PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 6 December 2007

(Extract from book 17)

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

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

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

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

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

Joint committees

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

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

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

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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.

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

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

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

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

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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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Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William	Southern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

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THURSDAY, 6 DECEMBER 2007

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Thursday, 6 December 2007

The PRESIDENT (Hon. R. F. Smith) took the chair at 9.32 a.m. and read the prayer.

STANDING ORDERS COMMITTEE

Select Committee on Gaming Licensing

The PRESIDENT — Order! I inform members that at a joint meeting of the standing orders committees of both houses on 5 December 2007 it was noted that the Legislative Council expressed its disappointment in the language of the resolution passed by the Legislative Assembly on 18 July 2007.

Yesterday's joint meeting was held further to the Council's consideration of the content of a message transmitted from the Assembly in response to a Council request for leave to be granted for certain members to attend before the gaming licensing select committee.

PETITION

Following petition presented to house:

Rail: Officer station

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria, draws to the attention of the Legislative Council of a lack of facilities at Officer railway station such as seating and sheltered platform areas for passengers as well as extremely poor car parking facilities.

The petitioners therefore request that the Victorian state government upgrade the Officer railway station by way of providing improved shelter and seating for railway passengers and sealing and marking and providing improved signage to the adjoining car parking area.

By Mr O'DONOHUE (Eastern Victoria) (118 signatures)

Laid on table.

ABORIGINAL AFFAIRS VICTORIA

Indigenous affairs report 2006–07

For Hon. J. M. MADDEN (Minister for Planning), Hon. T. C. Theophanous, by leave, presented report.

Laid on table.

DRUGS AND CRIME PREVENTION COMMITTEE

Overseas evidence-seeking trip

For Ms MIKAKOS (Northern Metropolitan), Mr Leane, by leave, presented report.

Laid on table.

Ordered to be printed.

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Interim report

Mr D. DAVIS (Southern Metropolitan) presented interim report, including appendices, extracts from proceedings and minority report, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

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

That the Council take note of the report.

In doing so I indicate that this has been an important step in tabling this interim report of the Legislative Council's Select Committee on Public Land Development. This committee has taken a wide variety of evidence, and I want to place on record, as a first step, my thanks to fellow committee members and also the staff of the committee. The committee's secretary, Richard Willis, has done a huge amount of work in ensuring that this committee goes forward very strongly. We have faced some challenges, and I will say some more about that.

We have had a long series of meetings and heard extraordinary evidence around the state, and that has been extremely important for the chamber and ultimately for the community. A number of the points that have been raised concerning the sale and development of public land are important ones that the council and the community will want to hear, including the issues surrounding public open space — and increasingly the evidence around the issues of public open space are going to be important, given the government's Melbourne 2030 plan to increase the size of Melbourne's population by a million by 2030; we are in fact ahead of that target at the moment.

In an extraordinary point in public evidence, Genevieve Overall from the Department of Planning and Community Development made it clear that there is no overall plan for public open space in metropolitan Melbourne or indeed in regional centres. The failure of the government to deal with issues like that is important.

At the same time the key point of the committee's terms of reference involves public land being alienated or sold across the state in a way that appears to have no coordination. There appears to be an inadequate approach to both the process of sale and the examination of how much public land needs to be in public ownership, and how we protect those precious pieces of public land.

A number of key sites have been reported on in this report. The Kew Residential Services site has been the subject of a number of hearings by the committee and also significant evidence from submitters. I thank each and every one of those submitters, and I make the point that 165 people or groups have now given either written evidence or oral evidence to the committee.

It is important to show that there is a considerable issue in our community over the sale and development of public land. This chamber will remember the debate which Mr Guy led earlier this year, when the committee was established. I think that establishing motion was a wise one; it understood there were issues in the community, and it sought to spark an inquiry by this select committee to deal with these issues and to come back to the Council and to the community, in effect, with some sensible suggestions as to how this can be dealt with.

But I have to say it is with concern that I report to the house — certainly my foreword says this, and the conclusions of the committee's interim report point to this quite strongly — that the government, and in particular the Attorney-General, have not assisted the committee; in fact the Attorney-General has sought to hamper the committee's activities. The view of the Attorney-General, who is the Deputy Premier, is that for some reason the committee's terms of reference are unclear. I have to say nobody at the time of the establishment of the committee believed the terms of reference were in any way unclear, and I still believe very strongly they are not unclear; certainly evidence put to the committee suggests they are not.

The Attorney-General argues on the basis of an obscure administrative order — no. 58 of 1988 — that there is a distinction between public land and government land. Let me explain to the house that all land is Crown land in the broader sense, and when a decision is made to sell or that land is surplus and no longer required, a decision is made under that administrative order that there is public land or government land, and the land is classified in some way.

I make the point quite strongly to the chamber that an administrative definition of this type may be convenient for government processes, and I have no quibble with that, but I do have a complaint with the Attorney-General's approach of seeking to apply that administrative order to the common-sense and generally understood words 'public land' that were used in this chamber. It is important that the chamber understands that when the motion was moved in the chamber — —

Hon. T. C. Theophanous — You can always come back and seek to change the terms of reference.

Mr D. DAVIS — There is no need to change the terms of reference at all.

Hon. T. C. Theophanous — That is what was put to you.

Mr D. DAVIS — But it is nonsense, and that is the reality of the matter. At the time of the committee's establishment it was very clear that people in this chamber understood precisely what was meant by 'public land', and members of the community understand what is meant by 'public land'.

Let me give some examples. In evidence to the committee, representatives of the Municipal Association of Victoria talked about the definition of 'public land' as broad:

> We would see it as a broad definition, because from a community perspective, they are not too concerned about which level of government or which piece of legislation — —

Hon. T. C. Theophanous — It's open to you to come back and clarify it.

Mr D. DAVIS — I am quoting from transcripts of evidence, President. Mr Ian Quick from Save Our Suburbs submitted his evidence at a hearing here at Parliament House on 23 November. I will quote his definition of 'public land' as contained in his submission:

> The definition I will be using in this submission is that public land is that public land is any land owned by any level of government (that is, local, state and federal) and their departments, any … authority or institution, or any other type of body or agency. This would therefore include entities such as VicTrack, Parks Victoria …

And he goes on.

The point is a very simple understanding of public land that the community understands, the Parliament understood and — —

Hon. T. C. Theophanous — Then why didn't you get legal advice?

Mr D. DAVIS — We got advice from the clerks which made it very clear the committee is able to have its own definition as it sees fit, and the committee did that. It adopted a sensible definition which is in fact based on government documents. I think it is worth reading this definition to the chamber so that it understands what the committee has adopted. It is a very simple definition.

The committee has applied it to the many pieces of public land that it has examined. I mentioned the example of Kew Residential Services. There are real issues about Kew Residential Services that relate to the process by which the government has gone around alienating that land. The land is still in government possession and is still public land by any definition that the community would understand. Through a development agreement it is being developed by Walker Corporation. I make the point that Walker Corporation is a group that employed former Labor senator Graham Richardson in two phases of its relationship with the government here. He had a critical role in the first phase of achieving the contract, and later through the process, when the Walker Corporation ran into some difficult discussions with the government about the implementation of the development agreement, the corporation again got Mr Richardson in to break through the impasse. No doubt Mr Richardson was paid a fee to break that impasse, and the committee has invited Mr Richardson to come and give evidence. We look forward to him coming to Victoria to give evidence to the committee to explain in detail the precise involvement that he had in this.

I have to say that the government has not been open and transparent in its decisions on the Kew Residential Services site. It overrode the council and the community with decisions about the development. In the final analysis we will see the alienation of 27 hectares of prime land very close to the city, and people in the community around that area are not happy. I do not believe the interests of the long-term residents have been satisfactorily catered for.

I also make a point to the Council that I think is very important for the Council to understand. The financial model that is part of the tender agreement with the government, the contract with the government that lays out the sharing of outcomes from the sale of the site and the amount that Walker Corporation and ultimately the government will make, indicates very clearly that this is not a good deal for Victorians and it is not a good deal for the long-term residents of the site. It shows that the state will make a very small amount of money for the alienation of a massive amount of very important close to the city. We asked the Walker Corporation for a copy of that financial model, which it provided on the basis that it would not be released, and we have not released it.

Hon. T. C. Theophanous — You tried to renege!

Mr D. DAVIS — We have not released it.

Hon. T. C. Theophanous — You were only pulled into line.

Mr D. DAVIS — But I do make the point that it is up to government. The Minister for Major Projects could release it tomorrow. You could release it tomorrow, Mr Theophanous, and you should. There is a big black hole on the governments tender website where the financial details of the model at Kew Residential Services have not — —

Hon. T. C. Theophanous — Why don't you release it? You have got it.

Mr D. DAVIS — I will not break that confidence. I won't — —

Hon. T. C. Theophanous — Why should I?

Mr D. DAVIS — You could, in the public interest.

The PRESIDENT — Order! Mr Davis, to continue.

Mr D. DAVIS — The committee is of the view that those documents should be public, and I think it is in the community's interests that they be public.

In this interim report we also dealt with the Devilbend Reserve on the Mornington Peninsula. It is an important chunk of land around the old Devilbend Reservoir. It is an important area, some parts of which are more degraded than other parts, but it is an important area that will be a significant conservation park in the centre of the peninsula. It will add to the biodiversity options on the peninsula and strengthen the capacity to preserve species. The committee heard evidence that the 40 hectares on the north of Graydens Road, which forms an integral part of the water catchment of Devilbend Reservoir, should not be sold.

It should be retained in public ownership and added to the park.

Instead of that, through a shoddy process the government has sought to flog off that land, and they have sought to go very quickly in this process to, in effect, beat the committee to get that sale, to get that expression of interest process completed. My strong information is that at least the deposit stage will be completed this week, which will be, in my view, a very sad moment for the community. The government is rushing or hurrying to complete a sale process and beat the tabling of a committee report that will indicate the process should not have proceeded.

It is a disgrace, and the people on the Mornington Peninsula will regard this as a very dark day because a key piece of public land that could have been added to parkland has been lost, potentially for ever. This government will stand condemned for that by the community on the peninsula, more broadly, for a long time. The minister did not have to proceed in this way. The sale process did not have to go ahead with such haste, it could have waited. The evidence we took was public, the community knew what was right, but the government has overridden the community and the strong evidence available. The role in this of Parks Victoria has not been satisfactory, nor has the role of a number of other bureaucrats, and I will come to that in due course.

I know Mr Kavanagh will say more about this. The committee has also looked at Port Campbell and Warrnambool sites. Amongst the many submissions that were received, concern was expressed about developments on public land, involving public land, impacting on public land and alienating public land on those coastal locations. It is difficult for the committee to make a final conclusion on any of that but we heard evidence that is detailed in the report.

In the transcripts of evidence that are tabled with this report and which formed part of the basis on which the report is based, it can be seen that there needs to be a proper assessment of those steps, particularly at Port Campbell. I am not an engineer, and the committee has no engineering expertise or geotechnical expertise. It is beyond our scope to assess some of the issues that were raised with us, but we have pointed the government to that evidence and asked for proper assessments that would mean the community can have confidence.

I also bring to the attention of the house the intervention of the Attorney-General, who wrote to the committee on 26 September. The Attorney-General sought to limit the activities of the committee to a narrow definition of public land. I believe his attempt is insincere. His was an attempt to restrict the committee and prevent it from looking at matters which the government does not want it to look at.

Hon. T. C. Theophanous — Why don't you bring it back to the house?

Mr D. DAVIS — There is no need to bring it back to the house, Mr Theophanous. There is no need, and I say that the Attorney-General's approach is arrogant and outrageous. His aim was to try to nobble witnesses, to prevent them giving full and frank evidence, to prevent them from providing to the committee — and through it, the Parliament and the community — the evidence that we should have been able to receive. I cite a number of instances here very specifically.

Let me start with the request that we put to each government department, including the Department of Treasury and Finance and the Department of Sustainability and Environment, for a list of public land that has been sold since 1 January 2002. The committee's terms of reference refer to Melbourne 2030, which began in 2002. They talk about green wedges, about alienation and the sale of public land. We sought to get from each department a list of public land that was sold by those departments.

We also sought in the case of the Department of Treasury and Finance a comprehensive list of what has been sold around the state, because the processes that are in operation actually need to be coordinated through DTF. The failure of those departments, and the failure of the secretaries to provide that information is simply outrageous. They are thumbing their noses at the Parliament, the committee and the community. I have got to say that it was quite wrong of the secretaries of those departments not to have dealt with those matters properly — not to have brought back the legitimate pieces of evidence that are required.

Hon. T. C. Theophanous — It was not in the terms of reference.

Mr D. DAVIS — It is in the terms of reference.

Hon. T. C. Theophanous — It was not.

Mr D. DAVIS — It is in the terms of reference. The Attorney-General was simply wrong.

Honourable members interjecting.

Mr D. DAVIS — I want to quote some of the committee's conclusions.

Honourable members interjecting.

The PRESIDENT — Order! I am not sure where we are at the moment. The house is a bit rowdy. I ask David Davis to continue.

Mr D. DAVIS — I want to read to the chamber some of the conclusions about the intervention by the Attorney-General and the related inputs of government departments. At point 89 on page 25 of the report the committee said it:

> … rejects the narrow definition of 'public land' as outlined by the Attorney-General and notes the government's definition of 'public land' is at variance with the common public understanding of the term and is at variance with the understanding of members of the Legislative Council during debate on establishing the select committee on 2 May 2007 … The committee maintains that narrow definitions of land types by governments through administrative arrangements orders should have no special standing or necessary relevance for the committee's terms of reference and broader public input to an inquiry.

Point 90 states:

> The committee asserts its right to interpret its terms of reference within the establishment resolution as it sees fit. This right is supported by established parliamentary practice and advice from the Clerk of the Legislative Council. The committee's adoption of a definition of public land is within its terms of reference and will provide assistance to all witnesses.

Point 91 states:

> The committee believes the extraordinary attempt by the Attorney-General, on behalf of the government —

I want to read some key conclusions here —

> to define a Legislative Council select committee terms of reference represents a direct interference in the operations of the committee and the role of the Legislative Council. It is the committee's view that the Attorney-General's intervention is simply a device to obstruct the committee's activities, frustrate its progress and —

Hon. T. C. Theophanous — On a point of order, President, this report has just been tabled for members of the Council to read. Every member of the Council is obviously capable of reading the report. I have a copy in front of me and I am capable of reading it as are other members here. I do not think it is appropriate for the member to keep reading out all the conclusions — —

The PRESIDENT — Order! Your point of order is?

Hon. T. C. Theophanous — My point of order is that the member is reading from the report rather than giving his own speech. We all have a copy of the report which has just been tabled.

The PRESIDENT — Order! There is some validity and even credibility in what the minister has said in terms of his point of order, which in my view is not really a point of order, but I remind Mr Davis that while he is entitled to expand and quote, reading verbatim from the whole report can cause a problem. I am advising the member to think about that.

Mr D. DAVIS — I make the point also that the behaviour of a number of departmental witnesses I think is out of touch with what the community would expect. We were particularly concerned by the behaviour of a witness from the Department of Sustainability and Environment. In my view it was concerning — —

Mr Guy — Name him.

Mr D. DAVIS — I will. Mr Harris, the Secretary of the Department of Sustainability and Environment, sought to prevent key witnesses from appearing before this inquiry and blocked the appearance of key people with knowledge — —

Hon. T. C. Theophanous — On a point of order, President, I know that the protection of the house is for members in the normal sense of the word, but when we are talking about senior public servants, I do not believe it is appropriate in this house for members to come and simply admonish — —

The PRESIDENT — Order! I do not believe the minister has got to any point of order at all. The issue of Mr Davis referring to comments made — and I assumed they were direct comments made — —

Mr D. DAVIS — Section 4.6 is the section I was referring to.

The PRESIDENT — Order! If Mr Davis is referring to something in the report, I do not have a particular problem. I think Mr Davis referred to his opinion that someone prevented people — —

Mr D. DAVIS — I will quote a sentence or two to clarify the issue for you and the minister.

The PRESIDENT — Order! Yes. I just remind all members of the house that anyone seeking to prevent witnesses appearing before a committee of this chamber is a very serious matter.

Mr D. DAVIS — Indeed, President, and I draw the house's attention to point 78, which I want to quote very briefly:

> Further, the committee believes Mr Harris's decision to not allow departmental staff to give evidence represents inappropriate interference with witnesses. In particular, the committee notes Legislative Council standing order 18.11, which states: 'If it appears that any person has been directly or indirectly endeavouring to deter or hinder any person from appearing or giving evidence, such person may be declared guilty of contempt'.

I am very concerned about the behaviour of a number of departmental witnesses, and Mr Harris in particular. I draw the house's attention to that point. The house has a right to expect that its committees will be able to discharge their activities and their instructions from the house in a way that is free and unhindered. The house has the right to expect its committees not to be hampered by the activities of senior government officials, and it expects open processes in government. It expects that its committees can get to the truth of matters and get free, frank and fearless advice and information, not have their activities nobbled or reduced in some way. I have to say that my concern here is a very significant one.

I will conclude by again thanking those who contributed, particularly the 165 people who made submissions or gave oral evidence and who did so much to indicate that in respect of at least 70 sites across the state there are serious concerns about how the government has managed public land. I again put on record my thanks to Mr Richard Willis, the secretary to the committee, Dr Caroline Williams, the research officer, and Mr Anthony Walsh, the research assistant, who have done a huge amount of work in ensuring that this inquiry proceeds smoothly.

Mr TEE (Eastern Metropolitan) — There is no argument that the community has a legitimate interest in how government deals with community assets, including government land. Government land is a community asset of which government is the caretaker, for and on behalf of the community. In dealing with government land the government of the day must balance the interests, demands and priorities of today with those of generations to come, and that is no easy task.

In reading this report it becomes clear that after eight months the committee has failed to even begin to grapple with this or indeed any big picture issues in terms of public land. Reading the report makes it clear that this committee is a rudderless ship, and that it is bogged down in a hopeless and futile debate around its terms of reference — a debate that the committee has and has always had the power to resolve but has refused to use to do so. This is a decision that defies both logic and reason.

Mr Davis referred to the letter from the Clerk; that letter says that the committee can interpret its terms of reference. But of course witnesses can also interpret the terms of reference and can argue that questions asked are outside the terms of reference. In his letter, which is included in the committee's interim report, the Clerk said that any dispute about the terms of reference can be brought back to the house, yet the committee has not done so. It is clear that the committee has failed to consider how governments should manage government land.

When you read through the report you see that the committee appears to be content with relitigating long-lost planning disputes, some of which are many years old. The clear impression you get is that the committee jumps in on one side of the community as a barracker for one team against the other.

A classic example of that is Devilbend Reserve. There was a detailed process, which took years and involved the community, the government and environmental experts. Together they developed a plan for the creation of a wonderful nature reserve — a 30-year plan for the regeneration of the land — yet the committee, without any scientific, environmental or community expertise or advice, swanned down from Melbourne for half a day and then felt qualified to force its views on its preferred outcome on the community.

That showed complete and arrogant disregard for those in the local community who have spent years working with government, scientists and the rest of the community to develop an excellent plan for the rehabilitation of this important site — a plan that will see Devilbend become an important feature and nature reserve for future generations. If you read the report, you will see that this fantastic local achievement has been completely lost.

The same arrogance is apparent in the Apollo Bay issue. The local community has been working with the council to provide a vision for improving Apollo Bay — a vision for the rehabilitation and incorporation into the town of the local historic and working port. This plan also took years to develop. It has involved public meetings, the establishment of a community consultative committee and surveys of the views of the local community — and still the committee felt free to swan down from Melbourne and impose its views on what the outcome ought to be. What is most galling about the Apollo Bay experience is that the community

consultation process is not yet complete, yet the committee feels it is qualified to express its views on what the outcome should look like.

I move on to the Port Campbell topic. The committee, with Hansard reporting the proceedings, spent a day and a night there to investigate the alienation of public land. The only public land that is in contention there is 4 out of 30 car park spaces, which are managed by the local council. They will remain public land, but their usage will change to an access right of way. Those four car park spaces warranted the committee's attention for essentially a day and a night!

There are community concerns about the development of Port Campbell, but these are planning disputes that have been to the Victorian Civil and Administrative Tribunal twice — disputes that are completely outside the committee's terms of reference. No matter how broadly those terms of reference are framed by it, the committee still has no relevance in relation to those disputes. There are also community concerns about the stability of the land on the headway, but these are all matters which are completely outside the committee terms of reference and which the committee ought to, and indeed does, refer to government to investigate.

With regard to Kew Cottages, the committee has done no more than rehash the story from the *Age* about Mr Graham Richardson. The committee has not added any value to that story; it has just rehashed the same tired old story. It is alleged that Mr Richardson asked for a change to the contract, but that change simply did not take place. However, the committee has been happy to continue the smear campaign and to rehash a stale old allegation. We know that there is a close relationship between the developer, Walker Corporation — this was revealed by the transcript — and the Liberal Party. Mr Hughes, who gave evidence on behalf of Walker Corporation, said:

> We are large contributors to the Liberal Party at the federal level …

So he does not have much regard for the Liberal Party at the state level.

Honourable members interjecting.

Mr TEE — I am just reading the transcript. Mr Hughes then said:

> … I think that is because Lang —

he is referring to Lang Walker —

> has the greatest admiration for John Howard and he therefore supports him.

I want to acknowledge that the committee has received very sincere and passionate submissions from groups and individuals who are dissatisfied with particular decisions and outcomes. The committee has spent an inordinate amount of time on those cases. The committee has unfairly raised expectations that there is something the committee can do to overturn those outcomes, when in truth there is very little the committee can do to affect them. Instead of looking forward, the committee has become stuck picking over these long-gone planning decisions. We now know the extent of the relationship between the developer and the Liberal Party.

After reading the report my conclusion is that this committee has not worked. Any hope that it will be able to work has long faded. It is stuck in a quagmire of petty politics. With effectively six months to go, it is unlikely that this rudderless ship will find any focus or direction. It is a moribund committee. It is stuck in a puerile and stale old argument about its terms of reference — an argument that could have been fixed a long time ago. We have talked about departmental witnesses. Time and again they gave evidence that they would be able to answer the questions if the committee's terms of reference were clarified by this house. Yet this committee, for some unknown reason, has refused to come back to this house to get its terms of reference qualified.

As the interim report demonstrates, forests have been destroyed generating the correspondence on this puerile dispute. There is no sign that this dispute has any way of moving forward. There is no sign that this impasse will be fixed in the next six months. Until this house clarifies the committee's terms of reference, it will ineffectively limp along until its time expires having achieved nothing. Surely it is time to stop wasting the time of everyone concerned. All we have left — and this has at least been revealed today — is a committee of smear and innuendo. We have a stubborn refusal to move forward and an arrogant disregard of the Legislative Council as the appropriate place to clarify the terms of reference. It gives me no confidence that the committee will ever make any contribution to the important debate on public land management.

Debate adjourned on motion of Mr O'DONOHUE (Eastern Victoria).

Debate adjourned until later this day.

LEGISLATION COMMITTEE

Liquor Control Reform Amendment Bill

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

That this house request the Legislative Assembly to grant leave to Mr Tony Robinson, MP, Minister for Consumer Affairs, to appear before the Legislative Council Legislation Committee in relation to the Liquor Control Reform Amendment Bill 2007.

Motion agreed to.

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Interim report

Debate resumed from earlier this day; motion of Mr D. DAVIS (Southern Metropolitan):

That the Council take note of the report.

Mr O'DONOHUE (Eastern Victoria) — I am pleased to rise and make a contribution on this debate, and I echo the words of David Davis that this indeed is a very important issue — the issue of public land and the way this state government manages this precious community asset. It has been instructive over the last six months since the committee was formed following Mr Guy's motion on 2 May, because we have received an overwhelming number of submissions from a great diversity of groups, individuals and concerned residents of Victoria. Despite what Mr Tee may say about this being merely a relitigation or reventilation of failed planning disputes, that to me is nothing but an absolute slap in the face to those individuals, groups and local government authorities who have spent the time to submit to us.

We have received submissions from many different local government authorities, many of which have expressed similar themes and similar concerns about the way this state government forces local government to buy public land at full market price, regardless of the public benefit that it may have for the broader community. We have also heard from many local groups, and for Mr Tee to make such comments as he has made is more than insulting to groups such as the Kew Cottages Parents Association, the Kew Residents Association, the local council and others who submitted on these significant issues.

Let us just put it into context, too. This debate is happening and this committee is hearing submissions from people in the context that Melbourne is growing faster than this government ever planned, ever anticipated or ever realised, and that makes this issue of public land even more critical. The evidence from the submissions and from the public hearings that the committee has conducted suggests a number of flaws in the macro environment and in the way the government manages and deals with public land. There appears to be no long-term strategic or coordinated approach to our public land and how it is managed for the long-term benefit of the community.

As I said, there has been an antagonistic approach to local government, with the dollar driving the return for our public land. Perhaps this is best highlighted by the Bent Street example we heard about from the City of Moonee Valley. Despite having plans for approximately 10 000 new residences in the city of Moonee Valley between now and 2030, the state government plans to sell off that Bent Street location, despite the City of Moonee Valley's desire and plan to incorporate that important piece of land for the community benefit. Perhaps the economic motives of the government are best demonstrated by the fact that the budget papers reveal that the state government has a target of $70 million to be received from the sale of public land. There are many drivers for this process for the sale of public land.

There are real concerns, too, surrounding the particular sites we have visited. In particular the Kew Cottages site, I thought, caused not just a lot of concern for the residents of Kew Cottages — most of whom have now been placed in alternative locations, some against their will and some against the will of their parents — but also concern about the perception of a conflict of interest. In this case the state government is the landowner and the developer, in conjunction with Walker Corporation; it is also the planning authority because it has called this matter in. That smacks of a conflict of interest. Even if you accept everything the government has said in relation to this issue, there is a real public perception about a conflict of interest.

To get back to Mr Tee's point about the committee having no understanding of broader policy implications, this is a classic example of where the government should look at its policies and realise that those policies do not adequately cater for the government's dealing with its public land when that land use needs to be changed.

We have learnt, too, that in effect the government has two systems for developing its land compared with what is available to a private landowner, who, if he wanted to carry out a development such as is proposed at Apollo Bay, would have to go through the rezoning

process; he would have to advertise that process; he would have to get the planning minister's approval to do that; and then he would have to go through the long rezoning process before he could develop land for a 5-star hotel, as is planned for Apollo Bay.

The government does not have to do that. Sure, the government has done some consultation with the community, and there has been some planning process, but the fundamental policy issue that I have taken away from that site visit and from the people the committee heard from that day is that the government has one plan or one set of rules for the general community — that is, for private landowners and corporations — while it has a completely separate set of rules and principles for itself.

There are very broad policy implications in all this for the state government, and it is regrettable that Mr Tee has rolled over like a lap-dog and followed the Attorney-General's interpretation of 'public land'. The Attorney-General first wrote to the committee in relation to his definition of 'public land' on 26 September. This debate happened on 2 May, so presumably the Attorney-General and his staff were trawling through all the various definitions they could find of 'public land' in different pieces of legislation and different obscure government ordinances. Then, lo and behold, he came up with government ordinance no. 58 of 1998 and, hey presto, they found a distinction between government land and public land.

Not one of the government members in the debate mentioned any difference whatsoever between public land and government land. In fact, there was no discussion or no entertainment of a distinction between government land and public land between 2 May, when the house debated the formation of the committee, and the letter of 26 September. The finance minister in the other place did not mention it in his correspondence, the various government bureaucrats who liaise with the committee did not mention it, and it was not until 26 September 2007 that the Attorney-General mentioned it.

Hon. T. C. Theophanous interjected.

Mr O'DONOHUE — To take up Mr Theophanous's point, I was unaware of it because I daresay no-one was aware of it. It is an artificial distinction. It flies in the face of the debate that the Council had on 2 May; it flies in the face of the submissions that have been received from the community groups about this issue; and, frankly, it is offensive and an affront to the independence of this Council for the government to make its own interpretation of the committee's terms of reference. Let us not forget that a committee of the Legislative Council is able to make its own interpretation of its terms of reference, which this committee did, and the Attorney-General again refused to listen to the will of the Parliament.

The government talks a lot about openness and transparency, but when it comes to practice, the government has been obstructive in this process and has made it very difficult for the committee to do its work. Government members opposite say, 'Why not bring it back before the Council?'.

The reality is that government members, including government members on this committee, are saying very clearly that the executive can dictate to the Parliament. I find that offensive. The Attorney-General's correspondence is offensive. He has demonstrated a great lack of respect for this Parliament. The way government members on this committee have chosen to roll over to the will of the Attorney-General and do as the Attorney-General has dictated to them is best demonstrated in the minority report. After hearing from various groups, after collecting 130 submissions and after conducting days and days of public hearings there is a minority report that goes for nine paragraphs and says in its conclusion — —

Mr D. Davis — Not much at all.

Mr O'DONOHUE — Not much at all, Mr Davis, that is right. It says:

> … further public resources not be wasted by the continued operation of this committee.

In effect what the government members of this committee have shown is that they did not support this committee's establishment on 2 May, they have continued to obstruct the work of the committee since 2 May, and they wanted the committee's work wrapped up as soon as possible because they do not like the scrutiny and they do not like the inference that there is anything wrong with the way the government manages our public land, the community's public land, when in fact the submissions we have received demonstrate there are significant concerns about the way the government deals with our public land. I am looking forward to the committee continuing its work next year.

I will just pick up on one other point Mr Tee made. He said that the visit to the Kew Cottages site was a complete waste of time, that there was no value added and that it was a stale issue. I make the point that the residents and parents of people who have lived at Kew Cottages would find that offensive. Mr Tee forgot to

add that evidence led from the Walker Corporation established for the first time that former Senator Graham Richardson settled the development agreement between the state government and the developer. Let us not forget that for this development the state government is the planning authority, the landowner and the joint developer. It had to bring in Graham Richardson to settle that agreement. That was most instructive and raised serious concerns about his involvement with the government in this development.

Whilst I would agree with the managing director of Walker Corporation that John Howard was a fine Prime Minister, let us not forget that Walker Corporation has donated, according to the Australian Electoral Commission website, over $800 000 — —

Honourable members interjecting.

The PRESIDENT — Order! I warn both David Davis and Mr Theophanous that their ongoing running dispute is unsatisfactory in here. If they want to get at each other, they should do it outside.

Mr O'DONOHUE — Walker Corporation has donated $800 000 to the federal Labor Party and $55 000 to state Labor over the last 10 years and made only one small donation to the Liberal Party. Let us just put the comments made by Mr Tee in context.

In summary, the committee's work has been frustrated by the narrow interpretation of the Attorney-General. The Attorney-General does not respect this place, as is evidenced by his correspondence, which is regrettable because there are serious concerns about the way this state government has dealt with our public land. I am looking forward to further progress on this committee's work, because it is work that is very important to the future of Melbourne and the rest of Victoria.

Mr KAVANAGH (Western Victoria) — As a member of the committee I would like to make a few comments. I will not make very many, because most of the issues are expressed in the interim report. A diverse range of issues were considered by the committee, but many of them revolve around local government issues, which are in the end probably more appropriately dealt with by local government.

I would like to make some comments about Mr Tee's contribution to this debate, which I found disappointing. To insult the committee as he did when he is the deputy chairman is extremely inappropriate. He talked about quagmire petty politics, puerile antics and so on. Perhaps the only example of that in the committee's work is in Mr Tee's speech. For example, the very selective reference to the donation by Walker Corporation to the Liberal Party totally ignored the evidence before the committee that large donations have been made by Walker Corporation to the ALP and, by the way, the Australian Democrats as well. To totally ignore the donations to the ALP and refer only to the donations to the Liberal Party is a distortion of the evidence.

What is more important about that evidence that came to the committee, and one of the main areas of concern to me, is the reasoning given for those donations. Walker expressed it in terms of gaining enhanced access to ministers. This raises issues of public policy that should be of concern to the whole of Victoria. Mr Tee's contribution deeply insults all the witnesses and other people who made submissions to this committee in good faith.

Of the particular matters raised in the report one of the main ones for me is the Port Campbell development. Port Campbell is probably the most beautiful port I have seen in the world, and I have seen many of them. If the committee were not to take action to warn the government on the basis of some of the expert testimony we received, the proposed development could significantly accelerate the collapse of the headland, and if that headland were to collapse all of us would feel ashamed of ourselves.

In terms of Kew Cottages, although perhaps not a public land-related issue, one thing came across quite powerfully to me from the comments of the parents of the long-term residents there. They made it very clear that the recent policy of governments — not just this government but governments generally — of putting people with disabilities throughout the community is really not in the interests of those people. The parents of the residents at Kew Cottages do not feel that it at all enhances the lifestyle of disabled people. That should be something that the government should consider in public policy.

Some witnesses alleged suspicions about the way local governments sometimes handle the sale of public land. They complained that there is no mechanism for reviewing those decisions or investigating those suspicions. A legal maxim of great wisdom that permeated our legal system for a long time is that justice must not only be done, it must also be seen to be done. A mechanism for making justice obvious is needed in handling complaints or suspicions about the handling of public land, usually by local councils.

On the intervention of the Attorney-General, normally we should take people at their word. If they say they believe something, then we should normally accept that

they do believe that. However, I must say that in this case the contribution by the Attorney-General is so legally dubious that I really cannot accept that even the Attorney-General believes what he is saying about the committee's terms of reference.

A moment ago there was some talk about Mr O'Donohue being a barrister. As a barrister he might go into court with a case that is a bit dodgy and think, 'Maybe I can persuade the court about this', but he could probably make a good argument. If you were representing the Attorney-General before the courts in this matter, my view would be to say, 'Don't bother, you're wasting your money. It would be a lot cheaper just to say, "Yes, I'm wrong, I will go along with what the other party is claiming'". It is an extremely weak point. Unfortunately, it is consistent with the Attorney-General's intervention and obstruction of the Select Committee on Gaming Licensing inquiry also.

I cannot agree with Mr Tee's conclusions that the Select Committee on Public Land Development inquiry is a waste of time. In spite of the Attorney-General's efforts to waste our time, I think some important matters of public policy have been raised and some good recommendations have been made. The Attorney-General's intervention includes writing to senior public servants, effectively telling them not to cooperate with the committee. We understand public servants are then put into a difficult situation, but even within the restrictions imposed on them by the Attorney-General, they are nevertheless under an obligation to be frank and cooperative.

In my opinion some of the witnesses, even within the restrictions imposed by the Attorney-General, were not frank and cooperative. In my opinion the house should consider bringing them before the bar of this house to answer the questions they refused to answer in the course of giving evidence to the committee.

Ms PENNICUIK (Southern Metropolitan) — What happens to public land in the state of Victoria is of much interest and concern in the community. I believed that at the time of this committee being established in May, and the fact that the committee has received 136 written submissions from individuals, community groups, and local government around Victoria vindicates the establishment of the committee. At the time of the debate that led to the committee being established I predicted we would get many submissions from around the state, and that is exactly what has happened.

I know this issue of what happens to public land, particularly public open space, in the local area but also areas of state and national significance is of great concern and interest to members of the public. People are passionate about their local open space, about their national parks and about what goes on in their community with the land they actually own. The government does not own it; the people of Victoria own it, and the government manages it on their behalf.

What we have seen with this committee is, as Mr O'Donohue and Mr Kavanagh have said, people from around Victoria making submissions to this committee in good faith. They have made submissions about not only the outcomes of some instances involving public land but about the process. The report outlines in some detail that one of the themes emerging is the process by which public land is declared surplus by government departments and then disposed of.

The MAV (Municipal Association of Victoria) and local councils have pointed in their submissions to the fact that they are not involved as much as they would like to be in the process of identifying alternative public uses for that land, which they may have identified long before. They are shut out of a very truncated process which allows them something like 30 days to make a submission. The MAV in particular has submitted that that process needs to be much more open and transparent, and needs to allow councils and their communities to participate in it.

Looking to the future — even now we have the Melbourne 2030 and green wedges policies that make public land much more commercially valuable as well as its being valuable to the community for its own sake — it is timely that this committee is looking at this important public issue of how to maintain our stock of public land and public open space for future generations. As we are trying to cram a million more people into this city, where private open space is actually diminishing, its public open space becomes more and more important. So it is important that these issues are looked at in detail.

The fact that the committee has received 136 written submissions and that some of those submissions have required it to hear evidence and go on site visits to actually get to the bottom of the issues only serves to emphasise that point more. I predict that this committee will possibly require more time to look at those submissions in detail and to come up with recommendations for the Parliament and the community of Victoria for better dealing with the process of protection and/or use of public land going into the future.

I want to talk briefly about some of the issues we have looked at in detail. I will not go into much detail on the issues that have already been raised by Mr O'Donohue, David Davis and Mr Kavanagh. In relation to Kew Residential Services and the development there, I was not familiar with all the detail of that issue. I had some knowledge of it before I came to the Parliament, but I have to say the evidence I heard, particularly from the parents, really moved me. I was very moved by what they had to say at the hearing. Anybody who heard that evidence or read the transcript of evidence from the council and the Kew Cottages Coalition would have to be concerned.

We also heard evidence from Walker Corporation. One can look at the Australian Electoral Commission website and see that a very large donation was paid to the ALP by that corporation just before the awarding of the contract, and that is worrying. I spoke yesterday about the need to establish an independent commission on corruption in Victoria, and I talked about the preconditions for corruption that had been identified by Transparency International. One of those is donations to political parties, particularly by developers but also by other sections of the private sector.

Another issue that is a precursor to corruption as identified by Transparency International is the activities of lobbyists. If you look at the transcripts of evidence presented to the committee so far — and we will be looking for more evidence — that would have to be of concern. So we have an issue at Kew Residential Services that is still being played out. We have had what I would suggest is a cooption of public land for the benefit of some sections of the community to the loss of others — that is, the residents and former residents of Kew Residential Services.

