS** (Treasurer) — I thank Mr Davis for his question and for his interest in ticketing. Like most, I understand that we are a two-house Parliament and that there is a fair amount of theatre about question time. Like most, I have read with interest the questions that in the last few days Mr Mulder, the member for Polwarth in the other place, has asked of Ms Kosky, the Minister for Public Transport, and I have read the answers Ms Kosky has given to those questions. I am interested to see that Mr Davis and Mr Mulder are working in tandem, because I would have thought that Mr Mulder was working for a different outcome than Mr Davis on the Liberal leadership.

I welcome the report that Ms Kosky has made about the authority. We all know the issues before the ticketing authority. We know what the government has been seeking to do to get a good ticketing outcome, and we all know some of the problems that authority has had and the actions that have been taken in dealing with them. I welcome the work of the minister, and I look forward to a great outcome from the ticketing authority which will actually mean we have a new ticketing system not just in Melbourne but right across Victoria outside the metropolitan area.

I certainly have an ongoing interest in these matters, and I support the comments made by Ms Kosky in the Legislative Assembly.

*Supplementary question*

**Mr D. DAVIS** (Southern Metropolitan) — That was disappointing. I now ask: will the Treasurer as custodian of the state's finances order an investigation of the ticketing fiasco at the TTA or will he allow the cost blow-out on this contract to continue?

**Mr Guy** interjected.

**Mr LENDERS** (Treasurer) — I am not wearing spots for Mr Guy's benefit! I welcome the fashion advice from my colleagues, but I will make my own fashion decisions.

David Davis asked a serious question and my serious response to him is that we have at the moment an authority which is under scrutiny by the Auditor-General of the state of Victoria. This government respects the office of the Auditor-General. We respect the work of the Auditor-General, and we will certainly await his response.

**Mrs Peulich** interjected.

**Mr LENDERS** — I take up the interjection by Mrs Peulich, who is one of the shameful seven in this place who actually voted to neuter the Auditor-General, to cut the Auditor-General's powers to make him a pawn of the then Premier and to have the Premier's poodle, his parliamentary secretary, presiding over the Public Accounts and Estimates Committee and monitoring the Auditor-General.

We respect the Auditor-General. The Auditor-General will prepare his report on the ticketing authority. We will await the Auditor-General's report on these matters. We respect the Auditor-General. We will not seek to nobble an officer of the Parliament. Again, I stand by the answers of Ms Kosky in the Assembly on these questions and reaffirm on behalf of the government that we respect the institution of the Auditor-General and will look with interest at his reports and, as we always do, will respond to them.

**The PRESIDENT** — Order! This is the first opportunity I have had today to draw the house's attention to the fact that today one of our members is celebrating a landmark birthday. I refer of course to Johan Scheffer, who today — —

**Mr Atkinson** — Sixty-five!

**The PRESIDENT** — Order! How cruel of you, Mr Atkinson. In fact he is only 60. Given that I will reach this milestone myself in a couple of months and the house will not be sitting at the time, I am not about to embark on some self-congratulatory speech but would like to say, and I take the liberty of doing so, that Mr Scheffer and I are living proof that only the good die young.

## Melbourne Convention Centre: energy rating

**Mr EIDEH** (Western Metropolitan) — My question is to the Minister for Major Projects. Can the minister inform the house of the Brumby Labor government's latest green achievement in the building and construction industry?

**Hon. T. C. THEOPHANOUS** (Minister for Major Projects) — I thank the member for his question. Members may have noticed or be aware that some announcements have been made in relation to Melbourne's new convention centre on the banks of the Yarra River, which will be the greenest convention centre in Australia and possibly one of the greenest convention centres in the world. It has achieved and was awarded a 6-star green rating, which it received from the Green Building Council of Australia for the way that this particular building is being constructed. In many respects it is an acknowledgement of the government's commitment to the construction of ecologically sustainable buildings in this state.

The convention centre achieved this through a rigorous process of examining all the green issues associated with that construction. To indicate to the house some of the features which led to it getting a 6-star green rating, it will include solar panels to deliver all public amenity hot-water requirements; it will have a blackwater recycling plant to recycle wastewater to supply toilets and cooling towers and to irrigate landscapes; it will have natural light and energy-saving controls on all installed lighting; it will have lighting fixtures that adjust dependent on the amount of daylight detected in the room; and many of the building materials being used are sourced from renewable and sustainable industries.

**Mr Barber** interjected.

**Hon. T. C. THEOPHANOUS** — I would have thought that the Greens would have welcomed a 6-star green rating for the new Melbourne Convention Centre, but as usual the Greens political party never wants to welcome a green initiative by this government — because it just shows it up as not really having any new ideas other then just running around trying to stir up non-existent issues. The convention centre will be a landmark building in Melbourne's developing landscape, and its green credentials are in fact a selling point.

**Mr Barber** interjected.

**Hon. T. C. THEOPHANOUS** — They are a selling point, Mr Barber. To give members an indication of just how successful that selling point has been, one only needs to look at the number of international conventions that have already been signed up for the new centre, which now number 18. That means that more than 40 000 people will be visiting Victoria simply to attend conventions in the convention centre. We estimate that the flow-on effects of those 18 conventions will be in the vicinity of $293 million. So we are talking about a lot of money being generated through the vision that we had when we put together the convention centre to try to make it a green building.

Our investment in doing that has absolutely paid off in terms of the number of conventions that have been signed up. It also adds to Melbourne's image as a green city and as a place where we do care about the environment and take it seriously. The government has led by example in relation to the convention centre. Overall it is a $1.4 billion project. It will revitalise the whole area of that region of the Yarra, and it will add to Melbourne's tourism and to Melbourne's green credentials.

## Hazardous waste: Tullamarine

**Ms HARTLAND** (Western Metropolitan) — My question today is to the Minister for Environment and Climate Change, Gavin Jennings — and it is on the government's green credentials, I would have to say. Yesterday in a response to Mr Finn in regard to the Tullamarine toxic dump, the minister stated:

> I am advised that at the moment there are no reasons for the community to be particularly alarmed in relation to the environmental performance of this site …

I was speaking to the Terminate Tulla Toxic Dump Action Group last night, and it said that it has a number of concerns and is alarmed by the workings of this tip, especially around the issues of the leaking of toxic chemicals and the fact that the Environment Protection

Authority (EPA) has discovered that there is a stockpile of some 15 000 cubic metres of waste at the site. The group is concerned that in fact the site is now full. How will the minister address these issues?

*Honourable members interjecting.*

**Mr JENNINGS** (Minister for Environment and Climate Change) — I am very happy for Ms Hartland to actually follow up Mr Finn's question.

**The PRESIDENT** — Order! I am sorry to interrupt the minister. I remind members that question time is not an opportunity to engage in banter across the chamber. If they want to engage in some discussion, they should do so outside.

**Mr JENNINGS** — I was saying that I welcome Ms Hartland's follow-up question to Mr Finn, because I am very happy for us to have a more well-rounded understanding of the issues that confront the landfill site at Tullamarine and the community's concern about the issues that relate to that landfill site and any associated risks that the community may be concerned about. I am not trying to split hairs in relation to my response on this issue. I responded to the tone of Mr Finn's question and the specific accusations made in it. In fact I responded to indicate that the advice I received from the Environment Protection Authority was to recognise that there are concerns raised about the environmental performance of that site at this point in time. There are matters — and I am happy to confirm this to Ms Hartland and members of the community — in question at this moment that relate to the environmental performance and the confidence that the EPA has, that the community should have and that I might have about its environmental performance.

Clearly there are issues that are currently being addressed under the direction of the EPA by the company in question, which is responsible for the performance of the landfill. That was not denied yesterday, and I reiterate that that is actually happening at the moment. The nature of the specific words that I used about whether the environmental outcomes as being measured by the EPA would warrant significant alarm by the community at this point in time was in fact how I responded yesterday.

Again, not to split hairs in relation to this, there are legitimate issues that should be addressed in relation to the environmental performance. As to whether they are adversely impacting upon the quality of the natural environment to the extent that it would warrant the alarm of the community in terms of its being at risk and being at immediate threat of environmental standards and pollution which would lead to adverse impacts on people's help, I responded yesterday by saying that the advice that has been given to me is that the risks are not so substantial as to warrant the alarm of the community in the immediate sense.

But there are issues to be resolved. There is the intention of the government, as in fact all members in this chamber would be aware, to close down this facility within the next two years. There have been actions taken to both shore up the environmental performance here and now, in the immediate, and to make sure that this facility closes. The government is determined to support those activities and to provide some confidence to the community that we share its concern about any environmental lapses in the standard of that performance and the need to address them appropriately. That is consistent with my answer yesterday, although the tone of my answer may have appeared to be different yesterday.

*Supplementary question*

**Ms HARTLAND** (Western Metropolitan) — Yesterday the Minister for Environment and Climate Change said that he would be happy to engage with the community on this issue — and it has taken them over nine months to get an appointment with Mr Bourke, the chairperson of the EPA. Would the minister also be able to meet with these residents on the site so they can show him their concerns, and would he be able to release all information to them in regard to their concerns?

**Mr JENNINGS** (Minister for Environment and Climate Change) — Without knowing exactly the entire scope of their concerns, my general answer to the question is yes, I would anticipate that I would be able to meet with residents to discuss these matters and to be able to arm them with the type of information that I am armed with. In terms of me providing some confidence from the EPA to myself, I am very happy to share that with the local community.

**Questions interrupted.**

## DISTINGUISHED VISITOR

**The PRESIDENT** — Order! I bring to the attention of the chamber the presence in the gallery of Mr Esmond Curnow, former MLA for the now abolished seat of Kara Kara.

**Questions resumed.**

## L'Oreal Melbourne Fashion Festival

**Mr TEE** (Eastern Metropolitan) — My question is to the Minister for Industry and Trade. Given the upcoming L'Oreal Melbourne Fashion Festival, can the minister update the house on the Brumby Labor government's strategy for developing and encouraging Melbourne's retail core to grow and prosper?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I wore my special tie for this question! In answering this question can I first of all say that the L'Oreal Melbourne Fashion Festival, which opens on 2 March, is the largest consumer and retail-driven fashion event in Australia. It generates about $50 million of economic activity, so it is a very substantial and important festival which puts another brand to Victoria and to Melbourne which sits alongside our green credentials. It also builds on Melbourne as a retail centre — somewhere where you can go and have some very old-fashioned retail therapy. We recommend and hope that people will do that.

The Brumby government has funded both the L'Oreal fashion festival and the Melbourne retail strategy 2006–12 with the City of Melbourne. This retail strategy is very important to the economic activity of the central business district and to Melbourne itself. The strategy sets out the key drivers to ensure that Melbourne remains the retail capital of Australia. It aims to increase visitation, to develop Melbourne's retail landscape and to forge stronger links between business events and the retail sector.

At the heart of this renaissance is the redevelopment of Melbourne's iconic department store, Myer, which sells very good suits, I am told, and would be happy to make them available to the Leader of the Opposition. The redevelopment of the Myer Melbourne store will be carried out in two stages, the first being the Bourke Street redevelopment and the second being the Lonsdale Street redevelopment.

This project will be very important in increasing the retail presence within the city of Melbourne. The total property and building investment is in excess of $1 billion. During its development it will create 10 000 jobs in construction and 500 ongoing jobs in the retail sector. This is a huge and important development of the retail centre of Melbourne. Alongside that we are working with David Jones on its redevelopment as well, which will further boost the retail development of the centre of Melbourne.

It is clear from the amount of investment that is taking place within the city of Melbourne that companies and businesses are investing because they have confidence in Melbourne and confidence in Victoria. I would say they have confidence in the way in which this Victorian Brumby government has managed this sector and has been able to encourage both tourism and an image of Melbourne as being a retail centre of Australia, a cultural centre of Australia and a green centre as well.

## Regional and rural Victoria: energy upgrade grants

**Mr VOGELS** (Western Victoria) — My question is directed to the Treasurer. In last year's May budget the then Treasurer, now the Premier, announced an allocation of $4 million through the Regional Infrastructure Development Fund to assist farmers to upgrade their electricity supplies through the on-farm energy upgrade grants program. When does the fund propose to make this funding available to electricity distributors in order that farmers may apply?

**Mr LENDERS** (Treasurer) — I thank Mr Vogels for his question. I am delighted that he is asking a question about the Regional Infrastructure Development Fund (RIDF), particularly since Mr Vogels voted against it the first time it came before Parliament and only voted for it the second time it came to Parliament. I am delighted that all parties are now taking coverage and ownership of the RIDF, which is a great initiative of this Labor government to assist infrastructure in rural Victoria.

**Mr Viney** — They hate farmers.

**Mr LENDERS** — I will not take up Mr Viney's interjection, because I think it was harsh. What I will say is that if the government allocated an amount of money for programs in regional Victoria at the last election and that money has not been allocated, then I will certainly take up with Mr Vogels a particular instance of that, because this government believes strongly that we need to use the resources of government to grow the whole state. Regional Victoria is of critical importance to us, and I would be delighted to follow through with him if there are any impediments on that money coming through.

*Supplementary question*

**Mr VOGELS** (Western Victoria) — As the minister knows, he being the son of an ex-dairy cocky, upgrading of infrastructure needs to take place in the autumn because winter is approaching. Farmers come into my office and regularly complain that they are then sent off by RIDF to Powercor, which will make the funds available. Farmers says to me it is buried in

bureaucratic red tape, with no guidelines in place and not 1 cent having yet been allocated. So I am very pleased to hear the minister say he will take that up, because it is a very important fund.

**The PRESIDENT** — Order! Was that a supplementary?

**Mr VOGELS** — The minister has just told me he is going to take up my advice, so I am happy with his answer.

## Energy: efficient households

**Ms PULFORD** (Western Victoria) — My question is for the Minister for Environment and Climate Change. Can the minister inform the house of ways in which the Brumby Labor government is helping Victorian families improve their energy efficiency, saving them money and reducing greenhouse emissions?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I thank Ms Pulford for her concern about the wellbeing of Victorian households and their ability to save themselves money, reduce their ecological footprint, make a contribution to reducing greenhouse gas emissions and deal with the important matter of climate change.

*Honourable members interjecting.*

**Mr JENNINGS** — President, as you can tell, opposition members are not terribly interested in the substance of this matter. They have a bit of a track record in dealing with climate change matters: they live in denial and when the Brumby Labor government tries to take some action in this place, they want to howl it down. I do not think their bona fides are too solid in the space of climate change.

The Brumby Labor government has been absolutely committed through a variety of programs to support the ability of Victorian households to deal with their greenhouse gas emissions, to introduce efficiencies within them to try to save them money and to make a contribution to greenhouse gas abatement. That ranges across a number of programs, including eco-living grants and rebates that are being provided to householders to introduce insulation throughout their houses and rebates to drive the installation of solar and high-efficiency gas hot-water systems.

The Brumby government has an ongoing commitment to retrofit public housing stock. To the moment 7000 low-income households have been supported in retrofitting their energy-efficiency capacity.

I am very pleased to say that I was joined by the Premier as recently as last week to announce a further program to promote — —

**Mrs Peulich** — You didn't turn your back to him?

**Mr JENNINGS** — I do not think I turned my back on the Premier. I think the Premier and I were as one in trying to encourage members of the Victorian community and to promote a fantastic initiative of our government through Sustainability Victoria. Change the Globe is a great partnership that was established between Sustainability Victoria, the *Herald Sun* newspaper and Bunnings Warehouse to distribute — —

**Mr Guy** interjected.

**Mr JENNINGS** — Quite a number. Mr Guy has woken up to the idea and the importance of Change the Globe, President. You will be very pleased to know that he has some degree of information about the importance of this program.

Through our government we have provided 500 000 compact fluorescent lights to Victorian households; 500 000 households in Victoria can be the beneficiaries of the provision of these energy-efficient light globes. Each and every one of these light globes has a shelf life of 8000 hours, on average, of operational ability. Every household that receives one of these globes will be reminded of the value of reducing their greenhouse gas emissions for 8000 hours. During the life of these single globes that have been allocated to these households, each and every one of them will save the equivalent of 630 kilograms of greenhouse gases — the equivalent of 12 000 black balloons of greenhouse gases.

The cumulative effect through this one initiative across Victoria is $40 million worth of energy savings to Victorian households. The 500 000 globes will make a contribution through their life of reducing 300 000 tonnes of greenhouse gas emissions, and during the life of this program 240 000 megawatts of electricity will be generated, which is the equivalent of supplying 25 000 households during the course of the year.

President, I know that you and other members of the community are flabbergasted to know the dimensions of that saving in energy efficiency, financial savings and greenhouse gas emissions being reduced through this one initiative. We encourage each and every one of those households when they renew their globes in the future to take the lesson from Change the Globe and eliminate the use of those old-fashioned, incandescent, Edison-like globes that have bedevilled the planet for

the last 120 years. They made a positive contribution by lighting up our households, but no longer are they relevant to a greenhouse gas friendly, carbon-mindful community across the globe. The Brumby government is trying to lead the change in making sure that we change the globe.

## Australian Synchrotron: operations

**Mr DALLA-RIVA** (Eastern Metropolitan) — My question is directed to the Minister for Innovation, and I ask: with the Rudd razor gang so publicly on the hunt to cut spending and services, can the minister provide the house with an ironclad assurance that he will hold the federal government to its 2007 budget commitment to deliver up to $50 million over five years to help meet the synchrotron's running costs?

**Mr JENNINGS** (Minister for Innovation) — Thank you, President, for reflecting on whether the question should be ruled in or out. One of the challenges for you in making that determination is what degree of confidence I can have in accounting for the federal jurisdiction of the government in this country. What I can certainly say in answer to Mr Dalla-Riva is that I am absolutely confident of the commitment of the Rudd Labor government to support research and development and scientific endeavour across this nation, which is consistent with my answer of yesterday.

I am very pleased to see that the incoming government wants to share the innovation drive of the Victorian government. It wants to establish a national innovation agenda and wants to underpin investment in R and D (research and development) and scientific endeavour.

As soon as next week I will be having conversations with the federal Minister for Innovation, Industry, Science and Research, Senator Carr, about this matter, which he has raised with me, and other associated matters to make sure that we drive scientific endeavour research capacity. Senator Carr attended the opening f the synchrotron. He was at that stage in opposition, yet he still attended the opening with the Premier, John Brumby — one of the first actions of the incoming Premier was to officially open the synchrotron.

Given that Senator Carr was there as part of the throng that celebrated this great institution and great scientific facility that will underpin a great deal of activity now and into the future, I am confident that the federal government will see the good sense in providing the associated ongoing support for the synchrotron and will share with the Victorian government the enthusiasm for making sure that it operates on a financial footing which is stable and certain — —

**Mr Finn** — Have they told you that?

**Mr JENNINGS** — And I will validate that at the first opportunity, Mr Finn, because I am confident that the federal government will share the Victorian government's commitment to research and development through the synchrotron.

## Environment: EcoTender market program

**Mr SOMYUREK** (South Eastern Metropolitan) — My question is to the Minister for Environment and Climate Change. Can the minister inform the house what the government is doing to ensure that rural communities can maintain diverse land-use practices, sustainability and profitability in the face of the challenge of climate change?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I am pleased that I now have another opportunity to share with the house some of important programs the Brumby Labor government is supporting in dealing with climate change and climate change adaptation, in looking for the introduction of a national emissions trading scheme and introducing a price on carbon. Whilst we are wanting to make sure that those drive new efficiencies in the energy sector and the transport sector, we also want to be mindful of how a price on carbon might impact on a whole range of associated land-use activities and the productive capacity of Victorian land.

In relation to this issue the government is very mindful of what might be the adverse effects of introducing a price on carbon in terms of how it might affect land use. A concrete example of that is that rural land-holders may make simplistic assumptions about the most effective way in which they can obtain some value through the price of carbon and make decisions based on a simple idea of what a carbon offset might be.

That specifically means they might introduce monoculture species of trees, for example, which whilst they may be very attractive in market terms and attract an immediate offset price may not serve the best interests of biodiversity in the state of Victoria or may not assist in maintaining the necessary degree of productive land throughout Victoria.

In being mindful of this the Brumby Labor government has introduced a series of measures which include the EcoTender market device, which will be looking at ways in which we can encourage land-holders to be constructive and productive about the way in which

they can rehabilitate and restore the productive capacity of Victorian land yet at the same time protect its biodiversity values, its contribution to water catchments and its contribution to clean air.

Last November, in anticipation of the shift towards a carbon market, we introduced a program which I announced in conjunction with the Corangamite Catchment Management Authority. The first stage of the EcoTender market program, a $14 million program, has $1.5 million currently open to members of the Corangamite catchment to find creative ways of improving the environmental value of land within the catchment and of rehabilitating the natural vegetation, while at the same time creating biodiversity links, making sure that the water catchments are applied in a very efficient fashion to underpin the environmental flows that may occur within the catchment and for the first time creating a pricing mechanism to value that activity on Victorian land.

