PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 13 November 2008

(Extract from book 16)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Roads and Ports	The Hon. T. H. Pallas, MP
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Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
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Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

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

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

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

Standing Committee on Finance and Public Administration — Mr Barber, Ms Broad, Mr Guy, Mr Hall, Mr Kavanagh, Mr Rich-Phillips and Mr Viney.

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

Joint committees

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

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

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

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

Electoral Matters Committee — (*Council*): Ms Broad, Mr P. Davis 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*): Mr Noonan, 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 Mr Foley.

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

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

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

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

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

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

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

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Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr DAVID DAVIS

Deputy Leader of the Opposition:
Mrs WENDY LOVELL

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

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

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THURSDAY, 13 NOVEMBER 2008

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Thursday, 13 November 2008

The PRESIDENT (Hon. R. F. Smith) took the chair at 9:35 a.m. and read the prayer.

PETITION

Following petition presented to house:

North-eastern ring-road: construction

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the people's opposition to a new tollway proposed to carve up Melbourne's environmentally sensitive green wedge and destroy homeowners' properties in Eltham, Warrandyte, Park Orchards and Donvale to connect the Metropolitan Ring Road to EastLink. The petitioners therefore request that this proposed tollway be abandoned and in its place the state government adopt sustainable public transport options.

By Mr BARBER (Northern Metropolitan) (2995 signatures)

Laid on table.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Auditor-General's reports tabled July 2006–February 2007

Mr BARBER (Northern Metropolitan) presented report on findings and recommendations of Auditor-General's reports, including appendices, minority report and extract from proceedings, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Mr BARBER (Northern Metropolitan) — I move:

That the Council take note of the report.

I will not say very much about this, but I think it is important that the Public Accounts and Estimates Committee has a close engagement with the work of the Auditor-General. I am particularly pleased to say that the committee has held a number of public hearings in relation to the Auditor-General's findings, and that raises the status of those findings in the Parliament.

Mr PAKULA (Western Metropolitan) — I rise to make a few brief comments about the report tabled by Mr Barber. I start by thanking the committee's executive officer, Valerie Cheong, and staff, Leah Brohm and Natalia Peric — —

An honourable member interjected.

Mr PAKULA — Yes, it is the same one; it is my copy.

The reports of the Auditor-General have been thoroughly reviewed by the committee in relation to a number of areas — government advertising, the new ticketing system tender, aged-care facilities and his priority 2 follow-ups. I think it is worth members of the Council reviewing the report and the recommendations of the committee, which have arisen from both the public hearings and the other discussions that have been held with the Auditor-General with regard to all those areas.

It is worth noting, particularly in regard to the new ticketing system tender, that there is a series of recommendations about procuring and tendering guidelines. They have been the subject of a great deal of work by the committee and the Auditor-General. It is also worth noting in regard to the appendices of the report that in the public hearings there was a significant discussion between the members of the committee and the Auditor-General about the reports that emerged in the *Herald Sun* about the new ticketing system tender. The Auditor-General's response to that in the committee hearings was both comprehensive and important for the committee to understand. He went through all the specific allegations, outlined 12 claimed discrepancies and dealt with each and every one of them. It is important to note that the committee considered that the Auditor-General had appropriately addressed all those discrepancies in his response.

Finally, I want to move to the minority report which has been issued by four members of the committee and make two very brief comments. Firstly, there is the recommendation that the Auditor-General conduct an investigation into the myki ticketing system, and that recommendation goes into quite some detail.

Without revealing the nature of the discussions between the committee and the Auditor-General, I think it is fair to say that in general terms the Auditor-General presents plans for the committee, the committee and the Auditor-General engage in discussions and ultimately the Auditor-General expresses his view and makes his decisions about what he is going to investigate — and that is as it should be. Ultimately the independence of the office of the Auditor-General must be respected. The Auditor-General makes decisions on the basis of a

range of things, including what he believes to be the appropriateness of a particular study by him, its timing, the resources available to him and other priorities he may have. For the committee or part thereof to be making those kinds of recommendations and directions to him goes perilously close in my view to impinging on that independence.

The other part of the minority report suggests that there is a potential perception of a conflict of interest in regard to the appointment of Gary Thwaites as the chief executive officer of the Transport Ticketing Authority. This is what I would describe as the political equivalent of lifting the elbow on the way through, because the perception of a conflict of interest is said to arise because Mr Thwaites's spouse, Josie Thwaites, was — and note the word 'was' — the probity auditor and probity adviser to the transport ticketing tender. It is important for the Council to understand that that tender concluded more than 18 months ago. Ms Thwaites's role as the probity auditor to the tender therefore concluded more than 18 months ago. Mr Thwaites would not have been, to use the vernacular, even a twinkle in the mind's eye of the Transport Ticketing Authority at the time Ms Thwaites finished her job as the probity auditor to the authority.

I am not sure how the TTA could even deal with the suggestion that there is either a conflict of interest or a potential conflict of interest or even the perception of a potential conflict of interest because someone has been appointed as the chief executive officer of the TTA 18 months or more after their spouse's role as the probity auditor concluded. As I said, I consider it the political equivalent of raising the elbow on the way through. The suggestion has simply been placed there to make a point and score a cheap hit, and it bears no relevance to any real or potential conflict of interest. With those few words I commend the report to the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise to make a few comments on the Public Accounts and Estimates Committee's (PAEC) report on the findings and recommendations of the Auditor-General's reports tabled between July 2006 and February 2007. This is one of the important roles that the Public Accounts and Estimates Committee has in reviewing audits undertaken by the Auditor-General to assess the follow-up by government and look at further courses of action that the government and indeed the audit office can take in progressing from the initial audit that the Auditor-General has tabled.

This report deals with the audit into government advertising, the new ticketing system tender, aged-care facilities and two further priority follow-up audits. I pass on my thanks to Valerie Cheong and her staff for the work they have undertaken on this report.

This report is broadly supported by both sides of the house. The area where we have some differences with the majority of the committee relates to the ticketing system tender review, and I cannot say that I share Mr Pakula's views on the subject matters in the minority report. As Mr Pakula noted, the minority report has recommended that the Auditor-General conduct a follow-up audit on certain issues arising from the ticketing system tender.

As every Victorian and every member of this house knows, the new ticketing system rollout has been a debacle. A number of issues arose during the course of the Public Accounts and Estimates Committee's hearings into the ticketing system tender. Reviewing the Auditor-General's first report gave this side of the house, and frankly should have given the government side of the house, cause to seek further information and a further review by the auditor of some of the issues that occurred through that ticketing tender process.

It is entirely appropriate that the minority report make a recommendation that the Auditor-General look at the consequential developments of the ticketing process since his last audit of the tender process. It is in no way inconsistent with the role of the Public Accounts and Estimates Committee to make recommendations to the Auditor-General. As Mr Pakula knows, the Audit Act lays down a process for an interactive engagement between PAEC and the audit office. That does not preclude PAEC making other recommendations to the Auditor-General, and it is entirely in order and appropriate that this recommendation has been made for further review of the ticketing system rollout. It is disappointing that government members have elected not to support that recommendation.

The other matter canvassed in the minority report relates to the potential for a conflict of interest. To put some context around this issue, the potential conflict-of-interest issue relates to the appointment of Gary Thwaites as chief executive officer of the Transport Ticketing Authority after his spouse Josie Thwaites was the probity auditor and probity adviser to the transport ticketing tender. It is worth putting on the record that it came out through the course of the hearings that the appointment of Ms Thwaites as probity auditor was unorthodox. It did not follow the conventional panel process laid down for the appointment of probity auditors. It appears Ms Thwaites was appointed probity auditor on the basis of a recommendation of an unidentified person within

Treasury, so Ms Thwaites's name came from nowhere; she was appointed as probity auditor and she was also appointed as the probity adviser. To be both the probity auditor and the probity adviser is a highly irregular arrangement.

There were questions over the way in which that probity audit was conducted and the degree to which it ensured the probity of the process. Mr Pakula is to have the house believe that it was a mere coincidence that subsequently Ms Thwaites's spouse was appointed chief executive officer of the Transport Ticketing Authority. This side of the house does not accept it is a mere coincidence. A situation in which a close relative of the probity auditor was suddenly appointed as chief executive officer of the organisation to which they were probity auditor raises conflict of interest issues.

There is a material potential conflict of interest that should be placed on the record through this minority report, and that is why the coalition has sought to have it included as a material issue in the report. If Mr Pakula suggests there is no conflict of interest, he should not have had a problem with this matter being recorded as a potential conflict of interest.

With the exception of those issues on the Transport Ticketing Authority tender process the coalition parties are generally supportive of the report, and I commend it to the house.

Mr DALLA-RIVA (Eastern Metropolitan) — I am also pleased to rise as a member of the Public Accounts and Estimates Committee (PAEC) to make some brief comments on the report just tabled, *Review of the Findings and Recommendations of the Auditor-General's Reports Tabled July 2006–February 2007*. I also join with Mr Rich-Phillips, Mr Pakula and Mr Barber in thanking the committee secretariat for their work in undertaking this extensive examination of these reports. In particular I thank Valerie Cheong, Leah Brohm, Vicky Delgos, Joe Manders and Natalia Peric for their tireless work in the public hearings that we undertook, and some of the politics around some of those issues.

I will come to the minority report later. The report shows the lack of capacity of this government to do anything right. Members will see when reading about the various areas looked at by the Auditor-General that there has been an abject failure by this government at every level. If we look in particular at some of the part A issues concerning government advertising, we see the Auditor-General's report on government advertising was scathing about the attitudes of this government under then Premier, Mr Bracks, who was more interested in spin than he was about substance. The government spent huge amounts of money on that and continues to do so, although I must say that if you compare the amount of spin the government put out under Premier Bracks compared to that of the current Premier, you see it is a lot less now.