With regard to the Devilbend Reserve, it is not accurate for Mr Tee and Mr Thornley to state in their minority report that there was a process where people's views were represented, because the evidence the committee heard from those people was that their views were not represented in the independent report. That was very clear: they felt their views were not represented. So it is not accurate to have the minority report insinuate that somehow it was all hunky-dory down there and everybody was happy, because that is not the case. The committee heard evidence that the water board down there had included 40 hectares as an integral part of the catchment and that, while the community was happy with the achievement of Devilbend Reserve, the loss of that 40 hectares is being felt very keenly.

In terms of actually improving and enhancing the amount of public land on the Mornington Peninsula, the idea really is to increase it, not to decrease it. It is disappointing that the government seems to have rushed ahead in the last week or so with the sale of that 40 hectares, which I can see only as some sort of spiteful action, although I do not know whom it is spiteful against — it can be spiteful against only the people of Victoria and the future residents of Victoria.

In his contribution Mr Tee basically dismissed the Port Campbell issue. He made some small remark about the public safety issue, but if you were at the hearings and heard what people, including geotechnical experts, had to say, you would know that the Great Ocean Road — it is a national treasure, the 75th anniversary of which has just been celebrated — has had to be moved inland from the Port Campbell headland. It used to run right around the headland, but it has been moved inland by about 800 metres, two full blocks, back and is now part of one of the main streets of Port Campbell. That has been done due to safety concerns about that headland, where there are underwater sea caves that could collapse at any time.

We know that is the case, because in the last few years one of the Twelve Apostles and London Bridge land formations collapsed. Without any warning whatsoever they just dropped, and that is what could happen at Port Campbell. While Mr Tee is accurate in saying the development is not on public land, it is adjacent to public land, and the development could impact on public land.

There also is a gap in the monitoring and assessment of public land. I asked some questions at the hearing about whether the Department of Sustainability and Environment has any role in looking at developments immediately adjacent to public land and their impact on public land. It seems that that is not the case. That is another emerging issue. A lot of issues and themes are emerging, and I predict that the committee will be doing work on this and other important public issues over a period longer than six months.

The Apollo Bay proposals are of concern to me and to many members of the community. Mr Tee made out that everything is sunny and happy down there, that everybody in the community was being consulted, that they were ecstatic about the cooption of Crown land and that land being handed over for a 5-star hotel development on the harbour at Apollo Bay, yet the evidence we heard down there is that not everyone is happy about it — very few people are happy and most people are very unhappy.

The committee also heard evidence about a proposed development on a flood plain at Apollo Bay, which has

also received a lot of media attention. I believe that in making this report it was incumbent upon the committee to draw these issues to the attention of the Parliament and the Victorian community. Mr Tee says that we have given people false hope. We have not given them false hope, but it is our duty to raise these issues when concerns are raised during the taking of evidence about the process and outcomes regarding the disposal of land that belongs to the people of Victoria. That is why it is important that this committee has made this interim or progress report for the community and the Parliament to consider.

Regarding Port Campbell, we have made a recommendation that the government urgently look at that issue, because it is a parcel of land that has national and state significance. It is a public safety issue of extreme concern, and to have it dismissed as some sort of grandstanding on the part of the committee is very disappointing.

In his contribution Mr Tee spoke about time wasting and petty politics, but I do not see anyone on the committee doing that. I certainly take my role on the committee very seriously. I think the committee has an almost once-in-a-generation opportunity to look at what is going on with public land and to come out with a report that has recommendations going into the future about how to best protect that land in the public interest.

Unfortunately the intervention of the Attorney-General — which I describe as unprecedented, extraordinary and just plain wrong — is what is causing time wasting. His intervention has put senior public servants into a very difficult position in that they feel that they have to abide by what the Attorney-General, and their minister on the advice of the Attorney-General, has told them what they are allowed to talk about and what questions they are allowed to answer in their evidence to the committee. The Attorney-General on behalf of the government, and its ministers, is relying on an administrative difference between the definitions of 'public land' and 'government land'.

We know that the general public does not understand public land to be that. The general public understands public land to be land that is not private land, and that is the basis on which the committee was set up. As members have already said, there was no objection to that from the government during the establishment of the committee. There was no mention of that. The intervention is aimed at somehow obstructing the work of the committee, and it is achieving that.

It is appalling for members of the public who have come to the hearings and put in submissions in good faith, only to see the government behaving this way, particularly when some of the first words that came out of the Premier's mouth when he became Premier were 'more accountability and transparency'. That is not what we are seeing here; we are seeing an unfortunate, disappointing and regrettable intervention in the committee's operations.

Public land is public land. Earlier Mr Davis read out what the Municipal Association of Victoria, local councils and community groups understand to be public land. I urge government members to desist from this, because they are not covering themselves with glory with that sort of behaviour.

The report is good. It outlines the themes that have emerged and the important issues that have arisen from our visiting various sites and taking evidence about them. The committee has an opportunity to make a very important contribution to public life in Victoria.

Mr THORNLEY (Southern Metropolitan) — I have to confess that when I was listening to some of the speeches on this matter by members opposite I thought I was listening to the opening speeches when this committee was first constituted, because there was very little difference in content.

After seven months this committee has achieved nothing. That is extremely disappointing, because I share the view of all members of the committee — that is, that there are a whole lot of important and interesting questions that surround what happens with public land, government land and Crown land. We could have inquired into a whole lot of issues, and I hope that we will. If this thing is going to go on and on, there are some really important issues.

I have been working with a number of constituents in my area on such matters as how to get larger consolidated sites for schools. If a school is going to be a community hub, and if maternal and child health services and child-care facilities are going to be co-located with them, then we need to find ways of creating large consolidated sites. That is a really important question. That is the type of thing I had expected the committee would inquire into. When I was appointed to this committee I thought it might inquire in some detail into such matters, find out how they currently work, make some practical recommendations for how they might work differently and, if we could come up with some recommendations, move forward.

There are a whole lot of issues around how transactions occur between different levels of government — between the commonwealth, state and local governments and other quasi-government organisations. I do not think those transactions necessarily work as effectively as they could. I thought this committee might address issues like that. I thought we might have spent some time looking at those very important issues, and, as it turns out, so did many of the people who made submissions to this committee. They were under the impression that this committee might actually make some recommendations and take some of those policy issues seriously.

Quite a number of people who made submissions took a lot of time to put forward their views. Many of the submissions were very thoughtful and considered and came from people with a lot of experience who wanted us to address and consider serious policy issues. Unfortunately to date that is not what this committee has done.

This committee has been a cheap headline-grabbing exercise. I understand that on occasions when you are in opposition you need to undertake cheap headline-getting exercises. I do not object to that as a concept, but I do object to incompetent headline-grabbing exercises that do not get any headlines. Opposition members are not taking any notice of the serious issues that people are raising, they do not bring forward any recommendations that might actually move the ball forward and — worse than all of that — are undertaking a cheap headline-grabbing exercise that does not get any headlines.

Let me tell the opposition this: Mr Richardson is old news. The thing about news is that it has to be new. Members of the opposition got their headline on that issue, and they could keep repeating it, but they will notice that there is no-one in the gallery. No-one is listening. Opposition members have had that piece of news, so if they want to undertake another headline-grabbing exercise, then they will have to come up with something new.

Alternatively, if we actually want to address the really important, interesting and powerfully significant issues that surround the way we manage public land in this state, then let us get down to business and do that. Let us address the other 110 submissions of the 130 odd that we have not touched yet. Let us actually get down and do that and make some specific recommendations about how the policies could be brought forward and changed in a way that might actually bring about change, because people who submitted to this committee spent hours writing their submissions. In many cases, in the rare opportunities we gave on the few specific transactions that we bothered to investigate, they spent further hours coming forward to us. We gave them hope that we are actually going to achieve something on their behalf. All we have done is relitigate, in one-hundredth of the time, the exercises that independent tribunals have taken over a period of months and years.

We swan into town, but people who do not understand the workings of government, or of a committee coming out of this house — stacked to the gills as it has been — do not know that the committee actually has no power or authority to do anything; they actually think they are submitting to a body that can do something. After two years of independent investigation in Devilbend we show up for an afternoon, talk to a few people, make some recommendations, make them think that we are on their side — that is great political headline-grabbing stuff — but achieve absolutely nothing on their behalf.

The same long independent process is going on in Apollo Bay. When we show up for an afternoon we try to give some people comfort that we are actually offering them something, but what have we offered them? Nothing. What change have we brought? Nothing. What practical policy recommendations have come forward? Nothing. That is why this minority report was short. That is why my speech is going to be short, because after seven months you could say what this committee has done in less than 5 minutes. I hope that as we go forward in this committee we actually look at the real issues about public land, investigate them and bring forward practical policy recommendations to give those people some hope that their effort was not wasted.

Motion agreed to.

DRUGS AND CRIME PREVENTION COMMITTEE

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

Ms MIKAKOS (Northern Metropolitan) presented report, including appendices, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

Ms MIKAKOS (Northern Metropolitan) — I move:

That the Council take note of the report.

I will make a few comments about this final report of the committee because, as members have already commented as I rose to make my contribution, it is quite a weighty report being presented this morning. It is very interesting that I do this, following on from the debate that we have just had on the report presented by another parliamentary committee, because I believe the parliamentary committee system offers a great number of strengths. It enables members of Parliament to work together, across parties, on issues of concern to the community, and it gives those members an opportunity to learn a great deal about issues that they ordinarily would not come across. During the course of this particular inquiry I feel I have learned a great deal about these issues.

I emphasise at the outset that this report is in fact supported by the representatives of the three parties who sat on this committee. It has support from Labor government members, from the Liberal Party members and from the member of The Nationals who comprise this committee. That is a significant achievement in itself.

The inquiry dealt with issues of pharmaceutical drugs, in particular benzodiazepines and opiates. For the benefit of the house, I point out that benzodiazepines are a class of drug commonly used in sedatives and hypnotics and which assist members of the public with relaxation and sleep, and they are also used to relieve anxiety. Benzodiazepines have been used very commonly since the 1960s; in fact at page 43 the report notes:

> Benzodiazepines are among the most widely prescribed drugs in Victoria with just over 1.7 million prescriptions issued under —

the pharmaceutical benefits scheme in Victoria in 2005.

The committee received evidence about the legitimate uses for benzodiazepines in treating a range of medical conditions and how they can be effective remedies. I have no doubt, and the committee has no doubt, that there are very legitimate and therapeutic reasons why members of the public would be prescribed and be taking benzodiazepines. Opiates are a class of drugs that contain natural opiates derived from the opium poppy and a range of synthetic and semisynthetic substances which have morphine-like effects. Opiates are commonly used for pain relief.

A person taking either benzodiazepines or opiates, so the committee discovered, can develop a dependence and, in the case of benzodiazepines, after a fairly short period of time of only two weeks. A key finding of the committee is that the public do not generally perceive that there is a risk in taking prescription drugs for prolonged periods. I guess the view is that if it is prescribed by a doctor, therefore it must be safe and it is okay to take for a long period of time. That is in fact why the first recommendation of the committee is that there be the development of a statewide, comprehensive, public education campaign to better educate the public about the risks of taking these drugs for long periods of time.

The committee further recommends that there be ongoing education and training for doctors, nurses and pharmacists on best practice prescribing and management standards for those professions. The committee also found evidence, especially anecdotal evidence, of illicit abuse of benzodiazepines and opiates and the fact that it is becoming increasingly common for people to engage in poly-drug use — that is the taking of prescription drugs together with either alcohol or heroin or other types of illicit drugs. This is also an issue of concern for the committee. The committee acknowledges in its report that more research is required to identify the full extent of abuse and misuse of benzodiazepines and opiates in the community. The committee has identified a number of areas where further research is required in its recommendations. One of the problems identified by the committee is the problem of doctor shopping, where patients attend a number of doctors in order to obtain prescriptions for drugs that they then use themselves in very large quantities or pass on or sell to other members of the community.

The committee was particularly impressed when it travelled overseas to examine the British Columbia PharmaNet system, which is a centralised online prescription recording service with appropriate privacy protection safeguards. The committee also had the benefit of learning about the systems that California and Kentucky have in place, as well as of talking to officials in Washington, DC, about the challenges that a federalist structure such as is present in the United States of America and Australia provides in trying to present and develop a uniform approach to these types of issues.

One of the committee's recommendations is the introduction of a real-time prescription recording service for medical practitioners and pharmacists in Victoria. Ideally such a service should be rolled out nationally to prevent doctor shopping across state borders. The committee has made a number of recommendations and is calling on the Victorian health minister to work with his colleagues across state and territory jurisdictions and also with the federal government to look at how we can best respond to these

issues at a national level because these are issues affecting the whole country, including having such a nationally based real-time prescription recording service.

The way it works in British Columbia is that doctors enter data through a computerised system that pharmacists are then able to access when a person attends a pharmacy to be issued with a prescription. Pharmacists have the benefit of seeing what drugs have been prescribed to an individual across all pharmacies which are linked to the system. They are able to identify issues such as potential allergies and other problems that people might have in being issued with a particular drug. This type of system does not alleviate just the problem of doctor shopping but it can also have broader health benefits because the individual's health and prescribing history will be available for the pharmacist to access.

The committee has also made a number of recommendations in relation to treatment. In particular it recommends that more support services be provided for those individuals who are seeking to withdraw from such drugs, particularly in light of evidence that we had about how long and difficult withdrawal can be. The committee has also made recommendations calling for alternatives to be examined for anxiety sleep disorder and pain management. In particular in regard to pain management I believe a lot more work needs to be done, because many of these drugs are being prescribed for pain management and that normally necessitates the taking of drugs for a considerable period of time, which is how a dependence problem can develop. The committee also makes recommendations about the provision of prescription drugs in smaller packages and queries whether that is feasible or cost-effective. It also makes recommendations for a review to be conducted making benzodiazepines a schedule 8 drug, which would limit access.

I will be fairly brief in talking about the process. It was a reference to the committee back in 2006. The committee conducted extensive hearings, including regional visits, and took evidence from doctors, pharmacists, representatives of the community health sector, people working with Aborigines and culturally and linguistically diverse communities, representatives of the pharmaceutical industry, health bureaucrats, the state coroner and, most importantly, members of the public, who gave powerful evidence to the committee about their own problems of dependence or experiences in dealing with members of their family who experienced such drug dependence. I want to say on behalf of the committee how grateful we are to all of those individuals for their time and to organisations that met with us in the United States of America and Canada.

Finally, I would like to thank the members of the committee for their commitment and work in developing this report. I particularly thank our chair, Judy Maddigan, the member for Essendon in the other place. I also thank David Morris, the deputy chair and member for Mornington in the other place; André Haermeyer, the member for Kororoit in the other place; Hugh Delahunty, the member for Lowan in the other place; Shaun Leane, a member for Eastern Metropolitan Region; Andrew McIntosh, the member for Kew in the other place; and Ann Barker, the member for Oakleigh in the other place, who stepped off the committee earlier. I also want to thank Johan Scheffer and the former members of the committee who produced the interim report that was tabled in the Parliament in August 2006.

Finally, I want to thank the staff of the committee for their hard work and dedication throughout the process; without them it would have been impossible to produce the report. I thank Sandy Cook, the executive officer; Peter Johnston, the senior legal research officer; Chantel Churchus, the research officer; Michelle Summerhill, the committee administrative officer; and Dominique Comber-Sticca, the committee administrative officer. I commend the report to the house.

Mr LEANE (Eastern Metropolitan) — Every day I remind myself what a privilege it is to be a member of this Council, representing thousands of people in our community. That is why I feel it is a privilege to have my name on this report, because I believe this is a very important report for our community. The misuse and abuse of benzodiazepines and other types of drugs is a problem in our society. There is a percentage of our population that is possibly addicted to benzodiazepines.

I will mention some of the recommendations, though I will be very brief. In this day and age of electronics and real-time computing, doctors using paperwork and scribbling things you can hardly read when giving people prescriptions seems very outdated. Our recommendation relevant to that is that there should be a real-time prescription system that would prevent people from doctor shopping for prescription drugs, which is a problem. The activity has become very sophisticated, to the point where people will look up on the internet the classes of ailments these drugs are required for and go to a number of doctors one after the other and collect a number of prescribed drugs. Unfortunately some people onsell them for a

marked-up price. As I said, some people are addicted, and this is a big problem in our society.

Another recommendation I feel very strongly about is that there needs to be a consensus on the pharmaceutical benefit of benzodiazepines. We had evidence from doctors who said the pharmaceutical benefit only lasts two weeks, yet we have people using prescribed benzodiazepines and picking up prescriptions time and again over periods of years. So there really needs to be a consensus on the pharmaceutical benefit within the pharmaceutical industry.

I would like to thank the executive staff of the committee — Sandy Cook and her hard-working team. I know that in the last few days and few weeks they have put in many hours of work to get this report ready for us to table today, it being the last sitting day of the year. I think we always need to take into account when dealing with very emotive issues such as this reference that the evidence presented can be quite draining and sometimes quite distressing. We should appreciate that our committee executive team has to deal with this issue every day whilst members deal with it only at the public meetings and when we digest it through later reading. So they deserve credit for that, and I commend this report to the house.

Motion agreed to.

PAPERS

Laid on table by Clerk:

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

Municipal Association of Victoria Insurance — Report, 2006–07.

Office of Police Integrity — Report on the 'Kit Walker' Investigations, December 2007.

Primary Industries Department — Report under Section 30L of the Surveillance Devices Act 1999, 2006–07.

Statutory Rule under the Supreme Court Act 1986 — No. 128.

Subordinate Legislation Act 1994 — Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 128.

TAFE Development Centre — Minister's report of receipt of 2006–07 report.

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

MEMBERS STATEMENTS

Rail: Epping–South Morang line

Mr GUY (Northern Metropolitan) — On this, my final statement for 2007, I again raise the issue of the Epping to South Morang rail extension — a vital piece of infrastructure that needs to be built as soon as possible. The Whittlesea growth corridor is one of the fastest growing corridors in Australia. It has a per annum annual growth that is numerically as fast as some of the biggest non-capital cities in Australia. It is home to families, singles, retirees and young couples, all moving to new suburbs and seeking to build their lives in one of the best places in the metropolitan area. However, they have limited transport options. Plenty Road is a mess, as is McDonalds Road. The congestion on these two roads is not just at peak time; it is almost from 7.00 a.m. until 7.00 p.m., six days a week, and Sunday is also creeping up as a busy day.

There is a bus option that the government has installed as a rail substitute, but how is a bus that seats 45 people a substitute for a heavy rail train that seats hundreds? There is no substitute, there is no comparison and there is no getting away from the fact that a bus is not a train. The people of the Whittlesea corridor have a right to expect good public transport from a government that claims to be committed to reducing greenhouse gas emissions and, importantly, has more taxation revenue than any government in Victoria's history. Local Labor members have gone missing in action. The members for Yan Yean and Mill Park in the other place, the former Minister for Public Transport in the other place and even the Minister for Industry and Trade, Mr Theophanous, have all said and done nothing. The time for inaction is over — 2008 must be the year that the sod is finally turned on the Epping to South Morang rail extension. The state government must build it at once.

VicForests: performance

Mr HALL (Eastern Victoria) — Yesterday I called on the Treasurer to abolish VicForests. The reason I did this was that since the introduction of the Our Forests Our Future policy in 2002 those who choose to remain in the industry were promised a future of greater security and certainty but the exact opposite has proved to be the case. The timber auction system has been a disaster. It has not served either large or small sawmill operators well. Indeed sawmills have closed since the policy was launched. The proposed tender system for harvest and haulage is looming as an even bigger disaster for the sector. VicForests itself has restructured, with two regional offices closing and many internal job

losses. On top of that VicForests made an operating loss last year. I might add that despite that operating loss this government still took a $2 million dividend from it — not bad, getting a $2 million dividend from a company that actually made a loss on the year's operations!

VicForests is required to follow the directions of the minister. If the government does not want a native hardwood timber industry in Victoria, it should come clean, tell us and buy out the rest of the industry. If it wants to keep the industry, then I say to the government: get rid of VicForests and put in place an organisation that is prepared to look after the industry, not murder it.

Felicitations

Ms PENNICUIK (Southern Metropolitan) — Today is the last sitting day of the year — the first year of the 56th parliament and the first year of Greens parliamentary representation in Victoria, of which we are very proud. Being a new party in Parliament, without experienced colleagues already here, we have had to learn the ropes from scratch — as has Mr Kavanagh, who is the only representative of his party here.

I would like to take this opportunity on behalf of Mr Barber, Ms Hartland and myself to express our appreciation and thanks to all our parliamentary colleagues in the Council for their warmth and collegiality throughout the year. In particular I thank the President and Deputy President, the clerks and chamber support staff, the leaders and deputy leaders of the government, the Liberal Party and The Nationals for their advice and assistance on procedure and other matters. We would like to thank all members of other parties here for the friendly and open way they have been willing to discuss and negotiate legislation and other business that has come before us.

We would also like to thank all the parliamentary staff: the attendants and security staff, the library and Hansard staff, the staff of the papers office, the staff in the dining room and cafe, the staff in information technology and other staff in Parliamentary Services. The Greens have found all the parliamentary staff to be professional, helpful and cheerful in what has been a year of challenges in accommodating so many new members and the different configuration of the Legislative Council. We wish everybody a safe, happy and refreshing break and look forward to working with you all again next year.

Members: children's Christmas party

Mr ELASMAR (Northern Metropolitan) — I rise today to speak about the children's Christmas party held last night in the gardens of Parliament House. Craig Langdon, the member for Ivanhoe in the other place, has organised this children's Christmas party for some years now. I am happy to say I brought my son to the event. Father Christmas also attended and gave out presents to all the politicians' children who had been good for the year. Surprisingly, and to the delight of their parents, all the little ones present received a small gift! I congratulate Craig Langdon for his remarkable efforts on behalf of all the parents in both houses. It was a marvellous job. I take this opportunity to wish you, President, all members on both sides of the house, all staff, all the people in my electorate and all Victorians a safe and happy Christmas and a prosperous new year.

Felicitations

Mr KAVANAGH (Western Victoria) — I also would like to express my appreciation and thanks to all members of this house and to all the staff at Parliament, including all the catering staff and the clerks. I express my appreciation for their cheerfulness, professionalism and courtesy at all times. I would also like to take the opportunity to wish everybody here and at Parliament in general a very happy Christmas and also a happy new year.

Agriculture: genetically modified crops

Mr ATKINSON (Eastern Metropolitan) — I express my concern that the government raced to a decision on genetically modified food without any reference back to the Parliament, and indeed without sufficient public consultation and debate on the matter, which I believe is one of great seriousness and import.

I believe that there are some concerns to be evaluated in the context of our export markets, particularly in relation to Japan and the European Economic Community. There is a range of other issues which also ought to have been subject to significant public debate. My party has listened to this debate attentively because obviously its constituency has a great deal of interest in genetically modified food and opportunities for Australia, particularly Victoria, to increase its export of food products.

We recognise that Victoria is a significant producer and exporter of food and beverage products. Nonetheless this is a significant decision. I think the Premier and his cabinet have acted arrogantly by reaching that decision without having a fulsome debate on the matter and

without considering matters except for a single scientific report.

Aboriginals: heritage legislation

Mr DRUM (Northern Victoria) — Recently there was a debate in this chamber on the Aboriginal Heritage Council and Aboriginal Heritage Bill. The intent of that legislation was to try to identify those community groups that were to become registered Aboriginal parties with responsibility for looking after Aboriginal heritage and culture.

The Nationals are extremely disappointed about the outcome reached in the Goulburn Valley. The Yorta Yorta has been identified as a group which is going to be a registered Aboriginal party. The Bangerang group has been able to clearly identify that they have an unbroken connection to land in that area. Both Sandy Atkinson and Kevin Atkinson have been doing an outstanding job in looking after Aboriginal cultural heritage in that area. They have been acting as inspectors, and they have been liaising with people involved in development, Aboriginal heritage and Aboriginal culture.

The new decision by the Aboriginal Heritage Council to forbid the Bangerang to be registered as an Aboriginal party is going to have exactly the opposite effect of the intention of the legislation which was debated in this chamber. It is no wonder The Nationals opposed the legislation — we could see the issues, fears and problems which were going to arise. They have come true. The Bangerang should be given equal status to the Yorta Yorta.

Australian Catholic University: Islamic studies

Mr EIDEH (Western Metropolitan) — Some months ago members of both houses of the Victorian Parliament were guests of the Australian Intercultural Society at the parliamentary breaking of the fast of Ramadan dinner.

This group of Islamic Australians has committed itself to developing better relations and understanding between Muslims, Jews and Christians. In one sense it follows on from the discussions that I initiated some 10 years ago with Bishop Christopher Prowse of the Catholic Church when I was president of the Alawi Islamic Association of Victoria.

It is my sincere belief that peace and harmony derive from a greater understanding and appreciation of each other. It is my hope that the new chair will play some role in achieving such an understanding. Thus, I felt deeply honoured when the Premier asked me to represent him on a momentous occasion — the formal announcement of the Fethullah Gulen chair of Islamic studies at the Australian Catholic University.

The Australian Intercultural Society, under Mr Orhan Cicek, initiated the discussions that have led to one of our prestigious universities establishing formal studies in Islam. The Governor, Professor David de Kretser, launched the chair before his honoured predecessor Sir James Gobbo, members of the Turkish Parliament, many academics from a number of British and Middle Eastern universities, distinguished members of Australian academia, the highest levels of Victoria Police and many other distinguished guests.

I wish to congratulate the Australian Catholic University for its commitment to developing true and meaningful understanding between all faiths and for its leadership — —

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

Cathy Freeman

Mrs PEULICH (South Eastern Metropolitan) — I would like to take the opportunity of wishing all MPs, their families and staff — both in their offices as well as in Parliament House — and parliamentary staff a merry Christmas, if they celebrate Christmas, and a happy and safe 2008, as well as a very enjoyable summer break.

For many families the summer break is an opportunity to take part in family activities and many sporting endeavours. As the mother of an athlete, I spent many summers doing precisely that; it is probably the most enjoyable time of the year. I would like to take the opportunity to publicly repudiate the comments made by Anthony Mundine about Cathy Freeman, as reported in the newspapers yesterday.

I was never a personal fan of Cathy Freeman until I witnessed her 2000 Sydney Olympic win for Australia— it reduced me to tears. I have observed the adoration that young boys and girls have for Cathy Freeman. Because of her gender, she is not a traditional indigenous leader and therefore is not able to fulfil the role of one, but she is a leader in every other respect of our young people who aspire to greater heights in their athletic prowess. The boys and girls, as well as those in the wider community, feel she is to be admired. Cathy and her family have made many sacrifices during her life. She deserves corporate remuneration as a way of earning an income.

Drought: emergency support volunteers

Ms BROAD (Northern Victoria) — This is now the lead-up time to a particularly demanding period for our emergency relief volunteers. For drought-affected communities, this means additional help is needed. The Bracks and Brumby governments have contributed more than $280 million in drought funding since October last year to help reduce the impact of the drought.

Yesterday the government announced a $1.6 million initiative to assist volunteers in Victoria's hardest hit drought-affected communities at this time. As a result of this initiative by the Brumby government, emergency volunteer support grants of up to $20 000 are now available for not-for-profit community organisations to help ease the burden on existing volunteers and for the recruitment of 400 extra volunteers in north and north-west Victoria, where help is needed most.

The Brumby government will move swiftly to assess grant applications as soon as practicable in 2008, and a second round will be assessed in February. Volunteers and emergency relief organisations do a fantastic job supporting rural and farming communities and families. I urge them to take full advantage of these volunteer support grants. Finally, I wish all volunteers and emergency relief organisations a safe and happy Christmas.

Housing: waiting list

Ms LOVELL (Northern Victoria) — Yesterday, in my 90-second statement, I called on the Minister for Housing in the other house, Richard Wynne, to release the quarterly figures for the September quarter that were more than eight weeks overdue. I did suggest in my contribution that the minister was keeping them secret because they may have shown an increase in the numbers of families waiting for public housing in Victoria.

Sure enough yesterday afternoon, after I urged the minister to release those figures, he did release them, and they have shown an increase in the number of families waiting for public housing in Victoria. In fact an additional 491 families are on the waiting list, bringing the number on that list to 34 641 families. But even more disturbing is the increase in the number of families on the early housing waiting list — that is, an increase of almost 200 families. These are families at risk of recurring homelessness, families with a disabled member, or families that have special housing needs.

The government needs to do more to address these waiting lists. There is no point talking about its commitment in the budget to build 800 new homes, when it will be retiring 1200 housing properties. We need a stronger commitment from this government to address the needs of families in Victoria who are waiting for houses on the public housing waiting list.

WorkChoices: effects

Mr TEE (Eastern Metropolitan) — In my last member statement for the year I want to again ask for justice for working families in my electorate. WorkChoices has devastated working families in my electorate — an electorate area that I share with Kevin Andrews, a former federal Minister for Employment and Workplace Relations.

WorkChoices has cut the family budget and made it harder for families to pay their bills in our shared electorate area. I have called on Mr Andrews previously in this house to hold an inquiry into the impact of WorkChoices in our electorates. In May this year I again asked Mr Andrews — the architect of WorkChoices — to apologise to working families in our shared electorate area for the damage they have suffered at the hands of WorkChoices. So far Mr Andrews has refused.

I did notice that Mr Hockey, who inherited the portfolio from Mr Andrews, has realised the damage caused by WorkChoices. He is quoted as saying:

> The problem with WorkChoices was we just went too deep; it was a mistake.

He also said:

> That's one of the main reasons why, when I became minister, we started the fairness test.
>
> We should never have got rid of the old 'no disadvantage' test in the original package. That was a mistake …

Mr Andrews must now join with Mr Hockey to admit his mistake. He must formally, I think, apologise to working families in our electorates for his draconian legislation, which has hurt working families.

STATEMENTS ON REPORTS AND PAPERS

Auditor-General: public transport ticketing system tender

Mrs KRONBERG (Eastern Metropolitan) — I rise to speak on the Auditor-General's 2007 report into the new public transport ticketing system. This report needs to be read in conjunction with the highly illuminating

report by the Transport Ticketing Authority (TTA). After examining the conduct, governance and probity arrangements of the new ticketing system tender, the Auditor-General mentions in his report a number of commendable features of the tender process. These commendable features drip with irony, however, and we see the use of plenty of equivocation. For instance, the report states that:

> … the Transport Ticketing Authority … adopted an innovative, highly 'interactive' approach to the tender …

On the other hand, while the Auditor-General regarded that as commendable — that is, that the Transport Ticketing Authority adopted this highly innovative and interactive approach — the report then moved to blame the nature of interactive tenders for creating the potential for conflicts of interest.

The report also states that 'the tender was largely successful in terms of timeliness and value for money', and there were areas of good practice. What do we know lies behind these couched phrases?

The report then switches tack, and states:

> With respect to the probity of the NTS —

new ticketing solution —

> tender, and prior to the conduct of this audit, the then Minister for Transport requested this office to investigate an alleged leak of confidential information from the NTS tender.

For a government that has so rigorously defended the principle of its relationship with business and that has continued to hold that often tender material was not available for scrutiny because of the tenet of commercial in confidence, again we discover an equivocation, albeit slight, when the report states:

> The investigation found no evidence that TTA staff members provided the tender documents to anybody outside the authority.

My take on this statement is that we do not know whether consultants, advisers or contractors could strictly be described as staff. This is an important point to highlight, because the evaluation committee itself was supported by —

> five advisory … staff, external experts and advisers. Four senior authority managers were members of both the evaluation committee and one or more advisory committees.

The Auditor-General expresses the following concern about this arrangement:

> The accountability arrangements would have been strengthened had the senior managers participated in either the evaluation committee or the advisory teams, but not both.

There is a stench of conflict of interest emanating from this, and I can still sense it in my nostrils. Indeed, were documents in part or in their entirety not subject to having elements read, copied into an electronic device and transmitted at will? The language chosen by the Auditor-General is confusing in this context.

When the Auditor-General highlights other areas of probity and management, he says they are 'capable of improvement'. What do we read into that terminology? The Auditor-General states that in such circumstances 'a particularly robust probity framework' was required. The Auditor-General found that probity protocols were not applied and in fact the probity framework was actually weakened during the tender. The Auditor-General goes on to report that:

> Unfortunately, TTA's handling of perceived conflicts was not effective.

Given that in life perception is everything, one is compelled to ponder the extent to which this flawed process damaged the confidence that one might have in any future tenders. It is possible that business confidence in this state is in freefall and still plummeting.

Astoundingly, an audit committee was established to assist the board. What now beggars belief is that two members of the audit committee were also two of the board members. After examining other Auditor-General's reports, this appears to be common practice. The Auditor-General commented in a measured manner — which in itself invites further inquiry — that:

> A larger audit committee, with at least one external member, would have provided a higher degree of assurance about the authority's governance, compliance and performance.

In a major tender the role of probity adviser is to establish and maintain the probity approach, while the role of the probity auditor is to independently review the nature and conduct of that approach. In the case of the NTS tender, the probity auditor and the probity adviser's role were combined.

Much of this report highlights milestones such as a demonstrable shift from the solution to line and planning phase to installing telecommunications — —

The ACTING PRESIDENT (Ms Pennicuik) — Order! The member's time has expired.

Country Fire Authority: report 2006–07

Ms BROAD (Northern Victoria) — Today I wish to speak on the Country Fire Authority 2007 annual

report. I wish to begin by acknowledging and thanking the chair and members of the board for their contributions. In the course of the 2006–07 year the long-serving chair, Len Foster, retired after 16 years of outstanding service. The new chair is well known to many members of this house. Kerry Murphy not only has a distinguished record of public service but is also a longstanding volunteer firefighter.

As the annual report reminds us, the CFA is one of the world's largest volunteer-based emergency service organisations, with around 59 500 volunteers as well as approximately 500 career firefighters and 800 support workers. They service a population of approximately 2.8 million people and protect more than 1 million dwellings, including large numbers in my electorate of Northern Victoria Region as well as in my local community of Hepburn Springs. The CFA is committed to the prevention, preparedness response and recovery phases of emergency situations. This commitment was thoroughly tested during 2006–07 by the Great Dividing Range fires, which officially lasted for 69 days and in which around 1.3 million hectares were burnt.

All the CFA members who contributed to the extraordinary effort required to fight these fires are to be congratulated. The year 2006–07 was also notable because after extensive consultation and development the integrated fire management planning framework, a key initiative led by the CFA, was endorsed. This initiative is part of the process of continuous improvement that the CFA is dedicated to in servicing Victorian communities, together with Victorian government departments and local governments across the state.

In conclusion, I wish all CFA members and staff, together with local government employees and contractors and Victorian government employees, a happy Christmas and safe fire season.

Emerald Tourist Railway Board: report 2006–07

Mr O'DONOHUE (Eastern Victoria) — I am pleased to make a contribution this morning on the Emerald Tourist Railway Board annual report 2007. I am sure for many of us here the thought of Puffing Billy conjures up happy childhood memories of trips to the Dandenongs and travelling on Puffing Billy. Puffing Billy is a critical attraction in the wide range of tourist opportunities for people in Victoria and is one of the key attractions to the Dandenongs and the hills area. It is one of the most intact examples of pioneering railway infrastructure in Australia. Its steeply graded banks, trestle bridges, line-side telegraph, signalling and rolling stock are of a past era and elsewhere have been supplanted by more modern technology.

I take this opportunity to congratulate the board on its management. Under its stewardship the railway is operating at a profit. In the last financial year, it recorded a profit of $595 000. The great challenge for Puffing Billy of course is the maintenance of its assets, particularly its locomotives, rolling stock and associated infrastructure. It is all very expensive to maintain because it is very old and requires people with expert skills to manage it.

Tourist numbers using Puffing Billy have plateaued at around 250 000 to 260 000 people, and they have been in that band for the last decade or so. Clearly things such as the Puffing Billy fun run are a great initiative to attract people to use Puffing Billy and increase its profile in the local community, but I think more needs to be done to increase that profile and keep it relevant. More broadly, the hills area, the Dandenongs and the outer east are often neglected by this government in its promotion of tourism. Often we focus on the icons of the penguins at Phillip Island, which I congratulate East Gippsland on, but we should not forget that now that the Pakenham bypass is open Puffing Billy is only an hour from Melbourne.

Mrs Peulich — Hear, hear!

Mr O'DONOHUE — Hear, hear indeed, Mrs Peulich. Tourism is one of the key drivers of economic prosperity for the Dandenongs and the hills area, and we must ensure that attractions such as Puffing Billy receive appropriate promotion from the government so that the broader hills area will be viable economically and there will be real jobs for the people in that area, because young people face real challenges. Many need to leave the area to gain employment. Sadly school retention and completion rates in that area are much lower than the metropolitan average, often because of a lack of clear career pathways.

I make the point too that weed control is a major concern in the hills and in the Dandenongs, but in particular on the Puffing Billy railway line. The government has a very poor track record in weed control on land it owns or controls, and it is as true in the Dandenongs as it is anywhere else. Significant investment is required from this government to reduce noxious weeds and control their growth, because the Dandenongs faces real challenges from ragwort and a range of other weeds and feral animal pests.

I congratulate all the volunteers who work so hard to see Puffing Billy operate as it does, and operate

successfully, and I congratulate the board of management for another successful year. However, I note that more needs to be done to promote tourism in the Dandenongs and in the hills so that the people who live there will have viable jobs and there will be economic growth that supports the landscape and the beauty of the hills.

VicRoads: report 2006–07

Mr EIDEH (Western Metropolitan) — Road safety and transportation are key elements of a prosperous and successful economy. We not only wish to encourage efficient transport for many reasons but we also strongly believe in public safety. This report from VicRoads is testimony to its efficiency in these areas and more. VicRoads has put considerable effort into delivering the Victorian Labor government's road safety programs, and we now lead the nation in having the lowest number of road deaths per head of population. This is something to be very proud of, but we wish to get the figure even lower. The safer our roads are and the stronger the message is, the fewer people will be injured or killed in car or motor bike crashes.