Since November, 90 expressions of interest have been lodged. Currently officers of the DSE (Department of Sustainability and Environment) and the Corangamite Catchment Management Authority are evaluating the effectiveness of those competitive bids and by around March or April it will be making the first allocations of support to this EcoTender market device.

We think that this will be the first stage of a $14 million program in which rural land-holders throughout Victoria — 65 per cent of rural land is actually held in private hands and 30 per cent of threatened species in Victoria are located on that land — will actually be encouraged to keep the biodiversity throughout Victoria, to maintain the productive capacity of Victorian land and to see that as having a market value, underpinning their financial sustainability going forward at a time of the introduction of a price on carbon.

We actually think this is at the front end of thinking within the nation, and we are very pleased to be associated with the Corangamite Catchment Management Authority to start the EcoTender market device.

## Building industry: training levy

**Mrs PETROVICH** (Northern Victoria) — My question is for the Minister for Industry and Trade, Mr Theophanous. Given the importance of industries having a well-trained workforce, the minister will be aware that the CFMEU (Construction, Forestry, Mining and Energy Union) Building and Construction Industry Enterprise Agreement 2005–08 introduced a training levy which ended the flow of training funds from IncoLink to the building industry associations for training purposes. This agreement was on the basis that employers and unions would jointly manage the training fund.

The building industry associations that are contributing to this fund have no say on how the funds are used; in particular the association of wall and ceiling industry contractors and the Master Painters Association appear to have been bypassed. Who directs how the training levy funds are used in the building industry?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — Firstly, let me say that there is of course a Minister for Industrial Relations in the other house. That is not my title. I am the Minister for Industry and Trade, and I am therefore responsible for trying to maximise investment in particular industries in this state, including the building and construction industry. Therefore the strategy that I have adopted and that the government has adopted is to try and ensure that the climate in this state is right for investment and to build on the construction industry.

I do not want to downplay the fact that from time to time there are obviously issues in the construction industry that are dealt with by this government, but the industry has been significantly restructured. It is an industry that is working very well in creating new infrastructure and new jobs for Victorians. One of the big issues in the construction industry is the ongoing provision of employment. The Kennett government's investment in infrastructure was very limited, which had a significant deleterious effect on the construction industry. The difference is that in terms of capital expenditure, the previous government — —

**Mr Guy** — You have no idea.

**Hon. T. C. THEOPHANOUS** — You have no idea. The previous government — —

**Mr Atkinson** interjected.

**Hon. T. C. THEOPHANOUS** — You do not like the truth; you cannot handle the truth. The fact is that the maximum that the opposition, when in government, ever spent on capital expenditure was $1 billion.

**The PRESIDENT** — Order! I remind members, and ministers in particular, that question time is not for debating. I would like the minister to confine his response to directly answering the question.

**Hon. T. C. THEOPHANOUS** — I will do so, President, although I was provoked, as you would

appreciate. In terms of maintaining momentum in an industry like this, capital investment by the state is one of the biggest factors involved. We are now investing at three times the level of the capital expenditure of our predecessors. That is having a very good effect on the construction industry.

The industrial relations issues in the construction industry are not within my area of responsibility, but I am happy to comment on the overall health of that industry in respect of it going forward. As far as I can tell, the private sector is making an enormous number of investments. I have mentioned a couple of them. In an earlier response I talked about $1.1 billion that Myer is investing. It is not afraid to invest in new construction. The amount of private sector investment that is taking place in construction is at record levels, because the private sector is confident of the way in which the Victorian government is managing this economy.

*Supplementary question*

**Mrs PETROVICH** (Northern Victoria) — I would like to acknowledge that the minister has on many occasions talked about the importance of training and skills in the building industry. My supplementary question is: will the minister assure the house that the levy is being used for training only and is not being diverted into the Construction, Forestry, Mining and Energy Union slush fund?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I would hate to tell the member to bring some truth into this issue as opposed to the fantasies she is putting up. The fact is that the issues she has raised with me come under not a state award but a federal award, which was negotiated under the federal award arrangements that were put in place by the previous federal government. That is what the member is talking about. She would be better off if she went and asked to the failed former federal government that she supported why it put those arrangements in place in the first place.

## Food Victoria: exports

**Mr DRUM** (Northern Victoria) — My question without notice is to the Minister for Industry and Trade. With an increasing number of food and fibre imports flooding Australia, what additional support will the government give to Food Victoria to help it reach its stated target of $12 billion worth of food and fibre exports by 2010?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I thank the member for his question. I say to the member that one of the issues regarding exports which I have highlighted before — and I hope that The Nationals will join the government in supporting this issue — is our capacity to get those exports, which the member referred to, into the port, out of the port and exported. For that to occur in the future efficiently it is absolutely critical that the dredging of the port continue — —

**Mr Drum** — Are you going to stick by the railway lines?

**Hon. T. C. THEOPHANOUS** — The railway lines are important. I point out to the member that there are government investments taking place in upgrading railway lines. The member would be aware of the upgrade of the Mildura line that is taking place. The current government is investing around $70 million in the upgrade of that line to enable product to be brought down and got to market. It is no good having product available for export if you cannot get it out of the state and the country. One of the ways we do that is by rail, so we have invested $70 million in upgrading that line. The other way we do it is through the port, which is why we are prepared to invest such an enormous amount of money to make sure that we can efficiently take our product through Port Phillip Bay, through the heads and out to the rest of the world.

Our exports have been increasing. We have a target for exports, which is $35 billion by 2015. I have been encouraged to see that our exports are increasing. They are increasing in the services sector, and recent figures show that the goods sector is also increasing in terms of exports.

As I indicated to the member before, I think it is important that we be vigilant in relation to this. We have been working with a range of organisations to ensure that exports going forward are maximised through a number of programs to get our export product out and to build the infrastructure to allow that to occur as well.

*Supplementary question*

**Mr DRUM** (Northern Victoria) — The minister must also be reminded that this government has promised $96 million to standardise that rail line, which is well above what it is actually spending.

*Honourable members interjecting.*

**Mr DRUM** — I am not allowed to take up interjections while I am asking a question. I would like

to ask the minister: are he and his government still committed — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! I am listening.

**Mr DRUM** — I am listening too; that is my problem. Is the minister still committed to seeing Food Victoria reach by 2010 its stated objective of $12 billion worth of food and fibre exports for this state?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — The Victorian government has an overall objective for exports. I might make it clear to the member that notwithstanding the falsehoods that have been put around in this area, in particular by David Davis — —

*Honourable members interjecting.*

**Hon. T. C. THEOPHANOUS** — 'Falsehoods' is allowed. Despite those falsehoods, let me say that goods exports in the month of December 2007 increased by approximately 11 per cent to $1838 million. We constantly monitor this issue, and we have a number of programs to try to assist organisations, including the organisation which the member mentioned. I might mention a couple. They include the Opening the Doors to Export plan, which is a $4.8 million program designed to help our exporters, and the Victorian export network plan, which is another plan we have put together to assist with expanding export capabilities amongst groups such as the food exporters.

I just make this final point. Food exports out of Victoria are of the utmost importance. They are the second largest, if not the largest, category of goods exported out of Victoria. We are very keen to maintain and increase that position, and I will be working with the industry to make sure that happens.

**Mr D. Davis** — On a point of order, President, Mr Theophanous used a phrase that I think is out of order in this place. He suggested that in some way I had told a falsehood, when in fact trade has been declining in Victoria, and that is very unfortunate.

**Hon. T. C. Theophanous** — On the point of order, President, I am fully aware of your rulings in the past in relation to the use of the words 'lie' or 'liar' in this house as being completely out of order. However, I believe that during the course of debate if somebody says something and I believe it to be false, to put it another way, it has never been the case that members have not been able to say, 'That's not true' or 'It's false'. To use the word 'falsehood' is to simply transform the adjective into a noun. Therefore I argue that it is completely in order under the current rules.

**The PRESIDENT** — Order! Interestingly *May* deals with this particular matter. I will read from *May* a list of expressions which are unparliamentary and call for prompt interference. They are:

(1) The imputation of false unavowed motives.

(2) The misrepresentation of the language of another and the accusation of misrepresentation.

(3) Charges of uttering a deliberate falsehood.

(4) Abusive and insulting language of a nature likely to create disorder.

The emphasis on 'falsehood' is deliberate. I am not certain of the actual use of the imputation, but I will say that to imply that someone is using a falsehood or is implying that something they are saying is false is in my view a polite way of saying, 'It is a lie' or 'You are a liar', and I take the view that *May* has given us the example to use. Maybe I could have an explanation from the minister as to the circumstances in which he used the term in order to allow me to make a better-informed decision on the point of order.

**Hon. T. C. Theophanous** — May I say, President, that I certainly did not say that the member made a comment which was a deliberate falsehood. I did not say that. However, it is the case that people sometimes come into the house and make comments which on reflection or by later events are shown to be false — untrue, as it were. I put it to you, President, that I certainly agree that the words 'lie' or 'liar' imply that somebody is deliberately doing something which they should not be doing. However, something can be false even if the person who suggests it is not trying to deliberately present a falsehood. In this case I was simply pointing out that some of the figures that had been presented by David Davis in the past turned out to be false.

**The PRESIDENT** — Order! Obviously we are all aware that points of order cannot be debated, and the minister came pretty close to doing so. I am satisfied that the comments made by the minister in reference to someone spreading false information are okay. We have to have some flexibility. You can spread false information, but that does not imply that you know it to be false. I accept the minister's explanation. To emphasise my point, if the minister had stated that the member was spreading information that he knew to be false, that would have a different connotation and I

would probably have applied a different ruling. On the basis of the explanation given to me by the minister, I do not uphold the point of order.

## QUESTIONS ON NOTICE

### Answers

**Mr LENDERS** (Treasurer) — I have answers to the following questions on notice: 543, 545–8, 774, 965, 982, 1011, 1053, 1087, 1088, 1256, 1311, 1312, 1386, 1389, 1397, 1418, 1420–2, 1582–97, 1612.

**Sitting suspended 12.55 p.m. until 2.03 p.m.**

## CRIMINAL PROCEDURE LEGISLATION AMENDMENT BILL

*Second reading*

**Debate resumed.**

**Mr TEE** (Eastern Metropolitan) — The Criminal Procedure Legislation Amendment Bill is, as has been stated, a response to a report released by the Sentencing Advisory Council in September 2007. It is worth noting that, as Ms Pennicuik has indicated, currently the Sentencing Act allows a court to reduce a sentence when the accused pleads guilty. This provision is there for obvious reasons: it means that the court process moves in an expeditious manner and court time is not wasted unnecessarily when the accused pleads guilty, and so there is an incentive. Currently the legislation does not require that the court identify the amount of the discount that is afforded when the accused pleads guilty, and this bill seeks to remedy that omission. It requires the court when passing sentence to state the discount given for a plea of guilty. This applies for serious offences where the sentence is of a custodial nature, where it involves a fine of over 10 penalty points or an aggregate fine of more than 20 penalty points. For less severe sentences, including any fine imposed in the Children's Court, the court may, but is not required to, identify the discount. As I said, clearly identifying the discount given in a guilty plea improves transparency and reduces scepticism among defendants about whether or not an early plea has made any difference to the sentence the defendant would have received.

The other major part of the bill contains provisions which allow for sentence indications, which again will be useful in helping a defendant to decide whether or not to plead guilty to an offence. In making this provision the bill enshrines a legislative basis for an informal process that has been available in the Magistrates Court since 1993. Since that time a magistrate has been able to indicate the type of sentence that a defendant is likely to receive if they plead guilty. This may include imprisonment, intensive correction order, or a community-based order. For the County Court or the Supreme Court, the bill provides that the judge can give an indication as to whether or not the defendant may be subject to a term of imprisonment.

In his remarks Mr Rich-Phillips pointed to these provisions and to the Sentencing Advisory Council report, which focused on the County Court, and asked essentially whether there was any discrepancy in the Sentencing Advisory Council's recommendations and the approach taken by the government. The answer to that, I suspect, will be provided in more detail as the debate continues, and as the matter will be referred to the Legislation Committee.

It is worth noting that in terms of the Magistrates Court all we are doing in those provisions is essentially enshrining existing practice that has been in place since 1993. In relation to the Supreme Court, these provisions will rarely apply because the matter of whether or not an accused ought to be subject to a term of imprisonment comes before that court infrequently. The serious nature of the offences before a Supreme Court means that the issue goes to the length of any sentence rather than whether or not a sentence is appropriate. Quite rightly the focus of the Sentencing Advisory Council was on the County Court, as is the focus of this legislation.

Sentence indication is important, particularly in a case where the defendant's primary concern is the possibility of imprisonment. Ruling out this possibility for defendants might stop them from deferring a guilty plea. Ensuring an earlier plea has a number of advantages. The first is that it frees up court time which would otherwise be spent on proving the guilt or otherwise of the accused, and freeing up court time means that other matters can progress more swiftly. This is important because, as we know, justice delayed can often be justice denied.

Again, there has been some concern raised that this legislation will result in sentence discounting to ensure there is a guilty plea in order to free up court time. That is not the intention nor is it likely to be the outcome of this bill because it actually provides transparency to an existing provision. Under the Sentencing Act there is already provision for discounting on a guilty plea. This bill provides transparency in terms of that discount. In so doing it ensures that any concerns raised about discounting are transparently dealt with and the

community can clearly see how the issue is progressing. In essence it removes the shroud that existed where there was no transparency in relation to the quantity of the discount given.

There are a number of other advantages to providing a system which gives transparency and thereby provides opportunities for earlier pleas. It is an important issue for victims of crime, particularly for children. If the bill results, as we hope it will, in guilty pleas, where appropriate, rather than a deferral of the guilty plea there will be an enormous advantages for victims because we can reduce the stress and the anxiety of being in the courtroom watching and giving evidence and reliving the trauma of the crime.

This bill is about increasing public scrutiny. It provides transparency, accountability and certainty, and in doing so it will increase public confidence in the workings of our courts. It is worth noting that in coming to its recommendations the Sentencing Advisory Council consulted extensively with the legal profession, with the courts, with victims and with the general community and there is, I understand, general support in the community and amongst stakeholders for the thrust of these provisions.

The bill also includes a number of other important reforms. As has been noted, it abolishes reserved pleas following committal proceedings. This means that if a defendant elects to have a committal proceeding, at its conclusion they will be required to either plead guilty or not guilty, an outcome consistent with most jurisdictions in Australia. Again, this is an entirely appropriate outcome. This issue was raised by Mr Rich-Phillips, and I understand that along with other issues it will be dealt with by the Legislation Committee.

It is worth noting that the changes this government has made to committal proceedings means that through the provision of additional resources the accused is given through the committal proceeding an opportunity to see the evidence that will be provided against them in order to prove the case. Having provided the opportunity for the accused to have a clear understanding of the evidence, it is entirely appropriate that at its conclusion the defendant is required to have sufficiently prepared their case and be in a position to respond, and that is what this bill does. It essentially requires a response, a plea, once the committal hearing has concluded.

It should be noted that the bill builds on existing practice, in essence. Currently, if the accused does not enter a plea, that is taken to be a plea of not guilty. As I said, at one level the bill simply formalises the existing practice, but, more importantly, it requires the defence to be sufficiently prepared so that it is in a position to answer the allegations, having had the evidence put to them. Again, this is important if we want to progress trials more expeditiously and clear up the courts.

Other provisions in the bill mean that the summary offence of wilful damage can be used where the amount of damage caused to property is less then $5000. Currently the offence of wilful damage is restricted to cases where the amount of damage caused is less than $500. Clearly the figure of $500 is too low. What it means is that the offence of wilful damage is not often used. Instead people are charged with the indictable offence of property damage, which has a maximum penalty of 10 years. The change will give more flexibility to prosecutors to more appropriately match the offence with the charge. That again will be a better outcome. Sometimes where the amount of damage caused is more than $500 it is not appropriate that people be charged with an indictable offence. Again, this will free up the courts. It will be a fairer and a more expeditious process.

As I said, the main thrust of this bill relates to sentence indications and discounts. They are important improvements to our justice system and are about making the courts more open and more transparent. Again, this is an important objective because it increases the community's understanding of how our courts work.

Mr Rich-Phillips has indicated that the opposition has a number of issues.

**Mrs Peulich** — And SARC.

**Mr TEE** — It has raised those concerns with me. We think it is appropriate that t

hose concerns be addressed by the Legislation Committee as an appropriate way forward. We are confident that we will be able to satisfactorily address all the issues that have emerged, including those that have been identified by the Scrutiny of Acts and Regulations Committee. We welcome that process and opportunity.

In conclusion, it is worth noting that justice must not only be done but it must also be seen to be done. This bill is about carefully delivering that outcome and about building on this government's commitment to openness, transparency and accountability. I commend the bill to the house.

**Mrs KRONBERG** (Eastern Metropolitan) — The Criminal Procedure Legislation Amendment Bill comes

before the house at a time when public confidence in levels of sentencing is at an all-time low. Without further work, this legislation will underpin and enhance the public perception that this government is soft on crime and tends to trammel victims' rights. The government is in danger of this public perception being further reinforced.

The bill will require the disclosure of sentence discounts for guilty pleas, thus giving judges the ability to provide an indication of the sentence that an accused individual would receive if they were convicted. The concerns of Liberal Party members centre on the government's interpretations of recommendations of the Sentencing Advisory Council. The government has indicated that the Sentencing Advisory Council believes that sentence indications should be extended to both the County Court and the Supreme Court. Alarmingly, in point of fact the Sentencing Advisory Council has specifically recommended that sentence indications are only to be trialled in the County Court as part of a pilot program. It is important to underscore that.

Furthermore, the Sentencing Advisory Council has cautioned against the inclusion of sexual offences in the County Court pilot program, the principal reason for that being of course that sexual offences are of such sensitive nature including them would only add to the suffering of the victims of those crimes. The Sentencing Advisory Council has specifically recommended against extending the sentence indications available to judges of the Supreme Court to the judges of the County Court. These issues are central to the reasons why Liberal Party members are proposing discussion of the bill by the Legislation Committee, and we hope that discussion is fruitful.

It is surprising that the government has chosen to be selective about what it has to say about the sensitive nature of sentencing for sexual offences in cases heard in the County Court. In fact the selective nature of the government's position about this aspect of the bill is there for all to see. Put simply, there is no mention in the bill or the second-reading speech of the impact of the sensitivity of sexual offences on the sentence indications proposed. Furthermore, the Sentencing Advisory Council recommended that prosecutors consult with the victim before consenting to any sentence indication request. Alarmingly, the second-reading speech provides reassurance on this matter, whilst the bill is silent on it. The second-reading speech does not provide assurance that existing legislation is robust enough in this area. The value of victim impact statements in such cases is likely to be diminished. That fear and concern that opposition members hold very strongly cannot be overlooked. By providing a sentence indication the judge is denied the opportunity to give a higher sentence and frankly is locked into it, irrespective of the information that becomes available to the judge through a victim impact statement. Opposition members are further concerned that in such a climate this approach could lead to a flurry of non-custodial sentences in order to prune backlogs of cases and therefore reduce workloads within the system.

The potential for adding to the expense, time, commitment, pain and suffering and stress that we know are borne so heavily by victims of, let us say, sexual crimes is created because the prevention of reserved pleas would make negotiations between the prosecution and defence much more difficult.

I wish to make my concern very clear. The government has chosen to depart from the advice of the Sentencing Advisory Council in important recommendations to such a degree that the government sets itself up for accusations of once again going soft on crime and generally bypassing victims. I look forward to the results of the collective input on amendments and discussions by the Legislation Committee.

**Mr SCHEFFER** (Eastern Victoria) — The amendments contained in the Criminal Procedure Legislation Amendment Bill aim to stem the trend over recent years of the increasing number of not guilty pleas in Victoria's higher courts. Individuals accused of offences postpone making a decision on how they should plead because they are unsure of the sentence they will receive and are unconvinced that entering a guilty plea will really reduce the penalty.

I noticed an article in the *Herald Sun* nearly 12 months ago by Geoff Wilkinson entitled 'Approval for jail discount' when this was first announced. He said in that item:

> The number of Supreme Court criminal cases pending for one to two years grew last year —

that is 2006 —

> from 6 to 26.
>
> The number pending for over two years doubled, from 9 to 19.
>
> Criminal trials and pleas pending in the County Court jumped 13 per cent last year, from 1802 to 2038.

I presume they are accurate figures. It gives the house some sort of idea in a statistical sense of the impact of people delaying their pleas.

