PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 18 September 2007

(Extract from book 13)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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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 Viney.

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

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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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
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Eideh, Khalil M.	Western Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
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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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TUESDAY, 18 SEPTEMBER 2007

Tuesday, 18 September 2007

The PRESIDENT (Hon. R. F. Smith) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent on 28 August to:

Gambling Regulation Amendment Act
Outworkers and Contractors Legislation Amendment Act
Parliamentary Salaries and Superannuation Amendment Act.

QUESTIONS WITHOUT NOTICE

Brambuk Aboriginal Cultural Centre: management

Mrs COOTE (Southern Metropolitan) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. On 7 August this year the minister committed to reporting to Parliament and to the Brambuk community by the end of August on the audit trail and accounting relationship between Parks Victoria and Geoff Clark, the chairman of Brambuk Cultural Centre. Has the audit been completed?

Mr JENNINGS (Minister for Environment and Climate Change) — I am not quite sure that the member correctly attributes my phrase, but I did indicate to the Parliament early in August that there was going to be an audit undertaken by the end of August.

Mrs Coote — August!

Mr JENNINGS — Absolutely; and indeed in compliance with the service management agreement between Parks Victoria and Brambuk. I am very pleased to report to the house that that work had been completed. In fact I think as it turned out the final documentation from the auditor was transmitted in that instance to Parks Victoria at the beginning of September — I believe it was 3 September.

Mrs Coote interjected.

Mr JENNINGS — In fact I am happy to keep on going. Information that is contained within that audit demonstrates that, from the local auditor's perspective, Brambuk has complied with its service agreement and has satisfied its auditing requirements. But given that this matter was subject to intense scrutiny and public concern and agitation — I will leave it at that — and that there was external scrutiny placed on this from within the local Aboriginal community, from the community more generally and indeed from within the Parliament, a subsequent audit has been commissioned by Parks Victoria to validate that initial audit report to ensure that as a community we have confidence going forward.

PricewaterhouseCoopers is undertaking that audit on behalf of Parks Victoria subsequent to the initial audit trail. I will be happy to convey to the chamber at the earliest opportunity when that material will be available, and I believe it will be available shortly.

Supplementary question

Mrs COOTE (Southern Metropolitan) — Did Geoff Clark, chairman of Brambuk Aboriginal Cultural Centre, take $30 000 of Parks Victoria's $780 000 fee for his personal benefit?

Mr JENNINGS (Minister for Environment and Climate Change) — I have just indicated to the chamber that the audit trail which has been undertaken in compliance with the service agreement received a clean bill of health from the auditor, Parks Victoria, and is actually being subsequently validated by an audit process by PricewaterhouseCoopers. In fact there is no information that has been conveyed to me at this point in time that any inappropriate accounting practices have been undertaken at Brambuk. I will be very happy at the earliest opportunity to confirm that when I have been furnished with that information.

Planning: green wedges

Mr VINEY (Eastern Victoria) — My question is to the Minister for Planning. Three years ago the Victorian government introduced world-first legislation to protect Melbourne's green wedges. Can the minister outline how the Brumby government continues to build on this legacy by implementing policies that protect the areas surrounding outer metropolitan Melbourne?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Viney's question. I know these are matters that are close to Mr Viney's heart, given his position in terms of his own electorate.

The legislation that protects our green wedges was a world first. We have been very pleased as a government and very proud to have been able to introduce it and to continue to work with local governments to manage many of those issues. It is one of those issues that can easily be taken for granted. I know that some members of the opposition might be tempted to take those things for granted. We have supported green wedges, we are

supporting the urban growth boundary and we want to manage urban sprawl. But there are those who seek to diminish the green wedges, there are those who would prefer to take away the urban growth boundary and there are those who support urban sprawl — or at least we think they do; that is the end result. We know who they are; they are those in this chamber who do not have any policies in that area. I look conveniently to the other side of the chamber.

But we want to make sure that those green wedges are managed going into future. That is why the Brumby government has provided $350 000 to boost those green wedge councils in terms of their management of and in developing their local management plans for these green wedges. These are the implementation tools for the sustainable management of these green wedges. This funding will assist the necessary planning and management that will give land-holders, developers and councils more certainty about what is and what is not allowed in those green wedges. Once completed, the management plans will provide a comprehensive safeguard and approach for these much-loved assets that are critical to making Melbourne and Victoria the world's most livable places.

Last month I had the great pleasure of visiting Emu Bottom wetlands, which is one of the many important areas that are protected by the green wedge in the Sunbury area. I was pleased to announce to the City of Hume $45 000 worth of grant funding to help with work on its own green wedge management plan and to help the Hume council consult with its community. Likewise, we have contributed funding to the Mornington Peninsula Shire Council, the Yarra Ranges Shire Council, the Whittlesea City Council, the Wyndham City Council and the Nillumbik Shire Council to assist them with their green wedge management plans.

These management plans are a critical component of planning better and more livable cities and managing the environment. They are integral to making sure that we retain what is much loved about this state, not only for today and not only for tomorrow but for generations well into the future, to make sure that we make Victoria a better place to live, work and raise a family.

Police: enterprise bargaining agreement

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Treasurer. I refer to the police union's claim that it has secured an effective 9 per cent annual pay rise for police, and I therefore ask the Treasurer whether the police pay agreement is consistent with the government's wages policy.

Mr LENDERS (Treasurer) — Yes.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the Treasurer for his expansive answer. My supplementary question therefore is: given the Treasurer's assurance that the police agreement is within the government's wages policy, will he provide an assurance that no Treasurer's advance will be required this year to meet the cost of the agreement?

Mr LENDERS (Treasurer) — I thank the Leader of the Opposition for his question. I am delighted that the opposition is talking about wages policy, because this government believes in delivering decent wages to Victorian workers through an enterprise bargaining arrangement where there are collective agreements and where the employees and the employers can have a discussion about their workplace and conditions in the best traditions of Australia going back to the early Harvester case. We believe in a decent industrial relations system. That can be a robust discussion, as discussions on enterprise bargaining agreements (EBAs) always are, but this government actually believes in EBAs. It does not believe in ramming Australian workplace agreements down the throats of workplaces or in the various industrial experiments or ideological experiments which come from the federal government.

The Leader of the Opposition asks: will there need to be a Treasurer's advance to pay for any of these wages. I assure the Leader of the Opposition that if he goes through the budget papers he will see there are appropriations for departments and that those appropriations are met. The appropriations are what expenditure and outputs are acquitted against. He will also find that there is a Treasurer's advance that goes year by year. In some cases they are over and in some cases they are under; often these simply come about where things go to scale. I can assure the Leader of the Opposition that this is according to government wages policy, which is a base of 3.25 per cent.

Mr P. Davis interjected.

Mr LENDERS — I would be delighted to spend many hours with the Leader of the Opposition.

Mr P. Davis — We have all afternoon!

Mr LENDERS — The Leader of the Opposition says we have all afternoon. I would not want to abuse the expectation of the house that we have succinct answers to questions, like my answer to his first question, but I can assure him that it does meet

government wages policy. This is the most open, transparent and accountable government in the history of this state.

Mr Finn interjected.

Mr LENDERS — Mr Finn laughs. Mr Finn can reflect on the seven years of the Kennett government, when the Parliament was shut down, when question time was shut down, when the Public Accounts and Estimates Committee occasionally interviewed a pet minister — when it had the time — and when that committee was chaired by the then Parliamentary Secretary to the Premier. Bill Forwood, the then Parliamentary Secretary to the Premier, chaired the Public Accounts and Estimates Committee, ministers appeared if they chose and the Parliament did not meet. Under this government the Parliament meets 50 days a year, we have a Public Accounts and Estimates Committee, we have questions in both houses, and we do not fear the Parliament's meeting. We have set up a very strong estimates process, and we have enhanced the powers of the Auditor-General.

Mr P. Davis — Yes or no?

Mr LENDERS — Mr Davis asks, 'Yes or no?'. Yes, we have enhanced the powers of the Auditor-General, more so than has been done anywhere before. We have met the government's wages policy. I am sure if Mr Davis is fearful that in any way we are not administering these things properly, he will ask the appropriate question in a forum of Parliament, which now sits so that the opposition can ask questions.

Information and communications technology: broadband access

Mr PAKULA (Western Metropolitan) — My question is to the Minister for Information and Communication Technology. Can the minister inform the house about initiatives the government has taken to improve access to broadband for Victorians living in new housing estates?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — I thank the member for his question. The delivery of broadband to businesses and homes is an important part of this government's policy framework. I am also Minister for Industry and Trade, and increasingly I am coming to the realisation that without access to much faster broadband our industries will be compromised in the future. The Victorian government is doing its bit in trying to speed up the availability of high-speed broadband. We are doing things like rolling out VicSmart, which is providing broadband to all Victorian schools at a cost of $89 million.

We are also rolling out broadband to universities and research institutes and making dual use of the regional fast rail optic fibre network, which we laid while building the regional fast rail project at a cost of $21.5 million. I am happy also inform the house that the Aurora housing estate in Epping will be Australia's first large-scale housing development to have optic fibre cables connected to each of its 8000 homes. Residents will have access to high-speed broadband as a result of having direct optic fibre into the home.

Members should consider that the Victorian government is trying to do its bit in this area when it is really the responsibility of the federal government to deliver broadband to all Australians. The federal government has failed in that responsibility. I want to indicate to the house the extent of the failure so that people will get an understanding of it. We should have been doing this five years ago. Five years ago we should have had broadband all around Australia, including in Victoria. Let me give members an indication of how fast broadband is in other countries. In Japan the broadband rate is 61 megabits, in Korea it is 45 megabits, in Sweden it is 18 megabits and the average for Organisation for Economic Cooperation and Development countries is 9 megabits. What is the rate in Australia?

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — No, it is not 40. It is not 45.

Mr Jennings — It's not 61, is it?

Hon. T. C. THEOPHANOUS — It is not 61. It is not 9. It is 1.7 megabits. How can we expect our businesses to be competitive in circumstances where the federal government has failed in its responsibility to deliver high-speed broadband to Victorian businesses and homes? We are doing our bit through the initiatives I just mentioned, but unfortunately the federal government, through its inaction, has put us five years behind the eight ball.

The PRESIDENT — Order! I just remind members that the practice of the house is that members do not eat — or chew — while in this chamber.

Hon. T. C. Theophanous — Or cough?

The PRESIDENT — Order! Coughing is okay.

Public sector: enterprise bargaining agreement

Mr P. DAVIS (Eastern Victoria) — I direct a further question without notice to the Treasurer. Given the generous deal made with the police union, will the government now reopen negotiations with the CPSU (Community and Public Sector Union) on the 2006 public service agreement, which provided for 3.25 per cent annual pay increases?

Mr LENDERS (Treasurer) — I welcome the question from the Leader of the Opposition. I guess he has an interesting view of agreements. I would have thought a fairly standard part of an agreement would be that if you enter into a three-year agreement, it is a three-year agreement. The parties have entered into it with their eyes open, and they have signed off on a three-year agreement. I would have thought that the person in the street would think a three-year agreement goes for three years. This government does not have a process of inviting agreements to be reopened at any time.

I know that agreements between Prime Minister John Howard and the federal Treasurer Peter Costello were never honoured, but this government will honour its enterprise agreements — and at the end of those agreements, we will renegotiate them.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the Treasurer for his answer, and I ask: given that the government has abandoned its wages policy, as demonstrated by the setting aside of its policy for the negotiations on the police union agreement, will the Treasurer advise what increments the government will now offer nurses and teachers?

Mr LENDERS (Treasurer) — I would hope that the Leader of the Opposition is trying to be clever and trap me into giving a strange answer. I give him the benefit of the doubt and hope that this is his little political stunt and that it is a big try-on. I would hope the Leader of the Opposition does not honestly believe that in a negotiating position regarding an enterprise bargaining agreement a minister of the government would start outlining what may or may not be the government's views above and beyond, or around or near or whatever, or describe wages policy. We have described wages policy. I would hope the Leader of the Opposition is not in la-la land.

The short answer to the question is that I am not about to get up in this house and enter into the portfolio areas of the Minister for Health and the Minister for Education, both of whom are in the other place, regarding enterprise bargaining agreements (EBAs). I think the Leader of the Opposition is a little bit excited, so I will quieten down and ask him to reflect on how agreements are negotiated.

This government believes in a strong industrial relations system with collective bargaining agreements. We believe in EBAs, in negotiated settlements, in transparent government wages policies and in a fair industrial relations system, because they are critical to having a well-paid workforce, having a workforce that is decently treated and bringing out the skills of the workforce. These are exactly the ways that EBAs and fair negotiations make Victoria an even better place to live, work, negotiate EBAs and raise a family.

Government: red tape initiative

Mr EIDEH (Western Metropolitan) — My question is to the Treasurer. Can the Treasurer inform the house of any recent developments relating to this government's record of reducing the regulatory burden or its plan to further reduce red tape?

Mr LENDERS (Treasurer) — I thank Mr Eideh for his question. Mr Eideh, being someone from a business background, knows how oppressive the regulatory burden of government can be if it is not targeted and thought through. It is a great privilege to follow the Premier, John Brumby, as Treasurer — and I can say that both his predecessor and his successor have described him as the greatest Treasurer Victoria has ever had. Treasurer Brumby spoke at a Victorian Employers Chamber of Commerce and Industry (VECCI) event last year and outlined targets for reducing the regulatory burden in this state. He set targets for this government that are leading the country — and are among the leaders in the world — in reducing red tape for business.

As a government we have no hesitation in regulating where there is a need to regulate. When there is a policy outcome that needs to be addressed, we will not hesitate. However, we believe it is imperative for the government, if it wants to take the burden off business and reduce business costs — because that is an integral part of increasing investment, and therefore creating jobs in this state — to lead the way.

Mr D. Davis interjected.

Mr LENDERS — I suggest David Davis could perhaps have come to the VECCI meeting on Friday and listened to the approach. Perhaps David Davis could actually read the booklet *Reducing the*

Regulatory Burden, which I tabled at the VECCI meeting on Friday, about things we are doing to reduce red tape. This government does not just do the rhetoric of red tape, which the Liberal Party did during the Kennett years; we have actually set up a methodology where red tape reductions can be measured. We have set up a methodology — we have looked at what has happened in Denmark, the Netherlands, the United Kingdom and the Czech Republic so that we have best practice — and we have a measure of reductions in red tape.

What we have seen are a number of areas where we have managed to reduce the regulatory burden. The Premier, when he was Treasurer, made the commitment that over three years we would reduce the regulatory burden by 15 per cent and over five years by 25 per cent. Every minister who presents a proposition to cabinet needs to show offsets, where any new regulatory burden is removed. All ministers and all departments have plans in place to reduce the regulatory burden, because we know that unless we act on these matters, the cost of doing business in Victoria will rise.

David Davis should perhaps also look at page 8 of the booklet, which shows all the tax cuts that this government has made and where it has taken the burden of taxes off business. If he is worried about taxes going up and if he is worried about the regulatory burden or the tax burden on business, perhaps he should talk to his friend, the federal Treasurer, Mr Costello, and ask why company tax in the federal regime has gone up by 109 per cent in the last five years.

We can reduce the regulatory burden on business; 0.4 per cent of gross state product is the regulatory burden on business that we think can be addressed. We have said we will reduce that over the period of time. This is an action plan, and I would say to the opposition, the house and the Victorian business community that the actions are in the program. We have already shown a chart of business burdens that have been reduced in the last year, since Treasurer Brumby, as he then was, announced this at VECCI. We have seen things such as the verification of the Motor Car Traders (Amendment) Regulations 2006. We have taken $7.5 million of costs off business. Mr Eideh, as someone who was out there working in business and creating jobs, knows the benefit of these things.

We find that the Environment Protection (Scheduled Premises and Exemptions) Regulations have cut $1.53 million off the cost of doing business in this state. Payroll tax harmonisation between Victoria and New South Wales has cut another $2.5 million off the cost of doing business. We find the streamlining of the Occupational Health and Safety Regulations 2007 will cut $2.2 million off the cost of doing business in an environment where we have seen not one or two or three but four cuts of 10 per cent off WorkCover premiums. That has cut the costs of businesses and reduced the regulatory burden — and it has meant that more workers have gone home safely at night. There have been fewer deaths in the workplace. That is good not just for workers and their families; it is also very good for the businesses who keep their skilled workers on site and have lower WorkCover premiums.

Our record is in this booklet. We have ambitious targets to further cut the cost of the administrative burden. We know that if we are going to continue to make Victoria a strong and vibrant economy, we have to work with business to make this happen — and these are concrete, measurable cuts to the administrative burden. They are a model for the country. This is not just me, the Treasurer in a state Labor government, saying this, because the Business Council of Australia actually gave it a report card. It described Victoria's rating as good. It said that we had the principles of good regulation making, accountability, transparency and review processes.

I commend the booklet to the house. It is all part of making Victoria an even better place to live, work, invest and raise a family.

Freedom of information: EastLink

Mr DALLA-RIVA (Eastern Metropolitan) — I direct my question to the Treasurer. The Premier has promised open and accountable government and to cease claiming cabinet-in-confidence reasons to block the release of documents. Will the Treasurer now release the public sector comparator for the Scoresby freeway that the former Treasurer, who has now been reborn as Premier, has fought for three years to prevent being released under FOI?

Mr LENDERS (Treasurer) — I do not have the figures in front of me but from recollection the Bracks and Brumby Labor governments have seen probably double the number of freedom of information requests actually dealt with. Again, I do not have the exact number in front of me, but from recollection we are seeing something like 98.4 per cent of these FOI requests issued spontaneously. We have also removed some of the prohibitive fee regime that was in place under the Kennett government, so we have made government more open, accountable and accessible. The question then comes: why would that remaining 1.5 per cent or whatever be ones that we contest? Some

of that comes because there are issues like commercial in confidence; there are issues like cabinet in confidence. There are a range of these issues.

Mr D. Davis interjected.

Mr LENDERS — David Davis, I almost said, yaps like a deranged puppy, but that is probably unparliamentary. Mr Davis continues to interject and say we would not do that. What this government did is put its light right up on a pedestal, not under a bushel. We said, 'We are open, transparent and accountable'. More FOIs have come out. Access has been easier. This Parliament sits more frequently. We have given the Auditor-General powers. We have given the Ombudsman powers. We have gone out there and embraced openness and transparency.

However, sometimes there are people roaming around who like to cause grief in these areas. There are reasons why you have commercial in confidence, why you have cabinet in confidence and why you have some of the confidentiality areas. We have a balance through the middle of it. There is an issue — —

Mr D. Davis interjected.

Mr LENDERS — Mr Davis is trying to help his friend Mr Dalla-Riva. He helped him get his numbers for preselection, and he helped him get into the place. Perhaps he helps him at question time as well.

But what this government will do is have an open and transparent regime. We will continue to have one, and we are not fearful of an Auditor-General's review. We are not fearful of a review by the Victorian Civil and Administrative Tribunal, where this issue correctly is. This particular issue that Mr Dalla-Riva raises has been in VCAT, has gone to the courts and is back with VCAT, which is appropriate. Where there are issues of dispute, they should be resolved in the courts. We welcome FOI requests from the opposition. We welcome questions from the opposition. We welcome scrutiny from the Auditor-General. We welcome scrutiny from the Public Accounts and Estimates Committee.

Mr D. Davis interjected.

Mr LENDERS — We even welcome question time, President —

The PRESIDENT — Order! Mr Davis is warned.

Mr LENDERS — because they are all parts that have made Victoria an open, transparent and accountable place.

Mrs Coote interjected.

Mr LENDERS — I remind Mrs Coote, who interjected, that the *Australian Financial Review* on 15 January 2003 said that this government was too transparent. So I welcome Mr Dalla-Riva's supplementary question, and I can assure him and this house that this government has done more to make Victoria a better place to live, work, do FOI requests, live in a transparent society and raise a family.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — It just goes to show that we have spin over substance yet again; you should see it from our side of the chamber in terms of trying to get FOIs.

In relation to the case of the public sector comparator, so far we estimate that probably half a million dollars has been spent by the government in fighting this case. It returns this week again to the Victorian Civil and Administrative Tribunal for another two-day hearing with Queen's Counsel battling on both sides and will cost taxpayers even more money as the government continues to try to hide the truth about the its Scoresby freeway lie. I ask the Treasurer: why are these documents considered so exceptional by his government that he has to continue to hide them and waste taxpayers money doing so?

Mr LENDERS (Treasurer) — I answered Mr Dalla-Riva's question in my substantive answer, and I would add, on the supplementary, that this government actually respects the process of law. I am not about to get up in this house and comment on every single case in a court or tribunal in this state. That would be inappropriate, but I can assure Mr Dalla-Riva and the house that this government has clear criteria. We have broadened the scope unbelievably. It was the Cain Labor government that brought in the FOI act in the first place. The Kennett government wound it back. The Bracks government opened it up and extended it again.

What we are seeing in this place is that this government — this party — has a view on openness and transparency. We will not hide from that. But there will be cases where it is cabinet in confidence, commercial in confidence, which are thorough underpinnings of this, where we will make determinations, or the independent public sector FOI officers will make determinations, and where there are disputes this government will have them adjudicated in the appropriate place, which is the courts — not in star chambers, not by political groupies who hang around in

packs but in the courts. That is the appropriate place for this to be. I have faith in the judicial system. I have faith in the Victorian Civil and Administrative Tribunal that it will make the difference, because an independent judiciary is an important place for making Victoria a better place to live, work and raise a family.

Environment: greenhouse gas emissions

Mr SOMYUREK (South Eastern Metropolitan) — I direct my question to the Minister for Environment and Climate Change. Can the minister inform the house how the Brumby government is helping industry reduce emissions and save money?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Somyurek for his question. He is concerned that Victorian industry stay internationally competitive and viable, that companies make sure they have a sustainable business plan and try to play their role as corporate citizens by reducing greenhouse gas emissions and protecting environmental values. I am very pleased to say that we have an extremely successful program in Victoria that has now been running for five years, for which I launched a report this morning.

The Treasurer, who is very concerned about the appropriateness of the regulatory regime in the state of Victoria, will be very pleased to hear that the implementation of Victorian regulation in this field, which has been introduced with a high degree of collaboration with industry, has actually led to increased savings being made by those enterprises that have complied with the regulatory regime. The program, which was launched in 2002, was reiterated and given a head of power under the Environment Protection Act in 2006 as part of the government's commitment to reducing our ecological footprint and reducing greenhouse gas emissions in Victoria.

I am happy to say that this morning at Toyota, with the Environment Protection Authority I launched a report which indicates the success of that program in its first five years. The extraordinary thing is that when we released a report on progress in 2006 called *The Story so Far* we were anticipating that at this reporting stage we would have reduced greenhouse gas emissions by 1.1 megatons annually, but I am pleased to say that we have exceeded that expectation. The report released today indicates that 1.23 megatons of greenhouse gas emissions — CO_2 equivalent — will be reduced annually on the basis of the introduction of this program.

I am also very pleased to say that I was in the company of smiling corporate citizens, and I comment on that because I know that is an issue near and dear to the Treasurer's heart. When we launched the report in 2006 we estimated that the abatement measures would be introduced at a cost of $45 million to industry.

It may make the Treasurer a little bit unhappy that we reported back today that the cumulative cost to those 600 companies introducing these measures was $64 million, but the extraordinarily good news for those corporations is that the annual saving from those abatement measures is in the order of $38 million per annum. So that up-front investment will be paid back to those corporations within 20 months, which is in fact a remarkable investment strategy which will add to the viability of each and every one of those 600 Victorian companies. In the future they and other companies that join this program, this regulatory regime to reduce Victoria's greenhouse gas emissions over time, will play a significant leadership role.

I am very pleased to say that there was a high degree of collaboration in and high outcomes have been achieved from this program. It gives us encouragement to continue to regulate in this space, even though there may be some up-front investment costs to Victorian industries, because one by one Victorian industries want to play the role of corporate citizens in making sure that we reduce our greenhouse gas emissions and keep the Victorian economy vibrant and sustainable in the years to come.

Dharnya Centre: future

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Environment and Climate Change. It relates to — —

Honourable members interjecting.

Mr BARBER — You are surely not going to embarrass yourselves, are you?

Honourable members interjecting.

The PRESIDENT — Order! I cannot hear Mr Barber.

Mr BARBER — Thank you for your assistance, President. It relates to the Dharnya Centre, the cultural centre for the Yorta Yorta nation in the Barmah forest. What information has the minister received about the condition of these buildings and what consultation is he undertaking to determine a future for the centre?

Mr JENNINGS (Minister for Environment and Climate Change) — In fact in a previous incarnation of my ministerial responsibilities Mr Barber asked me a very similar question. This was prior to my assuming responsibility as minister for the environment. When I gave him an answer to his previous question I indicated I was aware that the Dharnya Centre, which is in the Barmah forest and has been run by the Yorta Yorta nation for many years, was being subjected to an infestation of white ants and to a destabilising of the integrity of the building — and that advice continues to this day. In fact the ongoing structural viability of the centre is extremely precarious, and that continues to be my advice and my concern about any investment strategy to reinvest within the centre.

I appreciate that on a number of occasions Mr Barber has represented in this place the interests of local Aboriginal people. I appreciate that that is what he is attempting to do, and that in this instance he is representing the Yorta Yorta nation's aspirations for the cultural interpretation of the Barmah forest, the ongoing presence of Aboriginal people within that place and the importance of the cultural heritage interpretation and understanding within that place. Ultimately I share across the chamber the aspirations of Aboriginal people to be involved in land management practices that relate to this important forest. Indeed this was at the heart of recommendations of the somewhat contentious VEAC (Victorian Environmental Assessment Council) inquiry and report that has been recently subjected to submissions from the community.

I think the context of all those considerations — the consideration of the ongoing management regime for those forests in the years to come and the ongoing involvement of Aboriginal people in the management of those forests — is the appropriate context in which we should engage in consideration of what infrastructure should be appropriate within the forest and what capacity there should be for Aboriginal people to be involved in those land management practices. That is the intention that I continue to hold in terms of making sure that we consult and consider the aspirations of the Yorta Yorta nation going forward.

Supplementary question

Mr BARBER (Northern Metropolitan) — I inform the minister that I remember when the building opened. I think the minister was probably the adviser to the then environment minister at the time it opened; that is how long ago it was. Is the minister saying that the future of that centre is now dependent on the outcomes of the VEAC process? If not, what steps is the minister taking to ensure that there will continue to be a cultural centre on that site for a nation of some thousands of people?

Mr JENNINGS (Minister for Environment and Climate Change) — In the first instance, I think, whilst I might have had some role responsibility in an advising capacity, it may not have been for the environment minister but for a different minister at the time. But one way or the other, I had an acute interest in the establishment of the centre at the time and the involvement of Aboriginal people in land management issues in that centre, and the cultural interpretation of that forest. From that time to this time I have continued to hold those values and that aspiration.

Beyond the most substantive answer that I gave, I think it would be premature to speculate about what degree of investment should be undertaken in the existing structure of the Dharnya Centre because of its precarious nature, and in fact I think the ongoing nature of the Dharnya Centre should be dependent upon the way in which that forest will be managed and the ongoing involvement and relationship with the land that the Yorta Yorta nation will have.

Medical research: institutes

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Innovation. Can the minister inform the house about how the Brumby government is supporting Victoria's independent medical research institutes and their important groundbreaking work that is benefiting people throughout Victoria, Australia and indeed the world?

Mr JENNINGS (Minister for Innovation) — I thank Ms Mikakos for her question and her recognition of the international standing of Victorian medical research institutions in Victoria.

Honourable members interjecting.

Mr JENNINGS — Any second I am going to enthuse Mr Theophanous with this answer. He, like many members of the Victorian community at the moment, can rest assured that the Victorian medical research institutions are leaders within the nation and are of international renown. Not only do they perform important medical research in relation to medical conditions and the prevailing circumstances of Australian citizens but they are also renowned internationally for leading considerations of a variety of conditions such as malaria, cholera and other epidemics which are not features of our domestic public health profile in Australia but which are features of our region — a region to which we are deeply committed to

ensuring that we provide humanitarian and medical support and in which we are increasingly demonstrating our capacity to do so.

Last Thursday I visited the Burnet Institute in Prahran in the company of great medical research scientists and technicians, who are applying their skill and capacity each and every day and developing collaborative efforts across the globe. As I indicated, Victoria has 15 world-recognised medical research institutes. Other jurisdictions in Australia would be envious of the intellectual, academic and technical capacity we have in Victoria. The most famous of these institutes are — I do not mean to offend any of the 15 by not referring to them, but due to the shortness of time I will refer to only a few — the Walter and Eliza Hall Institute, the Burnet Institute, which has recently combined in partnership with the Austin Research Institute, the Baker Heart Research Institute, the Ludwig Institute for Cancer Research, the Howard Florey Institute and the St Vincent's Institute of Medical Research. They are just some of the outstanding institutions that carry out leading work across the globe in relation to a variety of conditions.

The Burnet Institute has had the good fortune to be led by Professor Steve Wesselingh. I am very happy to say I was in the company of Professor Wesselingh the day before he left the Burnet Institute to take up an appointment as dean of medicine, nursing and health science at Monash University. We wish him well in those endeavours. He has left behind an institution of outstanding capacity. The Burnet Institute recently signed off on a collaborative effort, a $25 million project with AusAID, which will establish a fantastic — —

Mrs Peulich — The founding chair was Geoff Connard.

Mr JENNINGS — I did see a picture of Geoff when I was at the institute, so hats off to his ongoing contribution. The collaborative effort in China will result in a leading-edge capacity for the detection of HIV/AIDS and the treatment of HIV/AIDS-affected citizens in that country. China has a large and growing cohort of people with the potential to be affected by the ravages of this illness. The Burnet Institute will play a leading role in trying to mitigate the spread of AIDS in China. The Burnet Institute has also been the home of Dr Helen Cox, who is this year's recipient of the Premier's award for medical research and has done outstanding work in Uzbekistan to try to mitigate the — —

Mrs Coote interjected.

Mr JENNINGS — I say to Mrs Coote that I would be pretty disappointed if question time could not be used to share with the chamber and the Victorian community the benefits of the scientific and medical research capacity we have in Victoria and to celebrate our great contribution. The opposition does not seem to be particularly interested in any aspect of question time. If opposition members were motivated in question time, we might have an energy level rather than watching them slip off 40 minutes into question time.

Thank you, President, for resisting the temptation to pull me up. I recognise that question time is for substance and contribution, and the contributions that have been made by Victorian medical researchers are leading the globe and have led to 40 per cent of the available research grants coming to Victoria — $160 million has come to Victoria through the competitive National Health and Medical Research Council process. The operational infrastructure grants the Victorian government provides create a platform for that work to continue.

I was very pleased to be in the company of representatives of those medical research institutes and to indicate the ongoing support of the Brumby government for them. Some $25 million has been allocated to operational infrastructure support programs to underpin the calibre and integrity of the work of the institutes, which creates great benefits for this community and for the global community.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 396, 416, 511, 532–5, 666, 667, 678, 691, 762, 767.

PETITIONS

Following petitions presented to house:

Abortion: legislation

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the urgent need to oppose the decriminalisation of abortion legislation currently before the Victorian parliament.

The petitioners therefore respectfully request that the Legislative Council of Victoria oppose the legislation presented to the house. We as the future of Australia and the ones most affected by this bill, protest against the

decriminalisation of abortion. Equality is necessary for everyone and we will not rest until our fellow citizens which still live in a womb, have a right to life.