The graduated licence system for young drivers has also been successful and a third phase will begin next year. Traffic congestion has also been targeted. I was honoured to be one of the MPs present when one of the stages of the new Tullamarine–Calder interchange in my electorate was opened. The whole project came in ahead of time and under budget — testimony to VicRoads and the overarching management of this government. A number of other projects are either under way or planned to further deliver better driving opportunities for all Victorians as a part of meeting the government's road transport policies.

The report also shows very clearly that VicRoads works with municipal governments and a range of public and private partners to deliver great service to the people of Victoria. This is very evident in several projects being completed ahead of schedule and under budget, in lower road tolls and in reduced traffic congestion and better roads. VicRoads has also taken up its environmental obligations and should be congratulated for installing solar panels on the Tullamarine–Calder interchange, establishing its own policies to reduce, reuse and recycle in its offices and training its own and other staff accordingly. There is much more in this detailed report.

I wish to commend the minister, the Honourable Tim Pallas, the chief executive, Gary Liddle, and all of their staff for their hard and successful work. Finally, I wish everyone a safe Christmas and prosperous new year. I commend the report to the house.

Environment Protection Authority: report 2006–07

Ms HARTLAND (Western Metropolitan) — Today I wish to speak on the Environment Protection Authority 2007 annual report entitled *There's a New Way*. I think one of the interesting things about the report is that it paints a picture of community engagement. In my 16 years of dealing with issues around the EPA I have never found that the authority has particularly engaged with the community. In fact it has held the community in contempt and treated it with disdain. I believe the photo on the front of the report — two children wrestling — is an indication of exactly how it feels about the community — that the community is in a wrestling match and that the authority does not have to do anything to assist.

In fact on page 9 the report talks about the authority's community engagement improvement strategy:

> EPA staff are well aware that every interaction with a member of the public is an opportunity to advocate for the environment, learn about community expectations, and tap into a wealth of knowledge, that can help us in our work. Therefore, this year EPA developed a community engagement improvement strategy 2007–2010 as a guide for staff based on EPA core values and how to put these into practice.

It says that the strategy aims to:

> embed community engagement as core business
>
> establish a shared culture and common approach to engagement
>
> clarify the behaviour we need to demonstrate in all aspects of our work
>
> identify and prioritise our requirements for ensuring EPA has the capabilities and systems required to effectively engage
>
> ensure we learn from each other's community engagement experiences
>
> ensure an integrated approach to engagement that allows the best use and application of our resources.

Over the past week I have rung a number of community groups that I have had involvement with over the last year and read that paragraph to them. Most of them laughed, because that was certainly not their experience. They are the Terminate Tulla Toxic Dump Action Group; a Lyndhurst residents group; residents in Newport regarding the Mobil petrol spill; and workers who have been on the Cairnlea site.

My own experience of working with the EPA, or sometimes wrestling with the EPA as the picture depicts, has not been a good one. I have been involved in such disputes as the United Transport fire; the Dynon Road chemical leak; the Coode Island fire and subsequent public relations exercise of the community liaison group. I was involved in a community liaison group for the Whitehall Street arsenic site where arsenic was leaching into the Maribyrnong River. I had to resign from that committee because the committee operated by the EPA refused to engage with the community, and I was not going to have my name on a committee that had such contempt for the local community. Hopefully there can be changes in the EPA. Hopefully it can begin to realise that it is not there just for industry and that it has to recognise the needs of community.

I would like to read to the house an email I received yesterday from a resident who is living quite close to where there was a massive petrol leak in Newport:

> On Monday … I discovered that a water treatment plant is being built now in a residential street, Park Crescent, to recover petroleum spilt from the Mobil Newport pipeline in December 2006. As a local resident I was not consulted about the facility being built —

near her home —

> and have since discovered this planning permit was approved by council without … advertising or notifying nearby residents. The lack of community consultation has been appalling — this has been the province of three parties, EPA, Mobil and Hobsons Bay City Council.

This is a really good example of what happens to community when the EPA decides it does not have to consult.

I hope that there can be changes, because I believe the minister wants to make those cultural changes. But only time will tell.

LEGISLATION REFORM (REPEALS No. 1) BILL

Statement of compatibility

For Mr LENDERS (Treasurer), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

> In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Legislation Reform (Repeals No. 1) Bill 2007.
>
> In my opinion, the Legislation Reform (Repeals No. 1) Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.
>
> **Overview of bill**
>
> The bill gives effect to the Parliament's ongoing responsibility to identify acts that are redundant and to delete such legislation from the body of Victorian legislation. The specific acts to be repealed are:
>
> Ballaarat Free Library (Borrowing) Act 1938
>
> Heatherton Sanitorium Act 1944
>
> Victorian Relief Committee Act 1958
>
> Hairdressers Registration (Repeal) Act 1985
>
> State Relief Committee Act 1986
>
> Food (Amendment) Act 1991
>
> Health and Community Services (Further Amendment) Act 1993
>
> Food (Amendment) Act 1994
>
> Children and Young Persons (Miscellaneous Amendments) Act 1994
>
> Local Government (Amendment) Act 1994
>
> Health Acts (Amendment) Act 1995
>
> Housing (Amendment) Act 1996
>
> Children and Young Persons (Miscellaneous Amendments) Act 1996
>
> Local Government (Darebin City Council) Act 1998
>
> Local Government (Nillumbik Shire Council) Act 1998
>
> **Human rights issues**
>
> ***1. Human rights protected by the charter that are relevant to the bill***
>
> The bill does not raise any human rights issues because it does not create or remove any legal rights or obligations. It simply repeals pieces of legislation that have completed their function and are without any continuing effect.
>
> ***2. Consideration of reasonable limitations — section 7(2)***
>
> As the bill does not limit any human rights, it is not necessary to consider section 7(2) of the charter.
>
> **Conclusion**
>
> I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise any human rights issues.
>
> JOHN LENDERS, MLC
> Treasurer

Second reading

Ordered that second-reading speech be incorporated on motion of Mr JENNINGS (Minister for Environment and Climate Change).

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

That the bill be now read a second time.

Incorporated speech as follows:

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

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

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

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

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

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

1. Ballaarat Free Library (Borrowing) Act 1938
2. Heatherton Sanatorium Act 1944
3. Victorian Relief Committee Act 1958
4. Hairdressers Registration (Repeal) Act 1985
5. State Relief Committee Act 1986
6. Food (Amendment) Act 1991
7. Health and Community Services (Further Amendment) Act 1993
8. Food (Amendment) Act 1994
9. Children and Young Persons (Miscellaneous Amendments) Act 1994
10. Local Government (Amendment) Act 1994
11. Health Acts (Amendment) Act 1995
12. Housing (Amendment) Act 1996
13. Children and Young Persons (Miscellaneous Amendments) Act 1996
14. Local Government (Darebin City Council) Act 1998
15. Local Government (Nillumbik Shire Council) Act 1998.

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

I commend the bill to the house.

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

Debate adjourned until Thursday, 13 December.

FAIR TRADING AND CONSUMER ACTS FURTHER AMENDMENT BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning) Mr Jennings 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 Fair Trading and Consumer Acts Further Amendment Bill 2007.

In my opinion, the Fair Trading and Consumer Acts Further Amendment Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill furthers the government's commitment to make markets work better by ensuring that consumers are well informed and protected; and supports the government's commitment to secure investment and jobs in Victoria. In particular, it does so by:

(a) amending the Fair Trading Act 1999 to ensure that consumer documents are clear, and supports enforcement of the act by removing an impediment in the act to the director conducting proceedings under the Trade Practices Act 1974 (cth) in the Federal Court, allowing the director or an inspector to seek a court order enforcing notices requiring information or documents under the act, and providing qualified privilege for complainants under the act; and

(b) amending the Partnership Act 1958 to recognise and allow the registration in Victoria of a new form of investment vehicle recognised by the commonwealth, known as an early stage venture capital limited partnership ('ESVCLP').

The bill also contributes to the government's commitment to modernising the statute book by repealing the now largely redundant Hire-Purchase Act 1959, repealing and re-enacting in clearer language but otherwise without changing the legal effect of, the Frustrated Contracts Act 1959 in the Fair Trading Act 1999, and repealing the unused provisions of the Shop Trading Reform Act 1996 that provide for local area polls to restrict Sunday trading.

Human rights issues

The relevant rights under the Charter of Human Rights and Responsibilities Act ('the charter') which the bill will engage are:

Section 13: privacy and reputation

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

Clause 9 of the bill inserts new section 163A which engages section 13(b) of the charter because it offers qualified protection from legal proceedings (such as defamation) to a person who makes a complaint or produces or gives a document or evidence in good faith under the Fair Trading Act 1999, which results in damage, loss, or injury to another. This protection is invoked where a person makes a complaint to the director of Consumer Affairs Victoria under section 103 of the Fair Trading Act; or produces or gives a document or any information or evidence to the director, an inspector or the Victorian Civil and Administrative Tribunal regarding a matter that constitutes or may constitute a contravention of the act or another consumer act.

However, this protection only applies where the relevant conduct is in good faith. It would not extend to circumstances where the person makes details of their complaint public via other forums such as radio or newspaper publications. It would also not protect a person from making complaints without foundation, or for personal or other reasons, such as to gain a personal or financial advantage against another person such as a competitor. The protection does not, therefore, allow the complainant to unlawfully attack the reputation of another, and there is no limitation on the right.

Section 25: rights in criminal proceedings

Clause 6 of the bill inserts new section 152A to provide for an enforcement procedure where a person fails or refuses to comply with a requirement to provide information under sections 106HA, 106I, 118 or 131 of the act. It enables the court to inquire into the case and make an order that the person comply with the requirement within the period specified by the court. Non-compliance with the court's order could have significant consequences. Equivalent provisions to section 152A are provided for in other consumer acts in the amendments made in the schedule to the bill.

Section 25(2)(k) of the charter provides that a person charged with a criminal offence has the right not to be compelled to testify against himself or to confess guilt. This is a very limited protection of the right to silence as it applies only to persons charged with an offence. However, similar rights in other jurisdictions and the broader right to a fair hearing protected by section 24 of the charter have been interpreted to provide some limited protection in respect of information obtained pursuant to compulsory powers of questioning. In particular, in some circumstances, use of that information in a subsequent trial has been found to breach the right to a fair trial.

Section 118 enables the director or an inspector to require production of information for the purpose of monitoring compliance with the act and regulations. Section 131 enables an inspector exercising a power of entry to require the giving of information, production of documents and the giving of reasonable assistance. The enforcement procedure in proposed section 152A to be inserted by clause 6 and the equivalent provisions inserted by the schedule apply only where a person does not have a reasonable excuse for the failure or refusal to comply with the requirement.

Section 133(1), and equivalent provisions in other consumer acts amended by the schedule, expressly provides that it is a reasonable excuse for a person to refuse or fail to provide information on the basis that it would tend to incriminate him. Accordingly, it gives effect to the right to silence protected by sections 24 and 25 of the charter. This does not extend to failure or refusal to produce documents. However, the right to silence protected by the charter does not extend to production of documents or real evidence.

Section 106HA enables the director to require production of information or documents that may assist the director in monitoring compliance with the act or the regulations. (Section 106HA also applies to a number of consumer acts as indicated in the schedule.) Section 106I enables the director to require provision of information or documents from persons he or she believes are capable of providing information or producing documents relating to a matter that constitutes or may constitute a contravention of the act. Persons directed to provide information or documents under these sections cannot refuse to do so on the basis of the privilege against self-incrimination. However, pursuant to sections 106HA(4) and 106I, the information produced cannot be used against the person in criminal proceedings, other than proceedings for failing to comply with the requirement. These provisions give effect to the right to silence to the extent it is protected by sections 24 and 25 of the charter.

Further, the power of the court to make an order pursuant to proposed section 152A to be inserted by clause 6 of the bill is a discretionary one. The court is able to inquire into the case and ensure any exercise of its powers is compatible with the charter.

Accordingly, clause 6 is compatible with sections 24 and 25 of the charter.

Section 15: freedom of expression

Section 15 of the charter protects a person's freedom of expression, including the right not to express. Clause 6 of the bill may engage the right to freedom of expression, because it inserts new section 152A into the Fair Trading Act 1999 which provides that persons may be compelled to provide information by a court if the director certifies failure to comply with a requirement of the act to a court. Equivalent amendments are also made to other consumer acts by the schedule.

However, section 15(3) of the charter qualifies the right to freedom of expression and provides that special duties and responsibilities attach to this right. The right may be subject to

lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality.

The new section 152A and the equivalent provisions inserted by the schedule propose enforcement of notices to produce information and documents that may lead to the prevention of public harm by traders and licence-holders and others who have not complied with the Fair Trading Act 1999, or other consumer acts. Without the director's or inspector's ability to enforce such notices, the recipients may simply ignore such notices and thus frustrate the utility of the director's or inspector's role to monitor non-compliance with the relevant legislation.

Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. Clause 6 constitutes a lawful restriction on the freedom of expression under section 15(3) of the charter for the purpose of public order as it is necessary to allow the director to monitor compliance with the act and to prevent traders, licensees and others from engaging in conduct that causes harm to others.

Therefore, this clause is compatible with section 15 of the charter.

Consideration of reasonable limitations — section 7(2)

The bill does not limit any human right, and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it raises human rights issues but does not limit human rights.

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Mr JENNINGS (Minister for Environment and Climate Change).

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

That the bill be now read a second time.

Incorporated speech as follows:

One of the Brumby government's key priorities is to act to make markets work better by ensuring that Victorian consumers, particularly the vulnerable and disadvantaged, are well informed and protected.

Since the passage of the Fair Trading (Enhanced Compliance) Act in 2004, there has been a progressive strengthening of consumer protection provided in the Fair Trading Act 1999. This bill continues this strengthening process by clarifying font size in consumer documents, removing an impediment to the director of Consumer Affairs Victoria commencing proceedings in the Federal Court of Australia, and enabling the director or fair trading inspectors to obtain court orders to support investigatory notices under not only the Fair Trading Act, but other consumer acts.

Importantly, also, the bill provides that persons who make complaints to the director or provide evidence to support an investigation cannot be the subject of legal proceedings for having done so, provided their actions were in good faith.

The bill also amends the Trade Measurement Act 1995 and the Trade Measurement (Administration) Act 1995 to implement in Victoria a range of reforms to the model uniform trade measurement legislation agreed by the Ministerial Council on Consumer Affairs. The reforms will clarify that a packer of pre-packed articles is also liable for short measure; prescribe how an inspector will measure firewood when it is sold by volume; enable the legislation to address a partnership holding a public weighbridge licence; and replace public weighbridge licences and associated certificates of suitability with licences for each public weighbridge that has a suitability statement on each licence. The reforms will also make other minor or technical amendments of a machinery nature.

The other important feature of the bill is that it furthers the government's objective of modernising and streamlining the statute book. The Hire-Purchase Act 1959, the application of which has been declining over the last 10 years following its review by the Scrutiny of Acts and Regulations Committee of this Parliament, is repealed. The Frustrated Contracts Act 1959 is repealed and re-enacted with updated language, but to the same effect, as part 2C of the Fair Trading Act 1999.

The bill also repeals provisions of the Shop Trading Reform Act 1996 that provide for polls in local communities to restrict Sunday trading. A poll is triggered by a petition to the local council of 10 per cent of voters in a local municipality. Over the last 10 years only one poll has been held, in Bendigo in 1998, and the outcome was overwhelmingly in favour of Sunday trading. The repeal responds to stakeholder feedback that with Sunday trading having been in place for over 10 years, the potential for community polls has become increasingly remote.

The bill makes a range of minor amendments to the Owners Corporations Act 2006 and part 5 of the Subdivision Act 1988 as part of the implementation of the review of the operation of bodies corporate in Victoria. These amendments include broadening the class of persons who may act as chair and secretary of general meetings, and permitting owners corporations to apply to the registrar of titles to alter their purposes.

Further, section 32AI(1) of the Subdivision Act 1988 (to come into operation on 31 December 2007) allows a lot owner to increase the area of the lot by adding land from outside the plan equivalent to 10 per cent of the area of the plan without the knowledge or consent of other lot owners. This could mean that a significant tract of land could be added, which could be converted into new lots without the approval of other lot owners. The section is amended to change the threshold to 10 per cent of the lot rather than the subdivision.

Finally, the bill amends the Partnership Act 1958 to allow the incorporation in Victoria of a new venture capital investment vehicle recognised under commonwealth law. This early stage venture capital limited partnership is a new form of incorporated limited partnership, registrable under the

Venture Capital Act 2002 of the commonwealth, which is intended to further stimulate the development of venture capital in Australia. Its recognition in Victoria will ensure the opportunity for this in Victoria, in the longer term facilitating investment in innovative firms and job growth.

Victoria led the way nationally with the initial VCLP reforms in 2003 and as a result hosted the first operational investment fund under the regime. Since that time Melbourne's Starfish Ventures has invested tens of millions of dollars into early stage, high-tech Victorian firms. This amendment builds on the state's leadership in providing an optimal business environment for increasing private investment into innovation.

I commend the bill to the house.

Debate adjourned for Ms LOVELL (Northern Victoria) on motion of Mrs Coote.

Debate adjourned until Thursday, 13 December.

MOTOR CAR TRADERS AMENDMENT BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Jennings 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 Motor Car Traders Amendment Bill 2007.

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

Overview of bill

The bill amends the Motor Car Traders Act 1986 to improve the operation of that act. The objective of these proposed amendments is to implement the recommendations from the Pullen report, which reviewed the operation of the Motor Car Traders Act 1986, and thereby achieve more effective and less burdensome regulatory arrangements for licensed motor car traders. The bill also amends the Interpretation of Legislation Act 1984 to insert a new definition of 'insolvent under administration' and makes consequential amendments to other acts (listed in the schedule of the bill).

Human rights issues

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

The relevant rights under the Charter of Human Rights and Responsibilities which the bill will engage are:

Section 13: privacy and reputation

Clause 12 of the bill imposes a positive obligation on motor car traders to obtain a certificate from the Chief Commissioner of Police and a prescribed declaration with respect to the criminal record of any potential employee who is to be employed in any customer service capacity. This raises the right to privacy under section 13 of the charter, in that it requires the collection of personal information.

To comply with section 13(a) of the charter, a person's privacy must not be unlawfully or arbitrarily interfered with. The circumstances in which the bill will authorise motor car traders to collect the information in question are precise and circumscribed. Motor car traders will only be required to collect the information in relation to persons who have applied for employment in a customer service capacity. The purpose of obtaining this information is to ensure that persons who are considered unsuitable to hold a licence do not enter the industry in a position where they may pose an equal risk to consumers. On this basis, the amendments cannot be said to be unlawful or arbitrary.

Clause 16 of the bill includes a new requirement for auctioneers to obtain and keep records of the names and addresses of motor car vendors and purchasers. The clause also requires that the records be available for inspection on request by an inspector appointed under the Fair Trading Act 1999 or the Motor Car Traders Guarantee Fund Claims Committee. The clause requires that a record relating to a particular vehicle or vehicles also be available on the request of a member of Victoria Police. This clause raises the right to privacy. However, this amendment does not limit the right to privacy because it is neither unlawful nor arbitrary. The circumstances in which the bill will authorise auctioneers to collect and store the information in question are precise and circumscribed. Auctioneers will only be required to collect and store the names and addresses of persons who have sold or purchased motor cars through that auctioneer. The purpose of obtaining and storing this information is to assist in any future investigations in relation to such transactions or vehicles. The specific purposes for which the information will be disclosed are investigation of unlicensed trading in motor cars by inspectors appointed under the Fair Trading Act 1999, determination of claims against the Motor Car Traders Guarantee Fund by the Motor Car Traders Guarantee Fund Claims Committee or the investigation of stolen vehicles by Victoria Police.

Clauses 18 and 19 of the bill, which deal with particulars that must be displayed on a car, also raise the right to privacy.

Clause 18 of the bill requires the display (on a motor car to be sold) of the name and business address of the current and previous owner of the motor car in question. Clause 19 provides that where the previous owner of the motor car is not a motor car trader or a special trader (i.e. the previous owner is an individual), such information need not be displayed but must be made available on request of a potential purchaser. These amendments raise the right to privacy. However, they do not limit the right to privacy because they are neither unlawful nor arbitrary.

The display (required by clause 18) and the exchange of information (required by clause 19) are neither arbitrary nor unlawful as the circumstances of display/exchange are precise and circumscribed, the information to be displayed/exchanged is confined to name and address details,

and the display/exchange is for the legitimate purpose of informing prospective purchasers about the ownership and history of ownership of motor cars and to deter odometer tampering and misrepresentation of the history of motor cars.

Finally, clause 21 of the bill engages the right to privacy because it will allow the Motor Car Traders Guarantee Fund Claim Committee to require a claimant or any other party to a claim to provide information, and to seek relevant information from any other person or body or source as it thinks fit, for the purpose of determining a claim. This power is for the purpose of obtaining information relevant to the determination of a claim within a statutory guarantee fund scheme. Since it is within this scheme and is for a clearly specified purpose it is not an arbitrary or unlawful interference with a person's privacy.

Clause 21 further engages the right to privacy because it inserts a new section 69 which will enable the committee to request from a public body information about any matter relevant to the determination of a claim, and disclose such information to a range of persons for the purpose of obtaining further information to determine the claim.

The clause does not require the specified public body to make the information available to the committee and this is a decision that the public body will make on a case-by-case basis, in accordance with the requirements relating to disclosure of personal information under the Information Privacy Act 2000. The exercise of this power is therefore not an unlawful or arbitrary interference with a person's privacy.

The power for the committee, if it obtains information in respect to a claim, to disclose it to others is also not an unlawful or arbitrary interference with a person's privacy because the circumstances in which information may be disclosed are specified and limited to instances in which it would be reasonable for the committee to release the information to that person for the purpose of obtaining information to determine the claim.

For the reasons set out above, clauses 12, 16, 18, 19 and 21 are compatible with the right to privacy and reputation provided for in the charter of human rights.

Section 20: property rights

Clause 9, which inserts a new section 29(1A) into the act, provides that an individual licence of a partner or director of a body corporate will be automatically suspended (unless, within 30 days of the claim, they apply to the licensing authority for permission to continue to trade) if the licence of the corresponding partnership or body corporate is suspended. This may raise the property right in section 20 of the charter, which establishes a right for an individual not to be deprived of his or her property other than in accordance with law. This right ensures that the institution of property is recognised and acknowledges that the state of Victoria is a market economy that depends on the institution of private property.

Although the right is raised, it is not limited because the potential suspension of an individual licence will be in accordance with law as set out in the bill. There is an implied limitation on the power to make laws depriving persons of property that the laws must not do so in an arbitrary manner. 'Arbitrary' in this context may mean 'capriciously', 'unpredictably' or 'inconsistently': in other words, lacking in reason or proper policy justification. The proposed law is not arbitrary because the effect of the provision is clear and applies equally to each licence-holder and is for a good policy reason. Persons who have been a director of a company licensee or a partner of a partnership licensee at a time when the company or partnership had its licence suspended might otherwise be in a position to cause detriment to consumers and to cause another claim on the fund. For example, a company may have a sole director or a partnership have all but one silent partner, which would be, in effect, the same as an individual licensee.

Section 15: freedom of expression

Clause 21, which inserts a new section 68 into the act, allows the committee to require a claimant or any other party to a claim to provide any information relevant to the determination of a claim. This may raise the right to freedom of expression in section 15 of the charter, which includes the right not to express. However, s. 15(3) of the charter provides that special duties and responsibilities attach to this right and it may therefore be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality.

Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. Clause 21 constitutes a lawful restriction on the freedom of expression under section 15(3) of the charter for the purpose of public order and rights and reputation of other persons by assisting claims to be determined on the basis of all relevant material.

Section 24: right to a fair hearing

On its face clause 25(3), which confirms that the committee is not required to conduct an oral hearing to determine whether to admit or refuse a claim against the guarantee fund, raises the right to a fair hearing. However, the right is not limited.

The committee considers applications for claims on the papers, and the trader concerned is always invited to make a response to the application. Thus the right to a fair hearing is not limited by this clause, as a hearing on the papers does take place.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it raises human rights issues but does not limit human rights.

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Mr JENNINGS (Minister for Environment and Climate Change).

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

That the bill be now read a second time.

Incorporated speech as follows:

The amendments in this bill flow from an extensive consultation process undertaken by the member for Higinbotham, Mr Noel Pullen, MP, in 2004 and respond to industry and other stakeholder concerns raised during this process. The bill will implement legislative recommendations from the December 2004 report on the Motor Car Traders Act consultations (the Pullen report) that were supported by the government in its response to the Pullen report published in 2006. The amendments are intended to achieve a more effective and less burdensome regulatory environment for licensed motor car traders.

The bill amends the Motor Car Traders Act 1986 to allow the licensing authority to consider certain associates when assessing licence applications, in order to protect consumers from a person who uses an associate as a front to obtain a licence. The licensing authority has attempted to deal with such applications by accepting the application and imposing conditions on the licensee, but high-risk associates have ignored the conditions and substantial consumer harm has resulted. These decisions of the licensing authority are to be subject to appeal.

The amendments also require traders to check that potential employees are not prohibited prior to employing them in customer service positions, similar to the obligation imposed on estate agents under the Estate Agents Act 1980. The current Motor Car Traders Act 1986 prohibits traders from employing certain persons in customer service positions, but the Pullen report noted that there is evidence that this provision is not currently effective. There is a high degree of mobility amongst sales staff in the industry, and this positive obligation on traders to check that potential employees are not prohibited prior to employing them should in time achieve full compliance with the existing prohibition.

The bill will remedy an anomaly whereby directors of companies and partners in partnerships with claims against the guarantee fund admitted against them are not in the same position as individual licence-holders who have had claims admitted against them. It will do this by introducing an arrangement akin to that which currently exists in the Motor Car Traders Act 1986 for the situation where a partner or director is found guilty of a serious offence.

Currently, motor car traders are required to display the name and address of the last registered owner of a motor car, or the previous owner of the car, who was not a motor car trader or special trader. The amendment to remove the current requirement for the name and address of the previous owner to be displayed on used vehicles will reduce concerns about privacy that were expressed to Mr Pullen during his consultations. The amendment will also allow display of a trader or special trader's name instead of the previous owner's details in cases where the vehicle is acquired from a trader or special trader, as the information about the previous owner is nowadays sometimes not known. This will also reduce display of personal details of previous owners who were not traders or special traders in instances where the details are known.

The bill will extend cooling-off periods to all new car sales. At present, they only apply to used cars and to certain new car sales. This will be done without disturbing the existing cooling-off rights in the act pertaining to used cars and off-premises sales of new cars. Improved information is to be provided to purchasers of light goods vehicles about the fact that such vehicles are not covered by a statutory warranty. This is to be done by extending the consumer protection of form 7 'window displays' to light goods vehicles, which include some utes and vans. The bill will also improve the information provided to consumers about their rights to a cooling-off period.

The bill prohibits dummy bidding at motor vehicle auctions. This amendment will provide greater transparency and clarity for traders as well as for consumers, since most vehicles at auction are sold to trader buyers.

The bill restricts the persons who may claim on the Motor Car Traders Guarantee Fund and makes other amendments to part 5 of the act to improve the efficiency of operation of the Motor Car Traders Guarantee Fund, which primarily receives revenue from licence fees for motor car traders. The bill excludes public statutory authorities from claiming on the fund, because as the government response to the Pullen report made clear, the government recognises that the purpose of the fund is for consumer protection and not to protect government revenue.

Clarifications of various provisions and miscellaneous minor amendments to update the act and to improve its clarity and efficiency will reduce the confusion about these provisions that many stakeholders reported in Mr Pullen's consultations.

Finally, the bill amends the Interpretation of Legislation Act 1984 to insert a new definition of 'insolvent under administration' and make consequential amendments to other acts.

I commend the bill to the house.

Debate adjourned for Ms LOVELL (Northern Victoria) on motion of Mrs Coote.

Debate adjourned until Thursday, 13 December.

POLICE REGULATION AMENDMENT BILL

Second reading

Debate resumed from 5 December; motion of Hon. J. M. MADDEN (Minister for Planning); and Mr DALLA-RIVA's amendment:

That all the words after 'That' be omitted with the view of inserting in their place 'this house refuses to read this bill a second time until —

(1) the Office of Police Integrity has reported on the November 2007 public hearings and the Parliament has had an opportunity to ascertain the operational effectiveness of the Office of Police Integrity as an anticorruption body as compared to similar bodies in other Australian jurisdictions; and

(2) this bill is redrafted to provide for the immediate introduction of random drug and alcohol testing for all Victoria Police members'.

Mr TEE (Eastern Metropolitan) — This is an important bill. It is part of the systemic approach that this government has to ensuring that our police force is effectively enforcing our laws. It is also part of the ongoing engagement or development of an effective and ongoing Office of Police Integrity. As we have heard in debate yesterday, the OPI has proven to be an effective tool to fight police corruption.

I am sure that the overwhelming view of this house is that police officers do their work diligently and effectively. The community, rightfully, has high expectations that the police will act impartially and fairly; and the community, rightfully, wants to be assured that the judgement of the police when they are responding to incidents is not affected by alcohol or drugs. This bill is about delivering on those expectations. It is about delivering a police force that is beyond reproach, a police force that delivers the highest degree of professionalism and integrity.

The bill achieves this outcome by giving to the Chief Commissioner of Police the power to direct that police members undergo drug and alcohol testing. This is an important power. It is also a very powerful tool. It is a power that should not be used in an arbitrary manner. It needs to get right the balance between being fair to the police officers concerned and meeting the expectations of the community that police are operating in a fair and appropriate manner.

As I said, the power needs to be exercised in a way that achieves a balance between the expectations of the community and the need to support and assist police officers who have drug and alcohol problems to overcome those problems without compromising the integrity of the police force. This bill does get that balance right. It is fair to the individual. It protects their privacy. In doing so it follows the prescription set out in the human rights charter so that any limitations to the right to privacy are carefully considered and are reasonable. To be tested a police officer must be incapable of or be inefficient in performing his or her duties, or they must be involved in a critical incident. It is not the mandatory approach that is suggested by the amendment, an approach which would be unfair to the police, place an unnecessary burden on them and be in excess of what is required to ensure that the police force acts with integrity. A critical incident is when a person dies or suffers serious injury as a result of the use of a motor vehicle, the discharge of a weapon or the use of force.

What the bill does in those circumstances is require that the police officer be tested, but the fact that the police officer is being tested is kept confidential. However, the results of those tests will be made available for use in relevant legal proceedings should they arise from any critical incident. I commend this part of the bill to the house, which, as I said, gets right the balance between an open and transparent police force and the rights of officers to be supported if they do have drug and alcohol issues.

As I said at the beginning of my contribution, the bill also deals with the Office of Police Integrity. As we know, the OPI has demonstrated itself as being an effective vehicle for dealing with corruption. It is also a body that has hit the ground running since its establishment in November 2004. It has now grown to have a staff of some 97. It now has a budget of $20 million, and in addition $31 million was provided in 2006–07 to help equip the OPI to deal with investigations and the use of devices such as telephone intercepts.

The OPI is a powerful body. It has extensive powers, and it has been very successful. There has been some debate in this house about why the separation of the OPI and the Ombudsman did not take place when the OPI was initially established. The answer is that the reason for the success of the OPI is, in part, that it was initially joined with the Ombudsman. It meant that it was able to hit the ground running in a very short period of time. The director of the OPI was also the Ombudsman, which meant that the OPI was rapidly able to build operational capacity using the established infrastructure and resources of the Ombudsman. It was the Ombudsman's background, experience and knowledge gained from monitoring and reviewing police complaints over the years that made for the seamless and effective start-up of the OPI. But, as I said, it is now an appropriate stage in the development of the OPI that the roles be separated. For that reason I support that part of the bill.

I want to comment briefly on the amendments that have been circulated by Mr Dalla-Riva. We do not support the amendments. Essentially the amendments seek to delay the second reading of the bill until the police integrity report on the November 2007 public hearings. In order to keep on top of police corruption we need to get the structure in place now. It is important to note that in the report of the OPI the director has recommended that the OPI and the Ombudsman be separated. So in essence the government is responding to that recommendation. There is no point in waiting on the report of the OPI concerning matters that are not really relevant to the determination of this issue. The relevant documentation in relation to the determination of this issue is the OPI's report and the recommendation that the two bodies be separated. This

bill is the next stage in the development of an effective strategy to tackle police corruption, and I commend it to the house.

Mrs PEULICH (South Eastern Metropolitan) — I also would like to make a few comments on the Police Regulation Amendment Bill 2007, which seeks to do two things: introduce a form of drug and alcohol testing for sworn police officers under certain circumstances, as well as to split the office of director, police integrity from the office of the Ombudsman. I would also like to support Mr Dalla-Riva's reasoned amendment.

In relation to the testing of police officers — and I noted, Acting President, your fairly comprehensive argument against random testing; and given personal experience, or professional experience, could I say that I certainly respect that — I very strongly disagree with the argument.

Let me say first of all that as the mother of an elite athlete, my son, who chose to become an athlete, subscribes to rules. The rules include that he has to make himself available for drug testing, even as a young boy. He certainly does not receive remuneration for that, and in actual fact it costs my family an arm and a leg to maintain and support his involvement in elite sport. But many times I have sat in my lounge room or dining room while as a young boy of 15 he has been subjected to testing.

That involves of course going to a toilet, generally speaking with a member of the same sex, and depositing a sample of urine, with all genitalia fully visible. It is a fairly gruelling and threatening exercise to subject a young boy to something like that, and he does that as part of a random testing program. Yet in terms of his own activity, he is not responsible for public safety issues. He is merely responsible for making sure his performances are not enhanced through the use of drugs.

So why would a young boy or our young athletes who are pursuing a passion and do not necessarily derive an income — of course some do at the very highest levels — subscribe to a random testing regime, yet our police officers, who do a commendable, admirable, dangerous, courageous job on behalf of our community and who protect our community's safety, would not be required to be subjected to random testing for drug and alcohol use?

I have had a look at the conditions under which this legislation recommends testing — that is, a critical incident, where a police officer is not fit for duty or when the chief commissioner determines that the police be tested for the good order and discipline of the force. That is actually fairly comprehensive. Yet the police commissioner and the government have stepped away from backing a fully random regime of testing.

My concern as a member of this place, as a member who is keenly interested in backing and supporting our police officers to do the very best that they can do and making sure we have policies as well as adequate police resources for our police to do their job, is that when a policeman or a policewoman is involved in a critical incident or is just about to be, where there may be a question of somebody's life or death, that police officer happens to be under the influence of drugs or alcohol and in that split moment, knowing they are going to be subjected to a test, may choose to actually step back from taking the action they need to take to defend or protect someone's life.

It may be the life of a comrade or of a member of the public is involved, but the officer may choose not to take that action because they know being involved in a critical incident will generate drug and alcohol testing. I believe this is a very flawed policy. The police officers and public safety would be much better served by a random testing regime rather than the one that has been proposed here by the government.

With those few words, I would like to quickly move to the second point — that is, the proposal to split the offices of the director, police integrity and the Ombudsman. Obviously the Liberal Party believes this does not go far enough. Mr Tee spoke about how there was urgency, how the OPI (Office of Police Integrity) had been very successful in pursuing issues to do with police corruption, and that it should not be held up by the deferral of the second reading of this legislation to await the findings in the report of the Office of Police Integrity, which reported to Parliament in November 2007 on its public hearings.

I think it would be foolish to establish a regime that in actual fact may prove and has proven not to go far enough. A regime that only deals with a capacity to investigate sworn officers or public servants obviously does not go far enough. We have seen whiffs of corruption. We do not know whether or not they are substantiated, but there are whiffs that corruption leading to the highest office of this state cannot be pursued under the current or proposed regime. They can only be pursued with the establishment of a more powerful, comprehensive body.

The annual report presented to Parliament by the director, police integrity, George Brouwer, said corrupt police officers were operating in small syndicate groups

connected to organised criminals. Most of the syndicates have also joined forces with people who have significant criminal histories, including some individuals with extensive links to organised crime. Sometimes the most influential member of a group is in fact a former police officer, who continues to connect with and exert influence over current serving members who are willing to engage in corrupt conduct.

I suspect this is probably not pervasive, but any level of corruption cannot be tolerated and anyone who turns a blind eye to it and does not take the necessary steps to inoculate our system against corruption can themselves be accused of acting corruptly. Clearly the proposed splitting of the offices is inadequate and does not go far enough.

Senior public advisers have been named in the OPI hearings, including chiefs of staff to the Premier, the Minister for Police and Emergency Services, the Minister for Finance, WorkCover and the Transport Accident Commission, and the Minister for Water. Whilst they have not been named or tagged as corrupt, the public deserves to know, and they deserve to have their names cleared through a comprehensive system of inquiry and investigation.

The Leader of the Opposition in the other house, Ted Baillieu, has correctly said that we have a corruption problem in Victoria that needs to be fully and comprehensively investigated. We have seen Victoria Police concede links between police and gangland killings and corruption. We have called for the establishment of an anticorruption commission. It must be independent, it must be well resourced, it must be specialised and broadly based, and of course it must be fully accountable to the Parliament or to a parliamentary committee, as is the case in New South Wales.

The splitting of the office of director, police integrity from that of the Ombudsman in fact only amounts to a half-measure; it takes a small step. It is heading in the right direction but clearly would again be inadequate in dealing with the issues that need to be dealt with. I quote from Labor's *Plan for Integrity in Public Life — State Election Policy 1999*:

> Politicians and those in public life owe a duty of care and responsibility above and beyond any others in our community. Labor takes this obligation seriously.

Clearly, this bill does not take it as seriously as it should.

I would like to quote the comments of the now Attorney-General in a speech he made in the Victorian Parliament on 2 September 1998.

He said:

> There are three main ways that government members, ministers and premiers can make money and line their own pockets inappropriately by using their public office for private gain. The first is that they can take money directly from the public purse as happened in Queensland and as has been happening in Victoria.