The putting off of making a guilty plea increases the stress and trouble for everyone involved, and it is a huge waste of time and money. While judges and magistrates take a guilty plea into account when determining a sentence, they are not required to state the details of any penalty reduction, so accused persons are not sure quite what to do. The amendments in this bill aim to address that. They will also help to reduce the trauma that is often experienced by victims of crime in the justice process. One positive effect is that victims of crime may not have to undergo cross-examination, for example, which can be extremely stressful.

Amendments contained in this bill arise from the government's justice statement and also from recommendations made by the Sentencing Advisory Council. The justice statement, as members know, expresses the government's vision for law reform in Victoria between 2004 and 2010 and contains some 25 major initiatives for modernising the justice system so that it will continue to be responsive to community expectations and change and will be capable of protecting the rights of disadvantaged and vulnerable Victorians. The statement focuses on reforming criminal law and procedure, keeping the courts and the legal profession in tune with the community and devising ways of resolving disputes earlier. Very importantly, the justice system also focuses on protecting and advancing human rights and redressing disadvantage.

But while the justice statement provides the general policy context of the provisions set out in the bill, the Sentencing Advisory Council's recommendations to the Attorney-General on sentence indication and discounts has shaped the specific amendments contained in this bill. In August 2005 the Attorney-General asked the council for advice on whether a sentence indication scheme should be adopted in Victoria. The council was asked to examine the advantages and disadvantages of such a scheme and was asked to have particular regard to the likely impact this would have on the courts, on the victims of crime and on the broader community.

Not coming from a legal background I too had to delve into this to get some of these definitions clear, and it is probably worth stating what these terms mean legally. The Sentencing Advisory Council has described a sentence indication in the following terms. It said:

> Sentence indication is a process that allows a judge or magistrate to give a defendant an indication, in advance of the guilty plea or finding of guilt being entered, of the sentence that he/she would be likely to receive if he/she pleaded guilty at that stage of the proceedings.
>
> A specified sentence discount, which specifies the reduction in sentence that an offender receives for pleading guilty, is intended to provide an incentive for defendants to plead guilty.

Under existing law a guilty plea can be taken into account in handing down a sentence because it indicates that the offender is contrite or that the offender has shown remorse. The Sentencing Act requires the court to take a guilty plea into account when working out a sentence, but it does not require a court to reduce a penalty because of a guilty plea. The courts are required to indicate by how much a sentence will be reduced as a result of an offender cooperating or helping the police, but they are not expected to do the same in the case of an offender who pleads guilty.

The Sentencing Advisory Council said in its final report summary and recommendations that courts should be free to exercise discretion over how much they would reduce a sentence in a case where an offender pleaded guilty, because that would enable the court to take into account the specific circumstances of each case. In general terms the Sentencing Advisory Council recommended that where an offender pleads guilty the court should tell the offender whether the sentence would be reduced as a result of the guilty plea, the reasons for that and what the sentence would have been if the offender had not made a guilty plea. The bill provides that in cases where the sentence is of a custodial nature or involves a fine of more than 10 penalty units or an aggregate fine of more than 20 penalty units, the court must state the amount of the discount given. As well, the court must state what penalty it would have imposed, as I said earlier, if the guilty plea had not been entered.

The bill recognises that it is very difficult to be precise about the level of the discount in cases where the penalties are very low, so the courts are not required to state the level of discount for less severe sentences or fines imposed in the Children's Court. Under these amendments the court would tell the accused person the type of sentence they would receive if they pleaded guilty — that is, as I said earlier, whether the sentence would be custodial or not — so that the individual then would be in a situation where they could make up their mind about how they might plead.

The benefits of these amendments will be significant, and I believe they will encourage accused people to make guilty pleas earlier in the justice process, which would solve some of those problems I alluded to earlier. They will lower the number of trials, reduce

costs and the duration of those trials, and minimise pressure on victims of crime because they will not have to appear and undergo cross-examination.

It is probably also worth mentioning that the amendments contained in this bill have been supported by the Law Institute of Victoria and the Criminal Bar Association. While I did not have time to read the final report of the Sentencing Advisory Council's inquiry into sentence indications and specified sentence discounts, I did read the summary, and on that basis I would like to commend the council for its work in producing an extremely clear report that assisted me in understanding the background and the reasoning upon which the amendments in this bill have been based.

The amendments in the bill, as I have already indicated, will contribute to providing a better justice system because the bill will promote consistency, transparency, fairness and certainty in the criminal law, all of which are important principles of the government's justice statement. I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

**Ordered to be referred to Legislation Committee on motion of Mr TEE (Eastern Metropolitan).**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I seek leave to move:

> That, notwithstanding standing order 16.11(3), the Legislation Committee may determine any other witnesses to attend in relation to the Criminal Procedure Legislation Amendment Bill 2007 and that standing orders 18.04 to 18.11 and standing order 24.10 apply to the committee as if it were a select committee.

**Leave refused.**

## FAIR TRADING AND CONSUMER ACTS FURTHER AMENDMENT BILL

*Second reading*

**Debate resumed from 6 December 2007; motion of Mr JENNINGS (Minister for Environment and Climate Change).**

**Ms LOVELL** (Northern Victoria) — I rise to speak on the Fair Trading and Consumer Acts Further Amendment Bill. In doing so I state that the Liberal Party will be supporting this piece of legislation.

The purpose of this bill is to amend the Fair Trading Act 1999, to expand the powers of the director of Consumer Affairs Victoria to provide qualified privilege for complainants under the act, and to ensure consumer documents are clear. It also repeals some unused provisions and consumer acts such as the Hire-Purchase Act 1959, and it alters the trade measurement provisions.

The main provisions of this bill are that it will expand the powers of the director of Consumer Affairs Victoria to institute and defend proceedings in the Federal Court as well as enable the director or inspectors to certify to a court a person's failure to comply with a requirement under consumer affairs legislation. The director may also certify to a court a failure to comply with requirements to provide information to the director for the purpose of a court order requiring compliance.

It will clarify the font and size requirements for consumer documents. This is something that is being written into all consumer acts at the moment. It is about bringing uniformity across consumer acts and will clarify the font and size so that there will not be too fine a print in these documents.

The bill provides that persons who make complaints or provide evidence to Consumer Affairs Victoria are not liable for any loss or damage sustained by another if their actions are done in good faith. It implements reforms to various areas of trade measurement such as firewood measurement in accordance with the national agreement between the states and the commonwealth. It will repeal and re-enact statutes such as the Hire-Purchase Act 1959 and the Frustrated Contracts Act 1959. It will also repeal provisions in the Shop Trading Reform Act 1996 that now allow polls in local communities to restrict Sunday trading.

It will amend the Subdivision Act 1988 to allow lot owners to increase the area of the lot by 10 per cent of only the size of the lot rather than by 10 per cent of the size of the whole subdivision; it also clarifies governance provisions relating to owners corporations, which are bodies corporate. It also amends the Partnership Act 1958 to allow early-stage venture capital limited partnerships.

One of the main areas of concern about this bill involves the very late amendments it has made to the Owners Corporation Act. I remember that act coming through this Parliament in late 2006, just prior to the election, and some 15 months later — today, 7 February, just a month and a week into 2008 or a month and a week after that legislation became law — we are making amendments to it.

The government had 15 months between when the bill was passed in this house and when it became law on 31 December last to make any necessary amendments to the flawed legislation. The government did not do that, so the legislation came into force as an act on 31 December last. The government moved amendments to it which were passed in the lower house last year and left for the upper house to pass this year.

A couple of the changes made to the Owners Corporation Act mean the government brought into being some of the things we raised as concerns when the bill was passed some 15 months earlier. A couple of those I would like to mention are covered in clauses 15 and 17 of this bill. They deal with the ability of a manager of an owners corporation to chair meetings or act as secretary of its committee. I have belonged to a couple of bodies corporate in my time, and certainly I like to know a body corporate is managed by a professional manager. I do not want to have to become involved in the management of it myself, and I do not want to have to get into a situation where there are disputes amongst neighbours who are managing it.

Of the two bodies corporate I have belonged to, one was managed by a group of residents, and it was an unusual situation. There was a lot of bickering amongst members of the body corporate, which was not a very pleasant situation. The second one I now belong to is managed by a professional manager and runs much more smoothly. I am much happier being part of that body corporate.

As I said, when this bill was brought in it restricted the ability for a professional manager to chair meetings or act as secretary of a body corporate. These things will be amended by this bill, amongst other amendments that were also raised as concerns at the time the original bill went through the house. Last November the Institute of Body Corporate Managers, which changed its name to Owners Corporation Victoria on 1 January, put out a press release that criticised the government for its slowness in acting to bring in these amendments.

It talks about the bill being passed 15 months before the commencement date to allow time for stakeholder and community consultation, but the corporation says that instead of using this time to engage with the 65 000 bodies corporate in Victoria and the one in four people living in or affected by these new owners corporation laws, the lack of consultation about these laws and regulations has been staggering. It notes that all Victorians would be required to comply with the law by 31 December 2007, yet these amendments were being debated some five or six weeks after that date.

It also notes that the government finally accepted the views of the Institute of Body Corporate Managers Victoria (IBCMV), which were strenuously argued before the legislation was passed in September 2006, and that many of the provisions of that bill were unworkable. It says that, among other amendments, important and necessary changes to the role of secretary and chairperson of owners corporations, then known as bodies corporate, were being made.

It further notes that despite strong representations from the Institute of Body Corporate Managers, the Owners Corporations Act 2006 did not recognise the important roles of professional managers in the smooth and consistent running of owners corporations. As I said, I belong to an owners corporation that is managed by a professional manager. It runs far more smoothly than did the previous body corporate I was involved with, which was managed by a group of the members of that body corporate.

The Institute of Body Corporate Managers also notes that the government was very slow to develop the regulations for that bill. As I said, the government had 15 months between when the bill was passed and when it became law, and during that time it was supposed to conduct consultation sessions and develop the regulations. The actual submissions stage for the regulations closed only on 8 November last year, yet the legislation came into force on 31 December. There was very little time, and it became a bit of a shambles, with the regulations only just being finalised before 31 December 2007.

The IBCMV notes that the consultation process was not very wide and that the government failed even to put out a press release to notify members of bodies corporate that these regulations were being developed. The regulations were on the Consumer Affairs Victoria website, but of course not many Victorians trawl the internet looking for new laws that are being put in place. With about 1 million Victorians, or one in four people, living in a body corporate situation and being potentially affected by these regulations, it would have been nice had the government been more open about the process so that more people could have taken part in it.

The body corporations legislation was a shambles right from the beginning through to the end. We are amending it now, some five or six weeks after it became law, and I think the government could have done a far better job on this one. However, the Liberal Party will be supporting this bill. Members will know that in Victoria all parties support legislation that protects vulnerable Victorians, and the consumer

legislation protects Victorians from things such as inappropriate contract arrangements. We support this bill.

**Mr DRUM** (Northern Victoria) — The Fair Trading and Consumer Acts Further Amendment Bill 2007 has been referred to as an omnibus bill. It consists of a whole raft of small pieces of legislation brought together from an extensive range of acts. The bill is will address, as I see it, seven key areas, and I am going to work mainly through the first five of those.

Firstly, it will provide a strengthening process to clarify the font size of consumer documents. I think all members of Parliament would have had the experience of constituents coming into their offices complaining that they have been duped in one way or another by contracts that they had signed, not realising that the small print down the bottom had such a significant part to play in the contract. It is good to see that the fine print at the bottom may in the future be not quite so fine. The Nationals tend to think that the 10-point font which is proposed here is about the right size, and we hope that it will make some of those aspects of contracts a little bit easier for consumers to read.

I think an important aspect we also need to look at is electronic contracts, especially those that involve young kids. For instance, ring tones are advertised very quickly during advertisements on television. It is made to look as if a new ring tone is going to cost $2, when in fact t can end up costing hundreds of dollars, and children are not able to read the fine print.

There is a whole raft of areas about which we need to be very vigilant. Dealing with printed contracts is a good start, but I think it is also really important that we broaden our vision and look at consumer protection in relation to some of the contracts that children get themselves into, especially some of the electronic contracts that tempt them to get involved.

Another aspect of this bill will make it easier when it seems there is a need for Consumer Affairs Victoria to instigate proceedings in the Federal Court of Australia for the director of CAV to do so. There have been some impediments to the director doing so, and this legislation will deal with those. The Nationals think that removing some of those impediments will improve the lot of consumers in this state. Obviously the director of Consumer Affairs Victoria is not going to be rushed off to court unless a significant issue needs to be sorted out.

This part of the legislation will have our support, and indeed The Nationals will not be opposing this legislation. We believe that clearing the way for this legal action to take place will help consumers who need to have their day in the Federal Court.

One of the more practical aspects of the bill which will have a real and genuine impact on everyday Victorians are the amendments to the Trade Measurement Act 1995 and the Trade Measurement (Administration) Act 1995. These reforms will affect packaging and weighing. The amendments will affect how goods like firewood are packaged and sold. It amazes me how traders have been able to look at a back of a lorry and say, ‘There’s a couple of tonnes on there’ and then bill accordingly. There will be some tightening up of those issues which will assure the consumer that they are getting exactly what they pay for. These changes have been agreed to at the Ministerial Council on Consumer Affairs. We think this change simplifies the relationship between consumers and traders.

The amendments to the Trade Measurement Act make changes also to how weighbridges operate. They will limit the ownership of weighbridges and remove the opportunity for any individual to have dual weighbridges. While they may be able to enter into partnerships with other people, owning multiple weighbridges will be a thing of the past.

Aspects of the bill relate to the way weighbridges affect grain deliveries. We hope this government goes further on this issue, because there is a whole range of problems regarding primary producers who find it difficult to work out exactly what their weights are. When you load up a vehicle on a farm and take it off to the local weighbridge, it is very difficult to work out whether you have 17 or 22 tonnes of grain on board. Different grains stack differently. We believe that there is a long way to go on this issue; hopefully this issue can be addressed in future legislation.

This government said it was going to look at the Queensland model in relation to grain transport. Hopefully that model can be adopted at some stage by Victoria to give some of our primary producers a bit of comfort when it comes to moving grain. In one of these years there will be a decent crop, so I hope that legislation will be in place by then to support the farming community with those crops.

The Hire-Purchase Act 1959 will be altered severely through the passage of this bill. Over the last 10 years it seems that fewer hire-purchase contracts have been entered into. Most of the specific aspects of the Hire-Purchase Act have effectively been picked up by the consumer credit legislation and also in parts of the Fair Trading Act. Those acts certainly deal with much of the legislation that was dealt with in the

Hire-Purchase Act. If those types of contracts continue to be less used, we think it is common sense to wind back that type of legislation and let the other acts pick up those issues relating to consumer affairs and everyday transactions.

The provision allowing the conduct of a poll on trading hours in shopping centres will be removed. The last time one of these polls was conducted determined whether or not we were going to trade on Sundays. One of those polls took place in Bendigo in 1988, when an abnormally high number of shopkeepers and interested parties voted. The result was that nearly 80 per cent of those who voted were in favour of trading on a Sunday.

We now acknowledge and accept that Sunday trading is a common part of our lives. We are all very busy; many of us now rely on shops being open and services being available of a Sunday so that we can simply use one of our down days to buy our weekly provisions. This change to the act removes specific shop trading polls being held.

We believe that Sunday trading is driven by market forces. We are in touch with many small business owners; they talk to us on a regular basis about how tough and difficult it is to do business on Sundays. They still have to pay penalty rates, which adds to the cost of Sunday business. Many small businesses tell us they cannot afford to be closed on Sundays but that they can barely afford to be open on Sundays. We urge the government to keep an eye on this issue and to be in touch with the small business fraternity so that those businesses that are trying to compete with larger department stores and retail chains have every opportunity not only to operate on Sundays but also to receive some assistance in dealing with the exorbitant overheads and charges involved in their trading on Sundays.

As I said, market forces at the moment are dealing with those businesses. We still find that some businesses open on some Sundays but for no apparent reason remain shut on others. Those businesses are effectively on the edge. We urge the government to look into that issue.

The bill has a couple of small provisions concerning commonwealth law and consequential amendments under Victorian acts of Parliament; other speakers in the debate will cover those amendments. I believe I have covered the majority of issues in the bill that will be of major importance to Victorians. As I said earlier, The Nationals will not be opposing this bill. Hopefully it will have a positive effect on consumers throughout this state, and will enable disputes to be fixed in a much more ready manner.

**Mr BARBER** (Northern Metropolitan) — The Greens will be supporting this bill. We are particularly vigilant about any legislation that comes through this place which impacts upon local government as this one does in a couple of its provisions. But having consulted with the relevant bodies we were pleased to find that they support those provisions, and that in fact the government had consulted them in preparing the legislation.

**Mr SCHEFFER** (Eastern Victoria) — I rise to speak in support of the Fair Trading and Consumer Acts Further Amendment Bill 2008 because the provisions detailed in it will go to better protecting Victorian consumers. The changes that will be put into effect relate to enabling the director of Consumer Affairs Victoria to institute and defend proceedings in the Federal Court of Australia. They will enable the director or a CAV inspector to ask the court for an order to require a trader to comply with a CAV request for information, and to make it clear that a consumer who makes a complaint in good faith is not liable for any loss or damage that may be sustained by the person against whom the complaint is made.

The bill also makes changes to the Trade Measurement Act. It makes it clear that a packer of prepacked articles is also liable when the quantities they pack are less than what has been advertised and what the consumer believes is in the package they are buying. The amendments to the Trade Measurement Act also make a number of improvements relating to the measurement of firewood volumes and arrangements for public weighbridge licences. The bill amends the Partnership Act to allow the incorporation in Victoria of early stage venture capital limited partnerships, which are venture capital vehicles that currently can obtain registration under the commonwealth Venture Capital Act. The amendments to the Victorian Partnership Act will permit this new form of incorporated limited partnership to be recognised in Victoria, and that is a good thing.

The bill alters the Subdivision Act to make sure that the owner of a lot can increase the area of their lot by up to 10 per cent — not the whole subdivision, as allowed under the act as from the end of last year. It also repeals parts of the Shop Trading Reform Act relating to conducting community polls in relation to Sunday trading. Of course that is a legacy from a time when Sunday trading was fairly heavily contested. We have moved on and, as everyone knows, Sunday trading is widely accepted today in Victoria.

The bill covers a very wide range of matters. It amends a number of acts relating to consumer protection law. The government's priority is to make markets work better. This involves putting in place a range of measures that will protect consumers against unfair traders, and that will provide guidance and support for traders. Of course the overwhelming majority of traders are fair traders. The market is complex, and while the principle of buyer beware is sound, it is also true that consumers should not be tricked and misled. The government has an important role in ensuring that the general public interest is protected as well as in ensuring that special attention is given to the issues faced by vulnerable and disadvantaged Victorian consumers. The government aims to ensure that, overall, consumers are well-informed and protected.

Under existing law a person who makes a complaint to Consumer Affairs Victoria under the Fair Trading Act is not protected from litigation. For example, a trader against whom a complaint is made will, through the usual complaints process, become aware of the name of the person who lodged the complaint. If the person against whom the complaint is made believes they have been defamed, then under the present law he or she is permitted to bring an action. The capacity of Consumer Affairs Victoria to protect consumers relies to a great extent on consumers coming forward with problems they encounter in the market so that CAV can investigate what happened and warn the public of any illegal and potentially harmful practices that are at play in the marketplace. If consumers who raise complaints are the subject of legal action by the very businesses they complain about, they will not come forward.

But the amendments do not give complainants a blank cheque. It has to be very clear under the legislation that the complainant has acted in good faith. The legislation also limits the immunity to any harm arising out of the making of a complaint. For example, it does not protect a person who has made a complaint and who then goes out and makes public statements that broadcast the details of their situation, and where that publicity causes loss, damage or injury to the trader or person against whom the complaint is made.

The wording of the Fair Trading Act unintentionally limits the ability of the director of Consumer Affairs Victoria to bring an action in the Federal Court of Australia. Under the act, the director can only institute or defend proceedings in accordance with the Fair Trading Act itself or with another consumer act. The amendment substitutes the words 'to achieve the purposes of this act or the purposes of a consumer act' for the words 'in accordance with this act or with a consumer act'. The amendment gives the director the capacity to take action where it is necessary to obtain an order that is effective across the country in those situations where a trader operates in more than one state. If the director did not have this flexibility he would need to pursue the matter in a Victorian court and then go on to register the matter in each of the other states where the particular trader was operating, and that seems unreasonably onerous. It can now be shortcircuited and made more effective through this amendment.