By Mr RICH-PHILLIPS (South Eastern Metropolitan) (224 signatures)

Laid on table.

Nuclear energy: federal policy

To the Legislative Council of Victoria:

The petition of certain citizens of Victoria draws to the attention of the Legislative Council the commonwealth government's promotion of a nuclear industry in Australia, and the strong likelihood that Victoria will be selected as a site for the construction of a nuclear power facility.

The petitioners therefore request that the Legislative Council of Victoria reaffirm the opposition of the Victorian government to the creation of a nuclear industry in Victoria, including the construction of a nuclear power plant.

By Mr SCHEFFER (Eastern Victoria) (23 signatures)

Laid on table.

Planning: Stonnington liquor licences

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the indiscriminate liquor licensing and permits issued within the city of Stonnington, fostering alcohol and drug abuse and antisocial behaviour detrimental to the amenity of residents.

The petitioners therefore request that amending legislation be introduced which will empower the appropriate authorities to reduce and restrict the number of liquor licences and permits within the city of Stonnington, ensure that all licensed premises within the city of Stonnington close at 2.00 a.m., and that licensed venues within the city of Stonnington be made responsible for the security of its customers and the general public within its vicinity.

By Mrs COOTE (Southern Metropolitan) (1354 signatures)

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 12

Mr EIDEH (Western Metropolitan) presented *Alert Digest* No. 12 of 2007, including an extract from the proceedings and appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Land Acquisition and Compensation Act 1986 — Minister's certificate of 13 September 2007 pursuant to section 7(4) of the Act.

Major Events (Aerial Advertising) Act 2007 — Event Orders of 4 September 2007 and 10 September 2007 in relation to the 2007 AFL Finals Series.

Major Events (Crowd Management) Act 2003 — Minister's order of 4 September 2007 declaring a Managed Access Area pursuant to section 7 of the Act.

National Parks Act 1975 — Minister's notice of 7 September 2007 of consent to allow operation of the Red Robin Mine in the Alpine National Park.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Baw Baw Planning Scheme — Amendments C41 Part 2 and C46.

Boroondara Planning Scheme — Amendment C68.

Brimbank Planning Scheme — Amendments C94 and C104.

Casey Planning Scheme — Amendment C68.

Darebin Planning Scheme — Amendment C76.

Greater Bendigo Planning Scheme — Amendment C93.

Greater Shepparton Planning Scheme — Amendment C96.

Indigo Planning Scheme — Amendment C27.

Kingston Planning Scheme — Amendment C62.

Latrobe Planning Scheme — Amendment C50.

Maribyrnong Planning Scheme — Amendment C65.

Melbourne Planning Scheme — Amendment C129.

Melton Planning Scheme — Amendment C59.

Mildura Planning Scheme — Amendment C43.

Moira Planning Scheme — Amendment C31.

Moonee Valley Planning Scheme — Amendments C38 and C79.

Moorabool Planning Scheme — Amendment C31.

Moreland Planning Scheme — Amendment C59.

Mornington Peninsula Planning Scheme — Amendment C58.

Moyne Planning Scheme — Amendment C17.

Stonnington Planning Scheme — Amendments C54 and C61.

Wellington Planning Scheme — Amendment C32 and C34.

Whitehorse Planning Scheme — Amendments C76 and C77.

Wodonga Planning Scheme — Amendment C55.

Yarra Planning Scheme — Amendments C79, C88 and C95.

Yarra Ranges Planning Scheme — Amendment C64.

Statutory Rules under the following Acts of Parliament:

Crimes Act 1958 — No. 88.

Radiation Act 2005 — No. 89.

Road Safety Act 1986 — No. 90.

Supreme Court Act 1986 — Nos. 91, 92, 93 and 94.

Subordinate Legislation Act 1994 —

Ministers' exception certificates under section 8(4) in respect of Statutory Rules Nos. 87, 91, 92, 93 and 94.

Ministers' exemption certificates under section 9(6) in respect of Statutory Rules Nos. 88 and 90.

Surveyor-General — Report on the Administration of the Survey Co-ordination Act 1958, 2006-07.

Victorian Renewable Energy Act 2006 — Victorian Renewable Energy Target Scheme Stage 2 Rules pursuant to section 113(9).

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Membership

Mr LENDERS (Treasurer) — By leave, I move:

That Mr Finn be a member of the Family and Community Development Committee.

Motion agreed to.

BUSINESS OF THE HOUSE

General business

Mr P. DAVIS (Eastern Victoria) — By leave, I move:

That general business on Wednesday, 19 September 2007, be taken in the following order:

(1) notice of motion no. 50 standing in the name of Mr Rich-Phillips in relation to production of documents; and

(2) notice of motion no. 51 standing in the name of Mr Hall in relation to a reference to the Environment and Natural Resources Committee.

Motion agreed to.

MEMBERS STATEMENTS

Crime: Port Phillip

Mrs COOTE (Southern Metropolitan) — Recently the poor residents of Albert Park were subjected to a farewell letter from John Thwaites, the former Deputy Premier, which amongst other things contained a number of mistruths which I believe need to go on the record. One was about Albert Park Secondary College. I suggest there is no hope that Albert Park Secondary College will be rebuilt, and I think it is a gross overstatement to say that it will be.

However, what concerns me most are Mr Thwaites's claims about the crime rate. In his letter Mr Thwaites claims that the crime rate has dropped 40 per cent due to extra police and crime prevention programs. This is not true. Crime statistics for 2006–07 have recently been released, and further statistics for 2004–07 show that in the city of Port Phillip the incidence of crimes against the person has increased by 20.7 per cent.

These statistics included figures for violent crimes such as homicide, rape, sexual assault, robbery, assault and abduction; yet Mr Thwaites claims his government's crime prevention programs have been a success. It is absolutely no wonder he decided to leave after having been re-elected only eight months previously. It is a sad indictment on him and a disgrace that after the length of time he was in office, he should leave it with mistruths and misinformation being fed to the public.

Port Phillip Bay: channel deepening

Ms PENNICUIK (Southern Metropolitan) — Blue Wedges is a coalition of more than 70 community groups from around Port Phillip Bay — from Point Lonsdale to Point Nepean. Its charter is to protect the marine and fresh water environments from threats such as overdevelopment, ill-considered proposals of breakwaters and marinas, and the Port of Melbourne's proposal to deepen the shipping channels in Port Phillip Bay.

Blue Wedges describes the campaign to protect the bay from channel deepening as our Franklin River

campaign. Let us hope that the outcome of this community campaign is like that of the Franklin River and that a stupid and unnecessary project will be stopped.

Let us hope it is not like the Lake Pedder outcome, where a beautiful, special and world renowned place was destroyed by a state or corporation hell-bent on getting its way, refusing to listen to its critics or to consider alternatives. The tragedy of Lake Pedder is that in the end, its flooding was totally unnecessary.

The report on the supplementary environment effects statement for the channel deepening proposal is due to be presented to the minister on 1 October. I have been preparing my own report on the inquiry, and it will be released soon.

The community is watching, and Blue Wedges is organising a community cavalcade and carnival on the banks of the Yarra River on Sunday, 7 October to celebrate the bay and raise awareness of the folly of the channel deepening proposal. I urge all members to support the Blue Wedges cavalcade on 7 October.

Wyndham: community plan

Mr PAKULA (Western Metropolitan) — Earlier this month, I was lucky enough to attend the launch of the Wyndham City Council's 'Quality community plan 2007' at the Werribee Open Range Zoo. Wyndham must be a heavy-hitting council because it had both the next Deputy Prime Minister Julia Gillard and the next Prime Minister Kevin Rudd in attendance. I say 'the next Prime Minister' but there may be an interim Prime Minister between Mr Howard and Mr Rudd; I suppose we will know that by the end of the week. To be fair, both Mr Finn and the Minister for Roads and Ports in the other place, Mr Pallas, attended the launch as well.

The report is a testament to what local government can do when it chooses to plan the future of its community rather than allowing the future to be determined by chance or circumstance. The introduction of the plan sets out its challenges and asks, 'What do we want the city to look like? What will it be like to live in? How should Wyndham move from where we are today towards the future?'.

The chapters of the report cover growth, community, learning for life, people and the environment. It is, as I think members can see, an enormously impressive document. Its implementation is the key to its success; but credit is already due to the task force team led by Murray Brown and to Wyndham City Council, led by the Mayor Shane Bourke and the chief executive officer Ian Robins.

Australian Labor Party: Albert Park and Williamstown by-elections

Mr PAKULA — In the 30 seconds I have left to speak, I would also like to pay tribute to the successful Labor candidates for the seats of Williamstown and Albert Park, Wade Noonan and Martin Foley respectively, and to say how heart-warming it was to see the robust defence of the Greens political approach by David Davis in the Parliament just a few moments ago.

Animals: police firearms

Mrs PETROVICH (Northern Victoria) — Following my adjournment matter last month on the plight of wildlife and wildlife carers, I was contacted by a young journalist who also felt very strongly about the issue. As a result of public interest, I chaired a meeting with representatives from wildlife rescue organisations and wildlife shelters in my region.

A number of important issues emerged from this meeting; in particular there was a real concern about how best to euthanase injured wildlife. At the moment there is no standard procedure. Some of the animal shelters on properties have licensed firearms but in a great number of cases there is a reliance on police assistance. However, a great number of country police stations do not have rifles and therefore use short side-arms, which are far from adequate. In addition to using them on wildlife, the police are also able to use them when injured domestic stock need to be put down.

It is important that police at those stations have access to rifles so that they can be used to humanely euthanase wildlife and stock. I believe it is important that all injured wildlife are not left to suffer unnecessarily and are able to be humanely put down so that their suffering is not prolonged. This is not possible if long arms are not available to these officers.

Senior Sergeant Paul Gunning

Ms MIKAKOS (Northern Metropolitan) — I rise to pay tribute to Senior Sergeant Paul Gunning of Northcote police station, who was recently awarded the 2007 Breavington award for policing excellence.

The award, which recognises teamwork and integrity, is named after Rodney Breavington who was the acting sergeant of police at Northcote when the Japanese attacked Pearl Harbour in December 1941. He resigned from the police force and joined the army to fight in

World War II. Within a few weeks he was promoted to corporal and sent to Singapore shortly before it surrendered to Japanese troops. Using a small fishing boat, he and another soldier escaped. They were hoping to be picked up by an allied warship but were recaptured by the Japanese. The Japanese decided to use them as an example to other allied soldiers of their fate if they attempted to escape, and Rodney Breavington was shot by a firing squad when he appealed to a Japanese commander to spare the young soldier who had escaped with him. Rodney Breavington was renowned for his bravery, courage and determination in facing the enemy.

Senior Sergeant Gunning has been the officer in charge at Northcote police station for only four months; however, those serving under him have honoured him and shown their respect and appreciation of his teamwork initiatives by voting him the winner of the 2007 Breavington award. He has implemented a caring and consultative approach in dealing with the police officers in his charge and is open to discussion among his team.

Senior Sergeant Gunning was also the recipient of the Australian Police Medal in 2000, when he was the officer in charge at Kerang police station. He was responsible for keeping duck hunters and protesters apart. We are fortunate to have dedicated individuals like Senior Sergeant Paul Gunning who are committed to making our community a safer place to live. I congratulate Senior Sergeant Paul Gunning on this well-deserved recognition.

Government: advisers

Mr D. DAVIS (Southern Metropolitan) — My statement today concerns the blow-out in the number of flunkies and advisers in Labor ministerial offices. It is clear that in the early period of the Bracks government, 151 advisers and political staff were employed in government ministerial offices; that number has grown, according to a document which was dropped off the back off a truck at my house. This document makes it very clear that 300 advisers, flunkies and others are now employed by the Brumby government.

Mr Koch — How many?

Mr D. DAVIS — There are 300, Mr Koch! This document, dated May this year, lists and shows very clearly that the size of the Premier's office has grown to 70 political advisers, media advisers and other flunkies.

Mr Vogels — Seventy more than the opposition gets!

Mr D. DAVIS — Seventy more than the opposition but also more than the Prime Minister! He has about 40 to 50 staff in his office, but that is not enough for Premier Bracks or Premier Brumby; they needed 70 staff. This is a doubling of the 151 staff members to 300.

It is not as though it is just those leaders. There are others, such as the Deputy Premier, who has increased his staff massively from 8 to 17 — a 113 per cent increase — over the period of the government. It is very clear that this is a waste of taxpayers money. This money should have been better spent. It should have been directed to services around the state.

Australian Labor Party: Albert Park and Williamstown by-elections

Mr SCHEFFER (Eastern Victoria) — I congratulate the government on the stunning Labor victories at last Saturday's by-elections. I also congratulate the new members-elect, Martin Foley for Albert Park and Wade Noonan for Williamstown. On the basis of the figures we have so far, in Albert Park Martin Foley won over 57 per cent of the two-party preferred vote and just over 46 per cent of the first preference vote, while in Williamstown Wade Noonan won just over 57 per cent of the two-party preferred vote and nearly 56 per cent of first preferences. Voters in Albert Park and Williamstown have renewed the strong endorsement they gave the government in November last year. Voters are clearly supportive of the handling of the recent leadership change and clearly endorse the new Brumby leadership. Both Martin Foley and Wade Noonan campaigned strongly on education, child care, health, climate change and the environment, and public safety. Voters recognised them as the best candidates to directly represent their views to government.

The Greens political party was the beneficiary of the Liberal failure to put up a candidate. There was an increase in the Greens party vote not because its messages are cutting through to voters but because it was acceptable to a proportion of Liberal voters who had nowhere else to go. The low turnout in Albert Park can also be attributed to the failure of the Liberals to contest. Other than the Greens political party, Liberal voters had nowhere to go, so many stayed home in disgust with their party. This has been a great victory for the people of Albert Park, Williamstown and the Brumby government.

Rail: Bairnsdale line

Mr O'DONOHUE (Eastern Victoria) — One of the great failings of this government has been the so-called fast rail project. An initial budget of $80 million has blown out to at least $919 million — and it is more likely to be over $1 billion. Unfortunately for Gippsland commuters this has resulted in very little in the way of improved services. This was rammed home last Friday, 14 September, when boom barriers at 18 level crossings between Pakenham and Traralgon failed. The failure of these boom barriers inconvenienced commuters travelling from Bairnsdale to Pakenham and vice versa, and in particular those travelling between Traralgon and Pakenham. I congratulate the bus companies that filled the void left by the failed train services that had to be cancelled.

The fact is that towns such as Pakenham, Drouin and Warragul are growing quickly and an ever-increasing percentage of the people in those communities commute to Melbourne for work. It is critical that those people have reliable public transport to use to get to and from work so that they do not further clog our roads. The failure of the boom gates between Pakenham and Warragul last Friday again demonstrated the failure of the supposed fast rail project. The Minister for Public Transport in the other place, Minister Kosky, must take action to ensure a failure of the boom gates does not happen again, because it not only inconveniences commuters but puts lives at risk. It is not good enough.

Melbourne Day: celebration

Mr ELASMAR (Northern Metropolitan) — On Thursday, 30 August 2007, I was invited to attend the Melbourne Day flag-raising ceremony held in Enterprize Park by our Lord Mayor, Cr So, and the chairman of the Melbourne Day committee, Mr Campbell Walker. The ceremony was held on the very site where the European settlers first landed on the north banks of the Yarra in 1835. I was deeply moved by this historic occasion and more than impressed with the program provided by the organisers. The program included live entertainment and ended with the flag-raising ceremony and a rifle salute commemorating Melbourne's founding day 172 years earlier.

The Melbourne City Council is to be commended for reminding us all of our ownership of Australia's history, particularly Melbourne's history, and for providing splendid activities which were not only memorable but extremely pleasurable as well. I congratulate the Melbourne Day committee, the Melbourne City Council and all the organisers associated with Melbourne Day for an excellent job well done. I am proud to be a Melburnian.

Member for Evelyn: electronic communications

Mr DALLA-RIVA (Eastern Metropolitan) — I think most members would share with me some level of concern about the recent events that have occurred in relation to former Labor member for Evelyn in the other place, Heather McTaggart, receiving copies of faxes sent to the current Liberal member for Evelyn, Christine Fyffe. What concerns me, and I think what concerns most members in this chamber — in fact in both chambers — is that copies of faxes had been sent to Ms McTaggart for nearly seven months. What I am also concerned about is that Mrs Fyffe estimates that this would amount to about 350 documents over that period that were sent to a member's office in Forest Hill.

Mrs Coote — In her name?

Mr DALLA-RIVA — That is right. This issue relates to what involvement Kirstie Marshall, the member for Forest Hill in the other place, may have had in relation to the receipt of these 350 or so documents and her understanding of what took place. It astounds me that a member of Parliament would not be aware of documents being received in their office. It also raises the question of whether that member actually attends her office in Forest Hill and whether she would have seen some of the faxes come into the possession of Ms McTaggart. I think there is a real issue here on two levels: one is the receipt of the documents and the other is what the member for Forest Hill understood about it. I hope she is included in the investigation undertaken by the Ombudsman.

Balmoral Bush Nursing Centre: redevelopment

Ms TIERNEY (Western Victoria) — On Thursday, 6 September, I had the pleasure of representing the Minister for Health in the other place, Daniel Andrews, in officially opening the redevelopment of the Balmoral Bush Nursing Centre. The total cost of the project was just under $866 000, with the state government contributing just over $412 000. The bush nursing centre raised a massive $451 893, including generous donations from Southern Grampians shire, the Balmoral Health Appeal and philanthropic donors.

The project funding is part of the Brumby government's commitment of $7 million over four years to bush nursing services in this state. The redevelopment included new waiting rooms, a nurses station, consulting rooms, a child-care precinct,

including an outdoor play area, an upgraded emergency area and an undercover vehicle drop-off area. The Balmoral Bush Nursing Centre is a significant service hub for the local community. Its services include primary care, emergency care, palliative care, community nursing, health promotion, respite care, planned activity groups and clinic nursing. The opening marked the culmination of many years of planning, fundraising and commitment from the community. The number of staff, residents and community members who were present at the ceremony indicated the pride in and satisfaction with the redeveloped centre.

I congratulate all those who were involved and look forward to seeing at first hand the redeveloped facilities put to use by current and future generations of Balmoral and district residents. This is another significant example of a state Labor government governing for all Victorians.

Manningham: Doncaster Hill development

Mr TEE (Eastern Metropolitan) — I advise the house of the transformation predicted for the city of Manningham. We have at Manningham a local council that has embraced the philosophy of Melbourne 2030, and that forward-looking philosophy looks like delivering in spades. Manningham council has designed around Doncaster Hill a plan for a vibrant community with shops, employment and a range of accommodation options. We have a council and a community that is planning for growth, planning for diversity in housing and planning to create an exciting, vibrant and attractive community.

The most recent urban development program predicts that the Doncaster Hill vision is being embraced. The report predicts that in the next 10 years there will be 5005 new dwellings in Manningham, representing a 23 per cent increase in the supply of dwellings. If the report is correct, it means that in the next 10 years Manningham's housing growth will rival that of Docklands and be second only to the outer growth suburbs of Melbourne. This is great news for those who live in Manningham and those who want to move into the eastern suburbs. Doncaster Hill is a slap in the face for those whose only plan is for unplanned urban sprawl and for concreting over green wedges — the lungs of our city. Doncaster Hill is a vision for how state and local governments and the local community — —

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

Boronia West Primary School: community facilities

Mr LEANE (Eastern Metropolitan) — I would like to congratulate the Boronia West Primary School on its commitment to the modern idea of involving the wider community in its school. Recently, using locally raised funds, an asphalt fitness track was built around the perimeter of the school oval. The school has encouraged the YMCA and Knox Leisureworks swimming pool, which incorporates a gym, to get their members to incorporate the use of this track in their fitness programs.

On the weekend the track is also utilised by families riding bikes and honing the skills of young bike riders in a safe environment. During the week many administration buildings are used for meetings and activities by the karate club, the Boronia sports fishing club, Neighbourhood Watch and the Knox Photographic Society. The facility is used as a safe house, it is used for tai chi, it is used by the native plants foothills group and it is also used by Little Athletics and the Boronia Football Club. I congratulate again the principal, Brendan Campbell, and his staff and the parents at the school; I know they are very proud of this effort.

Kilsyth and Mountain District Basketball Association: Kids First program

Mr LEANE — On another subject, but still talking of schools, I would like to congratulate the Kilsyth and Mountain District Basketball Association for its Kids First initiative which involves the association going into all the schools in the area and running basketball clinics. In the clinics the association gives every prep student a basketball, which I think is a fantastic idea. Given the issue of child diabetes, I think this is a great initiative by this association. More thought should go into these sorts of programs. Well done!

GRAIN HANDLING AND STORAGE AMENDMENT BILL

Second reading

Debate resumed from 9 August; motion of Hon. T. C. THEOPHANOUS (Minister for Industry and Trade).

Mr VOGELS (Western Victoria) — I rise to speak on the Grain Handling and Storage Amendment Bill, and let me say at the outset that the opposition will be supporting this legislation. The purpose of this bill is to

regulate handling of storage services for grain to be exported from the port of Melbourne. This will bring the port of Melbourne under the same regime as the ports of Geelong and Portland. This change has come about as a result of a recommendation by the Essential Services Commission's grain handling regime review, a report that also calls for another review to be completed by June 2008 to ascertain whether or not there should be accompanying regulatory mechanisms in the future.

The main provisions of the bill will regulate handling and storage services for grain to be exported from the port of Melbourne; further provide for the application of the intergovernmental competition principles agreement, as in force from time to time, in relation to certain determinations of the Essential Services Commission (ESC) relating to access to prescribed services; and further provide for general access determinations relating to access to prescribed services.

According to the briefing from the department, the services which are to be regulated by monitoring include the receiving, moving, inspecting, stock control, testing, weighing, elevating and loading of grain. Access undertakings are also required to ensure that GrainCorp, which handles the port terminals of Geelong and Portland, and Australian Bulk Alliance (ABA), provide access to grain handling and storage facilities on fair and reasonable terms. These undertakings contain the principles underlying the access arrangements for grain handling facilities. They also include a dispute resolution process which will be binding on GrainCorp and ABA. The ESC will not get involved if there is a dispute; resolution of disputes will be dealt with by a private arbitration system.

Since the regulatory framework was put in place in 2003 there have been no access disputes, a situation I believe will carry through under this framework. The next step should be that the regulation of export grain terminals in Victoria be removed altogether. We now see significant port competition between the storage handlers and increased competition for grain in the domestic market, so a regulatory regime in Victoria is no longer needed.

According to a report to the Prime Minister by the exports and infrastructure task force in May 2005 — and I quote from page 2:

> The greatest impediment to the development of infrastructure necessary for Australia to realise its export potential is the way in which the current economic regulatory framework is structured and administered. It is adversarial, cumbersome, complicated, time consuming, inefficient and subject to gaming by participants. There are too many regulators and regulatory issues are slowing down investment in infrastructure used by export industries.

In a submission by GrainCorp Operations Ltd to the ESC's Victorian grain access regime review, GrainCorp fully supported by the findings of the federal government's export and infrastructure task force. GrainCorp's submission says that regulation of export grain facilities is:

> … unnecessary, based on the dynamics of competition in the grain industry in Victoria and in particular changes over the last few years; and
>
> leads to market distortions which deter GrainCorp from investment in and improving the facilities in Victoria, the subject of the regulation.

The submission goes on to say:

> It is noted that Victoria remains the last state to have such grain regulation and that continued regulation leads to some incongruous results …

Grain terminals in South Australia and New South Wales which compete with Victoria for grain are not subject to regulation.

Grain port terminals do not source grain from nearby areas. Given the location of the grain belt, most grain has to travel between 250 and 500 kilometres to a port, and in the context of this distance, the differences in the distances between competing ports and the grain growing areas are not large. The port of Adelaide, for example, is in reality approximately the same distance from the wheat belt in the Mallee by rail as is Melbourne, Geelong or Portland. In southern New South Wales the Riverina is in the same boat in terms of distance from Melbourne or Sydney.

The main reason for a regulatory regime would be that there was no effective competition in the marketplace — that is, not enough storage capacity. According to GrainCorp, there is vigorous competition for grain storage at both country and port terminals. GrainCorp says there are no bottlenecks in terms of grain storage in Victoria; the only bottlenecks involve rail capacity. There is 11 million tonnes of grain storage capacity in Victoria, including on-farm storage, and Victoria's annual grain production is approximately 4.1 million tonnes, implying a storage utilisation of approximately 40 per cent.

The 25 July edition of the *Weekly Times* ran an article by Peter Hemphill entitled 'Record harvest ahead'. It made for interesting reading at the time, and it just goes to show how seasons can change so quickly. According to the article, on 25 July — less than two months ago — the Victorian Department of Primary Industries (DPI):

> … predicted the state's grain crop at more than double that tipped by other forecasters.
>
> The DPI's Topcrop network has estimated this year's Victorian grain crop at 13 million tonnes — the biggest harvest on record.
>
> It includes nearly 2 million hectares of wheat, producing 5.6 million tonnes.
>
> But the forecast, announced by Victorian agriculture minister Joe Helper last week, is at odds with those of traditional crop analysts …

It went on to say the Australian Bureau of Agricultural and Resource Economics forecast a crop of approximately 6 million tonnes, and Australian Crop Forecasters forecast a crop of between 6.9 million and 7 million tonnes. The DPI forecast was nearly double that.

It is interesting to look at past grain production in Victoria. The highest yield we have ever had was in 2003–04, when Victoria produced a total of 5.83 million tonnes — that is, approximately 6 million tonnes. Two months ago it was predicted we would reach double that. Rightly or not, the forecast is now for under 6 million tonnes — I think about 5.8 million tonnes. That would be equal to the best outcome, which as I said was in 2003–04.

In a letter accompanying the recommendations GrainCorp sent to us it said:

> … another matter we wish to bring to John Vogels … attention, as shadow Minister for Agriculture, is the perilous state of rail capability to handle the movement of grain in Victoria. Victoria will face two major issues which will adversely impact the movement of export grain for growers by rail, namely:
>
> 1. lack of rail resources to handle the expected crop, and
>
> 2. the 200 per cent increase in rail access fees by the VIC govt — which will increase rail rates by $5 per tonne on average and encourage increased grain volumes to move by road.

Those are not my words but the concerns expressed by those in the industry. We also know the road infrastructure in country Victoria is buckling at the knees. It is badly in need of lots of maintenance. Taking grain off the railway system and putting it on to trucks would be a bad outcome.

Before the last election the Bracks government announced it would buy back Victoria's rail freight network system at a cost of $134 million. This announcement was welcomed right across country Victoria; however, we were not told this $134 million would be recouped from grain growers over a few years. If the minister had been right — we now know he was not — and 13 million tonnes of grain had been harvested, and if 10 million tonnes of that, let us say, had been moved by rail, by lifting freight rates by an average of $5 a tonne the state or V/Line would have collected $50 million in extra revenue this year alone just from grain handling. In other words, if you had factored into all freight moved by V/Line an average 200 per cent increase in rail access fees, the Brumby government would have recouped the $134 million outlay on the rail buyback scheme in no time at all — in just a couple of years.

This reminds me of the hollow promise on regional rail infrastructure made by the Premier, John Brumby, when he was Treasurer and Minister for State and Regional Development. Let us go back a bit. In May 2001 the member for Ripon, and present Minister for Agriculture in the other place, asked a Dorothy Dixer of the then Minister for State and Regional Development about rail standardisation. Mr Brumby replied:

> … a key initiative in the budget brought down in this house two weeks ago was the provision of $96 million over the next few years for the regional freight links program to provide standardisation of the rail freight gauge right across Victoria, but particularly linking Mildura with Portland.

He went on to say:

> Those on the other side could never find the funding and could never get the budget decision to support it, but the Bracks government did in its second budget.

He further said:

> … if we accept the views of the managing director of the port of Portland, Mr Peter Davie, this decision is worth tens of millions of dollars to the Portland economy. So this is a great initiative never achieved in seven years under the Kennett government. It took just two budgets under the Bracks government.

In October 2002 the then Treasurer, Mr Brumby, was asked in a question on notice what the top priority jobs were for the $96 million rail standardisation program. He replied:

> The top priority is to provide standard gauge access to the ports of Portland and Geelong … This will enable grain, mineral sands and general freight to compete with road in accessing all three ports and interstate markets from the productive north-west of the state.

We now find after eight years of hard Labor, with tax revenue having almost doubled since 1999, that this was a hoax. Eight years on there has been not a sleeper laid or a spike driven in relation to rail standardisation — it is yet another promise unfulfilled by this Labor government.

Victoria's grain growers are again looking down the barrel in a very difficult year. If two months ago you had gone to the Wimmera or Mallee — to the grain-growing areas of the state — you would have seen that farmers were jubilant. They had had great autumn rains, but the winter rains have not followed. If you go up to the Mallee, you will see it is too late for most crops — they have gone. The sheep have been turned in. The fields have been cut for hay, if there is anything there, so that there will at least be some return.

That must be devastating after these five, six or seven years — we have had a couple of good years in between. Only farmers know how much energy, money and time it takes to put in a crop, plough a paddock, use diesels and get seed. If crops do not grow at all, that is hard enough; but to see a crop coming up beautifully, looking like a bumper harvest, and then to watch it disappear must be heartbreaking.

In conclusion, the terminal operators at our three ports would like to lighten the regulatory regime on the operators, making it monitoring only. However, they do not object to the bill as part of a transition process, as it will create a level playing field between the port operators — that is, Portland, Geelong and Melbourne — and will reduce the Essential Services Commission's direct involvement and the additional cost to grain handling and storage businesses. I therefore wish the bill a speedy passage.

Mr DRUM (Northern Victoria) — The Nationals will also be supporting this legislation, the Grain Handling and Storage Amendment Bill. It builds on the act of 1995 that was put in place effectively to facilitate the change of the structure that we then had in place, which was the old Grain Elevators Board, as it went through the transformation to what was then known as a grower-owned cooperative, VicGrain. The Grain Elevators Board was a statutory authority of the state government and the shift to a model of ownership within the growers was a complex matter and process, but it was a process that seemed to be handled well at the time.

After the Grain Elevators Board became VicGrain, VicGrain merged with the New South Wales grain handling company, GrainCorp, and that set up the first opportunity for the movement of grain between Victoria and New South Wales under the same company and under the same authority. It traded under the banner of GrainCorp for a number of years, and still does in some instances.

Then in 2003 we had the situation where GrainCorp gained a controlling interest in the Queensland bulk handler, Grainco, and effectively that set up for the first time an entire eastern seaboard grain handling business. That was again able to draw on the obvious benefits of having all that grain moving back and forth down the eastern seaboard under the one company without the necessary restrictions that are normally in place if you go through different companies and different state regulatory systems. That was something that seemed to have been done very well.

At the time when all this was going on GrainCorp had just set up an operating partnership with AWB, formerly the Australian Wheat Board, to export grain through the port of Melbourne, and that was set up under the banner of Globex. The $40 million investment that came with that facility expansion certainly put the port of Melbourne in an advantageous position over the other two grain export ports — namely, GrainCorp-run Geelong and Portland — as they had much heavier access regulatory restrictions placed on them that were not applicable to the Globex facility at the port of Melbourne.

Again, while all this was going on, GrainCorp had invested over $20 million in the Geelong port, and new ship-loading facilities there were helping that port become a leader in grain handling. In fact until now Geelong has always been impacted on by stricter regulatory control and stricter access regulation than has applied at the port of Melbourne. There has been an unfair working competition between the respective ports.