Could I add that I do not have any cause to believe that this is happening. However, he went on to say:

> The second way members of Parliament can line their pockets is by doing favours for property developers. That happened regularly in Queensland. The property developers' decisions to develop property are contingent upon government decisions. The third way is for members of Parliament, premiers and ministers to become subservient to or in the pocket of the gambling industry.

Many of those issues have been raised in this house and deserve to be properly and fully investigated. Unfortunately the proposed system does not address those types of corruption concerns that extend beyond sworn police officers and public servants only.

The now Attorney-General also said:

> Corruption is inappropriate whenever it takes place.

He concluded his speech by saying:

> … members of the former Bjelke-Petersen regime are tarnished for all time as being part of a corrupt regime because they took no action. Individuals may not have been involved in corrupt conduct, but they knew and saw what was going on and decided to do nothing about it.

Dare I say that, at the time, he said the same was happening in Victoria. I believe this particular legislation is evidence of the government not being prepared to take the action that needs to be taken. With those few words I support the reasoned amendment moved by Mr Dalla-Riva on behalf of the Liberal Party, and I urge the government to take the action that needs to be taken to make sure that Victoria is not a corrupt place to live, to work and to raise a family.

House divided on amendment:

Ayes, 16

Atkinson, Mr	Koch, Mr
Dalla-Riva, Mr	Kronberg, Mrs
Davis, Mr D.	Lovell, Ms
Drum, Mr	O'Donohue, Mr
Finn, Mr	Petrovich, Mrs
Guy, Mr	Peulich, Mrs
Hall, Mr	Rich-Phillips, Mr (*Teller*)

Kavanagh, Mr	Vogels, Mr (*Teller*)

Noes, 21

Barber, Mr	Pennicuik, Ms
Broad, Ms (*Teller*)	Pulford, Ms
Darveniza, Ms	Scheffer, Mr
Eideh, Mr	Smith, Mr
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Theophanous, Mr
Lenders, Mr	Thornley, Mr
Madden, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr (*Teller*)
Pakula, Mr	

Pair

Coote, Mrs	Elasmar, Mr

Amendment negatived.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

ROAD LEGISLATION FURTHER AMENDMENT BILL

Second reading

Debate resumed from 22 November; motion of Hon. T. C. THEOPHANOUS (Minister for Industry and Trade).

Mr KOCH (Western Victoria) — I rise to make my contribution on the Road Legislation Further Amendment Bill 2007. I express the Liberal Party's concern about the approach taken by the government, and I move a reasoned amendment, as follows:

> That all the words after 'That' be omitted with the view of inserting in their place 'this house refuses to read this bill a second time until the minister — (1) has advised the house that he has sought assurances from other jurisdictions that the removal, from the National Transport Council model bill, of the reasonable steps defence for operators and drivers is consistent with the approach taken by those jurisdictions; (2) provides the house with details of which organisations will be approved to access personal information under the proposed changes to section 92 of the Road Safety Act 1986; and (3) explains to the house what guidelines will be put in place to protect the privacy of individuals and the type of information that may be disclosed under the proposed changes to section 92 of the Road Safety Act 1986'.

This is the second omnibus bill on transport legislation we have debated in successive sitting weeks and unlike the first one debated last sitting week, this one contains some 220 pages. It is a very large document; not only is it quite complex but it opens up many challenging issues, some of which we find unacceptable.

Not unlike the bill debated during the last sitting week, there again appears to be a degree of ghosting, or smoke and mirrors, involved in relation to the amount of consultation that has taken place by the government. There are many in the community with concerns about the format that, again, this bill is taking. Consultation by the government seems to be a thing of the past. During debate on bill after bill we hear that consultation has taken place and that transparency remains something of importance to this government, but we have assurances from those who should be consulted that, in effect, they are not hearing from government prior to new legislation and amendments to existing legislation being introduced into the house.

As an example of this, in the last sitting week we spoke of the myki ticketing system which is something that the Transport Ticketing Authority proposes to introduce, and we were led to believe that its introduction was imminent, the piloting was nearly completed and that the travelling public would have this opportunity in the very near future.

Recently on 774 *ABC* radio talkback a spokesman for the Transport Ticketing Authority, Duncan Bryce, when queried in relation to the introduction of the ticketing system told the commentator that it was some way off yet. He said it was hoped to have all the modelling completed by 2007, but when that was challenged we found out that the first part of the modelling, which is being undertaken in Geelong, is not complete. To date there are four or five stages, we learned, and it may possibly not be introduced until well into the latter half of 2008.

The system that the Transport Ticketing Authority is putting in place certainly is not rocket science, as it was described in this house a fortnight ago, and for the cost that has been committed to it I think it is a very poor investment for the constituents of Victoria. In excess of $500 million has now been expended on this program, which I admit has had similar progress across other mainland states in Australia, yet has been introduced, over a lot shorter period and for a lot less money, in places like Hong Kong, London and France.

The purposes of this bill are contained in eight provisions, the first of those being to make provision for fatigue management for drivers of certain heavy

vehicles; we certainly regard that as extremely important especially where different times are intended to be used in relation to operations in Victoria.

The bill also allows for researchers and community organisations to access VicRoads records for research and the investigation of missing persons. Quite obviously we have some grave concerns over that. I am sure that many have had the opportunity of reading the Ombudsman's most recent report, tabled yesterday, in relation to his investigation into the VicRoads driver-licensing arrangements. I will enlarge on that later.

The bill also allows VicRoads to delay sending out demerit points suspension notices if the original notices are returned not having been delivered. It enables the implementation of a staged P-plate and learners permit driver-licensing system. It clarifies the ministerial orders, recognising interstate laws relating to repeat drink-driving and drug-driving offences, where in some cases those laws have been repealed or have expired. It amends the Chattel Securities Act and clarifies provisions regarding the registration and security interests of motor vehicles.

It further introduces a new offence for drivers who deliberately or recklessly flout level crossing warning devices for both rail and tram operations within Victoria. It also goes on to realign the EastLink project with CityLink in owner onus, tolling and invoicing, and as well amends the Road Management Act as it affects street lighting on arterial roads. It also picks up further aspects in relation to the legal defence of road managers.

I will speak particularly about three aspects. I wish to refer to the issue of fatigue management, the use of VicRoads records, and driver behaviour at all our level crossings in relation to the tram and rail systems. In relation to heavy vehicle driver fatigue, the Brumby government proposes in this legislation under its fatigue management for drivers of heavy vehicles provision to move away from the proposed model laid out by the National Transport Commission program. I should say that for many years we have sought a national approach in relation to our road management laws, particularly with the licensing and policing of those laws.

We have two major concerns with the government's current proposals. The first is that Victoria for some reason — I must say unknown to most of us and especially the transport operators — adopts the attitude that a period of 15 hours driving in a given day is not to be exceeded when it is recognised nationally that 16 hours is reasonable, legitimate and safe for the operation of the transport industry. Secondly, we are also concerned about how these transport companies — I must admit we have a lot in Victoria and many are large employers — will stay competitive with our interstate transport companies. Taking 1 hour off the maximum driving time is equivalent to a 6 per cent opportunity being taken away if and when that is required by the transport companies, and it gives a competitive advantage to interstate operators with absolutely no return at all to our own companies.

I know that in many cases most drivers in these companies do not use their full 16 hours. Their major concern is that when they do need to drive more than 15 hours that advantage will be taken away from them. This is something the government has completely missed in the drafting of the legislation. Does this government not want our transport operators to be competitive? Do we not want to maintain the thousands of jobs that are already in place in the industry across Victoria? As a result of this type of legislation that opportunity is further eroded.

Our reasoned amendment seeks that the working hours for this industry be standardised nationally. We think that is most important so that Victoria is not disadvantaged in favour of other states. Surely with wall-to-wall Labor national and state governments this would not be hard for all the states to resolve at their annual conferences. We look forward to Victoria reconsidering its position and aligning itself with the other states. It has been intimated that the New South Wales government is giving consideration to reducing its limit from 16 hours to 15 hours. There is a big difference between 'intimated' and doing it. We are concerned that may not come to pass and Victoria will be left on its own with 15 hours.

This provision applies not only to heavy transport operators. Let us not forget that bus operators also fall into this category. For bus operators and schoolchildren, especially those along the border and within half an hour of either side of the border, this will only cause further confusion. Currently bus operators on the New South Wales side of the border have different lighting needs from those in Victoria. Operators picking up children on the Victorian side and delivering to the New South Wales side have to stop and independently change their lighting programs before progressing and taking those children to their particular schools. In many ways the legislation has a big impact on our heavy vehicles and also on our bus operators. We are very concerned to see these anomalies removed and uniform legislation put in place. That would be far easier for the operators and far

easier for those who have to enforce the laws across our states.

The second thing I want to raise concerns about is road user behaviour at level crossings. Although we are very supportive of doing all that is possible for increasing safety both on our public roads and for public transport users, level crossings give us major concerns, both in regional and metropolitan areas. We would have to be convinced that subjective assessments were being carried out by police, which would not only indicate but hopefully would prove beyond reasonable doubt that driver behaviour in most cases, where it was brought to our attention, was deliberate, reckless or possibly both. That is something we look forward to having reviews and reports provided on, but at this stage we have 1400 unprotected crossings statewide. We acknowledge that currently 200 of these are being upgraded with ripple strips and other technology that is essential for safety. These things are being put in place to warn drivers approaching the crossings, but we must look beyond these measures in the longer term and possibly try and gain greater safety at these crossing points.

We understand that amounts up to $500 000 are required for new crossing protection and we are talking of either boom gates or flashing lights. That is a huge expense and quite obviously we will not see a lot of the 1400 crossings given protection statewide, but there are many areas where we can add further safety measures at these crossings. I assure the house we are doing everything we can to pursue that from both the government's point of view and the Road Safety Committee's point of view.

As I said, currently we have laws in place to counter traffic movements at level crossings — that is, while bells and booms are operating. We are very concerned that drivers continue to drive around the gates or fail to give way or stop at unprotected crossings. We believe strongly that that needs greater policing in some form, whether it be via technical services or physically. We also appreciate that to date education has not resolved the issues we want to resolve in relation to safety at level crossings. It is not dissimilar to the horse you can lead to water but cannot force to drink. I think that is one of the things confronting us at the minute. Some relevant legislation is in place, but I know further safety measures will be a high priority for this government and others in the community.

As a member of the Road Safety Committee I note that we currently have a reference in relation to level crossings. We have received 49 submissions in relation to what further steps may be taken. Amongst those are submissions from various experts who have given us some good pointers. We are yet to go to the stage of inviting those people to make submissions at public hearings and then allocating time to hear them, which we certainly hope to do early in 2008. We hope to complete that process and be able to report back to the Parliament somewhere in mid-2008.

Some of the things we are looking at and wanting information on relate to greater technology being available currently for installation at an affordable cost, such as GPS (global positioning system) satellite opportunities and wireless alerts. Wireless alerts could be used in trains, trams and heavy vehicles and would notify drivers of heavy vehicles that trains or trams were going to be crossing intersections or highways, so making the drivers aware of that interaction at these intersections. We also recognise that greater visibility is something we must work towards and that recent legislation has gone down the track of trying to bring that into play.

I must admit we are concerned that the government has seen fit to make rewards and bounties available to local governments to close railway crossings within their municipalities. The government is offering $50 000 to the first four municipalities that see fit to remove level crossings within their municipal boundaries. We are concerned that again we are seeing the government shift responsibility from Spring Street to municipalities to undertake this work.

The government has the capacity to review all rail crossings statewide, and it should make recommendations to rural communities. If the government sees these major concerns out there, it should be making the recommendations to local governments instead of expecting local governments to do the work. For various reasons, such as the drought, it is difficult at this time for local governments to extract more from their rate base to provide the services their communities expect. The state government should be undertaking these works and making the recommendations for local governments to go ahead with them, if it is seen fit that these crossings should be closed.

The final point I would like to make is in relation to the use of VicRoads records. We see that VicRoads records will be made available as a source of information. We have major issues with and concerns in relation to making this information available for use other than for policing and road safety management purposes, which historically it has been used for. I refer again to the Ombudsman's report entitled *Investigation into VicRoads Driver Licensing Arrangements*, which indicates that the most comprehensive database for

information on individuals in Victoria is within the walls of VicRoads and that VicRoads is the custodians of it. This is supported by the comments in the executive summary of the report, where Mr Brouwer indicates that:

> VicRoads' driver licensing and car registration databases are the most comprehensive, single source of information about Victorian citizens. They are the major source of name and address information for Victorian law enforcement agencies. The databases are also relied on by many agencies …

They are relied upon not only to collect revenue but to provide an accurate and authoritative source of information.

We know that to date VicRoads has been the custodian of this information, and we strongly believe that it should not be made available at the discretion of VicRoads to individuals for the purposes of either reuniting family members or looking for and locating missing persons. We believe this information is privileged and private and, although it is not always accurate, it should be made available only under a court order on application by what we would see as worthy organisations which have made prior application or legal bodies which require the information for reasons which would be contained in their application.

We are further concerned in that the legislation does not actually tell us which the approved bodies or community organisations are that may make application for this very important information. It is important to note that in the briefing and in the second-reading speech it was considered that the an organisation like the Red Cross would be a very worthy organisation and might be considered as a community organisation that would have access to this information. However, we would not see any difference between the Red Cross and a local history centre or an RSL sub-branch or a religious order or any other well-meaning body in the community which, for its own reasons, believed it should be able to access this database in relation to finding family members of lost people from their community or missing persons. Our reasoned amendment very strongly indicates that we do not support this approach.

We believe the privacy provisions of the Road Safety Act should be retained, with no exception to allow people's personal information to be made available in the circumstances that have been outlined. There is no doubt that the government yet again sees itself as the social and privacy controller of citizens' private information. The government wants to use it as it or its bureaucrats see fit, irrespective of the outcomes that may occur if it is misused. That is the basis for our concern about making this database available to those we would not earlier have seen as legitimately having access.

The report tells us not only that the information is not up to date but also that in many cases it could be inaccurate. This has come to light through the investigation into the VicRoads licensing system, which arose from a whistleblower disclosure directly to the Ombudsman, who saw fit to undertake this investigation on his own motion, as described in the report, and not on the recommendation of anyone else. The Ombudsman has seen fit to investigate what is taking place at VicRoads. Although the report is very much about licensing, it also discusses the information held in the database and what has become of it in the past.

Those who have read the report will appreciate that it is very damning. It does not paint VicRoads in a good light at all. I draw to the attention of those reading it the part about the Ombudsman undertaking his investigation of the VicRoads driving licensing arrangements earlier, only to find that the system was very vulnerable. It certainly needs urgent attention and upgrades. The Ombudsman indicated that with 12 points setting out 12 issues that continue to be of concern to him.

One of the Ombudsman's points is that organised crime is exploiting the weaknesses in the driver licence security arrangements to obtain fraudulent identity documents. Another point is that VicRoads does not place sufficient emphasis on training its staff or staff employed by its external service providers about identify fraud and how to identify fraudulent documents.

Surely this would not give anyone any confidence that VicRoads should have the opportunity to make this information available to what we may see as worthy organisations in our community — and to date we do not know what these worthy organisations are. It has been brought to my attention that the minister is willing to put in writing that this issue — which organisations may or may not have access to this information — will be looked at and further defined and that a register for public perusal will be kept of those who make applications. At this stage there is only a letter from the minister indicating these things. It is certainly not indicated in the legislation before us today.

This mirrors what we have seen more recently in the house in relation to legislation. It was reflected last night in the debate on the liquor control legislation. We got to a situation where amendments were being moved

and the minister essentially said, 'Trust me. I am from the government. We will not let you down. Read my lips. Just pass this, and we will make sure that we enact these changes in later legislation'. This is not good enough. We believe very strongly that legislation of this type should be returned for further drafting and debate.

As I said, the report is quite damning. I encourage everyone to go through it. It is important that they pick it up and take the opportunity to see the state of affairs in relation to this VicRoads database, which we rely on so much for community information. Again I say we are very concerned. If this legislation were to go through in its current format, it would give organisations the opportunity to access what we see as not only unreliable information but information that, in many cases, organisations should not have access to. I draw the attention of members to the Ombudsman's conclusion on page 108 of the report, which further supports our argument that at this stage the information database of VicRoads should not be made available.

In today's *Herald Sun* is an article with the heading 'Damning list goes on and on'. One of the segments says:

> Record-keeping by VicRoads is so sloppy it has dead people registered as drivers, including one man listed as still driving despite being born 111 years ago and whose licence was cancelled in 1992.

This gives a clear indication as to the state of the database. Until it is cleaned up and made far more accurate, and until the security is tightened up so that crooks do not have the access to it that they freely do now, we believe very strongly in our reasoned amendment. We were very happy to put it to the house. We believe very strongly that it should be supported. Hopefully it will be supported, and the legislation will be returned to the house for further debate at a later date.

Sitting suspended 1.00 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Schools: public-private partnerships

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Treasurer. I refer to the Premier's announcement today about the use of public-private partnerships (PPPs) to fund new schools, and I ask: given there is an acknowledged $268 million maintenance backlog in existing schools and the government has failed to fund the rebuild of every school in the forward estimates, why are PPPs being implemented for schools when the government said its 10-year plan for new schools was fully funded by the state budget?

Mr LENDERS (Treasurer) — To get even better value for money.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — Methinks the minister is waiting for his Dorothy Dixer. My supplementary question is: is it a fact that there are insufficient funds to fund the election policy and state budget promises to build new and rebuild existing schools without PPPs?

Mr LENDERS (Treasurer) — No.

Planning: government initiatives

Ms PULFORD (Western Victoria) — My question is to the Minister for Planning. The 2007 year has seen the Brumby government undertake a range of initiatives in relation to maintaining and enhancing Victoria's livability. I ask the minister to advise the house what initiatives have been implemented in the planning portfolio in 2007 to ensure that Victoria continues to be a great place to live, work and raise a family into 2008 and beyond.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Pulford's interest in this area, and I welcome the question in particular. The Brumby government is committed to maintaining and enhancing Victoria's reputation and Melbourne's reputation as one of the world's most livable places. To do this we need to continue to manage the livability, but in doing that we will also see a challenge of many people coming into this state, because when you have got that competitive advantage it attracts many people. What we have seen with the enormous amount of growth recently is that the rest of the world is realising that Victoria is a great place to live, work and raise a family.

To complement that we have initiated a number of reforms through the planning system. The first of those which is really putting people at the centre of planning is the new department, the Department of Planning and Community Development, which has been a priority of the Premier. We will see not only greater emphasis on streamlining the planning system but also on making sure that we strengthen and make communities more livable and more attractive.

We are attracting people in record numbers because of the investment and effort we are making. We want to

make sure we manage and complement the growth that we have seen reflected in the census figures recently. As well as that, we want to also clarify what takes place in the planning system. When you have people who are not entirely clear of what can happen, that is where you get confusion, and we want to reduce that.

One of the areas we have invested in recently is the release of *Making Local Policy Stronger* report, together with our five-point priority action plan for implementation. This has been particularly well received by councils, community resident groups and industry alike. I look forward to implementing that priority action plan in the coming year.

As well as that, this year we have seen the review of Melbourne 2030 conducted, the five-yearly audit undertaken. I am expecting that report of the audit expert group to come to me early next year and that a response will be made in the first half of next year. As well as that we have initiated the Creating Better Places program. There is $1.7 million in funding for more than 20 projects across the state. We have delivered the Southbank plan, and we are also cutting red tape with the planning reform program. As well as that, there has been significant investment in our transit cities, particularly through the Dandenong and Footscray transit city programs.

This is just the tip of the iceberg when it comes to the investment we are making in planning and community development. I could spend a lot longer, but I know the opposition members are a bit uncomfortable when I talk about these initiatives, so I will not prolong their agony. Because we are at that time of the year when there is a fair degree of Christmas cheer, I will cut my answer short. We will make sure that beyond Christmas and into the new year we will continue to make Victoria a great place to live, work and raise a family.

Bushfires: heavy equipment

Mrs COOTE (Southern Metropolitan) — My question is to the Minister for Environment and Climate Change. I refer to the ongoing failure of the Department of Sustainability and Environment to pay for the hire of bulldozers from Andrew Watson that it requested be made available for the Great Dividing Range north fire last December. What action has the minister taken since this matter was raised with him two months ago to obtain a resolution?

Mr JENNINGS (Minister for Environment and Climate Change) — In fact the member's question is a repeat version of a matter that was raised by her leader on the adjournment recently — well and truly within the last two months. I gave an undertaking to the Leader of the Opposition at that point in time that I would deal with those matters in a formal way, given that from his perspective our lines of communication were clearly not as direct or as satisfactory as they would be if we communicated to one another verbally. I think I will reiterate that to the leader's deputy in relation to this issue.

The PRESIDENT — Order! I just want to clarify a comment made by the minister when he referred to the fact that this matter was raised a couple of weeks ago on the adjournment, which I thought implied there may be some point about it being asked as a question or that it might not have been a valid question. The fact is that if a question is asked and the question is repeatedly asked within a time frame of a few weeks it will be ruled out, but the fact that a matter has been raised on the adjournment does not prevent a question on it being asked during question time.

Supplementary question

Mrs COOTE (Southern Metropolitan) — The minister's department is denying payment because it failed to document requests made by its officers to supply the bulldozers. What assurance can the minister now give to Victorians that when they respond to verbal requests for help from the Department of Sustainability and Environment in times of emergency they will be paid for the services they provide?

Mr JENNINGS (Minister for Environment and Climate Change) — In relation to my comment about the adjournment, I was not worried about being asked a question or about how many times it may be asked. I was responding as to the way I think a satisfactory resolution of this matter may take place, in a formal sense, through correspondence. I am very happy to respond to this member and to the other member who asked the question in relation to this matter.

As a general response to the supplementary question, can I say that the Department of Sustainability and Environment has very good working relationships with hundreds of providers of services throughout the Victorian community. Indeed in relation to the contractors whose bulldozers were made available during the course of the last fire season, close to 200 of them have had a satisfactory resolution of their payments and in fact are well satisfied with the payment regime and those contractual understandings. There are one or two outstanding issues, of which this is one, where the contractual arrangements are contested and apparently neither party is satisfied with the level of correspondence that has been undertaken

between the parties in relation to the specific matter the member raises.

Footscray: transit cities program

Mr PAKULA (Western Metropolitan) — My question is to Minister for Planning. Earlier this year the minister announced the project area for the Footscray transit city. Can the minister update the house on any developments in the delivery of the Footscray transit cities project to the Footscray community?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Pakula's interest in this matter. I know that as one of the members for Western Metropolitan Region he is particularly interested in this project, as I know all the members in this chamber who represent that region are particularly excited about this project on a number of fronts.

This $52.1 million initiative, known as the Footscray renewal project, will take place over the next three years. This is not only a wonderful investment by the Brumby government but it will result in the transformation and strengthening of what is a marvellous retail centre and will also complement the great diversity of that centre. We will see an upgrade of the central mall and community square, the construction of a modern pedestrian bridge at the station, an upgrade of main streets and facilitation of development around the station. It is a wonderful location. Not only do several metropolitan rail lines run through the Footscray railway station but three of the regional fast rail services also pass through it. It is an exceptionally strategic site when it comes to complementing the central Melbourne district. It is also a gateway to the west. If we can enhance that in any way no doubt that will lift the morale of those who live in the west, and particularly those in and around the Footscray area.

Honourable members interjecting.

Hon. J. M. MADDEN — I know Mr Finn could not help but be excited about the prospect of this project. He is one of the members for Western Metropolitan Region, and I know it is very hard for any of the members representing the region to find any reason to criticise this project, because it is quite an exciting one. Recently I had the good fortune to be with a number of my parliamentary colleagues — Marsha Thomson, the member for Footscray in the other place, Martin Pakula as well, Khalil Eideh and of course other representatives from the region — to launch the one-stop planning shop at 92 Nicholson Street in the mall in central Footscray.

The shop will provide developers, the community and investors with the opportunity to access information and support so that we can make sure we promote and provide greater opportunities for projects to be undertaken. It will help the local community, particularly the private sector, it will complement the urban environment public space initiatives and it will assist businesses in the area that may be affected during the construction of many of these projects.

To complement this, a planning scheme amendment will be available for the public to provide feedback on in mid-2008. Given that I have the predominant planning authority in conjunction and in partnership with the Maribyrnong City Council, what we will see is a fast-tracking of that through the system. We will see a good mix of not only homes, shops, recreational facilities and offices but we will also see that coordinated around central transport services, which will no doubt reinvigorate, complement and assist those people in Western Metropolitan Region — in the Footscray heartland. In particular it will make the centre economically more viable, stronger and of course a better place to live, work and raise a family.

Planning: Geelong buildings

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Is the minister aware that the City of Greater Geelong has allowed hundreds of buildings to be occupied without the issuance of a certificate of occupancy, and if so, what steps has the minister taken to ensure that all state planning and building rules are fully complied with?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's questions, as I always do. I know that Mr Guy has been very busy this week, not only because we are nearing Christmas but also because he has been very busy releasing a number of press releases. I compliment him on his enthusiasm in the last week of Parliament. I do not know if he has been caught in a Christmas rush, President — —

Honourable members interjecting.

Hon. J. M. MADDEN — Yes, a Christmas rush! He is very conscientious. I do not know whether he has been caught in a Christmas rush or whether he seems to have complementary resourcing since the federal election result.

In relation to issues down at Geelong, I have not been notified of any of those specific issues. I am happy they

have been brought to my attention, and I will make requests of the building commissioner, in particular, to pursue any of those issues regarding permits or certificates of occupancy in relation to any dwellings at all. I will seek that information from the building commissioner, because normally those matters lie with the Building Commission and the regulation of that area of government. I am happy to follow that up and also to make inquiries with the City of Greater Geelong in relation to these matters.

Supplementary question

Mr GUY (Northern Metropolitan) — Noting that the issue is on the front page of a local paper in Geelong, I ask the minister by way of supplementary question if he is aware that some buildings may be a risk to occupants or the general public where no certificate of occupancy has been issued, and if he will therefore act to ensure there is no risk to occupants or the general public from buildings not having a certificate of occupancy.

Hon. J. M. MADDEN (Minister for Planning) — I suspect I answered the question with my first response. The critical component of a certificate of occupancy is the end result of the building process. Normally a building surveyor would certify that the building is entitled to be occupied for all those safety standards.

Certainly if there are those who were inhabiting a dwelling that did not have that certificate of occupancy, there would be a number of issues, I suspect. Not only would the local council and respective building surveyors who have been involved in those projects and the Building Commission be concerned about it but there would also be a system of accountability through that chain to make sure that if people were living in those dwellings without a certificate of occupancy, that compliance would occur at the earliest possible time — by making sure that those who are accountable and responsible for that ensure that nothing had been circumvented in that process.

Again, I will make a request of the City of Greater Geelong and the building commissioner to pursue the building surveyors who may have been involved in the initial planning permits that have been issued. Of course planning permits allow for construction, but construction is not deemed to be completed until a certificate of occupancy has been issued, so I am happy to have those matters followed up from the building commissioner's point of view.

Information and communications technology: investment

Mr THORNLEY (Southern Metropolitan) — My question is to the Minister for Information and Communication Technology, Mr Theophanous. Can the minister advise the house of any recent announcements that again highlight the leading role in Australia of the Victorian information and communications technology industry?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — I thank the member for his question. I know he has a great deal of interest in this area and also, I might add, an excellent understanding of the industry. The Victorian ICT (information and communications technology) industry currently represents approximately 34 per cent of national ICT employment. It generates in the vicinity of $24 billion in annual revenue, so this is a huge industry from the point of view of Victoria. It employs over 80 000 Victorians, and it is one of the new areas of responsibility that has been given to me by the Premier.

I must say it is an exciting area, and it is an area where we are aggressively and actively pursuing new entrants and investment — and hopefully there will be further growth in this important area.

Much of this is occurring through the Victorian government ICT industry plan, which was launched in 2005, where we recognise the critical importance of innovation to overall economic performance, particularly in this area.

The PRESIDENT — Order! I am sorry to interrupt the minister, but there is a young man in the gallery with a camera or a mobile phone camera. I remind anyone in the gallery that cameras are not allowed in the public gallery.

Hon. T. C. THEOPHANOUS — This is an important industry in its own right, as I have indicated before, because of its size and the amount of employment it has, but it is also an important industry in terms of being an enabling industry that allows growth in other industries.

Without innovation in IT a whole range of manufacturing and other industry development would not be able to take place. Indeed — as I have said before, I think, in the house — some longitudinal studies have shown that this particular industry has contributed over the last 20 years about a third of all the gains in productivity in our industries. They have come

from the IT industry, so it is an extremely important industry. It is a large industry in Victoria — it is bigger than in the other states — and it is one we want to keep.

I was particularly pleased to see that in researching the best performing Australian companies, the *Australian Financial Review*, together with Morningstar Research, ranked ICT companies with the best three-year dividend growth and concluded — and this was really pleasing for me — that all of them are based in Melbourne. The companies are Computershare, SMS Management and Technology, Oakton, MYOB and UXC. I congratulate them on their strong performance and success.

These companies alone have a combined market capital of over $7 billion. They are strengthening the local ICT industry and driving further investment. Victoria is paving the way nationally in the ICT industry and the achievements of these companies in this three-year period are testimony to that particular achievement. This does not occur by accident; it occurs because there is a partnership between government and businesses in creating the right environment for expansion and industry growth. The Brumby government has shown strong support for these local companies in the past and that is now shown in this particular outcome.

No other ICT companies were listed in the *Australian Financial Review* as best performing companies, but the ones that were listed — all five of them — were ICT companies in Victoria. I do not think you can get a better performance than that for our industry, and I congratulate the companies that were involved. We look forward to continuing to work with them to grow this important sector of our economy.

Bushfires: firebreaks

Mrs PETROVICH (Northern Victoria) — My question is to the Minister for Environment and Climate Change. Given that the 2007–08 fire season has already started, when will permanent firebreaks be established around the Upper Yarra, O'Shannassy, Maroondah, Sugarloaf, Yan Yean, Greenvale, Silvan and Cardinia reservoirs, as well as the countless smaller regional water storage facilities?

An honourable member — That is a good question.

Mr JENNINGS (Minister for Environment and Climate Change) — It is a good question, and at the heart of this very good question is a very detailed answer. The member knows that the program of rolling out firebreaks has actually been escalated during the course of this year. In fact in emergency circumstances it was certainly escalated during the last fire season, when many firebreaks were put in place around catchments that had not had an extensive rollout of firebreaks until last fire season. They have continued, and we are continuing a program of trying to strategically place those firebreaks across important parts of our natural estate and around the catchments.

An ongoing program has been established in relation to these firebreaks and it will be a feature of our fire prevention strategies in the years to come. As the member also knows, the pattern of mosaic fuel reduction burning that we have established across the state will increasingly be a feature of our dealing with fire prevention in the years to come. Providing a complete answer to her question, as the member well and truly knows, will take a long time, and at no point in time would we, or any member of the community, expect there to be a complete and discrete set of boundaries and firebreaks around any of those catchments. The placement of strategic firebreaks will depend on the topography of the catchments, the fire risk and the projection, direction and impact of the fire. They will be the various elements that are put into play to deliver the most timely and appropriate firebreaks within those catchments in the years to come.

Supplementary question

Mrs PETROVICH (Northern Victoria) — When will those interface communities that live alongside public land be given the same protection as our water catchments and have permanent firebreaks established?

Mr JENNINGS (Minister for Environment and Climate Change) — Again, it is a fair question asked by the member, and I know by the member's body language in response to my initial answer that she actually knows how important this is, how complex it is and indeed the importance of it in the years to come. This will be a feature of our fire management approach in the years to come, and engagement with our community in an agreed way to deal with these matters in the future will be very much a feature of public commentary between the government, various communities and various stakeholders in the years to come.

Innovation: research and development infrastructure

Mr LEANE (Eastern Metropolitan) — My question is to the Minister for Innovation. I take the licence before I ask my question of expressing the hope that all the members, Hansard staff, the clerks and attendants

get a chance to have a break over summer and be back ready next year for another round of robust, intellectual jousting.

The PRESIDENT — Order! In relation to Mr Leane taking licence, in the spirit of Christmas I am actually going to allow it.

Ms Darveniza — Good on you, President!

The PRESIDENT — Order! I thank Ms Darveniza for her support. I feel so much better. I am suggesting that taking licence is not a habit that Mr Leane should get into.

Mr LEANE — President, I thought that with the removal of time limits for questions one could take a bit more time.

I ask Minister Jennings if he could inform the house how the Brumby government is working to deliver world-class research and development infrastructure in Victoria?

Mr JENNINGS (Minister for Innovation) — I note that Mr Leane is almost off his P-plates, so in fact his licence will be more permanent in the years to come. I thank him for his question and the opportunity to share with the house, and indeed with the Victorian community, a great event that I had the good fortune to take part in last week at Swinburne University in Hawthorn when I officially launched a fantastic new scientific facility that we have established through a collaboration between Swinburne University, University of Melbourne, Monash University, the CSIRO and the Australian Synchrotron. It is a state of the art X-ray machine. In fact the full title — and here is one for Hansard — is the high-power laser facility at the Australian Research Council Centre of Excellence coherent X-ray science machine. I would have thrown Hansard if the first words I used in describing this machine — which is an indication of the capacity of this X-ray machine — had been to describe it as a femtosecond high-power laser facility.

An honourable member — How do you spell that?

Mr JENNINGS — It is f-e-m-t-o-second. The reason the femtosecond is very important is that it is a very short period of time. In terms of the equivalent of a second it is 10 to the power of minus 15 — that is how short it is. It is that short that it is even quicker than the time it took Joe Hockey to dump WorkChoices after the federal election. That is how quick it is! It is extremely quick. The importance of being able to undertake scientific research which is that quick is that it undertakes electro-chemical processes that take place very, very quickly. We are in the order of 10 to the power of minus 15 of a second — a very short period of time.

These are very important pieces of technology that enable protein imaging, because membrane proteins are an essential part of the medicinal drug processing chain. In fact 70 per cent of all medicines that are currently available across the globe have membrane proteins as part of their molecular structure. This piece of equipment will be able to measure chemical effects within that time frame, which will enable great breakthrough developments of scientific endeavour in the Victorian community that can lead to great benefits through pharmaceutical products being established in Victoria in the years to come. We are very fortunate to have that capacity in Victoria.

The Brumby government recognises the value of providing key infrastructure such as the femtosecond high-powered laser facility at the Australian Research Centre. I was very happy to meet Keith Nugent, who is a scientist of the highest calibre in the Victorian community and indeed the international community. He is a previous Victoria prize winner who has expertise in protein imaging. We are very pleased to provide support of $1.8 million, which will drive the capacity of scientific endeavour across our universities in collaboration with the CSIRO and the synchrotron to take this further.

It will lead to real and lasting benefits for our citizens and for global citizens through the medicines we will be able to establish and through our scientific endeavour generally. It builds on the capacity of the Bio-21 facility, the synchrotron and the Australian Centre for Neuroscience and Mental Health Research. We have great capacity in Victoria and great scientific endeavour, and we are very pleased to support that great collaborative effort which will benefit the Victorian community in the years to come.

Water: goldfields super-pipe

Mr KAVANAGH (Western Victoria) — My question is for Mr Jennings in his capacity as representing here the Minister for Water in the other place. It relates to the environmental management plan (EMP) for the laying of the goldfields super-pipe. Little information about the EMP has been released. I have applied for information through FOI but have not had a response yet. Farmers across whose land the pipe is being laid are very concerned and are complaining about some of the practices that have been adopted in the laying of the pipeline. They would like to know whether there are penalties against the contractors who

are laying the pipeline under the EMP, and if so, what the penalties are and whether any penalties been imposed so far?

Mrs Petrovich — A good question!

Mr JENNINGS (Minister for Environment and Climate Change) — It is a good question, as the interjection indicated. The great difficulty I have is that the more detail and the more esoteric the question might be about the nature of specific conditions or specific outcomes of something that is not my responsibility, the harder it is for me to answer it. Unfortunately is are a specific set of elements to Mr Kavanagh's question, and while I would like to be as obliging as possible, I am not able to give the outlines of the conditions of the environment management plan or the penalties that may be contained within it.

The information about whether there have been any transgressors in the implementation of the plan is not available to me, although I am very happy to pass it to on to my colleague the Minister for Water in the other place, who is responsible for the project that is the very subject of Mr Kavanagh's concerns.

Schools: public-private partnerships

Mr SCHEFFER (Eastern Victoria) — My question is to the Treasurer. Will the Treasurer outline any recent developments in relation to the government's schools program?

Mr LENDERS (Treasurer) — Yes, I can, and I will be delighted to. Mr Scheffer asked about, as did Philip Davis before, the schools program, and I am delighted to formally inform the house, including Mr Scheffer, that the Premier announced today a public-private-partnership proposal for building new schools in the growth suburbs of Melbourne.

This is a very exciting proposal because it allows even better value for money than we have had to date. What we will seek to do is get expressions of interest from the private sector for up to 10 schools on the edge of Melbourne — schools like Point Cook North, Taylors Hill primary, Derrimut primary, Cranbourne North East, Mernda, Lyndhurst, Cranbourne East, Kororoit Creek and Truganina, just to name a few.

Mrs Peulich interjected.

Mr LENDERS — Mrs Peulich says, 'What are you doing with the money?'. I will make it absolutely clear that what we are seeking to do is to get even better value for money in schools. This government has announced that 500 schools will be built or modernised in the first term.

Mr P. Davis — Show us the money!

Mr LENDERS — Philip Davis says, 'Show us the money'. I advise him to look at the last budget papers where the first tranche of 131 schools were funded in the last budget across the whole state. We build schools but others close schools — 300 schools closed, including a whole lot flogged off by the company Baillieu Knight Frank! We have announced today that we will seek more innovative ways these schools can be managed from start to finish. To go to Mr Davis's interjection and to answer Mr Scheffer question: from the building of a school there will be a 25-year program dealing with maintenance. School presidents and principals can spend their time teaching students rather than worrying about maintenance and changing light globes.

It is very interesting to contrast that with the federal minister just recently talking about Moscow on the Molonglo.

