PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 20 November 2007

(Extract from book 16)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

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

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

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

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

Joint committees

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

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

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

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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.

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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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Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
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Drum, Mr Damian Kevin	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Eideh, Khalil M.	Western Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
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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, 20 NOVEMBER 2007

Tuesday, 20 November 2007

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

MARY MARTIN

The PRESIDENT — Order! It is with great sadness that I advise the house of the sudden and untimely death of Mary Martin. Many members would have known Mary from her role as executive assistant to Wayne Tunnecliffe. Mary was a popular member of the Legislative Council team and worked for the Parliament of Victoria for 26 years. Mary's death last Friday follows an accident just over a week ago.

I know all members will join with me in extending our sympathy to Mary's mother, son, daughter, close friends and work colleagues at this sad time.

ROYAL ASSENT

Message read advising royal assent on 7 November to:

Building Amendment Act
Energy Legislation Further Amendment Act
Working with Children Amendment Act.

QUESTIONS WITHOUT NOTICE

Government: Exhibition Street lease

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Treasurer. I ask the Treasurer: in the context of his department's responsibility for the oversight of government property leases, is he aware of problems being experienced with leased office space at 121 Exhibition Street — specifically aspects of the fit-out, the operation of the building plant and the fact that a large area of the building remains unoccupied — and will he detail to the house what action is intended to resolve the problems to ensure that the staff are properly accommodated and that the building is fully utilised; and if so, when will these matters be fully resolved?

Mr LENDERS (Treasurer) — I thank Mr Davis for his question. As the shadow minister for finance, Mr Davis would well know that the leasing of government property is a responsibility of the Minister for Finance, WorkCover and the Transport Accident Commission in the other place. I am not aware of the details Mr Davis has specifically asked about, but I will certainly take it on notice for the minister.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the Treasurer for his answer, but given that it is his department which is responsible for this, I would have thought he would have a greater awareness of a significant cost to the government budget in regard to a building which has been fitted out at great expense and which is substantially unoccupied. Will the minister advise me when he will provide that answer?

Mr LENDERS (Treasurer) — Just for the information of the house, Mr Davis perhaps misunderstands — or perhaps is being slightly mischievous — the administrative arrangements; not that I would accuse Mr Davis of being slightly mischievous, perhaps very mischievous. The administrative arrangements are quite clear. There are certain sections of the Financial Management Act that are allocated to the Treasurer under the general order which deals with the administration of the Department of Treasury and Finance, and there are other aspects which are actually allocated to the minister for finance, and — surprise, surprise! — there are some that are allocated to both equally, but this is not one of them.

This is an area that is allocated to the minister for finance. I will certainly raise Mr Davis's question. It is a serious question with the minister. If there is a non-functional building or an inappropriate use of departmental resources, then we definitely want to know about it. I will take that on board for the minister for finance, and I am sure he will respond well within the time limits for questions on notice.

Planning: heritage grants program

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. Can the minister update the house on how the Brumby government continues to preserve and protect Victoria's diverse heritage for future generations through Victoria's heritage grants program?

Hon. J. M. MADDEN (Minister for Planning) — Celebrating our heritage that is manifested through buildings or collections is very important not only in terms of the morale of any particular community or any particular community group but particularly because it helps us to recognise and celebrate the past so that we can also prepare for the future. That is why the heritage grants sit within the planning portfolio.

I am delighted to update the house about the most recent announcements in relation to Victoria's heritage grants program, for which we recently released funding.

This is part of our $20.5 million state heritage strategy, Victoria's Heritage — Strengthening Our Communities. The word 'communities' is used because often in the case of these buildings or collections it is not just about the item itself. It is about the volunteers — the dedicated individuals or community groups — who give hours of their own time to ensure that these collections and these buildings are maintained and looked after and celebrated by their local communities.

I would firstly like to congratulate those groups. One of the tangible ways in which we can congratulate them and share their enthusiasm and their passion is to give grants. Recently $1 million worth of grants were announced, and I would like to point out a few of them. There was $100 000 for restoration works at the Bendigo Tramways depot, $75 000 for stone repairs to the street facade of the Baptist Church in Aberdeen Street, Geelong, and $6000 for interpretive signage and production of a pamphlet at the Grand Duke Mine, one of the biggest deep-lead goldmines and the site of the first and largest Cornish beam engine in Victoria. I would not have known that, but I know it now, and it is great to know that through this pamphlet a lot more people will share in that.

I would also like to thank the Parliamentary Secretary for Planning, Ms Mikakos, who was in Beechworth recently and announced a $40 000 grant to the Indigo Shire Council to assist it to fund the roof replacement and window repairs to the former Methodist church, which is now the Beechworth community centre. One of the great challenges is to make sure we find a use for heritage buildings. Sometimes they outlive their original purpose, and it is great to know that groups are finding uses for them, either through communities displaying or sharing their collections or communities using them for different purposes — hence, the Beechworth community centre.

I congratulate those involved. This is a great chance to share the passion of those people who are so committed to heritage in Victoria, which makes Victoria a better place to live, work and raise a family.

Water: logging

Mr BARBER (Northern Metropolitan) — My question is to the Minister for Environment and Climate Change. It relates to an action that was to be taken under the 2004 white paper *Securing Our Water Future Together*. Action 2.21 was to undertake hydrological studies on the impact of logging on the water yield of catchments in state forests and to develop options aimed at improving water yield, including potential changes to management practices and the phasing out of logging in these areas. Can the minister tell us whether those studies have been completed, what it is they might say and whether he intends to take any management action as a result of receiving them?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Barber for his question, his concern about the viability of Victorian catchments and his obvious keen interest in knowing our capacity to evaluate the impact on forest harvesting activity within those catchments, which he would be well aware is an area that draws attention to itself from time to time in the public domain. Indeed he quite correctly identified that it is a commitment of our government to evaluate the impact on forest harvesting within the catchments, and extensive work has been undertaken in the scoping of the investigation. In fact already there have been probably many hundreds of hours of community consideration of the scoping of the method to be used to assess the impact on harvesting in catchments.

From memory as recently as around the middle to the end of October the result of that scoping examination led to the next phase of the development of that piece of work. The method, as determined by that scientific assessment, involved a range of stakeholders. I cannot attest to having seen it on a website, but I believe it should be on a website associated with the Department of Sustainability and Environment — —

Mr Lenders — What about David Davis's website?

Mr JENNINGS — I doubt that that has got anything to draw attention to itself.

The method by which that piece of work will be undertaken has been distributed via that website for public consideration. The work has commenced for the next stage of doing that important piece of evaluation that will guide future decision making about a range of issues, including the protection of catchments, the viability of catchments, the maximising of the retention of water within those catchments and a range of other matters dealing with forest harvesting, fire management and other related issues in the years to come. I would imagine that the member and I and other members of the community will be looking at this work for some period of time and will then be well armed with additional information on which to make policy decisions in the years to come.

Economy: regional and rural Victoria

Ms BROAD (Northern Victoria) — My question is to the Treasurer. I refer to the extraordinarily productive and very well received visit last week by the cabinet to north-eastern Victoria in my electorate of Northern Victoria Region. That visit takes to 7 the number of municipalities in my electorate visited by the cabinet since the last election and I believe to around 80 the number of municipalities visited by the cabinet since the 1999 election. I ask the Treasurer: can he inform the house of any recent updates on the state of regional Victoria's economy?

Mr Atkinson interjected.

Mr LENDERS (Treasurer) — I welcome Ms Broad's question and I take up Mr Atkinson's interjection and advise that it is actually 79 municipalities not 76. Ms Broad raised the issue about any developments or initiatives on regional development from the cabinet visit. It was an absolute thrill to be in the Towong, Alpine and Indigo shires, three great shires in north-eastern Victoria, to be part of the Bracks and Brumby governments travelling to all municipalities in the state to visit them and to engage with councils, to carry out the pledge we made some years ago to listen and act — to actually go out there and engage with communities.

Mr Drum interjected.

Mr LENDERS — Mr Drum laughs, but I would suggest to someone from a party that was in coalition with the Liberal Party in the Kennett years and saw regional Victoria as the toenails of the state that The Nationals should pay heed to the benefits of community cabinets. They give government the chance to engage with communities; they bring government in touch and give communities fantastic access to ministers, parliamentary secretaries, departmental secretaries and members of Parliament.

Ms Broad asked specifically about regional infrastructure. The visit was fantastic because that particular day celebrated the billionth dollar of investment in regional Victoria either from the Regional Infrastructure Development Fund itself which, was $370.8 million, or the leveraging that came from it. I know Philip Davis and Mr Atkinson are not interested in regional Victoria, which was clearly the case during the seven long years of the Kennett government. This means projects like natural gas being extended to 34 towns in regional Victoria, regional airports, tourism and the cattle underpasses that now go right through particularly my home area of Gippsland.

Mr D. Davis interjected.

Mr LENDERS — While David Davis interjects, was this Regional Infrastructure Development Fund supported by people from regional Victoria across this house? No. The Liberal and National parties voted against the Regional Infrastructure Development Fund, and it was only when it came back and The Nationals were shamed by the *Weekly Times*, *Stock and Land* and every regional paper in this state that the upper house actually supported the bill.

In Chiltern last week the Premier announced a $200 000 grant towards the Indigo shire project to upgrade Chiltern's commercial precinct. This project is typical of the many projects and it deals with growth in Chiltern. It is an historic town, and those of us who have been to Chiltern know what a beautiful town it is. The project deals with issues like off-street parking, the repairing of footpaths, the erecting of heritage signage and the closing of four-vehicle laneways to encourage the development of alfresco dining and off-street meeting places, pedestrian links et cetera.

The Regional Infrastructure Development Fund has been a hallmark of this government's commitment to regional Victoria and investment of resources in regional Victoria. These projects, ranging from cattle underpasses to important heritage projects in Mr Drum's home town, have happened because this Labor government has governed for the whole state. We have gone from the beating heart and the toenails of those opposite to a government that is inclusive.

I was delighted to be in north-eastern Victoria with Ms Broad in her electorate where, as she said, seven municipalities have now had the cabinet this year alone. I was delighted to be there, because this is exactly the sort of thing — intervention by government and caring about the whole state — which helps make Victoria a great place to live, work and raise a family.

Water: north–south pipeline

Mr VOGELS (Western Victoria) — My question is for the Treasurer. In his address to the Municipal Association of Victoria (MAV) annual general meeting he advised local government that without the 75 gigalitres dedicated to Melbourne through the north–south pipeline, the Brumby government would not commit to the irrigation infrastructure because there would be nothing in it for Melbourne. Does this equally mean that the Brumby government will only fund infrastructure upgrades in Melbourne if there is something in it for country Victoria?

Mr LENDERS (Treasurer) — I was delighted to be at the Municipal Association of Victoria (MAV) meeting and speak. I did not see Mr Vogels there, so I suggest he is taking me out of context. The words he used were not mine. What I said to the MAV meeting was that as an item of state building this government has committed $1 billion to the food bowl project of which we are seeking $100 million from the users, the farmers in the Goulburn, $300 million from Melbourne Water and a further $600 million as a state contribution to one of the largest water infrastructure projects in the history of this country.

Mr Koch interjected.

Mr LENDERS — Mr Koch says, 'Theft of water' and I take up his interjection. What we are talking about is that Victorian irrigators use 3000 gigalitres of water a year. We know from the scientific studies that 800 gigalitres a year is lost in the Goulburn system. The Goulburn system is 80-year-old infrastructure that is tired and inefficient. What this government is proposing — —

Hon. J. M. Madden — Like The Nationals.

Mr LENDERS — Like The Nationals indeed, Mr Madden. What this government is proposing is that by its investment of $1 billion it will free up 225 gigalitres of water in the first wave — and if the federal government wants to come to the party there will be more. Of that 225 gigalitres of the 800 gigalitres that are lost, one third is to go to rivers in the area — that is for those from the Liberals and The Nationals who are worried about algal bloom, environmental flows or any of the other areas of concern about rivers — 75 gigalitres is to go to Melbourne and 75 extra gigalitres is to go to the Goulburn irrigators. Mr Vogels asked about this, so let us get the facts right about the food bowl project.

Ms Lovell interjected.

Mr LENDERS — Ms Lovell yaps again on this.

The PRESIDENT — Order! I would expect more from the Leader of the Government. Referring to a member's interjections, which is disorderly I might add, as being yapping is inappropriate. I ask him to withdraw.

Mr LENDERS — I certainly withdraw, President. Ms Lovell's friends in the north-east and Ms Lovell talk consistently about and question whether 225 gigalitres of water will actually be saved. What I say to Ms Lovell and her friends is that if they are so concerned about it being delivered, why are they now demanding of the government what it is going to do for them regarding the next lot of savings? If they are concerned about them, there is no proof of the pudding.

In response to Mr Vogels's primary point and talking about reciprocal obligations across the state, we are not getting a debate from the people of Gippsland, whose water from their side of the Great Dividing Range is being diverted to the other side of the Divide, because there is a view that the water should go to where it can be best used in the state. What the state is talking of here — —

Honourable members interjecting.

Mr LENDERS — Mr Hall's electorate is actually losing water to Mr Drum's electorate. Water has moved across the state for many years — ever since Elwood Mead, the second chair of the former State Rivers and Water Supply Commission, did his profound work across Victoria.

Mr Drum interjected.

Mr LENDERS — Mr Drum might know an interesting fact — that Elwood Mead is the man who coined the famous phrase — —

Mr Drum — Who is this?

Mr LENDERS — Elwood Mead, the second chairman of the State Rivers and Water Supply Commission, the man who said that alfalfa was a pig's idea of heaven. But I am straying to a debate what Ms Pennicuik will lead tomorrow. We are talking here of moving water savings to where they are most needed. We are talking of water savings — water that would otherwise not exist. As much as the Wimmera–Mallee pipeline is making savings in water, the food bowl will also make savings in water. The proposition that Mr Vogels seems to find so difficult is that there are projects of statewide significance. There is nothing of more statewide significance than a project that will actually see wasted water, unused water — —

Mr Drum interjected.

The PRESIDENT — Order! I have been listening to Mr Drum and wanted to confirm what he actually said, but three times this afternoon he has referred to a comment made by the Leader of the Government as the Leader of the Government either telling a lie or lying. That is inappropriate, and I ask him to withdraw.

Mr Drum — I withdraw.

Mr LENDERS — The fundamental point is that a project of statewide significance is utilising 225 of 800 gigalitres of water that would otherwise be lost, the proposition being that the local farmers will get 75 gigalitres and will put in $100 million through their water authority. The proposition is that Melbourne Water will put in $300 million and that the state will put in another $600 million. If Mr Vogels is actually suggesting that the water users of Melbourne Water be asked to put $300 million into a project where there is not a drop of water for them because their contribution — 75 per cent of the local contribution — would go to give 75 gigalitres of water back to users in the Goulburn Valley, any reasonable person would welcome that proposition. They would talk of it as state building. If former Premier Henry Bolte had done this, Mr Vogels would have called it state building. If the Prime Minister, John Howard, had done it, Mr Vogels would have called it nation building, but he is critical of what the Victorian Labor government is doing.

I stand by my comments at the MAV meeting that you cannot reasonably expect the state to put that quantum of money — $1 billion — into a project if you are not getting some reciprocal use, I stand by my comment that you cannot expect the users of Melbourne Water to put $300 million into a project in the north and I stand by my comment that this is the most significant water infrastructure project in the history of this state. It is something that future generations will look back on and congratulate our generation for doing. This is a critical economic issue and also a great one. It will make Victoria a better place to live, work, raise a family, invest and farm.

Supplementary question

Mr VOGELS (Western Victoria) — Can the Treasurer advise the house as to the value of agricultural production that can be obtained through the use of 75 000 million litres of water and the number of jobs this would create in regional Victoria?

Mr LENDERS (Treasurer) — I do not have at my fingertips the number for what 75 gigalitres of extra water will do, but I am quite happy to take the question on notice and come back to Mr Vogels. However, what I can say to Mr Vogels is that the food bowl, which is one of the leading horticultural centres on this planet, at the moment operates on 3000 gigalitres of water. If we can add 75 more gigalitres of water to that for the first time, we will be adding significantly to that area. And not just that, it is an offence to any civilised person in Victoria today to think that in a time of climate change we would sit by idly because we are not prepared to address state growth issues and let 800 gigalitres of water a year — more than twice what Melbourne uses and a quarter of what the whole Goulburn system uses — go to waste. In a time of climate change it is the obligation of every government to use its resources more accurately.

Mr Koch interjected.

Mr LENDERS — Mr Koch continues to interject about this being bad management. I would say to Mr Koch that in the northern part of his electorate the Wimmera–Mallee pipeline is reducing water wastage through seepage and evaporation from 90 per cent plus to almost zero because of the pipeline that this government has invested in and led the way on, and now finally has the federal government as a surly partner invested in it.

We are investing in the future of this state, because you cannot put your head in the sand. You cannot pretend that water is not an issue. This government has the most comprehensive water plan in the history of this state. It is one which most of the country looks to with envy and one which will address our scarcity of water, ensure it is used more effectively, create more water through desalination and reduce wastage — because that is what we need for a vibrant agricultural sector, that is what we need for domestic and stock use and that is what we need for industrial use.

Beechworth Historic Park: management

Ms DARVENIZA (Northern Victoria) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. Could the minister please inform the house how the government is incorporating community aspirations in the management of our national parks?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Ms Darveniza for her question and her concern about the protection and preservation of natural values, in this case cultural heritage values, in a very important part of northern Victoria. I, along with other members of the Victorian government, was very privileged to be in northern Victoria during the course of the last week. I took the opportunity to congratulate those community members who had been involved in establishing the management plan for the Beechworth Historic Park, which was proclaimed in 2002 and which is within the precincts of the very beautiful township of Beechworth. It adds to the fantastic tourism potential of that town and its rich assets and to the opportunities for local community members to immerse themselves in natural values and

cultural heritage values. Hopefully it will be the centre of great tourist activity in years to come.

Beechworth Historic Park is one of only four parks in the state of Victoria that has been listed under the National Parks Act, primarily because of its cultural heritage as distinct from its biological values. Beechworth Historic Park is recorded this way because of its rich goldmining history dating from the 1850s. There is a rich repository of examples of the significant mining activity that has taken place within the area. It has been preserved and maintained and will require the ongoing interpretation, understanding and appreciation of the tourists who come into the park.

The park is a bit over 1000 hectares in size, right within the boundaries of Beechworth. It formed part of the box-ironbark evaluation and the series of parks that were established under the box-ironbark review, so there is remnant box-ironbark vegetation within the park. It also happens to be a location where we find the somewhat endangered and rare yellow hyacinth orchid, which is very popular among field naturalists. When I took the opportunity to mention the yellow hyacinth orchid in the company of those people who have been working on the management plan, spontaneous smiles erupted from those good members of the community who recognise its important natural value. They were very pleased that that species will be able to be preserved under the auspice of the park.

It is a very popular park where currently people engage in the activities of bushwalking, bike riding, horseriding and picnicking. There are many historical features in the landscape, including the Powder Magazine, which was designed for the purpose of maintaining gunpowder. Accumulating gunpowder to support mining activity was a somewhat dangerous enterprise in 1850s. In 1850 this was a state-of-the-art facility designed specifically for that purpose, and it is still well preserved and maintained by the volunteers associated with the park. There are other cultural heritage values that predate 1850. Many surveys have been undertaken of the Aboriginal history that predates the 1850s. There are scar trees, rock wells and grinding grooves that are evidence of a long habitation by Aboriginal people in the area.

I congratulate those who have been involved in the establishment of this national park and the management plan. The people who have been involved in this process at Beechworth are also involved in the Chiltern Park and the Mount Pilot National Park. I congratulate them on their good work. I also congratulate the officers of Parks Victoria, who have been engaged in establishing a fantastic park for the wellbeing of people in the north of Victoria which will add to the rich tourism attraction capacity of the Beechworth township.

Crib Point: bitumen plant

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Planning. Will the minister agree to the Mornington Peninsula Shire Council's request that he call in the planning permit application for a bitumen facility at Crib Point?

Hon. J. M. MADDEN (Minister for Planning) — I welcome the question from Mr O'Donohue. I am conscious that the issue of the bitumen plant in the port of Hastings region is one of local concern. I congratulate my colleague Mr Scheffer, who has been very considerate in listening to the opinions of the local community there.

My understanding at this stage is that the matter is under consideration by the council. Whether or not it has dealt with that in a timely manner is really for the council's consideration. If the project has been referred to the Victorian Civil and Administrative Tribunal, then I would need to seek information as to the status of that at the current time. I am a great believer in local government being given as much as possible the first opportunity to make decisions in these circumstances. I am confident that there are appropriate mechanisms and processes for these.

If the council and the community have a good case, I am happy to have that relayed to me. At this stage I am yet to receive a letter. I have yet to sight a letter from the council making that request. If it makes that request directly to me, then I am happy to give that some consideration, but at this point in time I have not sighted that letter.

It may well be there is one in the system, but I have not yet sighted that. If the council feels so exercised about this project, then I suggest the council seek to inform me of its concerns either by requesting a meeting or via a letter. As yet, as I mentioned, I have not sighted a letter, and I have not heard from the council directly seeking a meeting on this matter.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for that answer. My understanding is that the council has formally requested that the minister call the matter in, and I ask: will the minister honour the commitment made by the then Labor member for Hastings, who in a letter to the residents of Crib Point of 22 November 2006 said:

Following my representation, the Bracks government has already said no to a bitumen plant in Crib Point.

Hon. J. M. MADDEN (Minister for Planning) — I take up Mr O'Donohue's first comment. At this point in time I have yet to receive an official request, I believe, directly to me from the Mornington Peninsula Shire Council in relation to this matter. I have not seen anything in writing that leads me to say otherwise. If there is a request in the system, then I am happy to give that some consideration, but I have yet to sight a letter that makes that request of me. If there is a letter in the system, I am happy to respond to it. Whether it is in their system or our system, I am happy to look at it. But I inform Mr O'Donohue that at this point in time I have not yet had a direct request made of me in relation to calling in this matter.

There is another issue here, and I can see why Mr O'Donohue has asked the question and Mr Guy has not asked the question. You cannot have it both ways. You cannot request the Minister for Planning to call in a matter on the one hand but when he calls in another project condemn him for calling it in. I can understand why Mr Guy has not had the guile to make this request.

Mr P. Davis — On a point of order, President, I note that the minister is digressing from your earlier rulings when you indicated that this minister in particular should stick to responding to the question rather than attacking members of the opposition.

Hon. J. M. MADDEN — On the point of order, President, it is the same point — it is exactly the same point.

The PRESIDENT — Order! Mr Davis is correct that I have made earlier rulings along those lines. However, I do not agree that the minister is digressing from the subject matter so much that I would need to relay that fact to him. I do not think he is overtly attacking people. He is simply referring or responding to both interjections and actual questions, although I do say to the minister that he is getting pretty close and that he should think about that.

Hon. J. M. MADDEN — Thank you very much for that ruling, President. Can I just round off this point before I continue with the rest of the answer. If you seek to have the planning minister intervene on a matter — and I understand that is the request Mr O'Donohue is making today in this chamber; he is seeking to have the planning minister intervene on this matter — then you cannot condemn the planning minister for intervening on other matters when it does not suit you. Mr Guy and Mr O'Donohue need to get their story worked out as to whether they support intervention by the minister or not. I have made that point clear.

In relation to the other point raised by the member opposite, if he is talking about a former member of the Assembly, I cannot answer on behalf of that former member who has not been re-elected. The individual Mr O'Donohue referred to has not been re-elected. The point here is that this is a hypothetical question about a person who no longer holds a position in the Assembly, yet I am being asked questions in relation to a press release they have issued. If that candidate made a press release and you, Mr O'Donohue, ask about that matter — —

Honourable members interjecting.

The PRESIDENT — Order!

Hon. J. M. MADDEN — It is fairly obvious that the local community did not support the election of that candidate to that chamber. Mr O'Donohue, I ask of you — —

The PRESIDENT — Order! I remind the minister that this is question time, but not question time for him; he does not get to ask members opposite questions. I have extended a great deal of latitude to him, and I ask him to think about the extent of his answer.

Hon. J. M. MADDEN — The point I wish to round off on again is that if the new member for Hastings in the other chamber has a point to make, he should make the point directly to me. He should make that point, because at this point in time we are talking about a former member, not a current member.

I make the point again that the opposition cannot make a request for the minister to intervene and then, when the minister intervenes at a later date on another project, condemn the minister for intervention. This is the sort of thinking, to seek to intervene on an ad hoc basis, this is what the Liberal Party — —

The PRESIDENT — Order! The minister is now really testing my patience. In fact he personally has been on the receiving end of my rulings with regard to overtly criticising the opposition and other parties. I ask him to please desist. The minister, to continue.

Hon. J. M. MADDEN — I have finished, President.

Gippsland Lakes: entrance

Mr SCHEFFER (Eastern Victoria) — My question is to the Minister for Environment and Climate Change. Could the minister please inform the house what the

government is doing to address sand management issues at Lakes Entrance and to upgrade local ports in Gippsland?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Scheffer for his question and his support for the Gippsland community in dealing with what has been a monumental challenge for the past nearly 120 years, since the channel opening was made at Lakes Entrance, where nature has tried to close that entrance every year since. The government supports the local fishing industry and the endeavours of the local community to try to make sure that there is ongoing access to the sea through that channel opening at Lakes Entrance. The opening is necessary to enable the lakes system to be flushed by the sea and our waterways to go through the lakes and into the sea to create a well-balanced environmental outcome in circumstances where at every opportunity nature is trying to claw back the sandbank and close that entrance.

There has been significant investment undertaken by the Bracks and Brumby Labor governments in trying to provide that support, and $31 million has been allocated to the sand management program. Many members of the community recognise the challenges that are confronted through that program and the many dimensions that are in play to try to achieve that outcome.

Recently I was joined in Lakes Entrance by members of the community, including representatives of Gippsland Ports and East Gippsland shire. Indeed the Leader of the Opposition in this chamber was there. He showed far more interest on that day than he is showing today. On that day he was very interested to ensure that he was seen and acknowledged as actually being a representative of his community who is very interested in this regard. Today he has gone missing in action.

The good news is that the Brumby government did not go missing in action because on that day I took the opportunity to commission a brand-new suction dredger, the *Kalimna*, which will be clearing the waterways on the lakes side of the channel. Indeed this has drawn the so much attention that now even my colleagues on the back bench are excited about hearing of the dimension of technology that is involved in this important project. This is a very neat, compact dredger. It has the capacity to move about 300 tonnes.

Mr Finn interjected.

Mr JENNINGS — Mr Finn has even woken up at the mere mention of the name of this dredger.

Important work will take place to keep the channel open and to try to prevent the sand from accumulating. Within the $31 million investment $4 million has been allocated to a sand bypass program that will divert sand from either side of the channel, bypass the channel and place it on the most appropriate side of the beach depending on the tidal conditions and the prevailing winds, so that you do not just move the sand and then have the tide and wind bring it back. A lot of science underpins the sand bypass project, and I hope that of all the measures this proves to be the most effective way of keeping the channel open.

Another significant investment of $700 000 has been allocated to the sand transfer station which assists in that process. Many members of this community, and certainly people down in Gippsland, are well aware of the work being undertaken by the *April Hamer*, which has been churning away purposefully at its work for many years — the best part of 30 years — and is a bit tired. It has a great name — it was named after a great person — but the ship itself has seen better days and there is a need for significant investment to replace it. From the $31 million investment, $5.9 million has been allocated to trial a new trailer suction hopper dredge to operate on the sea side of the channel in order to support the work of the sand bypass and to support the work — —

Mr P. Davis — Will you drive it, Minister?

Mr JENNINGS — I look forward to it being user friendly so that people who have the appropriate ticket and training can undertake this important work to keep the channel open so the fishing fleet can continue to serve this community well. It is a major economic driver for the Gippsland community. The ongoing viability of that fishing fleet and the recreational boating sector within — —

Mr Hall — When will that start, Minister?

Mr JENNINGS — The dredge on the sea side? I think we are anticipating commencement of that important part of the program in February or March.

I took the opportunity when I was down there to announce $2.9 million of investments in infrastructure right across the Gippsland Lakes.

Mr P. Davis interjected.

Mr JENNINGS — Mr Davis is back in his place! I referred to his interest in this matter earlier in my contribution, but he is back now to hear the conclusion of my contribution. I am pleased to say that it is the conclusion of the contribution.

The $2.9 million investment saw infrastructure being established at the Gippsland Lakes Yacht Club, Hollands Landing, Resides jetty, Paynesville boat yard, the fishermans jetty at Port Welshpool and the fishermans wharf at Port Albert.

The Brumby government recognises that it needs to provide support for people who want to pursue recreational boating or fishing interests along the Gippsland Lakes, and that significant investment will support their endeavours and their access to the Gippsland Lakes in years to come.

Bushfires: fuel reduction

Mrs PETROVICH (Northern Victoria) — My question is for the Minister for Environment and Climate Change. On 9 October the minister informed the house that 130 000 hectares of fuel reduction burning would be carried out this spring. Is the minister aware that with only 10 days of spring remaining, the Department of Sustainability and the Environment reports that as of today just 7228 hectares of this season's prescribed burns have actually been completed?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank the member for her question. She has asked me a series of questions about preparedness for the fire season. I join her in wanting to provide support and encouragement to members of our community right across Victoria to know that we are well prepared for the fire season. I have not got the *Hansard* in front of me, and it would not be appropriate for me to refer to it even if I had, but I can assure the house that between last firefighting season and the coming season, which we are just commencing now, more than 130 000 hectares of fuel reduction burning has taken place.

In terms of the technicality in relation to what occurs in spring, the member may be accurate in relation to what is actually occurring this spring, but the substantive answer to what fuel reduction burns have taken place between last fire season and this is that more than 133 000 hectares has been achieved — and I absolutely stand by that answer.