Having said that, I note that it was clear that the Auditor-General did find that a substantial amount of money had been used. Guidelines had been recommended, which the government snubbed, because it did not want to expose itself to those guidelines. The government has had two reports on government advertising — this is the third — and it continually snubs its nose at the recommendations that PAEC and the Auditor-General have made. We will probably find that the government will ignore these findings in any case. That is the first example from this report.

In a minute I will consider some of the issues in relation to the NTS (new ticketing solution) tender, but now I just want to go to some of the other areas we examined. Part C relates to the condition of public sector residential aged-care facilities. In the end it is typical of this government to have taken the attitude of 'It's not our fault. It's not working, so who do we blame? Let's look north and blame Canberra, because it should be the one looking after aged-care facilities. We cannot deliver, so we will push the blame up to Canberra, even though there is a Labor government there at the moment'. Those who read the report would be interested to see the subtext of that: 'It's not our fault. We tried, but we cannot do it; therefore we are going to blame someone else'.

I turn to some of the part D priority 2 follow-ups in relation to the Auditor-General. You have to laugh. The first one is about delivery of regional fast rail services. What a joke that has been on the part of this government! Chapter 2 relates to the rail gauge standardisation project. We know that has occurred under this government — what a success! In fact it has not happened, so that is again another joke.

The Docklands film and television studios are another disaster on the part of this government. We now find that the government loaned the developer $31.5 million to build the studio, and guess what? There has been no follow-up by the government. There is an assessment in this report that the government needs to continue to follow it up. We do not know about this private loan, and the report says on page 179 that the balance of the state loan, as at 30 June 2008, was $33 736 500 on an original $31.5 million loan. Under the current climate I do not know what is going to happen. The government

made that loan. Where has the money gone now? Who knows?

In terms of vocational education and training, and particularly in meeting the skill needs of the manufacturing industry, we have an industry minister who is not even interested in putting out a strategic plan about what the government is doing. The report reviewed the manufacturing industry, which is another example of failure on the part of this government. The minority report, as Mr Rich-Phillips correctly pointed out, referred to the overall process of the NTS tender for the supposed myki ticketing system which, if you review the whole of this report, you see is just another example of the ongoing failure of this government to do anything right and to get anything delivered on time and on budget. In our minority report we said that given the enormity of the substantial financial losses, and given that the ticketing authority tender process was supposed to ensure value for money and stay within the agreed price, we thought it was appropriate that we move that the Auditor-General continue a broad scope audit of the myki ticketing system. We thought it was important for the Auditor-General to examine the cost blow-outs, the ongoing delays, the appointment of the Transport Ticketing Authority chief executive officer and the ongoing internal problems with the TTA itself.

We also thought it was appropriate that the Metcard delivery contract with OneLink be examined, but government members voted it down. The votes are recorded in the back of the report for people to see. I ask: why would they vote it down unless they did not want scrutiny of what occurred as part of that process?

Mr Pakula — That's up to the Auditor-General.

Mr DALLA-RIVA — We hear Mr Pakula whingeing about the fact that we are trying to hold this government to account. The reality is if there were nothing to hide, that should have been an appropriate course of action for the Auditor-General to take. This is a significant — —

Mr Pakula — It's his call.

Mr DALLA-RIVA — It is not his call, and Mr Pakula knows that. The Auditor-General does reports for the Public Accounts and Estimates Committee; that is the way the structure is. He will rely on the recommendations that we put forward. That was a recommendation which government members voted down because they did not want to be held to scrutiny. They were more interested in slicing up Vivian Miners the day before he had to give evidence at a public hearing, leaving a shadow of a man walking down the steps from the committee room, dumped and used as a scapegoat by this government. It sliced up Mr Miners, tried to cover up whatever occurred in that whole process and then appointed Gary Thwaites, who happens to be the husband of Josie Thwaites, the probity auditor, and there was much concern about her involvement in the TTA process.

Mr Pakula — You tried all this in the hearings.

Mr DALLA-RIVA — Mr Pakula can bark on; the fact is the government is continuing to try to cover up the myki ticketing system. It is a system which is failing. It is a lemon. I have read throughout this report about government failures left, right and centre. If a $33.7 million debt to a film and television studio is not of any concern, then the white elephant we are going to be left with from the taxpayers point of view in relation to the myki ticketing system is yet to be realised. That is the important reason we moved a recommendation in the minority report. Apart from that, I commend the report.

Motion agreed to.

New directions in accountability

Mr RICH-PHILLIPS (South Eastern Metropolitan) presented preliminary report on Victoria's public finance practices and legislation, including appendix, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

That the Council take note of the report.

This is an important inquiry of the Public Accounts and Estimates Committee (PAEC) into the structure of Victoria's accountability mechanism. It is an inquiry run in parallel with a review being undertaken by the Department of Treasury and Finance into the operation of the Financial Management Act with a view to introducing next year a new public finance bill to replace and update the Financial Management Act.

The Public Accounts and Estimates Committee report is based on the work of the committee undertaken on its overseas study investigations through the course of 2008. The structure of the report looks at the budget framework, the time frame for budget scrutiny, the appropriation framework, the accountability framework for financial reporting, the accountability framework for performance reporting and the entities that are

subject to that accountability framework. The report is structured in such a way that it reports on the committee's observations from both its literature studies and its overseas travel. It raises a number of issues as discussion points with respect to each of the key areas that the committee has considered in its review.

It is an important document for informing members about the issues that arise with a review of the Financial Management Act, and it is a report that I would encourage all members to read and consider. It dovetails with the discussion paper titled *Public Finance in Victoria* which was published by the Department of Treasury and Finance on 31 October.

The department is also undertaking a review of the Financial Management Act and is seeking responses to its paper by 3 December. That is a paper I would encourage all members of this house to consider, because the issues raised in it are very significant to the Parliament and the accountability of the government to Parliament and, by extension, to the people of Victoria.

Over the last 15 years we have seen a major evolution in the way in which the government reports to and is held accountable to Parliament in financial matters. In the 1990s under the previous administration we saw an evolution from a cash accounting system to an accrual accounting system for the budget and for financial reporting. Since that period we have also seen a change from focusing on performance reporting relating to inputs to performance reporting on outputs. That outcomes framework continues to evolve, following a trend that PAEC observed in other jurisdictions it considered on its study tour.

There are important considerations to note in developing an outcomes-based structure in relation to what information is no longer recorded in the input framework. This is a matter that will be of significance to the Parliament when the Department of Treasury and Finance introduces its public finance bill. I encourage all members of the house to take particular interest in the Public Accounts and Estimates Committee's report and also the Department of Treasury and Finance's discussion paper on this issue. The time frame for responding to DTF is only one month, and the DTF paper has not been distributed widely — certainly not to members of this Parliament in a general sense — which I think is unfortunate given the important role that members of Parliament play in this process. I encourage members to look at both reports and form views on the direction in which the reporting framework should head as part of the new public finance bill when it is introduced next year.

I would like to thank Valerie Cheong and the staff at the PAEC secretariat. Because this report has arisen from a study tour, considerable additional work was required on the part of the secretariat in terms of the logistics of putting the program together. The committee is very appreciative of the work they have done, both in putting together the study tour and in preparing the subsequent report. The committee is looking to make a final report to Parliament on these issues, which will become part of the DTF review of the Financial Management Act here in Victoria. It is an important report, and I commend it and the DTF report to the house.

Mr PAKULA (Western Metropolitan) — I also rise to make a few brief comments about the preliminary report of the Public Accounts and Estimates Committee into Victoria's public finance practices and legislation. As Mr Rich-Phillips indicated, this report has emerged as a result of the review conducted by the Department of Treasury and Finance, but also as a result of a study tour undertaken by a number of members of the Public Accounts and Estimates Committee.

A couple of things emerged during that study tour. One of them was that no matter which jurisdiction the committee went to — whether it was British Columbia, the United Kingdom or others — what it established was that in terms of financial and performance reporting the Parliament of Victoria, as Mr Rich-Phillips said, through an evolutionary process over some 15 years is at or very near the front of the pack.

The other thing that emerged was that in the area of performance reporting — this is outlined in chapter six of the report — every jurisdiction the committee considered has struggled with the notion of how to properly frame performance indicators and how to make them relevant in the sense of genuinely measuring outcomes and also making them explicable or understandable, both to members of Parliament and — even more difficult — to members of the general public.

What we did establish was that there is a slow but steady move towards performance reporting being based on outcomes rather than outputs or indeed inputs. Whilst the discussions about financial accountability and financial reporting were interesting, I think the committee was greatly encouraged and interested in the discussions we had about performance reporting. Throughout the scope of the study tour we discovered jurisdictions where the performance measurements were either obsolete or meaningless, and it is a challenge to amend those performance measurements in a way that does not take away important information

from parliaments, but to do it in a way that actually starts to measure the objectives of governments, when they are delivering services, to ensure that the performance measurements help to properly measure those things rather than measuring things that departments might find of interest to them.

I think the committee made some great advances in terms of its thinking about those issues. Hopefully when the final report from Department of Treasury and Finance comes out and the new bill is prepared there will be some advances in that regard. Certainly the committee will be doing further work on that between the tabling of this preliminary report and the tabling of its final report. It would be our hope and expectation that that leads, particularly in the area of performance reporting, to more meaningful and efficacious performance measurements for both the Parliament and the general public.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Auditor-General —

Report on the Annual Financial Report of the State of Victoria, 2007–08, November 2008.