Mr Jennings interjected.

Mr LENDERS — Julie Bishop, Mr Jennings, in case you had forgotten. I have not forgotten! Julie Bishop was her name. We do not believe in Moscow on the Molonglo, we believe in schools in the suburbs. It will be a challenge for Mr Tony Smith, the new federal shadow education minister, to step out of those big shoes of Julie Bishop's and Moscow on the Molonglo and get with our program of innovative programs for building schools and capital works.

This fills in and fits in with the Brumby government's program of rebuilding the state, whether that be through innovative procurement methods in schools to get better value for the taxpayer and to provide for schools and education as our no. 1 priority, the commitment to upgrade rail rolling stock and the rail system itself, the commitment to regional fast rail to Mr Scheffer's electorate, the commitment to regional fast rail to Ms Lovell's electorate in Bendigo, the commitment to regional fast rail to Geelong, the commitment to regional fast rail to Ballarat or our commitments on schools, on hospitals and on water, where we have put in a grid for the state.

Mrs Petrovich — What water?

Mr LENDERS — Mrs Petrovich says, 'What water?'. This government believes in a water grid, unlike those opposite, who have little shrines to Tlaloc, the Aztec god of rain, on their desks. They pray to the

god of rain, but this government is acting to put a water grid and a desalination plant in place so we can bring more water to Victorians. We rely on science, planning and infrastructure; we do not rely on to Tlaloc, the god of rain.

We have built hospitals and police stations. We have even built cattle underpasses in Gippsland. This government is serious about building the whole state on the things that matter. The Brumby government knows that to make Victoria a better place to live, work and raise a family we need investment in human capital and targeted investment in infrastructure, because that is what makes Victoria a good place to live, to work and raise a family. With the federal Labor government and cooperative federalism, this state will go gang busters!

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 805, 808, 1103, 1133 and 1139–56.

Mr VOGELS (Western Victoria) — I have four unanswered questions on notice. Three of the questions — 772, 773 and 775 — were asked of the Treasurer, John Lenders in August. The fourth question — 774 — was asked of the Minister for Environment and Climate Change, also in August. I have not had a response to those questions.

The PRESIDENT — Order! I assume Mr Vogels has written to the ministers concerned?

Mr VOGELS — Yes, President.

Mr JENNINGS (Minister for Environment and Climate Change) — In relation to my piece of correspondence, I say to Mr Vogels that if I can extract that answer today, I will; otherwise it will be available to the house at the earliest opportunity. I will certainly go and have a look for question 774.

Mr LENDERS (Treasurer) — Ditto, President. I do not recall receiving a letter, but I will certainly pursue it and get the answers to Mr Vogels as soon as possible.

ROAD LEGISLATION FURTHER AMENDMENT BILL

Second reading

Debate resumed.

Mr DRUM (Northern Victoria) — I rise to contribute to the debate on the Road Legislation Further Amendment Bill 2007. I will outline the basic purposes of the bill. It will implement the National Transport Commission model legislation on fatigue management for drivers of heavy vehicles. It will introduce a new offence for drivers who deliberately or recklessly enter level crossings when warning devices are flashing or when trains or trams are approaching level crossings anywhere in the state. Another aspect of the bill will enable VicRoads to disclose and share with community groups parts of the records it keeps in relation to licence details in order to help families locate missing family members. It will also enable VicRoads to delay sending a demerit point suspension notice if the initial notice is returned unopened. There are other aspects of the bill which have to do with VicRoads as well.

We have to be very careful about the first aspect of the bill — the provisions revolving around fatigue management. We are going to end up creating a law which will make us different from our neighbours. We will have transport legislation which works in one way in one state but which means that as soon as you cross the border you may well find you are breaking the law. The work, rest and sleep model or pattern is going to be set down by the Australian Transport Council, yet it is not going be consistent across the states of Australia. When we adopt this bill — if we do — different laws for transport drivers will apply in both of our neighbouring states.

We understand that at some time in the future New South Wales will adopt similar laws to the legislation we are talking about adopting here today, but we will then still be out of sync with South Australia. The National Transport Commission model seems to be a bit of a lame duck, because it is not able to gain the full commitment of all the states to ensure we can have uniform legislation of this type right across the country.

That creates a whole range of issues. We in northern Victoria are sick and tired of having to deal with border anomalies that we should be looking to eliminate all together. There is no doubt that we need to work harder and smarter in this area than we are working currently. All governments need to place far greater emphasis on what their neighbouring states are doing. More energy should be spent everywhere on ensuring that legislation, regulations and restrictions all move in a more synchronised fashion.

The bill will introduce an offence for drivers who deliberately or recklessly enter level crossings while warning devices are in operation or while trains or trams are approaching. The Nationals have been

extremely vocal about the state of our country roads, especially since the horrific train accident on the outskirts of Kerang. We have been vocal about how the road conditions that regional Victorians are forced to deal with on a daily basis create a dangerous environment in which our people commute around their communities.

The government has reacted to the disaster on the outskirts of Kerang with this legislation. While it is the government, it should reflect on the order in which these two events have occurred — accident first, legislation and action second. As we have driven around regional Victoria we have already noticed a few improvements in terms of alerting unsuspecting drivers to the fact that the rail crossing they are approaching is in use and needs to be approached with greater care.

The Nationals' desire to see these offences incorporated into law immediately will certainly impact on our decision as to whether we support or oppose the legislation. It will also have an impact on our ability to support or not support amendments that will be moved by other parties. We are desperate to have this aspect of the bill put through immediately, because we are aware that it genuinely has the capacity to save country lives. This aspect of the bill is something that we support wholeheartedly.

Before moving away from the topic of the state of the roads, I urge the government to get serious about funding the state road system. I acknowledge the pathetic situation that this Labor government has landed local governments in. Local councils, which have responsibility for a large part of the country roads network, have no possible way of funding the maintenance or upkeep of their road systems. The government can say whatever it likes, but we have councils with low population bases and low revenue because of low rate bases developing roads programs that would see sealed roads resealed every 300 years. That is the management program that many low-income councils have to put in place — resealing roads every 300 years — because that is all they can afford to do.

Local councils in regional Victoria are starting to turn bitumen roads back into gravel roads because they simply do not have the money to maintain bitumen roads. Obviously if a bitumen road is to be maintained, it must be maintained in a safe state — you cannot have a bitumen road with potholes all over it. If they cannot fix the potholes, the councils are left with one option — that is, to turn bitumen roads back into gravel roads.

The state government has the opportunity to adequately fund local councils so that they can maintain our road network in a safe state, but it refuses to do that. Government members should hang their heads in shame. Wherever we go in regional Victoria — especially the more remote and smaller local council areas — we find a similar story. Councils simply do not have enough money to fix up their roads.

Wherever we go we get a glowing endorsement of the previous federal government's Roads to Recovery program. If it were not for that, many councils would be left totally in the lurch. It is only that program that gave councils enough money to effectively combat some of the serious problems they were facing regarding their road maintenance programs.

Another aspect of this bill is the enabling of VicRoads to share or disclose information that it has on file to facilitate things like the location of missing persons. There are some other instances where this information may also be released, and I know we will hear more about this in the committee stage. The Nationals understand that this has caused some real concerns regarding privacy issues, and we have had very strong concerns about this issue ourselves. We have, however, been assured by the minister that he will ensure that a list of organisations that receives formal approval to access the scheme will appear in the annual report of VicRoads.

The article on page 4 of today's *Herald Sun* paints a horrendous picture of VicRoads' absolute lack of competence in relation to putting adequate security around these records. The Premier is quoted as criticising VicRoads by saying, 'They are not doing their job as well as they need to be'. It is very soft language. Look at the acts of criminality that seem to be rife, the acts of incompetence and oversight, and the opportunity for people to steal other people's identities by using Victorian drivers licenses as the first port of call.

Any of us who have ever had to produce 100 points of identification — whether to get a passport, to open a bank account or for a whole range of other purposes — knows that a current Victorian drivers licence carries significant weight in that effort. We have thousands of children, people under the age of 18, illegally obtaining false drivers licences, seemingly at the drop of a hat. We have New Zealand bikie gangs turning up with 65 or so false New Zealand drivers licences and having them replaced with 65 authentic Victorian drivers licences. There seem to be a whole raft of problems, and the best our Premier can come up with is, 'Maybe they are not doing things as well as they should be or

could be'. We expect to see much stronger language about such serious incidents.

Having covered the main aspects of the bill, I am going to reserve The Nationals position on this legislation until we enter the committee stage. I want to see what the government has to say in relation to the records that VicRoads will be able to share with various community groups.

We understand that the minister in the other place has made some very strong assurances, but those assurances, as Mr Koch said, have been made in written correspondence and they have not necessarily been recorded in Parliament via *Hansard*. We will wait and see what the government says in the committee stage, and we will see what sort of confidence we can derive out of the committee stage when the necessary questions are put to the government. On that note, I will cease my contribution and let others contribute to this debate.

Ms PENNICUIK (Southern Metropolitan) — I am pleased to speak today on the Road Legislation Further Amendment Bill, which is a very large omnibus bill. These types of bills have been causing some problems in the Parliament in terms of the time members are allowed to go through the detail of those bills and the fact that they sometimes throw quite unrelated things together. In relation to this bill, I believe it would have been better had it been split into two bills — one dealing with the fatigue management issue, the other with other changes to the Road Safety Act in particular.

This bill introduces a new system of heavy-vehicle driver fatigue regulation based on the national model regulations, and it makes amendments to the Road Safety Act accordingly. It provides for three regulatory frameworks for fatigue management — standard hours, basic fatigue management and advanced fatigue management — and introduces chain-of-responsibility provisions that allow for contractual parties to be cited in offences under the new provisions, but it also allows a defence of reasonable steps for all parties, with the exception of drivers and operators, where a strict liability rule is applied.

I am personally very supportive of this measure, and it has been a long time coming. In 1999 when I was working at the ACTU (Australian Council of Trade Unions) and was involved in coordinating a national campaign on fatigue and dangerous hours in the workplace, I made a submission to the House of Representatives standing committee on community transport and the arts about heavy-vehicle driver fatigue and fatigue in transport generally. The report of that inquiry on this very important issue, *Beyond the Midnight Oil*, came out in October 2000.

The chair's foreword to that report states:

> We live in a world where commerce is conducted around the clock and by the click of a mouse. A world where goods and services are expected to be available when and where the customer wants.
>
> … But they come at a cost. One of these costs is human fatigue.
>
> Goods don't just materialise at our doorstep or on the supermarket shelves, they need to be delivered — by road, rail, air and sea. People drive these trucks, trains, planes and ships. People maintain these vehicles. People make decisions about scheduling, dispatch and delivery.
>
> Sometimes these vehicles are driven and maintained by people who have worked long hours, often through the night, and have had inadequate rest breaks. The longer they have worked, the more they have worked at night and the less they have rested, the greater the risk of fatigue. The more fatigue, the greater the risk of an accident occurring.

Fatigue on the roads, as we know, is a very serious issue. The report goes on to say:

> Between 20 and 30 per cent of road accidents involve driver fatigue. In the marine pilotage industry, it has been estimated that between 10 to 25 per cent of accidents in the Great Barrier Reef are fatigue related …
>
> As well as having potentially catastrophic personal consequences, fatigue-related accidents are a substantial financial burden on the community. Fatigue-related road accidents alone cost around … $3 billion per year, with fatigue-related heavy vehicle accidents costing approximately … $300 million.

That was in 2000. The report continues:

> Responsibility for addressing this problem must be shared between all players in the transport industry — individual operators, company managers, consigners, customers and governments. The law is now recognising that not only do transport companies have a duty of care to maintain safe systems of work for their employees, but that consigners and customers are responsible for ensuring that their scheduling and delivery demands do not encourage operators to work in an unsafe manner. The chain of responsibility is fast becoming established.

That is a welcome development in this bill.

Accidents involving heavy vehicles are very serious, because when a heavy vehicle has a collision with an ordinary car or any other vehicle on the road, usually that vehicle will come off a lot worse than the heavy vehicle, and pedestrians who are hit by heavy vehicles will really have no chance. Unfortunately we are not seeing a reduction in heavy vehicles on our roads. In fact over the last few years we have seen the advent of B-double vehicles in suburban streets, which I do not

think is a great development at all, going into the 21st century. We should be getting that sort of freight off the road.

The government has a target, for example, of reducing freight coming out of the port of Melbourne, which target it is not even approaching meeting — in fact it is going backwards — and we are just seeing more and more heavy vehicles on the road, so it is welcome that we are going to have in place some laws about fatigue management.

I mentioned the lack of rest breaks, the long hours and the time of day as being the main issues in terms of fatigue. It is interesting to note that, after breathing, the other bodily function that is difficult to control is sleeping. If you go into an unconscious state, you will start breathing on your own, but the other bodily function that is difficult to control is sleeping. So if people are in a fatigued state and a state of sleep debt, they find themselves unable to stop falling into a micro sleep, and that is when we know accidents happen and people's lives are lost and ruined.

This provision is very welcome, even though I know some other members have criticised it for its slight departure from the national model regulations. In fact I think that departure is an improvement because it reduces the hours from 16 to 15 hours. I know that the work done by the Centre for Sleep Research — and a lot of this regulation is based on some of the work done there — is that after 16 hours of wakefulness, not 16 hours of work, the performance of any person is comparable to somebody with a blood alcohol reading of .05. We are talking about serious issues here. Fatigue is a very serious cause of impairment and of accidents on the road, so that provision is good.

The bill also creates an offence of deliberately or recklessly entering a level crossing, with penalties including the empowerment or forfeiture of a vehicle in the case of repeat offences. I think that is a good provision in the bill, because I have personally witnessed people doing that — driving around boom gates, trying to run the boom and get under it before it closes down et cetera. That is totally reckless behaviour which puts at risk the driver's own life and other people's lives, including train drivers and passengers.

I mentioned in my briefing with the department that another thing that I see happening a lot — and basically I was told that it is difficult to police and enforce — is that people often go across when the boom gates are up and park themselves on the railway line when the cars in front of them have not cleared the tracks yet, and I find that to be a very stupid action by drivers which again puts themselves and others at risk, so it is good to see penalties for those offences.

There are many other smaller provisions in the bill that I do not really want to go into. We are quite supportive of all of them, except I make the comment that we have legislative frameworks here to facilitate the operation of Melbourne CityLink and EastLink, and we could ask how much the Victorian law should be changed to accommodate for the needs of private companies. I have always thought that the practice of issuing fines by CityLink, and as will be done by EastLink, to be a bit rude, actually, and there should be a different way of dealing with it.

My main concern is clause 16 of the bill, which amends section 92 of the Road Safety Act to add an additional purpose for providing VicRoads information, ostensibly to assist in the location of missing persons, family reunions and also for road safety research and infrastructure operations covered by the Road Management Act. Clause 16, which adds these provisions to section 92 of the Road Safety Act, allows for disclosure of information:

> … to or by a person or body, approved by the Minister by notice in the Government Gazette for the purposes of this paragraph, to enable the person or body to locate and contact individuals —
>
> (i) for the purpose of locating missing persons …
>
> (ii) for facilitating the reunion of families …

And also for the purposes of conducting road safety research or disseminating information, or by a road authority or utility for the purposes of issuing or defending civil proceedings.

I have listened to contributions to the debate this morning from the Liberal Party. I have been considering this clause since I had the briefing with the department and I have also been disturbed by the article in the *Herald Sun* today — and I heard of this yesterday — regarding what is happening with VicRoads and its data management in terms of, as reported here, under-age children churning out fake licences, more than 1700 people having used a licence to fraudulently attain welfare, criminals having stolen machines to make drivers licences, fake licences being used to commit financial deceptions, and the police investigating allegations that a VicRoads provider handed out heavy goods vehicle or motorcycle licences without training or testing applicants.

Something similar happened in New South Wales where licences for forklift drivers were being sold by a public servant. That particular incident ended up at the

New South Wales Independent Commission Against Corruption, which is another reason why we need an anticorruption commission in Victoria.

The record-keeping by VicRoads is so sloppy that it has dead people registered as drivers, including one man listed as still driving despite being born 111 years ago and having his licence cancelled in 1992. With this in mind, in relation to clause 16 as it stands, which basically allows private information to be released to any unnamed body for the purposes of the locating of missing persons or family reunion — and we now know that the VicRoads database is not safe, is not accurate and is not secure — I do not know, and I have not been given any evidence, that there is a screaming need for this. That has not been demonstrated to me at all.

Someone living in the a state of Victoria who has a vehicle registered with VicRoads or has a VicRoads licence may not be technically a missing person, but may be a person who has a silent address for various reasons. They may have had a previous relationship with a person who might approach an unnamed organisation — we have been provided the example of the Red Cross — and say they have been looking for a person, their ex-wife, and are concerned. That person may say, 'I would like to find them', but not be bona fide. The person they are seeking may not wish to be found by that party.

There is nothing in this bill that enables a person to give permission to be found. There may be protocols, but there is nothing in this bill which protects the privacy of that person. I am very concerned about that; I raised this issue when we were debating the Coroners Court Amendment Bill. There may be some good in it, but there is no privacy protection in this bill for people who do not want their details to be given to a third party. That concerns me a lot; I do not want to see someone hurt by this bill, which needs to be fixed because as it stands, it is not right.

We were given an example in a briefing about an accident research centre which may want to survey motorcycle riders, for example, about road safety. There is nothing in this bill which says that VicRoads must write to those motorcycle riders and ask them for permission to release information about them. VicRoads holds a database; it should be writing to those motorcycle riders. The onus should be on VicRoads to write to those motorcycle riders and receive their permission to release the information for the purposes of a survey. There is nothing in this bill which protects people who may not want to receive a letter from a research organisation which was sent to them on the basis of information held by VicRoads, which they presumed was private.

There are a lot of issues about clause 16. There is an issue about tracking someone down who does not wish to be found by a certain party or any party using the VicRoads database. There is a very serious issue in terms of personal safety and welfare. That issue is not protected by this bill.

I tried to discover the view of the privacy commissioner about this provision. Unfortunately the commissioner was not able to furnish me with a view about clause 16. That does not reassure me; it makes me feel even more concerned about it. My main concern is about the release of private information from the VicRoads database, which we now know is not secure and cannot be relied upon. Therefore there needs to be a lot of work done by the minister and the government to fix this issue.

While that is the state of affairs, the Victorian community knows that a bill which contains a clause that does not protect people's privacy whatsoever and will mean that information about people can be disclosed with no qualification should not in all conscience be passed. That is why my amendment proposes to delete clause 16. I urge the government to rethink the issue regarding the release of information.

We are in a context where people's private information is becoming less secure all the time. We do not need to be in a situation where we are writing laws which have no privacy protections. People assume that when they give their details to VicRoads, those details will not be passed onto third parties. There are no protections or qualifications in this bill which assure me that clause 16 is safe. As I said, my proposed amendment is quite simple, and if it is accepted, the whole clause will be deleted.

I urge members to think seriously about the ramifications of allowing the clause to go onto the statute books without any thought or consideration of its possible ramifications on individuals in the community who will not even know that their information could be given out. There are no requirements for those individuals to be informed of this or for their permission to be sought regarding the release of their information.

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

Ms PENNICUIK — The reason I have proposed an amendment is because, as I said, I support the

long-overdue amending legislation regarding fatigue management to the Road Safety Act. That would go a long way to reducing road trauma caused by fatigue. I have certainly said that in my submission to the House of Representatives Standing Committee on Communication, Transport and the Arts. This bill is certainly very welcome, but it could be better. I do not want to delay the bill, but clause 16 is a worry and should be removed from it.

Mr PAKULA (Western Metropolitan) — I rise to support the Road Legislation Further Amendment Bill. Over the last 12 months, tragically there have been a number of instances that have highlighted the issue of driver behaviour at level crossings. The most tragic and obviously most prominent was the accident at Kerang. However, there have also been incidents within 200 metres of my office in Yarraville, which have not all been fatal: one involved a fatality and the other one did not. Those incidents at level crossings from time to time involve a number of elements.

We cannot ignore the issue of driver behaviour in regard to those incidents, and as a result the question of driver behaviour at level crossings has probably become the most high-profile element of this bill. As other speakers have indicated, in that regard the bill creates a new offence of deliberately or recklessly entering a level crossing when a train or a light rail vehicle is approaching.

However, what this bill does for the first time in regard to level crossings is import the notion of intent — that is, the notion of a mental element. Entering a level crossing inappropriately is already an offence, but the bill brings in the mental element. It is the presence of that mental element — the presence of the notion of intent or reckless behaviour — which imports the intent of the hoon law legislation into this issue of entering level crossings. As members know, under the hoon legislation drivers run the risk of their vehicle being impounded for a minimum period of 48 hours with the possibility that it will be forfeited. It is very important that as a government and as a Parliament we send a signal about drivers who intentionally circumnavigate boom gates when they are down and who enter level crossings in a reckless and dangerous way.

As other speakers, including Ms Pennicuik, have pointed out, the bill is not just about level crossings. It deals with the very important issue of driver fatigue, particularly with regard to heavy vehicles. The previous approach focused on the conduct of the driver and, fairly simplistically, the hours of driving. The new approach contained in the bill looks at both the quality and quantity of rest and implements the concept of a chain of responsibility for driver fatigue. In other words, the focus is not simply on the driver of the heavy vehicle but also on the transport operator, the transport company, the employer, consignors, consignees, loading managers and others.

The bill addresses the issue of the way transport companies deal with the issue of fatigue management. In effect the bill provides that there will be three quite distinct approaches: there will be a default position, which will be a standard set of hours contained in the bill; there will be the ability for companies and transport operators to enter into a basic fatigue management plan, which will be more flexible but will have mandatory fatigue management measures; and there will be an advance package, under which the operators of heavy vehicles will need to lodge an application with VicRoads for approval. VicRoads in those circumstances will have to be convinced that the outer limits of driving time are not exceeded and that fatigue management risks for the operators of heavy vehicles are appropriately managed.

As other speakers have indicated, there is a range of other reforms contained in the bill. I am not going to go through them all in detail, but I will touch on them. A work diary will replace the old drivers logbook; there will be the capacity for both the police and VicRoads transport safety services to enforce rest periods on drivers if they believe they are necessary; and there will be a wider range of sanctions that the courts can impose if the limits on driving hours are not adhered to. That will particularly be the case if the operator of the vehicle has received a financial advantage as a result of breaking those limits.

I want to touch on the issue of the further exemption to the blanket prohibition on the use of VicRoads records. Ms Pennicuik referred to the article that appeared in this morning's *Herald Sun*. I do not disagree that that is concerning, but I should say that I do not agree that that article is particularly relevant to this change.
Ms Pennicuik talked about the way that records are handled at VicRoads. The records we are talking about are already at VicRoads. This is about how they can be used. It is not true to say that there is no middleman. Any organisation which is going to be the recipient of these records must be approved by the minister. It is not the case that VicRoads can simply hand these records over to anyone that VicRoads chooses. The minister must be convinced that the organisation is an appropriate one, and the minister has given undertakings that he will carefully consider any application to ensure that appropriate standards and guidelines are in place. The minister has also given an undertaking that the VicRoads annual report will

contain a list of those organisations which have received approval. This is not an open slather for VicRoads to simply hand over these records to anyone VicRoads chooses.

It is easy to downplay some of the circumstances in which the records might be given over. It is true that the Red Cross has made a request for assistance in regard to family reunion and the location of missing persons. It is also true that it is difficult to facilitate road safety projects. I have been working closely with the motorcycle industry and the accident research centre. We are talking about circumstances where they may simply want to detect who are motorcycle riders from the records, and it is very difficult to do that without access to those records. It is about helping the centre to conduct research which is essential to road safety and essential to reducing fatality levels among particular classes of drivers. The carrying out of functions under the Road Management Act is really about assisting utilities when, for instance, street lighting has been damaged in a road accident but it is difficult to find out who the driver was.

The bill encompasses other changes, particularly in regard to CityLink and EastLink. CityLink infringement fines will be converted from monetary units to penalty units. Regarding EastLink, the offence of failure to pay a bill will be replaced by the offence of failing to be registered to use the road. Of course the defence to failure to pay a bill is that you received a bill and you paid it. The legislation also helps to provide some uniformity between EastLink and CityLink by providing further clarity on the definition of a trip. For instance, if a driver enters segment 3 or segment 4 then exits and comes back on in segment 5 and segment 6 within an hour, that will be one trip. But if you double back around and do segment 1 and segment 2 after you have done segment 3 and 4, that will be two trips. That provides uniformity with CityLink.

Finally, on the issue of street lighting, at the moment VicRoads would pay between 40 per cent and 50 per cent of the bill for street lighting on arterial roads vis-a-vis local councils. This bill will ensure that over six years that ratio will go up to 60:40, with VicRoads paying 60 per cent. There are other incidental provisions in the bill that I do not plan to go through.

I should say in regard to the reasoned amendment moved by Mr Koch, my comments when I addressed Ms Pennicuik's amendment covered some of that, but I should say that beyond that, the effect of the reasoned amendment will be to delay this bill by a significant amount of time. This bill has within it significant measures, both in regard to driver fatigue and level crossings, which will save lives. The government does not believe it is responsible to defer those measures any longer.

This bill is a further weapon in the government's overall armoury in regard to attempting to cut the road toll. I had a look this morning at the road toll figure for this year. Granted we have 25 days to go this year, but the road toll is down by 15 as against the same time last year. In regional Victoria it is down by 23, which is a reduction of almost 13 per cent. The government's measures in reducing the road toll are working, and the measures contained in this bill can only help. That is in regard to both fatigue management and level crossings.

In a lot of other regards the bill is a sensible approach to the numerous issues which confront VicRoads, local government and the operators of our toll roads, and I commend it to the house.

Mr THORNLEY (Southern Metropolitan) — Time is brief, and I will be even briefer. I want to focus on just one aspect of the bill: fatigue management. It is absolutely crucial for the reasons that members have outlined. It is certainly something that personally strikes a chord with me as someone who grew up with mum in Gosford and dad in Melbourne — I think I have life membership of the Hume Highway; I know every inch of that road and have driven it at all hours of the day and night. I have shared it with the heavy vehicles over many years and seen just about every form of dangerous activity that can take place on that road, as is done on many other roads. That one is a better quality one these days than it used to be.

The fatigue management provisions are particularly important. I took the opportunity when I turned 18 to hitch from Melbourne to Sydney on a truck. I must have found the only truck driver on the entire road who was very concerned about fatigue and absolutely managed his trip meticulously. It took us about 27 hours, but for most of the trip he talked about all the things that his colleagues out on that road got up to, with the No-Doz pills and all the other stuff to try to get themselves through and make an extra quid — but at the same time, putting themselves at risk. Indeed we were held up on that night by a head-on collision between two heavy vehicles on a bridge, which had occurred for precisely those reasons he had been talking about.

I usually talk about the high policy imperatives and conceptual frameworks behind why these bills are important, but in this case I take it from personal life experience, and I am very excited to see this section of the bill added to a range of provisions that are focused

fundamentally on road safety. One of the greatest public policy triumphs in the history of this nation has been the reduction in the road toll, particularly in this state, which we pioneered — as I said in the condolence motion for the late Walter Jona, it was pioneered across both sides of the house. It is a great credit to both that that continues, and in the case where we are now as the government, it is important that we continue that tradition with bills such as this. I commend it to the house.

House divided on amendment:

Ayes, 15

Atkinson, Mr	Kronberg, Mrs
Coote, Mrs	Lovell, Ms
Dalla-Riva, Mr (*Teller*)	O'Donohue, Mr
Davis, Mr D.	Petrovich, Mrs
Davis, Mr P.	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	Vogels, Mr
Koch, Mr (*Teller*)	

Noes, 25

Barber, Mr	Mikakos, Ms (*Teller*)
Broad, Ms	Pakula, Mr
Darveniza, Ms	Pennicuik, Ms
Drum, Mr	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Smith, Mr
Hall, Mr	Somyurek, Mr
Hartland, Ms	Tee, Mr
Jennings, Mr	Theophanous, Mr
Kavanagh, Mr	Thornley, Mr
Leane, Mr	Tierney, Ms (*Teller*)
Lenders, Mr	Viney, Mr
Madden, Mr	

Amendment negatived.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 15 agreed to.

Clause 16

Ms PENNICUIK (Southern Metropolitan) — I invite members to vote against this clause. As I said in my contribution to the second-reading debate, I do not believe the bill has sufficient protections for the privacy of information held on individuals on the VicRoads database, and given what we have read and heard today in the media I do not believe the VicRoads database is safe to start with. Apart from that, the principle we have before us of people's information being protected is not retained in the bill. Did the minister consult the privacy commissioner on this clause and, if so, what was the commissioner's view?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — My advice is that the privacy commissioner was consulted and raised no objections to this particular clause. I might go on to say that I think the member is reading more into this than she needs to and that really this clause is about assisting in tracing missing persons and facilitating reunions of families and friends. It is expected that charities such as the Red Cross and Salvation Army may wish to apply for approval. An approved agency can access personal information only for humanitarian non-commercial purposes. Agencies that cannot satisfy this requirement would not benefit from being approved by the minister and are not expected to apply for approval in any case. I think that, in her concern, the member is reading too much into matters relating to the database that she referred to. The government does not support this amendment moved by the Greens.

Ms PENNICUIK (Southern Metropolitan) — Can the minister give some background for this clause, including any submissions, papers and documents that have been received by the government from such charities regarding the need for this clause?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — Did the member ask whether there had been any correspondence or background? Is that what she was asking?

The DEPUTY PRESIDENT — Order! That is correct.

Hon. T. C. THEOPHANOUS — My advice is that the Red Cross asked for it and the Attorney-General asked for it to be considered, and this is the outcome of that consideration.

Ms PENNICUIK (Southern Metropolitan) — We heard about the Red Cross. What other organisations does the government have in mind?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I am not aware of other agencies, but I can inform the member that the Salvation Army also has a missing persons service and would obviously be one of the agencies that may benefit from access to this kind of information.

Ms PENNICUIK (Southern Metropolitan) — Given that one of my major concerns is persons who do not wish to be found or have their details released to the

Salvation Army or the Red Cross, as laudable as those organisations may be, how is that to be prevented?

Progress reported.

LEGISLATION COMMITTEE

Liquor Control Reform Amendment Bill

Mr ATKINSON (Eastern Metropolitan), by leave, presented report, including schedule of amendments recommended, minutes of committee's consideration of bill, extract from proceedings and transcript of committee's consideration of bill.

Laid on table.

Ordered to be printed.

Ordered to be taken into consideration forthwith.

LIQUOR CONTROL REFORM AMENDMENT BILL

Legislation Committee

Mr ATKINSON (Eastern Metropolitan) — I move:

That the Council adopt the report of the Legislation Committee on the Liquor Control Reform Amendment Bill 2007.

I advise that the Legislation Committee has met today on several occasions, has had the opportunity to meet with the Minister for Consumer Affairs in the other place, who is the minister responsible for liquor legislation, and has reached a number of decisions in respect of the bill. The committee was charged with considering clauses 22 to 28. The minister advised that the government would not proceed with clause 22 in view of the deliberations of the Legislative Council at this time and might well reconsider alternative legislative provisions in the future. Therefore the committee resolved that clause 22 would not stand part of the bill. The committee then resolved on clause 23 that an amendment proposed by Ms Lovell would not be accepted and that clause 23 would not be amended and would stand part of the bill. It also resolved that clauses 24 to 28 would stand part of the bill.

Motion agreed to.

Report adopted.

Committee

Resumed from 5 December.

The DEPUTY PRESIDENT — Order! The committee resumes, having received the report from the Legislation Committee in respect of the Liquor Control Reform Amendment Bill 2007. The committee has resolved, and it has been accepted by the Council, that clause 22 will not stand part of the bill.

Clause 23

The DEPUTY PRESIDENT — Order! Clauses 23 to 28 are proposed by the Legislation Committee to stand part of the bill. Clause 23 was subject to an amendment in the Legislation Committee; therefore I propose to test clause 23 separately in case an amendment is forthcoming again. Are there any comments or matters to be raised in regard to clause 23?

Clause agreed to.

Clauses 24 to 28

The DEPUTY PRESIDENT — Order! Unless there is any further consideration by this committee, I will put clauses 24 to 28 to the test.

Clauses agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ROAD LEGISLATION FURTHER AMENDMENT BILL

Committee

Resumed from earlier this day; further discussion of clause 16.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — In responding to the question from Ms Pennicuik, there are a number of protections in place and those protections include that there would be an agreement entered into between VicRoads and the bodies concerned; the ones we have mentioned are examples of that.

In relation to confidentiality agreements, which would also state the purposes for which the information is to be or can be disclosed, and so forth, and how it may be used, it would be an offence for it to be used or disclosed contrary to that written agreement between VicRoads and those organisations. That is one level of protection.

The second level of protection is that the organisations themselves will not be able to disclose information as to the whereabouts or the location of a missing person without that missing person's consent.

Mr KOCH (Western Victoria) — I indicate that the Liberal Party will be opposing the legislative amendments contained in clause 16; although the Liberal Party is concerned with the accuracy and security of the VicRoads database as expressed in the Ombudsman's report, we also take on board information in relation to earlier inquiries about missing persons and individuals from families and what have you, as I mentioned earlier. On those grounds we will not be supporting the clause.

Ms PENNICUIK (Southern Metropolitan) — I am also concerned, in relation to clause 16 and proposed section 92(3)(ie) regarding disclosure of information to a road authority or utility, about the protocol behind that? What reason is behind that?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I am advised that the purpose of this is to allow the utilities to access information in relation to, particularly, accidents that may occur. I might give the example of a motor vehicle hitting a pole, damaging the pole and potentially causing some danger as well. The electricity company in that instance may have a registration number but no further information as to the identity of the person who caused that accident. This would be a way for that utility to be able to gain access to the information and pursue that claim.

Ms PENNICUIK (Southern Metropolitan) — In a case like that would not the police be informed and follow it up? Why would a utility be given the power to gain access to information from VicRoads?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I guess the police might be involved in some circumstances, but there are other examples where the police might not be involved. Information may be required in circumstances where an accident is not involved or it might be on private land or on a private road. It might involve the need to find out the cause of such accidents, and in particular it might involve not so much a case where an offence has been committed, in which case the police would be involved, but civil proceedings where the police might not be involved at all so the identity of the individual becomes important to that authority.

Ms PENNICUIK (Southern Metropolitan) — What utilities is the minister envisaging would be able to access the information?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — The utilities that are providing electricity. I am having difficulty recalling from my days as energy minister, but I think there are four distribution companies that are involved in actually providing infrastructure in Victoria in terms of the geographic zones that were set up under a previous model by a previous government. I imagine they are the utilities that are being talked about in this instance.

Ms PENNICUIK (Southern Metropolitan) — It also mentions a road authority. What road authority are we talking about?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I am advised VicRoads, councils, toll authorities or companies that have infrastructure within the road reserve.

Ms PENNICUIK (Southern Metropolitan) — Proposed new section 92(3)(id) refers to gathering data for use in research. I do not have an in-principle objection to that, but I am concerned that information may be handed over by VicRoads holus-bolus to groups of people, to another third party, without the permission or knowledge of the actual individual concerned. How will that be prevented?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — It is a similar set of protocols to the ones I have mentioned with the other authorities, and the same sort of safeguards will be in place for them as are proposed to be put in place with the other organisations I mentioned.

Ms PENNICUIK (Southern Metropolitan) — Are there any safeguards to ensure that information is not handed on to another third party which may be conducting research?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — In the agreement between that organisation and VicRoads it would be spelt out that passing on that information to other third parties would not be allowed.

Ms PENNICUIK (Southern Metropolitan) — I think there is a lack of involvement of the individual whose information is held, and that is my concern.

Committee divided on clause:

Ayes, 37

Atkinson, Mr	Lovell, Ms
Broad, Ms	Madden, Mr
Coote, Mrs	Mikakos, Ms
Dalla-Riva, Mr	O'Donohue, Mr
Darveniza, Ms	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 (*Teller*)	Vogels, Mr
Lenders, Mr	

Noes, 3

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

Clause agreed to.

Clauses 17 to 86 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

> That the bill be now read a third time.

In so doing I thank members for their contributions to the second-reading debate and also in the committee stage.

Motion agreed to.

Read third time.

GAMBLING LEGISLATION AMENDMENT (PROBLEM GAMBLING AND OTHER MEASURES) BILL

Second reading

Debate resumed from 5 December; motion of Hon. J. M. MADDEN (Minister for Planning).

Mrs PEULICH (South Eastern Metropolitan) — Before debate on this bill was interrupted yesterday I was talking about how the research into gaming had shown there was a fairly significant link between low socioeconomic status and the explosion in gaming machines in areas such as Maribyrnong, Darebin and in particular Dandenong, which is in my region. In response to that, the government set up a committee chaired by Rob Hudson, the member for Bentleigh in the other place, and that committee recommended the imposition of caps of 10 machines per 1000 adults in those areas.

When this matter was discussed last I pointed out that I had some significant concerns that this was not going to be an adequate response. Since then only a handful of machines have been removed from Dandenong. Under the new arrangements, to take further examples, the City of Kingston is entitled to an extra 160 gaming machines; the City of Frankston has already received applications for the extra 331 gaming machines it is entitled to under that new formula despite being the leading suburban municipality for gaming expenditure; Monash is entitled to an extra 149 gaming machines; and the City of Casey has already received 115 of the 680 extra gaming machines it is entitled to receive. Clearly this is just a pea-and-thimble trick.

When we were discussing the Gambling Regulation Amendment Bill I suggested that the formula was going to be problematic. The problem it has caused the government is basically one of moving gaming machines around from one area to another, often within the same municipality. This has certainly been the case in the south-east.

If the government were serious about tackling the problem gambling issue, it would consider smartcards. In his contribution to debate on the bill, the member for Malvern in another place said:

> … there is no measure contained within this bill to deal with the use of electronic devices, such as electronic cards, as measures to assist with either data tracking or pre-commitment of gambling.