I shall just go back through the different aspects of the bill. We are supporting this bill because it will reduce the regulation of the grain handling and storage sector by the Essential Services Commission (ESC) and replace it with a much lighter regulatory regime. It will also mean the port of Melbourne, along with the ports of Geelong and Portland, will be governed by the new regime to remove that regulatory discrimination. The Nationals support that.

The bill will abolish the current licence regime, which uses fees to recoup the ESC's costs, and will replace it with a regime in which the ESC has only a monitoring role. It will also require Geelong, Portland and Melbourne export grain-handling terminals to make an access undertaking to the ESC which specifies the terms and conditions of access to the sites and includes a binding dispute resolution process as well. The bill will also allow the ESC to monitor compliance with the general access determination and revoke the undertaking if that is not adhered to.

With those comments on the respective aspects of the bill, I again indicate that The Nationals will support it. But, as Mr Vogels touched on, it is important that all parliamentarians be aware of the situation that is currently gripping our cereal growers throughout northern Victoria. This year we had some of the best breaking rains and some of the best patterns of rainfall that we could have hoped for as we entered into the cropping year. Farmers took the data that was available to them and made the best judgements and the best decisions they could possibly make. They loaded up, went to the banks and borrowed heavily to effectively invest in this year's harvest. Once the crops were in and had jumped out of the ground, because of the weather patterns that followed that sowing period — they were looking at very healthy crops — and because it looked to be a real bumper crop this year, even further inputs were put into the crops, again using all the best available data. Farmers made some sound judgements at that time. Then, all of a sudden, the rains stopped.

Certainly it has put many, many cereal farmers in a precarious situation, with extra machinery already having been purchased and those record estimations that were put on the crop yields earlier in the year, as Mr Vogels mentioned, have now been halved, and it certainly will be precarious. It is a day-by-day situation out there in northern Victoria. As I say, it is absolutely critical that even the rains that have been forecast for later this week arrive to help so many of our struggling cereal growers. I reiterate that it is absolutely critical that all parliamentarians in this place are aware of the current situation.

The situation also makes it tougher to explain to Victorians why a government that is supposed to be ruling for all Victorians would even contemplate the idea of taking away the most critical and scarce resource these farmers have, which is water, and building projects to take more water away from northern Victoria. For the government to be going into irrigation areas, which at this stage have less water in their reserves than they had at this time last year, and putting in place infrastructure that is going to take that scarce resource away from the irrigation sector and away from the wealth producing industries in northern Victoria and sending that precious water to Melbourne where effectively we have a system of waste and a practice of tipping waste water out into the ocean, certainly beggars belief at the moment. We need to have a government in this state that is going to invest in country Victoria because it is the right thing to do, not because there are some strings attached to those infrastructure investments.

The grain industry continues to lead the way in technology, and we need to have that industry supported by the government in relation to grain handling. The infrastructure relating to our current rail system is deplorable. Trains in northern Victoria have to travel many kilometres at the maximum speed of 15 kilometres per hour, simply because the tracks are in such a poor state of repair that the trains cannot go any faster. We had a train this year simply fall off the track in the main street of Mildura, fully laden, and it sat there for three days until the cranes had to be brought up to lift it back onto the tracks. If we do happen to have a bumper crop in any one of these years, it will take literally months and months to move the grain with the infrastructure that is currently in place.

Everybody in this chamber should know by now that the Bracks government twice made a promise to the people of Victoria prior to going to election that it would standardise the Mildura tracks. Labor actually put up the money — $96 million — once, and then it put it up again as it went to the next election and made the same promise again. Not a cent of that money has been used for standardisation on that line.

Hon. T. C. Theophanous — What about the federal government?

Mr DRUM — It is a state railway line. It is not a national rail line. That significant promise was broken once. The government froze that promise a second time and then reintroduced it before another election. Again, nothing has been done.

It has been a very disappointing few months in regional Victoria. The government has said it is going to govern for all Victoria but does so only when there are significant strings attached and when the benefits of the promises it makes in regional Victoria can be felt only by people living in Melbourne.

Ms TIERNEY (Western Victoria) — I am pleased to speak on the Grain Handling and Storage Amendment Bill. At the very heart of this bill is a reduction of regulation affecting grain handling and storage in a sector for which the Essential Services Commission recommends a light-handed regulation regime. Secondly, the bill extends access regulation to the port of Melbourne by way of the new regime being put in place. The history is that section 23(1) of the act was amended in 2003 to require the commission to complete an inquiry by 30 June 2006 as to whether grain handling terminals should be regulated. Following that inquiry, the commission recommended there should be no discrimination in the regulatory treatment of facilities at the port of Melbourne on the

one hand and the ports of Geelong and Portland on the other hand.

From the inquiry the commission found that although increased competition between the facilities had reduced the need for regulation, the significant degree of change in the grain industry still warranted a degree of regulation — for example, things are still up in the air as to what may happen with the Australian Wheat Board. The commission considered that this limited regulation should take the form of undertakings that operated in favour of access seekers and access users being given to the commission by providers. This is a fairly mature way of going about business It is a very mature way for business to conduct itself: you have some key principles, undertakings are given, and, if there is a breach of those undertakings, there is a framework whereby there is recourse if there is a dispute. In lots of ways just moving towards that form of behaviour within business and the ports of Geelong, Portland and Melbourne is significant.

It is also important to quickly go through the amendments in this bill, which are contained in 13 clauses. I will do that in a fairly straightforward manner. Clause 1 sets out the purpose of the bill. Clause 2 stipulates the commencement date as 1 January 2008. Clause 3 incorporates the port of Melbourne into the act. Clause 4 revises the definition of 'competition principles agreement' and inserts a definition of 'general access determination'. Clause 5 gives effect to the specific services at the port of Melbourne, that being prescribed services for the purposes of part 3 of the Essential Services Commission Act 2001. Clauses 6, 7, 8 and 9 contain a series of consequential amendments.

Clause 10 inserts a new section that enables the commission, of its own notion, to make a determination to revoke the general access determination if it considers that a provider has not complied with the general access determination, and a new section that enables the commission to monitor the compliance by a provider with the general access determination. Clause 11 applies to a person who considers that his or her right of access to prescribed services has been hindered by the provider, which was the point I was making earlier in terms of recourse — that there is essentially a disputes procedure for the parties to exercise. Clause 12 enables the commission to publish guidelines. The final clause, clause 13, contains an automatic repeal provision that takes effect on 1 January 2009.

The aim of the amendments is to build on the growth that is occurring at the ports of Geelong, Portland and Melbourne. The efficient functioning of the ports cannot be underestimated, and I think it is important to highlight a couple of facts for the house. If you look at the port of Geelong, for example, it is the second busiest port in Victoria. It generates 8.3 per cent of gross regional domestic product. It is the biggest bulk cargo port in Victoria and the sixth largest grain terminal in the entire country. It also supports around 6100 direct and indirect jobs. That is how critical ports are, and their efficient operation is absolutely instrumental to a properly functioning economy.

The grain industry itself — our grain producers, our farm equipment suppliers, our transport providers and storage handling facilitators, along with their families — is far too important to put at risk. Whilst we were very much hoping for a bumper crop just four weeks ago, the jury is now out. I share the concerns that Mr Vogels and Mr Drum have with respect to our cereal growers, particularly in northern Victoria, and I do not think in any way there is a role for a political party to play by engaging in point-scoring on this issue. Indeed we need to take a bipartisan approach on how we can handle this dreadful ongoing and potentially worsening situation for our rural communities in this state. The cutting of red tape and the streamlining of processes are key ingredients in maximising throughput at the ports. This bill does that, while at the same time providing for a framework that ensures fair play and a recourse if those principles are not followed.

Whilst this bill may not go as far as some people may want in providing total deregulation, this new regime will allow the Essential Services Commission to adopt more of a monitoring role, which would see it intervening only if terminal operators failed to meet the requirements of the undertakings I explained previously. Licensing fees will disappear as the industry takes this important step towards self-regulation. This is a mature step, and mature behaviours are required to support a longstanding and mature agricultural and transport industry. This new, light-handed access regime gives the commission a role in line with the conclusion reached in the Council of Australian Governments competition and infrastructure reform agreement that monitoring may be appropriate when scaling back from more intrusive regulation.

Following some of the comments made by previous speakers, I believe some points need to be driven home with respect to rail infrastructure. These are black-and-white facts, and I do not think they are open to too much interpretation. The first is that the privatisation of Victoria's freight rail was an abysmal failure. There is no denying that. In fact the government concluded the buyback of the regional freight rail

network for $134 million earlier this year. That is this government's commitment to making sure we have an appropriate infrastructure to get our much-needed grain to ports. This followed a commitment in the May budget of $53 million to upgrade the Mildura freight rail corridor.

That is in the budget papers. Members opposite cannot just sit there and say that this government is not doing anything in respect to infrastructure in rural areas and is not supporting rural industries. We bought back a run-down system; it needs investment; we are putting money into upgrading that system. The Liberals sold it; they let it fall into decline; we know that there has been very little maintenance over the years it was privatised. We have had to put an enormous amount of money out of consolidated revenue into those maintenance costs. It is going to take time, but there is a commitment and there is a plan; we are going about our business. I commend this bill and I urge the house to be sensible when it talks about rail infrastructure.

Mr GUY (Northern Metropolitan) — I rise to speak on the Grain Handling and Storage Amendment Bill 2007 and note that it is important that country Victorians and country MPs know that city MPs like me take rural issues very seriously. There will obviously be a number of contributions from members whose electorates are in rural and regional Victoria, and this bill will impact directly upon industries within their electorates.

I must say that in Northern Metropolitan Region there is very little grain growing and very little grain storage, but I have been looking forward to making a contribution to debate on this bill as I believe my contribution reflects the fact that city MPs and country MPs equally regard the issue as of the utmost importance.

From the outset it is worth saying again that the Liberal Party will be supporting the bill. The reduction of regulation in grain handling is very important, and an increased access to the port of Melbourne is very important to grain growers around the state. As I said, there is not much grain production in my electorate of Northern Metropolitan Region, but there is certainly a lot of grain consumption in it. The bill may not be directly relevant in terms of handling and storage, but at the other end of the industry — that is, the use of grains in Victoria — it is certainly very relevant.

As someone who has worked for a farming group in the past, I have developed a good knowledge of grain issues and of those in the grain industry, of the importance of the industry to our state, to our national economy and to the future prosperity of Victoria. There is no doubt, as members have stated earlier, that grain farmers and their families are certainly doing it very tough, and in fact they have been doing it tough for around a decade. There is no doubt that the prolonged dry across north-west Victoria is having a major impact upon production. It certainly has had a major impact on the lives of farmers in the rural towns and rural communities that rely on this industry for direct economic benefit. That is something we must consider when we talk about these kinds of issues.

At the moment we appear on the surface to have received better rains, but if you drive around country Victoria, although things look better in parts of the north and north-west the reality is, as many Liberal Party country members will say, that we are going through what is called a green drought. While the fields may look green and things may look good, the reality is that things are still exceptionally difficult for farming families.

As Mr Vogels and Mr Drum have pointed out, it appears that the risks taken by farming families over the last couple of months in particular, following promising rains at the start of the year, will lead to a very difficult impact on some of those families, because the yield predictions are now half of what we expected at the start of the year. No doubt farming families and farming industries who have invested have been expecting better results than what it appears will be the case.

The problems being faced in our grain industries are not over; they are far from over. It is very important that city members like me communicate this fact to people living in Melbourne, and that all members of this chamber acknowledge the difficulty grain farmers are having and will continue to have, and are aware of the impact those difficulties will have on their families as the year goes on. I thank my colleagues Mr Vogels and Mr Koch for their enthusiastic support of rural industries in our parliamentary party and certainly for supporting this bill. The importance of this bill to our parliamentary party is worth noting, as it obviously impacts on the grain industry.

I thought it worthwhile to talk about the grain industry and what impact it has on, for example, the Victorian economy. As members may be aware, over 5 million tonnes of grain are currently harvested across Victoria, of which wheat represents around half; barley and cereal cropping represents around 80 per cent of all broadacre cropping in Victoria; 15 per cent of Australia's winter crop is grown in Victoria — which is an amazing figure when you consider that there is only

3 per cent of the country's land mass in our state; and 40 per cent of Victorian grain production is used for domestic consumption compared with 20 per cent nationally.

I might have sounded a bit flippant at the start of my contribution to the debate when I said my constituents do not handle or store grain. They may not handle or store grain, but they consume it, and it is certainly evident from those figures that our grain industry relies heavily on domestic consumption. Eighty per cent of grain cropping is in the areas of the Wimmera and Mallee. As any member would know, as you drive around those areas you will see that grain cropping is predominant in the north and the north-west, and there have obviously been impacts on those economies.

In recent years higher rainfall in the south-west has increased grain production. This represents some examples of how farmers are diversifying to cope with some of the difficult climatic conditions that they have been facing over time. Grain production is also, as I said from the start, a major part of the Victorian economy in that 17 per cent of Victoria's gross agricultural production is from grain alone; that is worth noting.

Around 30 per cent of our gross agricultural exports from Victoria are grain. You can imagine the impact that has when it comes to jobs at the end, such as at the ports, and, as other members have mentioned, the transportation of goods to the ports. Therefore grain production and the grain industry are obviously very important to our economy.

I intend to mention just briefly the fact that a number of members have talked about grain handling and the movement of grain. As members have pointed out quite correctly, in 1999 the government did promise $96 million for rail standardisation. I think in Labor's industry plan they outlined the allocation of some moneys to convert all of our broad-gauge lines in rural Victoria to standard gauge. It is an ambitious plan; obviously it is a plan which many people would have found very good at the time. Unfortunately, like many things with this government, when it comes to transport infrastructure development the facts speak for themselves, they are black and white. The vast majority of Victoria's country rail network is still not standard gauge. Our grain network in the majority is still broad gauge. It is still 5 feet 3 inches, despite promises to the contrary and despite money supposedly being allocated, which certainly never eventuated.

As I said, despite promises being made, as Mr Vogels said, despite record taxation levels in Victoria — up from $19 billion in 1999 to $34 billion now — we are in a situation where the government will refuse to do anything about the rural rail standardisation in Victoria, despite it being integral to the movement of grain across Victoria.

It is very important when we are talking about grain and grain movement that we take note of what has been promised to grain farmers in the difficult conditions that they are going through at the moment with the movement of their goods to the ports. As Mr Koch commented earlier, it is no use talking about grain production if it is so difficult to actually get that material to the ports.

In her speech Ms Tierney she talked about privatisation being an abysmal failure. Given that the government has put out press releases announcing the continuation of private rail operators in Melbourne, it seems the government believes it is okay to handle humans on privatised rail networks but does not feel it is necessary to handle barley and cereals on a privatised rail network. I am yet to see the actual point that is being made, but that is obviously one that is being espoused by the government. Go figure as to what Labor's attitude is. We have broken promises when it comes to rail. As Mr Drum mentioned, we have the thieving of water from north of the Great Dividing Range. It has never been done by any other government. That is what Labor does when you have got grain farmers in trouble.

As I said, grain is very important to Victoria historically. Geelong was known as Pivot City many years ago and people may wonder why it was called that. It was called Pivot City for a reason. The rail network and the very limited road network at that stage all pivoted out of Geelong. If there had not been a sand bar in Corio Bay, we might all be watching preliminary finals somewhere up near Werribee next weekend. But the reality is that if we had not had those grain lines we would not have had grain traffic coming into Geelong and obviously the production and the jobs that it brought to that city. Certainly Geelong may have developed at a slower pace.

The Liberal Party will be supporting the bill. It is the next step in regulation and increased competition. The original legislation was passed in 1995 and amended in 2003, and this is what we see as the next step. The bill will regulate grain storage and handling out of the port of Melbourne, as has been adequately explained. I will not go into that. It will provide for the application of intergovernmental competition principles agreements in relation to certain determinations of the Essential Services Commission.

The bill will provide for further general access determinations relating to the access of prescribed services. It means a lot, I am sure, but the reality for grain handlers is that it means a reduction in the regulation of grain handling and better access to ports. That is something the Liberal Party has always stood for — reducing regulation. Again, we support the bill today.

Mr THORNLEY (Southern Metropolitan) — I also rise to support the bill. The Essential Services Commission was ordered in the 1995 act to review the regulatory framework surrounding the handling and storage of grain. That review found that there was less requirement for the level of regulation we have now and for only a fairly limited regime going forward.

The review recommended discarding the commission's current fairly cumbersome and retroactive licence regime, arguing that the commission should assume a monitoring role requiring providers to draft access undertakings containing the desired terms and conditions. It is these terms of access to that infrastructure that mirror this government's policy and indeed the policy of all state and federal governments in this country through the competition and infrastructure reform agreement of the Council of Australian Governments, which sought to create uniform and effective systems of access to a wide range of infrastructure and scaled back other forms of more prescriptive regulation.

This indeed is part of the fulfilment of the very matters that the Treasurer, Mr Lenders, raised in the house earlier today about Victoria's fulfilment of reducing the level of red tape and the business impact of regulation on the Victorian economy, a commitment we have made ahead of other states and which indeed, as the Treasurer outlined, has been lauded and supported by all the peak business bodies in this country as being the most progressive and the most effective set of frameworks to reduce the real business impact of unnecessary regulation.

The undertakings that are allowed under this new form are then reviewed for fairness and reasonability, and there are roles for the Department of Premier and Cabinet, the Department of Treasury and Finance and the Department of Primary Industries to work with the Essential Services Commission to do that and to reduce any other compliance burdens.

Given the changing nature of the competitive structure of port facilities, we no longer need a model that is, or arguably has been, discriminatory between them, and so we will simply have the same regulatory structure across the industry. I think this is a good example of, again, the notion that the primary role of government is as market designer. If we design the right rules for the game, you get a good game, in the same way that if the Australian Football League Commission changes the rules of the game, and changes them well, you get a better game; but if you change them badly, you get a worse game. The role of government, by and large, is to design effective markets and then to get out of the way and let those markets operate. That is precisely what this bill does, resulting in increased efficiency and reduced burdens of unnecessarily prescriptive regulation, where the government tries to be too much of a participant in that market rather than a designer of it.

I commend the bill to the house for those reasons, but I cannot complete discussion of this bill, as many others have not, without remarking upon the very difficult circumstances that the industry itself, in particular the farmers but also those downstream from the farmers, is facing as a result of a really disappointing season. It is particularly disappointing given that the autumn rains heralded such promise and indeed resulted in a high level of investment by many farmers on the promise and the hope that the resulting season would be a very strong one.

Farmers have been sadly disappointed by the lack of winter rains. That is a double tragedy, because had we been able to get a good season volume wise, we would have been able to get the benefits of significant rises in global grain prices for destinations to which much of that grain would have been exported through the very facilities we are discussing in this bill. As a result of increasing prosperity around the world and increasing demand for grains for food and because of rapidly increasing biofuel utilisation, we are seeing extremely strong grain prices in most of the major grain commodities that would be affected by this bill.

Tragically our farmers, who on the back of the autumn rains had been so hopeful that they would be able to participate in that very strong market, will be able to do so only with much lower volumes than were expected even a few months ago. That is a great disappointment. This government stands shoulder to shoulder with those farmers. We continue to undertake the community cabinet up in the northern part of this state and a little further out to the west to make sure we respond in the best way possible to assist farmers who are affected by this disappointing season. We will continue to streamline the regulatory regime with legislation such as this and meet the targets for red tape reduction which the Treasurer outlined earlier today. I commend the bill to the house.

Mr KOCH (Western Victoria) — I look forward to making my contribution to the Grain Handling and Storage Amendment Bill 2007. As we heard earlier today, the key recommendations are to reduce regulation to a light-handed access regime at the existing ports of Geelong and Portland while at the same time extending the regulations to the Globex facility at the port of Melbourne and also to abolish licence fees for export grain handling facilities in the future.

Unfortunately deregulation has not got a hearing in this whole debate. Deregulation is something that the Bracks government struggled with and now the Brumby government is really struggling with. I am sure the Minister for Agriculture in the other place, the member for Ripon, one of the few representatives from regional Victoria on the government benches, could see the merit of deregulation, but of course he did not have the capacity to convince his own around the cabinet table that that was the direction the government should take in relation to grain handling across this state.

Like most of us on this side of the house, the grain handlers, particularly the Victorian Farmers Federation, which obviously represents many of the grain farmers in Victoria, are supportive of deregulation, especially of our grain handling and storage facilities, because they recognise there is ample competition in Victoria. But the government still wants to regulate the industry. I was surprised by the comments made by a member for Western Victoria Region, Ms Tierney. She has a great belief that retaining regulation is a mature way of doing business. I can assure members that those thoughts are certainly not shared on this side of the house. Why this government would see it as important to continue regulation of our Victorian grain handling facilities absolutely beats everyone on our side of the house, especially because both of our competitors — South Australia and New South Wales — are totally deregulated.

In recognition of the Globex facility at Melbourne, both the port of Portland and the port of Geelong should have been granted exemptions from this regulation. As I mentioned earlier, the competition is there. There is no need to push this regulatory net any further. Our grain handlers having one hand tied behind their backs in contrast to the situation that applies to our direct competitors in South Australia and New South Wales will only result in more grain being taken away from Victoria. Regrettably more grain being taken away will obviously further threaten the viability of this marvellous state and will continue to see jobs happily exported. GrainCorp's submission to the Essential Services Commission grain access regime review in February 2006 spelt that out pretty clearly.

There is little doubt that unless a greater effort is made to deregulate the industry in Victoria, the marketplace distortions will continue and the disincentives to further invest in infrastructure and facilities will see increased inefficiencies in Victoria. The submission very clearly states that if the government — that is, the Brumby government — is not brave enough to deregulate, the very least it must do is apply to the port of Melbourne's terminal the same limitations that are experienced at both Geelong and Portland.

So far I have spoken in relation to the handling and storage facilities that are used when the grain is received at the export points. One of the state's biggest downsides is the quality of our rail network and the increased costs of moving grain around the state. There is absolutely no doubt that this year we had a marvellous opening to the grain season for our state farming fraternity. As many have mentioned before, I do not think there has been a better season opening. We have only to look at the acreage that our farming communities put down to cropping right across the state. Areas well below the Great Dividing Range were very heavily involved in grain production this year after seven or eight bad years on the trot. This was seen as probably one of those years when our grain growers should certainly extend themselves and, with the support of their finance houses, go for broke. Many have had it so tough that the option was not necessarily their own, and their finance houses have supported them. In doing so they have extended more finance to our grain growers than we have seen in recent history.

One of the other major concerns, as was alluded to before, is that this year's international grain prices are probably among the highest we have seen for many years. Recently we saw the price of barley, for instance, being pushed out beyond $400 a tonne on farm. That is an incredible price for a crop that is so successfully grown in Victoria. On many occasions our grain growers forward sold some of this opportunity and regrettably it will not come their way. Some of these people have not only drawn down on their last resources to get huge crops but are now facing the difficulty of meeting the obligations of the contracts they have entered into.

Generally the house — and it has been expressed by all speakers — sympathises strongly with our grain growers. As Mr Thornley indicated earlier, the state government will be standing shoulder to shoulder with our farmers. All I can say to the government in this instance is that the federal government, which members

on the other side have on several occasions been so critical of, has already staked its claim by putting $450 million towards easing the plight of grain growers to compensate for what looks like being a very difficult season. As far as the state government going shoulder to shoulder with them is concerned, I can openly say at this stage that the government makes big comments but at the minute has extremely long pockets and short arms and nothing has been put towards our farming community. We certainly look forward to a commitment being made by the state government — and it has to be sooner rather than later.

Our farming communities are now beginning to feel the brunt of weather conditions that none of us foresaw in the earlier part of this year. It was quoted that we were going to receive a grain crop of something in the order of 13 million tonnes this year, which would have been a production record for Victoria. As we heard earlier today, it has been reforecast that the crop will be 5.4 million tonnes, and that if we are successful in gaining it, that will be a very reasonable above-average crop for Victoria. As has been alluded to today, our cropping industries produce approximately 17 per cent of Victoria's income and 30 per cent of Victoria's total exports. It is a big crop that has a big impact on our state economy. However, if we got a crop of the magnitude of 13 million tonnes, regrettably most of it would have to be held on farm in bunkers, because it would be absolutely impossible to move that amount of grain to the export points at Portland, Geelong and Melbourne.

As was indicated earlier in the debate, our rail system is in a deplorable state. We heard members on the government benches say the government is making a big contribution — I think the figure was purported to be $53 million. At the last two elections this government said it would invest $96 million — twice what it has on its books now — on the streamlining and redevelopment of a standard gauge line through to Mildura and to pick up on the efforts made by the Kennett government some years ago on standardising rail, not only between the major ports of Geelong and Portland but also on the offshoots of the Melbourne–Adelaide line; I am talking about the line from Maroona down to Portland.

Standardisation work was done further into the hinterland — from Ararat, up through Avoca to Maryborough — with the anticipated redevelopment of the Mildura line. Unfortunately, as we are all aware, that opportunity was lost with the defeat of the Kennett government in 1999 and although it was promised by the Bracks government, to date nothing has come to pass.

We now see grain being moved very slowly across the northern Wimmera and the Mallee. On the Manangatang line, especially across to Murrayville, grain trains now move at walking pace. During Mr Drum's contribution we heard him say that a laden train was derailed recently in the city of Mildura, due to the lack of maintenance and the current poor state of that line. The government has a whole lot of work to do in relation to this.

When I was in Avoca recently I walked on a section of the standard gauge line. It was quite evident that, during the Kennett regime, any sleepers marked for replacement had been replaced, any bridges unworthy of heavy trains had been replaced with concrete structures, and ballast had been attended to. That line has not been used during the last eight years of the Bracks and Brumby governments. Indeed, the railway line has sleepers across it so it cannot be used. If the Mildura line were operational, we would be able to deliver grain from the Mallee and the northern Wimmera to the ports of Portland and Geelong; then grain growers could have greater access to export opportunities.

Opposition members are also concerned about where the channel-deepening project is going. We have heard a lot from this government about what it proposes to do and why it is so necessary to go down this track. Years ago the channel into the port of Geelong was deepened so that grain could be exported from that port. Now that grain is moved on larger ships, requiring further work to be undertaken at the port, the government is procrastinating; it is having more research done and more committees look into the project. The new members on the benches — the Greens — have seen fit to make this a very emotional argument. I have listened to both sides of the case, but I am yet to see decisions being made.

Ms Pennicuik — Totally irrational!

Mr KOCH — I hear what Ms Pennicuik says, but I differ from her. The rational debate, as she would like to call it, has not been extended to the northern part of Victoria, where a water pipeline is being gouged from the north to the south. We have not heard one protest or one item of debate in this house about the Greens' concerns about these matters, yet when it comes to the port of Melbourne, emotions are raised in the metropolitan community. If we are to have major port facilities in, and major export opportunities for, Victoria, we must move forward and not continue to export jobs and grain to either South Australia or New South Wales.

Only recently at a Road Safety Committee public hearing we learnt of investigations by the National Transport Commission into road transport configurations, and that consideration was being given to the possibility of using large four-trailer transports, because it is recognised that our rail infrastructure is in such poor shape that if we have an above-average crop, we may not be able to get it to port. I am appalled that we are thinking of looking at putting more heavy bulk items onto our roads network; ideally they should all be put on a rail network across this marvellous state.

What concerns me is that South Australia and New South Wales are moving in this direction. They are contemplating putting a standard gauge railway line right across the top of Victoria between two city export points, and there is absolutely no doubt grain growers will make sure their grain goes north to that intercity line instead of south to export points in Victoria. That would further affect the viability of the grain industry in Victoria and cost jobs. We hear so often from the government that it is doing everything it can to make Victoria a better place to live, work, and raise a family — yet its members happily export jobs on every occasion and do very little to have further investments made in our rich economy.

Although this side of the house has its concerns about the government not going far enough — when I say that, it will not give consideration to deregulation — we support this bill from the point of view that it puts Geelong and Portland on an even footing with the port of Melbourne at this stage. However, we look forward in the very near future to the government further recognising our position from the point of view of grain handlers, grain growers and rural communities. We all aspire to deregulation; it would free up the Victorian movement of grain and keep opportunities in Victoria; we do not want to export jobs or grain movements from this state.

Having said that, I repeat that the Victorian government is very small-livered about this matter. Its members should be stronger, have far more political will and open up these opportunities for the state of Victoria. I wish this bill a speedy passage and indicate that the opposition will not oppose it.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In so doing I would like to thank all of the members who made a contribution during the second-reading debate.

Motion agreed to.

Read third time.

SUMMARY OFFENCES AMENDMENT (UPSKIRTING) BILL

Second reading

Debate resumed from 9 August; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — At the outset let me say that the Liberal Party will support the Summary Offences (Upskirting) Bill, which addresses an issue that has been around for a number of years. We heard the Attorney-General raise this issue several years ago. In fact since 2002 the upskirting issue — 'upskirting' is included in the title of the bill and is defined in some detail in the legislation — has been a matter of concern in the jurisdiction of Victoria and indeed across Australia. Since 2002 concerns have been raised, and we have heard various commitments from the government to introduce legislation.

We heard the Attorney-General in the other place announce that this issue was a priority for the government. On 27 July 2006 the Attorney-General made a public statement that Victoria would be leading the way in introducing legislation to deal with the issue of upskirting as it has been defined. As I understand it, the Attorney-General's public comments also related to the related offence of downblousing, which has not been addressed by this bill.

At the time the Attorney-General made his statement in July 2006, the Queensland government had already enacted a bill. It did so in December 2005. The Attorney-General of Victoria said that Victoria was going to be the first to act. He said, 'We are going to act quickly and we are going to address the problem', but the reality was that the Queensland government had some six months earlier already put in place its own legislation. Far from leading the nation on this issue, at that stage Victoria was six months behind Queensland. It has taken a full 15 months since the Attorney-General made his public statement in July 2006 to actually see — —

Mrs Peulich interjected.

Mr RICH-PHILLIPS — As Mrs Peulich said, the Attorney-General was defeated by Bob Katter, the federal member for Kennedy in the House of Representatives. The Attorney knows something about Queensland, so presumably he knew about the Queensland legislation at the time he made his statement. It is only now, some 15 months after the Attorney's statement about this issue being a priority for the government, that we see this bill come forward.

Hon. T. C. Theophanous — Are you supporting it or not?

Mr RICH-PHILLIPS — We are supporting the bill; in fact we would have supported it had the government introduced it when it said it would 15 months ago. Nonetheless the bill is finally here, and it addresses some of the concerns that have been expressed in the community about the issue. As I said earlier, this bill — as its title suggests — relates only to the offence of upskirting. The offence is detailed in the bill with respect to certain offences of observing or photographing a person's genitalia and anal region. There is no reference to the equivalent offence of downblousing, although it is self-evident what that offence would be. That was a commitment made by the Attorney-General at the time he made his public statement, but that issue is not reflected in this bill.

Although the Liberal Party will support the bill, we have some concerns about the way it has been drafted, various omissions and what I believe are unintended consequences of how the legislation will operate. The bill provides for the prohibition of the use of a device to observe a person's genital or anal region where it is reasonable for a person — or a victim, if you like — to expect that such a region of their body has not been observed or would not be observed. That is the basic offence created by the insertion of proposed section 41A in the Summary Offences Act. The bill then creates further offences relating to the capture of such observations via various recording devices such as still cameras, video cameras et cetera. The bill creates a further offence of distributing the images which have been created through the two earlier offences. To this extent the bill is fairly straightforward. There are offences of observation, of capturing an image and of distributing an image.