Report on Enforcement of Planning Permits, November 2008.

Report on Local Government: Results of the 2007–08 Audits, November 2008.

Budget Sector — Quarterly Financial Report No. 1 for the period ended 30 September 2008.

Geelong Performing Arts Centre Trust — Report 2007–08.

Liquor Control Reform Act 1998 — Report of the Chief Commissioner of Police pursuant to section 148R of the Act, 2007–08.

STANDING ORDERS COMMITTEE

Establishment of standing committees

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

That the resolution of the Council of 10 September 2008 requiring the Standing Orders Committee to inquire into and report by 30 November 2008 on the establishment of new standing committees for the Legislative Council be amended so as to now require the committee to present its report by 31 March 2009.

Motion agreed to.

MEMBERS STATEMENTS

Women: suffrage centenary

Ms LOVELL (Northern Victoria) — Next Tuesday, 18 November, will mark the centenary of the passing of the Adult Suffrage Bill in the Legislative Council. Dr William Maloney introduced the first women's suffrage bill to the Victorian Parliament in 1889, but it took 19 private members bills before women finally gained the right to vote. The Adult Suffrage Bill of 1908 was passed by the Legislative Assembly on 20 October 1908 and was ultimately passed by the Legislative Council on 18 November 1908, giving Victorian women the right to vote. During the passage of the bill, then Premier Sir Thomas Bent made a memorable speech, which has become known as his 'On bended knee' speech, during which he apologised to the women of Victoria for his years of opposition to female suffrage.

Victoria was both the first and the last state in Australia to give women the right to vote. An oversight by the men in Parliament in 1863 enfranchised all ratepayers listed on local municipal rolls, overlooking earlier local government legislation that had permitted women to be added to the municipal rolls for local government elections. Those women therefore now had the vote and proceeded to use it in the general election of 1864. Shocked by such effrontery and embarrassed by its oversight, the Parliament hastily amended the offending section early in 1865 restricting the right to vote for parliamentary elections strictly to male ratepayers.

In the decades before 1908 many petitions were submitted to the Parliament in support of female suffrage. They included the monster petition of 1891 which contained 30 000 signatures. The women of today owe thanks to the women who stood up amidst immense opposition and ensured the right to vote for future generations of Victorian women.

Dandenong: transit city

Mr SOMYUREK (South Eastern Metropolitan) — I rise to congratulate the government on the completion of the first major construction project in the $290 million initiative to revitalise central Dandenong with the launch last month of a new state-of-the-art facility for Grenda Corporation and the realignment of Cheltenham Road.

With the realignment of Cheltenham Road complete, preparation is now under way for the construction of a new bridge into the city centre with access from nearby EastLink. The initiative to revitalise central Dandenong

is the largest urban renewal project since the Melbourne Docklands project and will create new city space and places for significant development opportunities.

Berwick-Cranbourne Road, Cranbourne: duplication

Mr SOMYUREK — On another matter, I am pleased with the progress being made on the $17 million duplication of Berwick-Cranbourne Road, as works at Clyde Road are nearing completion. The project is the next stage of the duplication of Berwick-Cranbourne Road between the Princes Freeway at Berwick and the South Gippsland Highway. Drivers can look forward to safer and easier conditions when travelling along the Berwick-Cranbourne Road. Local motorists will have access to two lanes in each direction between Grices Road and Thompsons Road once works are completed. This duplication will provide a more efficient and safer road link for motorists travelling between Berwick, Cranbourne and surrounding communities. The Berwick-Cranbourne Road duplication includes a new two-lane roundabout at the Thompsons Road intersection and traffic signals at the Grices Road intersection, built to improve safety and increase traffic flow.

South Eastern Metropolitan Region: multicultural events

Mrs PEULICH (South Eastern Metropolitan) — In my role as shadow parliamentary secretary for education and communities and one of the MLCs for the South Eastern Metropolitan Region, I have the great honour of attending a lot of multicultural functions, and I would like to congratulate the following organisations for the work they do in their communities, including Keysborough Turkish Islamic and Cultural Centre and Mount Hira College for the organisation of their Bayram Festival organised in October which I attended. I thank Ekram Ozyurek for the enormous amount of work he does with that community.

I would like to also congratulate Dr Lagrito for the work he did with the Miss Teen Philippines Victoria Quest 2008. I attended the dinner for that event in October, and it raised a fantastic amount of money for charities as a part of that contest. The Frankston multicultural dinner dance, which I also attended in October, was very popular, and everyone had a good time.

I would like to especially congratulate the organisers of the Diwali festival held at Sandown on 19 October, including Geraldine Gonsalvez, Vernon Da Gama, Yogendra Lakshman, Moti Visa and Babu Akula, for the enormous amount of work they do with the community.

I would also like to make mention of the Springvale Benevolent Society for the enormous amount of good work it has been doing for many years, and in particular pay tribute to Wes Eggleston and Cr Alan Gordon, who will be retiring at the next council election, for the work they do for the underprivileged in the Springvale area.

I congratulate the Cook Islands Christian Fellowship on the establishment of its Cook Islands Christian Church in Hampton Park — which still needs a new public address system.

Finally, I congratulate the Guide and Scout Water Activities Centre and its committee for the outstanding work they do.

Water: fluoridation

Ms BROAD (Northern Victoria) — On 27 October the chief medical officer of Victoria, Dr John Carnie, announced that drinking water in Mildura and surrounding areas is to be fluoridated. This announcement followed letters and information about fluoridation to 22 000 households in August and community information sessions in September. The announcement has been strongly supported by health services and health professionals in the Mildura area.

This announcement demonstrates further progress by the Brumby Labor government towards meeting Labor's commitment to improving the oral health of all Victorians by increasing the number of Victorians who have access to fluoridated water supplies from 77 per cent to 90 per cent by 2011. Most of the more than 20 per cent of Victorians who do not currently benefit from drinking fluoridated water live in rural and regional Victoria. The benefits of fluoridation are illustrated by the fact that six-year-old children living in fluoridated areas of Victoria have up to 36 per cent less tooth decay than those living in non-fluoridated areas. Labor believes these are benefits all Victorians should enjoy, no matter who you are or where you live.

Police: Frankston

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I draw the house's attention to the plight of residents in Gould Street, Frankston, who are the victims of a crime wave sweeping their street. Following a number of vandalism incidents in and around Gould Street, in late October an unoccupied house was burnt to the ground in the latest arson attack. Understandably residents around Gould Street are deeply concerned at the way in which their area has

been targeted, and they live in fear as the perpetrators have not been caught. This adds to the growing concern of residents in and around the Frankston central business district, who have also been the victims of crime. Earlier this year I was contacted by an elderly lady who had to wait more than 2 hours for police to attend a burglary at her home. Victoria police simply do not have the resources in Frankston to provide local residents with the responses they need and deserve.

The member for Frankston in the Assembly, Alistair Harkness, has published a survey in which he claims 14 per cent of Frankston respondents are concerned about public safety. When his own polling says there is a problem, homes are being burnt to the ground and elderly ladies are living in fear, it is time for Alistair Harkness and the Brumby government to act. No more platitudes about what the government claims to have done. It has fallen far short of community needs, and Frankston deserves better. If Alistair Harkness cannot deliver for Frankston, he should make way for someone who will.

Buses: Colac–Lorne

Ms TIERNEY (Western Victoria) — It is with pleasure that I rise to speak on another fantastic announcement for Western Victoria Region under the Brumby Labor government's $18 million Transport Connections initiative.

This summer a new bus service connecting people living in the Colac area to Lorne will operate seven days a week. There has been a longstanding need for transport in the very busy summer months with the substantial influx for employment and recreation in the Lorne area. The service will run five times a day starting at 6.00 a.m. and finishing at 12.30 a.m. the next day to meet the working hours of hospitality employees during the peak season. It will also be useful for young people to access the great beaches and recreational activities in Lorne this summer. The cost for patrons is minimal: a ticket from Colac to Lorne will cost $4.40. The bus will also service Deans Marsh and Birregurra.

In last Monday's edition of the *Colac Herald*, Colac father Greg Marwood said cheap fares could benefit struggling and working families. He said he thought it was a fantastic idea that opens up all sorts of avenues for teenagers if their parents have to work.

I take this opportunity to acknowledge the communities of Colac and Lorne for being involved, particularly the hardworking, tight-knit community of Lorne, in making sure that this project came to fruition. I also congratulate the officers of the Surf Coast and Colac Otway shires for making sure that communities in their shires are connected.

North-eastern ring-road: construction

Mr GUY (Northern Metropolitan) — Recently residents in the city of Banyule have been subjected to numerous direct mail-outs, newspaper articles and opinion columns talking about the possibility of a freeway being built right through the middle of the municipality.

Unfortunately their local of member of Parliament in the Assembly, Mr Craig Langdon, appears to have more different positions on this than the best *Dancing with the Stars* routine. During the November 2006 election campaign he opposed a freeway through the area so strongly that he threatened legal action against people who said he was in favour of it, and in May 2008 in the *Age* he unilaterally declared that a freeway was going to be built through Banyule. In November 2008 he has revised his position again and has direct mailed everyone in his own electorate and announced, 'I have opposed and continue to oppose a freeway through the area' when, amazingly, the only person to have raised this topic was Craig Langdon himself.

As I said from the start, residents of Banyule want to know up-front where their local member of Parliament stands on this issue. Does he support a freeway, or does he oppose a freeway? He has put out a newspaper article saying he supports it and a direct mail saying he opposes it, all in the space of six months.