There has been a lot of support for pre-commitment gambling. Before the member for Mitcham became the

Minister for Gaming in the other place he wrote to the Office of Gaming and Racing on 2 May 2006 and said that the introduction of compulsory electronic player cards would allow for player activity to be monitored against safety net criteria, and he referred to a range of interventions where the criteria had been breached.

In April 2006 a submission to the Office of Gaming and Racing from Duty of Care said the government should introduce technologies such as smart cards et cetera to enable players to exercise more choice, limit the size of their losses and subsequently retain greater control over their lifestyle and incomes. With the introduction of a technical device, such as a smart card, self-exclusion would be able to be monitored and have a chance of success.

Since then, on 30 January 2007, a government spokeswoman, Sophia Dedes, stated that neither the minister nor the Office of Gaming and Racing have received any direct submissions from any groups about smart cards. Clearly the left hand does not know what the right hand is doing. Once the government gets its act together it might be able to do something that will really deliver some results in the difficult area of problem gambling.

From what I have been advised by other gaming industry representatives in South Eastern Metropolitan Region, smart card technology is the most recommended method for successful self-exclusion programs. A study by Sharen Nisbet from the Centre for Gambling Education and Research at Southern Cross University shows that interviews with New South Wales venue operators and regulators found that smart card technology was a major advantage in that it promoted responsible gambling.

The study also received several submissions strongly supporting card-based precommitment for its effectiveness as a harm minimisation tool. Even Aristocrat, which is the manufacturer of electronic gaming machines in the south-east, suggests that precommitment may prove to be one of the most effective technical responsible gambling initiatives available. The New South Wales Liquor Administration Board also submitted that player cards are excellent for harm minimisation due to the limits on the operation of existing systems.

The Council of Social Service of New South Wales was positive about the precommitment capacity of cards for the reason that they empower the player. The Gambling Impact Society, a body representing problem gamblers, believes that precommitment would be of benefit to problem gamblers. So there is very widespread agreement that precommitment and smart cards are the way to go in terms of tackling problem gambling, but it has fallen on deaf ears as far as the government is concerned. The government continues to come up with itsy-bitsy amendments to legislation that have no net impact on the issue of problem gambling.

In conclusion, if the government is serious about tackling problem gambling, it needs to look at how it could implement a series of precommitment mechanisms to help gamblers who have problems to stick to their limits when inside these venues.

Mrs Coote interjected.

Mrs PEULICH — No. The new Minister for Gaming in the other place was an ardent advocate of this sort of measure before he was minister. Unfortunately this legislation shows he does not wield the power and that he has been neutered. It shows that the government is merely playing smoke-and-mirrors games.

Lastly, the Liberal Party is not opposing the bill. However, what the community looks for in a government is leadership. The government has continued to fail in the area of gaming policy. I wish the bill a speedy passage, but given my personal interest I will be keeping a very close eye on gaming issues throughout South Eastern Metropolitan Region to make sure that the Brumby government is held to account and exposed as the failure it is in this area of government policy.

Mr SOMYUREK (South Eastern Metropolitan) — It is a pleasure to rise and speak in support of the Gambling Legislation Amendment (Problem Gambling and Other Measures) Bill. I comment that most people have engaged in gambling, be it the TAB, Tattslotto or the pokies, at one time in their life. Everyone agrees that for most people these activities are a bit of harmless fun, a bit of entertainment, but for the minority of people who are problem gamblers, gambling is not just a bit of harmless recreation and can be life destroying.

There are many reasons why people are problem gamblers, ranging from escapism — escaping from some of the problems in their lives — to the delusional thinking of those who believe they can earn an income from gaming. Problem gambling is one of the most insidious social issues in our community. Despite the awareness campaigns that have been run by various levels of government for the last decade or so, the level of awareness of problem gambling in the community is not as high as it should be. Harm minimisation

legislation such as the bill before us today is effective in creating greater awareness of problem gambling in the community. Legislation such as this demonstrates to the community in a concrete way that problem gambling is a big social problem.

It is always difficult for governments to legislate on this sort of issue, because the government is cognisant of the fact that people who want to gamble and do not have a gambling problem — people who can gamble for recreational purposes in a controlled way — should have the right to do so. However, on the other side of the coin is the need to protect individuals in our community who do have a problem with gambling.

Another issue that I would like to canvass before I go on to the specifics of the bill is the concern I have with the prevalence of poker machines in the working-class or socioeconomically disadvantaged suburbs of our state. Dandenong, where my office is located, is certainly a very socioeconomically disadvantaged area, and as far as I am concerned there are too many pokies around the Dandenong area. This is something that I know this government has been looking at, and it is something that I am sure it will be addressing going forward.

If I can get on to the specifics, the proposals in the Gambling Legislation Amendment (Problem Gambling and Other Measures) Bill will implement the commitments contained in Taking Action on Problem Gambling, the government's five-year strategy to combat problem gambling. It will enhance the capacity of the Victorian Commission for Gambling Regulation to regulate undesirable and irresponsible gambling practices — for example, by enabling it to monitor and enforce compliance with self-exclusion programs and responsible gambling codes of conduct. The bill will also enhance consumer protection in relation to gaming venues and clarify the existing race fields legislation introduced by the government in 2005.

I will now move to the key features of the bill. In brief, the problem gambling measures in the bill — and I will speak on each one of these in the remaining time I have — will limit the availability of cash at gaming venues; require gaming venue operators to have self-exclusion programs; require a range of industry participants to have responsible gambling codes of conduct; prohibit the outdoor placement of gaming machines; and prohibit venue operators, the wagering operator and the casino operator from permitting intoxicated persons to gamble. All of these minimisation measures are very sensible.

I turn to the issue of limiting access to cash. I am sure many of us in this place have been to an automatic teller machine (ATM) to withdraw cash and then wished the next day that our access to cash had been limited. Limiting access to cash at ATM machines is a very good measure, and it will force people who are binge gambling to stop. A self-exclusion program is also a recognised problem gambling strategy, and gaming venues and the wagering operator have voluntarily developed self-exclusion programs, so that is all very good. I commend the bill to the house and wish it a speedy passage.

Mr KAVANAGH (Western Victoria) — All governments need money — they all need revenue — in order to provide the kinds of services that we all demand of government. However, in the case of gaming revenue, in my opinion the cost of that revenue that Victorians are paying is far too high. As I have said in the house before, if we calculated the real cost of this revenue stream to the Victorian community and not just to the government, then we would surely find that this business has been bankrupt for a long time.

Last night Ms Tierney suggested that problems with dependence on gaming revenue and the prevalence of problem gambling are even worse in most other parts of Australia than they are in Victoria. Unfortunately I suspect that what Ms Tierney said is quite true, and it is something that should concern all of us. I think all of us, although we are in the Victorian Parliament, have our first duty to Australia and to our fellow Australians, and to know that the problems in New South Wales and other states are even worse than here is cause for grave concern.

As I have suggested to the house before, in my opinion the gambling policy of the present government amounts to exploitation — exploitation of the poverty of the poor, the loneliness of the lonely and the ignorance of the ignorant. In my opinion, our gaming revenue policy should be based on gaining only that revenue from the community which is obtained from citizens who choose — soberly, and in the understanding that they will probably lose their money — to gamble only what they can afford to lose.

The cost of the revenue to the government from problem gambling includes, among other things, significant financial loss to those individuals in our community with a gambling problem, many of whom are least able to afford it; the cost of this revenue includes some individuals going broke, unable to pay even for food for their children; the cost of this revenue includes family break-ups; and the cost of this revenue includes misery and depression to the point of suicide

by significant numbers of people. The bill before us represents tiny steps away from problem gambling and dependence on problem gambling revenue. I think it is clear that what is needed are giant leaps away from that dependence. On the basis, however, that the measures proposed are better than nothing, I will support these measures in the hope that they will be followed by much more serious measures to address this huge problem in our community.

Mrs KRONBERG (Eastern Metropolitan) — I rise to speak on the Gambling Legislation Amendment (Problem Gambling and Other Measures) Bill. In doing so, I state that I will not be opposing this bill but from time to time I will raise areas of concern that I have with it.

I would like to take this opportunity to paint a picture of what a problem gambling environment might look and feel like. It will be an environment where there will not be any clocks and where the weather patterns will not have any impact on that environment. Whether it is day or night, you will not know the difference; you will be completely zonked out in a zone that has all sorts of hypnotic and entrancing sounds; you will be awash with lights and colour. The scene will also be so cluttered that you will not be able to see any notices that warn you of the problems associated with excessive gambling, the addiction to it and how individuals can be drawn into this vortex that is terribly damaging to families and communities.

From the outset, a gambling environment, as I have constructed it, sets people up, even those who go in there with a grim determination for being drawn into the thrall of what is on offer. I wonder how many parcels of information go out there to the community to the effect that if you stand in front of a poker machine, for instance, there is no benefit in terms of changing the odds. In every transaction that takes place, the odds for you — the individual facing that device — remain the same, and the odds of getting a jackpot out of one of those machines is 2.5 million to 1. I wonder whether we are actually highlighting those sorts of things.

We also know that people, in desperation, will go immediately to a gaming environment with their entire wages available and plunder the whole lot. We see some excesses our indigenous community, where people are squandering a lot of their earnings or funds derived from the commonwealth government to support families on alcohol, and we have people who behave in as extreme a fashion in our community as well.

If we get down to the tintacks of the bill, the good part of it is that we can say that the bill requires gaming venue operators, such as pubs and clubs and the casino, to have an approved self-exclusion program. This is a really worthy element of this legislation. It provides for the establishment and observance of an approved responsible gambling code of conduct also to be a licence requirement for various forms of gambling licences, and this would include electronic gaming machines, wagering lotteries, bingo and the casino.

The self-exclusion programs and the responsible gambling code of conduct need to be approved by the Victorian Commission for Gambling Regulation (VCGR) and will be subject to ministerial directions and requirements that are contained in this bill. The Victorian Commission for Gambling Regulation is prohibited from approving any gaming machine located outdoors. I find that to be quite an interesting clause. We have just been focusing on the impact of these machines in the contained environments that allow people to be hypnotised and zoned out for long periods of time. I imagine we do not want gaming machines located in railway stations, such as I saw at the Prague railway station, where they have a full-blown casino operating in that public space, and it is a very ugly impost onto public transport systems, so I hope we never go that way.

The bill also makes it an offence for a gaming venue operator, casino or wagering operator to knowingly allow an intoxicated person to gamble, and the government has drawn on the liquor laws for the definition of what makes a person intoxicated.

There is a passage that I have great difficulty in the provision regarding the placement of ATMs — an ATM is an automatic teller machine, so you do not need to say it is an ATM machine — and it is the passage dealing with withdrawal limits. Changes will not take effect until January 2010 and, whilst there are probably many arguments supporting this decision, I believe it sends a very poor message in terms of the government's resolve to actually solve gambling problems. From 2010 any ATM that does not limit withdrawals to $400 in any 24-hour period per debit or credit card will be banned within 50 metres of the entrance to a gaming venue or the casino.

I have not done any particular research, but it has just occurred to me: whether the government has revised the provisions for allowing pawnbrokers in the precinct of gaming environments, and especially the casino, I think warrants attention, too.

It is important to stress that the provisions covering the cashing of cheques provide that the cashing of a cheque for more than $400 or more than one cheque in a

24-hour period is prohibited in a hotel or gaming club venue. I am delighted to say that this is a direct steal from the Liberal Party's policy platform. Well done to the Liberal Party for providing an important inspirational point to the state government. It is a pity that the state government does not adhere to the same sort of practice that one sees in academe where if you actually use someone's ideas, you formally make an attribution to acknowledge that you have pinched that person's idea. Plagiarism is seen as the most heinous crime of academic misconduct. I suggest to the government that it look to the standards in academe in terms of the way it communicates a message and from where it derives its policy platforms.

The minister may issue a ministerial direction relating to community benefits statements which include the kinds of activities and purposes that do or do not constitute community purposes. It also permits the minister to specify limits as to the maximum amount of gaming revenue which can be claimed under a category, whether by reference to a dollar amount, a percentage amount or another method.

Regarding the use of Victorian race fields, the bill provides that the information of a wagering service provider must be subject to the approval of the appropriate controlling body. With reference to the requirement to observe an approved responsible code of gambling conduct, there is no requirement on gaming operators, such as Tabcorp or Tattersall's, to have a responsible gambling code of conduct. Given that both Tabcorp and Tattersall's operate the responsible gambling code of conduct at present, there is a strong argument for the requirement that is being placed on gaming venues also being applied to gaming operators. Apparently Tabcorp supports the voluntary responsible gambling code of conduct and has queried why that code does not extend to it.

I know that this is a miserable thing to say as we break for Christmas, but I think the government may have rushed this bill through Parliament to be seen to be doing something about problem gambling. This is the flavour of much of the government legislative offerings throughout 2007. The fundamental problem is that the government has not thought this bill through. We also experienced this problem in regard to the Liquor Control Reform Amendment Bill. I ask the government to help expedite legislation in 2008 by thinking it through. We do not mind standing up and complaining about these issues; we will do that with a steely resolve as long as we have breath in our bodies. We want to expedite matters and solve problems in the community, but this process is not a good way of doing that.

There is a provision in the bill for the VCGR to report to the minister on failures by licensees to have in place or comply with the approved self-exclusion programs and the responsible gambling code of conduct. The Liberals believe the data should be available to the public. Unfortunately, as it now stands, there is no requirement for the minister to publish the report of the VCGR that he has received.

Unfortunately the restrictions regarding the cashing of cheques placed on hotel and gaming venues do not apply to the casino. The likely public perception is that the casino is being favoured over other gaming venues. I do not think the government has thought through that element at all. If it had, that is an alarming consequence. I am hopeful that the government takes that on board.

The provision which prohibits knowingly allowing an intoxicated person to gamble does not in fact apply to oncourse bookmakers. Anybody who has been to the Spring Racing Carnival knows that that is a real problem. The crowded throng interfaces with bookmakers in the betting ring. There is plenty of room to move.

Neither TAB agencies nor telephone betting centres are licensed venues; therefore it is unlikely that staff of such venues would be in a position to detect or stand in the way of an intoxicated gambling person. The serious flaws in this legislation highlight a fundamental problem with the procedures of drafting legislation. We have to say that clearly industry has not been adequately consulted during this hastily cobbled together legislative response to a very serious problem.

I would like to close on a note which underpins how serious problem gambling can be. I will pick up on what Mr Kavanagh said during his contribution when he talked about Victoria not being alone regarding the gambling epidemic that has swept across the nation; he also highlighted the problems in New South Wales. Interestingly I have an article from the *Daily Telegraph* of 3 December. It talks about a number of issues. The article entitled 'Can no-one vanquish the gambling dragon?' talks about the habits of people who go to gambling environments. It says:

> … where the tea and coffee are complimentary and the siren song of the humming pokies is working its magic on a roomful of gamblers.
>
> Many will stay well past lunch; a handful of diehards will hang around until after 5.00 p.m., staring trance-like at the screens.

That sounds like the lines out of a Bette Midler song. The article then says:

> A certain camaraderie prevails among the pokie-playing patrons: just half an hour ago there was a round of applause as one machine yielded a small and much-needed payout.
>
> Stay a little longer and watch the short-lived joy evaporate.

I will take members out of that trance. The article then says:

> Sydney man Jarrod Lawson knows firsthand how destructive poker machine addiction can be.
>
> His mother Theresa was sentenced to four years jail for stealing $2.6 million to feed her gambling habit and his father Chris, who was unable to cope without her, killed himself.
>
> Yesterday Mr Lawson said more needed to be done to assist those whose lives were being destroyed.
>
> 'They should have gambling warnings that pop up on the screen like a computer screensaver, so the players are forced to take a break', he said.

In an environment where people actually do not take a break of any description, I think one of the most readily called upon professions in the gaming environment would be that of professional carpet cleaners. It is my understanding that some people do not remove themselves from gaming environments and their attachment to, say, poker machines even to deal with a call of nature but deal with it in situ, because they are so hypnotised and so intoxicated by the environment and the all-pervasive influences that hit them at the core.

I urge the government to look beyond these measures, which are worthy but which do not go far enough. If it wants to snaffle something from the Liberal Party policy platform, I suggest it move to eliminate 5000 gaming machines as a good start to 2008. We would not accuse the government of plagiarising; we might even find the words to congratulate it if it moved on that initiative. That is not such a difficult thing to do, and I hope the government thinks about doing it. There is just so much suffering in the community that I say to the government that it should not forget what will happen between now and when this Parliament sits again — how many lives will be crushed and how much suffering there will be as a result of the holes in this legislation and the lack of initiative thus far.

Mr LEANE (Eastern Metropolitan) — In speaking in the debate on the Gambling Legislation Amendment (Problem Gambling and Other Measures) Bill 2007, I want to go through some of the background that led to this bill being introduced into this place. The government produced a five-year strategy to combat problem gambling with the title Taking Action on Problem Gambling, and this is one of those steps towards taking action on problem gambling. No-one in this house enjoys seeing people having gambling problems. We all appreciate there is some hypnotic trance that some people go into when it comes to playing poker machines. I had a number of friends in the construction industry, which is a well-paid industry, who before poker machines were introduced unfortunately often had no money the day after payday because they would find ways to lose their money on the greyhounds, the trots or the horses.

I would like to refer to and maybe expand on some of the key features of the bill. One is the limited availability of cash at gaming venues. The bill provides that at gambling venues customers can withdraw only $400 per day from an ATM (automatic teller machine). The gambling venues I have visited that have poker machines have a particular type of ATM which allows you to access funds only from your savings account and not from a credit card. I am pretty sure that is implemented across the board. It is a good thing that there is a daily limit.

I turn to something that has previously been introduced in another area — namely, the ban on smoking inside gaming venues. This may be a by-product of attempts to limit gambling and was part of the ban on smoking in restaurants, clubs and other venues that are often associated with gaming venues. The implementation of that ban has been good, because when people who smoke leave their machine to do so perhaps they will stop and think about how they are going with their wagering. If they feel that they are not going too well, maybe they will realise they have lost enough and move on.

In recent years it has become mandatory for the time to be displayed on gaming machines. I remember that when gaming machines were first introduced into venues you would not see a clock anywhere, and that would lead to people losing track of the time they had spent wagering on the pokies. It was a problem that people could not look up and see what the time was. Clocks have been introduced and digital displays appear on every machine. Even someone who does not want to avert their eyes from the machine will be reminded of the time constantly because it will be in their face.

Self-exclusion programs have been delivered in a voluntary fashion by a number of gaming venues. The bill codifies a requirement that venues have such a program and that it be approved by the Victorian Commission for Gambling Regulation.

I appreciate that Mrs Peulich, in her contribution, mentioned that people have volunteered for these programs and then have disguised themselves. That

was a fair contribution, but I must say I hope the number of people who volunteer for the programs and act in that way is only a small percentage of the total number of volunteers. I hope the people who volunteer for the programs appreciate that if they feel an uncontrollable urge to present themselves at a venue, they will be reminded that they did put their hands up and that they should not be there for reasons that have in previous times obviously done themselves a disservice and lost them a lot of money. We all appreciate that some people and their families cannot afford to lose money. A good part of the intention of this bill is to make it mandatory for gambling to be monitored by the Victorian Commission for Gambling Regulation in all venues. It is a good thing that they all participate.

On top of that, the Victorian Commission for Gambling Regulation will be enforcing the industry to develop a responsible gambling code of conduct. The process of developing that code of conduct will be good for the industry. Let us hope the code of conduct will flush out new ideas to fight problem gambling. The industry needs to take ownership and responsibility for this code. It needs to understand and take responsibility for the fact there are people who are getting themselves into difficulties because of its product. It needs to come up with a code that can assist people who have problems with its product.

I will go back to a few of the other measures in the bill. It prohibits venue operators, wagering operators and casino operators from permitting intoxicated persons to gamble. That is a sensible and common-sense amendment to the bill. If you are detected as being intoxicated in a bar, there is a responsibility on the bar staff not to serve you more alcohol. If that is the case, if they are going to be following their legal requirements to refuse someone alcohol whom they believe is intoxicated, you would think it is just common sense that they would need to pull someone out and not permit them to use a gaming machine when that person is not making a rational, common-sense decision about the way they are wagering in any sort of venue. That includes wagering operators, which would be a number of pubs and the TAB. That needs to be taken into account.

When someone has had too much to drink in a venue that has a TAB, the bar staff can refuse the serving of alcohol to that person, but that particular person can have a bet on any sort of horse that might start in a race at odds of 300 to 1 and put a huge amount of money on it because of their impaired state. There should be a responsibility on the person on the other side of the TAB counter who takes the bets to refuse a bet from that intoxicated person. That is a very common-sense aspect of the bill. It is very important, and it is a good way to go forward.

Mrs Peulich interjected.

Mr LEANE — Mrs Peulich says by interjection that they need to be trained in that. I agree with that sentiment. That is a very good interjection. Credit where credit is due at this time of the year when we are all feeling pretty good about what we have all achieved in this house. Mrs Peulich makes a good point, and I hope when the responsible gambling code of conduct is discussed and it is made mandatory for industry participation, that thought is given to including as part of that code of conduct the industry taking responsibility and training TAB staff and gaming machine attendants in that fashion.

Mrs Peulich interjected.

Mr LEANE — Phone betting would be a hard one, because it is very hard to tell over the phone if someone is intoxicated, but it is a good point.

There are other harm minimisation measures in this bill, which will enable the minister to specify the maximum amount or percentage of gaming revenue that can be claimed in respect of each claimable community purpose. The claimable activity must be specified as a community activity or purpose by ministerial order. That is very important. There are some bona fide community clubs that have benefited from the revenue from some forms of gaming. Obviously that is an important part. It is important that there is something put back into the community. I commend this bill to the house.

Mr O'DONOHUE (Eastern Victoria) — I am pleased to rise to make a brief contribution on this bill. The words of Mr Kavanagh summed it up when he said this bill is about tiny steps, and tiny steps they are indeed. Without picking up on them too much, I think Mr Leane's comments echoed that this bill is about tiny steps. He said that the fact you can no longer smoke in a pokies venues is a good thing because it means punters will have to go outside, they will have a smoke and they will think about what they are doing. I suggest to Mr Leane that if someone has a serious gambling problem, taking a 5-minute smoke break will do very little indeed in stopping their problem gambling, as will the installation of clocks. I do not contest that that is a good measure, but again it is a very small step.

The steps proposed in this bill are, again, very small. Things such as limiting the withdrawals from ATMs (automatic teller machines) near gaming venues or the

casino are to be welcomed. Making it an offence for a gaming or waging operator or the casino to knowingly allow an intoxicated person to gamble is a good thing, but at the end of the day these things will do very little. What we really need is a reduction in the number of machines in Victoria to reduce accessibility to gaming and reduce that temptation.

At a local level I have seen firsthand the effects that gaming can have on families and groups. I have met people who have or have had an addiction to gaming and know just what a terrible impact it can have, not just on the individual but on their whole family, including extended family, and on their extended social network. Perhaps what best demonstrated to me the impact of gambling and the opposition that many people have to electronic gaming and to gambling in general were the petitions that were presented by the member for Gembrook in the other place from the constituents of the Ranges ward of the Shire of Cardinia. Amazingly the organisers of the petitions gathered together over 2000 signatures to call for the Ranges ward to be excluded from having electronic gaming machines.

I commend Cr Chatwin, the Reverend Dr Crawford, Mrs Dot Griffin, Mr Robert Farr and Mr Keith Ewenson, who together organised this petition for the member for Gembrook to present. When a petition can gather together 2000 signatures in a relatively small geographical area it says a lot about just what that community feels about the matter. The Ranges ward has its own social problems with the lack of employment and some youth delinquency issues, and it does not need gaming machines. At the moment it does not have gaming machines and it definitely does not need them.

But the reality is that even after this legislation is passed a gaming operator could potentially introduce gaming machines to that area, because at the moment the shire of Cardinia is underweight in the provision of electronic gaming machines, having only 4.69 per 1000 people. Under Labor's policy this could increase by up to 450, or an increase of approximately 240. Whilst this legislation makes some small improvements, the fact is that once this legislation is passed there is still enormous scope for gaming operators to move machines around for the most profitable outcome.

I fear for those residents in the Ranges ward in the hills, and particularly for those 2000 people who in good faith signed a petition that the member for Gembrook presented. Without reflecting on the member for Gembrook, it is disappointing that, either because she did not believe in the petition she presented or because she was unable to convince her party room that this flawed gambling policy should not be passed, just as she was unable to convince the Premier not to lift the moratorium on genetically modified crops. That is perhaps because this government is addicted to gaming revenue. Gaming revenue has exploded under this government and it has in effect turned its eyes away from the wider social consequences this causes. With those few words, the opposition will not oppose the bill.

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 thank respective members for their contributions to the second-reading debate.

Motion agreed to.

Read third time.

CRIMINAL PROCEDURE LEGISLATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Lenders 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 Criminal Procedure Legislation Amendment Bill.

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

Overview of bill

The objective of the bill is to make a number of reforms to criminal procedure and offences in accordance with the principles outlined in the government's justice statement. The justice statement, released in May 2004, set the agenda for

significant reform of the justice system. Justice statement initiatives include reviewing and replacing key legislation on criminal law and procedure.

This bill includes reforms to implement most of the Sentencing Advisory Council's recommendations from their final report *Sentence Indications and Specified Sentence Discounts.*

This bill also makes a number of smaller reforms to criminal procedure and offences, including:

abolishing reserved pleas;

amending the obligation to strike out a charge for a summary offence when the charge sheet and summons have not been filed within time;

providing a maximum penalty for the common-law offence of exposure;

amending the summary offence of wilful damage.

Human rights issues

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

1. Section 24(3): fair hearing

Section 24 protects the right to a fair hearing.

Sentence discounts and indications

The bill provides that the decision to give or not to give a sentence indication is final, limiting the right of appeal in regards to that decision. This may engage the right to a fair hearing.

The purpose of this right is to ensure the proper administration of justice and focuses on the extent to which procedures protect the rights of the parties and the reasonable opportunity to present his or her case to the court. The decision to grant or not grant a sentence indication does not infringe this right because it in no way limits the information that may be presented to the court. If a decision not to grant an indication has been made, the hearing or trial proceeds as normal and the accused may produce any material that was already available to them to produce before the indication was requested. The bill also provides that the application for, and determination of, a sentencing indication are inadmissible in evidence against the accused. Furthermore, the bill does not limit the accused's right to appeal the final sentence imposed.

The bill may also enhance this right. Sentence indications are aimed at helping an accused to make their plea decision at an earlier stage, by having more knowledge and certainty about what sentence he or she is likely to receive. Further, the bill provides that if the accused does not wish to plead guilty after receiving an indication, the case must be listed before a different magistrate or judge.

Section 24(3) of the charter provides a right to the public pronouncement of judgements and decisions by a court or tribunal. Amendments in the bill that oblige the court to identify the amount of a sentence discount, for certain types of sentence orders, may enhance this right by making sentencing decisions more transparent.

Reserve pleas

Requiring an accused to choose whether to plead guilty or not guilty at the end of a committal proceeding (where the court has decided to commit the accused for trial) does not limit the accused's right to a fair trial because an accused may plead not guilty. That is, any accused who is undecided and may have reserved their plea under current laws can instead plead not guilty. A plea may also be changed to guilty at any time up to and during the trial.

2. Section 25(1): right to be presumed innocent; and Section 25(2)(k): right not to be compelled to confess guilt

Sentence discounts and indications

Section 25(1) protects the right to be presumed innocent until proven guilty according to law and section 25(2)(k) states that a person is not to be compelled to testify against him or herself or confess guilt. This right would be engaged if accused persons were being induced to plead guilty.

The amendments in the bill that provide for sentence discounts and indications would infringe this right if they induced accused persons to plead guilty. The scheme provided by the bill does not induce or compel accused persons to plead guilty. While sentence discounts may be seen as permitting a risk of an inducement, discounts have been available in statute since 1991. The sentence discounts reforms are focused on making the current operation of the law more explicit and transparent.

If an accused seeks a sentence indication and then decides not to accept the indication and does not plead guilty thereafter, the matter is then listed to be heard before a different magistrate or judge.

3. Section 25(2)(a): right to be informed promptly and in detail of the charge

Section 25(2) provides for minimum guarantees in criminal proceedings including the right in section 25(2)(a) to be informed promptly and in detail of the nature and reason for the charge.

The bill amends section 30 of the Magistrates' Court Act 1989 to give magistrates discretion as to whether or not to strike out a charge when the informant cannot prove that he or she has filed the charge and summons in the court within seven days of issuing a charge sheet. Currently, if the informant cannot prove that he or she has complied with this requirement, the magistrate must strike out the charge.

This amendment does not alter the notice that the accused receives when they are charged with an offence. This is because the accused gets notice of the charge when they are issued with a summons to attend court. Therefore the filing requirement will have minimal impact on the accused as it is only following service of the charge and summons that they become aware of the matter and have notice of the date to attend court (i.e. from the summons). Therefore, the right is not limited.

4. Section 25(3): rights of children in criminal proceedings

Section 25(3) protects the rights of children in criminal proceedings including the right of a child charged with a

criminal offence to a procedure that takes account of his or her age.

Clause 14 of the bill amends the Children, Youth and Families Act 2005 to oblige the Children's Court to identify the amount of a sentence discount, for certain types of sentencing orders. This amendment will not infringe the right of children to be treated according to their age. It is a part of the Children's Court procedures, which have been put in place to protect the rights of children.

5. Section 27: right not to be found guilty of an offence due to conduct that was not an offence when it was engaged in, and right to a lesser penalty

Common-law exposure

Sections 27(2) and 27(3) provide that a penalty must not be imposed that is higher than the penalty that applied when the offence was committed, and protect the right to benefit from a lesser penalty when penalties change.

The common-law offence of exposure does not currently have a penalty. If a person is sentenced for this offence after the commencement of this bill, he or she will be sentenced in accordance with this new reduced maximum penalty, irrespective of when the offence was committed. Further, if proceedings have not been concluded, the accused may benefit from the ability to have the offence heard summarily in the Magistrates Court and the lesser penalty that may be applied in that court.

Wilful damage

Conduct amounting to the offence of wilful damage may also constitute the indictable offence of damage or destruction of property in section 197(1) of the Crimes Act 1958. Currently a person who causes damage worth more than $500 must be charged with the indictable offence, which has a maximum penalty of 10 years imprisonment. After the commencement of the amendment, a person who causes damage of under $5000 will benefit from the reduced penalty that applies to the offence of wilful damage (6 months imprisonment).

Statute law revision

Section 27(1) ensures that people may not be found guilty of an offence if it was not criminal when it was engaged in. The bill includes amendments to the Crimes Act, which substitute 'youth training centre' for 'youth justice centre', subsequently covering people who have been working at a youth justice centre.

These amendments do not engage this right because they commence in accordance with the transitional provisions found in schedule 4 of the Children, Youth and Families Act 2005. Clause 24 of schedule 4 to that act indicates that a reference to a youth training centre is to be read as a reference to a youth justice centre from the commencement date of the provision. Schedule 4 to that act commenced on 23 April 2007. Accordingly, clause 2 of this bill provides that this statute law revision is deemed to have come into operation on 23 April 2007.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions do raise human rights issues, these provisions do not limit human rights.

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

Ordered that second-reading speech, except for the statement under section 85(5) of the Constitution Act 1975, be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The release of the government's justice statement in May 2004 set the agenda for significant reform to modernise the justice system. Justice statement initiatives include reviewing and replacing key legislation on criminal law and procedure.

This bill will implement recommendations made by the Sentencing Advisory Council on sentence indications and discounts. These reforms will complement improvements made to the committal process by the Courts Legislation Jurisdiction (Amendment) Act 2006.

The bill will also make a series of small amendments to the Crimes Act, the Magistrates' Court Act and the Summary Offences Act to improve the efficiency and fairness of the criminal justice system.

I now turn firstly to the implementation of the Sentencing Advisory Council's recommendations.

Sentence indications and discounts

In mid-2005 the government asked the Sentencing Advisory Council to consider whether Victoria should introduce sentence indications and discounts. In particular, the council was asked to consider the potential impact of introducing such schemes on victims of crime, the efficiency of the criminal justice system and the Victorian community.

The council found that there is a very high incidence of matters resolving as pleas of guilty at a late stage in proceedings. Many of these matters could be resolved 6–12 months earlier. Both sentence indications and sentence discounts are designed to place defendants who may ultimately plead guilty in a better position to make this decision early in the proceedings.

The council's final report made a number of recommendations. This bill implements the majority of the legislative recommendations put forward by the council.

Under Victoria's Sentencing Act 1991, when sentencing an offender the court must take into account whether the offender pleaded guilty, and if so, the stage in the proceedings at which the offender pleaded guilty. This bill does not make any changes to this aspect of the law. A court may reduce the sentence it would otherwise have imposed because the accused has pleaded guilty.

Because the court does not normally identify the amount of any discount, the extent to which a plea of guilty changed the sentence that would otherwise have been imposed is often not clear. This lack of transparency can reduce the confidence of the victim and the community in the sentencing process and can fuel scepticism among defendants about whether an early plea of guilty will make any difference to the sentence imposed on them.

This bill implements the council's recommendations to make this part of the sentencing decision-making process more transparent. Transparency can be achieved by the court simply stating the sentence that it would have imposed 'but for the plea of guilty'. The council recommended that in every sentence in which the court decides to provide a discount for a plea of guilty, it should identify and state the amount of that discount. This recommendation has been refined following further consultation on the council's recommendation.

The bill will require the court to state the amount of a discount given for a plea of guilty where the sentence is of a custodial nature or involves a fine of over 10 penalty units, or an aggregate fine of more than 20 penalty units. For less severe sentences, including any fine imposed in the Children's Court, the court may, but is not required to, identify the amount of a discount.

This approach recognises that a discount is sometimes difficult to identify with lower level sentences — for example, an accountable undertaking given in the Children's Court. Further, the value in identifying the amount of any discount increases where higher sentences are imposed.

Where an offender pleads guilty to a number of offences, it may be appropriate for the court to impose a sentence of imprisonment for each offence and a total effective sentence, which takes into account any orders for concurrency or cumulation of the sentences. If the court considers that a discount is appropriate for some or all of the offences, the bill requires the court to identify the discount in relation to the total effective sentence, including any non-parole period, which is imposed, rather than in relation to each individual sentence. The more offences a person is sentenced for, the more important the total effective sentence becomes in comparison with the individual sentence.

While there are some differences in sentencing laws applicable in the Children's Court, the bill adopts a similar approach in the Children's Court by providing that the court may identify the discount in relation to the aggregate term of detention for more than one offence, rather than each period of detention.

The approach to be employed in each court appropriately balances the competing interests in identifying the amount of discount in relation to the sentence for each offence and the complexity of doing so where a person is sentenced for a large number of offences.

The Sentencing Advisory Council also found that sentence indications could sometimes be helpful in resolving matters at an earlier stage of proceedings. Having an indication of a likely sentence can help some defendants to decide whether or not to plead guilty to an offence. The council found that sentence indication schemes are very effective in resolving contested summary matters. For defendants whose primary concern is the possibility of a conviction or an immediately servable sentence of imprisonment, an indication that rules out one or both of these possibilities may remove the impediments that are causing them to defer their plea decision.

This process already occurs informally in the Magistrates Court and the Sentencing Advisory Council recommended that this be formalised. The bill provides that the Magistrates Court may provide an indication as to the sentence type that the court is considering imposing (for example, a fine, a community-based order, or whether a conviction will be imposed) or whether the court is likely to impose an immediately servable term of imprisonment or detention. This procedure also applies in the Children's Court.

The Sentencing Advisory Council also recommended that this process be extended so that it is available in the County and Supreme courts. The council recognised that the flexible approach that works well in the Magistrates Court needed to be adapted to address more complex sentencing issues that can arise in the County and Supreme courts. The council recommended that a sentence indication in the higher courts be limited to an indication of whether the defendant might or might not be subject to an immediately servable term of imprisonment. The bill implements this recommendation.

An indication can be provided upon application by the defendant but can only be heard by the court if the prosecution consents, following consultation with the victim. Unlike in the Magistrates Court, the bill provides that an indication may only be provided once in the County and Supreme courts unless the prosecution consents to another application being heard. The court will have unfettered discretion to refuse to provide a sentence indication. If an indication is given and the defendant pleads guilty, the court may not impose a more severe sentence.

To ensure that defendants are not disadvantaged by a sentence indication, if the defendant does not plead guilty after an indication is given, a trial must be conducted before a different judicial officer, unless the parties consent otherwise. Further, the bill provides that evidence of an application for an indication, the sentence indication hearing and the sentence indication itself, is inadmissible against the defendant in any proceeding.

Clause 6 of the bill provides that it is the intention of section 50A(5) of the Magistrates' Court Act 1989 to alter or vary section 85 of the Constitution Act 1975.

Clause 8 of the bill provides that it is the intention of section 23A(9) of the Crimes (Criminal Trials) Act 1999 to alter or vary section 85 of the Constitution Act 1975.

Section 85 of the Constitution Act:

Mr LENDERS — I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of clauses 6 and 8 of the bill to alter or vary section 85 of the Constitution Act 1975.

Section 50A(5) of the Magistrates' Court Act 1989 and section 23A of the Crimes (Criminal Trials) Act 1999 will provide the Magistrates, Children's, County and Supreme courts with the capacity to provide a

sentencing indication to a defendant who is considering pleading guilty. In accordance with a recommendation from the Sentencing Advisory Council, these sections provide that a decision to give or not to give a sentence indication is final and conclusive.

A sentence indication should only be given where it is likely to be of benefit in concluding proceedings. The reason for restricting review and appeal rights against a decision to give or not to give a sentence indication is to ensure that this decision is final and the substantive proceedings, whether a trial or a plea hearing, can proceed without delay. If review and appeal rights were not restricted, they could defeat the purpose for the introduction of this reform. Importantly, when a sentence is imposed, each party has rights of appeal against the sentence imposed.