The bill inserts new section 152A into the Fair Trading Act that enables the director of Consumer Affairs Victoria, or an inspector, to apply to any court to obtain an order that requires a trader, for example, to comply with a request for information. CAV often requires information and documents to help it monitor compliance with the Fair Trading Act. For example, traders who have been asked to provide such information can simply ignore the request, and while CAV has the power to impose a penalty, often the imposition of that penalty has no material effect. The bill alters that provision so an order can be made by a court which requires information or material to be provided to Consumer Affairs Victoria.

The bill also makes some changes to the Owners Corporations Act 2006 and, as members would be aware, that act came into effect on the last day of last year. The changes made under this provision give the right to members of what were called bodies corporate, now owners corporations, who have been elected as president or secretary to pass duties on to an employed manager of that owners corporation. I understand that consultation has indicated that members of owners corporations who are elected to these positions often prefer not to take them up but to give them to a professional whom they have engaged to carry out those tasks, and the government has no objection to people making decisions in accordance with that preference.

Under changes made to the Subdivision Act and inserted into the Owners Corporations Act lot owners are permitted to increase the area of their lot by adding land from outside the plan equivalent to 10 per cent of the area of the plan. The amendment changes the threshold to 10 per cent of the lot rather than the subdivision so as to prevent lot owners adding significant areas of land to their own lot without the approval of the other lot owners. The legislation enables a subdivision or consolidation of lots provided this does not affect the rights of other lot owners, and the amendment puts this into effect.

The last point I would like to mention is a matter that Mr Drum mentioned as well, which is the amendment to section 163(3) of the Fair Trading Act to provide that a reference to '10-point font' is a reference to '10-point Times New Roman font or a minimum font of an equivalent size'.

Everyone knows they should read the fine print of any contract or agreement. But we see here that some traders just cannot help themselves and feel the need to bend the 10-point rule to make it just that little bit harder for a consumer to ensure they are not being sucked in. This makes it necessary, in this cat and mouse game, to make sure that '10-point Times New Roman font' or 'font of equivalent size' is the requirement.

There are a lot of bits and pieces in this bill and a lot of individual amendments affecting a range of substantive legislation. But the bill is straightforward and sensible and will make a positive difference by facilitating the market to operate more fairly. I commend the bill to the house and wish it a speedy passage.

**Mr DALLA-RIVA** (Eastern Metropolitan) — I am pleased to make, on behalf of the Liberal Party, a contribution following on from the birthday boy, Mr Scheffer. I wish him all the best for the next 60 years.

**An honourable member** — He will still be here!

**Mr DALLA-RIVA** — He will probably most likely still be here, that is right.

**Mr Somyurek** — You have gone soft!

**Mr DALLA-RIVA** — I have gone soft in my old age; I know, I have gone soft.

**Mr Scheffer** interjected.

**Mr DALLA-RIVA** — Thank you. I would also like to — —

**Mr Somyurek** interjected.

**Mr DALLA-RIVA** — I do not know if you will get the same support from me. That is yet to be seen.

In respect to the bill, firstly, I say on the record that the Liberal Party, as indicated by Ms Lovell, will be supporting the bill. From the outset I also acknowledge on the record that the explanatory memorandum has been done very effectively. Time and again I have said that I have seen many bills before this chamber in which the memoranda could have better outlined the details of the bills. With this particular bill that is the case, and I am pleased that the officers who compiled it have done so in such a professional manner.

This is a bill which is good to see from the government, for a change. It is a true omnibus bill in the sense that it makes various amendments and repeals various acts. I get sick of seeing bills that come in here that are of no more than three or four pages which really could have been joined together with other bills, whether or not they are on the same notice paper. In this case the bill repeals two acts: the Frustrated Contracts Act and the Hire-Purchase Act 1959. I am interested in the Frustrated Contracts Act because I think anyone who puts out a contract is always frustrated; if they ever understand the detail contained therein they are a better lawyer than I have ever known. It is interesting terminology. I am glad its provisions will be re-enacted in the provisions of the Fair Trading Act. It will make it clear so that people who look at that one act will see that there are various other components in terms of consumer protection. The Hire-Purchase Act 1959 is also being repealed. Given that there has been a decline in those types of arrangements, it is appropriate that it also be included in the Fair Trading Act.

The bill amends five acts, as I have indicated: the Fair Trading Act 1999, the Owners Corporations Act 2006, the Subdivision Act 1988, the Shop Trading Reform Act 1989 and the Partnership Act 1958. These all centre around the issue of consumer protection and go to various issues. Mr Drum has outlined some concerns. I listened with interest when he pointed to some of the ring tone arrangements that kids can subscribe to. I have noticed that it is $4 to apply and $4 for each one that comes in, and they come in twice a week. I am curious as to whether — reading the fine print in the 0.3 nanosecond that it is up on the screen — children understand what they are getting themselves into. If you work out the figures it works out to something like $600 or $700 a year before they even make a phone call. It is a trap that consumers should be aware of. Mr Drum brought that up in the sense that it is important in relation to the size and font of consumer documents and so on.

There is also a range of issues, which were not brought up by the Greens because Mr Barber's contribution went no more than about 15 seconds at the most. Other than him saying he supported it, he gave no indication about what parts he had concerns about, so he must be totally happy with the whole lot.

In respect of various other issues, the bill expands the powers of the director of Consumer Affairs Victoria in terms of being able to institute proceedings in the Federal Court and provides the necessary protection to

persons who make complaints or give evidence to CAV. They will not be liable for losses sustained by another if their actions are done in good faith. I draw on my experience in the fraud squad where people would give evidence or provide information about matters that one could argue were civil proceedings but that ended up in the criminal courts. I know that protection was provided there and I am glad that, equally, that type of protection will be provided to persons who make those complaints.

It seems ludicrous that somebody could have made a complaint regarding a consumer issue and be liable for any loss and subject to litigation, yet that same person may have been able to go to, for example, the fraud squad and make the same claim, albeit under a criminal investigation, and have the protection provided under common law as we know. It is important that that be clarified to give certainty to consumers in Victoria. It is also good to see that the director may certify to a court a failure to comply with requirements to provide information to the director for the purpose of a court order requiring compliance.

The bill also implements reforms under part 7 to the Trade Measurement Act relating to the measurement of items, and that is important. The debate has brought to mind that, for example, my three boys like to go to a lolly shop. Often the lolly shop buys the main product in bulk and then subdivides it into various packages for sale to youngsters. It is good to see, firstly, that there is a protection in terms of the instruments that are used to measure those items, and secondly, that the persons — it would be the shop owners in particular — could be liable for trying to cheat consumers. My boys may go in there in good faith to buy 200 grams of lolly teeth — I am not a fan of lolly teeth but that comes to mind; I can think of nothing other than lolly teeth — and they expect for 200 grams — —

**Mrs Peulich** — Or bananas.

**Mr DALLA-RIVA** — Or bananas, but I will go with the lolly teeth, Mrs Peulich. They expect for 200 grams to get five teeth but they end up with supposedly 200 grams and getting only four teeth and paying for what they thought were five teeth — or five bananas, or whatever it may be. It is important that that sort of protection is available to consumers. That also applies to other issues that may occur elsewhere. I talk in particular of packaged meat; the variety of items can go as far as you might consider — to breads and all the staple products that consumers buy every day.

It is good not only for consumers but also because shop owners who perhaps previously thought they had the capacity to get away with it can now be informed. When the legislation is enacted I am sure the various agencies will provide the necessary information to shop owners so they are fully aware of the penalties should they have a spot audit on particular items on visits. It is important that they are pre-warned rather than having to face the consequences of the law if or when they do breach the legislation.

I have mentioned the repealing and re-enacting of old acts, and I will not go on further. The Subdivision Act amendment is sensible. It makes sense to allow for an extension of an individual lot rather than a whole subdivision, thereby avoiding any unnecessary complications in terms of owners corporations and the like. The amendment clarifies that. The bill also clarifies the governance provisions relating to owners corporations.

In relation to the amendments to the Partnership Act 1958 to allow early stage venture capital limited partnerships, I have looked at the terminology a few times and have tried to work out the acronym ESVCLP without success, so I guess somebody each day is going to have to say, 'I wonder how the early stage venture capital limited partnerships are going?'. Maybe the government might clarify how that acronym is pronounced.

The only issue with the amendments to the Owners Corporations Act, which as I have mentioned was raised by Ms Lovell, is that in the second-reading speech the minister indicated that he expected the act would take effect from 31 December 2007. We know that today is 7 February 2008, which means that we are actually into the second month subsequent to the date proposed for these amendments to take effect. I do not know how that works, given that in the second-reading speech it was proposed that the legislation would have been passed by now. It is presumptuous of a government — any government — and an executive to say that it expects a bill to be passed. It is not for the executive to determine what bills may or may not be passed at the time they are presented. It is up to the two houses to determine whether they agree with the items of proposed legislation. We know there is other legislation coming before the house providing for changes which the government may not have the capacity to implement at the time and in the format it thinks appropriate.

I will finish on an aspect of the amendment of the Shop Trading Reform Act 1989. I refer to the history of the government. I remember a former Minister for Consumer Affairs, Marsha Thomson, when she was a member for Melbourne North Province in this place,

sitting over there and being absolutely adamant about the way the government was dealing with Sunday trading. The government went to great lengths to shut down Easter trading. I recall that when the present government was in opposition it was adamant that Sunday trading was not appropriate and it made a big song and dance about it. As is indicated in the second-reading speech, the reality is that Sunday trading is now accepted in Victoria as being the norm. Whereas previously polling on Sunday trading is s provided for under the Shop Trading Reform Act 1989, that is no longer necessary given that only one poll was conducted — in Bendigo in 1998 — and it was overwhelmingly supportive of Sunday trading.

**Mr Koch** — It is not unfair to families anymore.

**Mr DALLA-RIVA** — Surprisingly, it is not unfair to families, Mr Koch. Whereas previously it was considered unfair, now supposedly it is not. The government flip flops like its former federal leader did when in opposition — and we know that he eventually met his demise. I think this government will also meet its demise in terms of its legislative program, because it really does not know what it is doing. However, I must say that this appears to be a sensible omnibus bill with a theme of consumers and consumerism — and for once the government has got it right. Maybe the year of the rat might be good year for this government. That is what they are like — they are rats.

**Mr SOMYUREK** (South Eastern Metropolitan) — I rise to make a brief contribution on the Fair Trading and Consumer Acts Further Amendment Bill 2007. One of the government's key priorities is to make markets work better. That is a noble goal considering that markets determine how our finite resources are allocated, and it is a good mechanism for allocating our nation's resources. This bill ensures that consumers, particularly the vulnerable and disadvantaged, will be protected. To achieve that goal Victoria's consumer legislation needs to be effective, efficient and transparent.

The bill furthers the government's commitment to make markets work better by ensuring that consumers are well informed and protected and supports the government's commitments to secure investment and jobs in Victoria. In particular the bill does that by amending the Fair Trading Act 1999 to ensure that consumer documents will be clearer. That relates to things such as the minimum requirement for a font size, which at present is 10 points. Anyone who has used a computer will understand that there various forms of a 10-point font. Some are not that visible and others, such as Times New Roman are very visible. This amendment ensures that the 10-point font will be the Times New Roman version. That will be particularly helpful for consumers who have difficulty seeing as well as to consumers who do not really have difficulty seeing or whose eyesight is functional but who can easily miss items printed in a smaller font. That can be critical, because not everyone looks out for the small fonts. It is normally the bigger fonts and the coloured pictures that stand out for the consumer, so it is very important that small print be highlighted.

The bill also amends the Fair Trading Act and supports the enforcement of the act and its cognate national legislation by removing an impediment in the act to the director conducting proceedings under the Trade Practices Act 1974 in the federal courts. This will allow the director to lead a national action on behalf of the Australian consumer agencies where appropriate. The bill will allow the director or an inspector to seek a court order enforcing notices requiring information or documents under the act. This amendment extends to a range of consumer acts as defined in the Fair Trading Act 1999. The bill will provide qualified privilege for complainants under the act.

The bill also implements the government's commitment to modernising the statute book by repealing the now largely redundant Hire-Purchase Act 1959, re-enacting in clearer language but without other modification the provisions of the Frustrated Contracts Act 1959 in the Fair Trading Act 1999, and repealing the unused provisions of the Shop Trading Reform Act 1996. Those provisions provided for local polls to restrict Sunday trading. Sunday trading is now well and truly accepted by our community.

In terms of consultation, there has been wide consultation on this bill. There is support for it from the Ministerial Council on Consumer Affairs. An early state venture capital limited partnership has been requested by the commonwealth, and is eagerly anticipated by venture capitalists. There was specific consultation with the Law Institute of Victoria and the Consumer Action Law Centre on this proposal. The Institute of Body Corporate Managers, the Real Estate Institute of Victoria, the Australian Bankers Association, the Australian Finance Conference and the Shop Distributive and Allied Employees Association, or SDA, were all consulted. With that, I commend the bill to the house.

**Mr LEANE** (Eastern Metropolitan) — It is a great pleasure to speak on the Fair Trading and Consumer Acts Further Amendment Bill. This is a common-sense bill which will ensure consumer rights are better protected, particularly those of disadvantaged and

vulnerable customers. Previous speakers have covered the mechanics of this bill very well. I would especially like to highlight Johan Scheffer's contribution. It is always a great luxury as a member of this side of the house to follow Mr Scheffer's speeches because he always does a great job of covering the aspects and purposes of bills — and if you cannot be nice to someone on their birthday, when can you?

I just want to touch on a couple of aspects of the bill. As has been mentioned previously, the bill will repeal some of the provisions of the Shop Trading Reform Act. That act provided for local area polls to restrict Sunday trading. This aspect of the legislation is no longer relevant. It has not been used for quite a period of time. Sunday trading and extended hours of trading on other days has been accepted in the community. They have been embraced.

One section of our community that has embraced the extension of trading hours wholeheartedly is teenagers aged 15 years and up — secondary school students — who take the opportunity to work in a number of commercial establishments and stores on Sundays to earn some money. I have a couple of teenagers. One girl worked at the New Zealand Ice Cream Company, and I am not mentioning that in *Hansard* just so I can get a free ice-cream — I think I have had a few of them. Another of my daughters worked in a newsagency, and I know a lot of their friends embrace this idea. On a serious note, there will be young people who are using their earnings to supplement their family's income and pay for a lot of things themselves, and this is a great opportunity for them.

Another aspect of the bill I want to touch on, as previous speakers have, is fine print in consumer documents. The minimum size will be equivalent to the Times New Roman font size 10. During the parliamentary break I was told I should be wearing reading glasses. I know I really struggle with that size print, as a lot of people do. Once again it is a common-sense amendment which makes good legislation.

**Mr EIDEH** (Western Metropolitan) — I rise to speak on this bill. I will be very brief because it has been well covered by other honourable members who have made contributions. This bill is yet another example of how sincerely dedicated the Brumby Labor government is to protecting the rights of the people of Victoria as consumers. I can proudly state that Labor governments have always been the key champions of such protections, after a previous Labor government enacted the first formal consumer protection laws. This particular bill seeks to strengthen the powers of officers of Consumer Affairs Victoria to act on behalf of Victorians. It grants an immunity from civil proceedings to those who honestly and fairly lodge a complaint against a company or an individual. In the past some errant businesspeople have threatened to sue anyone who dared to lodge a complaint against them. This will no longer be possible if the complaint is made in good faith. The bill will bring various laws up to date and in line with what is happening across all jurisdictions in Australia, a nation now protected by Labor governments. It repeals certain acts that are now redundant, as noted in the second-reading speech, and it makes certain other changes to existing laws.

All in all this bill seeks to enhance the rights and protections of the good and decent people of Victoria against those who are more powerful and who would seek to rip them off. Good businesspeople, honest traders and salespeople will have nothing to fear from this bill. But those who have standards far lower than those honest people expect, those who seek to take unfair advantage and do the wrong thing, will always be targeted by this government. We are dedicated to protecting consumers and supporting honest businesspeople. I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

*Third reading*

**Motion agreed to.**

**Read third time.**

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

*Second reading*

**Debate resumed from 6 December 2007; motion of Mr LENDERS (Treasurer).**

**Ms LOVELL** (Northern Victoria) — I rise to speak on the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill. The purpose of this 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 the third school term in 2008 at the latest. The management program will establish mandatory minimum first aid training for

teachers and staff and establish storage guidelines for EpiPens, an anaphylaxis drug treatment.

To provide some background, anaphylaxis is a severe and life-threatening allergic condition that affects a significant number of children. It includes breathing difficulties and can cause sudden death if adrenalin is not administered via an epinephrine auto-injector, which is known in Australia as an EpiPen. An anaphylaxis attack can be triggered by foods such as peanuts or an insect bite or sting. Some medications can trigger an attack, as can latex.

In recent years public consciousness on this issue has gathered momentum because of an increase in the number of parents who are now faced with the problem of how to manage their child's condition. Parents are particularly concerned about the time when their children are not in their care but in the care of a school or a children's service. There has also been significant media coverage over the past five years of cases in Victoria where children have unfortunately died from anaphylaxis, some while in the care of teachers or child-care workers outside of the home environment.

Notably there was the case of Alex Baptist, a four-year-old child who died in a Victorian preschool in September 2004, possibly from exposure to peanut butter. Most recently there was the case of Nathan Francis, a 13-year-old Victorian boy who died from eating beef satay rations at an army cadet training camp in March 2007. The boys are thought to have died from inadvertent exposure to peanuts, despite staff being aware of their peanut allergies. Many people feel that with better management by and training of supervisors, these deaths may have been avoided. Sadly their families will never know. Consequently we need to put in place better management practices to try and avoid any further incidents or indeed, any further deaths.

It is estimated that approximately 35 per cent of schools in Victoria have a student who has been diagnosed with this condition. It is also estimated that currently 1 child in 200 has been diagnosed as being at risk of anaphylaxis, which corresponds to a figure of approximately 5000 Victorian children. EpiPens, the instrument by which adrenalin is administered, come under the federal government's pharmaceutical benefits scheme (PBS) which means that they are provided at a very reduced cost to parents and individuals, and they are indeed life-saving devices.

This bill will amend two acts of Parliament — the Children's Services Act 1996 and the Education and Training Reform Act 2006. It is enabling legislation because we do not have much detail in this bill. The detail and the implementation of the management plans will be prescribed by the regulations in the ministerial order. The bill is expected to be law and fully implemented by 14 July 2008, the first day of the third school term, at the very latest.

The changes to the Children's Services Act 1996 require that proprietors of children's services must have an anaphylaxis policy in place. Failure to do so will be an offence that incurs 30 penalty units. The bill also inserts a new section into the act which provides that the Governor in Council may make regulations with respect to prescribing requirements about anaphylaxis management. There is no detail about what will be in these regulations as they are still to be worked out. That is why this is only enabling legislation. Between now and 14 July the details of the regulations will be prescribed.

The changes to the Education and Training Reform Act 2006 will require schools to register their anaphylaxis management plan with the Victorian Registration and Qualification Authority if they have a student diagnosed with anaphylaxis. If a school has an enrolled student who has been diagnosed as being at risk of anaphylaxis, the authority will be required not to register that school unless it has developed an anaphylaxis management policy, as required under the bill.

The legislation also makes it clear that the minimum standards required are those to be prescribed in regulations. As I said earlier, these are still to be drafted, and we have no detail on what they will be. This bill also amends schedule 6 of the Education and Training Reform Act to include an anaphylaxis management policy. That will be set out as item 11 in the schedule attached to the act.

Currently guidelines for the management of anaphylaxis have been developed by the Department of Education and Training. They contain information on various things, and they talk about teachers and other staff who are responsible for the care of students at risk of anaphylaxis receiving training on how to recognise and respond to the anaphylactic reaction. It includes lines on administering an EpiPen. I am told that it takes about 2 hours to train people how to administer an EpiPen. It is hoped that all teachers who have regular contact with a student at risk of anaphylaxis will have this training.

The guidelines go on to give the main causes of anaphylaxis, with certain foods and insect stings being the most common causes. These foods include peanuts; tree nuts like hazelnuts, cashews and almonds; egg;

cow's milk; wheat; soybean; fish, and shellfish. It indicates that symptoms of a mild to moderate allergic reaction can include swelling of the lips, face and eyes. There can be hives or welts, abdominal pain and/or vomiting.

A severe anaphylaxis reaction can include difficulty in breathing or noisy breathing, swelling of the tongue, swelling and tightness in the throat, difficulty talking and/or a hoarse voice, wheezing or persistent coughing, and loss of consciousness and/or a collapse. And young children may appear pale and floppy. These symptoms usually develop within 10 minutes to 1 hour of exposure to whatever causes the allergic reaction but can appear within just a few minutes.