Supplementary question

Mrs PETROVICH (Northern Victoria) — Given he has delivered only 5 per cent of the planned fuel reduction burn, will the minister assure the Victorian community that preparation of public land is adequate for this year's fire season, which is now upon us?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank the member for the question and the opportunity to talk about what I did at lunchtime today. I stand by my substantive answer — more than 130 000 hectares of fuel reduction burning has occurred from the last fire season to the current fire season.

I took the opportunity at lunchtime today to welcome back the firefighting capacity that Elvis brings to the state of Victoria. Elvis is back! The important contribution being made by the Erickson Aircrane, better known as Elvis, adds to the wherewithal of our firefighting capacity. Today I welcomed a firefighting crew that arrived in Melbourne as early as this morning from Canada.

Mrs Petrovich — You have not done the work on the ground.

The PRESIDENT — Order! Mrs Petrovich!

Mrs Petrovich interjected.

The PRESIDENT — Order! Mrs Petrovich!

Mr JENNINGS — They will support our fantastic firefighting capacity.

Mrs Petrovich interjected.

The PRESIDENT — Order! Mrs Petrovich! That is the third time I have asked the member to come to order. She has asked her question. We would all like to hear the answer, including her. No more interjections, please!

Mr JENNINGS — The member's anxiety is well placed in the sense that this is an acute firefighting situation. We do have to be prepared, and we have to be aware of the resources that are available to us. This year we have dedicated more resources to firefighting than in any other firefighting season in Victorian history.

Mrs Petrovich — On a point of order, President, there was a comment made from across the chamber, and I do not know whether you were aware of it, about my breeches being on fire. I think that is a most inappropriate and sexist comment, and I would like it withdrawn.

The PRESIDENT — Order! If the member is unable to identify the member who may or may not have made the comment, then I cannot really help her other than to say that she is correct, it is inappropriate. Whoever made it should consider themselves warned,

and if I do find out who made it or hear it again, I will deal with it severely.

Mr JENNINGS — Hand on heart, as *Hansard* will attest, it did not come from me and was certainly not done at my behest, because in fact the member's concern about the wellbeing of rural communities and indeed our preparedness for the fire season is legitimate. Notwithstanding what she might try to fit me up with by saying that I said certain things at a certain period of time, they are valid issues.

I am absolutely confident that Victoria is better prepared for the firefighting season than it has ever been before. More resources have been allocated, and a greater degree of fuel reduction burning has occurred this year and last year than in any other year.

An honourable member interjected.

Mr JENNINGS — In response to the member's question, 41 fires have commenced to burn in Victoria since last Saturday, so that is a measure of the urgency of fire-related matters in Victoria. I am pleased to report to the house that at the moment only three fires are not contained, and whilst they are a threat to a variety of communities in the north-west and the eastern part of Victoria, the majority of fires have been contained. I am confident that the great firefighting effort by Department of Sustainability and Environment, the Country Fire Authority and other support agencies will rise up to meet the challenge presented by the firefighting season.

The PRESIDENT — Order! Twice during question time comments have been made from my right that certain comments passed in the house have been sexist. I have to say that I do not consider either one to have been genuinely sexist, but I want to make this point: if in my opinion a sexist comment is made, I will deal with it. It will not be condoned. I raise this because two comments from two individuals in the last 45 minutes have caused me to voice an opinion on this matter to the chamber.

Gunnamatta: sewage outfall

Mr DRUM (Northern Victoria) — My question is directed to the Minister for Environment and Climate Change. Has the minister been to Gunnamatta since he has assumed the environment portfolio to witness at first hand the destruction being caused by the pumping of over 200 gigalitres of C-class sewage into the water at Gunnamatta Beach; and if so, what are his views on the outfall area?

Mr JENNINGS (Minister for Environment and Climate Change) — The simple answer to the member's question is no, I have not been to that location since I have assumed responsibility for this matter, but I know it has been a concern in a variety of quarters across the Victorian community. I am certainly aware it is a concern of my colleague the Minister for Water. It is a concern that I share as part of a government that wants to ensure that environmental values and the quality of life of our citizens are protected and that we deal with our waste appropriately. As a philosophical and public policy position, and because the government is supportive of community outcomes that support our citizens, I am respectful and mindful of the issues. I have not been to the location, and I am not directly responsible within government for this sewage outfall, but I am sure I will work on it in cooperation with my colleague the Minister for Water in the future.

Supplementary question

Mr DRUM (Northern Victoria) — I thank the minister for his answer. I asked the minister why he, as the Minister for Environment and Climate Change, will not avert what is fast becoming an environmental disaster by insisting that his government treat the effluent to A class and use it for the environmental flows at the head of the Yarra River, which is part of government policy and which would save 75 gigalitres of potential potable water which could be used for Melbourne's water supply?

Mr JENNINGS (Minister for Environment and Climate Change) — I take the opportunity to say that the matters the member has raised with me are matters that I can consult and engage on with the Minister for Water in the days and months to come. I will support his endeavours to deal with those issues in a most satisfactory fashion on behalf of the community in protecting environmental values.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 417, 430, 494–8, 516, 551, 572, 573, 674, 676, 703, 711–15, 757, 776–83, 788, 799, 800, 814–44, 847, 849, 874–9, 899, 900, 927–32, 935, 936, 939, 940, 942, 957, 966.

PETITIONS

Following petitions presented to house:

Casey central secondary college: establishment

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the need to construct the Casey central secondary college that the government promised to have operational for the start of the 2009 school year.

Parents are concerned that due to the lack of available secondary school places in the area, children may be forced to travel an average of 18 kilometres to attend school and request that a secondary school is constructed on the proposed site on land south of Glasscocks Road, Cranbourne North, to at least accommodate year 7 students at the start of the 2009 school year, as promised by the government.

By Mr RICH-PHILLIPS (South Eastern Metropolitan) (619 signatures)

Laid on table.

Water: fluoridation

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 concerns of the undersigned in respect to plans to add fluoride to the water supply of previously unfluoridated areas of Victoria. The petitioners believe that fluoridation of any previously unfluoridated area should proceed only if approved at a referendum.

Your petitioners therefore request that all members of the Legislative Council support the Health (Fluoridation) (Amendment) Bill 2007, initiated by the Democratic Labor Party (DLP).

By Mr KAVANAGH (Western Victoria) (2543 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 LEANE (Eastern Metropolitan) (200 signatures)

Laid on table

GAMING: PUBLIC LOTTERIES LICENCE

The Clerk — I lay on the table a letter from the Leader of the Government dated 5 November 2007 in response to the resolution of the Council of 31 October 2007, reiterating the government's claim of executive privilege regarding the documents relating to the public lotteries licence specified in the terms of the resolution of the Council of 19 September 2007.

The Leader of the Government has advised the Council that he is bound to act consistently with the claim of executive privilege and therefore the documents required by the resolution of 31 October 2007 have not been produced to the Legislative Council.

Ordered to be taken into consideration next day on motion of Mr P. DAVIS (Eastern Victoria).

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 15

Mr EIDEH (Western Metropolitan) presented *Alert Digest* No. 15 of 2007, including appendices.

Laid on table.

Ordered to be printed.

BUDGET SECTOR

Quarterly financial report

The Clerk, pursuant to Financial Management Act, presented quarterly financial report for period ended 30 September 2007.

PAPERS

Laid on table by Clerk:

Child Safety Commissioner — Report, 2006–07.

Consumer Affairs Victoria — Report, 2006–07.

Crown Land (Reserves) Act 1978 —

Minister's Order of 26 October 2007 giving approval to the granting of a lease at Albert Park Reserve.

Minister's Order of 18 October 2007 giving approval to the granting of a lease at Coulson Reserve.

Major Events (Aerial Advertising) Act 2007 — Minister's order of 12 November 2007 in relation to the 2008 Commonwealth Bank Series One Day International Matches and the 2008 KFC Twenty20 International Match.

Members of Parliament (Register of Interests) Act 1978 — Summary of Primary Returns, November 2007 and Summary of Variations notified between 9 October 2007 and 19 November 2007.

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

Casey Planning Scheme — Amendment C103.

Darebin Planning Scheme — Amendment C74.

Frankston Planning Scheme — Amendment C49.

Greater Dandenong Planning Scheme — Amendment C82.

Hobsons Bay Planning Scheme — Amendment C31 Part 2.

Hume Planning Scheme — Amendments C72 and C79.

Mansfield Planning Scheme — Amendment C13.

Melbourne Planning Scheme — Amendments C136 and C137.

Mildura Planning Scheme — Amendment C42.

Pyrenees Planning Scheme — Amendment C16.

Strathbogie Planning Scheme — Amendment C24.

Surf Coast Planning Scheme — Amendment C35.

Warrnambool Planning Scheme — Amendment C50.

Yarra Ranges Planning Scheme — Amendment C45.

Statutory Rules under the following Acts of Parliament:

County Court Act 1958 — No. 120.

Professional Standards Act 2003 — No. 122.

Subdivision Act 1988 — No. 123.

Supreme Court Act 1986 — No. 121.

Victorian Civil and Administrative Tribunal Act 1998 — No. 124.

Subordinate Legislation Act 1994 —

Minister's exception certificates under section 8(4) in respect of Statutory Rule Nos. 119 and 124.

Minister's exemption certificates under section 9(6) in respect of Statutory Rule No. 122.

Proclamations of the Governor in Council fixing operative dates in respect of the following Acts:

Justice and Road Legislation Amendment (Law Enforcement) Act 2007 — Part 1 and sections 9 and 10 — 8 November 2007 *(Gazette No. G45, 8 November 2007).*

Justice Legislation Amendment Act 2007 — remaining provisions of Part 2 and remaining provisions of Part 4 — 8 November 2007 *(Gazette No. G45, 8 November 2007).*

Royal Children's Hospital (Land) Act 2007 — 5 November 2007 *(Gazette No. G44, 1 November 2007).*

BUSINESS OF THE HOUSE

General business

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

That general business on Wednesday, 21 November 2007, be taken in the following order:

(1) order of the day no. 7, for the resumption of debate on the motion moved by myself to further amend the sessional orders;

(2) notice of motion no. 54 standing in the name of Mr Barber relating to the revocation of amendment C95 to the Yarra planning scheme;

(3) notice of motion no. 59 standing in the name of Ms Pennicuik relating to the disallowance of the Code of Accepted Farming Practice for the Welfare of Pigs 2007;

(4) the notice of motion given this day by myself relating to the refusal by the Leader of the Government to comply with a number of resolutions of the Council to table certain documents relating to the public lotteries licence specified in those resolutions, to be debated cognately with a motion to take note of the Leader of the Government's letter of 5 November 2007 in response to the resolution of the Council of 31 October 2007;

(5) order of the day no. 8, for the resumption of debate on the second reading of the Health (Fluoridation) Amendment Bill 2007; and

(6) notice of motion no. 61 standing in the name of Mr Rich-Phillips seeking an extension of time for the Select Committee on Gaming Licensing to present its final report.

Motion agreed to.

ROAD SAFETY COMMITTEE

Rail: level crossing safety

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

> That the resolution of the Council on 18 July 2007 requiring the Road Safety Committee to inquire into and report by 29 February 2008 on existing, new and developing technologies for implementation to improve safety at level crossings be amended so as to now require the committee to present its report by 31 October 2008.

Motion agreed to.

MEMBERS STATEMENTS

Aichi Prefecture: parliamentary visit

Mrs COOTE (Southern Metropolitan) — Between 3 November and 11 November my colleagues Bob Smith, Wendy Lovell, Adem Somyurek and Nazih Elasmar, and I, accompanied by Geoff Barnett, had the privilege of representing the Victorian Legislative Council on an official visit to Japan. The Aichi Victoria sister-state relationship was established on 2 May 1980 by the late Sir Rupert Hamer, Premier of Victoria, and His Excellency Yopshiaki Nakaya, Governor of Aichi. The formal ratification of this relationship celebrated an extended association between Aichi and Victoria based around trade, cultural exchange and investment from Aichi into Victoria — most notably by the Toyota motor company, whose head office is in my electorate.

Cultural exchanges have been taking place between Aichi and Victoria since 1972. Since the formalisation of the sister-state relationship, these exchanges have been extended to parliamentary visits, study tours and training programs for professionals. In February 2008 there will be a delegation to Australia from Aichi Prefecture led by the deputy chairman of the Aichi Prefecture Assembly, and I look forward to introducing them to all members of this chamber.

It was especially pleasing to experience at first hand the close relationship that is enjoyed between the Victorian Parliament and Aichi Prefecture. I feel privileged to have been part of the most recent reinforcement of this important 27-year relationship and feel our delegation enhanced our long friendship. It has been said that politicians and advisers both in Victoria and in Aichi Prefecture may come and go, but the healthy sister-state relationship will continue to flourish. I wish it every success.

Teachers: enterprise bargaining agreement

Ms PENNICUIK (Southern Metropolitan) — The Greens are supporting thousands of Victorian public school teachers who will be rallying tomorrow morning in support of better wages, more secure employment and lower class sizes. Teachers are the backbone of the education system. If we truly want first-class education in Victoria, we should reward our teachers properly for the demanding and important job they do.

Victoria's most senior teachers are the lowest paid in Australia and beginning teachers in Victoria are the third lowest paid. These gaps will widen further in January when teachers in New South Wales gain a 4 per cent increase. South Australian teachers were as low as Victoria, but in October this year they also received a 4 per cent increase. Almost one in five Victorian teachers is employed on contract, with little or no employment security. Class sizes are still too high and the workloads continue to contribute to the loss of teachers from the public system.

More than 90 per cent of teachers who voted in the Australian Education Union ballot support a program of 24-hour and 4-hour stoppages in their campaign for fair wages and conditions, but it should not have to come to this. The government continually says education is its no. 1 priority, and yet it has failed to match the other states with appropriate wages and genuine investment in our teachers.

WorkChoices: effects

Ms PULFORD (Western Victoria) — I hope this will be a eulogy for WorkChoices and later in the week we will have the wake. The federal government spent $120 million to spin the lie that WorkChoices is good for us, but a few truths are in order on this occasion. Even since the introduction of the fairness test, it has been shown that 47 per cent of Australian workplace agreements have removed penalty rates, 44 per cent have removed overtime and shift loadings, 53 per cent have cut allowances, 77 per cent have slashed leave loading and 40 per cent have removed payment for public holidays.

The Liberals new policy document has a lovely little section entitled 'Highlights of the government's achievements', which says 'the coalition legislated for the first time in Australian history guaranteed minimum standards of employment'.

The PRESIDENT — Order! Mrs Coote on a point of order which is most unusual during 90 second statements.

Mrs Coote — On a point of order, President, I would have to suggest that the clock was in fact not turned on and this member has had more than 90 seconds — that she has had 2 minutes on this particular issue.

The PRESIDENT — Order! Mrs Coote makes a valid point; however, she is wrong. I am confident that the member has not exceeded 90 seconds. Whilst the Clerk may have been a little, shall we say, derelict in making sure the clock was running, he has amended that. I think the amount of time left is absolutely correct. The member to continue.

Ms PULFORD — What were the awards? I hope the spin doctors got their overtime rates for working that little number up.

And it goes on — 'Abolition of unfair dismissal laws for small business'; this is code too. Now over 3.6 million Australians can be sacked for almost no reason at all. This charming publication also boasts of higher real wages, but we know of employers using template agreements in retail and hospitality to cut pay and conditions by up to 18 per cent. The 100th anniversary of the original minimum wage decision, the Harvester judgement, has just passed, and by great contrast so too might this ideological misadventure take its place in history.

The PRESIDENT — Order! Before Ms Lovell starts her 90 second statement she has sought permission from me to start in a foreign language — Japanese in fact — which I have granted without prejudice.

Aichi Prefecture: parliamentary visit

Ms LOVELL (Northern Victoria) — Smith-gicho, senshu wa Victoria-shu-gikai-Aichi-ken-homondan no ichiin toshite, Victoria-shu to shimai-teikei o musundeiru Aichi-ken o homon suru koto ga dekimashite, taihen koei ni omotte orimasu.

Homondan wa Kanda-chiji, Aoyama-gicho narabi ni Aichi-ken-gikai no ooku no katagata ni oai suru koto ga dekimashite, hijo ni yuigi na keiken o eraremashita.

Konkai no homondan, soshite kore kara no homondan ga Aichi-ken to Victoria-shu no shimai-teikei no sara naru hatten ni koken dekiru koto o kitai shite orimasu.

Arigatogozaimashita.

What I have just said is: President Smith, last week I was honoured to be a member of your delegation that visited Aichi Prefecture, Victoria's sister state in Japan. The delegation was honoured to meet with Governor Kanda, the chairman of the Aichi Prefecture Assembly, Mr Aoyama, and other members and officials of the assembly.

I hope this current and future delegations to Aichi Prefecture will strengthen the bond that exists between Aichi Prefecture and the state of Victoria. Thank you.

Equine influenza: Spring Racing Carnival

Mr PAKULA (Western Metropolitan) — With the running of the Sandown Classic last Saturday, the three principal metropolitan racing clubs have completed outstanding racing carnivals.

Now that the carnival is over I think that all the clubs would concede that when equine influenza (EI) was first detected in the thoroughbred horseracing community the chance of having a full spring carnival relatively unimpeded by EI was remote. Certainly fields were somewhat affected, but anyone who attended any race meeting from Underwood Stakes Day right through to the Sandown Classic would agree that for owners, trainers and race fans the carnival rolled on with barely a hiccup. That it did is a great credit to all the stakeholders in the industry — Racing Victoria Ltd, which acted quickly to put in place strict security to protect the thoroughbred population; the clubs, trainers, owners, jockeys and other staff, who had to abide by and implement those stringent measures; and the state Department of Primary Industries, which did a magnificent job protecting our horse population through its border security measures.

The beneficiaries of those efforts were, of course, the clubs and the industry stakeholders, but ultimately the entire Victorian economy benefited from the measures which saved what is arguably the state's principal sporting event. Particular credit goes to the chief executive officer and to the outgoing chairman of Racing Victoria Ltd, Stephen Allanson and Graham Duff, to the chief veterinarian, and to the Minister for Agriculture in the other place, Minister Helper, for their decisive and successful approach to the EI crisis.

VicHealth: 20th anniversary

Mr D. DAVIS (Southern Metropolitan) — Today I wish to bring to the attention of the house the 20-year celebration of VicHealth. VicHealth was founded in 1987. The act establishing VicHealth went through this Parliament and established a new and innovative model. Today in this Parliament there will be a celebration of the VicHealth 20th anniversary.

The model has been an extraordinarily successful model of health promotion that has shown the way to others around the world. It is a model of which I believe Victorians can be proud.

In December 2005 I was honoured to be one of those launching *The Story of VicHealth — A World First in Health Promotion* when I was the then shadow Minister for Health. On its key task of reducing the impact of smoking on the health of the Victorian community VicHealth has been very successful, contributing to a decline in smoking rates from 30 per cent in 1987 to 17 per cent in 2003 through its work with Quit and the cancer council. It established an independent statutory authority with a bipartisan mandate to target tobacco smoking and to take steps to reduce the harm that it caused in the community. There were clear riding instructions with a hypothecated revenue stream.

I particularly pay tribute to the leadership of the respected Nigel Gray, the former director of the Anti-Cancer Council of Victoria, Sir Gus Nossal and the ongoing work in subsequent years of David Hill. I also pay tribute to the work of both David White and Mark Birrell particularly in this place and the work that they did in a bipartisan spirit establishing this important body. Indeed — —

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

Eastern Metropolitan Region: education outcomes

Mr TEE (Eastern Metropolitan) — While all the talk has been about a Rudd education revolution at the national level, the eastern suburbs of Melbourne have seen their own educational revolution. The Department of Education and Early Childhood Development has released its eastern metropolitan region annual report, which measures significant improvements in education outcomes.

Like the rest of the state the eastern states have seen school retention rates increase by 4 per cent in three years and in many areas the eastern suburbs are leading the state. In years prep to grade 2 eastern suburbs students are reading at higher levels than the state average. In years 3, 5, 7 and 9, the years measured by the report, eastern suburbs students are doing better than the state in reading, writing, spelling and maths. The eastern suburbs also have higher Victorian certificate of education scores in English and maths.

A good education is the foundation block for building exciting, innovative and fulfilling career opportunities, so it is pleasing to see the state doing so well. This increase is a credit to the hard work of the state government, principals and teachers. Most importantly, it is a credit to the parents who give so much of their time to ensuring that their children get the best start possible. There is no doubt that these improvements will be accelerated when we finally have a commonwealth government working with, rather than against, states and communities to improve education outcomes.

Tourism: Valley of the Arts

Mrs KRONBERG (Eastern Metropolitan) — Here in Victoria we are experiencing a steady decline in interstate and intrastate tourism. It was therefore very gratifying to participate in a tourism forum on Wednesday, 14 November. A joint initiative of the Banyule, Manningham, Nillumbik and Maroondah councils, the forum was entitled Melbourne's Valley of the Arts. In the imposing setting in which it was held — Australia's oldest artist community, Montsalvat in Eltham — attendees were provided with an insight into recommended branding techniques for our tourism offerings.

Being just a 30-minute drive from Melbourne's central business district, the Valley of the Arts offers a veritable cavalcade of arts and architecture, history and heritage. The variety and quality of accommodation and eating destinations is complemented by the shopping experience, with many retailers offering unique arts and crafts and access to locally grown produce and, of course, wines.

A major differentiating feature of the Valley of the Arts from other destinations is that much of the experience is set in magnificent Australian bush settings. In this era of heavily polluted streams, Warrandyte is a place where one can access the safer reaches of the Yarra River. One can visit the Heide Museum of Modern Art, view an estate designed by Walter Burley Griffin, experience the St Andrew's market, follow the Heidelberg School Artists Trail, explore Victoria's gold rush past at Warrandyte or stroll through Pettys heritage apple orchard. For a total immersion in the performing arts, art studios and potteries, members should make sure they take in the Valley of the Arts.

Darebin: mayoral ball

Mr ELASMAR (Northern Metropolitan) — I rise to speak about the city of Darebin's fundraising mayoral ball which I attended on Friday, 19 October 2007.

Darebin council organised a special fundraising event to support the proposed new Olivia Newton-John cancer centre at the Austin Hospital in Heidelberg. The mayor of the city, Cr Marlene Kairouz, officiated and welcomed all the distinguished guests, and by the end of the night she had raised $55 000 for this most worthy cause.

As we all know, cancer is something that touches all of us. Everyone knows someone who has had the disease or is suffering with it or undergoing treatment for it. That is why there can never be enough money for cancer research. The Brumby government has committed $25 million to help build the proposed Olivia Newton-John cancer centre, so it is wonderful to see the community add its financial assistance to the project. On a lighter note, it was also a really enjoyable evening. It was good to see people having fun and raising money for a great cause.

China: trade

Mr VOGELS (Western Victoria) — I recently spent a couple of weeks in China meeting representatives from the national, provincial and local governments, and many business leaders. China presents many opportunities for Victoria's agrifood exporters. It is the world's most populous nation, with 1.3 billion people, which is the equivalent of one-quarter of the world's population. China's population is expected to peak at 1.6 billion by 2020 before plateauing due to the one-child policy for urban dwellers and two-child policy for rural families and minority groups. China's rapid economic growth, which has averaged 9 per cent per annum in recent years, is lifting the living standards of its population.

According to the Victorian Department of Primary Industries, specific food and agricultural industries which will benefit from trade liberalisation and rising living standards include dairy, meat, wool, seafood, broadacre crops including barley, wheat and canola, live dairy animals, skins and hides, and wine and beverages. It is obvious the China-Australia free trade agreement will provide great opportunities for Victorian agriculture to capitalise on China's continuing growth and prosperity.

China is the world's largest agricultural producer by volume. Agriculture contributes 15 per cent of China's gross domestic product and employs 40 per cent of the total workforce. It is not surprising that subsistence farming is still a large proportion of the Chinese agricultural sector. However, China is a leading exporter in direct competition with Victoria in produce like vegetables, pork, eggs and apples. In fact China supplies one-third of the world's apple needs. It is important for Victoria to recognise the opportunities that exist between us and China. I would recommend that members of this house visit China, if they have not already done so, to explore any opportunities which are available and which will enhance our state.

Alcohol: abuse

Mr SCHEFFER (Eastern Victoria) — I welcome the Premier's remarks, which were reported in the *Herald Sun*, highlighting the seriousness of alcohol-related problems in Victoria. The Premier rightly declared that harmful alcohol consumption is more dangerous than the use of any other drug except tobacco and that alcohol abuse costs the community millions of dollars. The Premier has given a clear signal to ministers, government departments and the community that alcohol abuse must be confronted.

During the 55th Parliament the parliamentary Drugs and Crime Prevention Committee undertook a benchmark inquiry into strategies to reduce the harmful effects of alcohol consumption. The committee gathered evidence and conducted extensive research from which it made 165 recommendations that were mostly supported by the government. The committee recommended that a whole-of-government approach be adopted to address issues that have deep cultural dimensions and that have an impact in complex ways on health, the economy and industry, the law and public administration, road safety, violence, young people and other population groups. The report has been widely read and acclaimed, and I recommend it to members as a comprehensive source of information. I am encouraged by the fact the government and its departments are taking the recommendations into account in developing better policy initiatives to deal with alcohol-related problems. While the public debate on alcohol policy has stepped up, it is important to keep in mind the Premier's words:

> It's not an anti-alcohol thing, it's not a wowser thing, it's about the misuse of alcohol.

Fifty-sixth Parliament: anniversary

Mr O'DONOHUE (Eastern Victoria) — This Sunday, 25 November, will mark one year since the last Victorian state election. It is an appropriate time to reflect on the first quarter of the 56th Parliament. In that context, I am very proud to be a member of the parliamentary Liberal Party. I am grateful for the faith the Liberal Party showed in preselecting me, which ultimately led to my election. We should all remember that it is our respective parties that are the biggest determinant of whether we are a member of this place

or not. This is self-evident — there are no Independents in this place. I am grateful for the opportunity I have and for the responsibility that is associated with being a member of Parliament.

As Australians we are lucky to live in a democracy. It is a system that should never be taken for granted. It is only strong to the extent that it is free, open and transparent and there is respect for the independence of the Parliament and the judiciary from the powers of the executive. There are many examples of countries around the world which were once democracies and which no longer enjoy that freedom.

Finally, I take the opportunity to wish the federal coalition government every success in the upcoming election. Notwithstanding the criticism it receives from various quarters, Australia now is a much better place than it was when the coalition came to power in 1996. By and large that is due to the government's policies and initiatives that have provided employment opportunities that did not previously exist and that have improved the ability of this country to welcome hundreds of thousands of people from overseas and offer them opportunities they would not otherwise have had.

Schools: illuminated speed signs

Mr EIDEH (Western Metropolitan) — Recently our Premier came out to St Peter Chanel Primary School at Deer Park, which is in my electorate, to make a special announcement of the allocation of $13.6 million to roll out electronic speed signs outside schools across Victoria. There will be 603 new electronic speed signs to ensure even greater road safety for the children of our state and better traffic speed management, such is the commitment of this government to the people of Victoria. These signs will be in addition to 100 already in operation and will add to the safety that we all expect in the environment in which children travel to and from school every day. Electronic signs have been shown to be far more visible to motorists than static signs, and in that sense they add significantly to safety for everyone — children, parents, teachers and motorists.

The past four years have seen the community as a whole — it is a team effort involving the state Labor government, the police, road safety bodies and Victorians in general — working together to bring our road toll lower and lower. This latest initiative from the Brumby Labor government is part of our Meeting Our Transport Challenges initiative and shows yet again that we are dedicated to making Victoria a safer place to be.

Gas: market congestion fee

Mrs PETROVICH (Northern Victoria) — I have received a copy of a gas bill from an angry Bendigo gentleman whose latest account contained a gas market congestion fee of $79.43. This so-called 'gas market congestion fee' is an additional slug for Simply Energy customers, apparently due to a combination of extremely cold days this winter and the drought. An explanatory letter sent out by the company said that this new fee was due to an unprecedented demand for gas. VENCorp, a Victorian government-owned entity, arranged for additional gas to be injected into the gas pipelines at a premium in order to maintain safe gas operational pressure levels and meet Victoria's gas requirements. It appears that Simply Energy has created this congestion charge to pass on the costs to its customers, whereas every other retailer has absorbed these costs as part of its normal business operations.

I also understand that when a number of customers telephoned Simply Energy with their complaints the company immediately offered $50 credits on their electricity accounts, especially to those customers who were bold enough to suggest they would take their business elsewhere. An interesting point to note is that my constituent's gas consumption profile in 2007 was actually less than it was for the same period in 2006. This gas congestion charge introduced by Simply Energy is currently being investigated by the Essential Services Commission. If Simply Energy is found by the Essential Services Commission to have breached any rules, it would only be fair for the money to be refunded. On behalf of the thousands of affected householders in my electorate I ask — —

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

Casey central secondary college: establishment

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I again draw the attention of the house to the plight of parents in Narre Warren South who are concerned at the lack of secondary school facilities in the area. Last November the government promised to build a Casey central secondary college in Cranbourne North and to open it for the 2009 school year. Parents are concerned that that promise will not be delivered. They have expressed that concern via the petition I tabled earlier today, which contains 619 signatures.

On 30 October I sought through the adjournment debate in this place a commitment that the Minister for Education in another place would ensure that facilities for year 7 and 8 students would be open on the chosen

site in the 2009 school year. While I have not had the courtesy of a reply from the Minister for Education, she has written to residents stating that as the proposed site will not be available to the department until early 2008, a transitional site for year 7 only will be located somewhere else in the region. This is completely unacceptable to those parents in Narre Warren South who are asking the government to honour its election commitment for at least year 7 and 8 students.

I am again calling on the Minister for Education to provide temporary facilities for year 7 and 8 students on the chosen site off Glasscocks Road in Cranbourne North to ensure that parents with students going into secondary school in the 2009 school year are able to commence their children on the site that has been chosen and that the government delivers on the promise that was made last November.