I accept that Labor is now getting a little tired and weary after 10, or nearly 11, years in office. If the member for Ivanhoe in the other place cannot work out if he supports or opposes a freeway, maybe he should stand down as the Labor candidate and do what most people expect — that is, allow Mr Thornley to become his replacement.

Tatura Irrigation and Wartime Camps Museum: 20th anniversary

Ms DARVENIZA (Northern Victoria) — Last Saturday I was pleased to attend the Tatura Irrigation and Wartime Camps Museum's 20th anniversary celebration, which was an opportunity for me not only to congratulate Tatura and District Historical Society but also to announce a grant of $12 000 which the government has given through a heritage grant to replace the roof. The Tatura museum boasts a unique collection that reveals the history of irrigation in the region as well as the many personal stories of the wartime camps established during World War II. I

congratulate everyone from the Tatura and District Historical Society, particularly Lynn Harrison, the president, and Mignon Campbell, the secretary.

Tourism: Goulburn River and ranges campaign

Ms DARVENIZA — I was also pleased last Thursday to officially launch in Benalla a DVD and a new-look website, which are an initiative of the Goulburn River and ranges provincial marketing campaign involving the shire councils of Benalla, Mansfield, Mitchell, Murrindindi and Strathbogie. With the assistance of a $35 000 grant from the Brumby government, this marketing campaign aims to attract people from Melbourne to provincial Victoria. This project enabled those municipalities to work together under the banner of the Goulburn River and ranges region, and I congratulate them on doing so.

Mulleraterong Centre

Ms PULFORD (Western Victoria) — On Monday, 3 November, I had the pleasure of attending the Mulleraterong Centre to announce a state government grant of $394 000 to redevelop its Alexandra Parade site in Hamilton.

Community service organisations like Mulleraterong play an important role in supporting and providing opportunities for local people with a disability to participate to their fullest potential in the life of the community. The Brumby Labor government's contribution will complement funds provided by the Mulleraterong Centre along with philanthropic and community contributions that have been put towards the total redevelopment cost of $1.5 million.

The Mulleraterong Centre has reoriented its services, shifting from a centre-based model to operating in inclusive community settings. This has resulted in some 22 clients participating in business and community groups in Hamilton. This redevelopment will strengthen its continued focus on the reorientation of its day services. The refurbishment of the existing building will enable greater access for people with high physical needs to access all parts of the building as well as providing more space for community groups. Projects like the Mulleraterong community hub remind us that we need to continue to shift the way we think about what is possible.

Finally, I pay tribute to the vision and hard work of Annette Read, the chief executive officer, and Tony Gurry, president of the Mulleraterong Centre. They are to be congratulated for their dedication and commitment.

Business: red tape initiative

Mr EIDEH (Western Metropolitan) — During its time in government the Labor Party has worked hard to establish its firm credentials across a range of areas to help those in need; to support Victorian industry; to promote our state overseas; to build better hospitals and modern schools; to employ more nurses; to provide community hubs; to support regional Victoria; and to promote peace and harmony among our diverse multicultural communities.

The government regards each of these as well as many other areas as critical to the continued prosperity of our state — and no less for the economy of our state. That is why the government has undertaken so many initiatives to support and promote business in Victoria and why it will continue to do so. Like other members in this house, as a person with a business background I applaud such moves.

I welcome the news from the Treasurer that the Brumby Labor government is slashing bureaucratic red tape. It will save Victorian businesses at least $160 million annually — and I stress that that is annually. That is money businesses will have available to them to reinvest into their businesses. It will also save money for not-for-profit enterprises, allowing them to plough those savings back into extra services for those in need. I regard this as good, sound, progressive government.

Chifley Business School

Mr THORNLEY (Southern Metropolitan) — Last week I had the pleasure of being a guest speaker at a graduation ceremony at the Chifley Business School. The school is a terrific educational institution that represents a partnership between APESMA (Association of Professional Engineers, Scientists and Managers, Australia) and La Trobe University, and it is in the business of ensuring that people with strong technical skills also acquire strong business skills. I congratulate John Vines, chairman, and Chris Walton, the incoming chief executive officer of APESMA, on the outstanding work they do there and in many other places.

Sandringham: beach renourishment

Mr THORNLEY — I have also been to Sandringham beach looking at the continual issue of the groynes there, which I know some of my colleagues in

the Southern Metropolitan Region electorate have also been addressing. As I discussed with Dr Vicki Karalis, who is doing some excellent advocacy on the issue, there is a process that may help resolve this matter over time on the question of the facts. I will continue to progress that option with my colleagues in this house.

Creativity Australia: launch

Mr THORNLEY — I also had the pleasure of speaking at the launch of Creativity Australia, which is a terrific not-for-profit venture. I congratulate Tania de Jong, the founder of Creativity Australia, and I look forward to its excellent work.

Barack Obama

Mr THORNLEY — The election of Barack Obama as president of the United States of America is possibly the most popular election victory in the history of the world. For those of us who have been on the Obama train for a couple of years, and for my three children who are also US citizens and watched the whole event unfold, it was a truly great day.

Frank Mountford

Mr LENDERS (Treasurer) — I pay tribute to a great Victorian who died recently, Frank Mountford. He was principal at Trafalgar High School when I was a student there. He was a great educator, and he had the gift of making science interesting in the classroom; he taught that very well. I knew him as principal of the school. He was an inspiring leader, and he was certainly a great encouragement to me. As a young person, I was very keen on public speaking. I entered a competition called Youth Speaks for Australia. In both the years I got into the state final the principal's dedication was shown when he — a country principal — came to Melbourne to assist what he saw as a promising student in public speaking. He was a wonderful leader, and I had enormous admiration for him.

Frank was very political. He ran as a Labor Party candidate twice — in 1969 and 1972 — in the federal electorate of McMillan. At the 1972 election he came within 300 votes of winning the seat. He is now a footnote in political quizzes, because he got 46 per cent of the vote and lost, whereas the then Country Party candidate got 16 per cent, but after preferences from Independents, the Democratic Labor Party and the Liberal Party were distributed he narrowly won the seat.

Frank will be best remembered for his contribution to teaching and to the community. After serving at Trafalgar High School, he became principal of Moe High School. Then he went to Queenscliff, on the Bellarine Peninsula, where he concluded his teaching career and retired. He remained very active in community affairs, and he became a life member of the Labor Party some years ago. Sadly, after a brilliant career and brilliant life, he died at the age of 81. His son, Mark, wrote a wonderful tribute, which was published in yesterday's *Age*. I pay tribute to him and send condolences to his family.

STATEMENTS ON REPORTS AND PAPERS

Primary Industries: report 2007–08

Mr P. DAVIS (Eastern Victoria) — I rise to make a statement on the Department of Primary Industries annual report 2007–08. That report talks about a number of things, of course, as annual reports of departments generally do, but I particularly want to pick up on the issue of drought. It is no surprise to anybody that eastern Australia is suffering from an extraordinarily dry period. The Department of Primary Industries reports its role in coordinating the Victorian government's collaboration with the commonwealth and other states and territories through the Primary Industries Ministerial Council to improve drought policy by shifting from an emergency response focus towards an emphasis on preparedness and adaptation. That point is particularly pertinent because of yesterday's primary industries ministerial forum, which dealt specifically with various changes to Australia's drought policy.

By way of background, I ought to make the point that farming is always changing; it perpetually goes through transitions and adjustment — for example, Australian Bureau of Statistics figures show that over the period from 1995 to 2006 there were 20 000 fewer farms than there had been in the previous period. In a research paper for the Productivity Commission on trends in Australian agriculture, which was published in 2005, a different sampling period was used — that is, the 20-year period to 2002–03, which saw a decline of 46 000 in the number of farm units in Australia, from 184 000 to 138 000. That in itself illustrates the long-term and progressive nature of adjustment in primary industries.

Importantly, the communiqué on yesterday's primary industries ministerial forum talks about changing the present drought policy and moving towards a regime of better preparedness by primary producers. It is important to note that the ministers reaffirmed in their communiqué that the current exceptional circumstances

(EC) rules will not change for producers currently receiving assistance in existing EC-declared areas. That is critically important, because it is clear that the farming community is suffering and engaged in an enormous struggle at the moment because of the incessant dry times. The view of the ministers is a view that was put strongly to them by the National Farmers Federation upon the release of the Productivity Commission report that recommended moving away from the exceptional circumstances arrangements. The lines-on-maps approach, which the EC regime takes, is counterproductive in terms of the equity of assistance provided to struggling farmers. Importantly, it has an effect in terms of planning by primary producers.

The Productivity Commission report found that the policy objectives of the current drought assistance programs are not focused on helping farmers improve self-reliance and preparedness and, indeed, are not helping with climate change management. It is also important to note that it recommends that all farm households in hardship should have access to temporary income support that is designed for a range of adverse events, and it should reflect the community safety net standard. That is a meritorious recommendation in the Productivity Commission report.

It is also interesting to note that the Productivity Commission found that despite the use of farm management deposits for tax deferral, these deposits have encouraged farmers to save and be more self-reliant, and therefore that they should be retained. These points are particularly worthy of consideration.

Auditor-General: *Working with Children Check*

Mr ELASMAR (Northern Metropolitan) — I rise to speak about the Auditor-General's *Working with Children Check* report to Parliament in October 2008. I spoke to the amendments to the Working with Children Bill 2007 about 12 months ago, and the protection of young children from abuse or harm inflicted by adult carers is a subject that I am passionate about. I was very pleased to read in the report that a proper framework has been established through the Department of Justice. Levels of control, together with the authority by the department secretary to issue an interim negative notice against an applicant who wishes to work with children, is a great step towards ensuring our future generations are not harmed by deviants and paedophiles.