The report goes on to talk about how anaphylaxis can be prevented and how it can be treated — that is, via adrenalin given as an injection into the muscle or the outer mid-thigh, which is the most effective first aid treatment for anaphylaxis.

The guidelines go on to outline the roles and responsibilities of school principals. They say that school principals have overall responsibility for implementing strategies and processes for ensuring a safe and supporting environment for students at risk of anaphylaxis. It includes such things as the principal meeting with parents or carers to develop an anaphylaxis management plan for the student, ensuring that the parents provide the student's EpiPen and that it is not out of date, ensuring that staff obtain training in how to recognise and respond to an anaphylactic reaction, and encouraging ongoing communication between the parents and staff about the current status of the student's allergies, and the school's policies and their implementation. Those are just a few points I have picked out of a whole list of responsibilities of school principals.

The guidelines also outline the roles and responsibilities of school staff. It says that school staff who are responsible for the care of students at risk of anaphylaxis have a duty to take steps to protect students from risks or injury that are reasonably foreseeable. This may include administrators, canteen staff, casual relief staff and volunteers.

Just a few of the responsibilities for the staff, amongst quite a long list, are: to know the identity of students who are at risk of anaphylaxis; understand the causes, symptoms, and treatment of anaphylaxis; obtain training in how to recognise and respond to an anaphylactic reaction, including administering an EpiPen; and to plan ahead for special class activities or special occasions such as excursions, sport days, camps and parties, and work with parents/carers to provide appropriate food for the student on those trips. Another point is to avoid the use of food treats in class or as rewards, as these may contain hidden allergens.

These days we often see warnings on chocolate bars, particularly, I have noticed, on white chocolate. I love white chocolate and have noticed the fine print that says the chocolate may contain traces of nuts. It is very important to understand that these treats may trigger an anaphylactic reaction in some of our young people and, I guess, some older people as well. For those who are at risk it could be a life-threatening incident if they were given a chocolate or a lolly.

The guidelines go on to outline the role and responsibilities of first-aid coordinators and school nurses, and say that first-aid coordinators or school nurses should take a lead role in supporting principals and teachers to implement prevention and management strategies for the school.

The guidelines outline the role and responsibilities of parents of a student at risk of anaphylaxis. Again I will read just a few points from a long list. Parents are to inform the school, either at enrolment or when a diagnosis is made, of the student's allergies; to meet with the school to develop the student's anaphylaxis management plan; to provide the EpiPen or any other medications to the school; to replace the EpiPen before it expires; and to supply alternative food options for the student when needed.

These guidelines give an outline of what an anaphylaxis management plan would include and talk about how every student who has been diagnosed as at risk of anaphylaxis must have an individual anaphylaxis management plan, I guess because every individual case is unique.

Some of the points that should be included in the plan are: the type of allergy or allergies; the student's emergency contact details; practical strategies to minimise the risk of exposure to allergens for in-school and out-of-class settings; the name of the person responsible for implementing the strategies; and information on where the EpiPen will be stored. Older students can carry an EpiPen in a little pouch around the waist or in some other container, but for younger students it is important that the EpiPen is stored in an appropriate place and that those responsible for the student know exactly where to find it if there is an incident. The final thing I would mention from the guidelines is that that is exactly what needs to be talked about — that is, the storage and accessibility of the EpiPens.

Kindergarten Parents Victoria has also developed an anaphylaxis policy in conjunction with Anaphylaxis Australia, the Royal Children's Hospital's allergy department and the Department of Human Services. I have spoken with Kindergarten Parents Victoria; it has said its team has been very involved in advising the Office of Children on the appropriate response by government and is broadly happy with the approach that is being adopted. KPV says it could be argued that existing provisions in the Children's Services Act could be used to require an anaphylaxis management policy training and EpiPen availability; however, it believes that introduction of specific legislation provisions sends a more powerful statement about the management of anaphylaxis in Victorian schools and children's services.

We are getting very close to the time when this bill becomes law and we still have not seen the regulations that will provide the outline of what an anaphylaxis plan will consist of. That has been a theme of all legislation since I have been a member of Parliament. We are always debating enabling legislation without knowing the full detail of that legislation. I hope the government will develop those regulations very soon so that schools and children's services can have in place all the requirements before 14 July. The government's track record on regulations, particularly in this instance on children's services, is not very good at the moment.

The Children's Services Regulations 1998 will sunset on 31 May. For the past eight years the government has known that and that they need to be reviewed and renewed and that a lot of changes need to be made to them. Despite John Brumby saying that education, including early childhood development, is the no. 1 priority of this government, the minister and the government have failed at the first hurdle. They have not done their homework and have had to extend the current Children's Services Regulations for a further 12 months because the work was not done to have a new set of regulations in place to begin after 31 May.

As I said, we are getting very close to 14 July and there are still a number of issues and concerns that have been raised about this legislation. They include the implementation of the anaphylaxis policy, on which people are still wanting clarification. I guess that is because, as I said, it is enabling legislation and we do not know the detail of it until we see the regulations. Further concerns include some uncertainty as to how the policy will be rolled out and who specifically will receive the training and when. One of the things that opposition members are really concerned about is that only $1.3 million has been set aside by the department for the training budget. I ask the minister in summing up to clarify whether this money is for just government schools and services. Does this include money for non-government schools, including Catholic and independent schools, and non-government children's services, or do they have to provide that training themselves?

The bill requires the mandated development of special management policies and procedures for anaphylaxis. There is some concern that this creates a precedent for the general public to demand the development in future of management policies and procedures for other allergies, illnesses or general medical conditions. I guess that this concern has been raised because there could potentially be a flood of demands for management plans for other allergies and conditions and schools could be bogged down by them. One of those conditions could be asthma which, as members all know, can be a life-threatening condition. As I said, the concern is that now that there will be individual management plans for anaphylaxis, will we see further demand for management plans?

Another concern is that the bill provides that if a student is enrolled and the school knows, or ought reasonably to know, that the student has been diagnosed as being at risk of anaphylaxis, then the school is responsible. I ask the minister to clarify also what is meant by 'ought reasonably to know' that the child is at risk. It seems to be a very broad term and we would hate to see schools or children's services caught out because of some very broad wording in the act. As has been said, the bill requires the training of relevant staff. It is unclear how far that will go — that is, what 'relevant staff' means, whether it means anyone who comes into contact with a child. Will it be just the child's teacher or will it include the administration and canteen staff and the cleaners?

Another concern is about the storage of the EpiPen. We know that currently the Department of Education and Early Childhood Development anaphylaxis guidelines require that the EpiPen is stored appropriately in an unlocked and accessible place, but we are still waiting to learn what the regulations will provide about the storage of EpiPens for the new management plans. With them being stored in an unlocked and accessible place, that may mean that EpiPens are available to other students to access inappropriately. It would be good to know whether that would place those children at any harm.

One of the most important things that should be included in the guidelines for treating children who have had an anaphylactic shock is that first and as a priority the school or the children's service, or whoever

is responsible, should be required to call an ambulance as a priority zero because that is the most important and urgent call that can be registered. A child who is in anaphylactic shock ought to be taken to a hospital as soon as possible and that should be put in every management plan.

Another issue that has been raised with me very recently by some parents in my electorate is the possibility of their child having an anaphylactic shock on a school bus. It seems to be an area that has been overlooked by the government. Certainly in my electorate it is not unusual for children to spend several hours a day on their school buses. A mother who contacted me said that her daughter who is at risk of anaphylaxis is on a school bus for 3 hours a day, an hour and a half each way on her way to and from school. Her mother said that she is more likely to be given a snack that contains peanut, in a piece of white chocolate or an M and M peanut candy that looks like a hard candy but has a peanut inside, on a bus in an unsupervised environment than she is to come in contact with that treat in the classroom. The mother is concerned as to whether any training will be provided to school bus drivers for dealing with an instance of anaphylactic shock on a school bus.

I spoke to several local bus drivers, who all indicated that they had had no advice from the Department of Infrastructure, which they come under, about whether they will be required to undertake training or what training will be required. Certainly some of them were quite willing to undertake that training; others were reluctant to do so. As I said, this is a matter that has slipped under the government's radar and it should consider it.

Further consideration needs to be given to this issue. Drivers may not be concentrating on what is happening in the back of the bus; they are concentrating on the road. They do not have eyes in the back of their head, so it is very difficult for them to be supervising. If a child on one of the rear seats suddenly has an anaphylactic shock, they would not know that was happening unless one of the other students were to notify them. Consideration needs to be given also to where EpiPens would be stored on school buses. As I said, older children can carry their own, but younger children are not capable of carrying the devices around and they would have to be stored somewhere. So a lot of consideration needs to be given to the management of anaphylactic shock on school buses where children are confined in an area. As I said, although there is an adult school bus driver, he is driving and not supervising what is happening to the same extent as perhaps a children's services manager or a school teacher in class would be.

I ask the minister again if he would, in his summing up, outline the government's intentions for management plans, training of drivers, and storage and administering of EpiPens on school buses.

The three things that I want the minister to clarify are the government's intentions for school buses, whether the training budget includes a component for non-government schools and services, and to define 'ought to reasonably know'.

In summary, anaphylaxis is a very serious and life-threatening allergic condition that affects a significant number of children, and I think this legislation is needed. In closing, the Liberal Party supports the legislation.

**Mr DRUM** (Northern Victoria) — The Nationals also acknowledge that it will be supporting the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007.

I am happy to inform the house that I have a great young family friend, 10-year-old Jake Duncan, who suffers from anaphylaxis. When he comes around to our place we have to be very careful what we feed him. That goes not just for peanuts but also for a whole raft of children's foods that most children would normally plough into and cannot get enough of. Young Jake is smart enough, as a 10-year-old, to realise that he has to be very careful with what he eats.

You take your hat off to the parents of these young children because they worry constantly that they have all the bases covered. They have to think not just about what their young child is doing but they also have to think about what the children around that child are doing. They have to put in place a whole range of guidelines and be very vigilant to prevent someone absentmindedly offering something that looks harmless but which can have catastrophic consequences.

The previous speaker has been through the more in-depth parts of the bill. It is a worry that we do not have the regulations that are going to effectively decide whether this is legislation that is going to achieve what it set out to achieve or whether we are going to have regulations which could leave some gaping holes in the management plans that are necessary to look after anaphylaxis within the children's education sector.

As members know, we continually ask the government for regulations associated with legislation. There is no reason why the government cannot have regulations

ready when it is about to table legislation. There is no reason why this could not be done when it is consulting — that is, when it sits down and talks to the various groups. There is no reason why the government cannot do that job in a more complete manner so that it can be in a position to give Victoria the complete bill when it presents Parliament with the first half of the bill.

The government has spoken to the Australian Medical Association, Anaphylaxis Australia, the Ilhan Food Allergy Foundation, the Royal Children's Hospital, the Asthma Foundation of Victoria, and Ambulance Victoria First Aid. They have effectively been through the main groups. With all of that consultation — the same groups that The Nationals have consulted with — they are unable to actually give us the hard nuts and bolts associated with the management plans that are going to be put in place throughout the school system.

We understand at the moment there is enormous pressure on parents and that up until this bill, and up until there was more public awareness of this issue, it was incumbent upon the parents to actually carry out the education. Firstly, they had to protect their child. Secondly, they had to educate their own child's school about how dangerous this affliction is and what safety nets and guidelines needed to be put in place to protect that child. Thirdly, after educating the teachers they then had to turn around and start to educate the friends and associates of the child or children with this affliction.

Enormous pressure has been placed on parents, and a lot of that pressure will now be handballed to the school principals who will now be put under enormous pressure. That is why we need the regulations to be very clear and to be able to pinpoint exactly what type of management plan is going to be put in place, so that we have answers to some of the questions that have been raised already.

How is the EpiPen to be stored? Is it going to be easily accessible? Is it or is it not going to be under lock and key? Is it going to be accessible by all? Is everyone going to know exactly where it is? What will happen when the student leaves the school grounds for a day excursion to the swimming pool, or to go to an athletics carnival or to go on a simple day excursion, which events are very common and form part of the school curriculum now? Our children leave their school premises for many reasons, even to go to the movies as a reward for their achievements at school. Who will look after the EpiPen in these instances?

A lot of questions need to be answered and a lot of specificities need to be outlined. This is what we, as members of Parliament, need if we are going to vote on this legislation — which effectively puts our stamp on this bill and says that we fully support it — yet we just do not know the details associated with so many of these issues. We know we are talking about some 5000 Victorian children. Whilst it is reasonably uncommon, I think it is a growing trend; certainly 5000 Victorian children is not an insignificant number; in fact, it is a very significant number of children who have a serious health problem.

I have had some experience of anaphylaxis, when one day I saw a young adult very nearly die after being stung by a bee. It is very scary when a person reacts badly after receiving a bee sting. On that occasion, luckily a doctor was on hand. He was able to quickly get hold of some adrenaline, which had an enormous impact at that critical time.

As I said, The Nationals have looked into this very carefully. The member for Lowan in the other place, Hugh Delahunty, our party's health spokesperson, has consulted widely. Members of The Nationals are very aware of how dangerous this condition is, and many of us have had firsthand experience with friends or family who suffer from it. We understand how critical urgent assistance is and how critical it is that the people who are looking after your children throughout kindergarten and school hours have the skills necessary to administer the auto-injection EpiPen, which is able to save lives.

At this stage The Nationals are happy that the government is doing something, and we are happy to support this bill, but we need to reinforce the fact that it is very difficult for members of Parliament to be standing up here and saying we support what the government is doing when detail of it is yet to follow. We think it is tardy, We think it is lazy governance. We think we should have the regulations surrounding the legislation here for us to pick our way through and add some of our personal experiences to the practical application of what the government is proposing to see if there are not ways we can improve on what the government is doing.

We have no idea about the tintacks of this bill. As members of Parliament we deserve to be treated better than that, and the people of Victoria deserve to be treated better than to have the government more or less saying, 'We will pass this bill and fill in the blanks as we go along later on'. It is not good enough; it is especially not good enough on a life-critical issue such as this.

**Ms HARTLAND** (Western Metropolitan) — I will speak only very briefly on this bill. The two previous speakers have covered all the technical details and raised a number of questions that I also would have raised. The purpose of this bill is to make sure that teachers, child-care workers and others who work directly with children are fully trained and know what to do if an allergic reaction occurs. We have all heard of the terrible losses of young people's lives when they have come into contact with things they are allergic to, and I cannot even think how parents who have been in this situation have coped afterwards. I truly hope that this bill will go some way to addressing this issue.

One of the things that has been raised with me is whether there will be recurring and ongoing training of all teachers and child-care workers. I have been assured by the government that that will be the case; it is something that must be addressed.

While the Greens support this bill, we think one issue that is not directly related to this bill but must be addressed is the problem of ambulance response times, which is becoming more and more serious. It has been said by both previous speakers how urgent it is that an ambulance arrives at the scene quickly and is able to deal with the situation. As I understand it from the ambulance union, at the moment the response times are becoming longer and longer, and then there are the hideous delays that are occurring in the emergency rooms because they cannot cope with their current workload. Unless the government addresses this problem it will not just be putting children who are suffering from anaphylactic shock at risk but the whole community will be at risk. The Greens will be supporting this bill.

**Ms PULFORD** (Western Victoria) — The Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007 is part of an election commitment the government made before the 2006 election. With this bill Victoria becomes the first state in the commonwealth to legislate for the training of child-care workers, kindergarten teachers and schoolteachers to treat children with life-threatening allergies.

Australia and Victoria have rising rates of children at risk of anaphylactic shock. Anaphylaxis is a serious allergic reaction usually brought on through a severe allergy to nuts, milk, eggs or seafood. This legislation will better prepare carers of children to deal with a child who is suffering an anaphylactic shock and give the parents of children at risk more confidence that those who care for or teach their child can safely and swiftly identify and address any problem.

The legislation provides some new requirements, including that all on-duty staff in child-care services and kindergartens who have enrolled a child who has been diagnosed as at risk of anaphylaxis will be required to undertake comprehensive training in anaphylaxis management. All staff in child-care services and kindergartens, regardless of whether an enrolled child has been diagnosed as at risk or not, will be required to be educated in the use of an EpiPen, which is used to administer adrenaline to a child suffering from anaphylactic shock. Schools, whether government, Catholic or independent, who have enrolled a student who is at risk of anaphylaxis, have to develop individual plans for anaphylaxis management for each child at risk, and a majority of staff need to have had comprehensive training.

The act will commence automatically on 14 July this year, which is the first day of term 3. This will enable schools and children's services to prepare in the coming months to comply with the legislation. Already the government has done some work in this area. All government, independent and Catholic schools have been sent an anaphylaxis resource kit with an EpiPen and the publication *Anaphylaxis Guidelines for Victorian Government Schools*. An allergy working party has been established to report to the health minister on issues related to diagnosis, prevention and management of allergies. Schools have already had 11 700 staff trained for anaphylaxis care, and 4800 child-care and kindergarten staff have been trained. Funding to train staff in government schools how to recognise and respond to an anaphylactic shock includes training in the use of an EpiPen.

Why is this legislation needed? In recent times there has been a dramatic and inexplicable rise in the number of children who are at risk of suffering anaphylaxis. This has been the case here in Victoria, throughout Australia and in Europe, the UK and the USA. The cause of this is not clear. There are perhaps some links to genetics, and other theories suggest that diet and the environment may have an impact. Anaphylaxis can develop over time or very suddenly, which is why the education and child-care sector, where we most need our children to be safe, should be well prepared, and staff should be trained as well as possible to deal with the possibility of anaphylactic shock.

It is estimated that about 35 per cent of schools currently have enrolled a child who has been diagnosed as being at risk of anaphylaxis. In 2006 the Royal Children's Hospital admissions on account of anaphylaxis tripled from the five years previously — from 23 admissions in 2001 up to 71 in 2006.

Victoria is leading the way on this issue nationally, and this legislation responds to the increasing rate of anaphylaxis in the community; and with it, the increasing concern of parents, carers and teachers. The legislation will be implemented in a number of ways. Training will be carried out throughout Victoria by Ambulance Victoria going to schools, kindergartens and child-care facilities, or alternatively, staff being able to go to them for training days. Ambulance Victoria being able to go out to schools, kindergartens and child-care facilities means that it will be just as easy to train staff in the regional areas of my electorate, such as at Edenhope, as it will be in parts of metropolitan Melbourne.

The cost of this legislation is relatively small compared to the obvious benefits of making sure that Victorian children are safe. The principal cost of this legislation will be in training staff, as I have said. It will cost approximately $30 per annum to train each staff member. It is estimated it will cost around $300 000 per year to train an estimated 10 000 staff in government schools. Independent schools will be expected to pay for the training, and the process for Catholic schools will be to go through the Catholic Education Commission of Victoria. The total cost for Catholic and independent schools is estimated at $178 000 per annum to train around 6000 staff, which is a small price to pay for the safety of children and the peace of mind of parents.

This legislation has come to its current form thanks to extensive consultation with the Australian Medical Association, Anaphylaxis Australia and the Ilhan Food Allergy Foundation, founded by the late John Ilhan. The Australian Education Union, the Liquor Hospitality and Miscellaneous Union, which is the union to which child-care workers belong, Community Child Care and the Child Care Centres Association of Victoria were also consulted, and all support this legislation.

It is worth noting the dignified and touching hard work of Nigel and Martha Baptist to raise awareness of anaphylaxis. Their son, Alex, tragically died after suffering an anaphylactic shock in a kindergarten in 2004. I can only marvel at their strength and compassion for others in what can only be the most unimaginable tragedy to strike a young family. The legislation is designed to ensure Victorian children are protected as well as is possible, in the hope that tragedies like the one that took Alex's life can be avoided in the future.

**Debate adjourned on motion of Mrs COOTE (Southern Metropolitan).**

**Debate adjourned until Thursday, 14 February.**

## INFRINGEMENTS AND OTHER ACTS AMENDMENT BILL

*Statement of compatibility*

**For Hon. J. M. MADDEN (Minister for Planning), Hon. T. C. Theophanous 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 Council, 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 she/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.

JUSTIN MADDEN
Minister for Planning

*Second reading*

## Ordered that second-reading speech be incorporated on motion of Hon. T. C. THEOPHANOUS (Minister for Industry and Trade).

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I move:

That the bill be now read a second time.

## Incorporated speech as follows:

**Background: the genesis of the current proposals**

In November 2005, the Victorian government 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 the Attorney-General was recently pleased to announce the first report of its operations. The 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 gained since the act commenced.

In March 2007, the Department of Justice 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. The department 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 RICH-PHILLIPS (South Eastern Metropolitan).**

**Debate adjourned until Thursday, 14 February.**

## CRIMES AMENDMENT (CHILD HOMICIDE) BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. J. M. MADDEN (Minister for Planning) on motion of Hon. T. C. Theophanous.**

*Statement of compatibility*

**For Hon. J. M. MADDEN (Minister for Planning), Hon. T. C. Theophanous 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 Council, 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.