However, when you drill down into the drafting of the bill, the matter is not quite so clear. Firstly, by creating an offence of observing a region of a person's body the bill makes it clear that the offence occurs only if the perpetrator observes with the aid of a device. The device is defined very broadly in the bill. It includes such things as using a ladder and binoculars and items like that, but there is no offence in the bill of simply observing the genital area of a victim. For example, if a person were under a grandstand, looking up, not using a device and not requiring a ladder or any other aid to conduct the observation, that would not be an offence because of the way the bill is drafted. It is only if a device, as defined by the bill, is used, that an offence is committed.

The other area we have some concern about relates to the exceptions for offences. Of course one of the key exceptions is when a person consents to being observed or photographed. Obviously there are a number of scenarios in which that would occur, such as advertising and the production of various media where a particular type of observation and filming would occur. It is not unreasonable that there would be an exception provision in the legislation where the person who is observed provides consent.

However, we also have a concern about the exemption that has been put in place relating to the distribution of certain images, in particular images relating to children. What the bill is quite reasonably attempting to do is allow the parents of a newborn child to distribute photographs of that child. It is entirely reasonable and entirely expected that parents of a newborn baby would want to take photographs and distribute them to family, friends et cetera. It is common behaviour that is perfectly acceptable. The bill is structured in a way that the provision for that exception is covered in proposed section 41D(2), which states:

> (b) If —
>
> (i) the subject is a child or other person incapable of giving consent; and
>
> (ii) the capturing was not made in contravention of section 41B; —
>
> which is the prohibition on capturing an image —
>
> and
>
> (iii) in the particular circumstances, a reasonable person would regard the distribution of that image as acceptable; or
>
> …
>
> (c) by a law enforcement officer acting reasonably in the performance of his or her duty.

Proposed section 41D(2)(b) provides the exception that will allow a parent to distribute an image of their child under those circumstances. In the case of a baby the child is obviously not capable of giving consent and the

capturing of the image is not made in contravention of proposed section 41B, and in those circumstances it would be reasonable for a parent to distribute the image. However, the difficulty arises in that there is no exception provided in the bill for the capturing of the image. While there is an exception to the offence of observing and the offence of capturing contained in proposed section 41D(1), the section does not provide for the exception that exists for parents in distributing an image. Parents can distribute the image, but there is no exception allowing them to capture the image. By virtue of the fact that the exception for distributing the image applies only where there is no offence relating to capturing the image, arguably even with the exception the act of distributing baby photos would be a breach of this legislation because no exception has been provided to allow parents to capture an image in the same way as an exemption has been provided to allow them to distribute the image.

While the Liberal Party is happy to support the intention of this bill and is disappointed that it has not addressed the issue of downblousing in the same way as upskirting, it is concerned that the Attorney-General ran around 15 months ago saying, 'We are going to be the first to do this' and 'This is important', it then took 15 months to get a bill into the house, and now when the bill comes forward there are clearly flaws in the drafting that mean that unintended consequences will arise with respect to perfectly reasonable exemptions.

This is not the first time we have seen the spin from the government first, then the delay in the legislation, and then, finally, when that legislation arises, the flaws in the legislation. This seems to be a recurring theme with some of the legislation introduced by the Attorney-General.

Mrs Peulich — A feature!

Mr RICH-PHILLIPS — It is a feature, Mrs Peulich, and it is simply not good enough that a bill as small as this one contains so many fundamental flaws in its operation, when it has taken 15 months for it to come forward to this house from the time when the Attorney-General foreshadowed it.

Mr DRUM (Northern Victoria) — The Nationals will also be supporting this bill, or at least not opposing it. There have been some concerns among The Nationals about the way this bill has been drafted. There have been some concerns about the actual title of the bill. The legislation relates to offences involving the invasion of privacy, and we believe that would have been a far more appropriate title for this bill than the title that was settled on — that is, upskirting. Obviously the behaviour of a few desperate weirdos last summer and the summer before has warranted the action taken by this government to try to address this problem by putting in place specific offences for this type of behaviour and all the behaviours associated with it.

I know that this is not a gender-specific bill, but in effect we are talking predominantly about men who are trying to prey on women and who are using the latest technologies that are now available to do so. They can put a camera in their shoe or they can put video devices in obscure places and actually take photographs and footage that invade the privacy of others. Technology is improving, and the possibility of this type of behaviour occurring is increasing. Obviously this behaviour is a horrendous invasion of privacy, and it needs to be dealt with accordingly.

The bill will make it an offence to capture by photograph or by video footage another person's intimate body parts in circumstances where it would be reasonable for the other person to expect that such a visual image would not be made. I think the second part of that statement — that is, what it would be reasonable for a person to expect — is effectively the crux of this bill and determines what should be an offence and what should not be an offence. As it says quite clearly in note 1 to proposed section 41A:

> The reasonable expectation test is an objective one — what would a reasonable person in the position of the person being observed have expected.

I think that is effectively how this legislation will be judged in a court of law.

The bill will also make it an offence to distribute by sending or transmitting a visual image which is made of another person's intimate body parts without their consent. I think that is another important aspect of the bill. As has been pointed out by Mr Rich-Phillips, with the technology that is now available a person does not actually have to capture the illegal footage themselves, because another person can simply film some footage and send it on to others and they can capture it at another place. In order to include that aspect within the legislation, transmitting illegally captured footage will also be an illegal act.

There is also provision within the bill to allow the issuing of a search warrant in respect of any suspected illegally captured footage or any illegally distributed material. That is quite a significant step in this type of legislation, but given the types of inquiries and investigations that will need to take place with this sort of offence, The Nationals think it is appropriate and are supportive of those provisions within the bill.

There is no doubt that there will be widespread community support for this legislation as we attempt to clamp down on this sort of behaviour. There is no community acceptance of this type of behaviour and there is no softening of community expectations. Effectively people have a right to their privacy and people have a right to expect that they can go out in public without some pervert taking photographs of them when they are unsuspecting. They have every right to be able to dress the way they want to dress when they go out in public and to have that right respected. I think that is something that this bill will effectively do: it will give people that peace of mind. If anybody wishes to partake in the type of illegal behaviour described, they will be committing a specific offence, and I imagine that will make it easier for our law enforcement officers to actually prosecute offenders.

Whether there are shortcomings in the bill in relation to other aspects of intimate body parts that have not been picked up, whether it could have been worded differently and whether there are some drafting issues that remain to be tested, only time will test out those potential shortcomings. However, all in all this is a reasonably straightforward bill. Hopefully it will start to minimise and have an impact on this type of behaviour. Hopefully the bill's passing through Parliament and the fact that it will now be a statutory offence to partake in these types of behaviours will have a deterrent effect. The Nationals will be supporting this legislation and hoping that it has the impact that we all want it to have. We hope we will see an end to this sort of behaviour and that in coming months women can have a bit more confidence when they go out in public.

Ms PENNICUIK (Southern Metropolitan) — The Greens will not be opposing this bill, but I have awarded it the prize for the silliest name for a bill so far. In saying that I point out that the term 'upskirting' and the term 'downblousing' are trivialising terms. Regarding the purpose of the bill as explained in clause 1(a), which is to make it an offence in certain circumstances to observe, capture or distribute visual images of the genital or anal region of a person's body, we would say that obviously that conduct is a breach of privacy and is not acceptable and that a person subjected to that conduct would be humiliated and upset. However, the question before us today is whether we actually need this bill to prosecute the targeted behaviour. For example, a report on ABC Online on 25 January said:

> A Sydney man charged with taking inappropriate pictures of women at the Australian Open and a city hostel will spend the next two months in jail.

The person pleaded guilty to stalking, using an optical device and offensive behaviour and was charged, convicted and sentenced under existing law for the behaviour that this bill is targeting. Similarly the *Age* on 6 June reported that a tennis fan had been jailed for filming up female patrons' skirts at the tennis. The man was jailed for two months and fined $1000 for offensive behaviour. Again, he was convicted and sentenced under existing law for the behaviour that this bill is targeting. The question is whether this bill is necessary to target the behaviour it says it is targeting.

Another point that has been raised in consultations with the Law Institute of Victoria and the Federation of Community Legal Centres is that the bill focuses on body parts per se rather than on the offensive behaviour — I have already said that that behaviour has been shown to be covered under existing law, because convictions have already been achieved and sentences imposed — and that to bring a bill into the Parliament that has this body-part focus is just buying into the whole social context of the commodification of bodies, particularly women's bodies but also men's bodies. You could also ask: should we not even expect this behaviour — not condone it, but expect it — given the images we are all constantly and legally exposed to?

This brings me to new section 40, the definitions section, in which the body parts in question that are not to be photographed are defined as being those body parts 'whether bare or covered by underwear'. I declare that daily we are exposed to images of such body parts, both male and female, covered wholly or partly by underwear, and I ask: is this bill meant to capture those examples or deter people from displaying those images or impose sanctions on such displays? New section 41D(1)(a) says there is an exception when there is a person's express or implied consent, so obviously in an advertising context you would have to say there probably is express or implied consent for those images to be displayed.

However, in various waiting rooms around the country we are exposed to images in magazines where I would say there was not the express or implied consent of the person. I refer to one example I saw in the 18 June edition of *NW* magazine, which featured a photo of a well-known personality, Ms Britney Spears, whose dress had been blown up by the wind. There was a photo of her posterior region covered by underwear. I would say it was not taken with her express or implied consent and that the intent of publishing that photo, apart from selling *NW* magazine, was to publicly humiliate, trivialise and embarrass that person.

Ms Spears was just going about her daily business and was not in a performance. She was just walking down the street when a covert photo was taken, and subsequently that photo was published. I ask the minister to clarify whether a person who is so photographed could complain under this legislation. It is not conceivable to me that a person would give their implicit or implied consent to have such a photo — a photo that is designed to embarrass, humiliate or trivialise them — of them published.

In my briefing with the department — and I thank it for the briefing — I was told that the aim of the bill was to capture new technologies, such as mobile phone cameras and shoe cameras. In a media release of 27 July 2006 the Attorney-General said:

> With new technology bringing smaller and more discreet cameras, such as mobile phone cameras, we need a consistent national approach.

One of the arguments I heard in the briefing, and which the minister mentioned in his media release, is that legislation needs to pick up these new devices, so I was puzzled to read in the bill that the definition of 'devices' includes such things as mirrors, ladders and tools to make apertures. There is no mention of mobile phone cameras, shoe cameras or pen cameras in the bill. I have to say these are hardly groundbreaking examples of new technology. I assume that the use of mirrors, ladders and devices for making apertures — which I presume means drills — has been in place for a long time in the course of covert observation or photography of people. I am assuming — although I have not done a search of the law files — that people have been prosecuted under existing laws for using such devices. I looked at the bill to try to find the new technological devices mentioned in it, but to my surprise I saw only mirrors, ladders and drills mentioned. I am puzzled as to why that is the case.

I understand that the Victorian Law Reform Commission is looking at public surveillance as part of its reference on privacy, and I think its report is due within a year. I am not sure whether it is still looking at this particular aspect, but it was looking or is looking at a whole range of invasive behaviours in its review of the whole privacy issue. As two people have already been prosecuted under existing laws, as I mentioned, it may have been wiser to wait for the publication of the commission's options paper before introducing this bill, to make sure we get this right. I have read the bill a few times, and I have read people's comments about it; I do not think the bill is as good as it could be, for the reasons I have already outlined.

As I have said, the Greens will not oppose the bill, but we are not sure it achieves what it is purported to achieve or that it will not have unintended effects. It is hard not to see this as a reaction to an issue that has perhaps received more media attention than the frequency of the relevant behaviour may warrant, just because it makes for a mildly sensational media story. Reacting to media sensationalism with unnecessary legislation is not what this Parliament should be focusing on.

Ms TIERNEY (Western Victoria) — It is unfortunate that we need to even consider this bill, but most people are aware that a number of highly publicised incidents have occurred over the last 12 months or so, some of which have already been touched on. We were taken through a number of cases in the media — by the *Herald Sun*, the *Age* and the *Australian* — in regard to a number of incidents that occurred during the Australian tennis open, at a backpackers hostel and on public transport. These situations involved cameras being hidden in shoes, shower alcoves, walls, bags and a variety of other places.

The bill enables perpetrators to be charged with three specific new offences — that is, the taking of unauthorised photographs, the filming of a person's intimate body parts when they are in public, and the distribution of the captured image, whether it be through email or camera. Each act of observation, capture and distribution will be an offence.

It has also been brought to our attention that these new technologies — the advancement of technology in general and the making of smaller devices, such as camera and communication devices, to transmit images and live streaming — need to be taken into account when we draw up legislation. This is essentially an update on the technologies and how people are now using them in ways that I believe were not imagined in the first place. Perpetrators have taken advantage of these developments, often in hidden and very sneaky ways.

I want to talk about the behaviour as well. The bill aims to target pervasive and insidious behaviour perpetrated by offenders on members of the wider community. This behaviour is not always directed at women, but it is mostly women who are affected by this behaviour.

As I said, I think it is unfortunate and, I would argue, dreadfully sad that we need to consider such a bill. Unfortunately bad behaviour seems to reinvent itself time and again. We all need to keep pace with the latest developments so that we can protect the most

vulnerable, and of course in this case also the unsuspecting.

Who would have thought 10 years ago, or even 5 years ago, that intimate body parts of unsuspecting people could be captured on film and that image could be relayed to people the person being photographed did not know at all? Even now when there is some community discussion around this topic, particularly when news of those incidents hits the press, it is clear there needs to be a lot more education in the community about this sort of behaviour. I think everyone — of course not the perpetrators — would agree that it is unacceptable behaviour, and this bill outlines the criminal offences. But I think we need to look at it a bit more clearly and give it a little bit more deep thought.

I would argue that the behaviour that is now being practised by these perpetrators clearly violates women. It is a behaviour that I would argue clearly denigrates women. It is clearly a massive incursion into a woman's privacy. It also does and will make women think twice about going out in public, particularly those women that are not as confident as others, and indeed older women as well; and it recreates a general level of suspicion in the community that just does not have a place in a sophisticated democratic society. A lot of people do not know how this offence is carried out and I think we do need to inform ourselves as well as others so that in the end we can protect ourselves from this behaviour.

I recall the horror and disgust that I had when I learnt of incidences over the past 12 months, but it actually was not until I was looking at this bill that I understood I had actually witnessed this behaviour overseas on an underground railway system some two years ago. It happened to be in Manhattan. At the time I sensed that something was going on. It involved a group of young males on the train carriage and it was a very uncomfortable feeling. I knew something was going on, but I certainly was not in on the joke. Now that I know about the technology, I know about how it is used and I know what they were doing to the other women on that carriage that day.

I would argue that this behaviour is all about power. It is all about the abuse of power and about rendering other people powerless. It cannot be dismissed, I would argue, as some smutty behaviour that you might recall characterised or stereotyped in the 1950s or 1960s. It is not a form of entertainment for other people, and I do not think it can be in any way dressed up as a joke that can be passed on to other people. We can only guess what the consequences are for the victims. Clearly they are someone's mother, they are someone's sister, they are someone's aunt, they are someone's daughter — not just someone else's mother, sister, aunt or daughter, but ours in our community. Until we make this connection in our community I think we will continue to have these types of problems in our society.

This bill is about sending a clear message in the community that this type of behaviour will not be tolerated. Systematic sexism will continue to develop and misogyny will go unchecked if we do not intervene in this sort of behaviour. We all want clear behavioural boundaries, a safe environment and a society based on mutual respect. This bill is designed to intervene and to give effect to working towards this. Perpetrators can now be charged with the three new offences I outlined before. For the unauthorised observation of intimate body parts the maximum penalty will be three months jail, for the unauthorised visual capturing of a person's intimate body parts the maximum penalty will be two years jail and for the unauthorised distribution of visual images of a person's intimate body parts there will be a maximum penalty of two years jail.

I also recognise that the bill complements other pieces of legislation that have been introduced to protect women, and I take this opportunity to congratulate the Attorney-General and his staff on their work in bringing this bill before the chamber. I commend the bill to the house.

Mrs KRONBERG (Eastern Metropolitan) — I rise to support this bill. It is good to see that finally we have legislation before us that makes it an offence, in specified circumstances, to observe, capture and distribute visual images of the genital and anal regions of a person's body. The bill's provisions include the prohibition of using devices to observe another person's nether regions in situations where it is reasonable for them to expect privacy for these regions and that they could not be observed, let alone photographed. The recording described as 'visual capture' of such nether regions in such circumstances is now prohibited. Distribution of images captured in the previously mentioned circumstances is also prohibited. There are provisions to protect broadcasting and datacasting service providers and law enforcement officers who, in the course of their duties, use devices or capture images after receiving express or implied consent. The bill provides new powers to issue search warrants where there is a suspected visual capture or distribution offence.

At last this government is abreast of the march of technology and the manner in which it is used to abuse individuals. However, it is astounding to consider that

the ABC reported on 28 July, way back in 2006, on a meeting of Australia's attorneys-general to discuss a national crackdown on voyeuristic photographs and their publication. We are concerned that in spite of the undertakings by this government the bill ignores the issue of downblousing. The government has claimed it was not feasible to specify an offence that would constitute downblousing. If you can specify legislation for one part of the anatomy I expect you should be able to apply the same principles to cover the other part of the female anatomy for which perpetrators have a fetish.

In July 2006 the Attorney-General in the other place, Rob Hulls, used the terms 'upskirting' and 'downblousing' collectively, by simply saying where someone takes a photograph up a woman's skirt it is upskirting, or where someone takes a photograph down a woman's blouse without her knowledge it is known as downblousing. I do not know whether legislators need some lessons in either geography or anatomy. One is tempted to conclude that this aspect is being held back in order for it to be incorporated in yet another bill on this form of abuse. That being so, it would be yet another example of the Brumby government scratching around for a means to supplement the paucity of its legislative agenda.

We also need to increase the community's awareness of the possibility of becoming a victim of upskirting. Unfortunately this modern social scourge appears to be largely perpetrated by a range of individuals often described as young through to middle-aged men, who prey upon unsuspecting young women, older women and boys. This is not an issue purely for the protection of women. This bill protects the whole of society when people find themselves in circumstances where their privacy is not respected. It protects people from perpetrators preying upon them in public toilets, changing rooms and at sporting events.

Improved technology, such as digital cameras, mobile phone cameras and pen cameras, can be used so discreetly to capture images in low light that anybody can become a filmmaker. To our shame as a society there has been a veritable explosion of lewd images of unsuspecting individuals distributed worldwide on the internet. Unfortunately misguided, silly young girls hoping to get some attention are posting pornographic images of themselves on the internet. These mindless youngsters are in turn preyed upon by website hosts, who are exploiting this trend and encouraging their victims to become 'famous'. Some young persons are even posting images of themselves doing perilous stunts as well. This means we have a potentially dangerous culture swirling all around us.

A *Herald Sun* article of 8 February 2007 puts the problem squarely before us. It claims that pornography has been destigmatised because individuals are actually volunteering to participate. Perpetrators and their behaviour marred the Australian Open when an alert was issued following a number of alleged offences. According to a report in the *Herald Sun* of 27 May, a Japanese student was caught photographing up women's skirts at the tennis. This opportunistic form of depravity was later reported at the backpacker hostel the offender was staying at as well. Interestingly enough, he has since been sentenced to jail for filming up female patrons' skirts. Ironically this goes to highlight what the Law Institute of Victoria has asserted about this legislation — that the behaviour is already prohibited.

According to the *Age* of 6 June 2007 a second man has been sentenced to jail for two months for also upskirting at the Australian Open. His defence included statements such as the fact that he found women 'sexy' and was 'moved by impulse' without thinking he was being intrusive. He has been released pending appeal. According to a report in the *Herald Sun* of 27 May, some depraved upskirters have captured images by mounting cameras on the toes of their shoes. Images have been taken on trains. Apparently minute cameras the size of 5 cent pieces are now available and can be ordered by these depraved individuals on the internet.

Through new technology anyone nowadays can respond to basic urges in a mindless fashion, so surely a balance needs to be achieved to ensure that likely perpetrators in the future and those who might like to rely on spontaneity as a defence will think twice. This legislation, whilst welcome, has its shortcomings. It does not deal with downblousing, and the law institute itself regards it as overly prescriptive and too broad in application. However, now that it is armed with this legislation, I call upon the government to turn its attention to the education of young women and boys so they can be fully aware of the dangers of being a victim of depraved practices such as upskirting and downblousing that has brought this legislation before us.

Ms DARVENIZA (Northern Victoria) — I am pleased to rise and make a few comments in relation to the Summary Offences Amendment (Upskirting) Bill 2007. This bill demonstrates quite clearly to the public that our government is about protecting women and their women's right not to have photographs of them or of their body parts taken and distributed without their consent. This goes right to the heart of the matter of a number of instances that have been reported of charges being laid and cases being prosecuted against people

who have been involved in this activity of taking photographs of women's intimate body parts by using cameras or mobile phones or other digital devices that they may have obtained.

This bill prohibits the unauthorised visual recording of another person's intimate body parts and related behaviour without the subject's knowledge or consent. What often happens with upskirting is that it happens without people even knowing it is occurring. Not only can these images be kept by that one individual, but they can also be distributed and posted on the internet as well.

In summary, what the bill proposes to do is to create three new offences — the unauthorised observation of a person's intimate parts; the unauthorised visual capturing, including recording, of a person's intimate body parts; and the unauthorised distribution of a visual image of a person's intimate body parts. The bill provides specific search warrants and powers for police, matching those that are currently available for other indictable offences.

I remember when I mentioned to some friends of mine that we were working on a bill to bring to Parliament to deal with laws to cover upskirting, a response was, 'Why would you need a specific law? Why would you need a specific bill? Don't you already have enough laws to be able to cover this type of behaviour?'. There have been successful prosecutions using existing laws — a range of existing offences, such as offensive or indecent behaviour, stalking and illegally using an optical device. However, there are limitations and inadequacies of these offences in relation to particular factual circumstances and occurrences that have happened in individual cases.

This bill is about creating specific and unique offences, and we will be ensuring that women have the protection, not just now, not just today or next week, but well into the future. This sends a very strong message that this sort of behaviour will not be tolerated in Victoria, and that this behaviour, if it takes place, will be punished, and it will have the full force of the law behind it. This is not a joke. This is not a bit of a laugh. This is very serious and unacceptable behaviour, and it can have lasting consequences on women, in particular, if they discover that this sort of activity is taking place, as has already been pointed out by other members in this chamber. I heard Gayle Tierney's contribution. She spoke about being in a situation where she observed this behaviour happening, and of course that can be very distressing.

A standing committee was organised by the attorneys-general, and this government led the push to introduce specific laws to ban upskirting right across the country, but it was agreed that this behaviour should be specifically outlawed. Each jurisdiction agreed that that should happen, but they also agreed that each jurisdiction should be introducing legislation that is appropriate to their framework and to their particular policy direction. This bill demonstrates that the government is responding to a whole range of challenges that are being presented to us by new technologies and social changes. This will be ongoing. These challenges are not just here today.

We have technological advancement that we have to keep pace with, not only in the way we conduct our business but also in the way we provide our law enforcers with the ability to detect and punish this kind of behaviour when it occurs. The advent of cameras in mobile phones, digital recording devices and of course the internet has been only fairly recent.

There has been quite considerable and wide consultation over the preparation of this bill. The Victorian police, the Office of Public Prosecutions and the privacy commission were consulted during its preparation. The Attorney-General — or perhaps it was the Premier — also issued a media release which said we would be looking at specific laws targeting upskirting with a view to introducing them into Parliament in this session. The bill has a great deal of support within the community, and it has a great deal of support within the Parliament from all sides of the chamber; it is a good bill and it deserves the full support of the Parliament. I commend the bill to the house.

Ms LOVELL (Northern Victoria) — I rise to speak on the Summary Offences Amendment (Upskirting) Bill. The right to privacy is a fundamental human right and any assault on it should not be tolerated. Offences which breach privacy have always existed. We have had laws for things like voyeurism, peeping Toms and stalking for many years. These offences have previously been covered by the Crimes Act.

The need for the current legislation has been brought about by new technology that has created some uncertainty about offenders being convicted under the Crimes Act. As an example, I will quote from an article covering one of the earliest reports in this state of the offence that is now known as upskirting.

The article that goes back to 14 June 2002 was printed in the *Age*. It talks about a case in which Colin Murray Crawford used a hidden camera to film up the skirts of 47 women, and although Mr Crawford pleaded guilty to

two charges of offensive behaviour, he actually contested 47 charges of stalking. His lawyer, Mr Chettle, told the court:

> …that while Mr Crawford did not dispute that he had committed the offences, his actions did not amount to stalking under the Crimes Act.

That was, he said, because it had not caused stress to the women because they did not know it was happening at the time it was happening. The article goes on to say that after the event, when the women knew about it, they told the police they felt 'shaken, invaded, embarrassed and sick', but there was a loophole in the law that meant that because they did not actually feel that way at the time of the offence, Mr Crawford may have not been convicted for stalking.

The reason we bring these sorts of new laws before the house is to keep up with modern technology. I note that the police prosecutor in that case in Victoria was one Senior Constable Serge Petrovich, who has gone on to become one of the leading barristers in the city of Melbourne nowadays.

In an interview on ABC's *The World Today* in July 2006 the Victorian Attorney-General, Rob Hulls, told Samantha Donovan:

> Most jurisdictions believe that they have legislation that may cover those instances, but that's not clear, and so I'll be asking for a national approach to ensure that that type of inappropriate behaviour is certainly covered by laws right across the country.

As we have already heard, there was some doubt about whether the laws that were in place would cover these incidents or not. The law needs to keep pace with the advancement of new technology and the accessibility of the internet. We have all seen that advancement in our lifetime — we have seen cameras get smaller and smaller until we now have cameras that are the size of a 5 cent piece, we have phones that can take a photograph and transmit it immediately to other people, and we know that these sorts of cameras can be hidden in people's personal apparel, such as their shoes. The distribution of these photographs is also made so much easier by email and the ability to post things on the internet.

The purpose of this bill is to make it an offence in specified circumstances to observe, capture or distribute visual images of the genital or anal region of a person's body. The Liberal Party has been calling for a tightening of these laws for some time; we support the government finally adopting the Liberal Party's position on this important matter, but it has taken far too long to introduce this bill.

As I have already said, we can go back as far as 2002 to cases brought against individuals for upskirting, but it has taken the government five years to act. It was only really when upskirting hit the headlines because of three incidences of that offence at January's tennis Australian Open that the government decided to act. At the time then Premier Bracks announced that the Attorney-General would bring legislation into the Parliament by April or May, but the Attorney-General must have been on holidays — he must have been down at his beach house at the time because he actually missed the government's deadline of May to bring this legislation into the house. Here we now are, finally debating it in September, four months after the then Premier's deadline.

The main provisions of this bill will prohibit the use of a device to observe another person's genital or anal region where it is reasonable for them to expect such a region could not be observed. It will prohibit the visual capture of such region where it is reasonable for a person to expect that his or her body parts could not be visually captured. It will prohibit a person who has visually captured an image of a person's private body parts from distributing that image and will provide an exception when express or implied consent has been given for the capture of that image or when the material is captured from something that has already been published online or via a broadcasting or datacasting service or by a law enforcement officer acting reasonably in the course of their duty. It will also confer on a police officer who has a rank above the rank of sergeant the power to issue a search warrant in relation to an alleged visual capture or distribution offence.

We have a couple of concerns about this bill. Other speakers have already noted that it does not include the practice of downblousing. I agree with Ms Pennicuik that the names of these offences — upskirting and downblousing — are rather silly. However, because we all understand what we are talking about in the context of this bill, we will continue to use that terminology. Originally the Attorney-General said that this legislation would include both upskirting and downblousing. We were told at the briefing on this bill that the Standing Committee of Attorneys-General officers report had said that it was not actually feasible or practical to specify an offence that would constitute downblousing. I do not know why. The bill already says that we cannot take photos of people's anal regions, so why can it not also refer to a woman's breasts.

The Law Institute of Victoria has raised concerns about the publishing in sports and gossip magazines of pictures of celebrities taken by the paparazzi, and we

have heard examples of that already cited. We all know that unfortunately the paparazzi are fixated with getting a photograph of a celebrity in an unfortunate situation. We saw even royalty caught up in that when Sarah Ferguson, the Duchess of York, was photographed with her skirt blowing up around her neck and her underwear was exposed. It is disappointing that some people find these things funny and that people publish such photographs. Unfortunately, however, it sells magazines. This legislation may actually leave publishers in a little bit of a sticky situation, and I am sure that is not what was intended by the legislation. Quite honestly, if the legislation stopped the paparazzi putting a camera over somebody's fence and taking a photo of them whilst they were sunbathing when they thought they were in private, that would probably be a good thing.

There are many examples of the types of things that may fall under this legislation. A report in the *Herald Sun* from February 2002 says:

> Unsuspecting Melbourne women may have been secretly filmed, with lewd pictures of them being posted on the internet.

That report also says:

> … there seems little they can do about it unless they catch the hi-tech peeping Toms in the act.

It goes on to say:

> One offered videos of schoolgirls it claimed were sneakily filmed on Melbourne streets. Another offered videos of 'high-class Aussies' purportedly in shopping centres.

These were people just going about their ordinary daily lives who were captured without their knowledge by some sort of hidden camera and whose images were then posted on the internet against their will. A 2002 press report concerns a website that contained photographs of teenage Melbourne schoolboys taken without their consent. Again, that caused a lot of concern for the school they attended and for their parents. The website featured pictures of male students involved in a variety of sporting activities such as rowing and playing football.

In January 2007, as I have already said, three incidents of upskirting were reported at the Australian Open tennis. That created a furore in Melbourne and has led to this legislation being in the house. In May 2007 there was a disturbing report of a man who had caught a Frankston-bound train and filmed a 14-year-old schoolgirl on that train. That report says:

> The teenager, her mother and another friend were forced to change carriages at Ormond railway station after they saw a man taking photos at 1.45 p.m. on 25 January. Detectives were told the man sat across from the girl and used the phone to take pictures up her dress.

Fortunately the man was later arrested after the police reviewed surveillance footage. Again, that is disturbing because that young girl was on a train in the company of her mother. That shows that people who undertake this sort of practice, although they try to do so secretly, are rather brazen. Of course all the pictures we have talked about can be captured on a camera which is no bigger than a 5-cent coin and which can be ordered on the internet.

There have also been reports of mobile phone cameras being used to surreptitiously take photographs in public change rooms and at swimming pools. The most horrific story I have heard was told to me early last year when I visited a school in the western suburbs of Melbourne. The principal of the school told me that three female students in year 10 had come to her that year and said, 'Miss, we do not know what to do, we are in an awful situation'. They had had intimate relations with their boyfriends at school, the boyfriends had videoed the encounters and emailed the video to the entire year 10 class using their mobile phones. That was an horrendous thing for those 16-year-olds to face, and it will hang over them for the rest of their lives. They will continue to wonder whether those videos are going to come back to haunt them.