VICTORIAN WORKERS' WAGES PROTECTION BILL

Statement of compatibility

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Victorian Workers' Wages Protection Bill 2007.

In my opinion, the Victorian Workers' Wages Protection Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The key purposes of the bill are to —

ensure that employers pay wages in money and to set out the methods for that payment;

regulate the ability of an employer to make deductions from an employee's wages; and

provide for enforcement mechanisms and remedies if an employer fails to pay an employee's wages in money, unlawfully deducts an amount from an employee's wages, or terminates, or threatens to terminate or prejudicially alter an employee's position because the employee is entitled to or seeks to exercise a right under the bill.

Human rights issues

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

Property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law. The bill is compatible with s.20 of the charter as it enhances individuals' rights at common law or under an industrial instrument to be paid their full entitlement to wages in money, without unauthorised deductions by an employer.

Protection of families and children

Clause 9(1)(b) of the bill provides that a written authorisation to make deductions is of no effect if the employee is under the age of 18 years, the deduction is for the direct or indirect financial benefit of the employer or a related party of the employer, and the authorisation has not been consented to in writing by the employee's parent or guardian. Clause 9(1)(b) engages section 17 of the charter which provides that:

(1) Families are the fundamental group unit of society and are entitled to be protected by society and the state; and

(2) Every child has the right, without discrimination to such protection as is in his or her best interests as is needed by him or her by reason of being a child.

The bill is compatible with s.17 of the charter in relation to the protection of families and children, as it strengthens protections for young workers who are more susceptible to exploitation in the workplace by creating an additional safeguard before an employer can make certain deductions from their wages. This protection is in the best interests of young people and is needed by them.

Right to privacy

Section 13 of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. Clause 9(1)(b) engages the right to privacy of persons under the age of 18 years who will be required to obtain the consent of their parent or guardian to authorise a deduction that is for the direct or indirect financial benefit of the employer or a related party of the employer. The right to privacy in s.13(a) is only limited if an interference with privacy, family, home or correspondence is 'unlawful' or 'arbitrary'.

'Unlawful' means that no interference with privacy can take place except if the law permits it. The United Nations' Human Rights Committee has said that a law which authorises any interference with privacy must be precise and circumscribed. In order to avoid being characterised as an 'arbitrary interference', the interference must be in accordance with the provisions, aims and objectives of the charter and should be reasonable and justifiable in the particular circumstances. Protecting the community from harm is a key principle underpinning the charter.
Clause 9(1)(b) does not limit the right to privacy because the requirement that a worker's parent or guardian must scrutinise and agree to certain deductions from wages, where the worker is under the age of 18 years, does not unlawfully or arbitrarily interfere with the right to privacy as the level of parental intervention is limited to a very specific set of circumstances and is justifiable, similar protections exist in other

employment legislation, and the objective of protecting vulnerable workers from unreasonable deductions from wages is consistent with the charter.

Recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law and is entitled to equal protection of the law without discrimination. Discrimination, in relation to a person, means discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of that act.

Section 9(1)(b) engages the right to recognition and equality before the law because it provides for less favourable treatment of persons in the same or similar circumstances based on their age. However, the limitation is reasonable and justifiable, as discussed in section 2 of this statement.

Furthermore, insofar as the bill seeks to protect vulnerable workers from exploitation, it promotes the human rights concern of recognition and equality before the law as it takes steps to diminish or eliminate conditions that have resulted in groups within society (young workers, workers from other countries on subclass 457 visas and workers from non English-speaking backgrounds etc.) being disadvantaged.

The right to be presumed innocent

The bill also raises the issue of the right to be presumed innocent provided for in section 25 of the charter. Clause 23 of the bill provides that there is a reversal of the evidentiary burden in proceedings for breach of the act where an employer has not paid an employee their full entitlement to wages in money or where an unauthorised deduction has been made, in circumstances where the employee is dead. This will mean that if a proceeding is brought against an employer under section 23, the employer will be required to point to evidence that the deceased employee was paid in money and that any deductions from their wages were authorised.

It is considered that section 25 is not engaged by clause 23 of the bill because the proceedings against an employer are civil, not criminal. The bill seeks to establish a civil penalty regime that confers enforcement powers on the Minister for Industrial Relations (or his or her delegate) and empowers a court to impose a civil penalty, which is a form of state sanction in response to unlawful conduct. However, even if the right to be presumed innocent is engaged by clause 23, any limitation on the right is reasonable and justifiable, as discussed below.

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

To the extent that the rights to recognition and equality before the law and the right to be presumed innocent may be limited, I consider that the limitations will be reasonable, in accordance with section 7(2) of the charter. I provide the following reasons for this view.

Recognition and equality before the law

(a) the nature of the right being limited

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

(b) the importance of the purpose of the limitation

The limitation on the right to equal treatment before the law serves a significant public interest purpose; namely, enhancing and protecting young people's entitlements. This is achieved through requiring that a worker's parent or guardian scrutinise and agree to deductions from wages, where the worker is under the age of 18 years and the proposed deduction is for the direct or indirect financial benefit of the employer or a related party of the employer.

Young workers as a class are recognised as having less experience of and familiarity with their rights at law and lesser bargaining strength in negotiating employment arrangements. Young workers are more likely to work in lower paid jobs and on a part-time or casual basis, and can be more vulnerable than adult workers to unfair work practices such as the making of unauthorised deductions from wages. For example, some cases have been reported of young employees working in the hospitality or retail sectors being held responsible for accidental breakages or for shortfalls in the till. The proposed requirement will confer an additional and important protection on young employees. This additional protection is therefore considered critical.

(c) the nature and extent of the limitation

The bill proposes to limit the right by restricting the power of young workers to authorise deductions from their wages which are for the direct or indirect financial benefit of the employer or a related party of the employer, unless their parent or legal guardian has also done so.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the objective of protecting vulnerable workers from exploitation in the workplace.

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

There are no less restrictive means available to achieve the purpose of protecting young workers from exploitation.

(f) any other relevant factors

Similar protections exist in other employment legislation, at both state and federal level.

Right to be presumed innocent

(a) the nature of the right being limited

The presumption of innocence is a well-recognised civil and political right and a fundamental principle of the common law. However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) the importance of the purpose of the limitation

Clause 23 places an evidential burden on the employer in relation to establishing certain matters. Such matters are in the sole knowledge of the employer. If the employer were not required to point to evidence that a deceased employee was paid in money or that any deductions were authorised, it would be difficult, if not impossible, for representatives of the employee to pursue a claim of unlawful deduction and for an employer to be held liable for their conduct. The limitation is

therefore important in ensuring that employers are penalised for contraventions of the act in circumstances where the employee has died.

(c) the nature and extent of the limitation

The limitation has a very confined operation. The employer need only meet an evidential burden in relation to certain matters in circumstances where an employee has died. In addition, clause 14 of the bill requires that a written letter of demand be served on an employer before proceedings may be brought (where practicable) which will provide an employer with the opportunity to avoid proceedings being taken at all by producing evidence that the deceased employee was paid in money or that any deduction from their wages was authorised.

(d) the relationship between the limitation and its purpose

The purpose of the reversal is to facilitate the bringing of proceedings in such circumstances, where the employer is in a unique position to adduce evidence before the court. The limitation has a direct relationship with its purpose, and is considered to be a proportionate legislative response to this objective.

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

There are no less restrictive means available to achieve the purpose of facilitating proceedings being brought where an unlawful deduction or reduction in wages is alleged, and the employee is deceased.

(f) any other relevant factors

Nil.

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because although the bill raises the right to privacy, protection of families and children and property, it does not limit these rights, and insofar as the bill limits the right to equal treatment before the law and the right to be presumed innocent, these limitations are reasonable, justifiable and in the public interest.

Theo Theophanous
Minister for Industry and Trade

Second reading

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

That, pursuant to standing order 14.07, the second-reading speech be incorporated into *Hansard*.

In doing so I advise the house that there were amendments to this bill in the Legislative Assembly. These amendments have been reflected in the second-reading speech and the statement of compatibility. Changes have also been made to the explanatory memorandum to the bill. The main amendment was to clause 6 of the bill. After requests by stakeholders the government has clarified the bill to ensure that the bill unequivocally reflects the government's intention that employees are to be paid in money, and that money includes cash, cheque and the most common form, electronic funds transfer. Amendments have also been made to put beyond doubt that the protections in the bill only apply where the employer or related party receives a direct or indirect financial benefit from the deduction, not a mere collateral or intangible benefit.

Motion agreed to.

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill will provide an improved safety net for all employees in Victoria by affording stronger protections to employees against unauthorised deductions from their wages.

Deductions have commonly occurred (whether lawfully or otherwise) in a variety of circumstances, such as:

for board or lodgings;

to recover overpayments;

for breakages or damage to employer property or to cover any shortfall in the employer's takings; or

for the benefit of the employee, such as towards health fund or union membership fees.

Currently there are no general protections in Victorian legislation in respect of making such deductions, and only limited protections are afforded in the federal jurisdiction.

These protections are particularly needed at a time when workers' rights have been eroded as a result of the commonwealth's WorkChoices legislation. As we are all well aware, that legislation has attacked the rights of working Victorian families by reducing their basic employment entitlements, and hitting the most vulnerable workers hardest. This bill represents a further element in the government's efforts to protect Victorian families from the most regressive industrial relations laws ever forced onto the Australian community.

The gross unfairness of WorkChoices has been compounded in numerous instances by the plight of some of the skilled workers who have come to Australia under the sponsored business visa (subclass 457) scheme, who have been exposed to exploitation in the workplace, including through deductions from wages.

This bill gives effect to a key election commitment, to ensure that all employees are aware of any deductions that form part of their usual work, and that amounts cannot be legally deducted by the employer without the employee's express agreement. The government is committed to protecting workers in the face of the draconian WorkChoices legislation which has severely undermined the rights of working families in Victoria.

This bill will provide key additional protections to Victorian employees, in particular key protections to vulnerable workers such as young workers, workers on 457 visas, workers from non-English speaking backgrounds and workers in rural areas. It will also provide a clear benefit to employers by codifying what their rights and obligations are in respect of deductions from wages.

Key elements of scheme

Payment of wages

The bill requires all employers to pay employees their entitlements to wages in full, in money. Methods of payment include, but are not limited to, payment in cash or by deposit into a specified bank account. Therefore, wages should not be paid, in whole or in part, 'in kind' through the provision of goods or services. 'Wages' is defined very broadly in the bill, to cover all of the salary and related employment entitlements that employees receive in monetary form.

However, the bill makes clear that this will not prevent an employer and employee from negotiating non-cash benefits as elements of their remuneration package and the employer then paying the employee accordingly.

Deductions from wages

The bill allows for employers to make deductions from wages in certain circumstances. Deduction is defined to mean any amount not paid directly to the employee, and includes amounts withheld by the employer or paid to a third party.

The bill provides that an employer must not make any deductions from an employee's wages unless the employer has received a valid written authorisation from the employee and the deduction is made in accordance with that authorisation; or the deduction is otherwise required or authorised by a law.

The bill contains stronger protections where the deduction is for the direct or indirect financial benefit of the employer or a related party to the employer, including in respect to both the information requirements, and the circumstances when a deduction may be made. A 'related party' is defined in the bill to cover persons with a financial or other stated interest in the employer's business, executive officers of the employer and relatives of the employer or such persons. For example, the spouse of a director of the employer's business is a related party to the employer.

Information requirements

The bill clearly sets out the information that an employer must give to an employee, before seeking their consent to a deduction from their wages.

Where a deduction is initiated by the employer or is for the employer's or a related party's financial benefit, then the employer must advise the employee in writing of the details of the proposed deduction, before asking for their consent. This includes some fundamental details, informing the employee about the nature of the proposed deduction, such as:

the reason for it;

who it will be paid to;

the amount of the deduction;

whether it will be a one-off or a multiple or ongoing deduction.

The bill also distinguishes between deductions for the employer's or a related party's financial benefit and other deductions, in respect of variations in deductions. In simple terms, where there is nothing in it for the employer, an employee may authorise the employer to make deductions in an amount, as varied from time to time, to the nominated party such as their health fund. However, where the deduction financially benefits the employer, the employer must get the employee's written consent to any changes in the amount of the deduction, before the deduction is made at the new rate.

Unauthorised deductions

The bill imposes some additional requirements, and sets out in clear terms when an authorisation given by an employee will be of no effect. These are sensible, and I would like to think most people would say, self-evident, protections. So:

when an employee consents to a deduction, their consent must have been freely given;

and where an employee is under the age of 18 years and the deduction is for the direct or indirect financial benefit of the employer or a related party of the employer, their parent or guardian must also have consented to the deduction.

A lot of the instances that are mentioned of unfair, if not currently unlawful deductions, involve young workers in the retail and service industries. Scrutiny of deductions proposals by a young worker's parent or guardian is an important protection for such workers.

The government is aware of cases which emerged since WorkChoices involving outrageous deductions made to young people's wages. For example, since July 2007, the workplace ombudsman has been investigating the Chili's restaurant group following allegations aired in the media about the alleged unfair treatment of its workers. These allegations included that Chili's made young and vulnerable workers supply their own 'floats' when they came to work every day and deducted money from these when a customer absconded without paying the bill. The government believes that young workers should be protected from such deductions and this bill will provide this protection.

Reasonableness

A key element of the bill and of the election commitment is, that where a deduction is for the direct or indirect financial benefit of the employer or a related party to the employer, the deduction will be unlawful if it is unreasonable in all of the circumstances.

The bill provides guidance to employers and employees as to when deductions may be considered reasonable or unreasonable in all of the circumstances.

A deduction may be unreasonable in all of the circumstances if it would result in the employee being paid less than the applicable legal minimum.

A deduction may be unreasonable in all of the circumstances where it relates to the cost of replacing any clothing or other

property provided to the employee which is lost, damaged or destroyed, unless this was intentionally or recklessly caused. This protects vulnerable workers such as young employees engaged in the hospitality industry or as mechanics, being charged for accidental breakages or for insurance costs relating to customer vehicle repairs, whilst affording adequate safeguards to employers against intentional acts of employees.

Likewise, a deduction may be unreasonable in all of the circumstances where nothing of value was provided by the employer for the deduction, such as where the deduction is to make good a shortfall in the till.

Importantly, the bill also identifies where a deduction for the direct or indirect financial benefit of the employer or a related party may be reasonable — if the deduction is in respect of the provision of goods, services or accommodation to the employee, by or on behalf of the employer, and:

the amount of the deduction is specified;

the amount is a direct and proper reflection of the actual cost of the goods, services or accommodation in respect of which the deduction is being made; and

if practicable, the employer has given the employee an opportunity to obtain the same or similar goods, services or accommodation elsewhere.

Otherwise, relevant factors as to whether a deduction is or is not unreasonable will depend, as you would expect, on all of the circumstances, and could, for example, include:

the connection between the employment and the reason for the deduction, such as where the proposed deduction relates to reimbursement to the employer of training costs — whether the training provided by the employer is required by the employer or is essential for the employee's current job;

whether the goods remain the property of the employer or become the property of the employee;

whether the goods or services confer a benefit of significant value to the employee;

the amount of the deduction relative to the employee's wages.

The bill also allows for regulations to be made to prescribe certain types of deductions as reasonable or unreasonable, which will facilitate the scheme being capable of addressing any emerging issues into the future.

457 visa holders

In view of heightened concerns regarding the treatment of subclass 457 visa holders that have been identified in recent times, the bill also contains an express provision that prohibits an employer making deductions that relate to the provision of employment placement services to such employees, or in respect of any other costs that the employer is required by law to bear.

The commonwealth Parliament has investigated the 457 visa scheme after a number of cases of unfair treatment were exposed in the media, and legislation has been proposed to protect such workers.

While these developments are of course supported, they have been a long time in the coming and do not answer all concerns. This bill will serve the important purpose of strengthening the message to Victorian employers, that the exploitation of such workers will not be tolerated.

Enforcement and recovery

Both existing and former employees will be able to challenge an employer on the grounds that a deduction was not lawful, or that the employer has failed to pay their full entitlement to wages, in money. Applications will generally be made to the industrial division of the Magistrates Court, and can be made by the employee, at the employee's request an eligible union, or by the minister or his or her delegate.

The bill establishes a civil penalty regime, not uncommon in the industrial relations area, such that breach of the act does not constitute a criminal offence and does not attract criminal sanctions, but may result in the imposition of a civil penalty of up to $10 000. In addition to a penalty, the Court will be able to order payment to the employee, 'reimbursing' the employee for their loss.

The court will be able to order that the penalty be paid into the Consolidated Fund, to the employee or to any organisation (which would include any union bringing the proceeding on the employee's behalf). This flexibility is considered desirable, given the limited discretion the court will have to award costs. The general principle of not awarding costs has been adopted to minimise any disincentive to bring proceedings (where a matter has failed to resolve), given the often potentially small amounts involved.

Importantly, the bill requires that an application can only be made to a court after a written demand for payment has first been made, unless this is not practicable. This serves two purposes — most critically, it seeks to avoid the need for court proceedings in at least some instances, by putting the employer on notice of the claim. However, where proceedings are brought, it may also be relevant to a court's consideration as to whether interest should be payable by an employer on any amount ordered by the court to be paid to the employee.

When making an order for payment to the employee, the court may offset any benefit of goods or services that the employee has received in respect of the deduction. This will avoid employees receiving a 'windfall' benefit or the employer being doubly penalised, in circumstances where the breach was of a minor or technical nature, or was unintended.

And the bill also includes a protection against victimisation, where an employee seeks to exercise any right under the act. Breach of this requirement may also attract a penalty of up to $10 000.

The bill has a default commencement date of December 2008, and allows an additional six months grace period for parties to get their house in order by ensuring that any pre-existing authorisations are compliant with the act's requirements by that time.

In conclusion, the Victorian Workers' Wages Protection Bill 2007 will serve an important purpose in clarifying the rights and responsibilities of Victorian employers and employees, in respect of payment of wages and deductions from wages. The measures in the bill are carefully targeted at ensuring fairness, while providing real and robust protections to employees.

These initiatives will also complement recent amendments to the Equal Opportunity Act 1995, that prohibit discrimination on the grounds of employment activity, and are part of a suite of reforms of this government aimed at establishing a safety net of rights for Victorian workers.

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Tuesday, 27 November.

TRANSPORT ACCIDENT AND ACCIDENT COMPENSATION ACTS AMENDMENT BILL

Second reading

Debate resumed from 11 October; motion of Mr LENDERS (Treasurer).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The Liberal Party will not oppose the Transport Accident and Accident Compensation Acts Amendment Bill that is before the house this afternoon. The bill is primarily about making changes to statutory law to address some concerns that arise from two recent judicial decisions — one in the Court of Appeal in Victoria and one in the Northern Territory — which impact upon the operation of the Victorian WorkCover scheme and the Transport Accident Commission (TAC) scheme in this state. The bill also makes a number of enhancements to benefits that are payable under the Transport Accident Commission and WorkCover schemes in Victoria. Certainly the enhancements to the benefits paid under the scheme are supported by the Liberal Party. While we have some concerns with the way the two judicial matters are dealt with, we do not oppose the bill.

The first matter I will deal with is the matter arising from the Northern Territory legal decision, which is the Hastings Deering case. Although the impact of the bill on the current operation of the Transport Accident Commission and WorkCover is probably not significant in terms of its relevance to the scheme, if it were held that that legal decision applied to the operation of TAC and WorkCover, the financial implications would be substantial. The matter that is covered in the Northern Territory decision relates to the calculation of benefits for injured parties, either workers under WorkCover or accident victims under TAC. It goes to the question of whether their superannuation entitlements — that is, the employer contribution to superannuation entitlements — should be included in calculating pre-injury earnings and entitlements, which flow through to a range of benefits under both schemes when calculating amounts that are payable to claimants.

It has been the longstanding practice in Victoria that superannuation payments made by an employer are not included in the assessable income that is used to calculate entitlements for a claimant. The nature of the Hastings Deering decision in the Northern Territory was that those superannuation payments by employers should be included in calculating the assessable income from which benefits are then calculated. The advice from the Victorian WorkCover Authority, and also independently from industry groups — the Australian Industry Group in particular — that the cost of this change, were it to flow through to the Victorian jurisdiction, would in the case of WorkCover be in the order of a $600 million one-off impost, with an ongoing annual cost in the order of $40 million. If the Hastings Deering decision were to apply to Victoria — although I understand it is a remote prospect — the financial impact would be substantial. That would also apply with respect to the TAC. The assessment provided by minister's office is that the one-off impact for the TAC of applying the Hastings Deering decision would be in the order of $126 million, with an annual impact going forward of $8 million.

I hasten to add that the bill in effectively setting aside the Hastings decision — that is to say, laying down in the respective WorkCover and Transport Accident Commission acts that employer superannuation contributions are not to be included when assessing employee earnings for the purposes of making awards — makes it clear that any salary sacrifice amounts, that is, amounts that are paid by employees into their super fund from pre-tax earnings, are not quarantined. That means they will continue to be counted when assessing income for the purposes of making awards under the two relative schemes. Effectively what this provision will do is preserve the status quo with respect to the way in which superannuation payments by employers and salary sacrifice contributions by employees are currently treated. Although as a matter of principle the Liberal Party has concerns about the way in which this will apply retrospectively, and it is for that reason that we are not opposing rather than supporting the legislation, we are of the view that it is a sensible amendment to the bill to preserve the status quo with respect to the way in which superannuation payments are treated.

The second substantive matter the bill deals with relates to a statutory law revision that arises from a Victorian Court of Appeal decision earlier this year in what is

known as the Taylor case, *Mountain Pine Furniture v. Taylor*. In substance that case related to the way in which permanent impairment is assessed with respect to spinal injuries, and I have to say it is quite a narrow area in which this provision will apply. Under the relevant TAC and WorkCover legislation, as members would be well aware, the relevant agencies are required to apply various guides when their medical practitioners are assessing the injuries of either workers or transport accident victims. With respect to spinal injuries there is a specific guide that applies when spinal injuries are assessed, and I make the point that this refers to spinal injuries rather than spinal cord injuries. Spinal cord injuries, which are a neurological impairment, are assessed under different criteria and under a different guide to spinal injuries, which are physical injuries to the spine, as distinct from the spinal cord.

The series of guides that apply are AMA guides, and that is the American Medical Association rather than the Australian Medical Association. They lay out the way in which a medical practitioner should assess the impairment that has been suffered by the victim of a work or transport accident. There is an anomaly in the way in which the AMA guide for spinal injuries has been written insofar as it requires a practitioner when assessing permanent spinal impairment to make the assessment based on a person's pre-surgery condition.

As members of the house would appreciate, when people suffer accidents they are assessed and in many cases they are able to undergo surgery which reduces the extent of their impairment. The AMA guide on spinal injury requires as distinct from the AMA guide in other areas requires the permanent impairment to be assessed at the pre-surgery stage. Under the TAC and WorkCover schemes a person who suffers a spinal injury with an ongoing permanent impairment is assessed for compensation. As it is written, the guide requires that that accident victim be assessed at their pre-surgery stage. Although that is how the guide is written, it has been the practice of the TAC and WorkCover that these assessments be made post-surgery.

The view taken by the Liberal Party is that it is logical for this assessment to be made in the post-surgery situation. Obviously if you have an injured worker or an injured transport accident victim with a spinal injury, when you are seeking to compensate them through lump sum compensation you are interested in is how injured they are after everything that can possibly be done to help them has been done. If you have a spinal injury that is improved by surgery, it is our view that is that improved state should be taken into account when assessing the level of compensation payable. Likewise, in the unfortunate circumstance where surgery further damages the unfortunate accident victim and leads to a further deterioration of their spinal injury, that too should be taken into account when assessing the permanent impairment suffered.

It is very much our view that it is logical to assess permanent injury in a post-surgery state rather than a pre-surgery state. That has been the practice of the TAC and WorkCover since these AMA guides were introduced in 1998. However that is not what the guide for spinal injury specifically says. In fact it suggests that spinal injuries should be assessed at the pre-surgery stage. The decision of the Victorian Court of Appeal earlier this year in the Taylor case actually held that the TAC and WorkCover should be applying the guide as written — is to say, assessing the injury in the pre-surgery stage.

We believe that this is an unfortunate decision by the Court of Appeal that runs counter to the best way of dealing with spinal impairment for victims of spinal injury. As such we support the government's amendment made by this bill, which will hold that, notwithstanding the words of the AMA guide, spinal injury should be assessed by the two agencies in the post-surgery stage and not in the pre-surgery stage. We believe that that is a logical restoration, if you like, of the status quo practice that has been in place for the past nine years and in that sense we do not oppose that provision. Again I make the point that the position of the Liberal Party is to not oppose it rather than to support it on the basis that this is retrospective legislation and, as always, we are reluctant to see retrospective legislation come before this house. Obviously I understand why the government is introducing this bill with its retrospective provisions.

I understand following the briefing from the department and the agency that the rights of parties to the Taylor case will be preserved, as will those of any other claimants who have lodged claims since the Taylor decision and prior to this bill being second read on 19 September or any claims subsequent to 19 September. Those claims will be treated as coming under this legislation. The bill provides that the provisions will apply as if they had always applied. So despite our discomfort with the issue of retrospectivity, we nonetheless endorse the provisions that will restore the status quo on the two matters arising in the Hastings Deering case in the Northern Territory and the Taylor case in the Victorian Court of Appeal.

In addition to that, the bill makes a number of not necessarily minor changes to the level of benefits payable under the two schemes. The bill introduces a

safety net provision for injured workers by putting into the two acts a provision that allows for a safety net payment if a person has returned to work following an injury and is subsequently terminated primarily through the failure of the business where they are employed. This will be $965 a week or 80 per cent of the pre-accident or pre-termination earnings of the person, indexed to average weekly earnings. This is a sensible provision, and certainly the briefing provided by the government indicated that the cost to the schemes of this provision is relatively minor and likewise with the other provisions that are included.

The bill also increases the level of travel allowance that is available to families of accident victims. It expands the definition of family member for eligibility to claim a travel allowance and sets the amount at up to $5000, and that will be indexed according to the consumer price index. The bill also increases the level of payment for counselling available to victims from $1960 to $5000, and that will also be subject to indexation in accordance with the consumer price index. The bill makes other, minor changes to the entitlement to replacement of mobility aids that are damaged in an accident. The bill expands the existing definition to include not only crutches but mobility aids, which encompasses a far greater range of aids that disabled people have provided for them.

The Liberal Party certainly supports the enhanced benefits that will be made available to victims under the two schemes as a consequence of the bill being passed. While we have concerns as a matter of principle that the two key statutory law provisions are retrospective, as I said, we nonetheless support the fact that they will preserve the status quo with respect to the operation of the two schemes. I understand that in the committee stage some house amendments will be proposed by other parties. I propose to talk to those at that stage, but it is the position of the Liberal Party not to oppose this bill and to support the intent of the status quo with respect to the Transport Accident Commission and WorkCover schemes.

Mr HALL (Eastern Victoria) — This bill makes some substantial amendments to the Transport Accident Act 1986 and the Accident Compensation Act 1985. From the outset I indicate that the majority of the changes to both those acts are found by The Nationals to be attractive and positive changes, but there is one proposed change to a particular provision in both acts which we object to strongly, and that will be the subject of an amendment which I will move during the committee stage of this bill.

First I want to make a general comment about the Transport Accident Act and the Accident Compensation Act and the systems we have in Victoria, essentially what we commonly call the TAC (Transport Accident Commission) and WorkCover, the organisations that administer insurance schemes for transport accident victims and workplace accident victims. It would be wrong to say that those schemes are perfect, but they are pretty good schemes. Both are no-fault schemes. They are funded by drivers in the case of the Transport Accident Act and by employers in the case of the Accident Compensation Act. They serve Victorians pretty well. As I said, it would be wrong to say that they are perfect in every way, because this afternoon we are making refinements and some significant improvements to both acts. There is always room for improvement — we can always do it better — and there will always be issues arising from the application of the provisions of these acts to particular cases. Generally, being no-fault schemes, they serve Victorians pretty well.

I want to make some comments quickly on some of the changes to both acts which The Nationals find attractive. The first of those changes is to the definition of the term ‘family member’, which will broaden the definition of persons who are entitled to enjoy benefits under both schemes. Again, The Nationals consider this positive. The impacts of accidents, whether they be transport or workplace accidents, extend across a broad family membership and so an expansion of the definition of a family member is a welcome positive change to the acts.

The second change, to include a definition of the term ‘mobility aids’, will again broaden the scope of benefits available to people. In particular, the TAC scheme will provide some compensation for mobility aids damaged in a motor vehicle accident so that people will be able to replace them. There will also be a new benefit to support those who provide care for an elderly or disabled family member. If a carer is unable to undertake caring duty because they suffer an accident, greater benefits will be available under both the acts to assist in finding a replacement carer for the person who is the subject of care. There will also be a payment of travel expenses for clients who are otherwise unable to get to and from school because of transport accident injuries. Again, we consider this to be very welcome and positive. There are people whose educational opportunities are limited because either they or the people who transport them to school have been involved in some form of accident and are unable to perform that task. We consider it only fair and proper and more than reasonable to assist people in that particular situation.

There is also a new section which will provide an important safety net for clients who return to work after a severe injury and subsequently lose their job through no fault of their own. Again, I welcome the government's support to assist those people who are making the extreme effort of returning to work after an injury; they should be assisted in every way possible, and if it is that they have unfortunately lost a job through no fault of their own, we support the additional measures provided by this bill to assist them in finding gainful employment.

There will also be a daily living cost contribution cap, which will ease the pressure on those who are in supported accommodation. There will be an upper limit applied to those people, who will need to make some contribution towards meeting the cost of their accommodation but not an unreasonable one. Putting a cap in place is a useful measure to restrain the cost burden on those who have received an injury of some sort. There are a number of other improvements to assist the efficiency of the operation of the Transport Accident Commission. The Nationals will not go through each of those, but we welcome them.