JUSTIN MADDEN, MLC
Minister for Planning

*Second reading*

**Ordered that second-reading speech be incorporated on motion of Hon. T. C. THEOPHANOUS (Minister for Industry and Trade).**

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I move:

That the bill be now read a second time.

## Incorporated speech as follows:

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 RICH-PHILLIPS (South Eastern Metropolitan).**

**Debate adjourned until Thursday, 14 February.**

# FREEDOM OF INFORMATION AMENDMENT BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Mr LENDERS (Treasurer) on motion of Hon. T. C. Theophanous.**

*Statement of compatibility*

**For Mr LENDERS (Treasurer), Hon. T. C. Theophanous 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 Freedom of Information Amendment Bill 2007.

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

**Overview of the bill**

The bill amends the Freedom of Information Act 1982 (FOI act), primarily to implement recommendations by the Ombudsman in his report, *Review of the Freedom of Information Act*, tabled in Parliament on 1 June 2006.

The bill promotes access to government information by removing application fees on all FOI requests and encouraging publication of more information on the internet. It simplifies the current provisions of part 2 of the FOI act by requiring agencies to publish information about their structure and functions in accordance with standards issued by the Attorney-General. It establishes a mechanism to have an FOI applicant declared as vexatious in certain circumstances. It also removes the ability for the issue of a conclusive certificate in relation to cabinet documents under the FOI act and makes a number of other changes to clarify aspects of the operation of the FOI act and the jurisdiction of the Ombudsman and the Victorian Civil and Administrative Tribunal (VCAT) in relation to FOI matters.

**Human rights issues**

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

*Right to privacy*

Discretion to consult

The proposed amendment to the FOI act which provides agencies and ministers with a discretion to consult with third parties whose privacy might be affected by the release of documents raises the right to privacy under section 13 of the charter, but does not limit the right.

Section 13 provides that a person must not have his or her privacy unlawfully or arbitrarily interfered with.

The proposed amendment gives an agency or minister the discretion to consult with a person (or in the case of deceased person, their next of kin) before deciding whether the disclosure of a document would involve the unreasonable disclosure of their personal information. The bill also provides an additional 30 days to respond to the FOI application to allow for such consultation. This provision enhances privacy as it provides the person who may be affected by the release of the document with an opportunity to express their view about the release. If the person consents to the release, then he/she loses the right to seek review by VCAT of that decision. Before providing consent, the person must be informed that he or she will lose that right. These provisions are neither unlawful nor arbitrary as they are sufficiently circumscribed and reasonable and provide an appropriate mechanism for balancing the rights of third parties with the rights of FOI applicants.

Vexatious applicants

The right to privacy is also raised, but not limited, by the vexatious applicant provisions (described below). The right is raised because if a person is declared as a vexatious applicant, they may have their right to seek access to their own personal information removed without the leave of VCAT. The provisions are neither unlawful nor arbitrary as they are sufficiently circumscribed and reasonable because they contain a number of safeguards as set out below. In particular, in making an order declaring an applicant as vexatious, VCAT may impose any terms and conditions it thinks fit. This would enable VCAT to take into consideration any relevant circumstances relating to the person's ability to seek access to their personal information.

*Right to fair hearing*

The right to fair hearing under the vexatious applicant provisions in the bill is raised, but not limited. Under these provisions, a person becomes a party to proceedings before VCAT once an agency or minister makes an application to VCAT to have the person declared as a vexatious applicant. However, the provisions do not restrict the person's right to a fair hearing before VCAT because they provide a number of safeguards (as described below) to ensure that the person is guaranteed a fair hearing in relation to challenging the order. The restriction on the person making FOI applications does not engage the right because this does not involve the person being a party to civil proceedings.

*Right to freedom of expression*

Section 15 provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds. However, there are special responsibilities attached to this right and the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of others or the protection of public order.

Removing application fees on all FOI requests

Removing the application fee on all FOI requests promotes the right to freedom of expression by making FOI more affordable. This also promotes the right to privacy by making it more affordable for individuals to seek access to their own personal information held by government.

Consultation with third parties

The FOI act currently requires agencies and ministers to consult with businesses where the disclosure of business, financial or commercial information would unreasonably expose the undertaking to disadvantage. As stated above, the bill provides agencies and ministers with a discretion to consult with a person whose privacy may be affected by the release of documents. The bill also provides a discretion to consult with persons or governments before deciding whether the disclosure would divulge information provided in confidence and would be contrary to the public interest. In each case, the bill allows for an extra 30 days to respond to the FOI application where consultation is undertaken.

The consultation process may in some cases delay the processing of an FOI request, and therefore engages the right because it may delay a person's ability to receive information. However, the consultation process is important because it enables agencies and ministers to seek the views of affected third parties so that those views may be taken into account in deciding whether to release the documents. This allows for an appropriate balancing of the rights of third parties and the rights of the FOI applicant.

Accordingly the right to freedom of expression is not limited as the consultation process is a means of ensuring that the rights and reputations of others are respected.

Vexatious applicants

The proposed amendments to the FOI act in relation to vexatious applicants also raise the right to freedom of expression under section 15 of the charter.

The provisions in the bill which relate to vexatious applicants limit this right because a person who is declared as a vexatious applicant will have their right to seek and receive information through the FOI system restricted.

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

*(a) The nature of the right being limited*

The right to freedom of expression is often described as essential to the operation of a democracy. In particular, the right of freedom of expression enables people to participate in political debate, to share information and ideas which inform that debate and to expose errors in governance and the administration of justice. It is an important right in international law and an important component of open, transparent and accountable government.

*(b) The importance of the purpose of the limitation*

The purpose of the limitation in the bill is to prevent the wasteful use of government resources in processing unmeritorious FOI applications.

FOI is an important aspect of open, transparent and accountable government. However, applications which have the effect of disrupting the operation of government bodies are outside the letter and the spirit of the FOI scheme.

*(c) The nature and extent of the limitation*

The bill restricts the right of a person who is declared as vexatious to seek and receive information through the FOI system without the leave of VCAT. However, the bill allows

for the particular circumstances of each case to be taken into account by providing the president of VCAT with the power to include any terms in the order which they think fit.

The provisions in the bill also allow for the person to seek permission of the president of VCAT to submit further FOI applications and to apply to have the order varied, revoked or set aside.

*(d) The relationship between the limitation and the purpose*

The provisions are reasonable and proportionate to the purpose of the limitation for the following reasons:

the bill enables agencies and ministers to apply to the president of VCAT to have a person declared as a vexatious applicant; an agency or minister wishing to pursue an application must first satisfy the Attorney-General that this is an appropriate course of action

the application is considered and decided by the president of VCAT, who is a judge of the Supreme Court of Victoria

in making an order declaring a person as a vexatious applicant, the president of VCAT must be satisfied that the person has made repeated applications to agencies or ministers that involve an abuse of the right of access, amendment or review under the FOI Act. This is a high benchmark

the person has an opportunity to put their case to VCAT before the president makes an order declaring them as a vexatious applicant

the person may apply to have an order declaring them as vexatious set aside, varied or revoked, and an order must not exclude a person's right to do this

even if declared as vexatious, the applicant may seek permission from VCAT to make further FOI applications, which will be determined by VCAT on a case-by-case basis with regard to the merit of the application.

Thus, the provisions contain a number of safeguards to ensure that the rights of the person are adequately protected during the process.

*(e) Any less restrictive means available to achieve this purpose*

Another way in which this situation might be handled might be to allow an agency to refuse to process FOI applications on a case-by-case basis. However, under this approach the decisions about the merits of the application would remain with the agency and would not receive the independent scrutiny of VCAT. Nor would it be practical for VCAT to consider applications on a case-by-case basis as this would unnecessarily tie up VCAT resources.

*(f) Any other relevant factors*

The bill enacts the Ombudsman's recommendation to include a mechanism in the FOI act to enable an FOI applicant to be declared as vexatious.

**Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because the limitations imposed on the right of freedom of expression are reasonable.

JUSTIN MADDEN, MLC
Minister for Planning

*Second reading*

**Ordered that second-reading speech be incorporated on motion of Hon. T. C. THEOPHANOUS (Minister for Industry and Trade).**

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I move:

That the bill be now read a second time.

**Incorporated speech as follows:**

Open and accountable government is essential in a representative democracy. It is essential to enable citizens to be well informed in relation to government activities and decisions, to exercise their democratic rights and responsibilities and to contribute to government decision making in a meaningful way. It is essential to build confidence in agencies, government departments and the institution of government.

The Premier has already announced a number of further initiatives to increase the accessibility of government information to the Victorian public. These include releasing quarterly reports about ministerial overseas travel, releasing an annual statement of legislative intent from 2008 and publicising the remuneration band and identity of members of government boards and advisory committees.

This bill will make access to information held by government departments and agencies easier and even more affordable for ordinary citizens.

The freedom of information (FOI) scheme in Victoria was first introduced by the Cain government in the early 1980s, leading the way for Australian states.

This government has a strong record of commitment to open and accountable government and this bill builds on this record by further enhancing Victoria's FOI scheme.

The initiatives in this bill are another important step in putting the bad old days of erosion and abuse of FOI laws by the Kennett government behind us.

This bill will abolish application fees introduced by the Kennett government, putting the 'free' back into freedom of information. It will implement recommendations made by the Ombudsman as well as additional reforms to improve freedom of information laws.

We have set about restoring FOI rights to Victorians which were taken away by the previous Kennett government. We are reversing the damage done by the Kennett government to Victoria's FOI scheme, making sure that Victoria's scheme is restored and that we once again lead the country in FOI.

Key reforms made over the last seven years include that documents cannot be attached to cabinet submissions merely for the purpose of avoiding release; documents concerning commercial, business or financial information will only be exempted from release where disclosure would expose a business organisation unreasonably to disadvantage; and decisions by agencies to appeal decisions by the Victorian Civil and Administrative Tribunal (VCAT) must be explained publicly and such reasons must also be published in the *Government Gazette* or laid before Parliament.

Over 1000 government agencies are now subject to FOI, receiving in excess of 20 000 FOI requests per year.

This government has also been responsive to the need to ensure that the object of the Freedom of Information Act 1982 to extend as far as possible the right of the community to access information in the possession of government is respected. In his *Review of the Freedom of Information Act*, which was tabled in 2006, the Ombudsman found that FOI officers generally handle requests promptly and diligently, respecting the spirit of the act. He made some recommendations about improving the administration of the act, and I commend agencies for the work they have done to implement these recommendations.

It is important to note that complaints to the Ombudsman about FOI requests have reduced by 30 per cent in the past year. In the Ombudsman's recent annual report, he commented that he believed that this is largely due to the work that departments and agencies have undertaken following his review.

The Department of Justice has further strengthened its FOI leadership role to provide support and assistance to agencies in applying FOI laws. This leadership is important to maintaining the community's ability to gain access to information held by government. Practice notes have been published to assist agencies to understand FOI laws and procedures, a whole range of seminars have been conducted in Melbourne and regional Victoria for FOI officers, and the 'FOI online' website now includes information to assist new and inexperienced FOI practitioners by providing them with an overview of the FOI process and their responsibilities.

The bill will make the FOI scheme more accessible and affordable by removing FOI application fees, and by encouraging more agencies to accept FOI applications online. It will require agencies to make greater use of the internet to publish information.

I now turn to the key aspects of the bill.

The bill significantly changes part 2 of the FOI act. When the FOI act came into being in 1982, the operation of government was very much smaller and simpler than it is now. Government produced much less information and the internet did not exist. The original intention of part 2 was for each agency to publish an annual part 2 statement, containing information about the agency's functions, structure and activities.

Now government publishes this type of information on government internet sites as a matter of course. The internet gives people the ability to easily search for information, so the need for a separate part 2 statement has become obsolete. Both the Ombudsman and the Scrutiny of Acts and Regulations Committee (SARC) recognised that the current requirements of part 2 are out of step with modern publication practices.

The bill repeals the current provisions and replaces them with a new and simpler part 2, which places greater emphasis on publishing information on the internet. The bill will require agencies to publish information on a government website, be it their own website, or that of another agency. The new part 2 removes the requirement for agencies to publish a separate part 2 statement and instead requires them to publish information in accordance with standards issued by the Attorney-General. The new part 2 will commence after the rest of the bill to allow time for the standards to be developed and then to allow time for agencies to comply with the standards.

One of the aims of the standards will be to encourage agencies to make as much information as is reasonably possible available to the public. The standards will be developed to recognise the differing nature, size and technological capacity of agencies that are subject to FOI, from small organisations such as cemetery trusts, through to large government departments. They will provide for the regular update and review of the information published on the internet. At the same time, they will facilitate a consistent approach to the publication of information and will recognise other responsibilities of agencies, such as their record-keeping requirements for public records.

The bill makes it clear that where a person requests a publicly available document from an agency, the agency does not have to process the request as a formal FOI request. This is provided that the person is given a copy of the document, or advised where they can obtain it, either on the internet or by some other means. The intention of this provision is to encourage agencies to make more information publicly available thereby obviating the need for applicants to request it through FOI.

The changes to part 2 will ensure that individuals have the information to assist them to understand government, so that consequently they are able to frame their FOI request appropriately. At the same time, the revised provisions will control the administrative burden on agencies by promoting publication practices that use modern communication technology.

At present, the application fee for an initial FOI request is two fee units (or $22). The application fee was originally introduced by the Kennett government in 1993 and coincided with a significant reduction in applications. The bill will serve to support and encourage FOI applications and make it more affordable for ordinary Victorians to submit FOI applications by removing FOI application fees.

The bill will also include a discretion to allow agencies to waive access charges to cover the cost of processing the application of less than one fee unit ($11).

'FOI online' is a central website through which people may lodge their initial FOI applications. Currently, government departments and Victoria Police participate in 'FOI online'. Agencies which collectively handle at least 80 per cent of FOI applications will be encouraged to voluntarily participate in 'FOI online'. This goal extends beyond SARC's recommendation for participation by agencies handling 75 per cent of applications. As a last resort, the bill will

provide for the Attorney-General to direct agencies to participate in 'FOI online'.

Section 33 of the FOI act allows for a deceased person's next of kin to be notified about release of documents which may affect the personal privacy of the deceased. However, 'next of kin' is not defined.

The bill adopts a definition of next of kin which includes, in the case of a deceased child, a parent, adult sibling or guardian, and in the case of other deceased persons, a spouse, domestic partner, parent or adult child or sibling.

Both the FOI act and the Information Privacy Act 2000 (IPA) provide a regime for access to documents containing personal information. However, these acts use different terminology. The term 'personal information' which is used in the IPA is now very familiar to agencies. The bill incorporates this definition into the FOI act, while making it clear that the definition still applies to identifying information about location or address.

The FOI act aims to balance the right of access to documents by FOI applicants, with the rights of third parties who may have an interest in personal, commercial or confidential information contained in a document. It does so by exempting documents containing information of this kind.

Often the FOI decision-maker will need to consult with the third party to seek their view on whether a document containing information which may affect them should be released. Indeed, the FOI act requires that there be consultation when the document contains commercial, business or financial information whose release may unreasonably disadvantage the business. The Ombudsman recognised the importance of consultation in balancing the rights of third parties with the rights of FOI applicants. He thought that it was important for the agency to have sufficient time to consult and properly take the views of third parties into account. The bill implements the Ombudsman's recommendations by allowing an extra 30 days for consultation and providing FOI decision-makers with discretion to consult in relation to documents containing personal information and documents containing confidential information.

The bill further provides that if a person consents to the release of a document containing personal information or commercial information, that person has no right of recourse to the VCAT to try to later prevent the release of the document. This will give FOI decision-makers the certainty to release the documents to the FOI applicant in a timely fashion. The person must be told this at the time they agree to the release, so that they are fully aware of the consequences of their consent to release the documents.

At present, the FOI act allows for the Secretary of the Department of Premier and Cabinet to issue a certificate stating that a document is subject to the cabinet exemption under the FOI act. If a certificate is issued in these circumstances, it has the potential to restrict VCAT's ability to review decisions involving the release of cabinet documents. By removing these conclusive certificates, the bill will clarify VCAT's role in reviewing such decisions.

This government has not relied on conclusive certificates in relation to cabinet documents and we want to make sure that no future government can use these certificates to get out of being open and accountable.

In his report, the Ombudsman indicated that there are rare instances when FOI applicants may not be acting in good faith. Such cases have the potential to waste a great deal of agency time and resources, but there are no provisions in the FOI act to adequately deal with these cases. The bill inserts a new regime for handling vexatious applicants.

The new provisions allow agencies and ministers to apply to the president of VCAT to have an applicant declared as vexatious. Before applying to VCAT, the agency or minister will need to satisfy the Attorney-General that this is an appropriate course of action. Requiring the approval of the first law officer is an important safeguard.

Upon application, the president of VCAT will be able to make an order declaring someone as vexatious if satisfied that over a period of time, the person has made repeated FOI requests or applications which abuse the right of access, amendment or review under the FOI act.

The president's orders may set out the terms under which an individual can make further applications. For example, the order may set out that further applications can only be made with the permission of the president of VCAT. The president will also have the power to vary, set aside or revoke orders upon application of the person to whom the order relates or the agency or minister who applied for the order.

The bill also clarifies some aspects of the Ombudsman's jurisdiction.

Generally, FOI applicants may seek external review of FOI decisions through the Ombudsman and VCAT. There has been a lack of clarity about which of these is the appropriate avenue if an FOI applicant wishes to challenge an agency's determination that there are no documents to satisfy the applicant's request. The bill clarifies that in these circumstances the applicant may complain to the Ombudsman, rather than to VCAT. This is because the Ombudsman is in a better position than VCAT to investigate such complaints as he has the capacity to go to the agency and look at their systems and documents.

The Ombudsman has been concerned that he cannot investigate FOI complaints in relation to some agencies that are subject to FOI. This anomaly is due to a difference in definitions in the FOI act and the Ombudsman act. The FOI act applies to 'prescribed authorities', which include a number of bodies which are subject to FOI because they are supported by government funding and are prescribed in the Freedom of Information Regulations 1998. It is unclear whether the Ombudsman has jurisdiction over these bodies because they do not fall within the definition of 'public statutory body' in the Ombudsman Act 1973. The bill amends the Ombudsman act to make it clear that the Ombudsman has jurisdiction over authorities prescribed in the FOI regulations for the purposes of investigating complaints about FOI processes. It has also been amended to give him jurisdiction over administrative actions taken by Victoria Police under the FOI act.

This bill will enhance the accessibility of government information to the Victorian public by making more information available on the internet as a matter of course and by making FOI applications cheaper and easier to submit. It will also make procedural improvements to the FOI scheme

by implementing the Ombudsman's recommendations on FOI.

I commend the bill to the house.

**Debate adjourned for Mr DALLA-RIVA (Eastern Metropolitan) on motion of Mr Koch.**

**Debate adjourned until Thursday, 14 February.**

## ADJOURNMENT

**Hon. T. C. THEOPHANOUS** (Minister for Industry and Trade) — I move:

That the house do now adjourn.

### Schools: maintenance

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Education in the other place. It relates to the issue of the school maintenance backlog in my electorate. The last survey of school maintenance backlog was undertaken in June 2006. It identified almost $12 million worth of backlog maintenance across the three lower house electorates of Dandenong, Mount Waverley and Frankston, which electorates fall within my region.

In the case of the Dandenong electorate, there was a backlog of $5.1 million which included Rosewood Downs Primary School which had $576 000 outstanding; Lyndale Secondary College had $559 000 outstanding; and Dandenong North Primary School had $418 000 outstanding. In Mount Waverley the backlog was $4.42 million. That included a $837 000 backlog for Glenallen School and more than a $1.2 million backlog for Glen Waverley Secondary College.

Further south from Mount Waverley in Frankston, the backlog maintenance was worth $2.25 million; Mount Erin Secondary College had an outstanding backlog of $427 000; and the Ballam Park Primary School had $294 000 outstanding.

Across the South Eastern Metropolitan Region there is a substantial backlog of school maintenance, according to a June 2006 report. Since then the government has provided a total of only $1.2 million in funding — that is, roughly 10 per cent of the outstanding $12 million has been funded. So there is still in the order of $10 million worth of outstanding maintenance to be completed in those schools across that region.

I ask the Minister for Education to undertake that that funding will be provided in this year's budget so that urgent maintenance can be completed at those schools across the South Eastern Metropolitan Region and that the situation will not be allowed to further blow out.