I know that most systems are not foolproof and there is always room for improvement. The suitability checks on persons employed to care for children must be rigorous because, as I told the house in October last year, most of us have read shocking stories in the media about paedophiles who have been jailed for sexual assault or about out-of-control adults who bash young children who have been placed in their care, in some cases by state authorities. I reiterate that decent, respectable people loathe and detest those individuals in our society who abuse defenceless children.

A systematic monitoring of the working-with-children check needs to be ongoing and automatic. There is now a detailed plan and risk register to identify and minimise risks to children, together with a top-quality service delivery standard that has been established to ensure that paedophiles and child abusers are weeded out before they can do any damage to the defenceless and the very young in our community.

The necessity for due diligence is essential to the success of these child checks, and as far as I am concerned the tougher the screening checks the better and more efficient the system will be. Unfortunately paid employees and volunteers who love kids and would never harm them are caught up by this process of checks. I am sure that they will understand and support this new system because it not only protects the children but it protects them as well. Weeding out the bad eggs also improves their chances for stable and worthwhile work with children. I say, 'Well done' to the Department of Justice. I congratulate the Attorney-General and look forward to a safe and healthier environment for young people being cared for by volunteer carers and professional child-care workers.

Office of the Public Advocate: community visitors report 2007–08

Mr DRUM (Northern Victoria) — I wish to make a statement on the Office of the Public Advocate's community visitors annual report 2007–08. Community visitors are a group of independent volunteers who safeguard the interests of people with a disability. The community visitors program is part of the Office of the Public Advocate. Community visitors are divided into three streams. There is the group who visit mental health facilities that provide 24-hour nursing care; there is the health services group who visit people in supported residential services who require additional support; and lastly, there is the disability group who visit facilities that provide congregate care as well as community residential units. Last year community visitors made 5654 unannounced visits to residences and institutions right across the state.

Whilst I congratulate and thank the community visitors for the work they have done, I have some issues with the pressure they continually place on the government

to close down some of the institutions across the state, and this report focuses heavily on the negatives associated with many of these facilities. They make recommendations in the mental health stream and their no. 1 recommendation is that the state government should 'direct immediate attention to a program to increase the number of secure extended care beds'. I think the government would do well to listen. Everybody who has been in the unfortunate situation of having to put a loved one into mental health care and has been looking for some sort of accommodation realises that it is grossly inadequate in whatever part of the state someone might be looking. Certainly in regional Victoria it is an absolute joke.

In relation to disability services the no. 1 recommendation in the report is that the state government dismantle and redevelop all of the existing institutions forthwith. This has been their no. 1 recommendation in the disability sector for many years. My concern about this recommendation is that it does not take into account the thousands of families across Victoria who are desperate to have the person with a disability for whom they can no longer care moved into some form of shared supported accommodation. To have community visitors, whose hearts are in the right place, continually going into institutions that are caring for many of these people and making these sorts of recommendations is, firstly, putting greater pressure on families who are receiving some respite and having their loved ones cared for, and, secondly, it is putting even more pressure on the system and providing less opportunities for the thousands of families across Victoria waiting for some sort of supported accommodation to eventually get to the starting line and get that accommodation. On page 5 of the report under the heading 'Accommodation' recommendation 16 reads:

> the government increase funding to develop additional accommodation to overcome the system's shortfall in placements in addition to the current funding for replacement/refurbishment works program.

That has also been a long-term request by the community visitors, but the government is obviously not listening to them because many of these recommendations have been stock standard for many years. It is as if they are doing a great job, making fantastic reports, reporting back to the government and the government is not taking any notice of them whatsoever.

Again the message from the public advocate, Colleen Pearce, is very strong that they must close the Colanda Centre in Colac, the Sandhurst Centre in Bendigo and the Oakleigh Centre in south-eastern Melbourne.

In relation to some of the regional areas, I would like to just touch on the Sandhurst Centre. I have been there a couple of times to see firsthand how it operates, and I think it is worth noting that the 50-odd residents at the Sandhurst Centre have received the following report from the community visitors:

> Community visitors commend the support provided by management and staff to all Sandhurst Centre residents, with a mixture of ages ranging from 20 to people in their 80s. Community visitors report the active support program has been well received by staff and residents, every unit is participating in the program and many residents are very proud of their achievements.
>
> Every resident has undertaken a holiday this year, both locally and interstate, as planned and supported by the staff. All residents attend day programs and/or participate in community activities, every day.

I think we need to acknowledge the great work that is happening at Sandhurst and take a deep breath before we start calling for the closure of these types of institutions, because every time we close one we in fact put more pressure on the families that are simply unable to get any sort of accommodation relief from the government system. We need to be able to make sure that into the future — —

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

Auditor-General: *Planning for Water Infrastructure in Victoria*

Mrs COOTE (Southern Metropolitan) — Today I want to speak on the *Planning for Water Infrastructure in Victoria* report released by the Victorian Auditor-General in April 2008. In saying that, I would have to say that I think the title is a misnomer, because we have had no planning for water infrastructure in Victoria. We are now facing another year of drought with significant pressure on all our water storages, and we have not seen any concerted, strategic approach to water infrastructure in this state. We are now seeing some half-baked measures at 5 minutes to midnight trying to patch up what is a disastrous situation.

This government is trying to blame individuals for water wastage and putting extreme pressure upon people to alter their personal habits when it knows full well that it is industry that represents 60 per cent of the water usage in this state, and that is not being addressed at all. I know there are people within my community, as there are in many communities, who are feeling extremely stressed and pressured. In fact I have heard that the psychologists have now got some terminology for people who are feeling very anxious about the drought and water storages.

The recommendations in this report are another indictment against this government. I cannot say it any better than this report says. It says in the executive summary:

> Victoria's prosperity and attractiveness as a place to live, work and do business depend on a secure water supply for residents, businesses, farms and the environment.
>
> …
>
> A secure, reliable supply of water requires the selection, prioritisation and delivery of infrastructure in a cost-effective and timely fashion.
>
> …
>
> The Department of Sustainability and Environment is Victoria's principal water planning and policy agency.

It has a responsibility to do just this. But in the conclusions, the Auditor-General goes on to say:

> Nevertheless the processes used to develop the Victorian water plan fell short of the standard the department applied when developing the white paper and the central region strategy. In particular, the plan was finalised with:
>
> > minimal stakeholder consultation
> >
> > inadequate levels of rigour applied to estimate the costs, benefits and risks of some of the key component projects.

Here we have it from the Auditor-General.

The recommendations are a further indictment of this government and what it tends to do. For example, some of the Auditor-General's recommendations are that DSE (Department of Sustainability and Environment) should:

> 1.1 revise the central region strategy to account for the changed assumptions and the infrastructure commitments within the Victorian water plan
>
> …
>
> 1.4 work with the central agencies and the relevant portfolio minister to explain to the community the level of rigour underpinning project costs and benefits when publishing information on committed projects
>
> …
>
> 1.9 regularly make available, to the community, information about how well the department has met its environmental flow obligations

These are all fairly straightforward issues, you would have thought; however, they were neglected by the government, and this is again an indictment of this government's approach to the whole of the strategy of water infrastructure in this state.

Closer to my own electorate, I would like to talk about the Stonnington community and some of the efforts being made in the city of Stonnington to save water during this drought period. I believe the department should have a closer look at the excellent steps, projects and programs that are being carried out in the city of Stonnington, and it may in fact get some tips on how to roll them out across the state for better water management.

In particular I praise the retailers and management of the Prahran Market for achieving water savings worth over $32 000 — 16 megalitres of water — annually by implementing the following measures: a rainwater harvesting system, the use of trigger nozzles on hoses, an education program for stallholders, the installation of dual-flush toilets and the installation of water saving urinals. I also praise the Stonnington council for upgrading all the urinals in the Stonnington city centre so that they automatically flush at preset time intervals. Taps have also been upgraded. These initiatives have resulted in a 50 per cent reduction in potable water usage in the 2007–08 period.

I encourage all residents to get behind these water-saving measures and incorporate them into their homes. As I have said before, it is incumbent upon this government to put into place programs to encourage big business to monitor its water usage procedures. I believe the City of Stonnington has gone to great lengths to make certain that in its municipality water is retrieved as well as it possibly can be. I commend the efforts of all involved in the Prahran Market to achieve the savings and urge them to keep up the good work.

In these drought-affected times it is vital that all communities pull together to ensure that we are as water efficient as possible, and it is encouraging to see Stonnington leading the way.

Lorne Community Hospital: report 2007–08

Ms TIERNEY (Western Victoria) — I rise to make a statement on the Lorne Community Hospital annual report 2007–08. I would like to begin by saying that the Lorne Community Hospital does an absolutely marvellous job servicing the health needs of residents in Lorne and surrounding areas, and visitors to the area during the lead-up to the Christmas break and the Christmas break itself.

It should be noted that Lorne is a tightly knit community, as I mentioned in my 90-second statement today. It has under 1000 permanent residents, but during the summer months Lorne and the Lorne Community Hospital must deal with a huge influx of

people to the area. As I said, this is mainly due to holiday-makers visiting the area and patrons and participants in various recreational events in the area.