Incorporated speech continues:

The government wants to ensure that appropriate measures are in place to protect the community and enable just punishment for those who commit offences. The scheme has been carefully designed to ensure that it does not improperly induce guilty pleas, engender disproportionate and unduly lenient sentencing, or limit sentencing discretion.

These reforms help to provide a better justice system. Guilty pleas bring earlier closure to victims and their families and assist the victim to begin the process of recovery. A guilty plea also signifies a defendant's willingness to accept responsibility for his or her conduct, and frees up the resources of the justice system for other matters. To ensure that these reforms work effectively, the Sentencing Advisory Council will monitor the effectiveness of these reforms.

These reforms will also complement the government's reforms to committal proceedings contained in the Courts Legislation Jurisdiction (Amendment) Act 2006 and the 2007 budget initiatives to reduce delay, particularly through the establishment of an early resolution unit at the Office of Public Prosecutions.

I would like to thank the Sentencing Advisory Council for its extensive consultation with the courts, the legal profession and the community and its excellent work in preparing its report.

I now turn to the other reforms in the bill.

Other amendments

The bill also makes a number of amendments aimed at promoting fairness and greater efficiency in the criminal justice system, including:

providing magistrates with a discretion concerning whether to strike out charges where the informant has issued a summons and the informant cannot prove that he or she has filed the charge and summons in the court within seven days of signing the charge sheet;

abolishing reserve pleas — as a result, at the conclusion of committal proceedings the defendant will need to either plead guilty or not guilty. This will improve the accountability of decisions made by defendants, particularly given that sentencing discounts benefit those who make decisions at the earliest opportunity;

introducing a maximum penalty of five years imprisonment for the common-law offence of wilful exposure. Currently, the maximum penalty for this offence is at large. Fixing a maximum penalty will also enable this offence to be determined summarily where the Magistrates Court considers this to be appropriate;

enabling the summary offence of wilful damage to be used where the amount of damage caused to property is less then $5000. This offence is currently restricted to damage valued at less than $500. This change will assist in the efficient disposition of lower level offences involving damage to property.

The bill will promote consistency, transparency, fairness and certainty in the criminal law, all of which are key principles of the government's justice statement. Sentence indications and discounts complement this government's priority to reduce delays in the criminal justice system, and to reduce the stress and trauma experienced by victims of crime. The reforms in the bill will perform an important role in modernising and improving Victoria's laws and criminal justice system.

I commend the bill to the house.

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

Debate adjourned until Thursday, 13 December.

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

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Treasurer).

Statement of compatibility

Mr LENDERS (Treasurer) 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 Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007 ('the bill').

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

Overview of the bill

The bill:

> Amends the Children's Services Act 1996 to require the proprietor of a children's service to ensure that the service has in place an anaphylaxis management policy containing prescribed matters. The maximum penalty for an offence against this requirement is 30 penalty units.
>
> Amends the Education and Training Reform Act 2006 to include as a requirement of registration of a school that the school has a developed anaphylaxis management policy containing matters required by a ministerial order to be included in the policy.

Human rights issues

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

The following rights are engaged by the bill.

Right to life (section 9 of the charter) and protection of families and children (section 17 of the charter)

The right to life in the charter includes a positive obligation on government to protect the lives of persons in their care. The charter also provides that 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 underpinned by the protection of these rights. Anaphylaxis management is a key issue in early childhood services and schools following publicised incidents where children have died from symptoms connected with anaphylaxis whilst attending early childhood services or schools. The bill provides enhanced protection of the health and safety of children diagnosed at risk of anaphylaxis by making it a requirement for early childhood services and schools to have an anaphylaxis management policy in place. It is intended that the policy will include minimum safety standards and mandatory training of staff.

Right not to be subjected to medical treatment without his or her full, free and informed consent (section 10(a) of the charter)

The above right is engaged by the bill in that the proposal anticipates that children will be administered with adrenaline via an adrenaline auto-injection device in emergency situations. Such medical treatment will occur with the full, free and informed prior consent of the parent or guardian of the child, which forms part of the child's individual plan. There is therefore no limitation on this right.

Right not to have one's information or bodily privacy unlawfully or arbitrarily interfered with (section 13 of the charter)

To the extent that a child's medical information will be attached to the child's school enrolment record, the child's right to information privacy is engaged because medical information is information of a personal nature. There will be no limitation of the right because this will occur with the consent of the child's parent or guardian and the information will be maintained in accordance with the requirements of privacy legislation.

The child's right not to have his or her bodily privacy unlawfully or arbitrarily interfered with is also engaged as the administration of an adrenaline auto-injection device prima facie constitutes an interference with bodily privacy. However, the interference will occur in confined circumstances set out in law according to the prescribed anaphylactic management policy and with the consent of the child's parent or guardian and the interference will be neither unlawful or arbitrary.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit any human rights.

John Lenders, MLC
Treasurer

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Anaphylaxis, or anaphylactic shock, is a severe allergic reaction and is most commonly caused by nuts, insect stings and some medicines.

There is now extensive evidence of increasing rates of anaphylaxis in the community.

Australia has one of the highest rates of children who suffer severe allergies.

What separates this disorder from other childhood illnesses such as epilepsy, asthma or diabetes is that anaphylaxis is sudden, severe and a potentially fatal allergic reaction if not treated urgently.

Honourable members will have read and heard about tragic incidents highlighting the real and very serious risks posed — particularly to children — by anaphylaxis.

Current research estimates that 1 child in 200 has been diagnosed as being at risk of anaphylaxis — which means around 5000 Victorian children are at risk.

Increasing incidence is also demonstrated by data collected between 2000 and 2006, which shows admissions to the Royal Children's Hospital for anaphylaxis tripled during that period.

As stated on the government's Better Health Channel website the severe allergic reaction associated with anaphylactic shock means that:

> Within minutes of exposure to the allergen, the person can have potentially life-threatening symptoms, which include:

difficult or noisy breathing;

swelling of the tongue;

swelling or tightness in the throat;

difficulty talking or a hoarse voice;

wheeze or persistent cough;

loss of consciousness or collapse;

becoming pale and floppy (in young children).

To prevent severe injury or death, a person experiencing an anaphylactic shock requires swift action — with an injection of adrenaline.

The adrenaline is generally administered through an auto-injecting device, commonly known by the brand name EpiPen®.

As a consequence of the increased diagnosis, the management of anaphylaxis in schools and children's services has become a key issue for all Australian jurisdictions.

The bill before the house today fulfils a commitment made in October 2006 by the former Premier, Steve Bracks, to mandate minimum safety standards for children at risk of anaphylaxis while at school or an early childhood service.

Research shows that individual management plans, staff training and clear communication between staff, parents and doctors are essential to effective anaphylaxis management.

The Victorian government is committed to providing a safe and supportive environment in which children diagnosed at risk of anaphylaxis can participate equally in all aspects of school or a children's service.

We want parents who have a child at risk of anaphylactic shock to be reassured that staff at their child's child-care centre, kindergarten or school have been trained to handle such an emergency.

The bill will amend the Children's Services Act 1996 to require a children's service to have an anaphylaxis management policy containing the matters prescribed by the regulations.

The regulations may include plans and procedures; the development, implementation, maintenance and availability of the policy; the training of staff; and the storage and availability of anaphylaxis medication.

It is envisaged that the regulations will require all on-duty staff at a children's service to have comprehensive anaphylaxis management training where there is an enrolled child who has been diagnosed as being at risk of anaphylaxis.

It is also envisaged that all children's services staff, regardless of whether there is a child at risk enrolled at the service, will be required under the regulations to be educated in the use of an adrenaline auto-injecting device.

The bill will also amend the Education and Training Reform Act 2006 to impose similar requirements for schools.

Specifically, the bill will impose a new obligation on the Victorian Registration and Qualifications Authority to only register a school if it is satisfied that it has an anaphylaxis management policy in accordance with a ministerial order.

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

It is proposed that the ministerial order will require all schools (both government and non-government) with a student diagnosed as being at risk of anaphylaxis to have in place an individual management plan for that student and a communication plan for staff, parents and students to inform them of the school's policies.

Staff responsible for the care of students diagnosed as being at risk of anaphylaxis will be required to have up-to-date anaphylaxis management training, including training in the use of an adrenaline auto-injecting device.

As part of the regular school review process, schools with a student diagnosed as being at risk of anaphylaxis will need to demonstrate compliance with the requirements in the ministerial order to the Victorian Registration and Qualifications Authority.

The bill provides that the act will commence automatically on 14 July 2008, the first day of term 3, 2008 for children's services and schools, if it has not been proclaimed earlier. This will provide time for the regulations and ministerial order to be developed and for schools and children's services to comply with the new requirements.

The bill is consistent with and will build upon the work already undertaken by the Victorian government to manage and reduce the risk of anaphylaxis. This work includes:

the development and distribution of the *Anaphylaxis Guidelines for Victorian Government Schools* to all Victorian schools, including Catholic and independent schools, and the anaphylaxis resource kit to children's services;

funding to train staff in government schools and children's services in how to recognise and respond to an anaphylactic reaction, including the use of an EpiPen®;

the establishment of an allergy working party to report to the Minister for Health on issues related to the diagnosis, prevention and management of allergies;

support for the Royal Children's Hospital allergy unit;

introduction of training with 4800 staff in children's services and over 11 700 staff in schools already trained.

Victoria is leading the way in Australia in supporting children, young people and their families who live with severe, life-threatening allergies.

This bill continues that leadership and will increase the protection of the health and safety of children who are at risk of anaphylaxis and increase the confidence of parents and staff in minimising and responding to anaphylactic reactions.

In bringing this bill to the house I would like to commend the work of some key organisations who have worked in partnership with the government including:

the Australian Medical Association,

Anaphylaxis Australia,

the Ilhan Food Allergy Foundation,

the Royal Children's Hospital Department of Allergy and Immunology,

the Asthma Foundation of Victoria,

Ambulance Victoria First Aid, and

many parents whose children have been diagnosed with anaphylaxis.

And finally in introducing this bill, I would like to acknowledge Nigel and Martha Baptist whose son Alex tragically died while attending a Victorian kindergarten in 2004.

From that time Nigel and Martha have worked selflessly, and with great dignity, to raise awareness of anaphylaxis and its tragic consequences.

I would like to commend them for their commitment and their courage.

Victoria's children will now be better protected through this legislation.

I commend the bill to the house.

Debate adjourned on behalf of Ms LOVELL (Northern Victoria) by Mrs Coote.

Debate adjourned until Thursday, 13 December.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 5 February 2008, at 3.00 p.m.

I normally do not speak to this motion, because the normal sessional orders would apply and the house would commence at 2.00 p.m. on a Tuesday, but I would like to speak to this motion because it is out of the ordinary and proposes a 3.00 p.m. start on the first day back next year. The reason for this is to give individual members of the Council an option on the first day back next year to participate with members of the Legislative Assembly in the Premier's statement of legislative intent, which the Assembly incorporated into its sessional orders earlier this week and which it informed the Council of by way of a message yesterday.

It is worth spending a few moments to outline what this proposal is and why I have moved this motion for the consideration of the house. It will not be unfamiliar to members of the house that at the start of a Parliament or after a Parliament has been prorogued the Governor makes a speech in which he outlines the legislative program for the Parliament. While the Premier's statement of intent is not a Governor's speech, and nor does it propose to be a Governor's speech, what it seeks to do is advise the Parliament and the community of what the government is proposing to do in the following year. This is innovative and new for Victoria.

The concept is all about allowing the Parliament to have a sense of what the government's legislative program will be for the year, to put into context what the government seeks to do, to highlight those issues and to open them for debate in the Parliament in that particular year. The proposal is that this be done in the Legislative Assembly as the first item of business after the prayer in a new year. The proposal is that the Premier make a particular statement, that the Leader of the Opposition reply to it, that the leaders of other parties reply to it and that there then be a general debate in the Legislative Assembly.

In this motion I am not proposing to even enter into the issue of whether the Council would debate the statement of legislative intent, because that is something it is appropriate for this Council to consider in its own time in the new year, if it wishes to do so. I certainly have a view that it would be beneficial for the Council to do so because, as with the address-in-reply or the budget speech, it enables all members of the Council to speak in general about what is happening in a particular year. I think most members find that a very useful thing to do. That is a separate debate that is not being proposed by this motion. What is being proposed is that the Council commence 1 hour after its normal time so that any members who choose to can go to the Assembly chamber, sit through that debate and then come out.

There has been some discussion around the traps about whether this is the executive government trying to ram its agenda down the throat of the Legislative Council. I advise the house that the Leader of the House in the Assembly, Peter Batchelor, invited the business managers of all parties to a meeting. There was some confusion as to whether the Liberal Party was appropriately advised or not, and we can go into the details of that, but the member for Kew in the other place, Andrew McIntosh, came to both meetings. There was disagreement in the Assembly as to whether the statement is an appropriate course of action to take, and I know the Liberal Party and The Nationals voted against it. I will not reflect on that; it is their prerogative

to do so. The government and the Independent, the member for Gippsland East, voted in favour of it.

What we are seeking in this motion is not to re-litigate whether that was appropriate or inappropriate but simply to acknowledge that the Assembly will be considering a statement from the Premier on the government's legislative intention for the year. There will be a debate in the Assembly.

Mrs Coote — Will there be photographs?

Mr LENDERS — Mrs Coote asked whether there will be photographs. Whether there are photographs or not, I believe this will be a significant statement of government intent. This resolution is not to re-litigate whether a statement of intent is an appropriate or inappropriate issue.

I know that a number of members of this chamber may not agree with this action. Certainly that is probably true of 17 members whose party in the Assembly expressed a view that it is not appropriate or that there is a better form for it to take. However, the reality is that the Premier will speak in the Assembly. This motion seeks to enable members of the Council who wish to sit in the Assembly chamber and listen to that debate to have that option. It does not require members to attend; all it seeks to do is delay for an hour question time in this place.

In this context I reflect on the recent debate we had on sessional orders, when this house chose to have questions without notice at a different time from the Assembly. Again, without reflecting on the debate, that was the decision of this house. One of the arguments was — I remember quite clearly that Ms Pennicuik raised this argument — that there were people who would actually like to attend both question times, including the media. It was said that staggering the times would provide a greater opportunity for people to see something exciting in the Parliament. This is about as exciting as you can get in Parliament, a statement of legislative intent for the year,
because — —

Mr Barber — We will wait and see about that!

Mr LENDERS — Mr Barber says we should wait and see. He may well, but I would say to Mr Barber that his party has often made the statement that it is very hard to know where the government is coming from and that there is very little flagging of intent. This proposal seeks to do that. We should give those members who wish to attend the opportunity to do so. If members do not wish to attend, they do not have to. If this motion is not carried, some members of the government will attend. I certainly will be here for question time. I urge support for this motion, because it is about enabling people who chose to do so to listen to a debate.

Mr P. DAVIS (Eastern Victoria) — I rise to speak on the minister's adjournment motion, and foreshadow that I will be seeking to move an amendment to it before I conclude. First I will make some general observations. A proposal by the Legislative Assembly to amend its own sessional orders and change the order in which it does its business is a matter entirely for the Legislative Assembly. Ordinarily I would not expect that the parties in the upper house would be consulted in relation to such a matter. Indeed in relation to the matter that was addressed by the Leader of the Government, the Liberal Party was not consulted with respect to the matters as they affected the upper house.

I have conducted a careful forensic examination of those people from my party who were involved in whatever consultations were purported to have been held, and clearly there were no documents circulated in any of those meetings. Strange occurrences happened in relation to the invitations for people to attend the meetings. A backbencher who has no responsibilities in regard to managing government business was invited to attend, the Leader of the House in the Assembly attended on the basis that he was informed by the backbencher that the meeting was on and there was clearly a complete fabrication in terms of any consultation with the Liberal Party. I am advised that even the consultation in the lower house was poor.

What I am particularly concerned about is the outrageous and presumptive view of the government that we members of the upper house should dance to the jig that the lower house plays. Josiah Bartlet-Brumby is anticipating waltzing in from the west wing to the applause and standing ovation under the media spotlight to give a state-of-the-state address to the Parliament of Victoria. If that is the circus that the government wants to create, the members of the Legislative Council have no obligation to dance to that jig.

What I would say is that further contempt of this place has been shown by the way the government has handled the matter. I have privately expressed my disappointment, and I do so publicly, and I am personally affronted at the way in which this was managed. But that is not the reason I am opposed to what is being proposed. The Legislative Council is a house of review, and to undertake that review and scrutiny of government it must observe the protocols of independence and must not be seen to be subservient to

the policy and legislative agenda of executive government.

As the Leader of the Government said, we have just changed our sessional orders as to the times at which Parliament will meet. I therefore believe we should adhere to those changes. What is telling is the way this proposal has come forward, which does not provide a fair and reasonable opportunity for the Leader of the Opposition and the Leader of The Nationals in the other place to respond to this state-of-the-state address by the Premier. They will not be able to respond forthwith as they would if it were a ministerial statement.

In this place and in the other place ministerial statements are generally followed by a response from the shadow minister. Generally there is at least a 2-hour advance notice of the content of a ministerial statement. I put to the house that the way this has been devised by the government is not to enhance the cooperation between the partners and between the houses but for the executive to assert its authority and in effect direct the Legislative Council as to how it will behave in regard to the government's program.

I therefore move an amendment to the government's motion. I move:

That the word and expression 'at 3.00 p.m.' be omitted.

The reason I move this amendment is to restore the effect of the adjournment of the house to the ordinary 2.00 p.m. on the first sitting day when we resume in the new year.

I am happy to expand on that by saying that if the Legislative Council were to immediately conform with the wishes of the government, we would create a precedent whereby any motion moved by the government in the lower house that has an implication regarding the way we do business in the upper house will implicitly change the priorities for the Legislative Council. This is an independent house of review and its independence must be jealously guarded. If it is not guarded, over time it will be simply seen as a rubber stamp of the government. In my view that is not advantageous to members of the Council, but more importantly, it is not advantageous to the operation of the Parliament of Victoria.

In conclusion, I believe many of these issues can be resolved by cooperation. As an insight to that level of cooperation, we had an example today where all the parties came together to ensure that the government's legislative objective, which was to ensure that the liquor bill passed through the Parliament before Parliament rose for Christmas, was achieved notwithstanding the difficulties and concerns which this house expressed during the detailed consideration of the bill. That is an example of Parliament working well using the forms of this house — the committee stage, the Legislation Committee stage and consequently when the robust discussion in the Assembly has run its course, as I understand is hopefully to occur this afternoon, we will receive a message back from the Assembly and most matters will be addressed. Then we can further consider the position of this house.

My point is that this is a level of cooperation that is sensible, and it often occurs across the chamber. Just as with the agent-general's bill this week, the government agreed to modify an amendment moved by the opposition, and there was a level of cooperation which demonstrates the good and effective legislative intent of the government and of the opposition parties in a way that ensures absolute cooperation.

I put it to the house that we need to have a high level of cooperation. To that effect — it is known to all members of this house, but I remind them of it — before each sitting week the leaders of the parties have the necessary discussions to ensure that the business of the Parliament is conducted — —

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

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

That the member's time be extended.

Leave granted.

Mr P. DAVIS (Eastern Victoria) — I am grateful to the Leader of the Government for understanding the technical difficulties that are before the house. I will be delighted to resume my position as soon as the amendment has been circulated. I wanted to say that there was a high level of cooperation as has just been demonstrated by the Leader of the Government; he and I enjoy a fairly robust but courteous relationship. The result of that is reflected in the orderly way in which we transact business.

I would have to say is that unfortunately that mutual respect shown between the parties in the upper house is not translated between the houses, particularly when it comes to government ministers, as we have seen time and again. Therefore we need to adhere to the principle which this house has asserted, which is that it is a house of independence and that it has a very serious role in terms of scrutiny and review. I am, as a result, squarely of the view that the house should conduct its business according to sessional and standing orders without

taking direction from the Legislative Assembly in relation to amendments to the Assembly's sessional orders, which impute a responsibility to simply conform to an expectation of the government.

I have therefore moved my amendment, which is to omit from the Leader of the Government's motion the words 'at 3.00 p.m.', which would mean that the house would resume sitting at 2.00 p.m., the normal time for questions in this place.

Mr HALL (Eastern Victoria) — Although I do not have a copy of the motion in front of me, I understand it simply seeks to move the sitting time we would normally begin at on the first Tuesday in 2008 from 2 o'clock to 3 o'clock. If you look at this issue on the surface, you see that is all we are doing — that is, moving back our starting time by an hour. It is not all that unusual for us to vary the starting times, finishing times or indeed the sitting times of this chamber from time to time when a legitimate need arises.

It was not so long ago — just a few sitting weeks ago — that we suspended a sitting during the middle of the morning so members could go and present the address-in-reply to the Governor. We chose to do that, giving members the option to attend. A few members — not all that many — chose to attend that event.

Thus, it is within the capacity of the house — and we do it from time to time — to vary sitting and commencing times. On rare occasions the members of one chamber visit the other chamber: there is the normal opening of Parliament and the occasional joint sitting to appoint certain members to committees. I also remember a joint sitting where Council members were invited to the Assembly to listen to a report from the Premier's Drug Advisory Council. That address was given in that chamber for all members of Parliament from both houses.

That is what we are doing here. One then has to evaluate the event and decide whether it is indeed worthy of the chamber delaying the sitting for an hour in order for members to attend the event in question. I agree with the remarks of the Leader of the Opposition, that we need to operate this house in a spirit of cooperation. That is really the only effective way in which it can work.

I do not know what level of consultation has taken place between parties prior to this issue arising; I certainly have not spoken with my leader in the other house, Peter Ryan, as to what involvement The Nationals had in respect of that. I am not commenting about the event itself so much as the procedure that this motion seeks to achieve — a 1-hour delay in starting time on that first Tuesday when we resume in 2008.

Thus, I agree with Philip Davis's comment that we need a fair bit of cooperation to make this place work. That also involves a bit of give and take on both sides of the chamber. In this instance the government is asking us to give a bit — that is an hour's delay in starting — in order that its members or any of us can attend the event in question. In terms of my comments on the event itself, I do not see it as a significant occasion, perhaps, but who knows? It may turn out to be so in time to come.

Mr Drum — It means a lot to the Premier.

Mr HALL — My colleague suggests it is more to do with the Premier's ego than anything else — but so be it. I am prepared to give a bit on this particular occasion, on this one-off event, and to see how events turns out next year. The Nationals are prepared to support this motion on the understanding that this is a bit of give on our part. We hope, in turn, when a similar event or a request from my party arises, there will be a bit of give on the government's part.

Ms PENNICUIK (Southern Metropolitan) — Mr Hall has stolen most of my thunder, so I will not repeat the points that that he has made. I hear what Philip Davis says about the independence of this chamber, which I do feel needs to be jealously guarded, and I hear what he says about cooperation as well. As Mr Hall said, there are occasions when we have suspended sittings — at least, I know of one since I have been here. I presume that whether or not members of the Council attend, the event will proceed. I see it more that we have been invited to attend; we are not being compelled to attend; we are not being — —

Mr Drum — Commanded.

Ms PENNICUIK — Commanded; thank you, Mr Drum. Members are free to attend or not as they wish, just as they were with the presentation of the address-in-reply to the Governor. I feel that the delay of 1 hour on this occasion is fairly reasonable.

Mr VINEY (Eastern Victoria) — I would like to make a few very brief remarks in this debate, particularly in response to some of the matters raised by Mr Davis. I would have thought that rather than this initiative being some kind of breach of cooperation, it is not only a sign of cooperation between the parties but a sign of cooperation between the houses — for us to receive an invitation from the Legislative Assembly for

members to hear, if they wish, the statement of legislative intent for 2008.

I find Mr Davis's view of things rather strange. I have to say it is a constant refrain from Mr Davis that we can run this place on cooperation, yet when there is an opportunity for cooperation, he wants to oppose it. It is obvious that members of this house will not be able to listen to the statement of legislative intent delivered by the Premier on the first sitting week next year if we are sitting and in question time. That is fairly self-evident. It seems to me fairly sensible for the house to alter its normal sitting time and begin at 3.00 p.m., which is a loss of an hour of sitting time.

I value the contributions of all members of the house, but I reckon we should be able to organise ourselves around losing an hour in that sitting week. There are plenty of times that members of this house — probably including me — have spoken a little bit longer than they needed to. With that in mind, it makes absolute sense for the house to support the motion of the Leader of the Government to start on the first day of the first sitting week in February at 3.00 p.m. The statement of legislative intent would be an opportunity for all members to get across the issues that they will have to deal with in that calendar year and to increase their capacity to undertake the necessary consultation in their constituencies and with interest groups so they will be prepared for the legislation that will come before the house in the year. I commend the Leader of the Government's motion to the house.

Mr LENDERS (Treasurer) — I particularly thank Mr Hall and Ms Pennicuik for their indication of support for this motion. I am very appreciative of that. I will respond very briefly to a couple of the points made by Philip Davis. The government had a dilemma on this issue. If we had not invited members of the Council, my view is that we could potentially have been accused of being arrogant. We were between a rock and a hard place. I think this is a good outcome. In the spirit of cooperation, I say that if or when the Leader of the Opposition and the Leader of The Nationals in the other place have their right of reply, the government will not oppose the sitting of the Council being suspended for members to have the opportunity to listen to either of those gentlemen. If that is the wish of either party, I would support such a motion. If that is what the other parties wish to do, we would not get in the way of that happening.

The final point I make relates to mutual cooperation between the houses. We had a joint sitting of the Standing Orders Committee yesterday, which in one way was not conclusive, and a message concerning that was read today. It is interesting to me that on a bipartisan, tripartisan or quinpartisan, if that is the correct term, basis the house invited the Minister for Gaming in the other place to appear at the Legislation Committee and he did appear. As Mr Davis said, this was to get an outcome regarding the liquor bill. The issue of cooperation is something we can work on.

The main point in moving this motion, and the reason we urge the house to support it, is not to compel people to come along but to extend a courteous invitation for people to come along and hear the legislative program. If they choose not to come up, they do not have to, but they will have the opportunity to do so. As I said, if the other parties wish to suspend the sitting of house to allow them to hear their leaders speak, the government would support such a motion as well. I urge the speedy passage of the motion.

House divided on amendment:

Ayes, 15

Atkinson, Mr	Kronberg, Mrs
Coote, Mrs	Lovell, Ms (*Teller*)
Dalla-Riva, Mr	O'Donohue, Mr
Davis, Mr D.	Petrovich, Mrs
Davis, Mr P.	Peulich, Mrs (*Teller*)
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	Vogels, Mr
Koch, Mr	

Noes, 25

Barber, Mr (*Teller*)	Mikakos, Ms
Broad, Ms	Pakula, Mr
Darveniza, Ms	Pennicuik, Ms
Drum, Mr	Pulford, Ms (*Teller*)
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Smith, Mr
Hall, Mr	Somyurek, Mr
Hartland, Ms	Tee, Mr
Jennings, Mr	Theophanous, Mr
Kavanagh, Mr	Thornley, Mr
Leane, Mr	Tierney, Ms
Lenders, Mr	Viney, Mr
Madden, Mr	

Amendment negatived.

Motion agreed to.

PAPER

Laid on table by Clerk:

Geoffrey Gardiner Dairy Foundation Limited — Report for 2006–07.

EQUAL OPPORTUNITY AMENDMENT (FAMILY RESPONSIBILITIES) BILL

Second reading

Debate resumed from 1 November; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this afternoon to speak on the Equal Opportunity Amendment (Family Responsibilities) Bill 2007 and to say that the Liberal Party will be opposing it. This is another example of the ideologically driven rubbish that the Attorney-General sends to this place.

The bill makes one principal amendment to the Equal Opportunity Act 1995, and it is repeated three times. The purpose of the bill is to expand the range of what constitutes discrimination against parents or carers in employment or employment-related areas. Obviously the definition of 'parent' is straightforward, and a carer is taken to be any person on whom another person is wholly or substantially dependent for care or attention, so conceivably the definition of 'carer' can be quite broad.

What the bill does is introduce a raft of new criteria on which the definition of discrimination under the Equal Opportunity Act can be defined. The bill, which will come into effect on proclamation, creates a category of discrimination to which the title of the bill relates — that is, family responsibilities. The bill provides in proposed section 13A that:

> An employer must not, in relation to the work arrangements of a person offered employment, unreasonably refuse to accommodate the responsibilities that that person has as a parent or carer.

The bill provides an example of such an accommodation, which states:

> An employer may be able to accommodate a person's responsibilities as a parent or carer by offering work on the basis that the person could work additional daily hours to provide for a shorter working week or occasionally work from home.

What the bill does is replicate three times this provision, which in this instance relates to employers in the case of employment offered to a person. The first time it is replicated is in proposed section 14A with respect to existing employees; the second time is in proposed section 15A in relation to an employment relationship between a contractor and a principal; and the third time is in proposed section 31A in relation to a partnership where a person is invited to be a partner of a firm. The provision appears four times across the bill, and it outlines a range of criteria that should be taken into account when considering whether an employer has discriminated on the basis of parental or carer responsibilities, and these are listed at subsection (2) in each of the relevant primary sections.

Proposed section 13A(2) states, in part:

> In determining whether an employer unreasonably refuses to accommodate the responsibilities that a person has as a parent or carer, all relevant facts and circumstances must be considered, including …

It goes on to list the person's circumstances, including the nature of his or her responsibilities as a parent or carer. This is a very interesting provision, because it says that an employer who employs a person in good faith — either offers employment or has an existing employee or a partner or a contractor — needs to take into consideration when making decisions about their business the family status of an employee or the carer status of an employee. It is certainly the Liberal Party's view that this is a step too far.

Yet again we have with this bill an ideologically driven piece of legislation from the Attorney-General in the other house that seeks to paint employers as people who are out to conquer and destroy the lives of their employees. The minister must be completely oblivious to the labour market that exists in this country at the moment. He must be completely oblivious to the full employment and record low unemployment status of the labour market. He must not have heard from employers in Victoria who are having difficulty attracting the staff they need to run their businesses, because this legislation gives the impression that the minister must be of the opinion that every employer in Victoria is looking for an opportunity to discriminate against their staff, to drive their staff away, to cut their employment base. It is completely at odds with what is occurring in the employment market in this state; yet we have this bill come before the house — —

Mr Thornley interjected.

The PRESIDENT — Order! I understand Mr Thornley is on the list of speakers; he will get his chance.

Mr RICH-PHILLIPS — This bill inserts a new requirement that an employer must have regard to the parenting and carer responsibilities of their employees, and that must be one of the key things to be taken into consideration when determining if discrimination has occurred with respect to this new provision.

The second thing to be considered is the nature of the role that is on offer — that is, the job that a person is

offered or, obviously in the case of proposed section 14A, the existing position they hold. The bill states:

> (c) the nature of the arrangements required to accommodate those responsibilities —

that is, the capability for the employment duties to be done in-house or otherwise —

> (d) the financial circumstances of the employer; and
>
> (e) the size and nature of the workplace and the employer's business …

This is an interesting provision, because it gives rise to the suggestion that a distinction will be made or could be made between employment involving large employers versus small employers, so we have a two-tier system of discrimination. If you are a carer or parent, you have a certain entitlement if you are employed by a small employer; and you have a different entitlement if you are employed by a large employer. I would submit that hardly seems a fair basis on which to impose this new requirement upon Victorian employers.

The next category of matter that needs to be taken into account in considering a discrimination action is the effect on the workplace and the employer's business of accommodating those responsibilities, including the financial impact of doing so, the number of persons who would benefit from or be disadvantaged by doing so, the impact on efficiency and productivity, and, if applicable, on customer service by it doing so.

This is an interesting provision because it is effectively making a distinction on the number of people affected, so presumably in a situation of one employer versus an employee with a family of 10 that they need to look after, the balance is tipped in favour of the respective employee. Proposed section 14A(2) further states:

> (g) the consequences for the employer of making such accommodation; and
>
> (h) the consequences for the employee of not making such accommodation.

The Liberal Party is deeply concerned at what this bill is seeking to do, because traditionally we have seen discrimination in employment elsewhere through the prism of race, gender and so on — the normal categories on which somebody could consider themselves to have been discriminated against.

That is a position that has been supported, I think, by all parties in this Parliament, but this bill takes things far further, because it is now creating a situation where employers will effectively be required to put the private interests of their employees ahead of the matters for which they have been employed. We have a situation where the bill lays out these matters that need to be considered, but clearly the intent is that the private interests of the employee will take primacy over the employment duties that have been put in place by the employer

Mr Thornley interjected.

Mr RICH-PHILLIPS — Mr Thornley says they are not private interests, they are family interests. I would suggest to Mr Thornley and to the house that the family interests, as he chooses to term them, are a matter for the employee and not a matter for the employer.

Mr Thornley interjected.

Mr RICH-PHILLIPS — Mr Thornley is saying, if we take him at face value, that if you hire an employee, then you are responsible for their family?

Mr Thornley — Yes.

Mr RICH-PHILLIPS — And if you have the misfortune to hire someone with aged parents and a young family, the employer has to carry the cost of that? It is fine for the Minister for Industrial Relations in the other place, with his Utopian view of the world and with his ideological bent, to think these things will be wonderfully beneficial to employees who have families and carer duties; he does not seem to have any thought for the fact that this acts as an impediment to people seeking work.

Those people may be unemployed single mothers or unemployed older people with elderly parents. Why would an employer seek to employ someone with children or someone with responsibility for their parents if this bill means the employer will have responsibility for the potential employee's family? Why not go down the easy path and employ someone without family or carer responsibilities?

Mr Thornley interjected.

Mr RICH-PHILLIPS — Yes, Mr Thornley, we have full employment at this point. But I think I can be fairly confident in saying that following the election of the Rudd federal government that will not continue forever and we will revert to a situation of higher unemployment in Australia. The employment market will change and employers will then be in a situation of seeking the best employee they can find. This bill is attaching baggage to parents and to people who are

carers. It is imposing an impediment on a group of employees. The bill means that when those people are in the employment market they will be at a disadvantage compared to everyone else. If an employer hires them, the employer will have extra obligations that they would not have with respect to someone else.

Mr Thornley — So those obligations will disappear because they are not protected?

Mr RICH-PHILLIPS — I will take up Mr Thornley's interjection about those responsibilities disappearing because they are not protected. Nobody is suggesting that those responsibilities, as Mr Thornley put it, will disappear. The Liberal Party's approach to this legislation and to industrial relations is about flexibility. I doubt that there are many employers, certainly in the current market, who would refuse an employee the opportunity to take a child to a dentist.

Mr Thornley interjected.

The PRESIDENT — Order! Mr Thornley will get his opportunity to hold the floor. Mr Rich-Phillips will speak through the Chair.

Mr RICH-PHILLIPS — The government's proposition is that this legislation is necessary because employers are evil.

Mr Thornley — No, just a small number of them. Get your head around it. Just a small number of them do the wrong thing.

The PRESIDENT — Order! Mr Thornley may not be in the chamber when his turn comes if he keeps this up.

Mr RICH-PHILLIPS — The Liberal Party rejects that proposition put by the opposition in this legislation. Of course employers who are keen to retain their staff will be flexible when it comes to the needs of employees with families and the needs of employees who are carers, but to legislate to require the private interests of employees to take primacy over their work responsibilities is just ludicrous. This bill is the type of legislation we see being brought into this place time and again, particularly legislation initiated by the current Minister for Industrial Relations in the other place, with little regard for the impact it will have on the minister says he is trying to protect.

Yes, we have a full employment market at the moment, but that is not always going to be the case. Every time we bring in legislation like this which, to use the government's rhetoric, protects workers entitlements, all we do is attach baggage to would-be employees who are parents or carers when they are in the employment market. This bill will simply make it harder for those people to obtain employment in a tight employment market. The government seems completely oblivious to this. Those people will be competing in a market against employees who do not carry obligations.

From the Liberal Party's point of view this bill is unnecessary. No case has been made for it, and no need for it has been demonstrated. We certainly do not have examples of people being turfed out of work and disadvantaged by their employers because of their family and carer responsibilities. The government has not made the case for this legislation. The bill will be a further impediment to employment for people with children or carer responsibilities in a tight employment market. The Liberal Party will oppose the bill.

Mr DRUM (Northern Victoria) — We have been called on to debate the Equal Opportunity Amendment (Family Responsibilities) Bill to give the Attorney-General another opportunity to whack the WorkChoices legislation. The election is over; the Howard federal government has gone and the Rudd government is in its place. WorkChoices is about to be curtailed somewhat. I think certain aspects WorkChoices will have to stay; that will be of critical importance. The unfair dismissal provisions must stay if we are going to keep the economy moving forward. The government has to make sure that we continue to move forward. This bill is effectively going to hold us back.

The Nationals have read the bill, and we firmly believe that everything in it is already covered by the existing Equal Opportunity Act. Certain definitions have been expanded in this bill; certain categories of people in the workforce have been singled out and an expanded version of those categories has been included. The government would have us believe the people who are in the employment field — those who have carer responsibilities — will have additional support and additional protection. The second-reading speech is simply a vitriolic attack on WorkChoices. The government should know better and should be doing better. We expect more from our Victorian government than to have it in effect take a six-week holiday from governing for Victoria and to start to have a whack at WorkChoices. We went through this earlier in the week when we debated the industrial relations bill.

The five categories of employment that have been expanded upon are of a person who is offered employment and has carer duties; a person who is an employee; a contract worker; a person who is invited to

become a partner; and a person who is a partner of a firm. All of those options are specified in the bill. We have asked the government about how many times and of how many examples it has had of people acting as carers who have been discriminated against under the law and who now will be picked up and protected under this legislation. How many instances did the government come up with before it was able to act? We have written to the government about a whole range of discriminated people in the community, and we could not get the government to act. On this occasion the government has acted, but without coming up with any instances whatsoever. However, if it suits the government's political purpose, then the government will be able to put that in.