### Government: statement of intentions

**Mr VINEY** (Eastern Victoria) — My adjournment matter is for the Premier. I refer to the Premier's statement *Delivering for Victoria*. There is a particular section about protecting the environment and the government's commitment to introduce a climate change bill. Most members on this side of the house have been recognising now for some time that climate change is a significant issue confronting the Victorian and global communities, and that Victoria has an important and significant role to play in dealing with greenhouse gas emissions and climate change. In the Premier's statement he said:

> On a per capita basis Victoria is responsible for a disproportionate share of global greenhouse gas emissions. The new commonwealth government has followed Victoria's lead and has now committed to a national target of reducing emissions by 60 per cent by 2050.

It is pleasing that the new federal Rudd Labor government has picked up on this issue, unlike the previous federal government which was a climate change sceptic and let the Australian community down by failing to deal with climate change issues confronting the community.

The Premier's statement indicates that there will be a need to engage the community in the process of dealing with climate change. The action I am seeking from the Premier is to ensure that there is a consultative process that enables the government to engage with the community on important climate change issues facing our state. I believe this is an essential part of developing legislation that will affect change not only in the legislative way but also in a whole community way by ensuring that the Victorian community is able to engage with this matter.

Climate change will continue to be significant in my electorate, particularly in the Latrobe Valley where so many jobs are dependent on the coal industry. We need to ensure that the opportunities which confront the community through climate change also deliver jobs to the community. Those opportunities are carbon capture, carbon storage and other alternative uses for coal. I seek the engagement of the community in the development of the new climate change bill.

## Police: St Kilda

**Mrs COOTE** (Southern Metropolitan) — My adjournment matter is for the attention of the Minister for Police and Emergency Services in the other place. It concerns the report published today by the Office of Police Integrity and which had some serious ramifications, particularly for my electorate. The investigation found serious misconduct by members at St Kilda police station, which is in my electorate.

At the outset I would like to say that I have had a lot to do with the police in my electorate, and particularly those at the St Kilda police station. I have worked very constructively with some very fine officers. I was particularly concerned to hear about issues with some of the members at that station being involved with transsexual prostitutes and with not reporting a car accident. It was most concerning to me because there are some serious and significant issues in that part of my electorate. St Kilda has some very difficult issues, including prostitution, street prostitution and a whole lot of drug issues. There is a very big transsexual community there and its members have some particular challenges of their own. On the whole I think the police are quite sensitive to these issues. My concern is about the St Kilda police station. There seems to be a systemic and ongoing problem with the culture at that station. It seems there have been a lot of allegations in the past and concerns about violence by police and a whole range of other issues.

But it is aspects of the report that has come out today that are of most concern. It is an official report, and as such it is welcome. I think it is incumbent upon the commissioner to make quite certain that the systemic abuse at that police station is addressed as a matter of urgency. I suggest methods need to be looked at, including such things as the education of the police force, promoting better understanding among police and a whole range of things that can break this cycle.

Tonight I urge the minister to work with the Chief Commissioner of Police as a matter of urgency to establish an independent, broad-based anticorruption commission for Victoria Police, with a particular emphasis on looking into the operations of the St Kilda police station to see what can be done to address the systemic malpractices that are happening in that area.

## Abortion: decriminalisation

**Ms BROAD** (Northern Victoria) — My adjournment matter is for the Premier. Earlier this week the Premier presented to the Parliament the 2008 annual statement of government intentions entitled *Delivering for Victoria*. The Premier's statement outlines the government's priorities for the year ahead and details an extensive legislative agenda. The Premier advised the Parliament that the Victorian Law Reform Commission will report at the end of March on clarifying the law on abortion and remove from the Crimes Act offences relating to terminations of pregnancy where they are performed by a qualified medical practitioner. The Premier's statement indicates that following receipt of the VLRC report, legislation will be introduced by the government that will be the subject of a conscience vote.

As members will be aware, this is a matter of considerable public interest, and the action I seek from the Premier is for him to provide me with information about the consultation process that is being followed. Finally, I wish to congratulate the Premier on including this very important measure in the statement of government intentions for 2008.

## Police: Olinda station

**Mr O'DONOHUE** (Eastern Victoria) — I raise a matter this evening for the attention of the Minister for Police and Emergency Services in the other place. Rumours have been circulating that a number of smaller police stations in Eastern Victoria Region will be downgraded to shopfronts only. I am pleased that after sustained pressure from the member for Nepean in the other place the future of the Dromana and Sorrento police stations is now secure. However, there continues to be a cloud over the future of the Olinda police station.

After a sustained community campaign, in the last days of the 2002 election campaign Labor promised $650 000 to build a new 16-hour police station that would be staffed by at least five officers. I note that the allocation of police officers is a matter for the police, but the Labor government promised that at least five officers would be stationed at the police station. Four and a half years later and with a cost $100 000 over the original budget the new police station at Olinda was opened on 4 July last year. At the time the member for Monbulk in the other place, who is now the Minister for Sport, Recreation and Youth Affairs, stated:

> People choose to live in Olinda because it is a safe place and there is a strong sense of community. The police presence will ensure this remains so.

Sadly, not even a year after the opening of the new police station, there are reports that it has been closed for significant periods, that it has not been open for 16 hours a day and that five police officers have not been stationed at it. In fact officers have left the area to

work in other areas. The Olinda community is most concerned that less than 12 months after the station opened — after the community's sustained campaign and the station being four and a half years in the making and $100 000 over budget — it may not be open for 16 hours a day, as was promised.

The action I seek from the minister is to guarantee to the people of Olinda, to me and to this Parliament that the promises made by a former Minister for Police and Emergency Services in the other place, Mr Haermeyer, will be honoured — that is, the station will be staffed appropriately and open for 16 hours a day.

## Health: preventive care

**Ms DARVENIZA** (Northern Victoria) — I wish to raise a matter for the attention of the Premier. The matter I wish to raise concerns preventive health care. We are all aware that our Labor government has invested very heavily in the Victorian health system. Much damage was done to our health system under the former Liberal-National coalition government: 12 country hospitals were closed, thousands of nurses were made redundant and hundreds more vacant nursing positions were not filled. Hospitals and community-based services were underfunded, had their funding cut or were run into the ground. You just have to look at the Western Health Care Network, which was bankrupt by the time Labor took office in 1999.

Since coming to office the Labor government has invested very heavily in our health system. We have expanded our hospitals. Members only have to look at the redevelopment of the Austin Hospital and the new children's hospital that is being built, to mention a couple. We are putting services where they are really needed and meeting the needs as the state expands rapidly. The new service models of prevention and recovery care services are really aimed at achieving better health outcomes for patients. We have 7200 extra nurses compared to the number we had in 1999, and we have 1500 extra doctors working in our hospital services treating an extra 500 000 patients a year.

The action I seek from the Premier is for preventive health care to be made a priority and a focus of this government and for the government to work beyond the health sector and in the non-government sector, including with schools and other agencies, when looking at prevention. And it is prevention not just of diseases such as those the Premier mentioned in his statement, including diabetes and cancer, but also in areas where early intervention is really important, such as obesity, particularly in young children, and in the mental health area, where prevention and recovery services are so important to good health outcomes. Along with Ms Broad I congratulate the Premier on his first annual statement of government intentions.

## Disability services: taxis

**Mrs KRONBERG** (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Public Transport in the other place. On 23 November last year a young man named Joel arrived at the front door of my electorate office in a very distressed state. Fortunately he was accompanied by his carer. Joel is a severely handicapped person who is confined to a wheelchair and very dependent on his carer for all sorts of personal care needs. It is interesting to note that Joel was not able to enter my electorate office because my office at Eastland shopping centre does not allow wheelchair access.

Joel's distress principally arose from him not being picked up by a maxi-cab at Eastland. The cab had been booked the night before for 3.00 p.m., but by 4.00 p.m. and after ringing three times they finally had to cancel the cab because Joel's carer was rostered for another place and needed to sign off on his care with Joel at the end of the day. The two of them, after reporting their problem to us — and I saw the manifestation of Joel's suffering — then made their way to the Eastern Access Community Health centre on Warrandyte Road, an office almost a kilometre away from mine — and uphill. Both the operator and supervisor of the taxi company had told Joel's carer that in spite of taking the booking from them the night before, jobs are simply listed just before pick-up time, and the rest is left entirely to the discretion of drivers.

Unfortunately Joel experienced yet another distressing situation, which saw him wait 2 hours on 12 December. His carer, who was rostered somewhere else, again had to remain to attend to Joel — which meant that another disabled person was missing out on that carer — to support Joel if personal care was needed. Much more detail of this young man's suffering is set out in a very heart-wrenching letter to me. I must say that this is one of a number of instances involving stranded disabled people who have raised the issue with me.

Therefore I request that the minister undertake dialogue with the Victorian Taxi Directorate to explore ways that disabled passengers can be assured of maxi-cab transport, thus ensuring that they are not stranded in public and left to suffer personal discomfort, and to report the results of the dialogue and forward planning back to the Legislative Council as soon as possible.

## Housing: affordability

**Mr EIDEH** (Western Metropolitan) — I rise to speak on the annual statement of government intentions, as delivered by the Premier, the Honourable John Brumby, and I also refer to the Minister for Planning, the Honourable Justin Madden. This is a new and historic initiative of the Brumby Labor government, which shows great leadership. Never before have we had such a vision; never before have the people of Victoria been allowed to see the agenda of their elected representatives. The many reforms and agendas carried out by Labor over these past eight years are unmatched by any other Australian state or territory, and now is the time to set out the government's priorities in order to best position Victoria to meet the challenges ahead. As an elected representative for the Western Metropolitan Region I welcome this great initiative from the Premier and his announcement that the government will be focusing on the pressing needs of families.

One such key area for attention is in the area of planning, and I acknowledge the planning minister, who is a member of this house. As the government aims to make housing more affordable, I respectfully ask the minister to provide me with information about how the government plans to reform and improve this area and how it will extensively consult before introducing a new planning and environment bill in 2009. This government aims to streamline development in new growth corridors, such as within Melton, Hillside and Craigieburn — three of many such areas within my electorate, an electorate which I share with Minister Madden.

## Planning: urban development program report

**Mr GUY** (Northern Metropolitan) — My adjournment issue tonight is for the Minister for Planning and it concerns the apparent refusal of the government to release the 2006–07 annual report of the urban development program (UDP). The UDP was established as part of the Melbourne 2030 strategy to monitor supply, demand and adequacy of residential land across Melbourne and Geelong. Its annual report should have been released in December at the latest. But it has not been, and we should not be surprised.

The previous 2005–06 urban development program annual report outlined chronic land supply shortages in Melbourne and Geelong. In fact it found that the Casey-Cardinia area had only five to six years of zoned residential land supply remaining; that the Hume-Craigieburn and Melton areas had around 10 years left but it was insufficient to foster a competitive land market for the growth predicted in that corridor; and, of concern to regional Victoria, that Geelong had three to four years of zoned land supply left. And that was it! That was 18 months ago, so we can only imagine what the current report sitting in the minister's office contains.

Given that our population has continued to surge in the last 18 months — in fact almost 100 000 people have been added to Melbourne's population in that time, despite Melbourne 2030 forecasting around 60 000 would be the limit in that period — no additional land has come on stream. Is it any wonder that the commodity value of land across Melbourne has skyrocketed, particularly in the past 12 months? It should not be any surprise to people that housing affordability continues to exceed crisis levels for young couples and singles wanting their first home. Is it any wonder that Melbourne 2030 is now seen as a failed, short-sighted and discredited planning document? That is why the urban development program 2006–07 report must be released as soon as possible.

There was much fanfare when Melbourne 2030 was released around its ability to plan land release for the next 25 years, like some Soviet fairytale. Unfortunately its predictions have been completely wrong. No-one believes them anymore, not even the government, the department or any intelligent planning analyst. The only people who believe these predictions are people like Kingston's Rosemary West, but she probably believes that the earth is flat!

The minister must release the 2006–07 urban development program report. This report should not be politicised, the release of it should not be politically timed, and it should be done for the benefit and interest of all those involved in the multibillion-dollar planning and construction industry in Victoria. Tonight I ask the minister to immediately release the 2006–07 urban development program annual report.

## Government: annual statement of intentions

**Mr ELASMAR** (Northern Metropolitan) — I raise a matter for the attention of the Premier concerning access to education of socioeconomically disadvantaged students. In his address to Parliament on Tuesday the Premier outlined the importance placed on education by the Brumby government, as can be illustrated by the Premier's education reform agenda.

As a member of the parliamentary Education and Training Committee I believe in change. I believe in striving for a better education for all Victorian children, whether they are in the government system or in private

schools, and in reforming and improving underperforming schools by introducing appropriate curriculums and monitoring systems to ensure integration of education programs that will give our kids a better start in life. I ask the Premier to ensure that socioeconomically disadvantaged students have the appropriate level of assistance to continue their education and thereby achieve their full potential.

**The PRESIDENT** — Order! I sense a bit of a trend coming from government members here in terms of adjournment matters being raised specifically with the Premier. My concern is that that is in breach of the guidelines for the adjournment debate insofar as the matters raised by members must seek from a minister some action which is relevant to the minister's portfolio. Seeking action from the Premier on a matter of education, for instance, in my view is inconsistent with that guideline. That is not specific and should be addressed to the Minister for Education in the other place, for instance.

I am not comfortable with the general thrust of the matters raised so far in that in my view they do not comply with my previous rulings about the seeking of specific action from ministers relating directly to their specific portfolios. I ask members to reflect on what I have just said and, if necessary, adjust their adjournment matters to comply. Whether or not I rule the previous ones in or out I will decide between now and the end of this adjournment debate.

**Mr Jennings** — On a point of order, President, I am certainly not reflecting upon what you have just shared with the chamber, which I am happy for members to reflect on. I ask you, President, before you make your final determination on the matter you foreshadowed, whether are you indicating that any member who subsequently raises a question or adjournment matter for the Premier will be limited to asking for action on policy matters or programs which relate to matters of public administration or which are the departmental responsibility of the Premier. I think the precedent has been that for a long time over the years many members from all sides of the chamber have asked the Premier to intervene on a whole range of policy matters.

**The PRESIDENT** — Order! In relation to the point of order raised by the Minister for Environment and Climate Change, the minister is correct in that members are entitled to ask the Premier to take certain action either within the direct responsibility of a portfolio he or she may hold at a specific time or any other action. But when it comes to the specifics of a portfolio area, then my view is and my previous rulings are that those matters should be addressed to the minister who has responsibility for that area. Members cannot ask the Premier for action to be taken in an area outside of his or her portfolio which is covered by another minister. Such matters should be addressed to the appropriate minister.

*Honourable members interjecting.*

**The PRESIDENT** — Order! There is no argument to be had here in my view. When one reads the previous rulings — I may re-read them for the information of the house, although I will not read the entire ruling because it is a bit convoluted — one sees that members will be considered to be in order provided they ask ministers to take some action on matters which are strictly relevant to their portfolios and within the competence of the Victorian government. If the matter falls within the responsibility of the federal government, it will be ruled out.

Further on in the guidelines I make the point that the matter raised by a member must seek some action from a minister which is relevant to the minister's portfolio. I think that is pretty clear.

## Water: Hamilton supply

**Mr KOCH** (Western Victoria) — I raise a matter for the Minister for Water in the other place concerning the security of the water supply in the Glenelg River. Water from the Glenelg catchment is harvested in Rocklands Reservoir and diverted to the Wimmera Mallee for domestic and stock dam filling, town supply, irrigation and recreational lakes. Rocklands is the largest water catchment in the Grampians having a shore line exceeding 400 kilometres, which is larger than Sydney Harbour. It has a capacity of 348 310 megalitres, which is about three times the average annual flow of the entire Glenelg River.

The Glenelg River is classed as a stressed river due to the magnitude of water diverted to the Wimmera Mallee and does not receive enough water to maintain ecological processes. Rocklands is now only holding 3950 megalitres, which is about 1.1 per cent capacity and its lowest level since April 1968. Water is not currently being released for channel runs to the Wimmera and the Mallee. However, Rocklands continues to supply Balmoral and district residents who have been on stage 4 water restrictions for several years.

Further south, the long-term security of the urban water supply for Hamilton and nearby towns including Dunkeld and Tarrington has been highlighted with the imposition of stage 4 restrictions over the last year.

These have since been downgraded to stage 3, but without sourcing additional water, Hamilton will continue to face severe water restrictions again in the future. In attempting to secure water for Hamilton and district, Wannon Water recently announced piping water from Rocklands as its option to supplement the region's water supply. With no external consultation or transparency, this announcement has angered the Balmoral community, which is extremely concerned that the connection of Hamilton to Rocklands will add further stress to an already water-starved Glenelg River.

Instead of accessing massive underground aquifers closer to Hamilton, from 2010 Wannon Water intends to supply 2000 megalitres of water each year from Rocklands. The cost of this new pipeline will be at least $30 million and mean water charges will be increased by more than 12 per cent per year for the next five years. In a not dissimilar way to the secretive Brumby government, Wannon Water claims taking water from Rocklands for Hamilton will utilise surplus capacity once the Wimmera–Mallee pipeline project is completed. Many qualified and experienced professionals, river neighbours and the Balmoral community want any surplus water used to improve compensation and environmental flows in the Glenelg River. My request is that the minister further review and identify other water sources, especially south of Hamilton, before committing to this program that will deny compensation and environmental flows to both the Glenelg and Wimmera rivers.

## Innovation: National Sustainability Centre

**Mr LEANE** (Eastern Metropolitan) — My adjournment matter is for the Minister for Environment and Climate Change, who is also the Minister for Innovation. It pertains to the Premier's annual statement of government intentions for 2008. He said that our government led the country in job creation last year, and has created over 445 000 new jobs since 1999. Our challenge, in the face of uncertain international markets and high inflation, will be to keep growing the job market right across Victoria.

The Premier stated that one of the best ways to achieve this ambition is through innovation. An example of that is Victoria's national leadership in renewable energy through initiatives such as the Victorian renewable energy target (VRET). This has two major benefits. Firstly, it helps us prepare for the challenges of climate change as the VRET will save around 27 million tonnes of greenhouse gases. Secondly, it is generating billions of dollars in investment and creating thousands of jobs. The VRET is expected to drive $2 billion in investment in clean energy and create, as I said, 2000 new jobs.

Construction of the new National Sustainability Centre at Swinburne University of Technology's Wantirna campus in the electorate I represent is nearly finished. The action I seek from the minister is that it be considered in this strategy as a prime location in the Eastern Metropolitan Region to train people in the new positions in sustainability that will be created by this great job-generating policy.

## Hazardous waste: Tullamarine

**Mr FINN** (Western Metropolitan) — Before I raise my matter on the adjournment this evening might I endorse your comments of earlier this day, President, and wish Johan Scheffer all the very best for his 60th birthday. Before this house resumes — —

**The PRESIDENT** — Order! You are on the adjournment, Mr Finn!

**Mr FINN** — I understand it will also be your birthday, President, and I also wish you a happy birthday. Given that it is the Chinese new year it has surprised me somewhat to discover that you are both rats, but I wish you all the best nonetheless!

I wish to raise a matter for the attention of the Minister for Environment and Climate Change. It concerns the saga of the Tullamarine toxic waste dump. This is a long and frustrating saga. It has been going on now for a little over three decades. For those locals who have been fighting this cause, who have been fighting to close this waste dump, it has also been infuriating. They feel that they have been ignored. They also feel that they have been betrayed by people who have given certain commitments to them over the last few years and not lived up to those commitments.

The information I received this week, which I asked the minister about in question time yesterday, concerning the possibility of the leaking of toxic material into Melbourne Airport and Moonee Ponds Creek from the Tullamarine toxic waste dump has added a greater degree of danger to this issue.

**Mr Pakula** interjected.

**Mr FINN** — I invite Mr Pakula to come out and have a chat to some of the locals about it. It would help his education considerably.

**Mr O'Donohue** — Where does he live?

**Mr FINN** — A long way from Tullamarine.

When one considers the number of locals who are affected by this issue, as well as workers and visitors to

the airport, we are talking about somewhere in the vicinity of 60 000 to 70 000 people at a bare minimum — and that is a very conservative figure. Despite the minister's reassurance that locals and people at the airport have nothing to worry about and that we should trust the Environment Protection Authority, the local community is worried. In fact the more they think about the EPA the more worried they become — and with very good reason, in my view.

During question time today I was delighted to hear the minister say he is happy to meet with locals. I will be delighted to facilitate such a meeting on site at the minister's convenience as soon as possible. As I told Minister Madden, I am happy to buy him a beer — or in this minister's case I will be happy to buy him a chardonnay — at the old Broady hotel. I asked him to come out and meet with locals to find out what the issues are, to find out what their concerns are and at long last resolve this long-running sore in Tullamarine.