It is timely to make a statement on this report because in just a few weeks schoolies will inundate Lorne, flock to Lorne, as they have done for many years to celebrate the completion of their school years. We will see music lovers travelling to Lorne for the annual Falls Festival on New Year's Eve. Many people participate in the Lorne Pier to Pub swimming contest. We see a number of beachgoers and holiday-makers all through that period.

The chief executive officer of the Lorne Community Hospital, Janelle Bryce, describes it very well in her report when she states:

> On occasions throughout the year it felt we were juggling far more challenges than our small team could handle, however, the strength of our dedicated staff is coined in the saying 'when the going gets tough the tough get going'!

I recently attended a Lorne community impact advisory committee meeting which was also attended by representatives from the Lorne Community Hospital, the Victorian State Emergency Service, the Country Fire Authority, police, youth workers, Lions club representatives and business leaders. That community group comes together to deal with a range of issues, but in particular on the occasion I was there it was dealing with the influx of schoolies and how the community can best prepare itself for the overall influx of the population over the summer months. It is testimony to the local community that they have a well-coordinated approach across a range of services to handle the influx of people. It is through these partnerships with the community that the Lorne Community Hospital is able to succeed when it is up against its greatest challenges.

During the reporting period the hospital worked closely with paramedics to ensure that both services can provide an optimal emergency response after hours. The hospital also created safe driving tips for the Great Ocean Road brochure, which is a collaborative initiative with a number of stakeholders, including Roadsafe Barwon, Victoria Police, the Colac Otway and Surf Coast shires. The brochure is funded by the Transport Accident Commission. Over 40 000 copies were distributed across local government areas.

The hospital also collaborates with a wide range of stakeholders with the Schoolies Down South program for schoolies week to provide safety and support networks for young school leavers. It is also involved with the Aireys Inlet P-12 school's years 5 and 9 sexual health education in schools program. Apart from those projects, the hospital enjoys a high level of client satisfaction across a wide range of services from primary care, acute care to residential aged care.

The theme that rings true when reading the Lorne Community Hospital report is the impressive and imperative role that the hospital plays in the wider community. I congratulate and thank all those involved, including Janelle Bryce, board members, all staff and all members of the community who contributed $1 or more for that great community bus. The Lorne community raised $63 000 from their own pockets to ensure that the Lorne hospital has a wonderful transport facility for its patients.

Thank you and congratulations to all. You have served a wonderful community well for a long period of time.

Auditor-General: *School Buildings — Planning, Maintenance and Renewal*

Mrs KRONBERG (Eastern Metropolitan) — I am pleased to rise to make some comments on the Victorian Auditor-General's report on *School Buildings — Planning, Maintenance and Renewal*. In his recommendations the Auditor-General stresses the need for improvements to the prioritising of Victorian schools building works and the maintenance of school buildings. The Auditor-General stresses the need to transform building maintenance in the schools, as this is critical if the government is to fully derive benefits from its Victorian school plan. The Auditor-General's next comments are important to quote:

> Failing to formulate and apply adequate long-term maintenance plans is likely to leave future generations of students with a legacy of poorly performing facilities.

The focus of the report is on how well school buildings and their permanent fixtures, such as lighting, heating and cooling systems, are managed, and that these systems are managed and maintained in such a manner as to optimise the learning environment. Most of Victoria's school buildings were constructed between the 1950s and 1970s and were designed to last for around 40 years. Admittedly the government, under its Victorian schools plan, has committed to rebuild and renew all government schools by 2017. Some aspects of planning for this period of transition are to be commended. However, the Auditor-General stresses there is a need to make more transparent the way schools are selected for inclusion within the government's school building program. I suspect this is because there is a lot of pork-barrelling involved in how schools are selected to be included in the school building program. I can think of adequate examples of that.

There is again a manifest example of another problem that the government is having with its left hand not knowing what its right hand is doing, because here we have another catastrophic result in terms of the out-of-date nature of the Department of Education and Early Childhood Development's own asset management information system, all at a time when we have so much renewal going on and so much money being spent.

There need to be improvements in the manner in which long-term maintenance planning is conducted and executed. The methodology for evaluating asset management programs needs reviewing and strengthening in order to highlight the areas for further development and improvement. In fact the Auditor-General has recommended that schools be supported in moving towards the development of five-year plans — none of this 'when we think we need you to look bright and shiny just prior to an election' attitude — in order to have a longer term approach. Again I can think of a number examples of the need for that.

There are 29 000 school buildings that need management, and two-thirds of the floor space of these buildings is more than 20 years old, with nearly 50 per cent of that building stock having been developed between 1960 and 1984. School buildings must be managed to provide conditions to facilitate the delivery of learning goals, and they must provide secure, comfortable, user-friendly environments to deliver a modern curriculum. Current research and experience supports the view that learning environments as created by the spatial relations and conditions of the school buildings have a direct impact on how well students learn. The department's 2005 condition audit of all government school buildings in Victoria found outstanding maintenance works that were costed at around $230 million. High-priority works considered critical to the daily operation of schools were costed at $30 million.

In spite of the imperative to maintain, renew and rebuild schools, this government's commitment has fluctuated. The commitment back in 2000–01 of $73 million dipped to a low of $44 million between 2001 and 2004, although it picked up in 2005–06 to nearly $100 million. In order to keep pace with inflation, funding needed to be at $104 million by 2007–08, and unfortunately we see that maintenance funding this year was a mere $62 million — that is, $42 million below the needed figure adjusted for inflation.

Figure 2B in the Auditor-General's report shows this decline in commitment as a veritable rollercoaster. Since 2000–01 total maintenance funding has fallen some $217 million — using 2007–08 prices — short of the figure needed to keep up with inflation. Most of Victoria's school buildings do not provide suitable modern learning environments. The challenge for the department is to ensure that funding is effectively deployed to ensure all Victorian schoolchildren have high-quality learning environments.

Alarmingly there has been a reduction in funding for the implementation of the asbestos management plan.

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

Primary Industries: report 2007–08

Ms BROAD (Northern Victoria) — I wish to make some remarks on the annual report of the Department of Primary Industries. DPI is responsible for agriculture, fisheries, forestry policy and Victoria's earth resources and energy. The department employs more than 2500 staff, who work from 76 locations across Victoria, many of them in my region of northern Victoria. I would like to place on record my acknowledgement of the work of the secretary, Richard Bolt, and all of DPI's staff for their work in helping Victoria's primary and energy industries face the challenges and opportunities of the future.

As this report outlines, there are more than a few challenges to face. These are driven by movements in global competition and trade, changes in community attitudes towards the environment and social issues, demographic changes in rural and regional Victoria, climate change, water scarcity, new sources of corporate investment and new approaches based on innovation in technology and practice. In the time available I would like to refer to just a few aspects of DPI's performance in meeting these challenges. It is difficult to do justice to all the work of DPI, but I would like to highlight a couple of aspects of that work on behalf of the Brumby Labor government and all Victorians.

DPI is the lead Victorian agency responsible for the drought response. As members would be well aware, Victoria is experiencing its worst drought on record, which is showing every sign of continuing. As the lead agency responsible for drought response, DPI has worked with other government agencies and the community to develop and deliver a series of policy and on-ground initiatives to help rural families and communities in 2008. DPI's role in delivering the

government's $400 million drought assistance package is extensive.

The report includes a wide range of actions taken by DPI staff on behalf of the Brumby Labor government, from supporting the Premier's drought task force through to a wide range of programs delivered to support Victorian families during this very difficult time. On 13 October — more recently than the period covered by this report — Premier Brumby announced a further $115 million in drought relief to help rural families and communities, so the $400 million figure contained in the DPI annual report has now been exceeded. Importantly that drought package includes water rebates for irrigators and continued subsidies on municipal rates and charges, which are vital to local government and rural families and communities.

Having referred to DPI's responsibilities in relation to Victoria's drought response, I would like to draw attention to another of its areas of responsibility — the energy area. In 2008 DPI finalised negotiations for Solar Systems's $420 million large-scale solar power plant — the biggest solar photovoltaic power station in the world — to be located, I am pleased to say, in north-western Victoria. DPI's energy technology innovation strategy provided up to $50 million for the project. More recently the Premier, John Brumby, officially announced the Solar Systems $10 million Bridgewater research and development facility to test the technology which will go into this power plant. That is a terrific announcement.

Auditor-General: *Biosecurity Incidents — Planning and Risk Management for Livestock Diseases*

Mr VOGELS (Western Victoria) — I would like to make a few comments on the Victorian Auditor-General's report on *Biosecurity Incidents — Planning and Risk Management for Livestock Diseases* of November 2008. Victoria has an exceptional global reputation for its safe, clean food. It is essential that it stay that way if we are to maintain jobs, investment and exports of the state's agricultural production. Biosecurity standards have a crucial role in protecting our agricultural industries, market access and market competitiveness. The recent drama of contaminated dairy product in China had an instant impact on Fonterra, and even though that had nothing to do with biosecurity it shows the effect such an incident can have on exports.

We all remember the devastation of foot-and-mouth disease in the UK and more recently avian influenza in Asia. The abalone virus ganglioneuritis has caused millions of dollars worth of losses to this industry, with still no real end in sight. I must say I was surprised that this disease outbreak is not mentioned in the report as it has been spreading for at least three years from the South Australian border all the way to Cape Otway.

The report states, and I fully concur with it, that Australia's first line of defence against exotic diseases is based on keeping diseases out of the country. There is no doubt we are lucky to be an island continent, which makes it easier to ensure that diseases are kept out. However, with millions of people flying to and from Australia, the Australian Quarantine Inspection Service needs to be ever vigilant. Last year horse flu, or equine influenza, ravaged most of Australia, and I want to take this opportunity to congratulate the Department of Primary Industries on preventing the disease from spreading to Victoria. The Auditor-General's report shows concern about DPI's capacity and capability to sustain its response in a prolonged outbreak. National simulation exercises have also highlighted that a major emergency would quickly exhaust the pool of trained staff.