This happened not long after a similar example was screened on a TV show, the one about the first female American President, called *Commander in Chief*. In that show her daughter had been in a similar situation: a male had tried to get footage of the daughter of the president. I do not know whether the young boys in the incident at the Melbourne school thought they were smart and were copycatting that TV show, or whatever, but they certainly showed no respect for the young females concerned. As I said, it is horrific that those young females will have that incident hanging over their heads for the rest of their lives.

On 27 May 2007 the Attorney-General in the other place, Rob Hulls, was quoted in the *Herald Sun* as saying:

> Our laws need to reflect new technology producing smaller and more discreet cameras, such as mobile phone cameras.

That is right, and this is why we are debating this legislation.

In June 2003 the media reported that the YMCA had banned mobile phones in sports and aquatic centres, in response to the potential for invasion of privacy with mobile phone camera technology being used to take

photographs in swimming pools and change rooms. It is sad that we have come to that stage in our society, but unfortunately there are people who will take advantage of those situations, and we have to protect the innocent parties who would otherwise be damaged by such actions.

Unauthorised photos can also be of a more private nature. I have already talked about that in relation to the incident involving the young girls at the high school in the western suburbs of Melbourne. It can also involve photos of nudity or sexual activity, people in toilets and the example of upskirting.

Other jurisdictions also have legislation that covers indecency offences. The Northern Territory has an offence for publishing an indecent article. That is one that depicts, describes or represents in a manner that is likely to cause offence to a reasonable adult, a person, whether or not engaged in sexual activity, who looks like a child under 16. This offence would, however, appear to have a limited application in that an image of schoolboys rowing or acting as surf lifesavers may not be considered indecent even though it would cause offence to the people involved. In Tasmania it is an offence to behave in an offensive or indecent manner in a public place and to insult or annoy any person.

Queensland, as was noted earlier, was the first state to ban the practice of upskirting. It did that in December 2005; so far 10 convictions have been recorded under that legislation. It was to Queensland's credit that it got on with the job and legislated while the Victorian government procrastinated.

The newspapers reported what was said in debate in the lower house, and members have had the opportunity to read *Hansard*. Some rather bizarre comments were made by the member for Mitcham in the other place, Tony Robinson. He alleged that pop video clips, such as one by the Pussycat Dolls, encourage men to take upskirting pictures of women. I found that rather offensive. I thought it was a ridiculously sexist generalisation about all men in the community.

He virtually said that if women dress scantily, they are inviting men to violate their privacy in a sexually deviant manner. As I said, that is insulting to the majority of males in our community who would not violate women in such a manner. If you apply Mr Robinson's comments in a general manner, you see there is common ground between what he said in the debate and the comments made by Sheikh Al-Hilaly who likened scantily clad women to uncovered meat. Both were wrong in their comments and should be condemned for them. Women have fought hard for their right to dress as they wish, and young women should be able to express their personalities without that being seen as an invitation for any sexually deviant actions and without all men in our community being thrust into the same file by Mr Robinson. If Mr Robinson were so concerned about the issue of upskirting, he should have taken up the issue with the Attorney-General back in February 2002 when the press first reported this type of behaviour, to ensure that Victoria passed laws that protected people from having inappropriate photographs taken of them.

There is a concern about the definition of a 'device' in this legislation. The definition section of the bill states that 'device':

> … means device of any kind capable of being used to observe a person's genital or anal region including —
>
> (a) a mirror; and
>
> (b) a tool when used to make an aperture; and
>
> (c) a ladder —

The concern about this is that because it says 'and' three times, the definition could be interpreted as meaning a mirror plus a tool plus a ladder. It may have been better to use the word 'or' so that it did not have to be all three in conjunction but rather could be one or the other. I presume parliamentary counsel has looked at the legislation and is satisfied that it serves the intended purpose. That concern was raised with me by somebody who I thought should know what they were talking about. I flag it in this debate as a concern.

The second concern that this person raised with me involves the term 'a tool when used to make an aperture'. The person said it would not include an existing aperture used by an offender to view a victim. In other words, if you drilled a hole in a wall of a change room and took a photograph through that hole, it would be an offence; but if you peeped through an existing hole in the wall, apparently the loophole is that it would not be an offence because you did not make the aperture — you just made use of an existing hole.

In conclusion, Victoria was one of the first states to start to talk about upskirting, but unfortunately it has been slow to act. The Law Institute of Victoria and others have raised issues about sloppy drafting of the legislation. It would be a shame if the drafting were found to be sloppy, because that would show the Brumby government does not hold women's issues in high regard.

It took the Liberal Party to embarrass the government into finally acting on its promise, and I hope it was not a loosely made promise; I hope it is one it intended to honour. It took the Liberal Party to force the government to act on that promise. The delay in introducing this legislation has sent a message to offenders that the government is not really serious about cracking down on these crimes.

Mr SOMYUREK (South Eastern Metropolitan) — I join the debate in support of the Summary Offences Amendment (Upskirting) Bill. The objective of the bill is to prohibit the unauthorised visual recording of another person's intimate body parts and related behaviour without the subject's knowledge and consent. The bill fulfils the government's public commitment that Victoria will have specific, unique legislation to criminalise the activity colloquially known as upskirting — that is, taking photos up women's skirts without their knowledge — and related behaviour.

More specifically, the bill creates three new offences: unauthorised observation of a person's intimate body parts; unauthorised visual capturing, including recording, of a person's intimate body parts; and unauthorised distribution of a visual image of a person's intimate body parts.

I am not going to speak for long today — I think this legislation is very clear cut — but I have had difficulty trying to work out whether this type of deviant behaviour is due to technological progress or the more sexualised society in which we live. I have come to the conclusion that it is probably a combination of both. Whatever the reason, it is sad that we need to legislate to ensure that this deviant behaviour does not occur. It is sad that one-half of our population cannot enjoy their freedom without fear of their intimate body parts being photographed or videotaped whilst they innocently go about their daily routine. The perpetrators of these acts obviously have some serious mental health deficits, for which I suggest they seek immediate assistance.

In conclusion, these laws strengthen our existing laws, which already prohibit associated behaviour — including stalking, using an optical device without consent, indecent behaviour and, if a minor is involved, producing child pornography. I commend the bill to the house.

Mr GUY (Northern Metropolitan) — I rise to speak on the Summary Offences Amendment (Upskirting) Bill 2007 and indicate from the start that the Liberal Party intends to support this piece of legislation. It opposes at every point the kind of behaviour that the bill talks about and deals with. The bill makes it an offence in specified circumstances to observe, capture or distribute visual images of the genital or anal region of a person's body and will amend the Summary Offences Act 1966 to ensure that this occurs.

There are six main provisions of the bill. Firstly, it prohibits the use of any kind of device to observe another person in such regions where it is reasonable for them to expect that they should not be observed.

Secondly, the bill prohibits the visual capture of any region of a person where it is reasonable for anyone to expect that that region of their body could not be viewed or visually captured.

Thirdly, the bill prohibits a person who has captured any such images of regions of a body from distributing that image, such as on the internet or other means that are common, and I note Ms Pennicuik's early comments about Britney Spears. Ms Lovell raised these serious points as well, and they are addressed in clause 3 of the bill.

Fourthly, the bill provides exceptions regarding the use of certain devices in the capture of an image where express or implied consent is not given, such as where it is done via the internet, broadcasting, a datacasting service or by a law enforcement officer in the reasonable course of their duty. In other words, it will give permission to those people to go about their daily business without this bill impacting upon them when it is necessary for them to do so in the course of their daily work.

Fifthly, the bill provides exceptions regarding the distribution of images where there is express or implied consent to the distribution for a particular purpose, where a person such as a minor is incapable of giving consent and where a reasonable person would regard distribution as acceptable, such as by a law enforcement officer in the course of their duty, as was mentioned earlier.

Sixthly — and lastly — the bill confers the power to issue a search warrant in relation to alleged visual capture or distribution offences. As we have gone through the six main purposes of this bill, it is quite a shame that we have come to a situation where the Parliament has to make such laws, but unfortunately such is the society we live in and these are the challenges with which this Parliament is faced.

However, I agree with Ms Pennicuik's earlier comments — that is, that including 'upskirting' in the name of the bill somewhat trivialises and does not fully encompass the nature of the bill and what it is about,

because it is about more than the activity referred to as 'upskirting'. There are terms that are much broader than that, but they have not been captured in the name of the bill. However, that is just the name of the bill; the detail is what counts. After all, we have been talking about some disgraceful and serious offences, and they all need to be taken into account.

As I said, the bill is important and deals with the abuse of new technologies, such as mobile phones, and other abuses on the smuttifying internet that have arisen from incidences that occurred in Victoria in late 2006 and early 2007, most notably on a Melbourne tram and at the tennis. I will not go into the detail, but I think everyone is aware of an incident that occurred on a Melbourne tram in which a young gentleman fitted a shoe or a boot with a camera to take images up people's skirts.

Mr Rich-Phillips interjected.

Mr GUY — 'A young person', I should say. Mr Rich-Phillips is quite right — that young man was not a gentleman at all. There was another incident at the tennis in which a young male filmed women in lavatories, and other offences have been reported on the public transport network and have been mentioned by other members of this house. It really is quite disgraceful. Again I say that it is a shame that it has come to this. It is a shame that we have to legislate to ensure that decency has to be adhered to and that basic elements of privacy have to be respected, but unfortunately that is what we are dealing with today.

The bill also makes it an offence for people to drill holes in toilet walls to try to capture images of people through them. I remember that happening when I was at university back in 1994. The bill makes this activity an offence, and so it should. It is important to remember that this bill is not just about women's privacy; it is also about men's privacy. The incident I remember happened at La Trobe University in the mid-1990s when I was a member of the student representative council. I reported to university authorities that this was going on, and I was pleased to see security step in and clean up the toilets that were being abused and ensure that that activity did not continue. The bill certainly strengthens the rights of any person to privacy. Anyone has the right to ensure that their privacy is protected from unscrupulous photos being taken and from people engaging in these kinds of actions unbeknown to the person being viewed.

As I said before, comments have been made about the filming of well-known celebrities — I think it was Ms Lovell who referred to them — and that is a relevant point. It seems that people have taken pictures of celebrities in varying degrees of undress — some in undergarments — and the images have been placed on the internet for public viewing. Obviously it is a serious breach of people's privacy. The people who do this are intrusive and the activity is unfair to the person involved. But the bill is more than about protecting privacy; it is about prosecuting those who go further and distribute the material they have obtained by this illegal means.

The bill makes it an offence to distribute, send or transmit a visual image of another person's intimate body parts without the consent of that individual. The bill also provides that where the subject is incapable of giving consent — such as a child or an older person — the visual image be distributed only in circumstances in which a reasonable person would regard the distribution as acceptable. Despite not interfering with current child pornography laws, I would say that certainly does aid them.

It is argued by some that specific offences — such as upskirting and associated behaviours — are already prohibited under existing punishable offences, such as indecent behaviour, stalking and other offences. That is true, but it is important that we specifically target this offence and make it known that this behaviour is certainly offensive and unlawful. It is important that Parliament — and the government as a whole, and all of us as parliamentarians — keep up with technological change.

Increasingly digital cameras are becoming smaller, as are cameras on mobile phones. Cameras can be put in just about anything nowadays, and they are very small, as we all know. It is important that we make sure that transmission of such visual images without a person's knowledge via these new technological means is prohibited and that they are not allowed to be placed on the internet or videostreamed by other means. It is important that we take a stand against this kind of behaviour. The bill is not just about recording videos or taking photographs, such as holiday snaps or outings with family and friends, in public places. It is important to remember that the bill is specific in what it prohibits.

Noting all of this, there are some concerns that the Liberal Party has. The government made significant mileage by promoting this bill, introducing it and saying that the government wanted to introduce the bill as a priority for the Parliament. But it has been a number of months since the Attorney-General made comments to the media which generated a lot of publicity. This bill has been a long time coming to the Parliament. The bill also does not deal with the term

'downblousing', despite the Attorney-General saying that he would introduce legislation that would do so. I notice that officers of the Standing Committee of Attorneys-General via the Department of Justice have said that it was not feasibly practicable to specify this offence, although the Attorney-General said that it would feature as a part of this bill.

The third point to note is that the Law Institute of Victoria has not supported the bill. The law institute believes the bill is overly prescriptive, it is too broad and the application of the offences mentioned are already prohibited. That may be true, but it is important for us to take a stand on such behaviour and to take a stand against those who have in their minds that they can get away with such behaviour, because they cannot. As I have said, these are important points to note and it is important that we have these concerns. They have been considered by the Liberal Party, and it is supporting the bill. Despite the failings of the bill, we will support it. We will ensure it will pass today. In conclusion, I hope it does not become a precedent that Parliament has to continue to legislate to protect human decency and privacy because of those in our society who seek to continually undermine it.

Mrs PEULICH (South Eastern Metropolitan) — I rise to make a few comments in relation to the Summary Offences Amendment (Upskirting) Bill 2007. Most of my comments will basically reiterate some of the earlier comments by members of the Liberal Party and Ms Pennicuik who, in her appraisal of the bill, canvassed some of the complexities and some of the flaws of the legislation.

The first obvious flaw in the bill is its title. The word 'upskirting' in this drafting of the legislation is intended to refer to both males and females. As far as I know, most men do not wear skirts, although there are exceptions: some Greeks wear their folkloric outfits and Scotsmen wear kilts. The fact that the bill is called an upskirting bill I think reveals the intentions of the government, which basically is that the Attorney-General is more interested in getting a sensational headline than administering and framing good law and addressing any sort of problems that the current laws do not capture or adequately address. It has been mentioned that under current law a couple of prosecutions have already occurred. This shows that this legislation is more symbolic than anything else, given that the nature of the particular behaviour is already a breach of existing law.

I believe that the drafting of this legislation is particularly messy. My concern is that there may well be a range of unforeseen consequences, and that the bill will capture a wider range of behaviours than was intended. I understand and accept that new technology, in particular smaller technological devices, have been used and can be used to transmit and distribute visual images of private body parts especially because of the advent and proliferation of mobile phones and their usage and also the internet. However, the internet is excluded from the provisions of the legislation.

Firstly, if we are applying this particular piece of legislation even-handedly to the two genders, it offers greater protection to men, insofar as it protects their most private body parts, than it does to women, as was pointed out by Ms Lovell, by excluding the invasion of privacy by the capture and distribution of visual images of women's breasts. I will not call this 'downblousing' because whilst this term conveys behaviour in its common context, I think the term is intended for sensationalism and I would not like to contribute to that.

The specific concerns which were raised in the Scrutiny of Acts and Regulations Committee, of which I am a member, are noted in the general comments in the Charter of Human Rights and Responsibilities Act statement of compatibility which is on page 5 of *Alert Digest* No. 9 of 2007. The general comment made by the committee in regard to this is:

> The committee accepts that the offence provisions proposed by this bill may engage a number of charter rights. The committee observes that the rights so engaged are competing rights which are usefully canvassed in the statement of compatibility.
>
> The committee refers to the Parliament the question whether a reasonable and proportionate balance has been achieved by the measures introduced by this bill.

Those sorts of questions were aired by Ms Pennicuik and include, as I alluded to earlier, the issue that the bill does not offer equal protection of the law without discrimination. The bill clearly criminalises the surreptitious observation and photographing and the non-consensual distribution of photographs of genital or anal regions. It does not do the same in relation to women's breasts. Arguably by fully protecting all of the private parts of men and only some private parts of women, the bill leaves women less protected than men from the invasion of privacy and loss of dignity. However, existing legislation is able to do that quite effectively; although, as I said before, the particular issue of the use of mobile phones to commit similar offences needs to be addressed.

Another concern which has been raised is arbitrary interference with families. The bill potentially criminalises parents surreptitiously observing or

photographing their naked or underwear-wearing children. No defences are available in this context. In particular the defence of consent is clearly not available because consent must be given by the person who is photographed or observed. This is something that cannot occur with young children. In addition, distributing surreptitiously taken photos of children is also a criminal act to which no defences are available. In particular, the reasonable person defence would be unavailable if the photographs were taken surreptitiously.

While surreptitious observation or photography of naked or underwear-wearing children — for example, a parent setting up a video camera to film a nappy-free or underwear-wearing toddler when they are alone — is probably a very minor aspect of family life, and of course criminalising it is arguably an arbitrary interference, this problem could be avoided by providing for parents or guardians to consent on behalf of a child, if the child is incapable of consenting, or by simply exempting young children from these provisions altogether. I understand that the reasonable person test would apply.

The other concern that has been raised is the freedom of expression. The bill criminalises the distribution of photos of genital or anal regions by a photographer whether the photographs were taken surreptitiously or not. Photographs of naked adults can be distributed only if the adult consents to the distribution for that purpose. The statement of compatibility argues that this is reasonably necessary to respect the rights of the person photographed, but it could be argued that the provisions go too far in circumstances where photography is non-surreptitious, at least for some sorts of distribution.

For example, if someone takes a photo of a friend at a nudist beach where there are myriad other naked adults in the background and then emails a copy of that photo to a friend, the people in the background could scarcely be said to have consented implicitly to that distribution, but they are equally unlikely to be bothered or harmed by it so long as the distribution is not wide or embarrassing. This problem could perhaps cause, as I said, some of those unintended consequences that have been canvassed by a number of members.

A further concern relates to the bill providing a defence for law enforcement officers but not providing a defence where circumstances require a lay person to distribute a photograph or a video they took of a naked adult in order to pursue a civil action or defend a criminal one — for example, distribution to a lawyer, an expert witness, a relevant lay witness or indeed a court or tribunal — when the nature or context of the photograph may be a matter of dispute or may be relevant to a matter in dispute.

I wanted to get on the record some of the issues that have been raised with me in relation to this legislation. I certainly hope that common sense prevails and that in fact the interpretation of this legislation will not extend to the level where it will cause much greater problems than it is intended to address. With those few words, I wish the legislation a speedy and sensible passage.

Mr ATKINSON (Eastern Metropolitan) — I take the same line as Ms Pennicuik on this particular legislation; I do not believe it is necessary. I believe we already have legislative coverage for these offences, and to some extent this sort of legislation is simply an expression of the government's approach to window-dressing by trying to bring into this place a whole series of smaller and very specific bills so that it can claim it has a strong legislative record and that it is involved in bringing forward a lot of legislation to establish some sort of relevance for this Parliament.

What concerns me is that while we fiddle with legislation like this — legislation for offences that are already covered by existing legislation — our federal counterparts are running around looking to divest or to plunder every state responsibility that we have. Effectively both sides of federal Parliament are looking at every aspect of jurisdiction in the states and saying, 'These can be better done nationally'. When it comes to us not looking at the areas of responsibility that we have, not addressing a more robust legislative program and not engaging in more comprehensive debates on matters of state jurisdiction, we are in fact playing into the hands of those who would say that the states and the state parliaments are unnecessary and that the federal government could get on and do a much better job in most of those areas of responsibility.

The reality is that some speakers in this debate have mentioned a number of occasions when offences have been committed. I find it interesting that they were actually able to point to those examples. The reason they were able to point to those examples is that they all resulted in convictions, they all resulted in penalties and they all resulted in the effective use of existing laws to address what is — make no mistake! — offensive, obscene and totally unacceptable behaviour in the community. The laws are already there to do that.

The fact is that when you bring in pieces of legislation like this — in my view, pieces of legislation that are rather prescriptive — you introduce new problems, because then you introduce the problem of what is not

in that prescriptive legislation. The prescriptiveness of this bill will actually create a greater problem for the courts than they have now in dealing with offences that are already available to them for conviction in regard to offensive behaviour and a range of other matters, including stalking and so on.

Some members have talked about downblousing and the fact that that is not included in the legislation. I actually regard that as being every bit as serious as the matters that are included in this legislation, because it is the same offence. It is an invasion of somebody's privacy, it is offensive behaviour, and it is an activity that ought not be tolerated by any reasonable person in the community. But the reality is that because this legislation is prescriptive, it leaves what has been dubbed in this debate as downblousing out of the issue.

There are anomalies in this legislation. There are problems for the police in this legislation, because there are issues in regard to how somebody came by what might well be their catalogue of disgusting photos. They are going to be able to say, 'I just downloaded them all off the internet. The one that you think I might have taken out in the shopping centre or at the tennis or such like, okay, I'll plead guilty to that one, but the rest of them I simply got off the internet', and that is quite permissible under this legislation.

I hope that the minister, in his third-reading speech, will indicate to the house the circumstances under which a law enforcement officer would reasonably be entitled under this legislation to an exemption from the offence of capturing videos of people's genitalia, because I do not quite understand the circumstances in which that might be exempted. I note that in the legislation there is an example of doctors who might be sending a photo to someone else for the sake of a second diagnosis. I am not sure that that actually needed to be put into the legislation in the way it was, because I would have thought that there would be a consent or an implied consent anyway. I would not have thought that a doctor would be acting outside of the consent of a patient in any event, so I am not sure exactly why that is there.

Certainly when it comes to law enforcement officers there is no explanation of what part of their duties would reasonably involve this sort of behaviour, and I would like to know, because I think that in the context of this legislation that ought to be part of the explanation given now. It creates potential anomalies going forward.

As I have said, I am no apologist for this sort of behaviour. I think it is outrageous. I think we should be very strong against this particular behaviour, because I find it an extraordinary invasion of people's privacy and most offensive. I understand that some of the people who engage in this behaviour go to very elaborate lengths to do so. I have heard of an example in New South Wales where somebody was apprehended who had basically packed a sports bag and actually configured the sports bag in such a way that his camera poked out at part of the zip opening and he was able to put it down on escalators and take photos in some manner using this system. Some of these people are going to elaborate lengths, and we ought to crack down on that. I would also suggest that those people need more than simply being penalised; they also need help.

The reality is that legislation already exists. The reality is that this bill is another bit of window-dressing by the Attorney-General. It is another specific piece of legislation which, because of its very prescriptive nature, is likely to wind up creating more problems than it solves and to take us backwards rather than to continue any progress that has already been made regarding prosecutions under existing legislation.

Motion agreed to.

Read second time.

Third reading

Mr JENNINGS (Minister for Environment and Climate Change) — By leave, I move:

That the bill be now read a third time.

I appreciate the speed at which the Council has considered this matter, and I thank members for their contributions.

Motion agreed to.

Read third time.

LEGAL PROFESSION AMENDMENT (EDUCATION) BILL

Second reading

Debate resumed from 9 August; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The Liberal Party does not oppose the Legal Profession Amendment (Education) Bill 2007 — —

Mr Pakula — Say 'support'.

Mr RICH-PHILLIPS — But we do not fully support it either, Mr Pakula, and I will get to the reasons for that. The bill before the house is largely a machinery bill. It makes a number of changes with respect to the assessment of the qualifications of people who apply to the Supreme Court of Victoria for admission as practitioners. It also makes some other machinery changes with respect to the operation of the Board of Examiners and the Council of Legal Education.

The bill's main provisions are contained in part 2. These relate, firstly, to a requirement that applicants applying for admission to the Supreme Court of Victoria based on overseas-obtained legal qualifications pay the reasonable cost of the investigation of their claimed qualifications. The Liberal Party recognises that it is an increasingly common practice that applicants be required to pay the cost of investigations into their various applications, not only in the legal profession but in other areas. Our concern is with the term 'reasonable costs', in that determining that something is 'reasonable' is a subjective matter. What may be reasonable to the Board of Examiners may not be reasonable to the applicants.

I am thinking of the select committee inquiry that is underway and has taken evidence on gaming matters. The applicants under the relevant process there were required to pay the costs of investigations into their applications. Those costs ranged between $25 000 and $200 000. So 'reasonable costs' is a very subjective term, and its meaning depends on the context in which it is used. In the case of those applications for gaming licences, the costs of the investigations ranged into six-figure sums.

Now, no-one expects that investigations under this legislation will cost anything like that amount, but that does serve to emphasise that what may be reasonable to the Board of Examiners is not necessarily going to be reasonable for the applicants. Further, given that there is a monopoly situation involved here, where there is only one board that assesses the applications and is required to examine overseas qualifications, if it is not closely watched, we could see the situation we have seen in the past. In the past bureaucracies that were monopolies in their field of operation simply allowed their costs to be passed on to their customer base, which in this case would be parties who were applying to the Supreme Court for admission. Our concern is not with the intent of the legislation but with the fact that 'reasonable costs' is open-ended and there is the potential for escalating costs determined by the Board of Examiners simply to be passed on to the applicants without the board having any regard to constraining those costs.

Part 2 also allows the board to consider any disciplinary action that was taken against an applicant while they were a student in deciding whether they are fit for admission to the Supreme Court. This is an interesting expansion of the board's role in assessing applicants. Not being a legal practitioner but having met many legal practitioners in the Victorian jurisdiction, I can only wonder just how many of them would have been admitted had this requirement been in place earlier — whether their student pasts, their student activism or their activities in — —

Ms Mikakos — It wouldn't have been a problem for me.

Mr RICH-PHILLIPS — It wouldn't have been a problem for Ms Mikakos. I can only wonder whether activism in student representative councils et cetera, which may have led to disciplinary action from university councils, would have meant that applicants would have been looked upon unfavourably had this provision been in place.

Just this morning I was reading a profile piece on the Chief Justice of Victoria, Justice Warren. The article was written about the time of her elevation to the role of chief justice. She admitted that her own career as a legal student, certainly in the early years, was focused on attending demonstrations and other student activities, which I will not elaborate on in the house, rather than on her legal studies, which only became a serious focus later in her law degree. I wonder if these sorts of activities would, if they had led to disciplinary action, be viewed unfavourably by the Board of Examiners given this broader capacity to consider such matters.

Allied to that is a requirement for educational institutions to make available to the board records of student disciplinary action and the granting of the capacity for those educational institutions to recover reasonable costs from the applicant to the Supreme Court. Again, the Liberal Party's concern is with the term ' reasonable cost'. This is for the reason I outlined earlier: what is reasonable for the educational institution is not necessarily reasonable for the applicant. It is a situation where only the educational institution concerned can provide the information, and it is thus a monopoly supplier, with the downside that goes along with that in terms of escalating costs.

A further provision gives the Council of Legal Education the capacity to make procedural rules that require applicants to undergo police checks. I have to

say this is a sign of the times. It is something that is increasingly a feature of applications across a whole raft of areas in society: applicants for jobs and licences of various types are required to undergo police checks. It is important for the legal profession that the people admitted to the profession are of good character. Therefore it is not unreasonable for the council to have the capacity to make rules requiring police checks for applicants who seek to be admitted to the Supreme Court.

In a similar vein the bill will allow the Board of Examiners to require applicants to undergo mental impairment assessments where it deems fit. Society recognises that mental illness is a growing problem. It is now recognised to be far more prevalent than it was recognised to be in the past. What was put down to quirky personalities or odd behaviour is now more appropriately recognised as mental illness. The capacity for the board to require a mental impairment assessment of an applicant to join the Supreme Court where the board believes it is necessary — where it believes mental impairment affects the fitness of the applicant to practise law — is an appropriate safeguard for the community.

People who engage a legal professional — a solicitor or barrister — who has been admitted to the Supreme Court of Victoria expect that person to be capable of undertaking the engagement that the person makes. They expect that, having been admitted to the court, they are a fit and proper person both in terms of their character and in terms of their mental and intellectual capacity to undertake the role of a barrister or solicitor of the Supreme Court.

The bill also makes alterations to the composition of the Council of Legal Education and the Board of Examiners. It allows the chief justice to appoint a deputy to act in her place on the council, and it will provide for administrative support for the council by the staff of the board instead of through the honorary arrangement that is currently in place.

Part 3 of the bill makes mechanical changes to the various operations of the Supreme Court jurisdiction. It allows for the removal of a practitioner from the Victorian Supreme Court roll where the practitioner has been struck off in another jurisdiction in Australia. That is entirely appropriate. If someone is struck off a solicitors roll or a barristers roll in another jurisdiction in Australia, it should automatically follow that they are struck off the roll of the Supreme Court of Victoria.

The bill also makes technical amendments to the way in which legal costs are handled. It allows pro forma statements to be issued by legal firms to clients when costs statements are issued, and with respect to the existing $750 threshold above which statements of costs are required to be issued it clarifies that the threshold is exclusive of GST.

The final mechanical amendment the bill makes concerns legal fees that have been held by the legal services commissioner in the event of a dispute over legal costs. If the complainant in the dispute does not attend mediation, the bill allows the legal services commissioner to pay those fees to the practitioner.

As stated earlier, the Liberal Party supports the intention of the bill. Our concern with the bill relates to the use of the term ‘reasonable costs’ as it applies to consideration of overseas qualifications and as it applies to the capacity for an educational institution to recover costs where they have been required to supply the Supreme Court with disciplinary records on a student. The intent of the bill is clear. It is supported, but we do have concerns about the way in which reasonable costs could in a monopoly situation blow out to be unreasonable costs for the applicant.

Sitting suspended 6.28 p.m. until 8.02 p.m.

Mr HALL (Eastern Victoria) — I am pleased to speak on behalf of The Nationals on the Legal Profession Amendment (Education) Bill. It does not seem so long ago that we were discussing this particular topic as part of an amendment to the Legal Profession Act in May of this year, just a few short months ago. We were talking about the professional development needs of the legal profession and, by some sort of coincidence, Acting President, the committee that you and I serve on — the Education and Training Committee of the Parliament — is now looking into professional development for the teaching profession, and I think there are a lot of parallels with the legal profession as well.

I thought the debate we had in May on professional development for legal practitioners was instructive, given the experience that we are enjoying on the Education and Training Committee. In part this particular legislation also goes to ensuring that the professional development needs of the profession are met by the powers given to the legal services commissioner and also the Legal Practice Board.

This bill amends the Legal Profession Act. The main purpose of the principal act was to improve the regulation of the legal profession by implementing national model provisions developed through the Standing Committee of Attorneys-General. Indeed I

think they were model provisions that were accepted very well right across the country by the various jurisdictions, so it is pleasing to see that uniformity is being able to be achieved across state boundaries.

I understand these particular amendments arise from a review undertaken in 2006 of whether the legal education services in Victoria were providing legal practitioners at all stages in their careers with the appropriate levels of knowledge and skill to support effective legal practice. I also understand from the briefing received by The Nationals that there were some 47 reforms identified as part of that review. What we are seeing with this amendment bill is the implementation of just some of those 47 or so recommendations.

Essentially the amendments contained within this bill will look to changing the role or some of the practices of the Council of Legal Education and also the Board of Examiners within the legal profession. The council is responsible for setting the admission requirements and the board is responsible for assessing individual applications for admission.

What this bill does, without outlining it all — I think the minister in the second-reading speech and the lead speaker from the opposition have outlined in detail what some of these amendments actually do — is insert a series of amendments that have either been requested by the board or the council to improve the efficiency with which they conduct their business or, as I said, were recommended in the review undertaken in 2006. It seems that those members of Parliament with legal training have agreed that these are all good changes. Certainly the Leader of The Nationals in the other place, Peter Ryan, who is trained in the legal profession, has convinced his colleagues in The Nationals that we should support these amendments, and indeed we will do so.

I want to finish by saying that I found the conclusion of the second-reading speech interesting or a worthwhile statement to put again on the record. The minister said:

> The sum effect of the implementation of the recommendations in the review of legal education report will ensure that all legal practitioners in Victoria are equipped through their pre-admission training and post-admission professional development to maintain high standards of legal practice throughout their careers.

It is important that those high standards within the legal profession be maintained and, if this amendment bill helps to maintain those standards, it will be supported by The Nationals.