There are two significant amendments.
Mr Rich-Phillips highlighted those in his contribution to this bill. The first relates to weekly benefits. The Transport Accident Commission and WorkCover schemes are being amended to confirm that weekly benefits under both schemes do not include any allowance for employer-paid superannuation. That has always been the case, and as I understand it what we are doing here is making an amendment which will clarify the situation that arose in the Northern Territory, where there was a court determination making reference to this particular matter. As I understand it, and according to the briefing provided to The Nationals, we are simply putting in place what has been the practice forever in both of these schemes, and no Victorian will be disadvantaged with this change in the weekly benefit and calculation of the employer superannuation contribution for the purpose of the weekly benefit.

I noted the comments by the minister in the second-reading speech, however, that the government has not completely ruled out in the future taking account of the employer contribution towards compulsory superannuation as part of determining weekly benefits to be paid, and suggesting that this will be the subject of a future review of those acts. Indeed we would welcome that review. It would be timely to have a long hard look at this particular situation to see if there is a need for change. As it stands at the moment, with the promise of that review, The Nationals are happy to support those provisions relating to weekly benefits and the exclusion of employer-paid superannuation contributions for the purpose of calculating weekly benefits.

The aspect we are not prepared to support is the assessment of the extent of impairment of people who have spinal injuries — whether that is a pre or post-operative assessment. This is a contentious issue, and as I said, we object to it strongly. Before I outline the reasons for our objection I want to make some comments generally about spinal injuries.

People who suffer from spinal injuries — whether those occur in the workplace or as a result of a transport accident — are probably the most significantly impaired people, and they deserve all the help that these schemes can give them. We need to acknowledge that in any decisions we make about impairments and in the assessment of the impairments of people with spinal injuries. That is why there is a separate American Medical Association (AMA) guide specifically for spinal injuries.

From time to time we all, as members of Parliament, come across people who suffer from spinal injuries, and sometimes we are required to work to assist them in terms of their receiving benefits and in coping with their injury. Spinal injuries are different because they are not reparable. You cannot have an operation to fix a spinal injury. You can have an operation to alleviate pain suffered because of spinal injuries, but you never fix them. There is no known way in which you can cure spinal injuries. Fusing disks in the spine sometimes alleviates pain, but it does not fix the injury itself.

Just last week in my office I had the experience of meeting with the parent of somebody who has suffered a spinal injury. That particular case is one of the most dramatic cases that has come across my desk in my years as a member of Parliament. The person who came to speak to me and who gave me permission to raise his daughter Samantha's case in Parliament was Mr Paul Kobiela of Traralgon.

On 8 November 2000 Samantha was involved in a transport accident. At the time of the accident Samantha was already a quadriplegic as a result of a diving accident four years previously. She was dealing with her quadriplegia pretty well; she was still attending school and learning and actually did some work experience, so she was making some significant strides despite her serious disability. The transport accident was the result of her wheelchair not being strapped into a school bus properly. When the vehicle had to brake suddenly, the wheelchair tipped over because it was

unsecured, further exacerbating Samantha's injuries. A claim has been put to the Transport Accident Commission, and although there was some immediate support following the accident, the family has been trying for four years to get some long-term medical assistance, in particular rehabilitation, for their daughter Samantha.

I know that matters associated with this case are going to be the subject of litigation and the government is unable to interfere. This case is one of the most worthy and needy cases that has come across my desk in recent years. All I ask, and all Paul Kobiela asks, is for somebody within government to take a serious look at Samantha's situation, to pick up her file and put it to the top of the pile instead of putting it to the bottom each time, to see if, through these schemes, she can be given a greater level of assistance.

For the purpose of the record Samantha's TAC claim number is 00/02751. I ask the government, through its advisers who are listening to this debate, to take up that case and look at Samantha's file to see if there is not some way to resolve some of these issues which are going to be the subject of lengthy legal proceedings unless somebody examines it as a matter of urgency and provides some badly needed assistance to Samantha.

That having been said, let me get back to the general issue regarding spinal injuries, and that is whether the assessment for spinal injury impairment should be undertaken pre-operatively or post-operatively. This came to a head, as was said by the minister in the second-reading speech and by subsequent speakers, as a result of an accident that occurred on 27 November 1997. Mr Paul Taylor was injured while driving a truck in the course of his employment with a company called Mountain Pine Furniture Pty Ltd. He suffered two injuries, one being damage to one of the joints in his left big toe and the much more significant being a fracture dislocation of what is known medically as the C6–7 vertebrae with mild spinal canal displacement, as well as what is called in the guides loss of motion segment integrity.

That sounds pretty complicated, but essentially it is a fairly significant spinal injury, which was treated. He had fusion of various discs in his spine to try to reduce the pain of the injury, but I make the point that it was not a cure, as there is no cure for any spinal injury. There is some means by which pain can be reduced, but the impairment itself is still in existence. That is why we in The Nationals argue strongly that impairment should be assessed on the injury itself and that spinal injuries are not improved by operation.

After claims were made and there were assessments by medical panels this case ended up in the Victorian Court of Appeal, which is the highest court in our state. On 6 July 2007 a unanimous judgement of three justices was delivered dismissing the WorkCover appeal and essentially saying that the assessment in the case should have been made on the pre-operative condition of the injury. The amendments in the bill to these two acts seek to ensure that all such assessments of impairment are made on the post-operative condition of patients instead of, as was decided by the Court of Appeal, on their pre-operative condition. I might say that while the government argued in respect of the employer contribution to the superannuation liability that the liability for the various schemes would be quite significant, it did not, at least in the second-reading speech, make any cost estimate of the liability that could be incurred by this amendment regarding spinal injury assessment.

The Nationals have been advised that the potential exposure of the Transport Accident Commission and the accident compensation scheme in this case is around $15 million. The last annual report of the Victorian WorkCover Authority shows that it made a profit of something like a billion dollars, of which nearly half came from its insurance endeavours, and the TAC handed the government a $230 million dividend in the last financial year, so a $15 million exposure is not a significant amount, particularly when you take into account the needs of people who incur spinal injuries in Victoria. In the case of Mr Taylor we understand that the pre-operative assessment initially given by a medical board was 25 per cent impairment, which would have given him a payout of $37 000, according to the AMA guidelines. However, the post-operative assessment by the medical panel was 15 per cent, which would have given him a payout of $17 000. These are significant amounts for a person who is required to cope with a spinal injury for the rest of their life.

We in The Nationals agree with the views that have been expressed particularly well by the Law Institute of Victoria (LIV) about this matter. A letter from the institute addressed to the Minister for Finance, WorkCover and the Transport Accident Commission in the other place, Mr Holding, a copy of which was forwarded to the Leader of The Nationals in the other place, Mr Ryan, signed by Mr Geoff Provis, president, states:

> The LIV is concerned that the amendment arising from the decision in *Mountain Pine Pty Ltd v. Taylor & Ors* (2007) VSCA 146 was completely unnecessary. The number of injured persons to whom this category of injury applied is small. They have very significant spinal injuries. This

> amendment gives the appearance that the government is seeking to 'select' the aspects of the AMA guides it 'likes' but wishes to exclude those aspects it doesn't like.

We agree with the view expressed by the Law Institute of Victoria. The American Medical Association guidelines have long been used by jurisdictions all around the world, and we believe that if that is the system that is chosen, then we cannot pick and choose which bits we like and which we do not. People with spinal injuries deserve every bit of assistance they can get. That is why we have chosen to move amendments which will seek to ensure that the assessment of impairment will be based upon the pre-operative condition of patients with spinal injuries rather than their post-operative condition.

When this matter was debated in the Assembly, The Nationals moved a reasoned amendment that the bill not be read a second time until this matter had been explored further. On behalf of my party I intend to move amendments which will remove the provisions in this amendment bill that go to this particular issue. What we will seek to achieve by these amendments is that in future in this state, as determined by the Victorian Court of Appeal in the case mentioned, the level of impairment of people with spinal injuries will continue to be assessed on the pre-operative condition rather than the post-operative condition, as is suggested by this amendment bill before the house. I will leave my comments at that. The amendments will be moved during the committee stage, and I will be urging all members to support the amendments at that time.

Ms HARTLAND (Western Metropolitan) — This is one of those bills that come to the house that I would call a mixed bag. It has a lot of good aspects, as Mr Hall has outlined. One of those is clause 3, regarding mobility equipment that is damaged in a car accident. As members would be aware, the aids and equipment list is now extremely long. If someone finally gets their scooter or wheelchair included on that list and it is then damaged, now they will have the opportunity to have it repaired under the medical benefit provided for in this bill.

The Greens support parts 1 and 2 of this bill because we believe many aspects of them are of great benefit to the community, as has already been outlined. However, we believe there are a number of damaging clauses in the bill that will further harm people. When the Greens look at a bill or a piece of legislation, we consult with the people who are directly involved or will have some dealings with the outcomes of such a bill, such as community groups, trade unions and disability groups, so we were very surprised to find when speaking to the Trades Hall Council that consultation had happened with the council after the legislation had been drawn up. In fact it was pointed out to us that during the election the then Premier, Mr Bracks, promised a review of legislation in relation to compensation.

At page 13 of Labor's policy for the 2006 election, under the heading 'Protecting work rights, family time and workplace safety' it is stated:

> Labor will review accident compensation legislation to ensure workers receive the assistance, support and benefits they deserve.

I am unsure as to why this has not gone to that review or why the review has not begun. I suggest that when you promise reviews in election campaigns, you should stick to that promise.

The Greens amendments refer to clauses 22 to 28 and clauses 30 to 32. Clauses 22, 24, 30 and 32 relate to the superannuation aspects of this bill. We believe they will take away benefits from workers, and we again stress that the clauses should be reviewed rather than included in legislation at this stage. It is about whether we deem superannuation as remuneration and whether it should be included in the weekly benefits of injured Victorians by the Transport Accident Commission or the Victorian WorkCover Authority. Mr Madden's second-reading speech demonstrated that there were problems with the amendments. He basically said that a Northern Territory Court of Appeal case had decided that superannuation was part of normal weekly earnings. If there is doubt about this why is it not going to review rather than being included in legislation?

In relation to clauses 25 to 28 concerning spinal injuries, Mr Hall has outlined a number of aspects that we are also concerned about regarding the way people with spinal injuries are treated. We believe it is quite disingenuous of the government to say this codifies a longstanding practice. In fact it is the opposite. Not following the guidelines of the past 10 years — I refer to the AMA (American Medical Association) fourth edition guidelines on spinal injuries — is not an acceptable process. In the case of *Mountain Pine Furniture Pty Ltd v. Taylor* it was clearly stated that that practice was wrong and that the Transport Accident Commission and the Victorian WorkCover Authority had not been following the correct guidelines. I do not see how the government is now overturning those issues. I read from a letter that I received from the Victorian Trades Hall Council which explains the issue quite well:

> The AMA guides recognise that the best indicator of long-term impairment is the structural damage occasioned the time of injury. While surgery may ameliorate the severity of

> symptoms and reduce the extent of disability, it will not eradicate the structural impairment occasioned by injury.
>
> The provision in the guides which requires an impairment assessment not to be modified for the effects of surgery recognises that surgical intervention itself can occasion long-term impairment by the development of fibrotic tissue or osteoarthritis which may in time offset any gained reduction of impairment by surgery.

It is quite clear that the assessment must be done pre-surgery rather than post-surgery. I am really concerned when I look at these bills because it seems to me what the government is attempting to do is legislate instead of looking at the mistakes that have been made and attempting to correct them. In fact, I would use the expression 'If you can't beat them, you legislate against them'. I do not think that is an acceptable way to treat people who have serious spinal injuries, and that is what these sections of the bill are proposing.

In conclusion, the government promised a review, so why hasn't the review been started? The government promised a review so why do we have legislation instead of the review? Why is it that the government does not talk to bodies such as the Victorian Trades Hall Council about these serious matters? I believe we must withdraw these sections of the legislation.

Mr Pakula interjected.

Ms HARTLAND — Would Mr Pakula like to repeat that interjection?

Mr Pakula interjected.

Ms HARTLAND — According to the information I have from the Trades Hall Council people when they briefed me on this matter, they were told after the legislation was drafted. I am quite happy to show Mr Pakula the letters which quite clearly state their concerns on this matter.

Mr Pakula interjected.

Ms HARTLAND — I am amazed at some of the interjections from Mr Pakula because I would have thought that as a former union official he would have seen the effects of spinal injuries, and that is why they should not be allowed to be included in this bill, and it should be pre-operative rather than post.

Ms PULFORD (Western Victoria) — I will respond to some of the comments made by earlier speakers in a moment, but I first wish to make some comments about the bill. The bill makes changes to the Transport Accident Act and the Accident Compensation Act. I speak first to the amendments to the Transport Accident Act. There are certain improvements to benefits, and these are responsible improvements and are consistent with the government's commitment to maintaining a fair, equitable and financially viable transport accident scheme. Three improvements deal with the efficiency of the system and three are corrections and/or clarifications to drafting errors from previous legislative changes to this act.

The seven areas of improvement include the funding of substitute care for up to 12 weeks in circumstances where a primary carer for a disabled or elderly family member is unable to continue in their caring role; an increase in the cap on the amount of family counselling available through the transport accident scheme to the family of a person who dies after a severe injury, and that change proposes to increase the cap to $5000; and to effect the clarification of provisions relating to the payment of medical excess in the event where there are multiple family members involved in the one transport accident so that only one excess will be payable. The fourth change provides for the capping of financial contributions towards the cost of supported accommodation to ensure that daily living expenses remain affordable for people who have been the victims of transport accidents.

It will also provide access to income benefits in some circumstances where people who are injured in transport accidents are unable to return to work or are unable to continue with their employment. It will provide for the payment of travel expenses to schoolchildren so that they will be able to continue their education and so that the cost of changed travel arrangements to and from school will not be affected by the circumstances of their injury and their education will not be disrupted any more than it absolutely must be in the case of serious injury. It will also provide for the Transport Accident Commission to fund the cost of repair or replacement of mobility aids such as disability scooters and wheelchairs that are damaged in a transport accident.

Of the three proposals that seek to improve the efficiency of the scheme the first is to enable the TAC to make reimbursements to private health insurers in circumstances where somebody who has had an injury may seek to claim, through their private health insurer, the medical assistance they need where subsequently it is determined that the Transport Accident Commission is liable for those costs. This change will enable a smooth means of reimbursement in those circumstances. The second proposal is to reduce the need for claimants to enter into agreements in relation to home and vehicle modifications by increasing the threshold at the point where that needs to occur. The

third proposal is to enable the TAC to enter into bulk payment agreements with providers, avoiding the need for people who have been injured in transport accidents to make claims. These three proposals are very much practical improvements for those who operate the scheme on a day-to-day basis.

Three other proposals primarily address drafting matters from earlier amendments. They include indexing of impairment benefits in line with the consumer price index, ensuring that the provisions preventing the making of an impairment determination within three months of a transport accident do not apply in circumstances where that determination is required to enable common-law proceedings to occur, and correcting a drafting error in respect to child-care benefits. The cost of these changes is estimated to be $2.4 million a year with a one-off $18 million liability. In the context of the significant costs to the TAC of providing assistance to people who have been in motor vehicle accidents — transport accidents — we believe this is a reasonable, responsible and measured response.

I will turn now to the changes to the Accident Compensation Act. For many years — in fact from about 1996 to 2005 — my primary function at work was to assist injured workers. These were people working in call centres, in food manufacturing, in plastics manufacturing and in factories and warehouses throughout Victoria. During this period there was enormous change in the area of accident compensation law. There was, of course, the memorable assault by the Liberal Party — the then government — on injured workers' rights and the quite breathtakingly arrogant decision to remove common-law rights for injured workers, which I am sure was in the minds of a good number of reasonable people when they cast their vote in the 1999 state election. The other significant area of change was, of course, in the area of statutory benefits. There was a great deal in the media, and there was probably a great deal of discussion in this place, about the effect of the common-law changes, but it was the changes to statutory benefits that really had an incredibly harsh impact on an enormous number of people.

There was a mishmash of dates and different packages of legislation that applied during that period that I worked in this area. If union members who had been injured at work rang the union office seeking some advice on their injury and their rights, the first question I would have to ask in all circumstances was, 'What was your date of injury?'. It was absolutely the first thing you needed to know to be able to answer questions like, 'What is the rate of payment? What is included in the calculation? What is not? Do I have a right to sue if I meet the appropriate threshold tests for serious injury? When do my payments stop?'. In every circumstance the date of injury was really important in being able to provide advice.

I suppose the other really critical observation from that period was having to explain to people that they had to suspend their sense of what was just and what was fair on a daily basis. Somebody who was absolutely unable to return to work, who had their payments reduced 13 weeks from the date of injury — perhaps barely having resolved the argument about liability for the injury — would have them reduced to, say, 70 per cent of their pre-injury wage. They were saying, 'But this is not fair; I cannot work. This is completely unreasonable. My mortgage payments have not been reduced to 70 per cent. My grocery bill has not been reduced to 70 per cent'. Often I had to explain to people that there was not such a great relationship between what was fair and just and what was lawful. Constantly it was a reconciliation of their understanding about what would be an appropriate safety net for them if they were injured at work and what actually happened to them when they found themselves in those circumstances.

Most obvious in that case were people who would have no right to claim for damages at common law just because of the date of their injury, and of course with any legislation there is an effective date. But these were always very difficult conversations to have with people — to explain that they had fallen a week one side or the other of a new benefit or a very harsh penalty. I suppose through those experiences I have developed some sense of what I think constitutes a good workers compensation scheme. I think it should provide some justice. I think it is important that it be simple to understand and that statutory benefits provide a good safety net. I believe the administration of my idea of a good compensation scheme should be compassionate, and that people who are dealing at the coalface with injured workers about their claims ought have the tools and the skills to be able to deal with people who are going through considerable anxiety with some compassion.

The scheme ought be consistent and ought provide excellent support to employers and to employees in the areas of rehabilitation and return to work, because in all those years I do not think I met anybody who would rather have been on compo than back at work without their injury, or back at work even with their injury. I think all of us in this place understand that the connection between a person and their workplace is a very important part of their identity, and for somebody

to have their capacity to participate in a workforce taken away from them can be a devastating thing.

The impact of having a work-related injury is, of course, worse for people in country Victoria where perhaps there are fewer options for alternative employment. There are of course a thousand stories I could tell about people like the dairy worker and breadwinner in his very early 40s telling me he would never work again because he had made a WorkCover claim, the storeman who can no longer lift boxes, the factory supervisor suffering with stress and anxiety as a result of a restructure that created an unreasonable workload and the poultry process worker who can no longer bone a chicken. For these people it is critically important that we get the balance right and that we have a fair and just compensation scheme but a viable WorkCover scheme as well.

Yesterday morning, when I imagine a good many of us were sleeping, there was a mine accident in Ballarat which has received widespread news coverage. I am sure all members are aware of it. It provides a timely reminder for us about the absolute importance of having safe workplaces. Whilst we can talk about accident compensation, prevention must of course always be our first objective.

This bill seeks to amend two areas as a result of a couple of court cases: *Mountain Pine Furniture Pty Ltd v. Taylor* in the Victorian Court of Appeal and *Hastings Deering v. Smith* in the Northern Territory Court of Appeal. The Taylor case, as previous speakers have mentioned, overturned the long-held interpretation of 'stabilised'; the Hastings Deering Smith case created some legal uncertainty about pre-injury average weekly earnings and raised questions about whether superannuation ought to be included in calculations or not. There has been a great deal of commentary over as many years as I have been involved in this area about whether or not using the AMA (American Medical Association) *Guides to the Evaluation of Permanent Impairment*, fourth edition, known as the AMA 4 guides, are the best means to assess spinal injury. It is the best means that we have. There has long been concern that the AMA guides as they are applied in these compensation schemes, particularly in the areas of spinal injury, provide an inadequate measure. The area of superannuation is of course a critical part of anybody's wage package. In the second-reading speech in the other place the Minister for Finance, WorkCover and the Transport Accident Commission, Mr Holding. indicated that there will be a review of the act and that both of these matters will be thoroughly considered as part of the review.

Briefly, in response to the comments of the previous speakers on this bill, Mr Rich-Phillips, Mr Hall and Ms Hartland, it is important to note in the area of assessing impairment that in addition to medical expenses and weekly payments statutory benefits provide compensation for permanent injury. A fundamental part of the way that has always been applied in Victoria and other jurisdictions is that permanent impairment and an injury having stabilised are the threshold issues. Mr Rich-Phillips in his comments supporting the bill talked about post-surgery and a view that after surgery was the time and place to make an assessment of permanent impairment. In most cases that is right, but there is a distinction to be made between post-surgery and stabilised. For many people who have had a work injury or car accident there will be no need for surgery. The critical thing is the point at which the injury has stabilised because of course we are measuring permanent impairment and you cannot measure that if it is still changing or if it is in a post-surgery recovery stage. Of course you cannot measure permanent impairment if someone has not yet had surgery — it is just not possible. Many people will be improved and find their symptoms relieved through surgery; other people will find that surgery has given them an unfavourable outcome.

Mr Hall made some comments about the government choosing to interpret the AMA 4 guides in different ways in different parts. In fact we are seeking with this legislation to preserve a longstanding practical application of the guides through our compensation schemes that is consistent throughout the country. Ms Hartland's comments that the review ought to occur are correct, but Mr Holding has indicated that the review will occur. I would encourage her to have a look at the second-reading speech. I have to register some objection to her comment that it is quite clear that the time to measure permanent impairment is pre-surgery and not post-surgery, because it is frankly wrong and demonstrates a bit of a lack of understanding of spinal injuries.

There have been concerns raised about inadequate compensation generally for people with spinal injuries, and of course superannuation is an important part of people's overall salary package. These things will be considered as part of the review. However, I accept that a review of the act is absolutely the place to consider these things, and this bill ought to be supported because it is important that we have legal certainty in these areas. I commend the bill.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! We will proceed to deal with clause 1. I understand there will be two sets of amendments, which have not yet been circulated; one from Ms Hartland and the other from Mr Hall. I call on Ms Hartland to formally move her amendment 1, which is also a test for her amendments 2 to 10. In that context members can obviously make some remarks about those amendments.

Ms HARTLAND (Western Metropolitan) — I have made my remarks in my speech, so I will just formally move:

1. Clause 1, page 2, omit lines 14 to 33 and insert—

"(b) the **Accident Compensation Act 1985** to make statute law revision.".

The DEPUTY PRESIDENT — Order! Does the minister you have any comments at all on the amendments in this first phase?

Mr LENDERS (Treasurer) — No.

Mr HALL (Eastern Victoria) — I choose to make some comments on Ms Hartland's amendments. The committee now has in front of it amendments circulated in my name, and I will get the opportunity to move those in a couple of minutes. There are some similarities between the two sets of amendments. Both seek to omit clause 23. I am speaking on amendments 1 to 10, the subject of this particular phase of the committee as indicated by the Deputy President.

Despite the fact that clause 23 is common to both sets of amendments, The Nationals are going to have to vote against the amendments moved by Ms Hartland for this reason: although we are both seeking to remove the particular aspects of this amendment bill that will in future mean that the level of impairment of people with spinal injuries will be assessed post-surgery, the strong view which has been expressed by me and by Ms Hartland during the course of the debate is that the level of impairments for people with spinal injuries should be determined by an assessment of their pre-surgery condition.

The removal of clause 23 — as a result of Ms Hartland's amendments — achieves that. It is clause 25, I beg your pardon.

The DEPUTY PRESIDENT — Order! Can I just clarify that with Mr Hall, as we are a little perplexed. Mr Hall you referred to clause 23.

Mr HALL — I meant to say clause 25.

The DEPUTY PRESIDENT — Order! We understand your amendment is to clause 25.

Mr HALL — You are right. That is why I just corrected myself.

The DEPUTY PRESIDENT — Order! Thank you, Mr Hall. For the benefit of the committee we are dealing with Mr Hall speaking to an amendment to clause 25.

Mr HALL — I am speaking to amendment 1 moved by Ms Hartland, which is a canvassing of amendments 1 to 10, and clause 7 of those is the omission of clause 25.

Clause 25 is with respect to the Accident Compensation Act. If the government's bill is passed, it will mean that people who suffer a spinal injury in the workplace will have their assessment determined by their post-operative condition. The amendment seeks to make sure that that impairment level is determined on the pre-surgery condition of the person. It is the view of The Nationals that this particular provision should be extended to both acts — the Transport Accident Act and the Accident Compensation Act — so that provisions apply to both workplace injuries and transport injuries.

As I read the amendments moved by Ms Hartland, they only apply to the Accident Compensation Act, and because it is a strong view of The Nationals that this particular provision should apply to both of the acts being amended by this bill, we will vote against Ms Hartland's amendments and encourage the committee to support the amendments which will be moved in my name and which go to the same matter in both acts.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — This goes to the point that Mr Hall raised. I was wondering if Ms Hartland could elaborate for the committee the rationale of seeking this amendment with respect to the WorkCover provisions — that is, taking out the proposed change to the American Medical Association guide but not seeking a parallel change to the Transport Accident Commission. Why is there a distinction between the two schemes on both the AMA guide issue and the superannuation issue?

Ms HARTLAND (Western Metropolitan) — It was after a briefing we received from the people at Trades Hall. They clearly explained to us that the problem with this is the fact that people would be assessed post-surgery rather than pre-surgery, as I have already outlined. That goes against the established guidelines for AMA 4, which have not been used properly.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I understand the point Ms Hartland makes, but of course that is the same situation with the TAC. If Ms Hartland's amendments were to be adopted, there would then be a distinction between the way the guides were applied in transport accidents and the way they are applied in WorkCover injuries. I would like to get to the basis of why Ms Hartland seeks to make that distinction.

Ms HARTLAND (Western Metropolitan) — It is an oversight and it is my mistake. I should have applied it to both.

Mr LENDERS (Treasurer) — The government will not support Ms Hartland's amendment. There is a range of issues here. As was outlined by the Deputy President, Ms Hartland's amendment 1 is a test for her amendments 2 to 10, so I will speak to those amendments.

Firstly, what the government is seeking to do here, as Ms Pulford outlined in her speech and as outlined in the minister's second-reading speech, is essentially establish clearly that the current practice of the law remains in place. We are talking here of Taylor's case, which has been discussed and which overturned the way back injuries have been assessed. To date the methodology of both the Transport Accident Commission and the Victorian WorkCover Authority schemes has been for permanent injuries to be dealt with once an injury has stabilised and an injured person is treated for the injury. So it is after the injury has been stabilised when the compensation comes in for the rest of a lifetime. That is a practice that we have used, because otherwise you can find yourself in a quandary of having to face the situation of a person whose injury has been either fixed or significantly mitigated being treated the same way as somebody whose injury is not fixed.

That has been an inherent part of both schemes. Taylor's case overturned the established law that we had already had in place for a period of time with Bayliss's case for the TAC. So the two schemes are out of sync. Taylor's case simply deals with the Court of Appeal decision, restoring the law to what it was and making it consistent for both schemes. The other part arises out of the Hastings case in the Northern Territory with superannuation, and in the second-reading speech the minister has clearly outlined why the government does not support that. The government will not be supporting amendments 1 to 10 proposed by Ms Hartland, for the reasons outlined.

The DEPUTY PRESIDENT — Order! Are there any further contributions on clause 1 and Ms Hartland's amendment 1? If not, I propose to put those amendments. We are dealing with Ms Hartland's amendment 1, which is a test for her amendments 2 to 10. The question is that the amendment be agreed to.

Amendment negatived; clause agreed to.

Clause 2

The DEPUTY PRESIDENT — Order! Mr Hall has foreshadowed amendments to clause 2. I ask him to move amendment 1, which is a test for his remaining amendments 2 to 14.

Mr HALL (Eastern Victoria) — I move:

1. Clause 2, lines 2 and 3, omit "8, 13, 15(1), 19, 20, 22, 23, 24, 25 and 28" and insert "12, 14(1), 18, 19, 21, 22, 23 and 26".

I agree with the ruling that it will test the remainder of my amendments.

The substantial issues with respect to this series of amendments are the removal of clauses 8 and 25, referred to by amendments 5 and 8 of my 14 amendments to this bill. The rest are consequential upon the removal of those two clauses. They go to the issue that I have canvassed in both the second-reading debate and previously in this committee, that The Nationals are of the strong view that medical conditions of people with spinal injuries should be assessed prior to any surgery rather than post-surgery. I have explained why and I have explained the importance of spinal injuries. In the second-reading debate I explained that these injuries should be treated differently because they are in a special category and they have a different table in the American Medical Association guides. The view of The Nationals is overwhelmingly that they should be treated differently because of the fact that spinal injuries are not reparable. I have made the comment that you can alleviate pain but you cannot repair spinal injuries.

I generally agree with the concept floated by Ms Pulford and also by the minister at the table, the Minister for Finance, that it is practical to wait until the injury has stabilised and then determine the level of impairment. As I said, you cannot fix or improve a

spinal injury; that injury remains the same as it is, whether it is pre-surgery or post-surgery. You can alleviate some pain but you cannot fix a spinal injury — there is no cure. That is why we say that the injury status, the level of impairment, should be assessed prior to any surgical procedures taking place, and we strongly hold that view.

This government and all members should show some heart in respect of people with spinal injuries. They are the people we should feel for most and should provide for most through these schemes, because their levels of injuries are very serious and will impact on their quality of life forever. Until we find some cures for spinal injuries, that will be the case — their injuries will not improve over a period of time; they will have those injuries forever. That is why we so strongly support this series of amendments before the house. We will divide on the test of the amendments because of the depth of our strength of feeling that people with spinal injuries should be looked after to the very best level that we can possibly afford them. The schemes can afford to support these people with spinal injuries; I went through the figures in the second-reading debate. I urge members to agree to these amendments, which will ensure that the impairment level of people with spinal injuries, whether they be workplace injuries or transport accident injuries, are assessed prior to any surgical procedures taking place.