It is also worth noting that Labor members in this chamber do not have a mortgage on hard doers. They do not have a mortgage on people who are caring for family members and are hard workers. They do not have a mortgage on blue-collar workers. They do not have a mortgage on people who are doing it tough. The way they throw their insults across the chamber, thinking that they are the only ones who ever had a hard job, the only ones who ever really had hardship, the only ones who had ever been in a blue-collar industry, is just rubbish! They think they are the only ones who ever cared for someone who is sick. They have to wake up to themselves.

Labor members have to understand what we on this side of the house do as well. We place more responsibility on individuals, and that is the only difference. We still do all the caring, have all the compassion and do all the hard work that tries to make other people's lives better, and especially the people who are vulnerable in the community.

The bill is a bit of a throwback. I am disappointed with the way the government has tried to say that we are going to make a point about WorkChoices. The government is saying, 'We are going after it'. If anything, the people I have been dealing with — those who are carers at home — need greater flexibility within their workplaces. Many of them were quite happy to have the flexibility that WorkChoices provided. We will see what model the Rudd government comes up with as it starts to look after people who need enormous flexibility in their jobs so they can also look after people for whom they are caring.

Let us think about it: the vast majority of people who are caring for people with illness are unable to work because they live a life of poverty. They live a life where the carer allowance and the various allowances that go with caring and the hoops they have to jump through with the Department of Human Services around this state make it nearly impossible for them to get the help that they want. Let us not have this righteous group of members over there who call themselves the government jumping onto the opposition benches when we talk about carers and those people who are looking after people with disabilities in this state. The Nationals will oppose this legislation. Hopefully we will see an end to the political stunts that have been pulled by the industrial relations people in this government in Victoria.

Debate adjourned on motion of Ms PENNICUIK (Southern Metropolitan).

Debate adjourned until Thursday, 13 December.

LIQUOR CONTROL REFORM AMENDMENT BILL

Council's amendments

Returned from Assembly with message agreeing to certain Council amendments and disagreeing with other amendments.

Assembly's message:

Council's amendments 1, 5 to 11, 13 and 14 agreed to. Council's amendments as follows disagreed with:

2. Clause 5, page 9, lines 30 and 31, omit all words and expressions on these lines and insert—

   "(j) that, under section 148E—

      (i) the notice may be varied or revoked; or

      (ii) the person may appeal to the Magistrates' Court against the decision to give the notice.".

3. Clause 5, page 11, line 20, after "**notice**" insert "**and appeal to Magistrates' Court**".

4. Clause 5, page 11, after line 28 insert—

   "(3) A person to whom a banning notice applies may appeal to the Magistrates' Court against the decision to give the notice.

   (4) A person may appeal under subsection (3), and the Magistrates' Court may hear and determine an appeal under that subsection, whether or not the period for which the notice applies has expired.

   (5) On an appeal under subsection (3), the Magistrates' Court must—

      (a) redetermine the decision to give the notice; and

(b) hear any relevant evidence tendered by the appellant or the relevant police member who gave the notice; and

(c) without limiting its discretion, take into consideration anything that the relevant police member ought to have considered.".

12. Clause 16, after line 24 insert—

"( ) At the end of section 87 of the Principal Act insert—

"(4) A licensee may apply to the Tribunal for review of a decision of a senior police member to suspend a licence under section 96A.

(5) A licensee may apply under subsection (4), and the Tribunal may hear and determine an application under that subsection, whether or not the period of suspension has expired.".".

Mr LENDERS (Treasurer) — I move:

That the Council do not insist on their amendments with which the Assembly have disagreed.

Most members will be familiar with this bill. It underwent many divisions in the committee stage of the Legislative Council yesterday and was sent to the Legislation Committee, which met today. I will attempt to synthesise what the message from the Assembly means.

The Assembly agreed to amendment 1, which introduces a definition of 'homeless person'. It has agreed to amendments 5 to 11. These amendments seek to extend the reporting requirements of the Chief Commissioner of Police and to require the Minister for Police and Emergency Services to present such reports to each house of Parliament.

The Assembly agreed to substantive amendment 8 requiring the director of liquor licensing to consult with the chief commissioner before making a late-hour entry declaration. The Assembly agreed to amendment 13, which was a wording change from 'under' to 'in accordance with' to clarify the operation of new section 97B(6). The Assembly agreed to amendment 14, which excises the proposed party bus amendment.

The Assembly did not agree to amendments 2, 3 and 4, which sought to introduce an appeal right to the Magistrates Court with respect to the 24-hour police-issued banning notice. These amendments would have made the banning notice process unworkable for police and have been defeated in the Assembly.

The Assembly did not agree to amendment 12, which sought to amend the bill to allow a 24-hour suspension order by either the chief commissioner, deputy commissioner or assistant commissioners to be subject to appeal by the tribunal. This amendment was defeated in the Assembly as it was unworkable and would have defeated the purpose of enabling very senior police to act expeditiously to address the immediate threat to the community safety.

In summary, I urge the house to not insist on the amendments on which the Assembly has disagreed, as the Assembly has agreed to amendments 1, 5 to 11, 13 and 14, but not agreed to amendments 2, 3, 4 and 12.

Mr ATKINSON (Eastern Metropolitan) — Further to the motion moved by the Leader of the Government, this process was a difficult one; it involved a great deal of goodwill by all parties. It certainly involved a great deal of work by the clerks of this Parliament and by other officers of the Parliament, particularly Hansard, to which the Legislation Committee in particular is indebted.

It is interesting that the very protracted nature of the committee yesterday was not assisted by the fact that the minister was unable to answer some of the questions that were put to him that might well have expedited the consideration by the Legislative Council of this bill. Nonetheless the Legislative Council arrived at a position where it was able to address the matter in a timely fashion, which did not frustrate the government's intentions, and put in place certain community protections which are strongly supported by every member of this house — certainly every member of the Liberal Party.

It is therefore of concern to me that in the first instance the *Herald Sun* published an article today, presumably on the advice or instigation of somebody from the government, which was not a true reflection of Legislative Council debate yesterday. More importantly this matter was returned after a great deal of goodwill and work by many parties today — and by 'parties', I mean individuals — to come to a position that would allow this legislation to pass. I add to the people I have mentioned the minister responsible for liquor in the other place, Mr Robinson, who met with the Legislation Committee, as I advised the house earlier today, and was most constructive and pragmatic in his approach to ensure that this legislation passed.

It was therefore with some degree of concern that I noted the tenor of the debate when it went back to the Legislative Assembly and the fact that there was a great deal of criticism, particularly of the opposition's

position, and an adverse reflection on this house and the parties within this house who really had worked in the best interests not only of the people of Victoria but also of the community generally — that is, those people who are direct stakeholders in this particular legislation.

Some of the matters of concern, particularly the party bus issue, were not just concerns of the Liberal Party or the Greens, who perhaps could be characterised as having a reserved position in that debate — they were prepared to look at government amendments had they got satisfactory answers — because members of the government were also concerned about particularly the party bus provisions. It was therefore most unfortunate to note the tenor of the debate in the Legislative Assembly.

I welcome the Legislative Assembly's approach in terms of its resolutions in regard to this bill, which have significantly improved it. I place on record my appreciation of the work that everybody did to try to reach an accommodation on this legislation, including the minister in another place, whom I note was not allowed by the government to contribute to the debate in the Legislative Assembly on the Legislative Council's amendments.

Motion agreed to.

ADJOURNMENT

Mr LENDERS (Treasurer) — I move:

That the house do now adjourn.

Warrnambool Co-Operative Society: closure

Mr VOGELS (Western Victoria) — I raise an issue for the Minister for Regional and Rural Development in the other place, Jacinta Allan. It concerns the loss of 60 jobs in Warrnambool because of the closure of the Warrnambool co-op. The headlines in the Warrnambool *Standard* say it all:

> Emotions ran high at the close of business yesterday as staff were told the department and rural/hardware stores would cease trading.

There is absolutely no doubt the loss of 60 jobs will have a large impact on the economy of the city and surrounds, not to mention the individual outcomes for those who have lost their jobs.

The action I am seeking from the minister is to offer any assistance possible through Westvic Work Force for retraining and to liaise with Warrnambool City Council's economic development department and not leave any stone unturned. As the co-op board chairwoman, Shirley Harlock, said:

> We need a positive outcome for the staff and the business for Warrnambool …

Cairnlea: asbestos dust

Ms HARTLAND (Western Metropolitan) — My adjournment matter is for the Minister for Environment and Climate Change. It concerns asbestos dust in the Cairnlea area. Before I start I would like to acknowledge Bernie Banton and send my sympathies to his family and friends.

On about 29 October the Reid Street landfill site in Cairnlea was flattened out from a hill into a mound, using heavy machinery. The dust from these works covered a wide area. Jones Creek and Denton Avenue were covered in dust, as were the houses to the north of them. As I understand it, there was a plume of dust extending possibly as far as the Cairnlea Primary School. Residents rang the Environment Protection Authority and other bodies to complain, and a community member also rang my office asking about what was in the dust.

A volunteer researcher, Bill Pemberton, has looked at the audit reports on the toxic materials removed from the Cairnlea development. He has advised me it is likely that, if the audit report for Cairnlea is accurate, then the dirt on the top of that pile was class 3 materials containing asbestos.

A section of the audit report describes volumes, classification and movement of materials. On page 62 the second item says that a quantity of class 3 materials — 592 cubic metres — went to Reid Street landfill. The only class 3 volume of any significance is the one with the asbestos in it, which originally came from audit area 15 and was removed and stored in audit area 17 under a tarp for a number of years.

According to the audit report, the materials were placed on the Reid Street landfill in 2001. However, we know the landfill was capped before 2001. If the audit is correct, then the materials would have been placed on top of the protective capping. As I understand it, this makes sense. If machinery was able to flatten out the materials, then they are not under a protective capping.

I have hesitated to bring this up in Parliament because it is a very serious issue and I wanted to get my facts straight. There is a high likelihood that the dust that flew all over the area, affecting local residents and the workers who undertook the works, contained asbestos.

My request is that the minister undertake an investigation and report back to the community on what is in the dirt on the top of the Reid Street landfill, whether it contains asbestos and other materials — for example, polychlorinated biphenyls, or PCBs, and organic solvents — and if so what the government is going to do about it.

Davis Park, Nhill: playing surface

Ms PULFORD (Western Victoria) — My adjournment matter is for the Minister for Sport, Recreation and Youth Affairs in the other place, Mr James Merlino. I am proud to be a Brumby Labor government representative in the Wimmera, and the town of Nhill is a place that I have a particular fondness for. On a tour of Nhill sporting facilities in April this year I saw firsthand the effect of the drought on Nhill's football ground. The surface of the ground is uneven and dangerous.

The football ground at Davis Park is the subject of a grant bid by the club and Hindmarsh Shire Council. They are seeking $60 000 to provide a new playing surface for the football oval which would involve using drought-resistant grass, upgrading drainage and establishing a new watering system. This would allow for a safer and more water-efficient playing surface that would save up to 40 per cent in water use.

The importance of successful sporting clubs and competitions in rural Victoria cannot be overstated. This ground would become a central point for Australian Rules football in the West Wimmera. I call upon the Minister for Sport, Recreation and Youth Affairs to assist Nhill sporting clubs to upgrade their football oval.

Roads: south-eastern suburbs

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Ports in another place, and it is in relation to traffic congestion in the south-eastern suburbs, a topic I have spoken on extensively in this Parliament.

Mr Lenders interjected.

Mrs PEULICH — I guess there is a common theme, because it is a problem that the minister's government has failed to do anything about for eight years. I note the Premier's intention to deliver a state of the union address at the start of every parliamentary year. I would like to call on the Minister for Roads and Ports in another place, Minister Pallas, to use the parliamentary break to really sit down with his department and VicRoads and have a look at these very serious and long-neglected traffic congestion problems in the south-east in that first state of the union address and to respond to some of the significant issues I have raised.

We have read in the *Herald Sun* about the problems that have beset VicRoads. I believe they are predominantly due to inadequate ministerial oversight as well as to a lack of funding of significant projects because money had been siphoned away into the regional fast rail project, but many of these projects have not been funded when required.

Geraldine Mitchell from the *Herald Sun* also wrote on 13 November about Melbourne's travel speeds during peak times really slowing down, adding significantly to journeys. VicRoads confirms that. The Royal Automobile Club of Victoria's chief engineer, Peter Daly, said outer suburban roads are now in gridlock as the population increases. Hundreds of thousands of motorists living in the cities of Casey, Greater Dandenong, Frankston, Kingston and Monash are screaming for improvements to our road network as well as upgrades to public transport to cope with morning and afternoon peak times in these areas.

There are lots of smaller issues that are neglected and need to be addressed in relation to that. In regard to the building of Lynbrook station, I received a letter from Nicki Robins, manager of southern client services, Vision Australia, saying how desperately needed the new Lynbrook station is and how many visually impaired passengers are significantly disadvantaged.

Also residents of Springvale Road between Seaview Crescent and Highfield Avenue face a dangerous situation, and they are looking for answers. VicRoads also needs a treed buffer for its extension to Thompsons Road in Cranbourne between the South Gippsland Highway and Narre Warren-Cranbourne Road.

There are many similar examples, and I call on the Minister for Roads and Ports to use the parliamentary break to take stock of the situation, to sit down with VicRoads and see what road map we need to put in place. I look forward to hearing about it in the state of the union address.

Northern School for Autism: classroom

Mr GUY (Northern Metropolitan) — I wish to raise an important matter for the Minister for Education in the other place, and it concerns a school in my electorate, the Northern School for Autism. The northern school has campuses in Jacana and Preston

and serves the educational needs of autistic children right across the northern metropolitan area. At present there are around 135 children enrolled, with an expectation that this will increase to somewhere around 180 to 200 next year.

In 2008 the school's Preston campus is being asked to accommodate the bulk of these new students, many of whom have a severe disability, but unfortunately the school is not being properly resourced to cope with such a large increase in its numbers. Some of the new students will require intensive supervision, both educationally and in relation to mental health issues, which will place a great deal of strain upon the current students and teachers as well as children who are new to the school.

It should be noted that throughout this year the Preston campus has documented many cases of the results of dealing with children with a severe disability and who require a dedicated and well-resourced facility to ensure that proper care is being maintained. If the Preston campus of the Northern School for Autism is to be able to accommodate a large influx of new children for the 2008 year, it desperately needs more support than it is currently getting from the state government.

The school is in dire need of a detached classroom with appropriate facilities to cope with students with different medical needs. The school also cannot cope with an increase in class sizes from 6 to 8 students, which will place a 25 per cent larger burden on each teacher. I am advised that the school's Preston campus will be at capacity next year; and soon after, the Jacana campus will be as well. The state government cannot continue to ignore the pleas from the Northern School for Autism and hope that the problem will just go away.

Victoria's autistic children deserve better than this. Their families deserve better, and so do the dedicated teachers at the Northern School for Autism. We cannot continue to turn a blind eye to this issue — in particular, the state government cannot continue to turn a blind eye to it. We have to ensure that the Northern School for Autism is properly and adequately funded and that the school has the resources to cope with new students.

Tonight I seek action from the Minister for Education to immediately expedite planned works for a dedicated, detached classroom facility at the Northern School for Autism Preston campus, and I seek her action on this before Christmas.

Bayside: planning scheme amendment

Ms PENNICUIK (Southern Metropolitan) — Melbourne 2030 identifies four major activity centres within the Bayside municipality: Bay Street, Church Street, Hampton and Sandringham. Significantly, it has no principal activity centres within its borders; however, two exist just outside — Chadstone and Southland. Bayside Council adopted a major activity centre structure plan in November 2006, covering the four centres.

Approval for interim height controls was granted for 12 months and expired on 30 June this year. They have since been extended for a further 12 months. Final heritage and height overlays, together with changes to strategic policy and changes to activity centre parking precinct plans for the major activity centres were incorporated in planning scheme amendment C58, which was approved by council on 20 March. Council subsequently requested the Minister for Planning to authorise the exhibition of amendment C58 prior to its incorporation in the Bayside planning scheme.

The amendment featured mandatory height control limits of two storeys for all residential areas and three storeys in commercial areas. This mandatory height control was proposed on the basis that the major activity centres featured significant heritage buildings stock, a distinctive neighbourhood character and serving limited catchments. Mandatory height controls had also previously been approved by the Minister for Planning for the Highett neighbourhood activity centre and have since been recommended by an independent planning panel for the Beaumaris concourse structure plan. Mandatory height limits have also been approved in recent years for major activity centres in other municipalities across Melbourne.

On 21 September the minister advised the council that he would not authorise the amendment for exhibition. He stated that his refusal was principally based on concerns regarding the mandatory height overlay and contended that it would restrict development in the major activity centres, encourage further residential development outside the activity centres, did not allow council the discretion to make exceptions for especially merited development proposals and did not allow sufficient flexibility to manage change over a 20-to-30-year time horizon.

The minister made reference to a panel appointed to consider Bayside planning amendment C2, which had apparently expressed the view that mandatory height controls should only be used in exceptional

circumstances. This panel report dated back to August 2001.

Bayside Council resolved to resubmit planning scheme amendment C58 with new provisions for height controls based on the interim limits. The height control overlay will now allow council the discretionary planning power to approve developments outside the height control limits.

My concern is that the public has not been included in this process. My request to the minister is to revisit his earlier decision and authorise the exhibition of the original Bayside planning scheme amendment C58 to allow for full public consultation.

West Gate Freeway: traffic congestion

Mr FINN (Western Metropolitan) — I raise a matter for the attention of the Minister for Roads and Ports in another place. It is the end of the year — the last sitting day for 2007 — and this marks another 12 months of government inaction on congestion on the West Gate Freeway and, indeed, West Gate Bridge.

Congestion on this freeway is not just a joke; it is now well beyond a joke. The people of the western suburbs are sick to death of being ignored on this issue. They are sick — —

Mr Guy — Where are their members?

Mr FINN — Indeed, Mr Guy! Where are they? People of the western suburbs are sick to death of sitting in gridlock every day. Going to work and coming home, every day they are sick to death, and it is getting worse. For example, this morning the West Gate was blocked from the bridge, down the length of the West Gate, down the Princes Highway to Point Cook Road. That is just extraordinary. This is intolerable and so typical of the attitude this government takes towards the people of the western suburbs.

I ask the minister to give the good people of the western suburbs a Christmas present. I ask him to put on his Santa suit, to lift his sack and to give the people of the western suburbs — the people of Werribee, Point Cook, Sanctuary Lakes, Braybrook, Altona, Williamstown and so many other places — a Christmas present. I ask him to announce immediately that the government will go ahead with a second crossing of the Yarra at the West Gate Bridge to ease the congestion that the people of the west are subjected to on a daily basis. Not only do I ask him to announce it, I ask him to actually have it built — to actually do something. That would be a delight for all involved.

President, in asking the minister to provide this most important service for the people of the western suburbs, I can add to you and to other members of the house the very warmest Christmas wishes from myself, my family and indeed everyone in the west.

Planning: Camberwell railway station development

Mr D. DAVIS (Southern Metropolitan) — My adjournment matter tonight is for the attention of the Minister for Planning. It concerns the Camberwell railway station development and the announcement of plans by Tenterfield, the developer of the site, which is owned by VicTrack. There is a planning application before the Boroondara City Council for comment, and I raise this with the Minister for Planning given that he is the ultimate planning authority for that site. I make the point that those who have seen the plans are not impressed with the proposal. I do not think it is in character with the area, and I do not think many others in the Camberwell area think that it is in character with the Camberwell Junction precinct. The development would be an imposition on the community in that area.

I am concerned about the timing of this planning application, because the community should have full involvement. Putting the application out for comment so close to Christmas will mean it will be very difficult for community groups to do the work they need to do to ensure that there is a proper consideration of those matters and that people are able to make their — —

Mr Lenders interjected.

Mr D. DAVIS — I say to the Leader of the Government, through the Chair, that in some cases his government is riding roughshod over communities and those who want to have their say about their local area. The character of a local area is very important. The Leader of the Government may not think that that is an important matter, but I and the Liberal Party certainly do.

I ask the Minister for Planning to ensure that no hasty decision is made on this Camberwell railway station proposal. I ask that a proper period be allowed for consideration by the community. In this case, given the proximity to Christmas, between 90 and 120 days would be a sufficient period for community groups to have their say and to ensure that a more satisfactory approach is adopted. The government has apparently been determined to ride roughshod over the community on this, and I now ask the minister to reconsider his approach to ensure that the council and the community have plenty of time to put their case. I ask the minister

to extend that period and to ensure that there is every opportunity for community input.

Diamond Creek: multipurpose stadium

Mrs KRONBERG (Eastern Metropolitan) — My adjournment matter is directed to Treasurer. The Shire of Nillumbik interface council manages numerous challenges associated with preserving its environmental integrity whilst responding to growth and providing essential infrastructure for its citizens. The community in Diamond Creek and the surrounding region seeks a multipurpose stadium. Such a facility would ensure that children and young people could participate in activities and events that would help them maintain physical fitness all year round. Such a centre is even more critical to public health now because of the drought-induced crisis experienced by local sporting clubs.

Locally the proposal was elevated to the level of a federal election issue when the passionate public advocate, Fran Bailey, the federal member for McEwen, recently helped to secure a $3.5 million commitment for the project. Labor pledged to match this funding. So far the project has achieved $3.5 million in funding from the commonwealth, with the Nillumbik Shire Council pledging $3.3 million towards the $10 million project. By contrast the Brumby government has committed a meagre $500 000. It has valued the portion of school land that the multipurpose stadium would be built on at $1 million — I pluck a figure out of the air! — and accordingly has costed this into its overall contribution. Unfortunately this leaves a funding shortfall of $2.7 million. The state government is reneging on the original understanding under the tenets of the Regional Partnerships program, whereby the three levels of government were to contribute one-third each towards the $10 million development.

This essential multipurpose stadium will be extensively utilised by students of the Diamond Creek East Primary School and Diamond Valley Secondary College, thereby enhancing their curriculum offerings and contributing to students' health and creative energies. But the Brumby government's land contribution ushers in a really hollow tone, and we are yet to see the government fully support this project. I ask the Treasurer — and I hope he is listening — to demonstrate a full commitment to the people of Diamond Creek and environs by securing the outstanding balance for this important, overdue community facility.

Equine influenza: leisure horse industry

Mrs PETROVICH (Northern Victoria) — My matter for the adjournment is for the attention of the Minister for Agriculture in the other place. It is now more than three months since the Victorian leisure horse industry went into voluntary lockdown, ensuring that the Spring Racing Carnival could proceed. Now that this is over, the non-racing segment of the industry is asking when it can go back to its shows. With a number of major competitions coming up in the new year, the serious equestrians believe it is time for the intrastate restrictions to be lifted. I have previously spoken of the costs incurred by these people for the upkeep of their horses. Each horse costs at least $70 a week in feed, vitamins and shoes — a fact I have kept from my husband for years — not to mention additional costs, including the organisation of special, small clinics to keep the horses and riders show fit. Without being able to compete, our equestrian professionals have been left to fend for themselves and now have no income to offset these expenses.

Disappointingly, my call for compensation akin to that offered in New South Wales and Queensland has fallen on this government's deaf ears. Likewise the Minister for Agriculture has been mute on his plans for the state's future in relation to equine influenza. I have been contacted by a number of industry leaders wanting to know what is happening, given that there is no information flow from the minister's office on this issue. I believe it is too early for the border security and biosecurity measures to be lifted.

However, given that horseracing has been allowed to continue throughout the state, I believe it is time for this government to show concern for and understanding of the non-racing industry. The action I seek as a matter of urgency is that the minister review the current restrictions and give some direction on when competitions in Victoria can resume.

Legislative Council: changes

Mr P. DAVIS (Eastern Victoria) — I raise a matter for the attention of the President of the Legislative Council. In so doing I firstly wish to reflect on what has been a tumultuous year. It really is a strange thing for me to say that I think in the time I have been in this house, which is now some 15 years, 2007 will probably stand out as the year of greatest change, at least to the house. I reflect on the fact that there are a large number of new members who have had to find their way, and hopefully some of us who have been here for some time have assisted them to become better parliamentarians.

I note that the house has a new style. New procedures have been adopted, sometimes with the support and sometimes without the support of all parties in this place. In my view there is a new respect for the Legislative Council. There is a new order in the house, President, which I am sure you will agree with. I do not wish to reflect on any previous Presiding Officer of this place, but I can certainly say there is a new order in this place. I think it is fair to say that it has been a challenging year for all of us. At the end of the year we all wish everyone has time with their families to enjoy what is more important than what we do in this place, which is their family life.

President, I would like to put to you that I would request that the President sustain the dignity of the house and respect for his office by asserting his authority according to the traditional defence force approach to leadership of being firm, fair and friendly.

Water: desalination plant

Mr O'DONOHUE (Eastern Victoria) — I direct a matter for the attention of the Minister for Planning. There are many unanswered questions about the proposed desalination plant that the government is proposing to build on the Bass Coast, and the biggest question is: will there be an environment effects statement? And that is very firmly with the Minister for Planning. I hope he thinks long and hard about the responsibilities he carries so that he comes to the right decision about that project.

The issue that concerns me particularly tonight is the proposed pipeline. If the desalination plant does go ahead, where will the pipeline go to connect up with the Melbourne water system? What sort of easement will the government require or wish to have? What consultation will it have with the affected landowners? When will the works take place, if they happen? There are many other questions that need to be answered. In the context of this community along Western Port, it has had many challenges of late. The gas pipeline the government has installed through Korumburra, Leongatha and other towns has been an unmitigated disaster for farmers and landowners. It has taken a 50-metre wide easement, failed to clean up after the installation of the pipe and adversely affected the farming practices of many people through that area.

The people of Clyde, Pearcedale and other towns throughout the Western Port area have had to live with the concern that there may be a new rail link from Pakenham to Hastings. These communities have had much to digest from this government. Now they are concerned about what will happen if and when the proposed pipeline from Kilcunda to the Melbourne water system is installed.

I ask the Minister for Planning to firstly consult and meet with representatives of the local landowners, to give serious consideration to the form and width of any easement that may be required to accommodate a pipeline, taking into account the impact on landowners, and to consult more widely with the affected communities and people.

The PRESIDENT — Order! Before adjourning the house for 2007 I would like to say that I personally thank all members of this chamber for their contribution during the first year of this Parliament. Your commitment and energy is noteworthy. I thank the staff and all our support staff and personnel for their contribution to the running of this house. More importantly, I wish you all and your families a safe and enjoyable break, and I look forward to working with you all in the new year.

In response to the matter raised for me by the Leader of the Opposition, I note his observations on the running of the chamber during the course of the year and I take it as a compliment. It is a compliment that should be shared by all of us. I am hopeful we will continue to maintain the standards, if not even improve on them, during the remainder of the term of this Parliament.

Responses

Mr LENDERS (Treasurer) — There were 12 adjournment matters and one of them was to the President, which I will not comment on, other than to endorse the Leader of the Opposition's comments and the President's response to them. I endorse them heartily. Ten of the matters were to other ministers, and I will pass on those matters to those ministers.

Mrs Kronberg raised an issue with me in my capacity as Treasurer, much as Mrs Petrovich raised a matter yesterday. I would suggest to the house that questions about the budget process should go through the appropriate ministers rather than being asked of me in this house.

I will say on the issue of the funding of the Diamond Creek school and multipurpose stadium and Fran Bailey's role, that I actually spent 4 hours on election day helping Bob Mitchell, who is 82 votes behind in McEwen. I did notice the issues Mrs Kronberg raised. I noticed the posters from Mrs Bailey. I noticed that the swing against her across McEwen was 6.38 per cent, but that in the Diamond Creek booth where she campaigned and had a poster it was 7.3 per cent. I

noticed that in Diamond Creek East it was 7.43 per cent, and I noticed that the community's response to Mrs Bailey's sincerity was that she had the president and the principal of both primary schools handing out against her because they thought announcing this without the minister actually signing off was just a little opportunistic. Having said that, I wish them well. Every community wishes to do that. That is my response to the adjournment matter raised with me.

The other 10 matters will be passed on to the ministers to whom they were directed, and I extend to everyone my best wishes for the festive season.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 6.41 p.m. until Tuesday, 5 February 2008 at 3.00 p.m.

PARLIAMENT OF VICTORIA

LEGISLATIVE COUNCIL
LEGISLATION COMMITTEE

Liquor Control Reform Amendment Bill

6 December 2007

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

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Mr B. Atkinson

Deputy Chair

Ms C. Broad

Members

Mr B. Atkinson
Ms C. Broad
Mrs A. Coote
Mr D. Drum
Ms J. Mikakos
Ms S. Pennicuik
Ms J. Pulford

Substituted members

Ms C. Hartland (for Ms S. Pennicuik)
Ms W. Lovell (for Mrs A. Coote)

Also present

Mr A. Robinson, Minister for Consumer Affairs
Mr P. Davis

LIQUOR CONTROL REFORM AMENDMENT BILL

Referred from Legislative Council.

The CHAIR — The minister is coming directly, I understand, so I formally declare open the meeting. There being no apologies, I advise the Legislation Committee that we have been charged by the Legislative Council with the responsibility of working through clauses 22 to 28 of the Liquor Control Reform Amendment Bill 2007.

As we discussed at a meeting convened earlier today, for the purposes of the processes our main focus will be on clause 22. I would like to keep the matters as confined as possible to resolving the issues, given the resourcing issues we face on the last day of Parliament. I take the opportunity of extending thanks to the clerks for their work in getting this meeting together very quickly, to the Hansard staff in particular for taking on an added workload in their day, and to the minister for making himself available at short notice to resolve these matters. I welcome the Minister for Consumer Affairs to the hearing.

Clause 22

The CHAIR — I understand the minister has been briefed on the issues that were of concern to the Legislative Council and were the reason that the matter was referred to the committee. I invite the minister to make any comments he might wish to make.

Mr ROBINSON — Thanks, Chair, and thanks for the opportunity of being here. We are under a bit of time pressure. I have pagers going off, and all of that, and I need to get back at some stage to get ready for question time. I tried to follow the debate as it was conducted yesterday. It is a little bit confusing but I think I understand the major obstruction here, and that relates to party buses, and I understand that is in clause 22.

The CHAIR — Correct.

Mr ROBINSON — We have tried in the last week to negotiate a position of understanding on that, and that has clearly not been successful. I have some difficulty — and I have expressed this to Ms Lovell — about the amendments which were offered, and I can see that we are not going to make any progress on that. But because the government does feel the need to move strongly on the issue of anti-social behaviour around venues, we are prepared, in order to get something in place, that the clause and the provisions regarding party buses be dropped from the bill, so we can offer that up in order to get some movement in the constrained environment in which we find ourselves.

The CHAIR — Thank you, Minister. That is a major breakthrough in terms of getting the legislation through today. Does any committee member have a comment on the minister's remarks?

Ms HARTLAND — From the Greens' point of view, we did not have any problem at all about party buses or about sporting clubs, because they have licences et cetera, and obviously they are a real problem.

Our concern was really about the small buses for pensioners, and I am wondering whether there is not a way of separating those two things.

Mr ROBINSON — Ms Hartland, we have had some discussions about that issue, and we are conscious of the concerns that have been expressed by a number of members. Our view was that clarification as to who would be covered by the clause could have best been dealt with by enforcement guidelines, and that is because every case, in my view, has to be dealt with on its circumstances.

Clearly there is no intention to catch out small clubs and sporting clubs where the primary purpose of the bus transportation is to give effect to the activity of that club — that means people going to and from a sporting event, as happens in the country, and I accept that. Equally we were concerned that you could not turn a blind eye to a club that it might decide that it wanted to run a party bus and do it commercially, so we felt that the bus way of dealing with that was through enforcement guidelines.

As a consequence of the government's indication that it is prepared to drop that clause, it is something we will have to revisit. I do not know at this stage precisely how we will deal with it. We will consult. We said in the discussions we have had with a number of representatives this week that we were prepared to consult. We are prepared equally to consult with peak bodies. We do not wish to make life any harder for them, but equally we do not wish to create anomalies in the law where, for example, the best way to raise a dollar could be for a club to act as the party bus operator with no controls on it. It is just something we are going to have to consult widely on and bowl up some proposition in the new year.

The CHAIR — Perhaps in the interests of brevity, can I indicate that the only other clause that there was any other issue with was, Ms Lovell, on clause 23?

Ms LOVELL — Can I just speak on that?

The CHAIR — Perhaps you might respond on this one but also indicate what your proposal is now for clause 23 — whether or not that is to proceed as an issue from the Liberal Party point of view.

Ms LOVELL — With regard to clause 22, like the Greens we have no issue with the party bus industry being licensed and regulated. We believe it should be regulated, and we look forward to you, Minister, bringing back legislation that specifically provides regulation for the party bus industry. We were most concerned about the impact it would have on sporting groups, community groups, social clubs and service clubs in country Victoria in particular. For a long time we have encouraged people to be responsible and to take a bus rather than to drink and drive. We were concerned that this would have the reverse effect on those measures and would encourage more people to travel by car and possibly increase the incidence of drink driving.

I need to inform you, Minister, that what you have just told us about the intent of the enforcement of this particular clause was quite different from what was reported in the house yesterday. We were told that whilst football clubs would not require an additional licence because they were already licensed, a Probus club, a Rotary club, a school council, a hospital board or a group of friends going to the theatre or something would be required to get a licence. Perhaps there was a breakdown in communication, but that was the advice that the minister at the table was giving and was the advice that he was getting from the advisers. We thank you for your offer to remove this clause, but we do feel that the party bus industry still needs to be regulated. We look forward to that legislation coming back to the house.

The CHAIR — Can I just point out that I do not think the minister referred to the advisers; I think the minister spoke of his own volition during yesterday's proceedings. I do not think he referred those matters to the advisers. Perhaps that was to the detriment of the committee's proceedings.

Ms LOVELL — He did pull out a piece of paper at one stage.

The CHAIR — That may be..

Ms BROAD — In the interests of brevity, I will indicate that government members also welcome the opportunity that is now afforded by the minister's statement to consult with organisations and constituents in our electorates. We are very pleased about that.

The CHAIR — I will put the question that clause 22 stand part of the bill. Based on the minister's advice, I invite the committee to vote against the clause.

Clause negatived.

Clause 23

Ms LOVELL — Clause 23 is to do with the prohibition of advertising or promotion that is likely to encourage the irresponsible consumption of alcohol or behaviour that is otherwise not in the public interest. The Liberal Party is proposing to remove the words 'or is otherwise not in the public interest' because we feel that the role of the director of liquor licensing is to do with the consumption of liquor in this state and it is not her role to be a censor in any other way whether that relate to a dress code, the wearing of hats or whatever. The words 'or is not otherwise in the public interest' provide a power which is a little too broad to give to the director of liquor licensing.

The example which was given in the second-reading speech was about a flyer which invited girls to turn up to an event in a bikini and they would be given free alcohol all night. The issue is the giving of free alcohol all night; it is not the wearing of bikinis — is quite legal to wear a bikini in this state. Women fought long and hard for the right to wear bikinis when they want to. The issue about that flyer is that if you turned up in a bikini you would be given free alcohol all night. That was the inappropriate thing about that flyer, and that is the only issue that the director of liquor licensing should be dealing with.

Mr ROBINSON — I noted some commentary about this in the debate yesterday. The government is not prepared to revisit that part of the bill. There would be any number of promotional opportunities and innovations that people in the liquor industry — whether they are a licensed venue operator, marketing people or manufacturers — could resort to in order to encourage activity which the government believes would have a consequence of antisocial behaviour. Rather than trying to distinguish ahead of time what might or might not happen, we think it is appropriate that the director of liquor licensing be given the powers we have proposed. You can envisage any range of circumstances where an innovator might say, 'I will give you free drinks beyond so many you buy on a drink card'. There may be circumstances where the innovator might say, ' If you spend this much money, I will give you a prize or you will go into a draw' or any sort of thing. There is no limit to the ingenuity of people. We think that it is an industry in which issues like this arise often enough for the director to be given the power. It is a power that the director has sought. We are not trying to second guess the director. We believe it is reasonable and is in the public interest. In conclusion, this clause is not one which we are a prepared to concede any ground on.

Ms LOVELL — All of those examples you have given us are still about the consumption of alcohol and the inappropriate thing is the offering a free alcohol.

Mr ROBINSON — I suspect that the director's response to that, if I could be forgiven for offering an opinion on the director's behalf, would be to say that without the language that is proposed by the government her ability is compromised and the first thing she gets is a letter from the person receiving her order from their lawyer saying that she has acted outside of her power. That is a frustration that the director has had in a number of instances in the past. She would say, if I can be forgiven, as I have said, for speaking for her, that that just hobbles her unnecessarily.

So we side with the director on that one.

The CHAIR — Ms Lovell, do you plan to proceed with the amendment, given the minister's comments?

Ms LOVELL — I suppose we need to formally move it.

Mr DAVIS — I think Ms Lovell wants to move it and test the view of the committee.

Ms LOVELL — Yes. Do I need to formally move it?

The CHAIR — We will come to that. Are there any further comments?

Ms HARTLAND — The Greens support the government on this position for the reasons that the minister has just outlined.

The CHAIR — Ms Lovell, if you could formally move the amendment.

Ms LOVELL — I move:

14. Clause 23, lines 23 and 24, omit "or is otherwise not in the public interest".

Amendment negatived; clause agreed to; clauses 24 to 28 agreed to.

The CHAIR — That concludes the Legislation Committee's consideration of the matter, and it will report to the house this afternoon. Again, I extend thanks to you, Minister. Do you have some more remarks?

Mr ROBINSON — I just wanted to be absolutely certain, given this is an interesting mechanism that we are engaged in here, that the committee will — I am sure that is the committee's intention — accurately reflect that as the minister on behalf of the government I am only giving ground on those clauses that pertain to the — —

The CHAIR — Minister, I give you the assurance that the committee will report to the Council, and forming part of that report will be the Hansard transcript, which I think will very clearly reflect your comments. To that extent I again express our appreciation of Hansard on a very busy day for going to some trouble to ensure that we will have that report available to facilitate this legislation. Minister, thank you again for making your time available at short notice and thank you, committee members, for the same.

Committee adjourned.