Ms PENNICUIK (Southern Metropolitan) — The Greens will be supporting the Legal Profession Amendment (Education) Bill. I do not want to spend any time going over what the amendments to this bill are, except to say that the bill is designed to facilitate the better operation of the Council of Legal Education and the Board of Examiners.

In reading the bill and some of the commentary on the bill, I thought that one or two things probably needed some clarification or perhaps guidelines. One of those is the provision in the bill for the Board of Examiners to request a health assessment of an applicant who for some reason or other the board may feel has a mental impairment. It was either in the second-reading speech or in the briefing by the department that it was suggested that could be something like manic depression. I would not think that an impairment such as manic depression would necessarily preclude someone from practising law. I am just concerned that either the minister clarifies that or that there are strict guidelines applied to the commissioning of medical assessments of applicants by the Board of Examiners.

I would not want to see, for example, any frivolous accusations made against applicants that they may or may not have a mental impairment or they may or may not have a drug or alcohol problem. I am concerned at what sorts of processes will apply when a health assessment is required by the Board of Examiners and the person concerned has to go through an assessment and that information is supplied to the Board of Examiners. I think that is an area where some clarification and guidance is required.

Another issue that was raised with us is the provision whereby a law practice is exempt from the costs disclosure if the legal costs, excluding disbursements, are less than $750. It was pointed out to us that the model bill recommended $1500, so I am wondering why there is an anomaly there. They were the two issues that stood out for me in this bill, so I am hoping there can be some clarification or assurance that there will be guidelines in terms of the health assessment issue.

Mr EIDEH (Western Metropolitan) — I rise to support the Legal Profession Amendment (Education) Bill. This bill amends the Legal Profession Act, which itself is a key piece of legislation in Victoria, to ensure that justice is better served. Along with the parent act, the bill is one of a number of changes that are being steadily introduced as part of a nationally agreed agenda to reform the legal profession. These changes have been discussed with the legal profession and various statutory bodies. The Brumby Labor

government is interested in consultation to ensure the effective performance of its policies. In essence we are steadily creating a truly national legal system, recognising that lawyers work across state borders and that clients may have issues that are not confined to one state. This also applies to government-employed lawyers, who may find their duties cross state borders.

An addition the legislation makes is a change to the law regarding the occasional practising in our state of foreign lawyers. Their interests tend to be in international trade and business law issues, and all state jurisdictions and the legal profession agree that it is unfair to require them to register to practise in states if they will be doing so only for a short time. However, the bill will ensure that the standards of conduct of these lawyers is very high, and strict reporting conditions will be imposed. Another area covered by this bill is trust moneys. Sadly some lawyers do not live up to community expectations and client beliefs regarding such trusts. The bill significantly tightens how such moneys can be accessed and includes hefty penalties should an offence occur.

Costs are another area covered by the bill. Provisions are being enacted to enable lawyers' fees to be formally reviewed should there be any argument over them. That stated, clients who do not pay their bills on time will also be subject to interest rate penalties. In this way the bill seeks to be fair to all parties concerned. This bill is further proof of how well the Labor government can work on behalf of our communities. Ensuring greater equity and access to justice is just one part of our commitment to the people we represent. I commend the bill to the house.

Mr O'DONOHUE (Eastern Victoria) — I am pleased to also rise and speak on the Legal Profession Amendment (Education) Bill. It is with a great deal of trepidation that most lawyers view legislation that affects how the legal profession is regulated or indeed how educational qualifications can be attained for lawyers, because traditionally lawyers have enjoyed a great deal of independence in the way their profession is regulated and operated. That originates from the important role the legal profession plays in the administration of justice and as an integral part of our Westminster system of justice. Having said that, over recent years the profession has faced more and more regulation, perhaps beginning with the Legal Practice Act and continuing with the creation of the Legal Practice Board and the legal ombudsman, and other changes that have taken place over the last 10 years or so.

Of course in Victoria we have a hybrid system in which law graduates can undertake either articles of clerkship with a law firm, when they are articled to a partner in a law firm and work with that partner for a period of 12 months, or they can do a course that is authorised by the Council of Legal Education, such as the Leo Cussen Institute course or the Monash University postgraduate diploma in legal practice. This hybrid system is also replicated in other jurisdictions. I think in Queensland there is an article system of two years, whereas in the Australian Capital Territory you can do a half-year legal workshop and a similar such degree at the College of Law in New South Wales.

When considering a bill such as this it is worth reflecting on the time given by so many members of the legal profession in training the next generation of the profession. Articles is a very time-consuming activity for principals to supervise. Articled clerks by their very definition do not have a practising certificate and therefore can be of little value to a practice, and many principals take on an articled clerk out of a sense of duty to training the next generation of lawyers and not because of any real or perceived economic benefit. Courses such as the Leo Cussen course and other postgraduate diplomas rely heavily on senior members of the bar, senior solicitors, members of the bench and retired members of the bench to provide lectures, training and support for prospective practitioners. Again, the profession is very lucky to have that assistance. Perhaps that assistance is most evident through the bar readers course, which is run by the Victorian Bar. It is fantastic intensive training that is only possible because of the generosity of senior barristers and retired judges in particular. Again, the profession is lucky to have these people who give of their time and experience so freely for no reason other than to assist the next generation of practitioners come through.

Mr Rich-Phillips and others have outlined the main provisions of the bill, and I do not propose to repeat the points they have made, but I will just reiterate a couple of things. Clause 4 in part 2 requires applicants who apply for admission based on an overseas qualification to pay the reasonable costs of investigating the claimed qualification. Reasonable costs are not defined and could potentially be significant and seen as a revenue stream to subsidise an organisation that was not generating sufficient revenue. The fact that reasonable costs are not defined adequately is a concern.

Part 2 also states that the Board of Examiners may consider any disciplinary action taken against persons while they were students in deciding whether they are fit for admission. That again provides a very broad

discretion and is regrettable, because some minor misdemeanour could potentially be used against an applicant who wished to take part in the profession when that action may not have had any serious bearing on their ability to practise law appropriately.

Mr Rich-Phillips — Is there a confession coming?

Mr O'DONOHUE — There is no confession coming, Mr Rich-Phillips.

One other point I would like to make is that this bill is dealing with legal training, preparing legal students to practise law. Once they complete that training they are ready to practise as solicitors; and if they do the bar readers course, as barristers.

The sad reality is that if these young students or new students qualify and become practitioners, and indeed progress through the profession and become senior practitioners, the way the courts are resourced at the moment, if they become senior practitioners, either solicitors or barristers, it is likely that part of their practice will have to take place in Sydney because the jurisdiction of choice in senior civil litigation has become Sydney, because the Victorian Supreme Court has not been adequately resourced to deal with the challenges of multiple barristers at the bar table, with several solicitors instructing those members at the bar table; that is costing Victoria significantly.

The Supreme Court does not have the facilities within the old Supreme Court building to deal with the IT requirements of large trials. The bar at Sydney, and the legal profession in New South Wales more generally, is benefiting from this deficiency in the Supreme Court of Victoria. It is something which the Attorney-General really needs to address.

If the people that this legislation is designed to help to enter our profession are to progress and become senior members of the profession, we want them to practise here in Victoria, not in Sydney. I ask the Attorney-General to look seriously at adequately resourcing the Supreme Court to bring it up to date with modern technology and the modern requirements of large civil litigation cases. With those comments I echo the comments of Mr Rich-Phillips that we will not be opposing this bill.

Ms MIKAKOS (Northern Metropolitan) — I am pleased to be able to speak in support of this bill, and I am proud to do so as a former member of the legal profession. When these bills come up, I take an interest in them.

The legal profession, in my view, plays a critical role in defending human rights from the tyranny of the state and in defending and upholding our justice system. It plays a critical role, I would say, in our democracy. On the whole, lawyers see their responsibility to their clients as being their primary concern, and they do their utmost to protect the interests of their clients.

However, as part of those responsibilities, they have important issues that they need to address which include things such as handling trust funds. In the case of trust funds, the honesty of the lawyers involved is critical to protect the interests of their clients. I accept that there are some members of the legal profession who abuse that trust, and that is why it is important that we have an appropriate level of regulation of the legal profession.

Over the last few years we have seen a number of reforms which have ensured adherence to or have sought to tighten accountability for the kinds of obligations and responsibilities that lawyers have to their clients to do things such as disclose legal costs in advance, which have tightened how trust funds are held by lawyers and managed on behalf of their clients, and which have done a range of other things. This is about simplifying the law but also making members of the legal profession more accountable to their clients and more responsible and professional in the way they conduct themselves.

This bill is part of that commitment to and that vision for modernising our Victorian legal profession. The bill implements a number of recommendations that were made by Professor Sue Campbell and the committee that she chaired, which looked at the issue of legal education services. I believe those reforms and recommendations have been widely supported by members of the legal profession. It is about ensuring that our legal practitioners, at all stages of their careers, whether they are first being admitted or have been practising for some number of years, are equipped with the knowledge and skills base that they need to appropriately service their clients. A number of the recommendations made by Professor Campbell and her committee are being implemented, have already been implemented or will be implemented in the coming months through this bill. I will come to that shortly.

The bill seeks to amend the Legal Profession Act to modernise the statutory bodies that oversee the admission to the legal profession in Victoria. They are the Council of Legal Education, which is responsible for setting the admission requirements for legal practitioners, and the Board of Examiners, which is responsible for assessing individual applications for

admission. The bill also amends the powers and procedures used by these two bodies in assessing applications and deciding whether a person is a fit and proper person for admission to the legal profession.

The bill makes changes to the composition and the membership of both the council and the board, in particular to remove the large number of ex-officio posts. I note the composition of the council. Whilst a number of heads of our courts are coming off that body, the Chief Justice of the Supreme Court or her nominated deputy, and three other justices of the Supreme Court, as nominated by the Chief Justice, will remain on that body.

It is important that we have that involvement at the most senior level of the court structure in Victoria to make sure that that body and the profession remain accountable to our courts and also reflect the values of our most senior judges.

I take this opportunity to note that a number of members visited the Supreme Court last night. I understand the visit was organised by the President of this chamber. Now is a terrific opportunity to thank the President for his initiative and note that members of all parties attended at that visit to the court. I also thank the chief justice for her hospitality in offering us a tour and for providing information about the operations of the Supreme Court.

We learnt about the modern technology and the modernisation of the court that has occurred over the last few years and were able to get a real understanding of the kinds of court cases the Supreme Court deals with on a day-to-day basis. It is really important for us as legislators, when we are debating the changes to our court systems, the legal profession and sentencing laws, to have a good understanding of the role the courts play. I would encourage members to also visit other courts, as I have done in the past, and to avail themselves of the opportunities to visit other institutions such as prisons, because by doing so you can get a very good insight into how our legal system works by doing so.

Coming back to the composition of the Council of Legal Education, in which the chief justice will play an important role, appointments to that institution will now be made by the Governor in Council. It is important that we have those positions appointed by the Governor in Council, at that most senior level.

There will also be a change to the composition of the Board of Examiners. This is a significant change in that the Attorney-General and the Solicitor-General will no longer be embers of the Board of Examiners. I welcome that reform. I cannot see why they need to be part of that body, given that it deals with the admission of practitioners to the legal profession in this state. Those appointments and removals will also be made by the Governor in Council.

I said at the outset that these bodies are involved in regulating the profession and in ensuring that only people of good character are admitted to practise in this state. I draw members attention particularly to section 1.2.6 of the Legal Profession Act 2004, which contains a very long list of suitability criteria that the board will look at in determining whether a person is an appropriate person to be admitted to legal practice in this state. It looks at such things as whether a person is currently of good name and character, whether a person is insolvent, and whether a person has been found guilty of an offence — this is where the need for things like police checks comes in.

It also looks at whether a person is currently facing investigation by a legal regulatory body, whether it be in this jurisdiction, interstate or overseas. There are a number of references in that section to practitioners coming from overseas. That comes to the point Mr Rich-Phillips referred to in his contribution when he talked about giving the board the ability to recoup reasonable expenses when it is investigating matters relating to people who have practised in some way overseas or when it is trying to establish whether they have the appropriate qualifications to practise in this state.

Curiously there is also a reference right at the end of that section to whether a person currently has a material mental infirmity. The bill replaces the word ‘infirmity’ with the word ‘impairment’ — to use, I suppose, more modern language. I want to come to that issue as well, because it is something that Ms Pennicuik raised in her contribution.

The review headed by Professor Sue Campbell noted that the board needs to assess a range of information about individual applicants, including an applicant’s academic record, their character references and their personal affidavit. The report recommends that the act be amended to extend the range of issues that the board should consider to include conduct whilst an applicant was in a tertiary education institution and also a health assessment.

The bill allows the board to request information from tertiary education institutions about any disciplinary action taken against an applicant for admission whilst they were gaining their legal qualifications. The bill

also allows the board to require a health assessment of an applicant if the board has reasonable grounds to believe that the applicant has a mental impairment that would result in the applicant not being a fit and proper person to be admitted.

I note in this respect that currently the Legal Services Board can require a health assessment of a current legal practitioner when it is assessing issues such as whether that person can renew their practising certificate or if there are some other disciplinary proceedings afoot. The Board of Examiners will have the same powers as the Legal Services Board. There are also powers very similar to those in relation to the registration of medical practitioners to practise in this state. There are also protections in relation to confidentiality provisions and penalties for disclosure.

In addition to that the principal act provides that any person subject to a health assessment must be given not less than 28 days written notice of the assessment, and they can apply to the Victorian Civil and Administrative Tribunal for a review of the requirement that they undergo a health assessment. I stress that in my view this is not about discriminating against people with mental illness; far from it. People with mental illness should be able to participate in the workforce. That has certainly been part of our approach to how we have looked at the whole issue of mental health.

When an applicant has disclosed a history of mental health issues to the board, members of the board have not been able to make any assessment about the implications of those disclosures. For example, until now they have not been able to request that a medical practitioner come in and give advice to the board about these issues. That may have led to prejudice or ignorance resulting in applicants being denied admission, and a health assessment may include a recommendation for the Board of Examiners to admit an applicant. I hope these issues would not be a bar to people practising law in this state. The provisions replicate the powers that the Legal Services Board currently has.

The bill also makes a number of technical changes. For example, there are amendments to the admission procedures to support the changes to the Legal Practice Admission Rules 1999 that are planned to be made later this year. There are minor changes to the requirements for the publication of proposed legal profession rules to remove the need for the Attorney-General to oversee the publication of notices of proposed rules.

The Legal Services Board, which is responsible for the legal profession rules, will have this responsibility from now on. These technical changes will lead to what I think will be really groundbreaking reforms in the future — that is, the replacement of articles of clerkship with a 12-month professional traineeship. I note that a recent article by Professor Sanford Clark that appears in the *Law Institute Journal* of July 2007 refers to:

> … the old relationship of principal and clerk, with its Dickensian overtones …

It has almost been a right of passage for lawyers in this state to undertake a 12-month period of articled clerkship. It was something that I did in the 1990s.

Mr Pakula — Indentured servitude!

Ms MIKAKOS — As Mr Pakula says, it is very much servitude. Certainly just about every articled clerk I have known undertook their clerkship at a very low salary. Most members of the public would be shocked to hear the amount, given that there is a perception that lawyers make bundles of money, but in the first year when they are starting out they certainly do not make bundles of money. An articled clerkship is quite an experience, and it has been one in which the quality of the legal training that has been provided has in some cases been questionable. Clerkships vary. In some cases articled clerks spend a lot of time photocopying and doing other very minor types of duties in law firms. In my own case I remember appearing in court on behalf of clients. Although I had not been admitted to practice, I was pretty much running cases and learning on the job.

It is about time we had a proper reform of articled clerkships, to ensure not only that people are properly supervised during that period but also so that they are exposed to the range of skills and training that they will require during their time as legal practitioners. This will ensure that they learn all the basic competencies required of lawyers and will cover such issues as ethics, managing trust accounts and all the other practical things lawyers need to know about in legal practice.

I welcome these reforms and I am looking forward to them. It will serve legal practitioners well in this state, and therefore their clients, if they undertake a proper traineeship similar to what is now the case in other states. It will expose them to better training for the future.

The final set of changes in the bill relates to some minor amendments, including such things as providing the Legal Services Board with the power to apply to the Supreme Court for a legal practitioner to be struck off the local roll where a legal practitioner has been found guilty of a criminal offence in an Australian jurisdiction

or has had interstate regulatory action taken against them. These kinds of reforms come back to the issue I spoke about before — that is, ensuring that we do hold to account those few legal practitioners who abuse the trust placed in them, who do not take their responsibilities seriously and who take advantage of their clients. The reforms will ensure that the ultimate sanction can be applied against them — that is, taking away their ability to earn their living.

In conclusion, I think this is a good bill. It contains a whole range of reforms that will help to cement our position in this state of having a very good and modern legal profession. This legislation is about helping the profession to continue on that path of reform and will make sure that new legal practitioners who come on board in the future will be well trained and professional individuals who can do the best for their clients. I commend the bill to the house.

Mr PAKULA (Western Metropolitan) — I thank Ms Mikakos for going through the bill in such great detail, which ensures that I will not need to! Instead I will say that this bill really needs to be viewed as one piece of an overall commitment to the modernisation of the legal profession, and more specifically to the modernisation of legal education.

As previous speakers have pointed out, the government commissioned Professor Sue Campbell last year to review legal education services offered in Victoria. Professor Campbell came up with 47 reform recommendations which have either been implemented or are in the process of being implemented as we speak.

Like Ms Mikakos — and I am not making assumptions as to the dates — I have also been through the legal education process. In my case it was in the late 1980s and early 1990s. From my brief experience I believe reform is necessary, particularly if legal education today, and more particularly post-university legal education, is anything like it was back then. Probably like a lot of people who went to university, for me law school was great fun. It was a good learning environment and it provided me and thousands of other law students with skills that have become of great value and of great benefit in a range of walks of life. There was the occasional lecturer who somehow managed to miss my clinical legal mind, but one does not hold grudges about things like that. Overall it was a very positive experience.

Ms Mikakos and many other people have been through the process of articled clerkships, but I cannot say that it was a particularly positive experience. It was not a particularly negative experience, but I never recall feeling that I gained much from it in terms of legal education or in it equipping me for a career in the legal profession. I was probably always one of those people who was unlikely to have been a lawyer for life, but whatever enthusiasm I might have had for taking that career path when I finished law school was pretty comprehensively belted out of me by the time I finished articles. I do not consider that in any way a reflection of the firm that I was at — it was a good law firm, and continues to be so to this day — but in my opinion at least it was a reflection of the general estimation that legal practitioners and more particularly legal partners had for articled clerks at that time.

I never got the sense, either from my experience at my firm or the experience of my friends and colleagues at other firms, that articled clerks were perceived as relatively academically high-achieving graduates who had completed a rigorous five-year undergraduate degree course. In most cases they were perceived and treated as glorified gofers. Many people, particularly in the top-end-of-town firms, may have had different experiences.

Mr Guy — A Carlton supporter and a lawyer!

Mr PAKULA — It takes all types to make up the Labor Party! The experiences of many people who went through articled clerkships were similar to mine. A lot of the changes that would deal with the sorts of issues that I have outlined in my contribution are actually being implemented via changes to the legal practice admission rules, and the amendments in this bill are only those that arise from recommendations that required legislative amendment. As Ms Mikakos and other speakers have pointed out, they relate primarily to the composition of the Council of Legal Education and the Board of Examiners to streamline those bodies and modernise the appointment process. As I said, I thank Ms Mikakos for detailing so comprehensively those changes as they are set out in the bill.

At the commencement of my contribution I said that this bill needs to be viewed and considered as part of an overall suite of reforms, and I maintain that that is the case. This bill provides for those amendments that required legislative amendments. The other changes, particularly those in relation to articled clerkships, are being made through changes to the legal practice admission rules. The ongoing modernisation of legal education through both sets of reforms, through legislative and non-legislative change, is essential if we are going to retain legal graduates within the profession. These changes will not only retain them within the profession, but will ensure that the quality of the knowledge, particularly the knowledge that they pick

up through on-the-job experience or through postgraduate experience, and their ongoing fitness to practice is and remains of the highest standards. This piece of legislation helps to ensure that, and I commend it to the house.

Motion agreed to.

Read second time.

Third reading

Hon. J. M. MADDEN (Minister for Planning) — By leave, I move:

That the bill be now read a third time.

In doing so I wish to thank respective members of the chamber for their contributions.

Motion agreed to.

Read third time.

ROYAL CHILDREN'S HOSPITAL (LAND) BILL

Second reading

Debate resumed from 23 August; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr GUY (Northern Metropolitan) — I wish to begin my contribution by acknowledging that this is certainly one of the more straightforward bills I have had to speak on in this house in my capacity as the Liberal Party planning spokesperson. Usually when we are presented with a bill we have to wade through a number of pages, but the Royal Children's Hospital (Land) Bill has only around 13 pages and is straightforward.

As the purposes clause states, the bill revokes up to 4.1 hectares of land from what is deemed to be the Royal Park reservation or parklands that border and surround the current Royal Children's Hospital site to allow for the development of the government's recently announced plans for the Royal Children's Hospital. The bill provides for the re-reservation of any parts of the 4.1 hectares of land that are excess to requirements. Any land of the existent Royal Children's Hospital site that is not used as a part of the new development ought to and will obviously be incorporated back as a part of the Royal Park reservation when the development is finished.

The main provisions of the bill — there are only three or four of them, so I will go through them quickly — include the excision of land, which is set out in clauses 4 to 6. As I have stated, this relates to the revocation of the existent parkland in Royal Park. As is stated by the government in the bill and in the second-reading speech, the reservation of parcels of land up to but not exceeding 4.1 hectares in size can be revoked. The Minister for Planning, no doubt in his infinite wisdom, cannot and will not consider any proposal for a site that is greater than 4.1 hectares in size. I note that he is nodding.

The new site and reservation, which are dealt with in clauses 7 to 10, detail that the Minister for Health has to gazette the completion of the project and where the final boundaries of the site have been determined to be. This will then be signed off by the Surveyor-General. That is a step we support. The bill in its entirety provides a check to ensure that the land that is removed from the existent parklands is no more than the 4.1 hectares as determined in the bill. The planning minister then obviously assesses the surplus land as determined by the Surveyor-General and recommends that an order be made by the Governor in Council for the gazetting of the surplus land to be returned as parkland. That is important, because it ensures that if land is to be taken from the parkland — I will come to that matter later in my contribution — it has to be done properly and any excess land has to be returned to parkland. The hospital site obviously cannot exceed the figure mentioned in the bill, which is 4.1 hectares.

Existent commercial lease arrangements, including renewal options at the Royal Children's Hospital, should continue unhindered during the passage of the legislation — this is mentioned in clauses 11 and 12 — and throughout the building of the new facilities. This will mean that businesses that have signed long-term leases or have existing leases at the Royal Children's Hospital will not be hindered in their operations — the continuation of their businesses — during the construction period and, no doubt, throughout any extra period their lease should determine when the new site comes into operation. At the end of that time frame they will have the ability to renegotiate on a current commercial basis, which I understand is pretty straightforward.

My last point is about land management. Clauses 13, 14 and 15 outline the details of new lease arrangements that can be entered into at the new children's hospital site. The minister must provide written approval for any new leases entered into at the site. That is straightforward and has been done in the past in regard to other leases which have been arranged at the

hospital. Obviously it will be interesting to see what leases are put forward for the new hospital site, but they are all issues which will be confronted in the future.

We have a couple areas of concern, as members might imagine. No bill appears to comes through this Parliament perfectly, and certainly no bill from the current government appears to come through the Parliament perfectly. There are a couple of issues which we want to raise, which I have certainly raised before. When the government looked at this 4.1 hectare site, I am not sure if it went away and looked at a number of factors which under any normal existing development would be the norm.

There are Aboriginal heritage concerns. There is no indication in the bill that any Aboriginal heritage concerns had been addressed or considered when the bill was put to the Parliament to consider. This means that when you have a private business that wants to develop land anywhere in Victoria, you obviously have to go away and ensure there are no indigenous concerns with the land being considered. I would have thought that a government which is very concerned about these issues would also ensure that it applied and abided by the practices it sets for others, but I am not sure that has been the case in regard to this bill. There are also offset issues in relation to lost vegetation and parkland as a result of the Royal Park revocation. What we have is some pristine parkland that has been there for many, many decades being removed for a construction site. Yes, it is for a hospital, but it is being removed. It is parkland that will be lost and will have to be replaced.

Offset issues in relation to vegetation and parkland that have been lost do not appear to have been considered directly, therefore we could see the loss of a number of fairly old, significant trees in the area. It certainly does not appear from this bill on face value that there has even been a consideration of that. It has just been a given that the government will move in and clear the site, that the building will be placed on the site and then the excess land will be returned back to parkland, but it will be returned to parkland in a devastated state.

That is a very important issue because there is no mention as to whether the 4.1 hectare site as such will be fully cleared or cleared as necessary. As members will be aware, 4.1 hectares is a very large parcel of land, certainly in parkland in the inner suburban area. As I said, I am yet to receive any direct guarantees as to whether or not the site will be fully cleared or cleared only if needed. That is very important because, as members will probably know, the quality of that parkland in the Royal Park area is terrific. It is not your typical, if you like, 19th century Australian garden where we have tried to imitate something that exists in London. It is actually a parkland that is full of native Australian trees, and there are native grasslands there, so it is very important that we preserve what we have.

If we are going to build a new hospital facility on that location and if we are going to revoke land from that parkland, then it is important that we ensure we remove as little as possible of the native vegetation that exists on that site, because it is certainly something we should be proud of. There has been a bit of a cringe over many decades past among Australians about our native bushland and our Australian parks. We have always turned to European trees — in fact in many areas of Melbourne we still do this — as being examples of what are seen as beautiful trees, but I am sure all of us would agree that native Australian vegetation as it stands is certainly amongst some of the world's prettiest and some of the world's most beautiful. We certainly should not look at it and think that because it is brown and not pretty like an elm tree we have to go and lop it down without any consideration for it. To the contrary; it is part of our city's heritage and part of our parkland heritage, and it is very important that we place more emphasis on it to ensure it survives.

As I said, these are issues that have to be considered by developers every day. They are issues that have to be considered in the outer suburbs, in the inner suburbs and in country, rural and regional Victoria, but they are issues that it appears the government has not dealt with at all.

One of the other issues of concern that I wish to raise is where the bill talks about the declaration of completion. Clause 7 under part 3 of the bill notes that the declaration of completion should be made by the Minister for Health for the purposes of gazetting the land. However, I draw members' attention to clause 7(1)(a), where the word 'complete' is actually open to interpretation. The Minister for Health can come along and look at the building — it could be a shell for all we know, it could be just a hole in the ground, it could have cladding on the outside or it could be whatever — and at whatever stage the Minister for Health can determine that it is a complete building and go through the charade of having an official opening.

We have had the farcical situation where the definition of 'complete' could cover what we have with Southern Cross station — a station that is not in fact complete, although it may be able to receive trains, but which was opened nevertheless. We may have this situation with the Royal Children's Hospital site. We could have a hospital which may be able to service a number of patients — it might have a number of operating theatres

open or have some of the functions of a hospital operating — but which is not fully complete.

We go through these kinds of stunts. Living in this stuntocracy, as we do, it seems that this sort of stunt occurs with every bill that comes before the house. I am sure members are well aware of the MetTicket issue, where the then Minister for Transport in the other place, Peter Batchelor, launched those MetTicket cards with people in big polystyrene outfits with their hands poking out standing next to him on the steps of Parliament. He went through that charade seven times, I think.

Then recently we had the issue of the super-pipe. Members will be aware that the then Premier, Steve Bracks, the then Treasurer, John Brumby, and the then water minister, John Thwaites, all from the other place, went up towards Bendigo, donned white hats and stood in a field where there was no construction work taking place whatsoever. In fact I am sure the media looked at these people as if they were from another planet when they stood in a field wearing orange vests and white hats and said, 'We're here on this construction site ready to build this super-pipe'. Of course it was a stunt.

As we have seen in the media today with the announcement of the new rail timetables for the metropolitan area, we are in fact slowing down trains, but of course it has been billed as a great new stunt by the government — it says, 'Look at what we're doing for public transport'. That sort of stunt is what I fear from this bill.

Mrs Coote — It is retimetabling.

Mr GUY — Mrs Coote is correct, it is retimetabling, and that is code for slowing the system down. I fear that clause 7(1)(a), where the word 'complete' is not properly defined, is in fact just another way for the government to operate around the stuntocracy that we are living in by opening a shell of a building when in fact it is not complete at all.

But that is immaterial to the general nature of the bill. While we obviously have concerns about the bill — no doubt we are used to that with this government by now and in fact with all Labor governments, and heaven forbid that there be another one at the end of the year — we are supportive of the thrust of the bill, which is to revoke part of the Royal Park reservation to provide a site of up to 4.1 hectares to build the new Royal Children's Hospital on. In closing, I comment that the Liberal Party is indeed supporting this bill.

Mr HALL (Eastern Victoria) — I, too, can indicate to the house that The Nationals will also be supporting this piece of legislation, the Royal Children's Hospital (Land) Bill. The Royal Children's Hospital, as we know, continues to be a well-loved institution in Victoria. It has served the needs of Victorians, and particularly Victorian children, for well over 100 years now. I was reminded when I looked at the website for the Royal Children's Hospital that the hospital was first established in 1870 and that it has been located on its present site at Parkville in Melbourne since 1963. It is a hospital of some 250 beds that treats approximately 32 000 inpatients each year. It also says on its website that a total of 280 000 children are treated by the hospital annually.

Those figures are verified in the most recent annual report of the hospital, the *Quality of Care Report 2005*, which states that during the year 2004–05 the actual number of inpatient stays was a bit more than 32 000, it was 34 092; outpatient visits were 116 508; emergency visits were 55 909; and the average length of stay for children in the hospital was 4.9 days.

We know that the Royal Children's Hospital treats some of the sickest children not only from Victoria but from other parts of Australia and certainly from other countries in the Asia-Pacific region. I think we are all made well aware of the wonderful work performed by those who practise at the Royal Children's Hospital when we see newspaper stories of some of the children from disadvantaged Asia-Pacific countries who come to Australia specifically to be treated by the very good people at the Royal Children's Hospital. I think it is also worthwhile mentioning that as well as being a leading paediatric hospital, it is also a leading paediatric teaching centre, and it also has a strong commitment to research.

Mr Koch — Acting President, I bring to your attention the state of the house.

Quorum formed.

Mr HALL — I was mentioning, just before the short break in debate when an audience for this great speech I am making was rallied, how important is the work that is being performed by some of the very good people who practise at the Royal Children's Hospital, and I was commenting on the wonderful service they provide to Victorian children and those from other parts of Australia and nearby overseas countries.

I also want to mention the fact that there is great community support throughout Victoria for our Royal Children's Hospital, and there is no clearer evidence of that than the Good Friday annual appeal to support the hospital. Each time that appeal has been run in recent

years it has raised in excess of $10 million. Added to that, the appeal provides the opportunity for many communities right throughout Victoria to get together and demonstrate their support for our major paediatric hospital. There are a number of wonderful organisations that put countless hours of effort into raising money for the Royal Children's Hospital, and one of those is the Royal Exchange Hotel Cork Club in Traralgon, which has on a number of occasions been the top country fundraising hotel in supporting the annual Royal Children's Hospital Good Friday appeal. I commend that local organisation for the terrific work it has done over a number of years in supporting the hospital.