Mr LENDERS (Treasurer) — The government will not support Mr Hall's amendments. I reiterate that these schemes for workers compensation and transport accidents are very difficult areas for our society to deal with. The premise that operates under both these schemes is that you deal with the injury that a person has and then you deal with appropriate medical care, other care that is required for the duration of the injury, whether that be for something that is healed in a short time or for life.

As to Mr Hall's assertion that spinal injuries never heal — I am not a medical expert and perhaps Mr Hall is not either — it is an assertion that I quite often heard in my time as the minister responsible for WorkCover. The point I make is that we have medical panels that make those judgements, and the basic premise that we have here is that a person is compensated for the injury, there is medical treatment and there is the appropriate compensation and treatment of a person who is injured, after the event. So I cannot accept the presumption that you treat a person equally if their condition has been alleviated or improved by medical treatment. That is a fundamental principle that there is disagreement on.

But I say to Mr Hall that in his second-reading speech the Minister for Finance, WorkCover and the Transport Accident Commission, Minister Holding, said that the government would be doing a review of the act during the term of this Parliament, so we will review that. This government has, on a number of occasions with reviews of the legislation, looked to benefits. There was a fairly large package in 2005 on WorkCover benefits. That is the style of a sympathetic scheme. From time to time the government will recommend to Parliament amendments that deal with the capacity of the scheme and changing medical procedures, and there is a view that in a civilised society we deal with those.

For those reasons, the government is not unsympathetic — far from it — to people with such injuries, but there needs to be a consistency in how that is dealt with, and the government always has an open mind to looking at the scheme, as Minister Holding has previously announced.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — For the reasons outlined in the second-reading debate, and indeed as articulated by the Leader of the Government, it is the Liberal Party's position that we should preserve the status quo with respect to the application of the American Medical Association's guides for the TAC and the WorkCover schemes as they apply to spinal injuries. Accordingly the Liberal Party will not support The Nationals amendments or Ms Hartland's amendments in this regard.

Mr HALL (Eastern Victoria) — I just want to add a final comment, if I can. The Leader of the Government mentioned that he is not a medical expert. Nor am I, and that is why we have medical panels to assess people's level of impairment and the injuries that they have sustained. I agree with that. But we also have other jurisdictions to assess matters of this nature. Indeed the case which gave rise to these amendments was decided by the Victorian Court of Appeal, which is the highest body in Victoria appointed to decide these matters. It is not just The Nationals or the Greens who support this particular position; it went through the proper jurisdictional processes and the highest authority in Victoria that could have decided on this matter, the Victorian Court of Appeal, came down with a decision that the impairment level should be assessed before surgical treatment. I just want to put that on the record before the committee finally votes on this matter. I conclude by saying to members, 'Think again'. I hope members could perhaps have a second thought about supporting these amendments.

Committee divided on amendment:

Ayes, 6

Barber, Mr	Hartland, Ms
Drum, Mr (*Teller*)	Kavanagh, Mr
Hall, Mr	Pennicuik, Ms (*Teller*)

Noes, 34

Atkinson, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms
Coote, Mrs	O'Donohue, Mr
Dalla-Riva, Mr	Pakula, Mr
Darveniza, Ms	Petrovich, Mrs
Davis, Mr D.	Peulich, Mrs
Davis, Mr P.	Pulford, Ms
Eideh, Mr	Rich-Phillips, Mr
Elasmar, Mr	Scheffer, Mr
Finn, Mr (*Teller*)	Smith, Mr
Guy, Mr	Somyurek, Mr
Jennings, Mr	Tee, Mr
Koch, Mr	Theophanous, Mr
Kronberg, Mrs	Thornley, Mr
Leane, Mr (*Teller*)	Tierney, Ms
Lenders, Mr	Viney, Mr
Lovell, Ms	Vogels, Mr

Amendment negatived.

Clause agreed to; clauses 3 to 29 agreed to.

Clause 30

The DEPUTY PRESIDENT — Order! I call on Ms Hartland to move her amendment 11 to delete the part heading preceding clause 30. I understand that it is a test for her amendments 12 to 15.

Ms HARTLAND (Western Metropolitan) — Having already spoken to this, I will just formally move:

11. Part heading preceding clause 30, omit the heading.

Amendment negatived; clause agreed to; clauses 31 to 33 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Mr LENDERS (Treasurer) — I move:

That the bill be now read a third time.

I thank members of the house for their contributions to the debate. They were very succinct and communicated very strong views. It was a very productive committee session. I thank members of the house and urge support of the bill.

Motion agreed to.

Read third time.

EDUCATION AND TRAINING REFORM MISCELLANEOUS AMENDMENTS BILL

Second reading

Debate resumed from 1 November; motion of Mr LENDERS (Treasurer).

Ms PULFORD (Western Victoria) — Education is the Brumby Labor government's no. 1 priority. That is why there are now 7300 more teachers and support staff in our schools than there were in 1999. Fifty-seven new and replacement schools have been built or funded. There is a $300 School Start bonus for prep and year 7 students. Members may have noticed the recent media reports that this is going to be made available earlier to families with young people starting school next year. Class sizes in prep and year 2 are down from 24.3 to 20.8. More people are completing year 12 or equivalent; it is now 85 per cent, which is above the national average of 82.7 per cent. We have committed to modernising over 350 government schools, we will build 20 new schools in growth areas, we will rebuild 40 small rural schools and we will establish trade wings in every government secondary school.

Labor governments value education. Kevin Rudd, if federal Labor is elected on the weekend, will undertake an education revolution. His government will fund preschools and provide universal access for four-year-olds. It will invest $500 000 to $1.5 million per high school to create trade training centres and provide a new 50 per cent education tax refund. There will be individual learning plans for all children. This is because Labor sees education as an ideal way of providing all children with a fair start in life. Irrespective of postcode or parental income, all children ought to have an opportunity to meet their full potential. We believe education can even out some of the bumps along the road that some of our young people encounter.

The Education and Training Reform Act enshrined in law our expectation that education ought to be accessible, diverse, flexible and of the highest quality. This bill does not change any of the policy underlying that act. Rather, it makes some changes to improve the operation of the act and makes adjustment for some of the machinery of government changes announced by John Brumby when he first became Premier.

There has been much discussion of late in the area of early childhood development. The language in this important area has changed a bit. People talk about 'investment yielding an economic return' and the 'third wave of economic reform', but treating little kids well and providing them with opportunities to learn is just the right thing to do. The Education and Training Reform Act was debated in the previous Parliament. It updated and replaced 12 pieces of legislation to provide a modern, flexible and innovative framework for education and training in Victoria. This bill makes some statute law revision changes and some technical amendments to the work that was done in the previous Parliament. One amendment ensures that students who are homeschooled continue to be able to be registered through the Victorian Registration and Qualifications Authority after their 16th birthday. This will mean that they can continue to receive government support that is available to registered homeschoolers.

Another amendment clarifies arrangements around the national criminal history record check and registration with the Victorian Institute of Teaching, which are required to be current for all teachers. It was assumed initially that the criminal history check would in most cases be done concurrently with registration and then every five years after that. Recent auditing of the institute's records has shown that many teachers have a valid criminal record check at the time they register or renew their registration. This amendment will enable the institute to charge teachers for a criminal check outside the renewal of registration process so that teachers can avoid paying twice in a five-year period if the dates do not align.

Another feature of this bill is the widening of criminal offences of which the Victorian Institute of Teaching must be notified. Additional criminal offences the institute must be notified about now include the trafficking or cultivation of drugs and associated offences, and supplying drugs to children. Violent offences include murder, manslaughter, kidnapping or threatening to kill, among others. There is nothing more important than the safety of children in our schools.

The bill addresses the issue of records of teachers' details in schools. The Education Act 1958 empowered the Registered Schools Board to conduct an annual census of non-government schools that included relevant information concerning teachers. This ensured that only teachers registered by the Victorian Institute of Teaching were employed by schools. The new act abolished the Registered Schools Board but did not give the institute the power to collect this information. This bill will ensure that the institute can obtain teacher details through an annual online census. This will provide for that census function to be performed and will assist in keeping track of where Victoria's 104 000 teachers are teaching.

The bill deals with student exchange organisations. There are presently 48 exchange organisations in Victoria making arrangements for about 600 Victorian students who go overseas on student exchange each year. The new act established the Victorian Registration and Qualifications Authority, which is responsible for the regulation of all education and training providers in Victoria, except for established universities. Amendments in this bill will enable student exchange arrangements to be managed by the authority as part of the Victorian government's view that students in Victoria are well served by a one-stop shop for their administrative matters. The federal government requires that student exchange providers are registered with the relevant state authority, so this is a common-sense amendment.

As I said at the outset, education is our no. 1 priority. There has been a great deal of work done on this legislation prior to its introduction into this Parliament, and these amendments will improve the function of the act. Other amendments are technical in nature.

Our teachers do a marvellous job. This year I am for the first time the parent of a child at school, and I am absolutely amazed by the things that my daughter has learnt in some 10 months. I commend the bill to the house.

Ms LOVELL (Northern Victoria) — I rise to speak on the Education and Training Reform Miscellaneous Amendments Bill. It is interesting to note that Ms Pulford started her contribution to the debate by saying education is the no. 1 priority for the Brumby government when our teachers will all be out on strike tomorrow. I would like her to tell the parents of Victoria, who are most concerned about that teachers strike, that education is the government's no. 1 priority because they will not feel that their children are getting an education at all tomorrow.

This bill will make numerous amendments to the Education and Training Reform Act 2006, which only came into operation on 1 July this year. It will also amend the Children's Services Act 1996 and the Public Administration Act 2004 and repeal the Vocational Education and Training (Amendment) Act 1994. The main provisions in the bill make amendments to the Education and Training Reform Act to cover the approval of providers of overseas student exchange programs; prevent double payments in respect of personal injury for volunteer school workers; permit

registration of homeschooling students up to the age of 18 and make further provision as to criminal record checks for registered teachers. Of course a number of the consequential changes this will make to numerous acts will reflect the change of the name from the Department of Education and Training to the new name of Department of Education and Early Childhood Development. That is the part of the bill I want to speak about — bringing early childhood development and preschool education into the department of education.

This new department was announced on 2 August this year, and when it was announced a number of people were genuinely excited about what this would mean for early childhood education. So far all it has actually meant is a name change and maybe the shifting of a few desks and chairs but really nothing at all for early childhood education. Almost four months after the announcement we are still waiting to hear what this change will mean for preschools in Victoria. We are waiting to hear what it will mean for the physical location of preschools and what their relationships with schools will actually be. We are waiting to hear what it will mean for the conditions and remuneration of preschool teachers. For example, who will employ the preschool teachers? Will they now be employed by the department of education or will they continue to be employed by the preschools themselves?

We are also waiting to hear whether there may be changes to preschool education. I am trying to resist using the word 'curriculum', because we certainly do not want to see a curriculum in preschools — we want them to continue to provide play-based learning — but I guess that is the right word to use. We are waiting to see if there will be any change to the play-based learning environment we see in preschools today or whether they will become more like the environment that exists under the department of education.

We also have no idea what the relationship with local governments, which currently own most of the facilities, will be under this new arrangement. There is a whole range of questions that still remain unanswered about what the move of preschools into the department of education will mean for preschools, for teachers, for schools, for parents and most importantly for the children of Victoria.

The preschools and their peak body have still not had any information from the government on what these changes will mean. As I said, when this announcement was made people were genuinely excited about the prospects, but almost four months later people have become sceptical and feel that they are nothing more than machinery of government changes. The preschools and their peak bodies are waiting for some guidance from this government on what this move will mean for them and how it will change the way preschools are governed in Victoria.

Those who campaigned long and hard for preschools to become part of the Department of Education will certainly not be happy with just machinery of government changes. They want to see more. For example, I am sure we are going to see the education union out there looking for improvements in pay and conditions for preschool teachers. The government should not think it can get away with just plonking preschools into the Department of Education and Early Childhood Development and not going a step further, making some changes to how preschools are governed and advising people what those changes will be.

I have actually been trying to get a briefing from the department on these changes and one has finally been set for 11 December. I hope by that stage the Minister for Education and her department will have worked out exactly what the changes will mean for the preschools, teachers, schools, parents and children of Victoria and that they will be able at least to advise me of them, if they have not already made some sort of announcement to the preschools and their peak body.

The lack of information about these changes has made it very difficult for people in preschools to plan for the 2008 school year. Recently I met with people at Euroa kindergarten, who are struggling with numbers for next year. They provide the only service in town that has a preschool program delivered by a qualified early childhood teacher. The kindergarten enrolment numbers have declined over recent years, and they consider that that is due to another child-care centre opening in town, which offers a child-care but not a preschool program for four-year-olds. They are struggling with their enrolment numbers for next year and also to maintain their teacher, who at the moment works three days a week and needs work on four days a week.

They are wanting to know what the changes will mean for them, because to run a four-day-a-week program they would require further financial assistance from the government, including assistance with the wages of the teacher. I have written to the minister asking what assistance will be made available to them and what the changes involving preschools moving into the new Department of Education and Early Childhood Development will mean for Euroa kindergarten, but as yet I have not of course received a response from the minister.

A number of kindergartens in my electorate are struggling with numbers. It looks like Huntley kindergarten, just out of Bendigo, might close if it does not get more enrolments. On 29 October it had only 10 definite enrolments for next year, and it needs 20 enrolments to qualify for automatic funding under the old arrangements. Of course the people there do not know if there are to be new arrangements and whether the funding will change. The department needs to advise them if there are to be any changes or if things are to remain the same. St Andrew's kindergarten in Shepparton is another one that has made an announcement that it looks like it will have to close because of a lack of numbers.

It is a shame that preschools are closing down because of a lack of enrolments of four-year-olds. The people at Euroa kindergarten have summed that up quite well, saying that there are so many children in child care that some parents consider child care a substitute for a preschool program. As members all know, whilst the children might be getting a good program, without a qualified teacher they are not getting the full benefit of what a preschool education can offer.

Before the last election the Liberal Party had a very good policy. It was not only to bring preschools into the department of education but also to provide free preschool education to almost all four-year-olds in Victoria. If this government had adopted the full Liberal policy and provided free preschool education to almost all four-year-olds, a lot of kindergartens would not be struggling with their numbers for next year. It is unfortunate that many preschools around the state will be faced with the same problem as Euroa, Huntley and St Andrew's kindergartens have because the government has failed to communicate to them what the changes will mean. It is unfortunate also that the members of the committees of those kindergartens are trying to work through these issues with little or no knowledge of what preschools moving within the area of responsibility of the Department of Education and Early Childhood Development will mean for them, including whether that will provide extra resourcing for them in the way of funding or relief from employing teachers et cetera.

It is now almost four months since the Premier announced the creation of the new Department of Education and Early Childhood Development and yet we are still waiting to hear what these changes will mean. That is hardly decisive action. The Premier promised to be decisive. He made this announcement almost immediately on becoming Premier and yet his ministers are failing to back him up. The government is not being decisive when people do not know almost four months after an announcement of changes is made what the changes will actually mean. It would be a great pity if Victorian preschools were to close and then later find out that under these changes other options were available to them. It is time that the minister advised them exactly what the changes will mean.

Mrs PEULICH (South Eastern Metropolitan) — I am surprised to be on my feet so quickly. Ms Lovell's contribution on the important issue of preschool education was warranted. Having been involved in an all-party inquiry into this difficult issue, I certainly endorse those comments. It will be interesting to see how the transition is implemented and what occurs. The implications will clearly be fairly significant, not just for kindergartens whose viability may be threatened as a result of it but also for primary schools. While it is clearly very desirable to establish close links between a preschool and a primary school, certainly from the point of view of professional development for teachers, access to resources and convenience for parents, it does have a downside — that is, that it basically means that some primary schools do not get the online feeders and therefore may have some problems with future enrolments. I endorse all the comments made by Ms Lovell.

The problem of course is that none of these issues is actually dealt with in the bill. It is a very, very sad reflection on a government which boasts that education has been its no. 1 priority but which in fact has been so quiet on a whole range of issues. Those very important education issues — stubborn issues, difficult issues — should have been addressed but continue to be ignored and to dog the performance of our schools and contribute to the underperformance of our students.

Before going on to mention some of those stubborn problems, I first take the opportunity to congratulate all those VCE (Victorian certificate of education) students who are completing their studies and their schools and teachers — not just the teachers who have taught them during this year or the past couple of years but all those who have taught and contributed to the development of the individual students all through their education careers. It is a big time, and I think it is very sad that members of the education union have chosen this particular time to go on strike. I understand that many teachers are making themselves available and are accommodating students in their last-minute preparation for the tail end of their exams, but it is the sort of distraction or disturbance that is unwarranted. That is unfortunate. I think that members of an education union who want the respect and high regard of the community should avoid taking this sort of action. We all know how important the VCE exams and

equivalent national tertiary entrance rank scores are to the prospects of our young people who seek to enrol in various institutions. I congratulate all students and wish those who are yet to sit their final exams the very best.

Again Ms Pulford had the gall and audacity to talk about education being this government's no. 1 priority. God help those areas of government activity that are lower on the list, because if this is an example of what it means to be the no. 1 priority, it is a very sad situation indeed. I would like to just rattle through a whole range of issues about which this government has basically done nothing. There have been some examples of schools showing initiative in these areas, but in terms of the government's role, it has certainly been missing in action. Are we surprised? First of all, I did speak about a former minister for education being a social worker. I was not very optimistic about the prospects for education with it being in the hands of a social worker. No disrespect is meant to social workers, but they have their own profession and endeavours, and looking after the very complex education portfolio is probably not one of them.

Now of course we have a different Minister for Education. We saw what this minister did for health and I shudder when I think about what she will do for education. I will list the issues which are of enormous concern to me and former educational colleagues with whom I still have contact — principals and teachers who I am in contact with across the South Eastern Metropolitan Region, which I represent.

Maintenance of schools in those established suburbs has to be at the top of the list. The government has criticised the Kennett government for closing schools to make funds available for the much-needed repair and upgrade of neglected schools, but of course it is now doing that itself. There are a couple of perfect examples in South Eastern Metropolitan Region — the Keysborough-Heatherton area and in the Dandenong area —where a cluster of schools are being merged, or amalgamated, into two. Basically that means that you close two sites, flog them off and make some of the proceeds available for the upgrading and rebuilding of the remaining schools. I cannot see how that is any different from what occurred in the past, except in the rhetoric.

The Bracks and Brumby Labor governments have criticised the much-needed action taken by the Kennett government to rebuild schools that had been very badly neglected for a long time. The government promised to make education the no. 1 priority. It has failed to deliver the dollars, and now it has no other course of action but to facilitate these amalgamations, flog off the available sites and then rebuild those that are remaining.

Maintenance funds in the established suburbs are critical. There are so many children who finish their education in the secondary system without there having been a rebuild or proper maintenance carried out on their schools. The government's supposedly 'no. 1 priority', or ambitious target, is to rebuild 500 schools; I cannot recall exactly what the target date was. That is about one-third of schools. Let me say it is a very unambitious target. Maintenance is a crucial issue.

Of course in the growth corridor we have schools bursting at the seams because the government is not building enough schools. Many kids have to spend a lot of time travelling to schools that are many kilometres away from their homes, when they ought to be at home taking part in some sort of recreational activities, studying or doing something else. On the one hand not enough money is being injected into the maintenance of existing schools and on the other hand schools are not being built where they are needed, such as the Casey school, for example, and in Timbarra, where there is an appropriate site adjacent to a primary school on which a secondary school should have been built. Many people have bought into the area assuming that it would be built. The government has played peas and thimbles on whether the numbers stack up or not and has been dragging the chain. The Casey school is also now being promised later than the date announced by Ms Graley during the last election campaign. All of these things show that education is not the government's no. 1 priority.

I would like to draw a distinction between truancy and absenteeism; I think we need to get to the bottom of that. Truancy is an absence from school which is not authorised, and there are provisions within the Education Act that deal with that. Absenteeism, however, is being absent from school, many times with the permission of parents or guardians, who are often misguided in giving that permission. Certainly our students are recording very high numbers of days on which they are absent from school. These are important issues because students are missing out on important learning.

There is nothing in this bill about more funding being provided to schools, about the chronic problem of absenteeism and truancy, about the issue of staffing, teacher shortages, the teachers strike tomorrow, or about how to deal with underperforming schools, let alone underperforming teachers. Ms Lovell spoke about preschools and so forth. On so many important educational issues there has not been a peep out of the

government. Ms Lovell rightly said that this bill was a machinery bill, tinkering with some flaws in the Education and Training Reform Act. That is an important piece of legislation that took a long time to develop — I am not even sure that the ink has completely dried — and yet we are fixing some oversights, omissions and flaws in it. It is not in full operation, but amendments to it keep flowing, whether they be to address simple things like spelling mistakes and grammatical errors or other flaws. The crucial big picture educational issues are nowhere to be seen.

I invite government members and the new Minister for Education in the other place to bring in legislation that addresses the key concerns of schools, parents and our kids, who will hopefully one day be the beneficiaries of a much more effective, more efficient, more rewarding educational system. That is not to say the opposition opposes the content of this bill — for instance, such things as the provision of effective criminal record checks of registered teachers through the Victorian Institute of Teaching. Clearly it is important to our community that we have the utmost trust and confidence in all our teachers and adults who interact with our children in the school community. When we place our children in the care of others who have a duty of care to look after them, as a reasonable parent does, there is no greater betrayal than a breach of that trust by an adult, whether through sexual misconduct or whatever.

My concerns about the Victorian Institute of Teaching are separate. I am concerned about the bureaucratic nature of teacher registration, re-registration and professional development, and I would like to see a review of how the VIT is doing. But in this regard I believe we cannot criticise a regime that is, hopefully, going to see the community more confident that criminal checks of teachers and adults in our schools are effective.

The Liberal Party supports the move to permit children to be registered for homeschooling up to 18 years of age. That is a long overdue reform. The approval of providers of overseas student exchange programs, I believe, is a good move. It is a reciprocal program where Victorian schoolchildren attend schools in other countries and are accommodated there, and at the same time overseas students attend our Victorian schools and are accommodated in Victoria. A range of those programs happen in our communities — for example, Frankston High School has developed a student exchange program with the Lycée Jean Zay in Orleans, France, Daiichi High School in Fukuoka, Japan, and another school in Tokyo, and Mount Waverley Secondary College also has a program.

I certainly hope the department will work with schools with similar programs in place that have formed as a result of relationships with sister schools around the globe. It is not only desirable from the point of view of enhancing the educational and cultural experience; there are significant economic benefits in such programs. Overseas students who come to study in Victoria, I believe, add value in excess of $2 billion across all levels of education, and 35 per cent of overseas students in Australia attend Victorian institutions. This is a very important program to cultivate that market, and I believe we need to do what we can to protect, nurture, encourage and improve such programs all the time.

I would like to see other legislation that addresses the shortage of technical and vocational education, in particular around the Noble Park-Springvale area, where clearly we have a very high number of refugees who now call Australia home and for whom Australia is home but who need to be able to access a convenient technical or vocational institution in their community. This is an initiative that has been supported by a range of community leaders in that area, including card-carrying members of the Labor Party who are on council or who are former members of Parliament. Local community leaders and people in the hierarchy of the local police think this is a really sensible thing to do.

The amalgamation that is currently happening will lead to the closure of the Springvale Secondary College site, which is very close to the railway station and would be a wonderful site for such a dedicated technical and vocational institution. Students would be able to travel on the railway line to other services in Dandenong and to employment opportunities. I certainly hope that the minister, his advisers in the box and perhaps other members of Parliament will support the retention of that site for such a dedicated facility rather than merely flogging it for high-density housing. These sorts of things can never be retrieved once opportunities have been lost.

I call on the minister to secure the future of that site so we can get on and build a stronger and more vibrant community in the Noble Park-Springvale area and so that people who find it difficult to integrate into mainstream schooling and do not have the skills to get a job have an opportunity to build more productive lives in the new country which has welcomed them. We certainly hope they end up making very positive contributions to society. In order to garner support for such an initiative I have placed a petition on my web page at ingapeulich.org, and I encourage everyone to access and sign it so we can get further support.

With those few words I would like to again say that the opposition does not oppose the measures in this particular piece of machinery legislation; however, I am disappointed that more significant educational issues have not been brought to this chamber for debate and that the government has not been more proactive in living up to its pledge, which is now eight years old, to make education its no. 1 priority, because it is certainly far from it. Maintenance and upgrade ought to be a priority not just for the 500 schools nominated for rebuilding in the Governor's speech at the opening of this Parliament. Our growth corridors need new schools; issues of absenteeism and truancy need to be addressed; the fate of preschool education and its transition into the Department of Education and Early Childhood Development is something that the community needs to be informed about; and the question of underperforming schools needs to be addressed. There is a whole range of educational issues. I look forward to taking part in those debates, and I invite the minister to bring forward some policies which address those issues.

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 for their contributions.

Motion agreed to.

Read third time.

GRAFFITI PREVENTION BILL

Second reading

Debate resumed from 11 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased on behalf of the Liberal Party to be the lead speaker on the Graffiti Prevention Bill 2007 and to indicate that the Liberal Party will be supporting the bill in this chamber. I flag the intention to move an amendment in the committee stage in respect of a clause which I will talk to at some point in brief, although we will discuss it more in the committee stage.

This bill is really an extension of Liberal Party policy before the last state election. We all know graffiti offences are heinous crimes which affect many people directly. They involve the intrusion of a person onto private property or areas to which the public has access. Graffiti crime creates visual pollution which affects those who have to be near it, go past it on the public transport system or the road network or even just walk around the streets of the local community. Many people have had a clear objective to clean up graffiti. As we know, a particular council has been so progressive in dealing with graffiti that I believe a lot of the issues faced by it are addressed in the bill before the chamber.

The Liberal Party believes it is appropriate that the offences are legitimate in terms of the areas set out in part 2 of the bill. In clause 5 the offence relating to a person not marking graffiti on property that is visible from a public place is straightforward. The issue most people are concerned about is that they think it is young people with aerosol spray cans who write graffiti. The issue for us is not necessarily that sort of person committing an offence but more generally organised graffitists or taggers who operate within the community. As happened in a matter that I believe is still before the courts, people travel across state boundaries to master their so-called artistic ability and tag an area and then return back to their place of abode, which may not necessarily be in Victoria.

The legislation has good provisions which give greater powers to deal with some of those areas. In particular I refer to the offence of possession of a graffiti implement, which is set out in clause 8. While we see clause 7 as being important in making it an offence for a person without lawful excuse to possess a prescribed graffiti implement, we note that it fails to extend beyond the property of a transport company or an adjacent public place. Mrs Peulich will talk about this more in her contribution in respect of the powers prescribed in the legislation and the capacity of public transport companies to enforce the provision. I will not elaborate on that, because I may steal Mrs Peulich's thunder.

The offence of advertising for sale a prescribed graffiti implement, which is dealt with in clause 9, is a straight grab from the Liberal Party proposal. Clause 10 makes it an offence to sell a can of spray paint to a person under the age of 18 years. The Liberal Party has been calling for that provision for ages, and it was our policy at the last election. I am glad that is another policy that the Labor Party has taken from us.

Mr Pakula interjected.

Mr DALLA-RIVA — We are pleased that you acknowledge that you seem to steal every policy we put up. We support the fact this is another policy that the Labor Party has grabbed and supported in that context. As I said earlier, Mrs Peulich may talk about clause 11 in more detail.

Part 3 refers to the powers of search and seizure. I understand there are some proposed amendments in relation to this part of the bill. I note that the Australian Greens propose to move such amendments. They might lead to part 3 being totally removed from the legislation, apart from the provision relating to the issuing of a search warrant, if my reading of them is correct.

I refer to clause 12. Having been a member of the constabulary, I suggest that police often get a search warrant post the event. In other words, you would not be walking along a street and look at a house and say, 'That looks like an appropriate house to use a search warrant. I might go and see if they have any graffiti implements in it'. You would follow a set of circumstances where a person may be arrested. The person may be apprehended while undertaking extensive graffiti or tagging, and this would enable the police to obtain a search warrant specific to that particular offence. That would be the intention here.

I refer to someone who is in the possession of a small quantity of drugs and some money. On reasonable grounds you would therefore seek a search warrant under the Drugs, Poisons and Controlled Substances Act to search the premises of that particular suspect for evidence that they may be trafficking in drugs or have additional drugs on the property or assets such as money and the like; there is a specific warrant for that offence. I believe part 3 has been drafted along the same lines. It may enable the police, where a specific offence has been committed in respect of graffiti, to obtain a warrant specifically relating to obtaining further and better evidence to obtain a conviction.

In clauses 5 and 6 this bill provides for level 7 imprisonment, not penalty units. It refers to the imprisonment of people who undertake graffiti in such a way that it causes offence or is on private property without first obtaining the express consent of the owner to do so.

The Liberal Party believes that part 3 is an appropriate part of the bill, although I know some people have issues with it. I am fascinated with the statement of compatibility made under the Charter of Human Rights and Responsibilities Act, because it has more pages than the second-reading speech.

I refer to clause 14, which relates to the searching of persons under 18 years of age. Clause 14 (2) states:

> A member of the police force who conducts a search under this part of a person who is or appears to be 14 years of age or more and under 18 years of age …

That provision is very similar in my view to the process that is undertaken with drug offences. We have to be realistic and accept that it is often younger persons who commit graffiti offences, and there therefore needs to be a specific clause that details the search provisions of persons who fit that criterion. Apart from that clause I do not have any particular concern about part 3, and I believe that can be overcome by the use of the appropriate mechanisms, which will ensure the protection of the suspect.

Part 4 deals with the removal or obliteration of graffiti. While this part goes some way towards placing the onus on the council and on the person whose property has been graffitied to undertake a process of removing it, we note there is no requirement in the bill for an offender to clean up their work. That is missing, although it was part of our policy. If an offender decides that he or she wants to tag a certain building or the side of a building or some part of an area, there is nothing that says that must be cleaned up immediately.