We live in a global society. I have been told that at any given time, 24 hours a day, approximately 1 million people are flying. It would take only one of that million to be a biosecurity risk to undermine and destroy our clean, green image, at a cost of billions of dollars to Australia's agriculture. A while ago I had a firsthand look at how the Australian quarantine service and customs work to safeguard our security at Tullamarine. I was very impressed, I must say, with how they went about their business in making sure that anything that comes through Melbourne Airport is thoroughly checked. It was interesting to watch the dogs at work and the expertise of the customs officers in picking up people they thought might be bringing food or other material into the country which could be a biosecurity risk later on.

According to this report, DPI is leading other jurisdictions in biosecurity risk management, and the findings of this audit are positive. Nevertheless the audit identified a number of areas for attention: a longer term planning horizon to guide capacity, capability and investment decision making; an increased emphasis on prevention; improved industry commitment to biosecurity principles and practice; and better integration and coordination within DPI. If this advice is taken up, the Auditor-General says it will help Victoria maintain its strong position in biosecurity risk management and its response to the challenges presented by the predicted increased incidence and complexity of new and emerging livestock diseases.

Ombudsman: report 2007–08

Mr EIDEH (Western Metropolitan) — I wish to speak on the Ombudsman's report 2007–08. I take great pride in being a member of the Australian Labor Party, the party that has championed the rights of the people, the average Victorian, the consumer, the small businessperson, the regional dweller and the worker. Over the years the Australian Labor Party has been responsible for many great innovations, for making existing institutions even stronger and for putting the rights of the community first. Today I rise to address the house on the latest report of the Ombudsman, an office we support very strongly on this side of the house and one which is critical to the transparency of democratic government.

I begin by referring to the report's overview, as its very essence declares so much about the Ombudsman's integrity and the key role of his office. Indeed I would say to any student of law or politics that this is the parliamentary report to read. The Ombudsman, Mr George Brouwer, states:

> There is at times a disconcerting gap between the ethical standards required of public officials and their workplace behaviours. In 2007–08 I made clear my intention to effect cultural change in this area. This is and will remain a priority of my office.

It would be fair to state that the Ombudsman and his office have pursued this goal with vigour, honesty and impartiality. Certainly his report is one which shows just how hard his office works across many areas, its many successes and even its failures. It is incumbent upon us as the elected representatives of the people of Victoria to read this report and seriously consider the many issues contained within its many pages. It is a matter of responsibility that we not simply accept the report, read it and then file it away but that we consider how we can all act to improve the administration of our state for the benefit of all Victorians.

Certainly over the past decade the Labor government has acted to strengthen the office of the Ombudsman and many related areas, with the Whistleblowers Protection Act 2001, the strengthening of freedom of information, even though the bill we proposed was regrettably defeated, and the Charter of Human Rights and Responsibilities Act. There is much more, such as our recent action regarding issues around pecuniary interest across a range of areas, including the bill that affects local government councillors who will be elected in a few weeks time. This again is relevant to areas that concern the Ombudsman.

This government is not complacent. In further reading this detailed and well-considered report, I was amazed to learn how information technology has been used to fight corruption but also how some have used it for their own personal ends. The fact that the staff of the Ombudsman's office are up to date and well aware of such issues is a testament to the talented staff who serve the people of Victoria in such an impartial manner.

But I am also concerned when government departments fail to meet their statutory requirements. I am saddened by the fact that we need a whistleblowers act in the first place, but now it is apparent that we must do even more. Certainly some of the issues can be affected by ministerial orders, and I am certain that the very best ministry in Australia will deal with these concerns with the professionalism it has shown over the years.

But there is so much more: procurement procedures in hospitals, poor customer service and unacceptable complaints handling procedures by a number of government departments, planning issues, complaints regarding local government, breaches of privacy — the list goes on and on, due to the depth and breadth of the investigations conducted by this hardworking office. In closing I congratulate the Ombudsman and his staff on an excellent report, and I commend it to all in this house to read.

Planning and Community Development: report 2007–08

Mr GUY (Northern Metropolitan) — I rise to make a comment on the Department of Planning and Community Development's annual report 2007–08. In doing so I note that it is always a pleasure to make a comment on the DPCD annual report, particularly given that this is the first full year of operation of the department. In particular I want to talk about the department's discussion of the new residential zones document, which has captured my interest and that of other members of this chamber over the last seven or eight months.

In particular I want to talk about the current status of the new residential zones process, where the government is going with this document, what it will mean for communities in outer Melbourne, inner Melbourne and regional Victoria and what it will do to the urban character of those communities.

As many would know, the new residential zones document mandates high-rise and high density, not in activity areas but in areas surrounding activities areas — neighbourhood activities areas and not just central activities areas. It is a document that brings in a

whole new style of accommodation to areas that have never seen this before. It mandates high-rise for three storeys in what is called the 'go-slow zone'. How on earth is a go-slow zone deemed by the government to be three storeys or more? The go-go zone is four storeys or more as a minimum. It is the first time we have had a planning document in Victoria, to my knowledge certainly, that mandates a minimum height.

The state government is boldly pursuing this plan, as is mentioned in the department's annual report, in consultation with organisations such as the Municipal Association of Victoria. I note that someone from the MAV was answering questions for the state government at some of the community feedback sessions that we had. Far from being an advocate for local government and the community on this issue, the MAV was doing the bidding of the government. We should not be surprised that the head of the MAV still cannot work out whether he wants to be a Labor candidate or the head of the MAV. That aside, another concerning part of the new residential zones document is that it will remove third-party appeal rights. It will remove someone's right to be notified, to object or to appeal against any of these larger developments which may feature in their community.

Mr Barber — They did that with native vegetation yesterday. They got rid of appeal rights.

Mr GUY — This is what we are talking about in new residential zones. This proposal will be catastrophic for many suburbs. It will be a massive change for regional Victoria. It will be a change that country Victoria does not need, does not want and does not at this stage know about. Most of the government's forums have been held at 1 Spring Street. The government is moving forward with this document despite the objections of some of its own members. The member for Mordialloc and the member for Essendon, both in the Assembly, have both stood up against this document and said that they are outraged by the removal of third-party appeal rights. If legislation comes before this house, we will wait to see how outraged they are.

Mr Pakula interjected.

Mr GUY — When it comes to the other chamber, Mr Pakula — I am talking about this Parliament — we will wait and see whether or not the member for Mordialloc and the member for Essendon in the Assembly are outraged then, and indeed if Mr Pakula is outraged. I note that Mr Pakula may not have a close affiliation with his own electorate all of the time. As I said before, parts of the western suburbs will be catastrophically affected. Their urban character will be decimated under the new residential zones document. All Labor members need to follow the lead of the two members in the Assembly and publicly condemn the removal of third-party appeal rights.

Further to that, when and if the legislation or changes come before this Parliament, people on the other side of the chamber will need to find their voices and stand up against it, because the planning minister and the Premier have got it wrong. New residential zones is not the way to proceed with good urban planning. You do not enforce good urban planning outcomes via a sledgehammer and bullying. You actually have to carry a community with you, and it seems that the members of this government have either forgotten or never had that in their minds.

In conclusion, the Department of Planning and Community Development annual report mentions the discredited new residential zones document again. It is a shame we have not seen anything concrete to date. It is a shame we have had quite a bit of supposed negotiation through the year. The minister still has not worked out whether the document is going to be presented on time. I suspect it will not be, and I suspect it will be another failure that he will preside over.

Office of the Public Advocate: community visitors report 2007–08

Ms DARVENIZA (Northern Victoria) — I am very pleased to make some comments on the community visitors annual report 2007–08. This is the first year that we have the community visitors report as one report rather than as three separate reports. Community visitors work in the mental health, health services and disability services areas. This year the reports on their activities have been combined into one new-look report, and the findings in the report draw on some 5654 visits by almost 500 community visitors right across the state. Community visitors do a fantastic job in going out into the community and looking at the various facilities in the mental health, disability and health sector. They speak with staff and have an opportunity to speak with the clients of those services and even the families and friends of clients who use those services.

I would like to congratulate the seven members of the combined board who report to the public advocate, Colleen Pearce, who chairs the board. There are two representatives on the board from the disability sector, two representatives from the mental health sector and two from the health sector. The report notes that this has been a significant year for disability services,

particularly in relation to seeing services improved and enhanced for people with disabilities and the implementation of the new Disability Act. The report notes that the implementation of the act has reinvigorated staff at all levels of direct care. Direct care staff play a very important role in all of these services, whether they are mental health services, disability services or the health sector. The community visitors also welcomed the closure of Kew Residential Services and complimented the government on the 44 new community residential units that have been established.

I have been looking at community visitors reports for many years, and the one we see this year is a very different report to those we have seen in recent years. In the early days when you saw a community visitors report that looked into disability services or mental health services, you saw that community visitors visited the many large institutions we had in Victoria that housed people in the intellectual disability and mental health sectors. Big institutions like Kew Cottages have been decommissioned, and new community residential services have been set up. There were large mental health services such as Mont Park, Larundel and Plenty hospitals, and other intellectual disability services such as Janefield, May Day Hills at Beechworth and the Aradale facility in Ararat. Those were the subject of community visitors reports in the past, and there were few community-based residential services. Now it is all about community-based residential services and there are none of those large institutions at all. I have been proud and pleased to be part of a government that has made a lot of those changes to our mental health and disability sector.