It is wonderful news that the government has committed to the building of a new children's hospital. As I said before, the current building that we all know is some 40-odd years old now, and there is a need for a new, modern state-of-the-art hospital. I am pleased with and congratulate the government on its commitment of $850 million to build a new hospital which I understand will contain some 340 beds and be able to treat an extra 35 000 patients per year. I understand the completion date is 2011, and the hospital's completion is an event we all look forward to with a great deal of anticipation.

This bill facilitates the construction of that new hospital, and essentially, as has been well explained by the lead speaker of the opposition, Matthew Guy, it revokes a part of the current Royal Park reservation to enable the construction of the new hospital. Of course we cannot suddenly close down the existing hospital and rebuild on the same site. We must continue that important paediatric service while the new hospital is being built. It has thus been decided, I think wisely, that the new hospital will be built on a site adjoining the current hospital, so there is a need for this bill's revocation of the current reservation on the chosen land, which as has been indicated will be no more than 4.1 hectares, to enable the building of a new hospital. I also understand that once the new hospital is complete, the current site will once again be reserved as an addition to the Royal Park reserve, meaning there will be no net loss of park space once the new hospital is complete.

I also agree with Mr Guy about the importance of preserving the unique Australian vegetation that Royal Park holds. Royal Park is one of the few reserves in the city that contains a good representation of native vegetation, and it is important that disturbance of that vegetation is minimised to as great an extent as can be achieved. This bill does what I think would have the support of all Victorians, who would be pleased to see the building of a new hospital and to see that once the new hospital is complete there will be no net reduction of park reserve. Again, I am pleased to indicate that the government has the full support of The Nationals in regard to this legislation.

Mr BARBER (Northern Metropolitan) — The Greens will be supporting this bill.

Mr KAVANAGH (Western Victoria) — I would like to take the opportunity to endorse comments made by other people about the Royal Children's Hospital in recognising the great work that has been done and that continues to be done at that hospital. I have fond memories of the hospital from my time there in 1973 when I had broken my arm; I remember the very good care and attention I was given there. More important than that, in the early 1960s my younger brother Bill was very badly burnt and received extraordinary care from the Royal Children's Hospital.

It gives me great pleasure and delight to contribute to the debate on the construction of the new Royal Children's Hospital, particularly given that my grandfather was instrumental, as health minister, in the construction of the building which now occupies the site. Indeed he paid a very high political price for that, including almost losing his seat in the Melbourne City Council as a representative of the local area there. It was not a very popular initiative when it was first constructed.

Mr LEANE (Eastern Metropolitan) — I feel very privileged to be standing here tonight to speak on the bill that facilitates the development of a brand new Royal Children's Hospital. The current children's hospital — I agree with Mr Hall — is an institution that is in all Victorians' hearts. When I speak about the institution I am referring obviously not just to the existing building but to all the fine health professionals that have toiled inside the hospital and given great and excellent care and service to our youngest Victorians. I know there has been some concern on the part of some local residents about the siting of the new hospital. Those concerns have been carefully considered in the drafting of this bill, which provides that when the new hospital is completed the area of the existing hospital will be reinstated as parkland. The cost of doing that is carried in the project's budget.

I want to touch on some of the new facilities that the new Royal Children's Hospital will have. It is to be an $850 million facility. It will have more single rooms, more neonatal cots and more operating theatres, and it will treat 35 000 more patients each year. There will be some emphasis on family-centred areas, which will include accommodation facilities for parents, which is

very important when parents unfortunately have a child in need of this care.

The hospital will be more child friendly. There will be more interactive indoor and outdoor play areas, which is very important. Even when kids are crook, they still need to enjoy themselves. The new hospital will be integrated into the parklands. When young people are recovering from illnesses, they need to be able to access outdoor areas. They need to feel safe and secure, and the hospital will provide that environment. The hospital will also be a green hospital, incorporating many initiatives and improved environmental qualities and reductions in energy and water consumption, and it will implement reductions in its greenhouse gas emissions.

I have had the pleasure of touring the new Eastern Health facility in Wantirna, which is to open soon. It is a palliative care hospital. It also is an example of a green hospital. It has incorporated a couple of very large water tanks, which, I understand, will have the capacity to supply all the water needs for the hospital, other than showering and drinking water, obviously. Its special design takes into account ceiling heights, the position of the windows and airflows so that heating and cooling will not be used to excess. It will be a great facility.

It is very important that the government build green facilities, but just as importantly the hospital will also have all the state-of-the-art health technology. Technology is at the forefront of the government's mind in its completion of building works. As an example I recently visited the Croydon Metropolitan Fire Brigade (MFB) station. I was very interested in the technology that new fire stations are using. They are all linked to the MFB control panel by fibre optics — it has run lines along the train easement. When the fire call comes in, a plasma screen shows where the fire is, where the hydrants are and if there are any chemical dumps nearby. There will immediately be a printout for the firefighters, and there will be an audio response as well. At the time of the call the roller doors roll up, the traffic lights at the front pull up the traffic and, if someone has something in the oven, even the oven turns off automatically. It is fantastic technology. When the government builds something, it accesses all forms of technology.

In his contribution Mr Guy had to go outside the realms of the bill to find something to be negative about. It is very hard to be negative about a new children's hospital. He talked about stuntopia, or whatever, which concerned pipelines, rail timetables and his disappointment in the Southern Cross railway station. I have had a few interjections from at least one opposition member along the lines of, 'Who writes your speeches?'. I think it is a bit of snobbery about how someone with a trade background, as compared to a university background, could not prepare and deliver a speech in Parliament.

Mr Finn — Don't look at me!

Mr LEANE — No, not you. However, with reference to Mr Guy's speech, I declare that I accessed help from Eastwood Primary School. When I was walking around the school the other day, the grade 5 and 6 students were doing an exercise in using other words instead of 'said', as in, 'The opposition said a lot of rubbish'. On a whiteboard they had negative and positive words for 'said'. I thank them for the negative words they gave me for 'said', as in 'threatened', 'growled', 'screamed', 'roared', 'screeched', 'moaned', 'gulped', 'groaned', 'complained', 'mumbled', 'pleaded', 'huffed', 'emoted', 'howled', 'blurted' and 'croaked'. They are very good words, and I thank the students for their help.

I will use one of the positive words they gave me, which can be used for what I have said today about the new children's hospital. It is 'crowed', as in, 'I have crowed about our government's initiative to build this new children's hospital, which will be an asset for us long into the future'.

Mr FINN (Western Metropolitan) — I rise to support this bill. A new Royal Children's Hospital for Melbourne is needed, and it has long been needed. I have spent far too long at that hospital. Indeed, in years gone by I had the misfortune to be there for many weeks at a time with one of my children, who needed the services of the hospital. I am very pleased to see that the new hospital will provide, I certainly hope, the sorts of services that sick children need.

The Royal Children's Hospital is a Melbourne institution, a Victorian institution and indeed an Australian institution. It serves many people from right around this nation, as well as from overseas. I cannot speak too highly of the wonderful doctors and nurses at the hospital. They are gems in their own way.

Another great institution that Victorians can be very proud of is the annual Royal Children's Hospital appeal, which I have been involved with from time to time, again in years gone by. I have to say that every year it makes me proud to be a Victorian. It does not matter how difficult life may be or how hard it is to get a dollar, Victorians reach into their pockets every year and give that they may grow, if I can use the

fundraising expression used by the hospital. Everyone involved in the appeal, especially those who have been involved in it since its inception, can be very proud of it. The history of the appeal goes back a long, long time. When you combine the institutions they become something that we as Victorians will be exceptionally proud of indeed.

I want to touch on one issue. Since the McDonald's restaurant was built at the Royal Children's Hospital some years ago there has been some outcry from certain sections of the community that such an establishment is not appropriate at a children's hospital. As someone who has spent far too long at that hospital, I want to put paid to these health Nazis.

The McDonald's restaurant was not there when I spent those many long weeks or months at the children's hospital, but I certainly wish it had been, not necessarily from my point of view but from my son's point of view and the point of view of the children. If a McDonald's restaurant can bring a smile to the face of a sick child, if it can bring some respite to a child who is going through a dreadful time, if that McDonald's restaurant can provide that service, then I think it has well and truly served more than the reason it is there for.

I say to those who screech and rant and rave about McDonald's at the Royal Children's Hospital that this is something they should have more than a second thought about. This is not promotion of junk food, in my view, but it is giving families and in particular sick children the opportunity for just a brief time to get away from their troubles. Some children indeed have huge troubles, they are facing huge hurdles — indeed, some are facing the greatest hurdle of all. If they can go to McDonald's and get a smile out of that, and enjoy themselves for just a brief time, then everybody in the community should support it.

As I said, I very strongly support the building of the new Royal Children's Hospital. It is long overdue, and I hope that in building the new hospital the government will also improve the health system that it is a part of. It is all very well and great that a new hospital will be built — I am not knocking that for a moment — but if ambulances are lined up at the front of the hospital and patients cannot get in, as is happening at the moment up the road at the Royal Melbourne Hospital and some of the other hospitals around the place, if we have long waiting lists, and if we have waiting lists to get on to the waiting lists, as we currently have, that just undermines the whole health system. It does not serve the sick children that this hospital is meant to help.

I sincerely hope the government will not just sit back and say, 'We are building a new hospital. Aren't we good?' but that it will actually do something about the health system in this state that has been going backwards for eight years, and will continue to do so — unless some urgent attention is given to it. I plead with the government not to sit back on its laurels, as it were, but to put some much-added activity into providing the health service that Victorians need, particularly in this case for sick children, because I am sure that touches the hearts of us all. The present health system faults certainly distress me very greatly. I hope that, while we support the building of the new hospital, the health system will be improved to match it. I certainly look forward to the opening of the new hospital and its providing services for sick children for many years to come.

Mr EIDEH (Western Metropolitan) — I rise on this occasion in support of the Royal Children's Hospital (Land) Bill 2007. Who amongst us in this house would not regard the Royal Children's Hospital as one of our most respected facilities, a centre that does so much for children and which shows its generosity and its compassion each and every day?

The purpose of this bill is to enable the next phase in the development of the world-renowned Royal Children's Hospital on new land in Parkville. Just as this current hospital was built over four decades ago — moving, as I have been advised, from a smaller, crowded and outdated facility — so too has this hospital's building life come to an end. To not only remain world class and provide the very best to its very special patients but also to retain its justified place as a leading children's hospital in the world health community it needs to grow, develop and significantly modernise. This is a part of the commitment of this government to the people of Victoria.

The minister has already stated all of the significant improvements and innovations of the planned new Royal Children's Hospital. They include additional beds, more play spaces for young children, enhanced technological features, more operating theatres, improved accommodation and related facilities for families who need to stay with young children and babies, and new facilities for research and rehabilitation. The list goes on and on, as does the absolute commitment of the state Labor government, but there will also be more amenities, cafes and other facilities for staff, whom we can never ignore in any development of this special hospital.

In partnership with the private sector, $850 million will be spent on this state-of-the-art new children's hospital.

Indeed, the private sector will design, build, finance and maintain the hospital while the state government will retain management and the provision of all clinical services.

With a background in business, I am proud of our business community and their commitment to such a key aspect of the Victorian community. I am also proud of the Partnerships Victoria policy of the Brumby Labor government — a policy that will ensure this fabulous new hospital is built economically, professionally and on time.

The bill allows for the construction of the hospital on a part of Royal Park immediately next to the existing hospital. Its location is critical for accessibility by public transport, and being surrounded by parkland is important to families and patients alike.

There are many related provisions that will ensure the park is protected from further developments, that the land size of the new hospital is actually less than the existing hospital, and that the whole area will be as environmentally beautiful as possible. This will mean that, in the end, the size of Royal Park will be even larger than it is today, while still accommodating a world-class children's hospital.

I wish to pay my respects to the former Premier, Mr Steve Bracks, and the former health minister, who is now the Minister for Education in the other place, Ms Bronwyn Pike, for their key roles in what will be a centre for medical excellence that we will all be very proud of. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

PLANNING AND ENVIRONMENT AMENDMENT BILL

Second reading

Debate resumed from 23 August; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr GUY (Northern Metropolitan) — I am getting used to being on my feet tonight. It is certainly good to see so many planning bills coming before the chamber and that a number of planning issues and matters are before the house.

In speaking on the Planning and Environment Amendment Bill 2007 I wish to state that the Liberal Party will not be opposing this bill, which has five purposes and seven main provisions. I will quickly run through those, then I will make some comments about the Liberal Party's stance on them. We certainly have some concerns with the bill, although, as I said, we will not be opposing it in the final stages.

As the bill title suggests, it amends the Planning and Environment Act 1987 to extend the powers of the Victorian Civil and Administrative Tribunal (VCAT) to cancel or amend planning permits issued at its direction. The bill will also streamline planning systems operations through enacting further recommendations contained in the Carbines review. No doubt members of this house are aware of the Carbines review and its strategic aim to reduce red tape in planning and cut down on delays in the planning system throughout Victoria.

The bill will clarify, or certainly seeks to clarify, the general responsibility of a municipal council as a planning authority for any planning scheme in force in its area. It is worth noting that a council can only prepare a planning scheme amendment if it is authorised to do so by the minister. The bill will broaden the ability for cost-recovery mechanisms and expenses associated with a panel. So while some of those points are fairly technical and intricate, if you like, they are certainly going to the heart of planning and planning matters here in Victoria.

As I said, there are seven main provisions of the bill. I will touch on each of them for a couple of minutes. The first is clarification of councils as planning authorities — and that is very important — because in clearly defining the role of a council as a planning authority, clauses 4, 5 and 6 of the legislation will seek to restate local government's role as existed in the current legislation. The legislation will in effect formalise a council's role as a planning authority in relation to the current planning scheme in its own area. It does not increase its powers; in fact we are advised that this bill will do nothing more than simply clarify them.

The time frames for planning scheme reviews are also being changed under this bill. At present, as members will know, local government must review their planning schemes every three years. As we are probably all aware, with changes to the Local Government Act extending councils' terms from three

to four years, these amendments in this bill — clauses 7 and 8 — simply seek to extend the review to a four-yearly period rather than what is currently the three-yearly period. In effect it is simply enacting the changes that have occurred in the Local Government Act back into this bill to bring the bill in line to what is the case with local government elections at this point in time in Victoria.

Electronic planning systems are also mentioned in this bill. Electronic planning features in clause 9 and relates to the keeping of current planning registers for applications. It allows for a change in the definition of a prescribed form to include electronic means as well as a hard copy. 'Prescribed' in the past has referred to a book. Earlier today members debated another bill that was concerned with technological changes. Electronic means and electronic communication are becoming very frequently used by people and not only for one-on-one communication but also for lodgement purposes. In this case it is for the lodging of applications. Clause 9 clarifies some issues in relation to electronic methods of communication rather than what we have been used to for many decades — that is, print methods alone. Clause 10 will remove the power of the Liquor Licensing Commission to review decisions relating to stores or outlets. That is now a redundant power, so that is immaterial.

Clauses 11 to 14 are somewhat controversial. They relate to handing the Victorian Civil and Administrative Tribunal (VCAT), new powers to consider, cancel or amend a planning permit. I will come to that a bit later. It is a small but significant step in expanding the powers and operations of VCAT from an interpretative role to a determining role in planning matters. That has been something the Liberal Party has expressed some concern about in this chamber by me, by David Davis when he was the shadow minister and, before him, by Mr Baillieu in the other house.

The cost recovery mechanism is detailed in clause 15. This also has been a cause of some concern from the Liberal Party's point of view. Panel costs can now be paid by the relevant planning authority, which is going to be the local government in most cases, and what is determined as reasonable costs and charges will have to be borne by the planning authority without the term 'reasonable' being defined. That leaves us a little bit unsure about what 'reasonable' can be. Again, I will come to that later on, but that is certainly one issue where we have some concern about the transfer of costs.

Local government representatives talk about this on many occasions when I speak to them, and no doubt when other members in this chamber speak to their local government authorities they will talk about the state government, in particular this state government, and its moving of costs and cost recovery back onto local government. So we should not be surprised if yet another bill comes before this house to shift costs back onto local government and back onto communities and to remove that responsibility from the state government, which is apparently so devoid of funds that it has to ask the federal government to fund everything.

The last point I make concerns electronic land transfer. The Transfer of Land Act is also amended in clauses 18 and 19 to enable land transfer applications to be done online. This is fairly similar to what I talked about earlier concerning electronic planning systems. It simply relates to the definition of an approved form, or what is termed an approved form, being changed so that no longer must a land transfer carry what is the seal of the Office of Titles. I did not even realise that the Office of Titles had a seal. I knew the president of the United States had a seal, but apparently the Office of Titles also has one. It will not need it any more because these mechanisms will now be able to be done online, so that is the way it will be.

As I said at the start of my contribution, the Liberal Party has a number of concerns in relation to the Planning and Environment Amendment Bill. The first is, as I have said, the blind trust that is being placed in VCAT over elected local government and community groups by the passage of this bill. It is not significant, but it is small and it is there, and it is something we need to consider. There is just the slow removal of power from local communities, from local councils, and the handing of more power back to VCAT by this government through this bill. It has happened in a number of bills and it has happened slowly and incrementally as time goes on.

Members opposite will always talk about the Kennett government. We come in here and government members talk about the Kennett government in relation to everything. Apparently the Kennett government had something to do with Kennedy being shot! Apparently local government is not there to conduct planning matters any more because the Labor government is slowly but surely removing community input into planning. This bill is just another example where we ask, 'Do we trust the government?'. Do all of us trust the government? Do we trust the Bracks and Brumby governments after eight years?

Mr Finn — No, we don't.

Mr GUY — You are right, Mr Finn. I don't either. Do we trust these guys and girls? We have to be fair and open nowadays. Do we trust the people opposite us? Do we trust members of the Labor Party with our planning powers and allow them to continue to take more power off local government and put it in the hands of unelected officials? That is what is happening. What we saw earlier this year was a number of newspaper articles on this issue, and it was just the start of how the Labor Party operates. It leaks a story and hopes it gets a bit of traction. It judges the community; it asks, 'Will it work? Will it not work?'. It leaks the story to see how it is going to be taken. And of course this one is about the removal of local government planning powers.

As I was saying before, members opposite talk about council amalgamations under the Kennett government, but it should be noted that when councils in this state were put into the current structure, council planning powers were returned in their entirety. Council planning powers were returned back to local government. Communities had their council planning powers given entirely back to them. This side of the house is very comfortable with our past in relation to council planning powers and giving planning powers back to the community. The reality is that under the Bracks government, and now under the Brumby government, we are seeing a very slow but continued erosion of community input into planning. As I said before, we need to ask whether or not we trust the government with this bill and with further bills which will no doubt come before this Parliament as to whether it will do the right thing by communities in relation to planning in Victoria.

Earlier this year we saw evidence of how the government operates when it floated the idea of the removal of council planning powers. Let us face it; this is now going to occur. It may not occur in one great big hit, but it will occur incrementally. I will be a prophet today and say to everyone in this chamber that before the next election, if you like, in 2010, because these guys operate around a 24-hour cycle in the media, we will have seen the removal of council planning powers over activities areas. So activities areas determined by the state government that are currently sitting within the planning approval process of local government will be removed and taken off to unelected bodies appointed by the minister. Conceivably in respect of the activities areas of Geelong, which is 75 kilometres from Melbourne, we could have planning powers and the planning approval system removed from the City of Greater Geelong and given to an unelected panel, decided and determined by the Minister for Planning meeting in Nicholson Street, or wherever he is now in Spring Street. That is the situation we are going to get under this government.

I simply ask members of this house again to consider whether we do or do not trust this government and whether, through bills like this, we trust this government with our local planning powers. The answer, I think, is no, because the evidence will show that they are being further and further eroded. Why does the government want to simply remove council planning powers, or etch away at them. Why is this bill that we are looking at today just another example of council planning powers being eroded? What is the problem here?

The problem of course is the government's metropolitan planning strategy, Melbourne 2030. It is failing; in fact I would go so far as to say it is almost dead in the water. We had a review taking place; now it is an audit. It was going to be public, now it is not. We do not know if the submissions received will be placed on the internet. You can put in a submission but you have to do it on the government's terms. If you do not do that, the submission will be refused, it will not be looked at.

What we have got is a whole bunch of examples where the government has said, 'Melbourne 2030 is failing; we're not sure how to handle it; we've got to find the culprit, and the culprit is local government'. It is determining that the culprits, being local government and 'vocal community groups' — its own words — are indeed scuttling its metropolitan planning strategy. So what is the way out for government? The way out for government is to continually eat away at planning powers that currently exist for those groups that are not participating in is vision of a high-rise Melbourne from Werribee to Pakenham. That is predominantly sitting with local government. So you remove powers, you slowly etch away at powers, and this bill is the first step in doing that.

I noticed that in question time today the minister again talked about moneys that were provided to councils to help them fund green wedge strategies and other strategies. If you look in this government's budget, there was a line item for, I think, 'expert planning teams' to assist with the implementation of Melbourne 2030. In other words, the government is setting up teams to go from council to council to say, 'What you are doing is not sitting with our vision for Melbourne; if you do not like it, you are going to be overridden — we are telling you in advance'. It is employing the people to do that; it is employing these little jackboot teams to run around the metropolitan area to tell councils what

they should and should not be approving — and to tell them how to run their business.

It comes down to urban character — who knows urban character better than any other person? Do we trust an unelected group of officials sitting in Nicholson Street appointed by the Minister for Planning — —

Mr Finn — Particularly I wouldn't trust him.

Mr GUY — You're right, Mr Finn; nor would I. Do we trust the people he has appointed to know the urban character issues of the city of Greater Geelong, of the city of Latrobe, of the shire of Buloke, of the shire of Nillumbik, of the city of Stonnington, or do we trust the people that the communities have elected and have put into council, for better or for worse, to make their own decisions and then go through the existent process if there is a problem? Frankly, I would trust the existent system, and I would not seek to start etching away at it, which is currently the situation with the bill before us.

In conclusion, I would simply say: Melbourne 2030 is failing. The census and population data that has been presented to date shows that it has been failing. In fact it shows that the 2030 strategy has never taken off, has never been accepted by Melburnians and will not be accepted by Melburnians, because the 4 million people who live in our city and the 5¼ million people who live in our state will determine the urban character and the town character of our own municipalities, of our own towns, of our own suburbs through our own local mechanisms, rather than having it forced upon us by a planning minister sitting in an office tower here in Nicholson Street.

I would urge people to read this bill properly; I would urge people to look at the concerns of the Liberal Party about it; I would urge the government to note these concerns and take them into account. As I stated at the start of my contribution to debate on this bill, we do not oppose the idea of reducing red tape in planning; the Liberal Party as a party does not support the idea of increasing or maintaining red tape — we like to make the place easier to do business in, easier to make applications in. We like government to actually not be a hindrance in people's lives, to actually work with people in their lives. As a consequence we will not be opposing this bill.

Mr HALL (Eastern Victoria) — I am going to start my contribution in a way I do not normally contribute to second-reading debates — that is, by criticising the second-reading speech that has been presented to Parliament. I do not usually criticise a second-reading speech because members are well aware it is not the minister who actually sits down and writes it; somebody from the department would more frequently write a second-reading speech. I do not like to criticise public servants or employees of the Parliament, but ultimately it is the minister who makes that second-reading speech, and so it is that the minister needs to take responsibility for what is written and what is recorded in *Hansard.*

The reason I am critical of this second-reading speech is that it told me nothing about the legislation we are debating here. It did not give me a clear understanding of what this bill was all about. The second-reading speech was a four-page speech; the first two pages of which provided a glowing report of the government — because the government wrote it itself — in terms of what it has achieved with the *Cutting Red Tape in Planning* report.

Mr Koch interjected.

Mr HALL — 'How strange', says Mr Koch. Nevertheless, we come to accept that that is part of the practice. A minister will often take the second-reading speech as an opportunity to gloat. The second and third pages of the second-reading speech on this bill are about the bill, but if you look at the way in which it attempts to explain to people what it is all about, it does so by giving an abbreviated technical description of it, clause by clause.

If I want a technical description of what a bill is all about, I go to its explanatory memorandum, which at least attempts to explain the technicalities associated with each amendment in each clause of the bill. Indeed if you want a better understanding of what this bill is about, you should look not at the second-reading speech but at the explanatory memorandum. It does help to some extent.

What people expect from a second-reading speech is a layman's version — in this case, for people who are not necessarily familiar with all aspects of planning law. I put myself in that category. I am not the planning spokesperson for The Nationals nor have I ever been, although I represent The Nationals when we speak on planning issues in this chamber. Jeanette Powell, the member for Shepparton in the other place, is our planning spokesperson, and she does a fine job of it. She has a very good knowledge of planning law in Victoria, so she is a person who maybe understands the contents of this amendment bill.

I find it difficult to understand its contents, and I did not have the benefit of a briefing, because, as I said, I am not our planning spokesperson, and as a member of a

small party, one cannot always get to briefings on every piece of legislation that comes before the Parliament.

The purpose of a second-reading speech should be to give a lay person an overview and at least a minimum understanding of what this bill is all about. I am afraid the description of this particular bill in the second half of the second-reading speech added little to my knowledge of what this bill is all about. Having said that, as I said before, the first half of the second-reading speech is at least a prosaic description of what the government has done over the last couple of years. Indeed if this bill had been described with the same sort of flavour as the first half of the second-reading speech, then I would not have been so critical, but that was not the case.

It was essential that this issue of planning be explained to people, because I would say planning is the second most important issue we deal with in my electorate office. Water is the most important issue beyond doubt but matters associated with planning come second. As a member representing rural areas of Victoria I know, for example, there is great consternation about the new rural zoning provisions that apply to country Victoria. As I have talked about before in this chamber, some of the councils in my electorate have had real problems in the changeover from the old rural planning system to the new planning system which now has not only rural zones but rural activity zones and rural conservation zones.

The change from what were generally farming zones to one of those three new zones has caused some real problems, not only for councils but for people who have had their properties placed under one of these new zones. This is a matter I have spoken to the Minister for Planning about before, and I will persist. There is still some difficulty for councils in the work they have to do to accommodate their local needs within these new rural zoning provisions. That is an example of an issue that is so important within the planning sector.

As I have said before, I do not claim to be an expert in planning law, and I do not pretend to have a full grasp of all the meaning or the implication of the amendments in this particular bill, but I am grateful for our planning spokesperson, the member for Shepparton in the other place, Jeanette Powell, who does have that knowledge and has gone through each of the amendments contained in this bill and analysed them for us. Jeanette has also undertaken some extensive consultation with people in her electorate who are valuers, with the Victorian Local Governance Association, the Municipal Association of Victoria and also the Master Builders Association. It seems most of those organisations are comfortable with the majority of aspects of this bill. It is Jeanette's recommendations to The Nationals that we do not oppose this bill, and I convey that decision to the chamber tonight.

Before sitting down I will repeat my appeal to ministers to reconsider the way they present second-reading speeches to the Parliament. Frequently now the statement of compatibility is longer than the second-reading speech, although that is not the case with this particular bill, which has a one-page statement of compatibility. It is important that the second-reading speech convey in an overall general fashion the contents of legislation. This speech does not do that in this case, and it is a deficiency in the way in which this bill has been presented to the Parliament.

Mr BARBER (Northern Metropolitan) — I have a bit of a dilemma here. If I talk about what the bill does, it really will not take me very long at all, because the bill does not do anything to improve planning in Victoria. If I take the alternative approach and talk about what the bill should have done if the government were serious about reforming the planning system in Victoria and bringing it up to a community standard, I would be here for days.

The problem we have in Victoria is that the planning system, which was thought up, designed and implemented by the Liberal Party and which has been carried on almost completely intact by the Labor Party, very rarely says what it means and almost never means what it says. I call it the almost-anything-goes planning system, and it creates enormous uncertainty for both the community and developers. It is to the benefit of cowboy developers who would like to try things on, and of course the army of lawyers and consultants that they bring in to talk the sort of planning woo-woo that gets you through VCAT (Victorian Civil and Administrative Tribunal) and various other processes.

I am referring to things such as the vast number of section 2 permit-possibly-able-to-be-issued uses in all the zones; the fact that something like a licensed premises is a permitted use in a residential zone but when a council attempts to alter that in any way it is told, 'No, you cannot vary a zone'. So in an area such as my former municipality, the city of Yarra, when we tried to introduce rules to ban licensed premises in a residential zone, in a municipality incredibly well serviced with licensed premises, we were told, 'No, you cannot do that'. You can write though, 'We discourage licensed premises in a residential zone', which of course only encourages someone to come along and make an application to see if they can get it up.

I am talking about the fact that you cannot have a height limit. I would have thought a height limit would be to the benefit of somebody who was thinking of purchasing a block of land and wanted to build something, or the people who live next door who want to have some certainty about what they will be living next door to. You can have a preferred maximum or a desirable height limit. On the odd occasion when a height limit has been implemented, even that has been rolled over by VCAT. I am talking about the sorts of guidelines that we put in place on the Yarra River to protect its natural values, which were subsequently rolled over by a series of other processes. The minister can come in at any time and set up various panels to make alternative recommendations, throw it out of the window and do it site by site, if he wants.

There is a complete lack of certainty. There is a complete inability for communities to influence their futures and they get rolled over by market forces. There are massive costs associated with all this contention and argument. If you want to talk about red tape, forget about whether you can electronically lodge something and start bringing some of the contention out of planning by putting in rules that say what they mean and mean what they say.

I will save more of those sorts of comments for a future day. I will certainly save them for meetings and events out there in the community. The community is constantly fighting a rearguard action for the things they value about their community. Certainly the community will not have much impact in this chamber, not with the Labor and Liberal parties sitting there, the mother and father of the planning scheme that we have in Victoria and all the dissatisfaction that that is bringing with it.

The bill is so small that it has offended almost nobody. The Greens have approached the Municipal Association of Victoria (MAV), which has informed us that it has not had any issues raised by its members, nor did its reading of the bill identify any areas of concern. That is of no great surprise. As the MAV has noted, the changes are predominantly technical in nature and most can commence immediately. They relate to things such as extending the planning scheme review cycle from three years to four years. That is great, but a review of the planning scheme and the municipal strategic statement now requires the minister's advanced tick-off before they can even go ahead.

The many issues that local councils are hearing about from their communities and that they want to bring into their planning schemes can be overruled right up-front; they are often told by the minister they will not even be up for discussion if they do not fit with his preferred mould. There are some other small issues in relation to the use of new technologies, the cost of panels and the electronic provision of forms for registering land transactions. But, as I have noted, the changes proposed in this bill are absolutely minimal in contrast to what the voices of the community are calling for, which are some major changes to the way this works in Victoria.

Ms MIKAKOS (Northern Metropolitan) — I am really pleased to speak in support of this bill — for 5 minutes! But I might have more to say tomorrow, because this is an important bill. I want to focus in the next 5 minutes on the specifics of what the bill does. Whilst the bill is a straightforward measure, it is part of the government's commitment to streamlining and reforming our planning system. It is consistent with the approach that we have taken in the last few years. In particular I note the work of my predecessor, the previous parliamentary secretary, Elaine Carbines, in preparing the report *Cutting Red Tape in Planning*. Many of those measures continue to be implemented as we speak. This bill is also about cutting back on red tape in planning and increasing certainty for all players involved in the planning system, and certainty it is an important issue in making sure that all parties understand what the process is and what their various rights and responsibilities are in the planning system.