The train system might be cleaned up because the operator has an interest in cleaning it up quickly because of other passengers, but if a graffitist — and they are not artists, because if they were artists they would be making money or they would have their product available on display in appropriate areas — decides they want to spray a particular bridge, not necessarily a railway bridge, and they are apprehended, there is nothing in this legislation which says they should be forced to clean it. The requirement is on somebody else to clean it. The offender is either sent to jail or given a monetary penalty or some other community-based order, but there is nothing in the legislation which says they should clean it up.

The greatest deterrent for offenders creating this visual pollution is for them to get their hands dirty while cleaning it up, making the point that the more they spray the greater the visual pollution and the greater the effort they will have to undertake to clean it up. I think that is one of the shortcomings of part 4.

Another point I wish to make, which I think will be referred to later on, is on clause 19, which relates to authorised persons. I note it relates to a council and states:

> A Council may authorise a person in writing to carry out the Council's functions under section 18.

The bill also refers to an authorised person in terms of an authority for the issuing of infringement notices. Nothing in the bill relates to the matter of public transport. As I said, Mrs Peulich will talk about that in a bit more detail. This bill is straightforward. It is great to see that the Labor Party has taken up some of the policies of the Liberal Party yet again, and obviously we look forward to its support. We will be moving an amendment in respect of clause 7 in the committee stage, but I will talk to that more fully when we reach that stage.

Mr DRUM (Northern Victoria) — The Nationals are keen to have their voice heard on this bill because it is a bill which has been driven by the community's frustration. Graffiti and vandalism via graffiti has driven the community to a situation where it simply wants something done. It is good to see the government moving in this area to make some changes targeted specifically around graffiti.

This is not a bill to amend an act. We are moving into very specific legislation which is targeted towards graffiti. It will create new offences and toughen up some of the penalties that currently exist in relation to graffiti. It will give the police tougher powers. It will also give the police guidelines under which they will be able to search suspects who they think have been involved in the practice of marking graffiti. The police will have very detailed guidelines as to how they go about searches. Obviously, the searches will include pat downs, which can be a sensitive issue, especially when you are dealing with young kids and specifically with young girls, and that is all dealt with in the bill. What we are debating today is an important issue. Surrounding that and associated with it are some very stringent measures to deal with this problem.

The overriding feeling within the community is that everyone is sick and tired of the vandalism which continues to take place at the hands of those self-proclaimed artists. Another community frustration is that these people are predominantly young kids; I know some young adults are also involved, but about 70 per cent of people who are caught in the act of graffiti are in fact minors. They call themselves artists, but they are not artists; they are simply vandals.

Many of these young people simply do not realise that in some cases their graffiti on heritage buildings, certainly in places like Bendigo and Ballarat where there are many buildings that are hundreds of years old, does not come off. The porous nature of the buildings and the oil-based paints create a mix so that once the paint is left on for any time, it does not matter how hard you try to sandblast it, it does not come off. Irreversible damage can be caused to many of the properties around the heritage regions just because kids think it is funny to go on a graffiti spree and have a bit of what they call fun. That happened to friends of mine in Bendigo. They have a 160-year-old property which has been damaged. They are unable to do much about it because some kids thought they would get stuck into their fence with a spray can.

Mr Dalla-Riva mentioned that Victorians have had to put up with a group of interstate graffiti vandals who have been turning up in Victoria with the specific aim of defacing our public transport system. They have been getting stuck into our trains and our railway stations. They have been able to get into Melbourne and deface the trains. In many instances they have been caught, they have been through the judicial system and received the proverbial slap on the wrist. Along the way they have received significant media coverage, which has in effect given the community a double slap in the face, because even though they have been caught, they have been let go.

The media coverage they have been able to generate has put the community into a situation where it will see repeat or copycat offenders. It has been farcical. Members of the community will be hoping that these specific offences and the harsher penalties that attach to those offences will have the deterrent effect necessary. If anyone still thinks it is cool to deface property on either state or privately-owned land, I hope they will get a rude awakening when they are caught and processed under this new regime.

The Scrutiny of Acts and Regulations Committee has had a very close look at clause 10(1), which deals with the definition surrounding minors. Clause 10(2) deals with an offence in relation to selling spray cans. I believe it is already illegal to sell spray cans to minors. I have dropped my own children off at a store and asked them to run in and get some spray cans for a school project, and the shop assistant has not been prepared to sell spray cans to minors. I was of the opinion that it is illegal, but this legislation is effectively making that the case. The exception will be when minors who are in employment are sent to a hardware store or the like to pick up aerosol spray cans of paint that are to be used for employment purposes. When that is the case the purchase is going to have to be accompanied by a letter of authorisation from that minor's employer. That written authorisation will obviously have to state that the paint is going to be used for employment purposes.

There have also been some issues in relation to clause 7 which deals with the onus of proof and the reversal of the onus of proof. Where minors are caught in

possession of graffiti materials, they are going to be presumed guilty and are going to have to prove they are innocent. The Law Institute of Victoria (LIV) has expressed some concerns about the severity of the penalties and about the issue of the reversal of the onus of proof. The Nationals have looked at that. Whilst we have some concerns — and I am sure everyone else has concerns whenever you talk about the reversal of the onus of proof — on balance we have decided not to oppose this legislation. The data tells us that around 70 per cent of those people caught in the act of graffiti are minors. We therefore acknowledge it is a serious issue with serious problems and the only way you can deal with those problems is by putting in place some very stringent measures around the fact that we are mainly dealing with minors. That is very important.

I would like to touch on one last point which has to do with the Law Institute of Victoria's thoughts on this issue. I quote from a document which is in effect a summary of the law institute's stance on the bill. It states:

> … LIV considers the proposed new offences and penalties in the bill to be a disproportionate response to the community problem of graffiti. The bill fails to address the main causes of graffiti-marking behaviour, and in fact threatens to damage current constructive programs that aim to engage graffiti vandals in restorative justice initiatives.

That is very important. The institute is of the belief that those current programs are in fact showing some very promising results. I quote:

> Such tough laws are a blunt tool in community problem-solving and in all likelihood will fail to adequately address the issue of graffiti.

There are a few concerns there that we obviously need to be mindful of and vigilant about. We need to continue to look at this and see how these new tougher specific provisions are handled in the community and whether or not they have the desired effect that we hope they will. There is no doubt that right around the state Victorians are sick and tired of seeing their property defaced by mindless acts of vandalism. Graffiti is not an art. Whilst there are some kids who would take great pride in their work, the fact is we have to continually stress to the youth of today that on private property they are defacing someone's property.

It is going to cost somebody many hundreds of dollars, if not thousands of dollars, for restorative work. For the public transport system and public places that are defaced and devalued, the taxpayer has to pick up the bill. If Victorians ever found out how much is spent in cleaning up the work of graffiti vandals, there would be even greater outrage at this pastime around the state. With those few words I will conclude. The Nationals will not oppose this legislation and we certainly hope the bill has the desired effect.

Ms PENNICUIK (Southern Metropolitan) — I would like to spend a little bit of time this evening offering a different perspective on the issue of graffiti, notwithstanding that I acknowledge that many people in the community do not like graffiti, particularly people whose property graffiti is marked on. There are also people in the community who tolerate graffiti marked on their property. I looked at the debate in the lower house and I have listened to the debate here today and we seem to be just getting the point of view that graffiti is a menace, there is nothing positive about it and that people who mark graffiti are criminals and should be dealt with with the full force of the law.

Whilst I say that I acknowledge graffiti removal costs money and that marking graffiti on property is not welcome by some members of the community and in some places, that is not always the case. I want to spend a little bit of time on a different perspective of what graffiti actually is before I move on to the issues that the Greens and I have with the actual bill and explain the amendments that we will be putting to the bill.

To start with a different perspective about graffiti, in addition to the ordinary definition of graffiti as we would know it today, *Webster's Dictionary* also mentions an archaeological definition of graffiti as being an ancient drawing or writing scratched on a wall or other surface. That illustrates that — without meaning it to be a pun — graffiti has been around for ages. It was practised in ancient times, it has been practised in other times, it is practised now and it will be practised in the future. So in my view having this legislative framework to come down hard on people who mark graffiti will not prevent graffiti, which is the stated aim of the bill.

I refer to the draft graffiti strategy for the City of Melbourne written by Associate Professor Alison Young. In answer to the question, 'What is graffiti?', she offered:

> Graffiti is not a unitary, homogenous phenomenon. The term 'graffiti' refers to an activity which has a long history and which has taken various forms.

She goes on to say that the word 'graffiti' is derived from Greek, and that there are different types of graffiti that we see around our cities and towns now and they include what are called hip-hop graffiti, tags — which people would be familiar with — throw-ups and pieces, each of which is a stylised form of the writer's chosen graffiti name.

A tag is an identity by which the author within the graffiti culture likes to be known. It is a combination of particular letters which the author finds pleasurable to write and thinks may look impressive. You would have seen those all over the place. Tagging is often viewed as the most undesirable form of graffiti. There are also things called throw-ups, which are basically more elaborate versions of a tag, and then there are things called pieces, which are even more elaborate. A throw-up could take maybe 30 seconds to a minute to put up, and a piece is more of a mural type of arrangement which could take quite a long time to put on a wall. They are seen on walls around the city of Melbourne and some of them are tolerated, either by the council in the municipality in which they occur on public property or even on private property where the private property owners are tolerant of that type of graffiti on their property.

The other form of graffiti that we see around the city of Melbourne in particular is stencil graffiti. Often that has quite a political context, and it has become an extremely popular form of graffiti in recent years, particularly in Paris, London and Melbourne. In fact, this year the Melbourne Stencil Festival was held for the third year running. It invites more than 60 local and international stencil artists to Melbourne to display their work. Even the National Gallery of Victoria has collections of stencil art. Streets like Hosier Lane near Federation Square draw their own tourist trade of graffiti fans from around the world.

One could say the graffiti can break up the monotony of urban space. A number of books have been written about graffiti, which I have referred to and which I have looked at, including one called *Uncommissioned Art* by Christine Dew. While in one way of looking at it graffiti is annoying and costly, the other way of looking at it is that it is an acceptable way of expression and it could be tolerated, and is tolerated, in certain circumstances.

The Greens view is that this bill is an overly draconian piece of legislation. From our perspective a theme of the year seems to be introducing legislation into the Council that we do not really need. There are already offences in existing statutes such as the Crimes Act and the Summary Offences Act, and there still are under the Transport Act. However, this bill will repeal some sections of the Transport Act that deal with graffiti. So graffiti is already a crime.

It is worth bearing in mind that police figures show that 69 or 70 per cent of graffiti is marked by people under 18 — that is, minors. So at the outset I say that this bill, which includes terms of imprisonment, search without warrant provisions, reverse onus of proof provisions and big fines, is basically aimed at people under 18. The majority of people who will be caught up with this bill will be tried in the Children's Court. We are putting in place a bill with overly tough penalties including terms of imprisonment for graffiti crimes, some of which would be very minor.

A lot of hysteria and handwringing is going on about high-profile graffiti artists; they have been mentioned in the debate both here and in the lower house. But I put to the house that the majority of people who will be caught up with this bill will be young people under 18 who might scrawl a few tags or a few pieces on a wall at the back of a supermarket or a railway siding or somewhere.

With the search-without-warrant provisions, it could be the son, daughter, niece, nephew, grandson or granddaughter of anybody in here who is searched without a warrant just on the suspicion that they may have a graffiti implement. It is interesting that a graffiti implement is defined in the bill as a spray can or some other article to be defined in the regulations which cannot be washed off a wall with a dry cloth. I would put it to the Council that that could include a texta, a crayon, a biro, or even a coloured pencil. It seems to me that searching people without a warrant to ascertain whether they are carrying those dangerous implements is a huge overreaction to a problem.

We should not be putting in place legislation which has single penalties, as this does under clause 5, for example. There is only the one penalty — level 7 imprisonment — for marking graffiti. Given that the majority of people caught by this bill will be under 18 — they will be minors — I would have thought that we would be avoiding at all costs wishing to impose that sort of penalty for what is in fact a property offence. Whether the welfare of a child or minor should be less important than damage to property is something we should be thinking very carefully about.

We are not the only ones who have raised concerns about this bill. Mr Drum mentioned the Law Institute of Victoria, which wrote to the Minister for Police and Emergency Services in another place, Mr Cameron, on 4 October and said it has ongoing concerns about some aspects of the bill, particularly with respect to the reverse onus of proof in clause 7 for the offence of possessing a prescribed graffiti implement. Inserting a reverse onus of proof in a piece of legislation is a serious thing to do. Our justice system relies on us being innocent until proven guilty, not the other way around. It seems to me that we are talking about a property offence where nobody is physically injured

and yet a minor — and most people who will be caught up in this will be minors — will be required under this legislation to prove themselves innocent rather than the prosecution or the police proving them guilty, which is what applies in most other cases under the law. It is very difficult to support that provision or understand why it has been put there.

In terms of that clause, the only lawful excuse for a person having a prescribed graffiti implement on them is to do with their employment. I raised this in the briefing and I was told that the way the bill is worded would not preclude other reasons. However, I have had other advice that in fact that is not the case, and that only the reasons listed in the bill apply.

Sitting suspended 6.29 p.m. until 8.02 p.m.

Ms PENNICUIK — Before the dinner break I was, amongst other things, inviting members of the Council to look at graffiti from a different perspective from what has been the theme of the debate in both the lower house and the Council — basically, that graffiti is just a bad thing and that the people who mark graffiti are criminals. I mentioned that there were places in the city of Melbourne — for example, Hosier Lane, near Federation Square and Flinders Street — which have a lot of stencil art and are a bit of a tourist attraction. In fact the City of Melbourne's *Melbourne Retail Strategy*, which I have a copy of here, features photographs of graffiti art in Melbourne as part of that promotional document for the city of Melbourne.

Some recent books have been written about graffiti artwork or street art, including *Uncommissioned Art* by Christine Dew and *Stencil Graffiti Capital — Melbourne* by Jake Smallman and Carl Nyman. I encourage members of the Council to at those books and think about looking at graffiti in a different way — that it is not all bad. There certainly are people who love graffiti and people who hate graffiti, but we can look at it in different ways.

Recently a program called *Not Quite Art* was aired on ABC TV. The host was Marcus Westbury. The second episode, which went to air on 16 October, entitled the 'New folk art'. It featured the laneways of Melbourne and went into some detail in describing the types of artworks that can be found in the laneways, including murals and stencil artwork. It also looked at tagging and the context in which it occurs. The viewpoint was that graffiti or street art makes the city more interesting and uses the streets for communication and direct public interaction. It gives a voice to people who do not necessarily have a voice. I have already mentioned that the National Gallery of Australia has collections of stencil artwork.

The word 'Eternity' was a famous piece of graffiti that was written in chalk numerous times — probably millions — on the streets of Sydney from the 1940s to the 1960s by Arthur Stace, who was an illiterate former soldier and petty criminal who became a devout Christian in the 1940s. For years, from his conversion until his death in the 1960s, he walked the streets of Sydney at night, writing the single word 'Eternity' on walls and footpaths in his unmistakable copperplate handwriting. His identity remained unknown until it was finally revealed in the 1960s. After his death his signature lived on. I am sure everyone is aware of it. It became part of the fireworks on the Sydney Harbour Bridge to mark New Year's Day 2000. This was recreated as part of the opening of the Sydney Olympics ceremony. That was an inspiring piece of graffiti — in fact it was a tag, but it was an elegant tag because it was written in elegant script.

A lot of graffiti, including tags, can be political, aesthetically pleasing and thought provoking.

Ms Darveniza — It can be ugly.

Ms PENNICUIK — It can be ugly, I agree. I am just trying to put the view that — —

An honourable member interjected.

Ms PENNICUIK — Beauty is in the eye of the beholder. The discussion paper on this bill gives the cost of cleaning up graffiti as one of the reasons for treating graffiti as a crime and says it is estimated that it costs about $300 million a year in Australia to clean up graffiti.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! Mr Pakula! I also indicate to Ms Darveniza and to Mr Dalla-Riva that neither of them are in their places.

Ms Darveniza — So it is fair.

The DEPUTY PRESIDENT — Order! No. It anything but fair to Ms Pennicuik.

Ms PENNICUIK — The cost of cleaning it up is not the reason graffiti marking is a crime; it is a social policy choice. Any criminality related to graffiti is derived from values attached to private property. It does not derive from the cost of clean-up. We hear that there are community perceptions about safety, that people feel afraid in areas where there is graffiti, and that is

why we need to criminalise it. An article in the *Age* of 16 May carries the headline, 'Look around you. It's just street art'. It talks about Hosier Lane, which I mentioned earlier, and the expressions of protest that can be found there in terms of political issues. For example, there is the refugee issue and there are other topics, such as the military culture, the Americanisation of Australian foreign policy, mysterious weapons of mass destruction, the faces of Saddam, bin Laden, Howard, Bush and Blair, petrol and oil — the list goes on. The writer, Chris Johnston, said:

> Last time I looked, there was a cute piece in Hosier Lane that was like a welcome mat over the generational chasm. In it, a little person in a hoodie, seen from behind, sprays a wall. The words? 'Don't be scared. It's only street art'.

We have the broken windows theory — the view that if an area is not environmentally well maintained this will cause more crime and lead to economic decline and increase social instability.

Mr Drum — True.

Ms PENNICUIK — There is some truth in that, Mr Drum, but there are other things that can create it. For example, there is litter. Many councils spend an awful lot of money on cleaning up litter. To my way of thinking, litter is a blight on the landscape. I walk along Elwood Beach, which is often covered in mountains of litter, but we do not have this type of draconian legislation for litter. When we look out during the day we can be confronted with a whole lot of logos and slogans put up by banks, by all sorts of commercial organisations, by retailers and by political parties. They are put up and paid for by corporations. In my view most of them are a blight on the landscape and no more beautiful than graffiti. Many of them are graffitied — and some deservedly so, I say. But that is okay because the corporations behind them, the people with money, are able to advertise and make their statement.

So what is the price of having clean walls? This bill, as I mentioned before the dinner break, is an overreaction to the issue of graffiti. I made the point that we already have laws against graffiti, and we already have ways in which the courts can deal with it. I mentioned that the bill has been criticised strongly by a number of agencies, including the Law Institute of Victoria (LIV). The institute wrote to the Minister for Police and Emergency Services in the other place, Mr Cameron, and I will read out some of the concerns expressed in its letter. I think Mr Drum also referred to this in his contribution to the debate. The institute said:

> In summary, the LIV considers the proposed new offences and penalties in the bill to be a disproportionate response to the community problem of graffiti. The bill fails to address the main causes of graffiti-marking behaviour, and in fact threatens to damage current constructive programs that aim to engage graffiti vandals —

The institute calls them vandals, but I would say they are graffiti markers —

> in restorative justice initiatives. Such tough laws are a blunt tool in community problem solving and in all likelihood will fail to adequately address the issue of graffiti.

The Greens certainly agree with those sentiments.

I also take issue with clause 7 of the bill because, as I have mentioned, it introduces the reverse onus of proof and violates the presumption of innocence, which is a fundamental principle of common law.

Youthlaw points out that the penalties in this bill far exceed those for more serious offences, including that for dangerous driving under the Road Safety Act, which has a penalty of not more than 240 units or two years imprisonment. In fact that is a similar penalty. So people who mark graffiti — and I remind members that I said before that most of the people who will be caught up in this bill will be under 18 — will be subject to penalties similar to those imposed on people charged with dangerous driving. I cannot see how a young person marking graffiti on a wall, even though it is already an illegal act, deserves the same penalty as a person found guilty of dangerous driving, by which people can be killed or injured. Careless driving attracts lower penalties than does marking graffiti. Under the Road Safety Act the penalty for a first offence of careless driving is 12 penalty units and the penalties for subsequent offences are up to 25 penalty units. Under clause 7 the penalty for possession of a prescribed graffiti unit is 25 penalty units — that is, equal to the penalties for subsequent offences of careless driving. As I said, the penalty for a first offence of careless driving is less than that for marking graffiti.

It is particularly hard for young people to pay such fines. There are no other possible remedies under the bill, such as taking part in graffiti clean-up programs, which already exist in the Transport Act and which I know, from speaking with people who work in the transport system, are good programs that are working well. Instead of the bill providing that young offenders, particularly those who are under 18, will be subject to a level 7 imprisonment penalty, it could provide that they be involved in graffiti clean-up programs and other such programs which exist under the Transport Act. Unfortunately and unhappily this bill repeals those provisions. We should be doing everything we can to keep young people out of the prison or the juvenile justice system. We should be looking at different ways of dealing with young offenders, be it because they

have marked graffiti or committed any other offence. I was taken by a remark made by Mr Andrew Fraser, who was interviewed by Andrew Denton. He had been in the prison system and described 'prison rehabilitation' as an oxymoron.

There are many problems with the bill, which I will go to in a bit more detail briefly. First I point out that I am not sure this bill will be effective in preventing graffiti. I have already said that there are existing laws and many community programs provided by councils and in the transport system that could be undermined by this bill and the repealing of the relevant provisions of the Transport Act. The legislation does not provide any guide to why people mark graffiti in the first place. As I said before, it will not be the people in the high-profile cases — those who have travelled from other states to engage in graffiti activities and whatever — that have been covered in the newspapers et cetera and that other people have talked about in their contribution to the debate who will be covered by the provisions for stop and search and the issuing of infringement notices for possession of prescribed graffiti implements or for marking graffiti. It will probably be, as I said, people's brothers, sisters, sons, daughters, nieces and nephews who are under 18 and who have gone out, maybe for a first or second or third time, and who are not bad kids. They will be caught up by the provisions of this bill. I do not think the penalties provided by this bill are an appropriate way to deal with young people involved in this issue.

I read before something from the City of Melbourne's draft graffiti strategy, which unfortunately was not adopted in the end because, as I understand it, it was considered that we needed to be tough on graffiti with the Commonwealth Games coming up. It was a very good strategy and was very well supported by the stakeholders that were consulted, including Victoria Police, who, according to the summary of consultation comments received, were supportive of the document. It states also that Victoria Police:

> Support the use of high-tolerance zones and wish to discuss setting up a 'protocol' with council regarding police non-involvement in the zones.

Among the residents in the Melbourne 3000 postcode area there were varied views. One was that the strategy:

> … is a well-considered policy statement that endeavours to address a broad range of conflicting and competing views.

Another resident, in the greater Melbourne area, said:

> Graffiti is wrong in some ways, but it's also a way to express opinions on issues in the world today.

An artist-writer said:

> Murals, when done legally, can improve a heavily tagged wall and prevent further tagging.

And:

> The graffiti culture needs to be heard more by the public and members of the community.

Another comment was:

> Graffiti writers may have personal troubles. They should be provided with counselling.

A resident of the city of Melbourne said:

> It would be an advantage to the Melbourne City Council's presence here and overseas to lead the way in appreciating an art form which has arrived spontaneously and gives this city character.

There are those two aspects. The first is that not everyone hates graffiti and not all graffiti is bad. The second is how we deal with young people who are marking graffiti. I have some amendments to the bill, which I seek to have circulated in the chamber.

Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan) pursuant to standing orders.

Ms PENNICUIK — The amendments basically propose the deletion of clauses 6 and 7 of the bill. I could have been persuaded to propose the deletion of all parts of the bill except part 4, which contains provision for clean-up and allows council officers to go onto private property.

It is interesting that the City of Port Phillip, where I live, made a submission to the government opposing the bill. It said that the council has really successful programs in place and that this punitive approach will undermine those programs. Port Phillip is a high graffiti area and has a lot of visitors. The council makes the point that while it acknowledges that graffiti is a problem, it believes that the graffiti prevention exposure draft bill — which is what it was commenting on at the time — does not address the problems. The draft bill looks only at graffiti as an offence and has the potential to discriminate against young people. The council believes that a program of education, enforcement and eradication is needed in order to build an understanding of and tolerance towards these issues — which is the same approach that was taken by the Melbourne City Council to the draft strategy.

The City of Port Phillip went on to say that it aims to effectively deal with the problem of graffiti without favouring one section of the community or

disadvantaging others, and in doing so it seeks to address the concerns of young people, traders and residents in a balanced way. In 2003 the council introduced a graffiti pilot program to deal with concerns and consider alternative solutions, and it has adopted a multifaceted approach. Working closely with the community, council has identified three focus areas: cleaning services, education and diversion, and enforcement options.

The council received very favourable feedback from traders after its initial clean-up program. One of the council's graffiti hot spots was the underpass below St Kilda Junction, which members may be aware of. The city introduced a program of graffiti art there that has really livened up the area and reduced the amount of tagging, which, as I have mentioned, some people find to be the most unappealing aspect of graffiti.

Returning to my amendments, I would have been happy to delete clause 5 of the bill, which makes the marking of graffiti on property an offence. It is already an offence under other legislation. The problem with this is that it has a penalty of seven years or, as I understand it, a fine of up to $27 000, which seems completely ludicrous.

I have proposed deleting clause 6 of the bill, which talks about offensive graffiti and states that a person must not mark graffiti that 'would offend a reasonable person', but states that this does not apply to graffiti that is 'reasonable political comment'. Neither of these things are defined, and in fact the Scrutiny of Acts and Regulations Committee (SARC) made some comments about that.

The committee noted that:

> … clause 6 makes it an offence, punishable by imprisonment, to mark publicly visible graffiti that 'would offend a reasonable person'. The sole defence to this offence is that the graffiti was 'reasonable political comment'. The committee observes that, as clause 5 … already criminalises marking property without the owner's consent, clause 6's effect is to criminalise marking certain graffiti where it would otherwise be lawful to do so. This includes graffiti marked on a person's own property or on a wall expressly set aside for the purpose of public art.

The SARC report goes on to say:

> The statement of compatibility identifies the purpose of clause 6 as protecting 'public order and public morality by preventing the marking of publicly visible comments that would offend the community'. The committee notes that the European Court of Human Rights has pertinently remarked that freedom of expression:
>
> > is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the state or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'. This means, amongst other things, that every 'formality', 'condition', 'restriction' or 'penalty' imposed in this sphere must be proportionate to the legitimate aim pursued. From another standpoint, whoever exercises his freedom of expression undertakes 'duties and responsibilities' the scope of which depends on his situation and the technical means he uses. The court cannot overlook such a person's 'duties' and 'responsibilities' when it enquires, as in this case, whether 'restrictions' or 'penalties' were conducive to the 'protection of morals' which made them 'necessary' in a 'democratic society'.
>
> The committee observes that clause 6 is wider than the same clause in the graffiti prevention exposure draft bill previously published by the Department of Justice, which was limited to graffiti that 'harasses or vilifies a person or class of persons'.

Instead of a very narrow definition of what could be viewed as harassing or vilifying a person we have got this very wide definition of what would offend a reasonable person. I think when we start going down the road of judging what is offensive and what is not offensive we get ourselves into trouble. That is the reason for proposing the deletion of that clause.

The reason the Greens amendments propose to delete clause 7 is that it makes it an offence for a person without lawful excuse to possess a prescribed graffiti implement, which, as I mentioned before, reverses the onus of proof. Clause 7(2) provides:

> It is a lawful excuse for the purposes of subsection (1) that the person is in possession of a prescribed graffiti implement in the course of engaging in, or carrying out any functions in relation to, his or her employment, occupation, business, trade or profession.

It does not talk about creative pursuits or educational pursuits, which are probably more likely than their employment, trade, business or profession to be the reasons for people under 18 years old having prescribed graffiti implements. With regard to part-time workers, the number of people engaged in part-time work that requires them to have prescribed graffiti implements is probably very low.

We do in fact support clause 7(3), which brings into play part IV of the Drugs, Poisons and Controlled Substances Act in respect of a young person who a law enforcement officer suspects may be using the spray paint as an inhalant. That brings into play that act so it is then treated as a health issue rather than an enforcement issue.

SARC also made a comment on clause 7 as follows:

> The committee notes section 7 places an evidential burden on an accused person to show, on the balance of probabilities, 'lawful excuse' in respect to the possession of a prescribed graffiti implement.

It referred to Parliament the issue of whether the particular circumstances justify a reverse onus of proof of evidence provision. We certainly do not consider that the possession of a prescribed graffiti implement is anywhere near a serious enough offence to bring into play the reverse onus of proof. We are talking about people who may be carrying spray paint, textas or crayons, not firearms or any other dangerous implements.

The committee also raised the use of the term 'reasonable suspicion' as constituting:

> … a 'lower threshold than the exercise of the discretion based on 'reasonable belief'.

We have a situation where with reasonable suspicion a search can be carried out on a young person, which is a lower threshold than if they were doing, were suspected of doing or believed to be doing a more serious crime than carrying a graffiti implement. The carrying of a graffiti implement does not mean that someone is going to do anything illegal with it.

I will wind up there, but I say again that the Greens are disappointed that this bill has been brought before the house. It replicates provisions in other legislation that are well able to deal with the problem of graffiti where it is a problem. I have invited members to maybe take the opportunity to look at graffiti a little less harshly. If we could tolerate more of it in the appropriate place and the appropriate form, we might not see it as a totally bad thing and we would not have to make criminals of young people who may get caught up in this legislation, which is far too draconian for the issue.

I urge the house to consider the amendments and to consider whether it is a good thing for the Parliament to be passing such draconian laws that would in effect only be applied in the majority of cases to people under the age of 18. As has been said by many submitters to the exposure draft, and to parliamentarians since the bill has come into the Parliament, it is going to undermine some very good programs that are already in existence to deal with the graffiti problem. Street art should be positively encouraged. There are positive things that can happen — for example, councils could have registers of people who do not mind having graffiti on their walls. There were even some examples brought up in the lower house debate of people offering up their walls for graffiti art or street art murals, which can brighten up the city and make it more interesting. I urge the Council to consider the seriousness of such draconian legislation for this social problem.

Mr TEE (Eastern Metropolitan) — As we have heard tonight, graffiti is a vexed issue, and this bill sits nicely in the middle of the two views. On the one hand we know graffiti is often done by young people, and the discussion paper that Ms Pennicuik referred to identifies the reasons, including that they see it as a bit of fun and that it alleviates boredom and creates an adrenaline rush. But unfortunately offenders often do not understand that their behaviour places an enormous burden on the community, both financially and otherwise.