## Family violence: legislation

**Ms MIKAKOS** (Northern Metropolitan) — I refer my adjournment matter to the Attorney-General in the other place. In the his statement of government intentions delivered on Tuesday the Premier indicated that the government will introduce a new family violence bill to better protect victims of family violence, for which the Attorney-General happens to be the responsible minister.

Members are all too aware that domestic violence is unfortunately still a common occurrence among families in Victoria and that the great majority of family violence is perpetrated against women. At least one in five women has been affected by this crime, and family violence is the leading contributor to death, disability and illness in Victorian women aged between 15 and 44 years. Family violence costs the Victorian economy more than $2 billion annually. One-quarter of Australian children have witnessed violent behaviour towards their mothers or stepmothers, and evidence suggests that is a form of child abuse and family violence in itself.

I welcome the reforms that have already been introduced by the Labor government, such as greater police holding powers for perpetrators of family violence, the family violence courts, including one at Heidelberg in my electorate, behaviour change programs for offenders and more support for victims. I congratulate Mr Finn's favourite person, the Chief Commissioner of Police, Christine Nixon, for the proactive, pro-arrest approach of police. This is one explanation of the rising number of assault charges recorded by police over recent years, and it is unfortunate that the opposition has sought to use this fact for political gain. We should welcome the fact that women are now more prepared to come forward and report these crimes because they know that the police will take some action.

I am asking the Attorney-General to engage the community in an extensive consultation process on the proposed family violence bill, because it is not just about reforming this legislation but it will provide an opportunity to reinforce the message to the community that family violence is a crime.

## Manufacturing industry: imported trains

**Mr D. DAVIS** (Southern Metropolitan) — My adjournment matter tonight is for the attention of the Minister for Industry and Trade — —

**An honourable member** — Where is he?

**Mr D. DAVIS** — He has left the chamber. By way of background I indicate that the leaks out of the Labor Party room today suggest that the state government, with its order of 18 new six-carriage suburban trains for Connex, has made the decision that the trains will be fully imported with no local assembly or fit-out, and I understand there is growing irritation across industry. I am informed that this decision is contrary to those made by a number of other governments. For example, during the time of the Kennett government we ordered 29 six-carriage trains and there was significant local content.

The Minister for Industry and Trade is responsible for the Victorian industry participation program and for ensuring that Victorian industry gets an opportunity to bid for these sorts of contracts. The information coming from a number of sources suggests that that opportunity has not been provided to Victorian industry.

If this is a decision made by the Minister for Industry and Trade and the government, I would like them to reconsider it. If the procedures and the letting of contracts have not been finally completed, I ask the minister to reconsider it and put this order to Victorian industry. I ask him to act on this swiftly to ensure that Victorian industry is not disadvantaged. The Victorian manufacturing industry is a very important component of our economy, and these sorts of programs where the state government supports the purchase of a number of large pieces of public infrastructure of this type are examples of where the industry participation program should operate most effectively. Again I ask the

minister to intervene, reconsider and ensure that there is full participation by Victorian industry in this proposal.

## Rail: freight network

**Mr PAKULA** (Western Metropolitan) — My adjournment matter is directed to the Minister for Public Transport, who is also the Minister for the Arts, in the other place. It relates to the annual statement of government intentions delivered by the Premier on Tuesday. Chapter 4.4 of the statement deals with rail access legislation.

I have spoken previously about the dog's breakfast that this government inherited in regard to rail freight and which necessitated its decision to buy back the lease. We all recall the Auditor-General's report of last year, which made it clear that the contract entered into by the previous government for track maintenance was so woefully inadequate that the only solution left for the government was to buy back the lease.

**Mr Guy** interjected.

**Mr PAKULA** — On this occasion, Mr Guy, I am specifically interested in the dot point which commits the government to amend the Rail Corporations Act to reflect any recommendations adopted by the government from the recently received rail freight network review report.

One of the keys to the movement of freight by rail in the future will be the use of intermodal hubs, both regional hubs and metropolitan hubs. They will play a vital role — —

**Mr Finn** interjected.

**Mr PAKULA** — I have met with CRT, Mr Finn, have you? Regional and metropolitan hubs will — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! It is the adjournment; it is not a debate. Mr Pakula will address his remarks through me. Mr Finn, enough!

**Mr PAKULA** — Intermodal hubs will play a vital role in providing consolidation points of the scale necessary to make rail freight commercially viable. Lots of issues which impact on the viability of rail freight exist, and they include freight volumes, drought, track condition, the state of the roads, speed limits and turnaround times. A lot of work on the creation and use of intermodal hubs has been done by bodies such as the Victorian Freight and Logistics Council, and work continues to be done by a range of industry participants. One of the issues they have identified is access arrangements. My request to the minister is that in amending the act to reflect the adopted recommendations of the rail freight network review she include in those considerations matters which would be pertinent to the development of a network of intermodal hubs.

## Children: early childhood education

**Ms PULFORD** (Western Victoria) — Members opposite, apart from Mrs Peulich, might not know much about this matter because they did not turn up to listen, but on Tuesday the Premier made the 2008 annual statement of government intentions. I would like to congratulate the Premier on this wonderful document which outlines the government's agenda for the next year. The government has a plan for Victoria and certainly a vision about our legislative priority.

In my adjournment matter this evening, which is for the Minister for Children and Early Childhood Development in the other place, Maxine Morand, I would like to make a couple of comments arising out of that document about the area of investing in Victorians and delivering an integrated approach to education. All members are well aware of the advantages of investing in early childhood development, and the government has already done some work in this area. We have provided a framework for early childhood development and have championed this issue through the national reform agenda, and it has been embraced warmly by the other states and the commonwealth. We have in effect made kindergarten free for low-income families in Victoria. The federal government has indicated that from next year funding for four-year-old kindergarten will be increased from 10 to 15 hours a week. Research tells us that this can only benefit young Victorians and assist in providing every child with the best possible opportunity.

My specific request of the Minister for Children and Early Childhood Development is that in the work to be done in preparing the children's legislation amendment bill the minister consider measures that will enable easier inclusion of long-day child care and kindergarten in the one location. Currently in many cases stand-alone kindergarten is the preserve of families who do not have two working parents, and there is well-demonstrated benefit for young people in education.

That is my request of the minister. I congratulate her and the Premier on the fine work that has gone into

'preparing the annual statement of government intentions.

## Family violence: legislation

**Mr SCHEFFER** (Eastern Victoria) — I also would like to congratulate the Premier on the annual statement of government intentions that was delivered in the other chamber of the Parliament on Tuesday.

I ask the Minister for Women's Affairs in the other place to provide me with details of the stakeholder and community consultations that she will implement for gathering input into the revised family violence bill that the statement says will be introduced early this year.

**Mr Atkinson** — On a point of order, President, I think this falls within the category that you have previously ruled on, of members asking for a letter, effectively, or a similar communication. The member has not sought, certainly until now, action by the minister other than that she supply details of a program. I think that is pretty close to the issue on letters.

**The PRESIDENT** — Order! On the point of order, there is a bit of time to go for Mr Scheffer to comply with the required guidelines for action et cetera. I will reissue the guidelines, which were agreed to last year by the party leaders and myself to make it easier for members of the house in the adjournment debate, because it is clear to me that a number of people need a refresher. We agreed that specific action was not necessary any longer, but it had to be specific to the portfolio of the relevant minister. Mr Atkinson might like to re-read the guidelines, which were agreed. As I said, I will reissue them to the entire house, but at the moment Mr Scheffer still has a little way to go.

**Mr SCHEFFER** — The statement of government intentions contains a very clear commitment by the government that there will be a consultation process, and my request of the minister is that we be provided with details as to how that consultation will unfold so that I can contact stakeholders and community organisations in my electorate of Eastern Victoria Region so that they can fully engage in that process and put their views to the minister about how that bill should be shaped.

## Pound–Shrives roads, Narre Warren South: traffic control

**Mr SOMYUREK** (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Roads and Ports in another place concerning the intersection of Pound Road and Shrives Road, Narre Warren South. Notwithstanding the fact that since winning office in 1999 the state Labor government has poured hundreds of millions of dollars into roads in the city of Casey — in fact about $300 million — there is still much to be done with respect to roads in the municipality. Casey is the fastest growing municipality in Victoria and the third fastest growing municipality in Australia behind Brisbane and the Gold Coast, with about 10 500 people moving into the city every year. Unfortunately the roads were built to accommodate rural conditions, and now that Casey has about 230 000 residents the roads just cannot accommodate the traffic volumes. However, having said all of that, let us not forget that during the seven years during the Kennett government reign only $40 million was put into the Casey roads.

The intersection of Shrives Road and Pound Road is an intersection that cannot cope. There are some safety concerns there, and residents find it virtually impossible to make a right-hand turn into Shrives Road out of Pound Road during peak hours. I have received numerous complaints about that. My adjournment matter is consistent with part 4.3 of the Premier's annual statement of government intentions, which is headed 'Road safety legislation'. I request that the minister investigate the possibility of either building a roundabout — not something Mr Rich-Phillips agrees with — or erecting traffic lights at this intersection.

## Equal Opportunity Act: review

**Mr TEE** (Eastern Metropolitan) — My adjournment matter is raised for the attention of the Attorney-General in the other place. It relates to the review of the Equal Opportunity Act being undertaken by Mr Julian Gardener, a review that is identified in the annual statement of government intentions under part 3, which is headed 'Supporting a fairer Victoria'. The annual statement of government intentions provides that the review will look at ways to increase the powers of the Equal Opportunity Commission Victoria to tackle discrimination. The Equal Opportunity Act is in need of review. There have been a number of amendments over the last 20 years, but there has never been a comprehensive review of the act. The review will make recommendations that will ensure that it represents current community expectations about equal opportunity. It is important that we have modern equal opportunity legislation, not only in Victoria but nationally.

Therefore I ask the Attorney-General that, as part of the review, he consider incorporating the best aspects of the equal opportunity regimes in other Australian and international jurisdictions. It is also desirable that

businesses and citizens have uniform standards, not just in Victoria but throughout Australia. I ask that the Attorney-General communicate with the other states and territories, particularly now that we have a more cooperative federal model, with a view to working towards a national uniform standard to the extent that that is possible.

## Automotive industry: national plan

**Ms TIERNEY** (Western Victoria) — My matter is directed to the Minister for Industry and Trade. The 2008 annual statement of government intentions presented on Tuesday by the Premier reinforces the imperative for this government to have policies, programs and legislation to encourage and foster strong families, strong communities and strong economic growth. Of course jobs are central to this platform.

Yesterday in this chamber the opposition made claims that the Brumby Labor government is sitting on its hands, lacks the backbone to support local manufacturing and that the Howard government had been the white knight to the vehicle industry in this country. The Howard government had no vehicle industry plan, it had no appreciation for the industry, it had no ideas, it had no commitment to innovation, and it kept demanding that the car companies implement draconian industrial laws. It went so far as to intervene in enterprise bargaining agreement negotiations and to tell the companies that they could not go ahead with clauses that had been negotiated by the parties.

**Mr Atkinson** — On a point of order, President, I am enjoying the propaganda process. It is unfortunate that you were not tuned into the member and that you were distracted by another member of the house only in the sense that the member has been engaging in an assessment or a critique of the Howard government which is clearly debating the matter in terms of her adjournment matter. But more importantly, as far as I know, the minister to which she has referred her matter has absolutely no jurisdiction over a former federal government, which has been the substance of the adjournment item.

**The PRESIDENT** — Order! Mr Atkinson is correct. Members may only provide such information necessary to assist the minister's understanding of the issue. They should avoid debating the issue because it may invite a response from other members — which it clearly has in this case. I ask Ms Tierney to take on board what I am saying and provide the necessary information. I understand there is some legitimacy in backgrounding it, but maybe Ms Tierney would like to consider how far she has gone with that already.

**Ms TIERNEY** — Essentially I was attempting to create a context and indeed aligning the situation to the fact that the car industry is quite used to having Johnnies-come-lately and people searching for their own relevance making inaccurate claims about the industry. It has led me to ask the minister not just to undertake a series of discussions with the Rudd government but also to develop a car plan that will ensure the continuation of vehicle manufacturing not only in this country but in Geelong and in this state.

## Council of Australian Governments: reforms

**Mr THORNLEY** (Southern Metropolitan) — My matter is for the Premier. It relates to his responsibilities at the Council of Australian Governments. It is in reference to section 15 of the recent 2008 annual statement of government intentions, which is about COAG reforms, and in particular section 15.8, which deals with the natural gas and electricity reforms.

Essentially I would like the Premier to push to extend those reforms, not just in the gas and electricity markets but also the carbon and water markets. The reason is as follows. As I talk to the players in the gas-fired power industry, which in my view is the industry most likely to give us the best opportunity of reducing our emissions significantly using today's technology and at reasonable economic cost, it is clear that their capacity to invest in that industry is constrained by the structure of the interrelated markets for gas, electricity, carbon and water.

Whilst this state has led reforms nationally through the Council of Australian Governments in the electricity and natural gas markets, if we can push to extend that to include water and future carbon markets and have an integrated approach, we are then likely to create a market design that will be favourable to the most economically and environmentally rational approach to future power generation capacity.

I think that is in stark contrast to the issues that were raised on the other side, which demonstrate two points: a lack of agenda and a lack of unity. It has been demonstrated today that we have an agenda, and we are united behind that agenda. I ask the Premier to continue with that agenda, to extend it further, to continue the unified approach that we have taken to this government at both state and national level, and to extend that coverage to the carbon and water markets in addition to gas and electricity.

**The PRESIDENT** — Order! I have had time to reflect on my earlier comments regarding adjournment matters ruled in and out. The only one that I will rule on

that I think needs some adjustment is the matter raised by Ms Darveniza. Last night in the house a member of the other side raised a matter, and I gave them the opportunity to alter the addressee, which I am going to do for Ms Darveniza. I am going to give Ms Darveniza the opportunity to readdress her matter to the Minister for Health instead of the Premier. I think he is the more appropriate minister to whom to direct the matter, but it is her choice. If she does not wish to do that, that is a matter for her. I will then rule it out. If Ms Darveniza wishes to accept that it ought to go to the Minister for Health, I will rule it in. It is her choice.

**Ms DARVENIZA** (Northern Victoria) — Thank you, President, I will address my adjournment matter to the Minister for Health. Also, in saying that, I — —

**The PRESIDENT** — Order! No debate; thank you.

**Mr Leane** — Can I raise a point of order on behalf of Mr Elasmar?

**The PRESIDENT** — Order! No; Mr Elasmar can speak for himself.

**Mr ELASMAR** (Northern Metropolitan) — Can I address my adjournment matter to the Minister for Education?

**The PRESIDENT** — Order! Yes. I thank Mr Leane for his assistance.

## Responses

**Mr JENNINGS** (Minister for Environment and Climate Change) — I thank the chamber for the opportunity to mop up perhaps the most comprehensive adjournment dilemma that I have confronted in my time as a minister. In fact I was hoping, in accordance with the expectations of the sessional orders, to dispense with a number of these matters, and a challenge has been created for me.

Let me start by suggesting to the chamber that it is my intention to refer the following matters and not to just discharge the answers. In the first instance I shall refer the matter of Mr Rich-Phillips to the Minister for Education in the other place relating to the backlog of school maintenance within the south-east district.

I will do the same with Mrs Coote's and Mr O'Donohue's matters for the Minister for Police and Emergency Services in the other place, even though I suggest they perhaps err on the side of operational matters that may be outside the scope of responsibility of the minister.

I shall refer Mrs Kronberg's matter relating to the taxi directorate and maxi-cabs to the Minister for Public Transport in the other place.

I shall refer Mr Guy's matter to the Minister for Planning, seeking his release of a report in relation to land supply matters.

I shall refer to the Minister for Water in the other place Mr Koch's matter dealing with water supply in the south-west of Victoria.

I shall refer to the to the Minister for Women's Affairs in the other place Mr Scheffer's matter dealing with the consultation process leading to the review that is being undertaken by the minister.

It is my intention to dispense with the following matters in my contribution. Mr Viney raised a matter for the Premier, but also may have raised it for my attention in relation to climate change and initiatives and the position of the Victorian government in making sure that anticipation of the bill we engage with the community and consult broadly on the dimensions of climate change in. I can attest to the house that a summit being convened within the Parliament of Victoria on 23 April will be the first stage of an extensive consultation process to achieve that outcome.

Ms Broad raised a matter for the Premier, seeking certainty about the process which will lead to abortion law reform in the near future. It is important for the chamber and the community to know that the extensive terms of reference that have been undertaken by the Victorian Law Reform Commission have led to at least 500 submissions being responded to by the commission. It is the commission's intention to provide advice to the government in late March and, following receipt of that material, the government, through the Attorney-General, may respond within 14 days and will seek to introduce a piece of legislation to enable a conscience vote on that matter in the near future.

Kaye Darveniza raised a matter ultimately for the Minister for Health in the other place, seeking his commitment to preventive health measures, particularly to mitigate against chronic conditions such as obesity. I know from my dealings with the Minister for Health that he is absolutely determined to shift the priority and focus of funding and interventions within the health sector to the preventive end of service configuration and the education and empowerment of our citizens. Certainly through the auspices of the Council of Australian Governments the Premier will share that interest and concern in trying to make sure that those additional resources are used for that outcome.

**Mrs Peulich** — These are very detailed responses to Labor MPs and very cursory responses to Liberals.

**Mr JENNINGS** — No, Mr Finn is going to get one.

Mr Eideh raised a matter for the Minister for Planning, seeking his active involvement in ensuring that the community is engaged in planning decisions particularly regarding the availability of affordable housing through the provision and timely release of land and the planning approvals that underpin that.

Mr Elasmar gave an impassioned commitment to socially disadvantaged citizens in Victoria in relation to the availability of educational opportunity. I know the government will be particularly mindful of that in the reforms that are introduced during the course of this year and will deliver on those results.

Mr Leane raised a matter for my attention. He sought support for training opportunities, in particular at the new Swinburne sustainability facility within his electorate, and encouraged me to think about ways in which we can add to the skill base of Victorian workers and increase their involvement in sustainability products and processes. I share that view and will be actively pursuing that issue.

Ms Mikakos raised a matter for the Attorney-General in the other place, seeking his assurance — and I am absolutely certain that he would be prepared to provide that assurance — in relation to an extensive consultation process around law reform in the family violence area.

Martin Pakula raised a matter for the Minister for Public Transport in the other house, seeking support for intermodal hub network provision in rail access. I am absolutely confident that that is a hallmark of her thinking in this regard and that there will be dedicated action to deal with those rail access issues in that fashion.

Jaala Pulford raised a matter for the Minister for Children and Early Childhood Development in the other place. A major platform and feature of the Premier's statement earlier this week was early childhood development, and I know from my engagement with the minister that she is particularly mindful of ensuring that the provision of childhood services for Victorian children and how they articulate into school life are more integrated and that in any consideration of workplace relations reform opportunities are provided for better access for children and better engagement of parents in early childhood services.

Mr Tee wanted to ensure that the Attorney-General in the other place was mindful of national best practice in relation to equal opportunity legislation and that he left no stone unturned in relation to our being a leading jurisdiction in that respect, and I am absolutely confident that it is the intention of the Attorney-General to ensure that that is the outcome.

Mr Finn issued me an invitation to go out drinking with him in the Tullamarine area. I indicate to Mr Finn that I am not a drinker and that in fact, despite the recurring theme of his comments to me in the last day or so, it is certainly my intention to go and visit the local community. My preference is to go without the media, and my preference is to engage in a fulsome conversation with the community in a totally sober fashion, as is my wont. Indeed it is my undertaking to the chamber that I will adhere to the commitment that I gave earlier in the day in question time.

Ms Tierney raised a matter for the Minister for Industry and Trade seeking his active involvement in making sure that we put the car industry on a firm footing and do so in collaboration with the federal jurisdiction in the name of protecting ongoing and sustainable jobs within the Victorian car industry, and I am absolutely sure he will do this.

Mr Thornley raised a matter with the Premier and quite correctly identified that the Council of Australian Governments agenda will permeate many aspects of public administration. I think that served as a useful reminder for all of us that the Premier's active engagement in many of these public policy issues, particularly as they relate to cross-jurisdictional responsibilities and the release of federal funding into the state of Victoria, will be a hallmark of the intervention of the Premier in the years to come. Certainly in relation to the integrated natural gas, electricity, carbon and water markets his point is well made, and it will be responded to.

I believe I have accounted for all matters and dispensed answers to all of those residual ones, except for the ones that I indicated will be referred on.

**The PRESIDENT** — Order! The house now stands adjourned.

**House adjourned 5.40 p.m. until Tuesday, 26 February.**