The bill seeks to make a number of administrative and procedural changes to our key planning acts — that is, the Planning and Environment Act, the Transfer of Land Act and the Subdivision Act — to improve the efficiency and operation of our planning system. The bill will align the required planning scheme review requirements with the four-year council plan cycle under the Local Government Act. It will also improve the rights of landowners, occupiers and developers to seek through the Victorian Civil and Administrative Tribunal the cancellation or amendment of planning permits at the direction of VCAT. It will also provide a legislative basis for recovering miscellaneous costs associated with planning panel hearings consistent with the provisions for advisory committees under the Planning and Environment Act and inquiries under the Environment Effects Act. I will touch upon those issues very briefly.

An honourable member interjected.

Ms MIKAKOS — I will try to be succinct, President. Those various amendments will effectively build upon reforms we have already put in place in relation to municipal councils, recognising their role in the legislation as planning authorities. In particular, clause 4 of the bill, which inserts a new section,

clarifies the municipal council's role as a planning authority. A municipal council can only prepare an amendment to its planning scheme if it is authorised to do so by a minister, and the minister may authorise a municipal council to prepare an amendment to a planning scheme in force in its municipality or an adjoining municipal district. The authorisation may be subject to two conditions, and there are special constraints that apply to planning scheme amendments to the port of Melbourne area. The bill clarifies the situation in relation to municipal councils in relation to those planning scheme amendments.

The bill also aligns the obligations of local councils to provide a municipal strategic statement and ensure it is consistent with the current corporate plan prepared in accordance with its obligations under the local government legislation.

The bill also makes some amendments to the Transfer of Land Act. In particular it authorises the electronic provision of forms required by the Transfer of Land Act when registering a land transaction. This is an important initiative. It is about modernising our system and making sure that people are able to — —

Business interrupted pursuant to standing orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

> That the house do now adjourn.

Vision Australia: i-access program

Mrs COOTE (Southern Metropolitan) — My adjournment matter tonight is for the Minister for Innovation, Mr Jennings. This evening I attended a really uplifting function. It was the launch of the i-access fundraising campaign for Vision Australia. The national campaign benefactor of this fundraising campaign is the very generous philanthropist, Pauline Gandel. I would like to quote from her inspiring comments. She said:

> It is rare to be given an opportunity to be involved in a project with such positive, life-changing, and far-reaching outcomes.
>
> I am proud to be associated with a $30 million i-access fundraising campaign for Vision Australia. I believe i-access is not only worthwhile in terms of opening up the world of information for people who are blind or have low vision, but it is also the right solution.
>
> The project will contribute to the creation of a global, cost-effective, digital information service to the benefit of all those who have difficulty in reading the printed word.
>
> i-access will foster independence by allowing people to access information from any available source. It truly is an innovation as significant as was the advent of braille.

I saw tonight how wonderful this machine is and what a great dimension it will give to people with low vision and those who are vision impaired. It is going to open up an entirely new avenue of access to information. At the moment only 5 per cent of information is available in braille, so it is important that everyone has access to all information in this information technologically savvy age. We have spoken before in this chamber about how important it is. At the last election we were able to have people with low vision and those who are vision impaired vote independently for the very first time. This is something that those of us who have vision take for granted.

One of the things I saw tonight was a machine that was able to read the newspaper. Using the same technology as an iPod, people are able to download an entire newspaper. A gentlemen I spoke with tonight told me how he was able to sit on a train and listen to the entire daily newspapers while the person sitting next to him was reading the *Age*. I suggested to him that members of Parliament might like to have that facility in their cars; it would certainly make a difference!

The chief executive officer of Vision Australia is Gerard Menses. In the organisation's introductory pamphlet he says:

> A major barrier to that participation —

of people who are blind —

> is the lack of access to information.
>
> i-access is one of the most exciting projects in Australia today.

I encourage the minister to support and expand the i-access program.

Timber industry: government strategy

Mr HALL (Eastern Victoria) — I raise a matter for the attention of the Minister for Agriculture in another place. The matter concerns the proposed tendering of harvest and haulage operations by VicForests.

VicForests has announced that it will put to tender all functions associated with the harvest and haulage of timber from public land in Victoria. Plans to do this are already well advanced, with a tender process being developed. Information workshops have been held and literature has been distributed to those in the harvest and haulage sector. The more they hear, the more forest contractors are concerned.

Members will recall that in 2002 the Our Forests Our Future policy reduced resource availability in the timber industry in this state by 30 per cent, and consequently many in the harvest and haulage sector were bought out. They took the option to exit from the industry. But those who stayed expected some certainty of employment, particularly when VicForests took over responsibility for all contractors, and on the basis of that increased certainty many contractors made a significant investment in new plant and equipment to meet their work needs. There was no mention at that time of any intention to tender and contract out the harvest and haulage operations.

Basically the new tendering process puts at risk the jobs of hundreds of Victorian timber workers and investments of many millions of dollars. In many ways the Victorian government, through VicForests, is doing exactly what federal Labor is so critical of the federal coalition government of doing — that is, sacking workers and readvertising their jobs through a tender process. That is what this Victorian government is responsible for in respect of these operations.

In the last couple of weeks 14 East Gippsland contractors have written to me expressing their concerns. One of them, a Cann River business, says that in the last few years it has invested $2.7 million in new equipment. The business employs nine people, and those nine people directly support 30 all up.

A Buchan contractor wrote to me, having invested $380 000 recently in a new truck and trailer. Another company from East Gippsland has invested $780 000, and another company from Bendoc has invested $1.5 million in new equipment. Now, with the new uncertainty about their jobs, all of that investment is put at risk. There is no need for these proposed radical changes. Under the present system, if a contractor is not performing, that contract can be terminated, so there is no need to contract out all of the harvest and haulage work.

I ask the Minister for Agriculture to immediately cancel all plans to tender out harvest and haulage contracts and to roll over the existing contracts. People in this industry need the certainty that was promised to them post Our Forests Our Future. However, it seems that the phrase adopted by many — that is, 'Our Forests No Future' — is more appropriate, given this government's failure to provide any such certainty.

Coode Island: chemical storage

Ms HARTLAND (Western Metropolitan) — I raise a matter for the attention of the Minister for Police and Emergency Services in another place. Last Saturday at about 3 o'clock there was another chemical spill at Coode Island. It was from a container at P & O Ports and the chemical was ethyl acrylate, which is a highly odorous liquid. The spill again highlights how unsafe Coode Island is and how close it is to homes — just 500 metres away.

On Saturday it was very difficult to get information about what had happened. We could hear the sirens, we knew the road had been blocked and there was a terrible smell. When a community is not given information, its members panic. Having lived in Footscray for over 20 years, I have experienced several major chemical fires, so I understand this feeling.

Because of these experiences I have campaigned for many years for a community alerting program. Maribyrnong City Council and the Department of Justice ran a highly successful pilot that gave reliable information to the community. This model has been used by Maribyrnong City Council for the Maribyrnong flood plain and it has been used in bushfire areas. It can give information to people quickly about disasters or tell them that there is nothing to be concerned about.

The action I seek is that the government enters into talks with the Maribyrnong City Council to see how this program can be fully funded.

Rail: western Victoria lines

Ms TIERNEY (Western Victoria) — I raise a matter for the attention of the Minister for Public Transport in another place. On 31 August the minister announced a new V/Line timetable for the Geelong line. Geelong train travellers will have the benefit of three new weekday services, delivering 4312 extra seats on the Geelong line each week. The new services include a 7.54 a.m., a 1.00 p.m. and a 1.25 p.m. service on weekdays. The Geelong line is the busiest V/Line route in Victoria, and I congratulate the minister for responding to the high demand for public transport in the Geelong region.

The western Victorian community is serious about putting into full use the Melbourne–Marshall–Warrnambool line, which services Sherwood Park, Terang, Camperdown, Colac, Winchelsea, South Geelong, Geelong, North Geelong, Corio, Lara, Little River and Werribee through to Melbourne. This government is serious about upgrading and improving the public transport network for all Victorians. I remind members of this chamber that in 2005 the Melbourne–Geelong line was extended to Marshall and that a new station was built there.

While discussions about the Marshall station were taking place, members of the Liberal Party claimed that building the station was a waste of money as it would not be used. I think that this boost in services proves that the argument was completely wrong, which is confirmed by the fact that the station's car park is constantly full, with cars spilling out onto the street.

The new services announcement is accompanied by an announcement just last week that regional Victoria will see the benefits of the $30 million refurbishment of 34 V/Line trains.

I ask the minister to ensure that train services to western Victoria continue to meet the demands of commuters who are serious about joining the government in creating greater access to public transport, which contributes to a green Victoria. I ask the minister to advise me via correspondence of the monitoring mechanism that will be utilised to track the demands of commuters in western Victoria.

Horsham Special School: maintenance

Mr KOCH (Western Victoria) — I raise a matter for the attention of the Minister for Education in the other place. It concerns the condition of buildings and facilities at the Horsham Special School. Horsham Special School operates on dual sites — a separate junior campus is within the grounds of Horsham West Primary School, with the senior campus being beside Horsham College. Administration is managed at the senior campus, which is 1.5 kilometres from the junior campus.

For some time concern has been expressed by staff, parents, carers, Horsham city councillors and the wider community about the substandard conditions of school buildings, lack of staff accommodation, playground and recreation space, inadequate car and bus parking and the numerous difficulties caused by the dual sites. The number of junior students has increased from 9 in 1999 to 24 in 2007. While some improvements have been made to accommodate this growth, including the relocation of two modular buildings used for classrooms, facilities are inadequate to deliver the range of educational programs needed for these students. One of the buildings, which was relocated from Port Melbourne in 2005, complete with an asbestos ceiling, was initially to be used to overcome the absence of staff accommodation. Instead staff willingly gave up this space to overcome the classroom shortage. There is no doubt this building would never have been moved from Horsham to Port Melbourne.

Although the senior campus moved in 2000 into refurbished buildings formerly occupied by Horsham College, the junior campus buildings and the surrounding grounds were not purpose-built and do not meet the needs of students. Senior campus numbers have remained fairly static, rising from 18 in 1999 to 21 in 2007, but the progression of junior students will add further pressure on staff and facilities at the senior campus in the very near future.

Recently, along with my colleague Mr Vogels, I personally inspected the Horsham Special School junior campus. We were astonished and appalled that the Department of Education and Early Childhood Development could consider the state of the leaking buildings at the junior campus as acceptable for educational purposes. We were shocked that the substandard buildings, the lack of staff facilities, the program areas and the safe points for parents, taxis and buses to drop off and collect children met acceptable departmental standards and requirements.

While the staff do a wonderful job of teaching these special children under difficult conditions, I am sure the minister would be embarrassed if she ever visited the school to see these children taught in what some have suggested to be Third World conditions, especially if it is raining. My request is for the minister to urgently address conditions at Horsham Special School by reviewing and moving up in the order of priority the construction of a new purpose-built, single-site campus.

Family violence: safety notices

Mr TEE (Eastern Metropolitan) — My adjournment matter, which is directed to the Attorney-General in the other place, relates to victims of family violence. A VicHealth study has found that family violence is responsible for more ill health and premature deaths among Victorian women under the age of 45 than other well-known risk factors, including high blood pressure, obesity and smoking.

A recent report conducted by Doncare Community Services considered the number of incidents of domestic violence processed by police in my electorate. Doncare provides a specialist service for people in my electorate who have experienced family violence. The Doncare report found that 298 incidents of family violence per 100 000 people are processed by police in the city of Manningham. Every week seven intervention orders are issued by police in Manningham. In the city of Whitehorse there were 416 incidents of family violence recorded per 100 000 people. In the city of Maroondah there were 595 incidents per 100 000 people. These are alarming

figures and more needs to be done. It is critical that police have the adequate tools to respond to family violence quickly and decisively. For too long the judicial system has not adequately supported women who have the courage to report family violence.

The action I ask of the Attorney-General relates to a proposed trial of on-the-spot safety notices which can be issued by police. These notices would give victims more security at night and on weekends, when most incidents occur. Breaching a safety notice would be a criminal offence punishable by up to two years in jail. The safety notices would make it easier for police to more quickly and effectively remove alleged offenders from the family home and prevent them from contacting victims until a court could hear the matter. It would mean that victims were not further distressed by being forced from their homes, often having to uproot their children and remove them from their friends, families and schools. These safety notices have the potential to make a difference to people's lives. They have the potential to send a clear message to offenders that police action will be swift and decisive.

I ask that the Attorney-General ensure that, through his department, he consults with organisations such as Doncare on the development of this pilot. It is absolutely critical that organisations such as Doncare, which is at the coalface of having to deal with victims of family violence, have a direct say in the development of programs designed to support victims.

Wattletree Road, Eltham: upgrade

Mrs KRONBERG (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Roads and Ports in the other place. It concerns the proposed Wattletree Road bridge across Diamond Creek in Eltham. This issue is an example of the government behaving like a wolf in sheep's clothing. The government is paying lip-service to the environmental sensitivities of the people in Eltham by saying, 'We will build you a bridge. We will not cut down too many trees. We will provide some paths off the bridge and pedestrian access on this modern bridge'. In fact what this will do is provide increasing pressure on Wattletree Road. This road is going to be a transport corridor feeding in from the Doreen region and the result will be a tremendous amount of traffic along Wattletree Road.

I make this point with such force because Wattletree Road passes through the precinct of the Eltham North Primary School. The area is subject to enormous stresses, including that 470 children have to use a pedestrian crossing which is not appropriately protected. People access the school grounds by walking across and along a footpath with a poor camber, which actually tips people on bikes and prams into the path of traffic. This is a totally unprotected area. We have seen the incidence of people running traffic lights because they actually come across the school crossing after travelling through dangerous bends and curves. For years the school authorities have appealed for an improvement in the alignment of this road. As one would expect with this government, those appeals have fallen on deaf ears. The parents and the pupils are literally between a rock and a very hard place as they navigate their way to school. Unlike what exists in much of metropolitan Melbourne, the footpath in question is not protected by any grass verges.

I ask the minister to report back to this chamber with revised plans for this bridge project in order to accommodate the alignment of Wattletree Road, traffic calming measures, the erection of appropriate safety barriers around the Eltham North Primary School pedestrian crossing for school children, the redesign of footpaths and the installation of crash barriers to protect the community before there is a death and before it registers on the radar of VicRoads. VicRoads will not do anything because this area has not been classified as a black spot area. This is an urgent request on behalf of those people.

Swinburne University of Technology: Wantirna campus development

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the Minister for Environment and Climate Change, Gavin Jennings. I recently had a look around a construction site at the Wantirna campus of Swinburne University of Technology, where there will eventually be a $2 million sustainability building that will position Victoria as a leader in sustainability and environmental design. Just to digress a bit, I am a big fan of a lot of the work that Swinburne campuses in my area do, not only in training but also in relation to social issues. Swinburne's Croydon campus has the First Stop program, which helps to engage disengaged youth back into training and work. The Wantirna campus is putting its hand up to help Scope in Boronia Road build a sensory garden so that disabled people who are blind and deaf can actually enjoy the smell and feel of a garden.

I think Swinburne is fantastic, and the facility it is about to build will incorporate the National Centre for Sustainability, one of the Victorian government's specialist centres for vocational education and training. The centre will incorporate state-of-the-art sustainability design features such as rainwater

harvesting and recycling, low-water-consumption landscaping, recycled materials, natural ventilation and daylighting strategies. It will also incorporate solar technology and an actual working wind turbine for people who want to do studies in that area. I ask the minister to investigate the possibility of the training courses and services that this centre will provide being extended and at the possibility of similar facilities being established elsewhere in the state.

Australian Football League: grand final tickets

Mr FINN (Western Metropolitan) — I wish to raise for the attention of the Minister for Sport, Recreation and Youth Affairs in another place a matter that concerns a perennial problem we face in this state around this time of the year — Australian Football League (AFL) finals time — and in particular the rush for tickets for the grand final. It is time this race, this great rush, was stopped. As a Richmond supporter I well remember 1980, when I had some personal experience of this myself. I attended every single game that year with one exception, and that was the grand final, because like so many others I could not get a ticket. I was devastated that I could not see the Tigers win the flag that year — they gave Collingwood a nice old bath, as I recall — but I consoled myself with the thought that I would see the next one. I now find myself in the position where I am hoping that I might live that long.

Football in this state and in this city is everything to a lot of people. Our hearts must go out to those who are going to miss out on seeing their team in the grand final, particularly those Geelong supporters who, if Geelong makes it through this weekend, will miss out on a probable Geelong premiership — the first in some 44 years. Even Collingwood supporters deserve our sympathy in this regard in the unlikely event that they do win on Friday night, although they should make the most of it as our sympathy will not be going to them too often.

I ask the minister to convene a meeting with the commissars of the AFL, particularly Comrade Demetriou, to ensure that every financial member of the clubs participating in the grand final is given the opportunity to buy a ticket to the grand final before they are offered to anybody else. It sickens me when I see advertising throughout the year stating to potential tourists, 'Visit Melbourne. Guaranteed grand final ticket'. That is just an insult to every football supporter, and it adds insult to injury to those football supporters and members of clubs who cannot see their club in the grand final.

I ask the minister to get together with the AFL chiefs, to talk some sense into them — if indeed that is possible — and to give genuine football people a fair go. I think a meeting between the minister and the AFL to conclude this matter once and for all would be the ideal way to ensure that those people who support their team week in and week out throughout the season are given the chance to see their team in the grand final, if it makes it.

Drought: government assistance

Ms LOVELL (Northern Victoria) — I wish to raise a matter with the Premier regarding the ongoing drought and the need for state government assistance. For the past 10 years Victorian farmers have been struggling to survive what has become the worst drought in Victoria's history. In fact it is widely recognised in northern Victoria that we have now moved from drought into crisis. Even the best farmers who have been fortunate enough to have planned for an extended period of hardship are now finding it difficult to continue. Irrigators are facing the lowest water allocation in history, with Murray irrigators receiving only 10 per cent of their allocations, Goulburn irrigators 20 per cent, Broken irrigators 15 per cent, Loddon irrigators 5 per cent, and Campaspe and Bullarook Creek irrigators being on zero allocation.

On top of this severe shortage of water, dairy farmers are finding it increasingly difficult, if not impossible, to purchase grain, hay and silage for feed. Abattoirs are being so rushed with stock to be slaughtered that they have had to ask farmers to make appointments before bringing stock in. Orchards in the Murray and Goulburn valleys are being bulldozed as horticulturalists are forced to make extremely difficult decisions about how best to use the precious little water they have been allocated. Whole communities are fighting for survival and are desperately in need of support from this state government. We have been fortunate that many of our farmers and horticulturalists have received support from the federal government through exceptional circumstances (EC) funding that provides household support and interest rate subsidies, amongst other things. In the federal electorate of Murray alone in excess of $1 million per week flows into the community through EC funding.

As I have already said, it is now time for the state government to also provide some direct assistance to farmers to ensure we will still have a viable farming community when the drought finally breaks. Some of the ways the state government could assist are by waiving fixed water fees for infrastructure and storage charges on the undelivered portion of irrigators'

entitlements, providing low-interest loans to assist with the purchase of feed or additional water, setting up a central shopfront point in each region where farmers can easily access advice on what assistance is available, and coordinating a whole-of-community response by bringing together government departments, farmers organisations such as the Victorian Farmers Federation, United Dairyfarmers of Victoria, Northern Victorian Irrigators and Fruit Growers Victoria, and processing companies such as SPC Ardmona and the milk companies, to work together rather than having several of them duplicating activities and competing against each other. Some of the activities they could undertake include securing sources of feed for stock or emergency stock and domestic water supplies and other solutions as needed by the community.

My request of the Premier is for him to ensure that immediate and substantial state-funded drought assistance is made available to assist farming families and communities to survive the real crisis they are facing due to this horrendous drought.

Equine influenza: control

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the Minister for Agriculture in the other place. It relates to the prevention of equine influenza. Last week I organised a meeting with representatives of various equine industries to discuss the impact of horse flu. It is my understanding this was the first time a cross-industry meeting had been held. It enabled us to look at global issues rather than the vested interests of just one party. It was interesting to hear that almost everyone at the meeting felt it was only a matter of time before the horse flu hit Victoria. We have learnt from our northern neighbours how quickly this disease can spread, and it would be a crime to have put both our thoroughbred and recreational horse industries through the demands of the last few weeks only to find that this government has let the flu slip into the state.

While people here are doing the right thing — for example, the Pony Club Association of Victoria has gone into voluntary lockdown and the racing industry is operating under major restrictions — it became apparent last week that there was no border security. Despite the promises made by the government, it seems it is not prepared to follow through to ensure that we remain safe. The action I seek of the Minister for Agriculture is to guarantee border crossings are being manned 24 hours a day, 7 days a week, that all horse floats and other vehicles are being checked for horse equipment and that the police and the Department of Primary Industries have the power to take action against offenders.

Rail: Stony Point line

Mr O'DONOHUE (Eastern Victoria) — My matter this evening is for the Minister for Public Transport in the other place. It relates to the Stony Point train line that runs from Frankston through the towns of Western Port down to Hastings.

On 22 August this year a Tyabb truck driver, Mr Geoff Young, 57 years of age, was killed instantly at the Somerville level crossing on Bungower Road. The train was travelling to Frankston from Stony Point, carrying 40 passengers in two carriages at approximately 10.35 a.m. This is not the first time a fatality has occurred on this line. I remember that several years ago a nun was killed at the intersection of Graydens Road and the Stony Point line when a train ran into a stationary car on the railway line.

The crossing in question, on Bungower Road, does not have boom gates. It has been described by local residents as an accident waiting to happen. In fact the lights at the crossing are often stuck on red, and people risk their lives by going through the red light. Sadly, local people at an intersection where the lights are faulty — that is, they are frequently stuck on red — after a period of time often disregard those lights and run through them. Of the 20 level crossings on the Stony Point line, 12 have boom gates and 8 do not. A spokesman for the minister was quoted in the local media as saying that all level crossings in Victoria were being assessed, using an Australia-wide model, but that Somerville — the intersection in question — was a lower priority than other crossings around the state. I quote:

> We do not consider it 'low risk', especially in light of what has just happened, but that other crossings have a higher priority.

I put it to the minister and to the ministerial adviser who spoke for the minister in the media that with the fatality that has just happened, regardless of the system the minister uses, this is an intersection of the highest priority.

My action for the minister therefore is to address the serious safety risk that exists on the Stony Point railway line due to the busy traffic conditions and the eight level crossings that do not have boom gates. I ask the minister to commit to installing the required eight sets of boom gates as a priority.

Planning: Melbourne 2030

Mr GUY (Northern Metropolitan) — I raise an issue tonight for the attention of the Minister for

Planning. It concerns the growing problem of the Melbourne 2030 strategy of rapid expansion of higher density inner urban living and the ability of small businesses, publicans and the operators of other entertainment venues to run their businesses freely in this new, high-density environment.

The *Melbourne 2030* document prescribes high-density living, particularly in Melbourne's inner city areas. In fact the document, as all members will know, is heavily supportive of the construction of units, townhouses and apartments in warehouses and old buildings in small, narrow laneways and main streets throughout most of the inner suburbs of Melbourne. But the increasing density of the population in the inner suburbs is not the issue I raise tonight; what I raise is the effect this population change is now having on small business operators in running their businesses in areas that are no longer just commercial or light industrial but are nowadays increasingly full of residents as well.

Members may be aware of the issue of the Peel Hotel in Wellington Street, Collingwood, operated by Mr Tom McFeely. The Peel is a Melbourne icon and is one of the largest and most popular venues for our city's strong gay community. Issues that once were rarely a problem for the proprietors of the Peel — such as noise and plant and equipment on the hotel roof — and the new no-smoking-indoors laws have seen the Peel having to confront these issues with residents on an increasingly frequent basis.

Mr McFeely and the Peel are not alone. In fact tonight at the Fitzroy town hall publicans from across the city of Yarra are meeting to discuss how they can operate their businesses as they have for many years — lawfully, abiding by all council by-laws and state government regulations — under the pressure of higher density living that Melbourne 2030 is going to continue to place on them. We cannot continue with a situation where lawful small entertainment businesses are facing pressure and even extinction due to a state government planning policy that has not factored in its effects on these businesses.

Tonight I ask the Minister for Planning to urgently direct the Melbourne 2030 audit group to undertake an investigation of the relationship between greater population in the inner urban areas, as prescribed by Melbourne 2030, and the effect this is having on the ability of many small businesses, publicans and entertainment venue operators to carry on their businesses in a fair and free manner, as they have been doing for many years.

Licola Wilderness Village: government assistance

Mr P. DAVIS (Eastern Victoria) — I raise an issue for the attention of the Premier, and I note, in doing so, that in response he would be acting in his capacity as the chairman of the Gippsland flood recovery task force. The community of Licola has been met with a series of natural disasters through the course of this year. Firstly, there were the bushfires in the summer. Secondly, there was a mudslide which was in fact a consequence of the bushfires, when a storm caused an extraordinary run-off of sludge, literally 1 metre deep, which ran through the middle of the town, engulfing homes, the general store, the caravan park and other areas in the community.

Then there was the late June storm and flood event, which has devastated that small community. Many members in this place will be aware of the bridges that were knocked out and the road that was damaged; fortunately temporary restoration of access to Licola has now been achieved. However, inspection of that community shows that this is a township which has an enormous challenge to recover. It is the last stopping-off point for much of the alpine highlands area — the national parks and forests that cover the Great Dividing Range are accessed through Licola by many people.

In Licola itself there is a great facility, the Lions village, known as the Licola Wilderness Village, which provides support particularly to disadvantaged and disabled people and leadership programs. Through voluntary labour and donations, Lions has developed that site since 1969, when it bought the village following the closure of the sawmill at Licola. The damage done to that Lions camp is such that it will be many months before it recovers, if indeed it is possible for it to recover at all without significant assistance from the government.

The estimate of the damage bill for the Lions village is $500 000 or more. To date the government has only committed $30 000. This is an important community asset which provides an enormous opportunity for young people, and as I said, the core business of the Lions village is to support disadvantaged and disabled people. I therefore ask that the Premier take action to ensure that Lions can restore the Lions village at Licola to its operational function.

Responses

Mr JENNINGS (Minister for Environment and Climate Change) — I will respond to a range of matters

that have been raised by my colleagues in the Legislative Council for the attention of various ministers, and I will make sure that these matters are passed on.

Andrea Coote raised a matter for my attention. In fact she reiterated almost verbatim, with raw enthusiasm, details of the program I have previously talked about — that is, Vision Australia's i-access program. Through this program technology will be made available to members of our community with vision impairments and other forms of information impairment. Mrs Coote drew attention to an event held by the Gandel family this evening to support the rollout of the technology. I congratulate Vision Australia, the Gandel family and members of the community who have provided support. The Brumby government recognises the degree of support that is being provided. Through the Minister for Community Services in the other place — and I had the good fortune of being Minister for Community Services previously — significant funds have been allocated. An amount of $750 000 has been allocated for the program in this financial year. As incoming Minister for Innovation, I am very interested to see how technological developments can be provided in a variety of areas within the community, including in this area. I am happy to explore within my responsibilities any synergies for the potential support of such a program.

Peter Hall raised a matter for the attention of the Minister for Agriculture in the other place. He asked that the minister cancel the tendering arrangement that might alter the employment of haulage contractors in the Gippsland region.

Colleen Hartland raised a matter for the attention of the Minister for Police and Emergency Services in the other place. This is a matter that I fully anticipated being asked of me during the course of question time today. It related to a spillage of ethyl acrylate at the west side of Swanson Dock last Saturday. I am pleased to report to Ms Hartland and the chamber that the leak was contained on the site. The damaged container has been removed from the site. The Environment Protection Authority, the Metropolitan Fire Brigade and appropriate port agencies were involved in the tidy-up and clean-up of that matter to ensure the ongoing safety of the region. The matter Ms Hartland raised with the Minister for Police and Emergency Services was the provision of an alert system for the community for times when such incidents might occur on the docks or at Coode Island. She called on the minister to act in collaboration with the Maribyrnong City Council to implement a community alerting system.

Gayle Tierney raised a matter for the Minister for Public Transport in the other place. She highlighted the improvements to the availability of services into Geelong and the western districts of Victoria and noted the timely introduction of new services to the timetable within the last month. She asked the minister to be alive to the growth in those services to meet demand and ensure that there is an appropriate process for the monitoring of demand in years to come.

David Koch raised a matter for the Minister for Education in the other place. He sought her review of the priority status given to the redevelopment of the Horsham Special School and drew to the attention of the chamber some concerns he has about the quality of the existing junior school precinct.

Brian Tee raised a matter for the attention of the Attorney-General in the other place. He called on the Attorney-General to consult with agencies such as Doncare Community Services and other services that provide support to those in our community who may have been victims of family violence during the rolling out of a new program designed by the Attorney-General and implemented by the government, which will introduce on-the-spot safety notices designed to protect the interests of victims of crime.

Jan Kronberg raised a matter for the attention of the Minister for Roads and Ports in the other place. She sought his intervention to revise the plan relating to a bridge on Wattletree Road in Eltham North to accommodate traffic calming and other safety measures.

Shaun Leane raised a matter for my attention as Minister for Environment and Climate Change. He outlined to the chamber his excitement at the work currently being undertaken at the Swinburne University of Technology campus in Wantirna to develop a sustainability centre. He drew attention to the fact that, under his urging and instigation, a sensory environmental garden will be available to members of the community to enable them to engage with it in an environmentally friendly fashion. This will assist people with disabilities to appreciate natural environments. He seeks my support for ongoing services such as this, and I would hope wishes me to visit the centre and see whether similar facilities could be developed in other locations.

Bernie Finn raised a matter that will tug deeply at the heart of every member of every football club across the nation. I have had the good fortune of going to a grand final in recent memory, as I barrack for Essendon, but it is barely within recent memory — 2000 is the most

recent. However, I do remember it. I was lucky to get a ticket on that occasion. Like Mr Finn and many others I have lined up for a seat and missed out. He has sought the intervention of my colleague the Minister for Sport, Recreation and Youth Affairs in the other place in banging heads together at the Australian Football League and trying to bring some sense to bear so that every member of those clubs that have the good fortune to be in the grand final this and every year has a chance to go.

Wendy Lovell raised a matter for the attention of the Premier seeking his intervention to support drought-affected communities across Victoria, particularly in the Goulburn region, to make sure that a variety of innovative measures are undertaken to provide support for those communities that are feeling the stresses that come with the drought.

Donna Petrovich raised a matter for the attention of the Minister for Agriculture in the other place. She sought his monitoring and delivery of what is the expectation of the Brumby government: that we will keep the border secure and prevent horses from entering the state of Victoria during the time of equine flu outbreaks in other states.

Edward O'Donohue raised a matter for the attention of the Minister for Public Transport in the other place seeking her support for establishing boom gates at eight level crossings on the Stony Point line as a matter of priority.

Matthew Guy raised a matter for the attention of the Minister for Planning seeking his urgent intervention to have the audit group that is associated with the Melbourne 2030 program review the opportunities for publicans in stressed situations where there is an intensity of urban settlement patterns under 2030 impacting perhaps adversely on the activities of those publicans.

Philip Davis, not for the first time in this chamber, raised concerns about the wellbeing of the citizens of Licola, which he drew to the attention of the Premier seeking his support for that community, a community which has suffered the rigours of unfair weather conditions during the course of this year. In particular he called upon the Premier to exercise his mind about how the government might support the Lions village at Licola.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 10.46 p.m.