As Ms Pennicuik indicated, it has been estimated that the cost of cleaning up graffiti in Australia is about $300 million a year, but I think it is clear that the human toll of graffiti runs much deeper and is indeed much more important to consider than the financial cost. We know that graffiti in the community makes residents apprehensive about other criminal activity and about their own risk of victimisation. The most recent Australian Bureau of Statistics survey on crime identified graffiti as the third most commonly identified problem after dangerous driving and theft from homes. We also know that graffiti makes residents feel that the authorities are not interested in their neighbourhood or cannot control crime. The presence of graffiti suggests to residents that crime is rampant and out of control.

In this bill the government has taken action to address graffiti. This bill is, as has been indicated, a strong legislative response, but it is balanced by a number of other important government initiatives to prevent and remove graffiti. This bill is also the product of extensive consultation and dialogue with the community. As has been indicated, there was a discussion paper, an exposure draft of the bill was released for public comment and we know that the bill in its current form reflects many of those comments and many of the views of the community. At the last election the government promised to introduce new graffiti laws that would reflect that public consultation, and this bill reflects that consultation and delivers on the government's election promise. It provides tough new penalties for graffiti offenders, and it gives police stronger powers to search people and property for evidence of graffiti offences.

As has been indicated, increasing police powers and penalties in this way must involve a careful balancing of the rights of the individual with the expectations of the community. We know the nature of graffiti makes it difficult to catch offenders. Their actions often occur in

the quiet of night, and as it needs just a spray can the offence can be committed very quickly. This bill responds to the nature of graffiti, and because the government is serious about stopping offending behaviour we have had to prohibit the sale of implements to people under 18 years of age. We have had to prohibit the possession of graffiti implements on or near public transport without lawful excuse. These measures, and indeed the bill, raise the tension between the rights of the individual, the rights to freedom of expression, the rights to freedom of movement and freedom from discrimination, and in essence pit those rights against the rights of the community to a clean environment free from the threat of crime and violence.

The statement of compatibility with the Charter of Human Rights and Responsibilities attached to the bill provides a careful evaluation of the competing demands of the rights of the individual against the expectations of the community. The bill is a great example of the value of the human rights charter as a tool for providing a benchmark, a moral compass as it were, against which to evaluate the legislative proposals.

One example is the provision of the bill that discriminates against people aged under 18 years. We know the charter of human rights provides that every person is equal before the law and is entitled to equal protection without discrimination, including discrimination on the basis of age. We also know under the charter that the rights against discrimination are not absolute. The question is not whether the prohibition on selling graffiti implements to people under 18 years discriminates against them but whether it does so in breach of the charter. As detailed in the statement of compatibility the discrimination is not arbitrary or capricious and there is a clear rationale for focusing on the actions of young people. We know that 69 per cent of people apprehended for graffiti offences are under the age of 18 years. For that reason the bill focuses on people who are under 18 years, but it does so in a way that is carefully constrained and reasonable. It does not stop young people using spray-painted work at school, at home or elsewhere. It is a limited constraint on the sale to people under 18 years.

The other aspect I want to refer to is freedom of expression, which is a freedom set out in the charter of human rights. Again the charter provides a useful vehicle for examining whether or not the restriction on this freedom is appropriate. I should indicate in response to Ms Pennicuik's submission that I agree not all graffiti is bad. In fact this bill allows for graffiti, but it puts limits on it consistent with people's rights to not have graffiti on their private property if they do not want to and consistent with the community's rights not to have graffiti which is offensive, racist or sexist. It is important in the context of freedom of expression that we balance the rights of the individual with those of the community. As I have said, the rights of the community are important, and the presence of graffiti must be balanced against the sense of security in the neighbourhood. Graffiti on walls can cause a sense of menace and promote crime that diminishes the community's sense of wellbeing.

The bill gets the balance right. There is no absolute prohibition on graffiti. Melbourne City Council can still have its wall of art, but the right to freedom is balanced carefully against other equally important rights. It is clear from reading the compatibility statement that the bill has been carefully crafted to minimise conflict with the rights that have been debated tonight and the rights enshrined in the human rights charter. I urge caution on those who propose amendments and who have put forward amendments to the extent that those amendments make it difficult to stop or control graffiti. In that case the government, if those amendments were successful, would not be able to protect the rights of the community to feel safe in their suburbs. Equally, it would not be particularly creative if we were too draconian and looked at amendments that went too far the other way and prohibited the rights of the individual. This is a carefully thought out and balanced bill that matches and meets the expectations of the community with the rights of the individual. I commend the bill to the house.

Mrs COOTE (Southern Metropolitan) — My colleague Mr Dalla-Riva succinctly put the Liberal Party's position on this bill. He explained that we will introduce amendments, which I totally support, and that we will support the bill.

I listened to Ms Pennicuik's long contribution to the debate and to her outline of her proposed amendments. It would not be very often in this house that I would be in furious agreement with Mr Tee, but I find on this bill that I have much more in common with the point of view he put across than the ones Ms Pennicuik put up, which, I remind the house, were about condoning graffiti and graffiti use as public art. This is out of step with the mainstream of the community. I share an electorate with Ms Pennicuik. With all due respect I suggest the majority of the residents in the Southern Metropolitan Region find graffiti a blight on society, a blight on the community and see it as nothing more than obnoxious vandalism.

In Victoria nearly 20 years ago we saw graffiti as murals. They were supposed to be murals. I think most of us have seen these outdated murals that are now

starting to fade and are in total decline on railways stations and in public spaces all over the place. If we are honest we would say they are the slums of today, and I think there are many people in my electorate who would agree with that.

If we look at the profile of a so-called graffiti artist, it would be that of a male mainly, aged probably between 13 and 17 years, who comes from a poorer geographic area of the city and has a relatively low level of education. Such people are more likely to offend in groups. Now we find they are operating in interstate teams, and the internet has also become a vehicle for them. We know it suits their psyche for them to have a tag that they can photograph and which they can put onto the internet. In fact it has become a whole subculture, which it seems is on a downhill spiral towards a life of petty crime and then further down.

A number of councils in Southern Metropolitan Region have significant issues with graffiti. Stonnington City Council has a graffiti management program, and some of the ways it suggests residents can help with rapid removal and management of graffiti include a free hotline, a free graffiti removal kit, one free graffiti removal from the facade or front fences of a private property by the council's contractor, discounted professional removal by the council's contractor, free on-site assessment and advice by council's contractor, and options for professional colour matching and paint mixing for all walls and facades. It is a quite lengthy document, and I commend the Stonnington City Council for the work it is doing reacting to the huge public outcry against graffiti in Stonnington.

We have to look no further than the Windsor station, which is a heritage building. It is a wonderful building which is absolutely covered in graffiti. It is unsightly and VicTrack has refused to clean it. During the November 2006 election campaign the Liberal Party promised that both Prahran and Windsor stations would become premium stations. In a blatant grab for votes the Labor Party said it would ensure that both Prahran and Windsor were staffed at all times, but — surprise, surprise! — it is nearly 12 months since the election and nothing has been done at Windsor station. The windows remain smashed and the vandals appear to have right of entry — and as I have reminded the house before, people have even been found to have died in that station and remained there for almost a year without discovery. It is a centre for crime, and it looks appalling. It is a shame, and it is a blight on that part of Stonnington.

In Bentleigh in another part of Southern Metropolitan Region, once again there are several hotspots — around the railway stations, at the back of the rotunda area in Centre Road, Bentleigh, along the McKinnon shopping strip as well as along the railway corridor. People are writing to me about how atrocious this is. They feel threatened by the people who are doing the graffiti, and they are saying they are very concerned about the vandalism and feel the government should become tougher on graffiti vandals. The bill we are debating tonight takes it another step, and all of us welcome the fact that we are trying to tighten up on vandalism and graffiti. In fact we want our communities to look and feel safe.

I have also had lengthy discussions with the Boroondara council. It too has some huge issues with graffiti. It would like to see the government taking some responsibility for graffiti on state-owned buildings — for example, on railway lines and in other public places. The council believes there is an issue of cost shifting here, where the state government is saying to local councils, 'You clean it up. It might be our property, but you want your area to look good and look clean, so we are going to make certain that you clean it up'. The council believes it should be given some assistance to do just that, particularly on public buildings, and I think people in this chamber would agree with that. I praise Boroondara council. It provides over $200 000 in any one year to help address the issue of graffiti. It gives a huge amount of support to programs for local residents to help them clean up their own properties, and I think it is to be commended. It also believes that although it wishes to give residents some support, some of the costs need to be borne by the residents as well, and I think that is an issue that has to be looked at.

Together with several of my colleagues I have recently been to Japan. I do not think it would surprise many people in this chamber to know that I did not see any graffiti there. I suggest that I felt safe. There were no murals, no slum areas, and people had pride in their communities. In fact there was no sense of disintegration and the whole area was well kept and maintained. As I have said before, I think the graffiti of today shows a lack of respect for our communities. I commend the bill; I see it as a step in the right direction. I commend Mr Dalla-Riva's amendments, and I want to record my praise for the councils I deal with — Glen Eira, Stonnington and Boroondara — for the excellent work they are doing in the local community in dealing with the concerns of residents in my electorate of Southern Metropolitan Region.

Mr PAKULA (Western Metropolitan) — I rise to support the bill. I will not restate its provisions; Mr Tee and Mr Dalla-Riva did that appropriately. I am pleased

the government has brought forward this bill, and at the outset I want to deal with some of Ms Pennicuik's contribution. She went through a number of messages — I think they were emails — to demonstrate that not everybody hates graffiti. I am sure that is right; I am sure not everybody hates graffiti. I am sure there is a small minority of people who like graffiti, and that small minority has its representation in this place. I am sure many of those people may have voted for Ms Pennicuik. But the vast majority of Victorians absolutely detest graffiti. They detest it because it is mindless vandalism. The mere fact that not everybody hates graffiti is certainly no reason not to pass this legislation.

To my way of thinking graffiti is a form of self-expression, but it is a particularly odious form of self-expression. I understand the desire that people have, particularly young people, to express themselves. I understand the curse of boredom. I even understand the power of peer pressure. All of these things weigh very heavily, particularly on young people, but scrawling your tag on letterboxes, on people's front fences, homes and cars, and on shopfronts is just mindless vandalism. Ms Pennicuik spent some time talking about the artistic merit of various types of graffiti. I am sure there are isolated examples that may properly be given the moniker of art, but 95 per cent of graffiti is not art. It is not self-expression, it is not clever, it is not political comment; it is mindless vandalism. It is selfish, it is destructive and it is absolutely idiotic. It is just idiotic. It is particularly idiotic when it is committed against private property.

I always feel terribly sorry for people when I see that their homes, fences, cars or shopfronts have been vandalised by graffiti vandals, because it is enormously expensive and time-consuming to clean up, and it is very distressing for people. I think it is important that as a government and as a community we provide some disincentive to this kind of antisocial behaviour, because that is all it is. I do not for a moment think that the passage of this bill by itself will do that; it is only part of a suite of measures that are needed. But if some of these characters who think it is clever, who think it is artistic and who think it is a form of self-expression to vandalise people's homes and their private property see their mates copping big fines or cooling their heels in a prison cell, it might just give them an incentive to channel their creative energies elsewhere. I commend the bill to the house.

Mr GUY (Northern Metropolitan) — It is interesting that I rise to support a bill and say that I agree just about entirely with what Mr Pakula said in his last speech — —

Mr Pakula — Wonders never cease.

Mr GUY — Wonders never cease, I say to Mr Pakula.

The Liberal Party certainly supports this bill, and I support the comments made by Mr Pakula and Mrs Coote. In my view mindless graffiti is certainly not artwork. It is not street art and it is not an outlet for depression, self-expression or expression of protest. In my view graffiti is illegal and is vandalism. It creates a mess and huge problems in terms of the clean-up. All members of this house would be absolutely horrified if they went home tonight and found that someone had mindlessly put any kind of slogan or illegible graffiti over their front fence. How must businesses feel when they find this on their shopfronts? How must Connex workers feel when they have to go and continually clean it off the sides of trains after some idiots decide to break into rail yards and tag the trains? They create thousands of dollars worth of damage which Connex has to clean up.

This bill will create a couple of new offences: that is, two years imprisonment for graffiti or tagging, and the possession of prescribed graffiti implements will attract penalties. We are very supportive of that. Graffiti, as I said, is a huge scourge in our community. In my view it is a terrible blight upon Melbourne.

I refer to a 28-storey derelict building at the corner of Bourke and William streets which was due to be developed. It had been there for a number of years and every single window in the entire building had been tagged. People might think it was a derelict building so it did not much matter. If you were an international visitor to the city, what would you think of our city? What would people think about the mentality of people in Melbourne and authorities in Victoria who could just leave a building with all that graffiti on it? Of course, nobody can be held accountable for the actions of fools who break into buildings to go and do this, but it is a huge problem and there is a huge cost to clean it up.

There is another building, although not the same size, in Wellington Street in Collingwood, which is in my electorate. Every window on the front of it has been tagged. The owner of the premises will face huge costs because they will have to clean up just about every window — to scrape it off or replace them if they cannot be repaired.

The main problem, as we all know, is on the public transport system on trains. It is not necessarily done with spray cans. A lot of graffiti artists now etch their names and tags into windows, which means the entire

window has to be replaced, and it is not just the large windows but the doors and the fibreglass on the sides of the trains as well. This is a huge problem.

On this side of the house we are very supportive of this bill. We think it could have gone further in some respects, but we support any measures that can be taken to make graffiti more of an offence and to increase the penalties for this antisocial behaviour.

Melbourne is a mess when it comes to graffiti. Compared to other capital cities in Australia, Melbourne is probably the worst when it comes to graffiti. Melbourne was recently dubbed, I think in an article in the *Herald Sun*, the graffiti capital of the world. Certainly it is the graffiti capital of Australia. People come from interstate to mark with graffiti our trains, buildings and public premises. It is an absolute disgrace. People who do this should have the full force of the law thrown at them.

We are blind if we walk into this chamber and say it is a problem which only exists with youth. Some people who are well into their 30s are caught graffitiing. Recently there was an example of people who went around spraying 70K, meaning they were born in the 1970s. They are in their late 20s and early 30s and they still find it a useful habit to go and deface buildings and property which does not belong to them. It is not just a problem with youth today. It exists across a number of people in society. They are criminals and vandals and should have the full force of the law thrown at them. On this side of the house we are fully supportive of any measures which seek to make graffiti more of an offence in this society.

Mr KAVANAGH (Western Victoria) — In my time in this chamber there have been many occasions when I have found the Greens had some good ideas. On this occasion I would have to say I could not agree with them less. Graffiti has existed for millennia, as Ms Pennicuik suggested. Indeed in Pompeii you can see written on one wall in ancient Greek, which was actually the language of the Roman Empire until the time of Augustus, 'May every new misfortune at least displace another'. At least that graffiti person had something intelligent to say. We do not see much at that level in Melbourne these days, I have to say.

Ms Pennicuik referred to the man in Sydney who famously wrote the word 'eternity' many thousands of times around Sydney. At least he did so in chalk and did not permanently deface the streets. Ms Pennicuik says that graffiti can attract tourists, both tourists who presumably do graffiti in Melbourne and others who come to look at it. That is probably true but it is also true that there are people you do not want to attract. There are people you would prefer not to have as tourists. A lot of countries go out of their way to deter certain kinds of people from visiting them. People who are going to come and do graffiti here in my opinion fall into just such a category.

The prevalence of graffiti in public places in my opinion degrades an entire city in quite profound ways, not just aesthetically. It gives the impression to people that anything goes; that anything is there to be damaged at will; that people, for example, might be attacked if they felt like doing it. It provokes a whole range of crimes, which is why in American cities they have had a lot of success with zero tolerance. They start with people breaking windows and graffitiing. They have had a lot of success in particular places, not just aesthetically but in terms of removing crime as well.

I would like to make the point that the damage that graffiti people do is much greater than is apparent. If somebody marks a building with graffiti and $1000 is spent to remove the graffiti, it does not mean that the building is put back to the way it was. Many times the building will never regain the appearance that it had and will be permanently damaged by acid stains, for example. In my opinion the people who have done that damage should be responsible for paying not merely the cost of cleaning but the cost of the damage that they have done to the building, which might be tens or hundreds of thousands of dollars in the case of large buildings.

In my opinion the bill does not go far enough. We have got to the stage now where, although it is a cost to all of us, we should ban the sale and/or possession of spray cans and the sale and/or possession of felt-tip pens beyond a certain size. It would be a big price to pay for all of us, but unfortunately it is a price that we have no alternative but to pay.

Ms TIERNEY (Western Victoria) — I rise to speak in support of the Graffiti Prevention Bill. As we have heard, there are three main objectives to the bill — that is, to reduce the financial and social costs connected to graffiti; to promote a strong deterrent to the perpetrators and promote accountability, and to reduce the incidence of graffiti. There are three main elements to this: new offences, new investigative powers and new procedures in relation to graffiti removal.

When we think of graffiti we often think of tagging and of property being defaced, and often it is done in very dangerous circumstances. Before I go to certain clauses of the bill I want to make some comments that are

supportive of graffiti activity that I have heard of or know about directly.

One of these is an activity that is undertaken in Geelong, often in conjunction with the Australia Day weekend where there is a lot of activity with yachts down on the waterfront. Local graffiti artists have the chance to compete for prizes during a public art competition on that weekend.

In Geelong there is also a local group called the City Aerosol Network; that group likes to be known as CAN. It runs a number of programs for people and groups who are interested in aerosol art. It is also a way of engaging young people, because this is a form of activity that they are familiar with and it is a way that they can connect and talk about a whole range of other issues. Recently CAN was involved in creating the billboard on the Princes Highway that read 'Go Cats', obviously in support of the local Geelong football team who took out the grand final this year.

There has also been another project where local young people have been engaged in creating a mural that has connected the courts and the police station in the justice precinct in Geelong. That in itself has provided a lot of pride among the young people in Geelong, but it also has played a part in breaking down the important barriers that exist in the community. We all know that there have been some issues with nightclubs and violence in Geelong, and this project is part of a positive way that we can link up artistic expression, youth and responsible behaviour. I am not going to go down the road of saying graffiti is all bad, it is menacing and it leads to a whole range of other socially delinquent activities. I want to say that there is a range of activities that are not just acceptable but supportive generally.

Recently in the *Melbourne Times* we had a report on the case of Gladys Sinclair-Cohen, who a couple of years ago saw some graffiti artists at work. Now, two years later, she has a mural on the side of her house and is fully supportive of that sort of activity. Indeed the owner of that property is quoted in the article saying:

> When you walk down the lane, the only place you find rubbish is where there's no murals.

It has created a sense of creativity and some artistic pride as well as community pride in the inner suburb of Fitzroy.

We have also heard about the city of Melbourne. It is true to say that in the laneways there have been a number of city public art programs that have invited graffiti artists to put their stamp on some of Melbourne's inner city lanes. There are a number of Melbourne tourist publications that give directions on where people can go through laneways, get a tour and become acquainted with and educated about street art and graffiti.

We are not talking about graffiti in that sense in respect to this bill tonight. What we are talking about are those incidences of graffiti that are done at night, as I said, often in very difficult physical situations that can endanger people, not just the people who are using the spray cans but those who might be around. We also know that the spray cans are toxic, not only for people inhaling the contents, but also in terms of the property they are used on: when there is rain the cans get into the waterways and cause difficulties for our environment.

There is a whole range of problems associated with graffiti activity outside of the normal socially acceptable ways that you would go about your activities and giving expression to your art. This bill is also about making sure, as much as we can as legislators, that spray cans are not sold to young people under the age of 18. I think all of us in this room would absolutely endorse that.

I also refer to a report by criminologists Moon, Meyer and Grau entitled *Australia's Young People — Their Health and Wellbeing*. They found that 7 per cent of young people have reported inhalant use and that this is due to the substance being easily accessible, legal and inducing intoxication rapidly.

This bill serves the interests of a number of individuals as well as groups. They include persons who are thinking of offending, who will think harder about obtaining material and will think very much harder about the penalty it is likely to draw. I hope they will think twice about chroming and inhalant sniffing. The wider community having an opportunity to take part in cleaning up and thereby investing a sense of pride in their local community areas is an excellent idea. In terms of public transport companies, there is the impact of cancellations and delays as a result of clean-ups. As a society we owe our public transport users something more than that. We need to ensure that the perception and use of public transport is enhanced and not detracted from. Clearly that will be the case with the reduced incidence of irresponsible graffiti. With all those points having been made, I commend the bill and wish it a speedy passage through the house.

Mr O'DONOHUE (Eastern Victoria) — I am also pleased to rise to speak in the debate on this bill. I would like to start by taking up where Mr Kavanagh left off and say that this bill does not go far enough. I

agree with his comments that people who put graffiti on buildings or property, either publicly owned or private property, should be made to clean up what they do. They should be made to understand the costs of their actions to individual private owners and to the community more generally. But I would go further and say that this bill does not go far enough, because it does not address the underlying issues that lead to vandalism and graffiti.

In his contribution Mr Tee spoke about the difficulty of catching graffiti artists. Indeed that is true when there are very few police around at night-time. An example in my electorate springs to mind. The township of Cockatoo has suffered terrible vandalism, graffiti and wilful damage from youths in the township with little to do. To me that is as a result of there being virtually no public transport, particularly down the growth corridor of Pakenham, linking up with the metropolitan train system, and the knowledge that late at night the police station at Emerald is closed. The nearest police are at Pakenham, and one van serves whole growth corridor and the hills at night-time. The offenders know they can damage and graffiti with impunity, because it takes the police half an hour to reach them— that is, if the police are free, which often they are not. That means they can do what they want, disappear into the night and know that they will not be caught.

I agree with Mr Kavanagh that more needs to be done and that the government needs to do more to look at the underlying issues. In that sense I congratulate the Shire of Cardinia on what it has done in working with the local police and students of the Pakenham Secondary College to put together information on a DVD that highlights to young people the damage that graffiti does to the community, the impact it has on people and the dangers associated with tagging and playing around public transport, such as the train system, while undertaking graffitiing. They run the risk of being injured or injuring others by their actions. That has not been touched on by previous speakers, and that is also a real concern.

I listened with interest to Mr Tee's contortion and his justification for, as he said, balancing the rights of the community against the infringement of the rights of the individual in the way the government has gone about this supposed balancing test with the Charter of Human Rights and Responsibilities. On the one hand the government is saying that having reverse-onus offences or offences that specifically target a group of a certain age is not age discrimination by using a long-winded and difficult process of balancing. We have seen this with other pieces of legislation that have come before the house. Basically the government does what it wants to do and then justifies it under its balancing test under the Charter of Human Rights and Responsibilities, which to me makes a mockery of the charter.

If you believe in the charter and what it stands for and if you believe it has a purpose — which presumably the government does, because it enacted it — you would think you would then draft legislation that complied with the charter. But the government's approach seems to be to draft legislation and then look back at the charter and say, 'We had better justify this somehow'. It then comes up with a couple of excuses and says, 'On balance it is fine'. I do not think that is what the charter is meant to do. I do not think it is an appropriate justification. Mr Tee's attempt at justification demonstrates that.

I will finish with a comment in relation to Ms Pennicuik's contribution. Even if you accept everything Ms Pennicuik said, which I do not, and even if you accept that graffiti is street art, that it can be some form of political expression or that some people may think it looks attractive, the underlying issue here is respect for private property, respect for public property and respect for the fact that landowners and residents have a right to the quiet enjoyment of their property. It is not for others to say what is attractive and what is not; it is for the public if we are talking about publicly owned land or for the private owners of privately owned land.

Ms DARVENIZA (Northern Victoria) — I rise to speak in support of the Graffiti Prevention Bill. I just want to make a brief contribution. Members on this side of the chamber have well and truly covered the reasoning behind the government introducing this bill. I accept that there is a place for graffiti art. Both Ms Tierney and Ms Pennicuik covered the areas where this kind of artistic expression has worked. It has worked in this city and in other cities. We acknowledge and recognise that this type of artistic expression has a place, but it is a very specific place. It is not about the vandalism that we see perpetrated in our community by people who want to express themselves by placing tags or graffiti in and around our public spaces and our private residences.

This bill is about reducing the significant financial and social costs associated with graffiti and the Victorian community having to rid itself of graffiti. It is also very much about providing a strong deterrent to the perpetrators of graffiti. This bill is clearly saying that graffiti is unacceptable. It is not acceptable to go around the community leaving your tag and defacing public and private property.

This bill puts in place a series of new offences. It puts in place a series of new investigative powers that can be used by law enforcement officers, as well as a new range of procedures for the removal of graffiti. Our community will be all the better for this legislation being passed. It will send a strong message as part of a whole range of other actions that the government has taken to stop this activity within our community. It is a good bill and it deserves the support of everybody in this chamber.

Mrs KRONBERG (Eastern Metropolitan) — In speaking on this bill I need to say from the outset that I will feel a lot more comfortable about supporting it when it is amended. We need to put on record what graffiti really is. Graffiti or tagging is criminal behaviour. It is intentional damage to property, either private or public, and it should never be condoned. Graffiti is created by certain types of individuals who are driven to tag the outside of buildings, fences and glass windows with letters, pictures, symbols, names or other markings.

Make no mistake about it, the blight of graffiti is a quality of life issue because it is highly visible. Serious economic and social ramifications stem from the despoiling of property by graffiti vandals. Insidious public perceptions are that the law is held in contempt, that there is disorder and a climate of fear and lawlessness. But these perceptions are just as easily reversed once graffiti begins to disappear. This is why clean-ups are so important. Adequate funding of clean-up programs is essential and the key to success. Where tagging or graffiti reappears there may be a need for surveillance cameras or a directed patrol to stop repeat offences, and funding needs to be allocated to ensure this can happen.

This bill grants councils the power to take any action they deem necessary to remove graffiti, including from private property. However, of particular concern is the new power it gives to council officers, who will now have right of entry onto private property to remove graffiti. Unfortunately councils are not placed under any obligation or duty to actually remove graffiti from local government areas.

It is worth stressing that the Liberal Party has proposed a zero tolerance approach be adopted. Interestingly enough, this legislation mirrors our initiative to ban the sale of spray paint cans to minors. In fact we have been calling for the banning of spray paint cans to minors for over five years now. And so here we are today. After eight years the Brumby government has finally drafted legislation designed to eradicate this scourge.

Whilst this legislation has elements that are a clear lift of our policy, without showing the grace of acknowledgement, it still falls short because this legislation includes no provision to force the graffiti vandals to clean up their own mess. The Liberal Party's approach would be to make sure there are harsher clean-up schedules. Graffiti vandals should be forced to clean up the vandalised surfaces themselves, as part of the punishment for committing the offence. A statewide hotline for reporting graffiti would support this approach.

We are still in the dark as far as funding for this graffiti eradication program goes. This legislation cannot and will not work unless there is adequate funding to target graffiti hotspots. We believe that local councils, which after all are in the front line of the fight against graffiti, should be funded to ensure the clean-up occurs within 24 hours of an attack.

The Boroondara council has to be commended on many fronts. It has a massive funding shortfall for its graffiti activities every year. It currently expends approximately $200 000 a year and is only funded to $100 000. Its annual clean-ups are a very worthwhile initiative. They have gone even further because they actually foster community engagement. People in their community adopt a bridge or a rail siding, on the principle of adopt a highway. A former Western Australia police commissioner, Peter Falconer, initiated the adopting of bridges, and I understand he is to be commended. You can see the benefits of his work in the community with the railway bridge over Canterbury Road.

There is also a need to deal with graffiti tourists. Such people actually travel to Melbourne from interstate and perhaps even from overseas to deface our public and private property and leave their tags behind. Close relationships with other jurisdictions are therefore vital to ensure perpetrators are identified and ideally their movements traced.

One final statement I would like to make on this is that about three weeks ago I heard a call to Radio 3AW where someone talked about a graffiti attack on a public building in the Warringal parklands. People had given up using spray cans, etching devices and Poscas; they had actually used faeces for their graffiti. I think that exemplifies the mindset.

Mr FINN (Western Metropolitan) — This is a red-letter day for Victoria. Here we have a piece of legislation before this house that at least gives the perception that law and order are above political correctness in this state. That is a truly amazing move

by this government. It is a small step along the way to what many would hope would be a regular event.

I listened with great interest to Ms Pennicuik's contribution to the debate. I did not agree with her a great deal, to understate things somewhat. She spoke of graffiti as art. I have to say to the house and to Ms Pennicuik that there is nothing artistic about vandalism. Graffiti is vandalism. I even had to agree with Mr Pakula when he said it was mindless vandalism. I think that is a very apt description. It displays contempt for the rights of others, the property of others and society in general. Graffiti is not the only way of expressing antisocial views — far from it. You can write a letter to the editor, you can ring Neil Mitchell, you can put a sticker on your car or, if you are feeling particularly antisocial, you can make the ultimate statement and join the Labor Party.

Defacing someone else's property should not be an option. In days gone by the kids who committed these crimes would have been picked up by the local constabulary; they would have had a size 9 in the tail and been dragged home to their mums and dads to face the music. Of course you cannot do that these days — and more is the pity. It is one of the great tragedies of modern life that you cannot do that. These days you have human rights lawyers and civil libertarians coming out of every hole. It is leading these kids further and further down the path to ruin. It might not be a bad idea to bring back the old way. I know the Chief Commissioner of Police is an avid reader of my contributions in *Hansard*, and she perhaps might like to consider it when she is next speaking to someone from the Police Association!

I am very pleased that this legislation is attempting to crack down on graffiti on public transport. That is one particular eyesore that really gives me the irrits. I remember years ago the efforts of Alan Brown, a brilliant minister for transport — some might even say the most brilliant minister for public transport.

Mr D. Davis — He was a very good agent-general, too.

Mr FINN — He was indeed a very good agent-general, and he was a brilliant minister for public transport. He adopted the zero tolerance policy toward this form of vandalism on public transport. It worked back in the nineties — why can't it work today? If we tried, it would. I urge the government to go back through the history books, to see what Alan Brown did as transport minister back in the early to mid-nineties and to adopt that policy once again. That approach is the only way to deal with this vile practice and its practitioners.

Coming as I do from the western suburbs, I am sure many members of this house would be aware that we are heavily hit by graffiti vandals in many different ways. It leads to eyesore after eyesore in suburb after suburb. Quite frankly, we as residents of the west of Melbourne are sick to death of this form of vandalism. If this bill can help solve this major problem, not only do I say bring it on but extend it. This bill is just a start. We need much stronger action against graffiti vandals. We should not muck around. We should not mince our words, and we should not hold back from taking appropriate action. Given this government's sad record on law and order, this is probably the best that we can hope for.

Mrs PEULICH (South Eastern Metropolitan) — I will obviously try to adhere to the time limits. Whilst there is certainly a lot more that each of us could say about this fairly complex topic, I am not going to cover ground that has already been covered, nor am I going to compete with the contribution of Mr Finn. I have no doubt the material he covered could provide enough material for a couple of comedy skits at the comedy festival. It is a very important topic, nonetheless.

Mr Finn said graffiti was mindless. I would say it was reckless — some more reckless than others. Mrs Coote referred to a number of areas in her region that were plagued with graffiti. A problem area she mentioned was Bentleigh. As a former member for Bentleigh in another place with an office adjacent to the railway line, I actually saw the proliferation of graffiti and the importance of removing it as soon as it appeared. Could I say how sad it is, however, that the current member for Bentleigh has never once bothered to remove the graffiti from his roller door, which I think is a very poor example to the community.

Laws have to be good laws, and laws have to be enforced if we are going to achieve the objectives. Mrs Kronberg also spoke about the need to adequately fund those laws. Are these good laws? Certainly the Liberal Party agrees with a range of these provisions, because we came up with policies such as banning the sale of aerosol paint to persons under 18; empowering police to conduct searches on reasonable suspicion — obviously a lower threshold than reasonable belief; and providing for the removal of graffiti on private property. Often people are repeat victims, and because it costs a lot of money to remove graffiti, there is a disincentive to prompt removal. This provision allows local councils to take action to remove graffiti from private property, especially that which is visible from a

public area. It obviously allows those local councils to authorise the person to remove graffiti from private property.

However, where this bill is confusing — and I am seeking some clarification in the response from the minister— is in the system of setting up authorised officers and how that will function. Under the provisions of this bill, it will be local governments that set up a regime of authorising officers. I do not know how that will impact on those authorised officers currently in place under the Transport Act, in particular those that are being used by transport companies.

Does the government believe that establishing authorised officers through council-run regimes is going to work with an organisation like Connex? It clearly is not going to work, and I hope that this is not going to be the case. Not only would it be bureaucratic, but can members imagine Connex trying to get officers authorised through a single council or perhaps a number of councils for a line that may move through the city of Frankston, through the city of Kingston, through the city of Glen Eira and then through the city of Stonnington and the city of Melbourne. If that is the case, clearly it is not going to work.

In addition I understand that Connex itself has some concerns about how this bill cuts across a range of its initiatives. Whilst I have criticised Connex in the past over its handling of many of the problems that public transport has experienced, the removal of graffiti has been something it has done better than many other facets of its running of the train system. I hope there has been adequate consultation and communication with our public transport operators to make sure the laws are enforceable.

Mention has been made of the difficulty in getting police to attend, and it is worth noting that often when there is a burglary the police will not attend until the next day. If this bill does away with authorised officers that are employed by the public transport companies, then clearly this is going to weaken the system and not address the problem of the proliferation of graffiti.

In making my last point, with time very quickly galloping away, I want to praise the efforts of the City of Casey, which has been a model for the removal of graffiti at the council's expense — obviously someone always pays the bill. The City of Casey believes that this bill does not go far enough. It believes it ought to restrict access to spray cans altogether and that this system should apply statewide. Whilst I do not necessarily agree with all of the council's suggestions, I do commend its efforts. It has been extremely successful. I hope that the new regime works well, but I certainly have very serious doubts, which I hope the minister will respond to.

Mr ATKINSON (Eastern Metropolitan) — I want to make only two very brief comments about this bill. I have been listening intently, and there have been some very good contributions to the debate. The first thing I want to say is that I think the community is very angry about what it sees as the leniency of the courts in respect of graffiti offences. The community believes that magistrates do not take these offences seriously. This legislation very clearly enunciates through this house and the other house that Parliament, on behalf of the community, thinks graffiti activity is indeed vandalism, as many members have said, and is a serious crime. It is a serious issue that is of concern to the community. It is more than an inconvenience to the community.

In particular it has a significant impact on the efficiency of our public transport system, because it in effect puts many train carriages out of action. It puts them back into the maintenance yards rather than having them on the tracks serving the people of Victoria. The reality is that this is far more than an inconvenience. It comes at a substantial cost to individuals, to the community and certainly to the government.

In terms of local and state government budgets a lot more could be done to benefit the community, if we were not going around trying to deal with the vandalism that is graffiti. I hope this legislation is passed, with the amendments proposed by Mr Dalla-Riva. I find it difficult to countenance the amendments put by the Greens on this occasion, but I think this has been a very good debate.

House divided on motion:

Ayes, 37

Atkinson, Mr	Lovell, Ms
Broad, Ms	Madden, Mr
Coote, Mrs	Mikakos, Ms
Dalla-Riva, Mr	O'Donohue, Mr
Darveniza, Ms (*Teller*)	Pakula, Mr
Davis, Mr D.	Petrovich, Mrs
Davis, Mr P.	Peulich, Mrs
Drum, Mr (*Teller*)	Pulford, Ms
Eideh, Mr	Rich-Phillips, Mr
Elasmar, Mr	Scheffer, Mr
Finn, Mr	Smith, Mr
Guy, Mr	Somyurek, Mr
Hall, Mr	Tee, Mr
Jennings, Mr	Theophanous, Mr
Kavanagh, Mr	Thornley, Mr
Koch, Mr	Tierney, Ms
Kronberg, Mrs	Viney, Mr
Leane, Mr	Vogels, Mr

Lenders, Mr

Noes, 3

Barber, Mr (*Teller*) Pennicuik, Ms
Hartland, Ms (*Teller*)

Motion agreed to.

Read second time.

Committed.

Committee

The DEPUTY PRESIDENT — Order! This is a little bit complex in the way the amendments are likely to be put and the fact that consequential amendments, particularly in regard to the numbering of clauses, are taken up in amendments proposed to clauses 2 and 3. I understand that, as part of the exercise to expedite the committee stage, the movers of amendments are prepared to postpone the consideration of those consequential amendments and move to the substantive amendments.

Clause 1 agreed to; clauses 2 and 3 postponed; clauses 4 and 5 agreed to.

Clause 6

The DEPUTY PRESIDENT — Order! Ms Pennicuik invites the committee to vote against this clause by way of her amendment 7, which is a test for her amendments 1 to 6, 9 to 14, and 24 to 27.

Ms PENNICUIK (Southern Metropolitan) — I invite members to vote against this clause. I will not go on at any length because I have already gone on at length and explained why the Greens invite members to vote against this clause. I suppose the issue for the minister is: how is graffiti that would offend a reasonable person to be defined?

Hon. J. M. MADDEN (Minister for Planning) — Can I ask Ms Pennicuik to repeat the last bit of the question?

Ms PENNICUIK (Southern Metropolitan) — The clause provides:

> A person must not mark graffiti that is visible from a public place if the graffiti, or any part of the graffiti, would offend a reasonable person.

My question is: how would offending a reasonable person be defined? It is not defined in the bill.

Hon. J. M. MADDEN (Minister for Planning) — I understand Ms Pennicuik's point. On a number of these matters, the definition lies with the courts in terms of what is reasonable under these circumstances.

Ms PENNICUIK (Southern Metropolitan) — I ask the minister to advise whether, when it is up to the courts to decide what a reasonable person would find offensive, that does not stray into the courts deciding what public morality or reasonable political comment is?

Hon. J. M. MADDEN (Minister for Planning) — The word 'reasonable' is a standard legal term and that is used at the discretion of the courts. I think in this circumstance, as in other circumstances, the use of the word 'reasonable' would be understood by the courts and the judiciary and be tested accordingly.

Ms PENNICUIK (Southern Metropolitan) — Could the minister explain to me why this iteration of 'would offend a reasonable person' was used, rather than the much more narrow definition that was in the exposure draft?

Hon. J. M. MADDEN (Minister for Planning) — I am informed that this would allow the court a little more discretion in the application of that type of definition.

Clause agreed to.

Clause 7

Mr DALLA-RIVA (Eastern Metropolitan) — I move:

> 2. Clause 7, after line 18 insert —
>
> "(a) in a public place; or".

I am very conscious of the time. The facts are that we believe clause 7 is very narrow in its definition. We believe it applies only to transport company areas or areas associated with those areas. We assert that graffiti is applied not only to transport company areas and to the property of those companies but also more generally to public places, and hence we propose in this amendment that the offence of possession of a prescribed graffiti implement should extend to public places. It seems ludicrous to have legislation that prevents the marking of offensive graffiti, yet a person in possession of a graffiti implement walking in a public place would not be committing an offence unless that place was in a transport area.

My question to the minister is: why is it that the government has excluded public places from the legislation and made it specific only to transport

companies and those areas associated with their properties?

Business interrupted pursuant to standing orders.

NATIONAL ELECTRICITY (VICTORIA) AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) on motion of Hon. J. M. Madden.

VICTORIAN ENERGY EFFICIENCY TARGET BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) on motion of Hon. J. M. Madden.

ADJOURNMENT

The DEPUTY PRESIDENT — Order! The question is:

That the house do now adjourn.

Falls Creek: management board

Mrs COOTE (Southern Metropolitan) — I wish to bring my adjournment matter tonight to the attention of the Minister for Environment and Climate Change. It is in relation to the Falls Creek Alpine Association. I know this chamber is well aware of the problems that Falls Creek management has had. We had a former environment minister in the other place, Minister Thwaites, who was found to be rorting the system and accepting freebies left, right and centre for himself, his family and his staff. We are also aware that the former chairman decided she was going to resign on family grounds. I think there is more to come out in that story.

The Falls Creek Alpine Association is a not-for-profit organisation which represents 30 clubs and organisations at Falls Creek. The group has about 830 of the beds at Falls Creek, or about 18 per cent of the total beds available, and over 4000 individual members from those 30 clubs and organisations. Although these organisations have a huge stake in the area they do not have any representation on the resort management board, and even though they pay considerable fees in rent and in amenities they do not have any say on this board at all and are deeply concerned about that.

The association has written to the minister but has not had a conclusive answer from him. It has recommended that a new model be put up for representation on the board. Its preferred model is to have half of the board members elected by stakeholders, which I think most members in this chamber would think was a fair and reasonable thing, with the other half, including the chairman, to be appointed by the government. I think this is eminently sensible, and I believe there is merit in what the association suggests.

The association needs to have some recognition at a board level so that it can make decisions about the management of the alpine resort at very basic levels, and I think it is very important that it get that opportunity. It has not said in any circumstances that the government should not have such representation; in fact the association welcomes it and understands that the government has the major leaseholds et cetera on the mountain. However, I urge the minister to review the appointment ratio of the Falls Creek resort management board as a matter of urgency and ensure that it is fairly and equitably divided.

Roads: regional and rural Victoria

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Roads and Ports in the other place, Tim Pallas. It is clear that country Victoria is carrying a terrible burden in the number of casualties, crashes and road fatalities in Victoria each year. With just 30 per cent of the state's population, country Victoria accounts for about 50 per cent of the road fatalities and more than 35 per cent of serious road injuries. This is not a new fact. The government has been told of this imbalance many times over in recent years by groups as diverse as the RACV (Royal Automobile Club of Victoria) and the Australasian College of Road Safety. But while the state government has been repeatedly informed of this tragic situation, it has constantly compounded the tragedy by failing to adequately deal with it.

The answers are fairly well known. The RACV, for instance, says that improving country roads to an acceptable standard could prevent 1100 casualty crashes each year, and in dollar terms that would be a saving to the community of almost a quarter of a billion dollars a year. In terms of lives, that equates to about 100 lives saved each year — a 25 per cent reduction in

the state's road toll. It is not as though the state government does not how to do this; again, it has been told a fair few times by the RACV and the college of road safety that it should channel income from traffic offence fines into country roads. It is a simple idea and one that the state government is not unfamiliar with. It flirted with the idea back in 2004 but has not committed to it.

Country people cannot by themselves bear the cost of bringing country roads up to scratch. The Municipal Association of Victoria has noted that small rural shires are in economic crisis, partly from trying to maintain road networks. In many areas in my electorate it would take 300 years under the current allocations to maintain the full road network. It is a case of simple mathematics. These shires, with smaller populations more thinly spread out, have vast distances of roads to maintain. Rural communities, which in the main have missed out on the economic good times experienced in cities, have had to carry the crushing consequences of a decade of drought and simply do not have the economic capacity to maintain their road infrastructure.

Our rural shires are on their knees, and the roads are crumbling beneath them. The government knows what it should be doing, and by not doing it, it is costing lives, injuries and money. The government knows what has to be done and must do it now. I call on the minister to develop alternative methods of accelerating funding for the improvement of the condition of country roads in rural and regional Victoria.

Portland Special School: rubbish-free lunch challenge

Ms TIERNEY (Western Victoria) — I raise a matter for the Minister for Education in the other place. Shortly I will have the pleasure of presenting the Portland Special School with an award for completing the Brumby government's rubbish-free Friday initiative. It is great to see that our local schools are winning the battle to eliminate lunchtime rubbish and food scraps from their grounds. Schools participating in the challenge weighed their lunch rubbish in July as a reference point and then compared it with the volume accumulated on Rubbish-Free Lunch Challenge Day in August. This sends a message that young people can get out there and educate the rest of the community about being environmentally conscious.

Initiatives like this help all children and teenagers understand and appreciate the environment and the effects that they have upon it. The rubbish-free lunch program shows school students that the way they live has an impact on the environment and that we must think about issues such as climate change and renewable energy and not simply bury our heads in the sand and hope they will all go away, as the Howard government does.

The Portland Special School students had a fantastic time participating in this program as well as learning along the way, and I am certain all other schools participating did the same. I ask the minister to provide written advice to me of plans for any further initiatives such as the rubbish-free Friday program in schools that help children learn about impacts upon the environment and how the future of Australia can be environmentally friendly.

Dairy industry: electricity infrastructure

Mr VOGELS (Western Victoria) — I raise an issue for the Honourable Jacinta Allan, Minister for Regional and Rural Development in the other place. It concerns the Victorian dairy power infrastructure upgrade program. The Bracks government, to its credit, recognised that the lack of three-phase power was holding back industry in country Victoria. Businesses were unable to expand production, and new industries were unable in many cases to even get started because of the lack of power being provided down single-wire earth returns, known commonly as SWER systems.

I have recently received a number of requests from consumers who would like to upgrade to three-phase power querying whether there is any possibility that this program could be extended. We in country Victoria understand that electricity upgrades run into the tens of thousands of dollars. The action I seek from the minister is to investigate whether there are any funds still available from the original budget outlay and, if not, that he lobby the Treasurer, who understands dairying as he was once a dairy farmer, to top up this very important and worthwhile fund so country Victorians can really live in a much better place to live, work and raise a family.

Glenelg Highway: safety

Ms PULFORD (Western Victoria) — My adjournment matter this evening is for the Minister for Roads and Ports in the other place, Tim Pallas. My request of the minister relates to the Glenelg Highway, which is a major thoroughfare between Ballarat and Hamilton. An average of 1400 vehicles use the road every day between Dunkeld and Hamilton, and my request is that the minister assist with improving safety for motorists who use this part of the Glenelg Highway.

My request of the minister is that works such as the installation of safety barriers, signs, curve alignment markers and shoulder sealing be undertaken along this section of the highway. Between June 2001 and June 2006 there were six run-off-road crashes on this part of the highway, and the local community, as well as passing travellers, would benefit from improvements to the safety of this road.

This government has already made significant investments into our state's road network and road safety projects. Over $2.1 billion has been invested into rural road projects, including more than $280 million into nearly 900 black spot projects. In 2007–08 alone nearly $400 million will be invested in country roads. The results speak for themselves, with Victoria recording its four lowest road tolls in the last four years. My request to the minister is for improvements to road safety on the Glenelg Highway between Dunkeld and Hamilton.

Ambulance services: Craigieburn

Mr FINN (Western Metropolitan) — I wish to draw a matter to the attention of the Minister for Health in the other place. It follows up a matter I raised in the last sitting week and concerns the Craigieburn and District Ambulance Committee (CADAC) and provision of the community emergency response team program for the people of Craigieburn. As I mentioned at that time, very serious allegations have been raised surrounding the Metropolitan Ambulance Service's conduct in this matter, and I have outlined to the house a number of those allegations. While he is considering whether there should be a full ministerial inquiry into this apparent outrage by the MAS, I ask the minister to meet with members of CADAC and hear their case firsthand. I have to say it surprised me greatly to learn that no minister had met with CADAC to hear its side of the story. Clearly something highly irregular has occurred with regard to this issue. I do not think there is any doubt about that at all.

The residents of Craigieburn are deserving of respect, particularly those with a proud record of serving their local community, as the Craigieburn and District Ambulance Committee has done. To wipe CADAC without even speaking to its members insults not just CADAC but every resident of Craigieburn. I ask the minister to give Craigieburn a fair go and meet with these great local champions, people who have put themselves out and committed their time, energy and resources, financial and otherwise, over many years to serving the residents of Craigieburn. I ask the minister to hear their side of the story about what would appear to be particularly harsh treatment by the Metropolitan Ambulance Service.

Preschools: funding

Mr O'DONOHUE (Eastern Victoria) — I raise with the Minister for Children and Early Childhood Development in the other place an issue that I previously raised during the adjournment debate on 9 October and by letter dated 26 October.

Ms Lovell interjected.

Mr O'DONOHUE — No answer, Ms Lovell. I raise the issue again because the time frame for the issue is becoming urgent. The shire of Cardinia is an interface municipality with some urban components in the growth corridor but is predominantly a shire of rural townships. Indeed towns such as Koo Wee Rup, Lang Lang, Bayles, Bunyip and others, which all fall within the boundary of the shire, often have the hallmarks of social isolation, economic disadvantage and poor or non-existent public transport.

In that context it is ridiculous that these towns in Cardinia are for kindergarten funding purposes considered as metropolitan townships, because clearly they are not. The failure of the government to recognise this reality means that kindergartens in towns such as Koo Wee Rup have to apply for funding outside the guidelines to receive an additional $400 per child in funding, which is desperately needed. These kindergartens are worried that their funding will be cut in 2008. If that happens their viability will be put in question. In that context I congratulate the Kinders Together Association, which at short notice gathered together 300 signatures for presentation to the Parliament as evidence of its concern about future funding.

The action I seek from the minister is threefold: to urgently guarantee funding for 2008 outside the guidelines for rural kindergartens in Cardinia, to come out to Cardinia and see firsthand that the towns in Cardinia are rural towns and to reconsider classifying the shire of Cardinia as a metropolitan shire so that this situation will happen year in and year out.

Goulburn Ovens Institute of TAFE: diploma of music

Mrs PETROVICH (Northern Victoria) — My matter on the adjournment is for the Minister for Skills and Workforce Participation in the other place. Today I raise the issue of music education and ask the

government why it is that aspiring musicians should live only in the city.

I was very disappointed to learn that as of 2008 the Goulburn Ovens Institute of TAFE will cancel its diploma of music course. The diploma is taught in Wangaratta and is the only one of its kind offered by a technical and further education institute outside Melbourne. The music course has been available for 10 years and has been the launching pad for a number of professional musicians. Some of the most notable are making waves in today's music scene and include Dallas Frasca, a blues musician; Tim Stocker, a jazz musician; Daniels Firth from the alternative band *My Left Boot;* Jamie Mildren of *Architecture in Helsinki;* and Tim Phillips, who used to be with *Rambunctions*.

This decision also puts in jeopardy the future of the Jazzaratta Big Band, which is managed and rehearsed by the music department. Jazzaratta is a unique and groundbreaking arrangement which has brought together both students and experienced musicians, giving them the opportunity to perform together. It has received enormous accolades, performing at numerous events across the region. It is a vital part of Wangaratta's cultural wellbeing.

In addition, the music diploma has provided a pool of talented, well-educated resourceful musicians, who have gone on to teach music at many of the local primary and secondary schools. The primary schools include Milawa, Moyhu and Oxley. The secondary schools and colleges include Beechworth, Benalla, Cobram, Euroa, Shepparton, Myrtleford, Rutherglen Wanganui and of course Wangaratta. Despite this contribution to the community at large the senior management at the Goulburn Ovens Institute of TAFE has chosen to close this department, leaving budding musicians in northern Victoria nowhere to go, except south.

In speaking to some of the participants you could be forgiven for assuming that this has been the intention for some time. The vision for Goulburn Ovens TAFE is to be a world-class institute delivering quality education and training beyond expectations, but the facilities offered to its music students are far from this. Instead of offering such facilities, the department has been shuffled to the back blocks of Wangaratta High School — a far cry from the standards experienced in Melbourne. It is a disgrace that Jacinta Allen, the Minister for Skills and Workforce Participation, who claims to represent country people, has allowed this to happen. The action I request of the minister is that as a matter of urgency she seek to have this matter reviewed and overturned so that this music education in northern Victoria can continue.

Bushfires: mega-wildfires

Mr KOCH (Western Victoria) — I raise an issue for the Minister for Environment and Climate Change concerning the serious risk Victorians will face from mega wildfires this summer. Country Victorians have long been warning the government about the increased threat of what are now being described as mega wildfires due to an ideology designed to appease the green vote.

In its pursuit of securing support of environmental groups the Brumby government continues to bow to pressure that shuts down access to public land. City-dwelling tree huggers, who are without any real understanding of how to look after our natural wilderness, insist the government must protect our pristine environment by shutting it up and throwing away the key. This is exactly what the government has been doing for years, and now we see the fuel build-up in our forests becoming a major wildfire hazard. Last summer more than 1.1 million hectares, mostly across the state's north and east, burnt continuously for 69 days. The previous summer saw 67 per cent of the Grampians go up in smoke, destroying more than 130 000 hectares of national park and private property.

Fire restrictions in much of Victoria are being enforced earlier this year as rising temperatures and dry conditions increase fire threats. The Country Fire Authority has warned that the Great Otway National Park is a major wildfire hotspot for this summer, and that if it is ignited, we may see a repeat of the Ash Wednesday fires of 1983. The Bureau of Meteorology warns the onset of climate change could increase the incidence of above-average temperatures by 80 per cent, with a 50 per cent to 60 per cent chance of there being below average rainfall. Recognised experts are warning that we will certainly see more mass mega wildfires that will undoubtedly cause extensive destruction of our natural environment if greater fire prevention measures are not implemented.

Mega wildfires present a serious risk to the lives of Victorians. They cause widespread blackouts, water and air pollution, and threaten our urban and rural communities. The huge tracts of rural land and national parks locked up by the government restrict access to carry out the necessary fire prevention works to reduce the threat of mega wildfires. When pressed, the government says its measures will protect country and urban areas. In reality, these measures do little more than restrict and even prevent proper wildfire risk

management. My request is for the minister to define and implement workable strategies to deal with the impending mega wildfire threat, making public the actions to be undertaken by the Department of Sustainability and Environment and Parks Victoria prior to this and future fire seasons.

Disability services: advocate

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Community Services in the other place and is on disability services and the way in which parents and families are removed from the decision-making process regarding the care of their adult disabled offspring and siblings. The action I seek is for the minister to review the current procedures with a view to implementing procedures that are more inclusive of families in decisions that affect the health and wellbeing of disabled family members, and for the minister to appoint an advocate to ensure that intellectually disabled persons receive fair and adequate treatment in hospital.

I do because of a letter I received from Mrs Jan Yeates of Shepparton. In her letter she said:

> It is with a heavy and grieving heart that I write this letter. My son Cameron died on 2 February 2007 at the age of 31. The autopsy report showed no evidence of cancer or any other life-threatening illness, but gave the official cause of death as acute colonic pseudo-obstruction. Cameron's condition was not acute when medical help was first sought seven months earlier … We believe Cameron's condition was treatable and his death preventable!
>
> Cameron had a mild intellectual disability …

But he was a much-loved and well-known identity around Shepparton. He lived most of his life with Jan and her husband Ken.

Jan says there was a lack of evidence in the autopsy report of any life-threatening illness, and this compounds their sorrow and distress. In addition, the indifference and callousness of doctors and hospital staff has traumatised and angered the family. She goes on to say:

> Our family seriously questions whether medical treatment is deliberately withheld from persons with an intellectual disability, and suspect that such people are simply allowed to die.

A guardian was appointed for Cameron through the Office of the Public Advocate to make decisions concerning accommodation and also medical, dental or other health care, but nothing had ever eventuated from that appointment. The Yeates family is extremely disillusioned about the concept and effectiveness of guardianship.

Jan goes on to outline her frustrations with doctors dealing directly with Cameron and not with the family, which resulted in Cameron being discharged three times unwell and untreated. She says that at no time did doctors seek to consult the family about strategies or procedures to adopt when dealing with Cameron, and in fact sometimes the family were deliberately denied the opportunity to talk with doctors in relation to Cameron's wellbeing.

Jan concludes by saying:

> Lamentably, this tragic final chapter in Cameron's life echoes our experience with funded organisations such as Department of Human Services, Commonwealth Rehabilitation Service, Goulburn Valley Worktrainers et cetera where case managers chose not to involve us, instead they dealt directly with Cameron, Then, when they found themselves floundering, they would close Cameron's file, often with the comment that lack of funding did not allow them to continue. Cameron would then be handballed unceremoniously back to us, problem unsolved and usually exacerbated.

This is a decent family who cared very much for their child — —

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

National Servicemen's Association: war memorial

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Premier in his capacity as Minister for Veterans' Affairs. I have been contacted by Mr Douglas Black, the Victorian president of the National Servicemen's Association, seeking assistance to obtain a contribution from the Victorian government towards the construction of the national servicemen's memorial which is proposed for the eastern forecourt of the Australian War Memorial in Canberra.

The National Servicemen's Association represents the 287 000 young Australians who were called up as national servicemen between 1951 and 1972, including 212 who died on active service, which included 52 young Victorians who lost their lives in Vietnam or Borneo. It is appropriate that their service and the service of other Australian national servicemen is recognised via the proposed national servicemen's memorial at the war memorial in Canberra.

The National Servicemen's Association has proposed a very substantial and elegant memorial — a bronze,

sandstone and granite structure — that has been approved by the Australian — —

The PRESIDENT — Order! Just for my edification, is the member asking the state Minister for Veterans' Affairs to assist in a national memorial in Canberra for national servicemen? If so, I have to suggest that I am not sure that the Minister for Veterans' Affairs here in Victoria has any capacity to assist the member in that matter.

Mr RICH-PHILLIPS — What I am seeking, President, is for the Minister for Veterans' Affairs to make a contribution on behalf of the Victorian government in the same way that the Queensland and Western Australia governments have made a contribution to that memorial.

The PRESIDENT — Order! I think that is fine.

Mr RICH-PHILLIPS — Thank you, President. The memorial is proposed for the forecourt of the Australian War Memorial in Canberra. It is a substantial structure, and as indicated in response to your query, President, the Western Australian and Queensland governments have made financial contributions to the proposed memorial, and of course the commonwealth Department of Veterans' Affairs has also made a contribution to the cost. The cost is estimated at around $500 000, of which a little over $400 000 has already been raised.

What is now sought is a similar contribution from the Victorian government. A previous request has been made and denied on the basis that the memorial is not in Victoria. However, that is certainly inconsistent with the position taken by the Queensland and the Western Australian governments, and I believe the New South Wales government is also about to announce a contribution, so it would be appropriate for the Victorian government to make a similar contribution to that memorial.

I have previously worked with the National Servicemen's Association on other projects in Victoria, and I can certainly say that when it commences a project, it delivers on it, so I have no hesitation in supporting its request for funding from the Victorian government. I request that the Minister for Veterans' Affairs, the Premier, reconsider this request for a Victorian government contribution and make such a contribution, consistent with the actions of other state governments around Australia that have contributed.

Responses

Hon. J. M. MADDEN (Minister for Planning) — Mrs Coote raised a matter about the new resort management board model for the Falls Creek management board. I will refer that to the Minister for Environment and Climate Change.

Mr Drum raised the matter of road facilities and injuries on country roads. I will refer that to the Minister for Roads and Ports in the other place.

Ms Tierney raised the matter of the Portland Special Development School and the program issues there. I will refer that to the Minister for Education in the other place.

Mr Vogels raised the matter of three-phase power. I will refer that to the Minister for Regional and Rural Development in the other place.

Ms Pulford raised the matter of the Glenelg Highway. I will refer that to the Minister for Roads and Ports in the other place.

Mr Finn raised the matter of the Craigieburn and District Ambulance Committee. I will refer that to the Minister for Health in the other place.

Mr O'Donohue raised the matter of the Cardinia shire kindergarten funding status. I will refer that to the Minister for Children and Early Childhood Development in the other place.

Ms Petrovich raised the matter of a diploma for music from the Goulburn TAFE. I will refer that matter to the Minister for Skills and Workforce Participation in the other place.

Mr Koch raised the matter of mega wildfires. I will refer that to the Minister for Environment and Climate Change.

Ms Lovell raised the matter of disability services in relation to family members. I will refer that to the Minister for Community Services in the other place.

Mr Rich-Phillips raised the matter of national servicemen's memorial funding for the Premier, and of course I will refer that to the Premier.

The PRESIDENT — Order! The house is now adjourned.

House adjourned 10.31 p.m.