In mental health the report states that overall throughout the state the quality of existing care is good in the community care units, as well as in our mental health units, residential units, aged persons units for aged people who have mental health problems, adolescent and children's in-patient units as well as forensic mental health and specialist units. The report has a number of very positive and good things to say about the achievements that have been made.

The ACTING PRESIDENT (Mr Finn) — Order! The member's time has expired, as has the time for making statements on reports and papers.

LEGISLATION COMMITTEE: WATER (COMMONWEALTH POWERS) BILL

Following message received from Assembly refusing to consent to Council's request:

The Legislative Assembly informs the Legislative Council that the Legislative Assembly have refused to consent to the Minister for Water appearing before the Legislative Council Legislation Committee to give evidence and answer questions in relation to the Water (Commonwealth Powers) Bill 2008.

PROFESSIONAL STANDARDS AND LEGAL PROFESSION ACTS 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 Professional Standards and Legal Profession Acts Amendment Bill 2008.

In my opinion, the Professional Standards and Legal Profession Acts Amendment Bill 2008, 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 Professional Standards Act 2003 to facilitate a national framework for the mutual recognition of professional standards schemes (PS schemes) approved under nationally consistent professional standards legislation (PSL) of each state and territory. The bill allows members of occupational associations who are covered by a PS scheme in another state or territory, to practise under that scheme if that scheme is authorised for operation in Victoria. The bill sets out various requirements that must be satisfied before an interstate scheme can operate in Victoria. As PSL is largely consistent, but not uniform, legislation across jurisdictions, the bill aims to equally apply the provisions of the Professional Standards Act 2003 to Victorian-based and interstate-based schemes in so far as this is possible. The bill also makes a minor amendment to the statutory review provision in the Professional Standards Act 2003.

The bill amends the Legal Profession Act 2004 to clarify the role of the legal services commissioner following the Court of Appeal ruling in the case of *Byrne v. Marles and Anor*. The bill amends the Legal Profession Act to clarify that at the time of notifying an Australian legal practitioner or law practice of a complaint, the commissioner is not required to provide them with an opportunity to be heard or make a submission as to how the complaint is to be dealt with. It also amends the Legal Profession Act to clarify that the commissioner is not required to give a complainant, a law practice or Australian legal practitioner an opportunity to be heard or make a

submission before determining whether or not to dismiss a complaint summarily. The amendments will apply to a complaint made on or after commencement of the Professional Standards and Legal Profession Acts Amendment Act 2008.

Human rights issues

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

The amendments to the Professional Standards Act 2003 do not engage any human rights protected by the charter. The amendments to the Legal Profession Act 2004 do not engage any human rights protected by the charter, in particular the right to a fair hearing, as the complaint-handling system is not a civil proceeding.

Conclusion

In my opinion, the amendments to the Professional Standards Act 2003 and to the Legal Profession Act 2004 do not engage any rights protected by the charter.

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:

A. Amendments to the Professional Standards Act 2003

Victoria enacted the Professional Standards Act 2003 as part of the national tort law reforms with the specific objectives of improving professional service standards and limiting the occupational liability of professionals in certain circumstances. This was aimed at helping stabilise professional indemnity insurance premiums for service providers. In return for conferring a benefit of capped liability for members of participating professional associations, the legislation also protects consumer interests through requirements for members to hold satisfactory levels of insurance, implement risk management strategies and to establish complaints and disciplinary procedures.

The Victorian act is largely based on the New South Wales Professional Standards Act 1994. Similar legislation, based on the New South Wales act, is now in effect in all other states and territories. While professional standards legislation is mainly consistent across jurisdictions, the legislation is not a national uniform law. Accordingly, there are certain variances in the legislation in each jurisdiction. However, under the intergovernmental Professional Standards Agreement 2005, the commonwealth and state and territory governments are committed to administering professional standards legislation in a harmonised manner wherever possible. This includes measures such as constituting the professional standards council of each state and territory with the same expert panel members to ensure consistent decision making across all jurisdictions and prescribing a uniform fee structure for participating associations across jurisdictions.

This bill implements a decision by the Standing Committee of Attorneys-General in 2007 to amend professional standards legislation in all states and territories to enable the mutual recognition of a professional standards scheme approved under the professional standards legislation of another jurisdiction. The bill also makes other minor amendments to the Victorian act.

Under current professional standards legislation the process for professionals to obtain capped liability outside their home jurisdiction is inefficient, involves duplication and is costly. Occupational associations would be required to apply for a separate scheme in each jurisdiction in which their members practise and members could be required to pay, in an extreme example, up to eight sets of annual fees under eight state and territory acts if they were to practise under a professional standards scheme in all states and territories.

Facilitating mutual recognition of schemes provides a common-sense and a more seamless approach to the national framework of professional standards legislation. Mutual recognition will cut the red tape currently facing professionals who seek to rely on the cover of their home scheme when providing services in other jurisdictions. The amendments should also benefit consumers of those services who may otherwise face higher transaction costs as professionals factor the extra costs into their service charges. These amendments recognise that members of occupational associations often provide cross-border services.

A key aspect of the mutual recognition framework agreed to by the Standing Committee of Attorneys-General is that a scheme, once approved by a council under the relevant legislation of a jurisdiction, will not automatically take effect in another jurisdiction. As a result, the model amendments set out various requirements that would apply to a Victorian scheme that intends to operate in another jurisdiction and equally to an interstate scheme before it can effectively operate in Victoria. This is intended to ensure that liability caps or professional standards established under Victorian schemes operating in another jurisdiction or interstate schemes operating in Victoria are appropriate for the relevant jurisdiction.

The bill provides for a number of processes including:

where a Victorian scheme expresses an intention to operate in another jurisdiction, the Victorian council must not only consider the matters set out under the Victorian act, but also any other matters that a council of another jurisdiction would have to consider under the corresponding legislation of that other jurisdiction;

where an interstate scheme intends to operate in Victoria, the minister must authorise the publication of that interstate scheme in the *Victoria Government Gazette* and this will be subject to certain requirements under the Subordinate Legislation Act 1994 including that an interstate scheme, like a Victorian scheme, can be subject to disallowance by Parliament;

where a person is, or is reasonably likely to be, affected by a Victorian or interstate scheme, they can challenge

the scheme for want of compliance with the Victorian act in the Supreme Court, except in relation to the contents of an interstate scheme (which the court would need to assess against the corresponding law of the jurisdiction in which that interstate scheme was prepared);

the Victorian council may, on application by the relevant occupational association, on its own initiative, or on the direction of the minister, prepare an instrument terminating an interstate scheme in Victoria.

The bill also provides that section 5 of the Victorian act, which excludes certain types of claims, such as personal injury claims, from the application of the act (and thus from a Victorian professional standards scheme), also applies to an interstate scheme operating in Victoria, notwithstanding that the corresponding law of the other jurisdiction in which the scheme was prepared would allow the scheme to apply to those types of claims.

The bill applies section 54 of the Victorian act, which prohibits a person subject to a Victorian scheme from contracting out of the act, to a person subject to an interstate scheme operating in Victoria, notwithstanding that contracting out may be permitted by the corresponding law of the other jurisdiction which applies to that interstate scheme.

The amendments to sections 5 and 54 are intended to ensure that the Victorian law applies equally to members of occupational associations that are the subject of Victorian-based schemes prepared under the Victorian act and to members of interstate occupational associations that are the subject of an interstate scheme whilst practising in Victoria.

Finally, the bill includes amendments to extend the statutory review period set out in the act. Currently, the Victorian act requires the minister to review the act as soon as possible five years from the day on which the act received the royal assent to determine whether the policy objectives of this act remain valid. The bill amends the section to provide the review is to be six years from the day on which the act received the royal assent. This amendment is necessary given that Victorian professional standards schemes approved under the act have only commenced in 2008. To conduct a review of the legislation within 12 months of schemes commencing would not allow sufficient time for any substantive data to be gathered or any meaningful assessment to be made of the effectiveness of the act and its policy objectives.

Further, due to current discussions between commonwealth, state and territory governments concerning the possible commencement of a national review of professional standards legislation in all jurisdictions over the next 12 to 18 months, it would be prudent for the Victorian review to be undertaken in the context, and to be informed by the outcomes, of a national review.

B. Amendments to the Legal Profession Act 2004

This bill also makes certain amendments to the Legal Profession Act 2004 to clarify that the legal services commissioner is not required to seek submissions from legal practitioners at the pre-investigation stage of the complaint handling process.

These amendments are in response to a recent decision of the Court of Appeal in the case of *Byrne v. Marles and Anor*. The court ruled that the commissioner had denied a practitioner natural justice when the commissioner did not give the practitioner the opportunity to make submissions at the pre-investigation stage of the complaint handling process.

This decision is not consistent with the policy intent of the Legal Profession Act 2004 which was to create a consumer-friendly, efficient and cost-effective complaint handling system.

The effect of the decision is that the commissioner must now allow all practitioners to make submissions prior to the commencement of an investigation on issues such as whether the commissioner should categorise a complaint as a disciplinary complaint or civil dispute, or exercise the commissioner's powers to summarily dismiss a complaint. This has an adverse impact including that:

the commissioner may be perceived as biased in favour of practitioners by providing practitioners (and not complainants) with the right to make submissions on complaints and in making a decision whether to accept a complaint or dismiss it without reference to the complainant;

practitioners may make full submissions on the content of the complaint rather than the preliminary issue of how the commissioner should deal with it, in effect rehearsing their arguments for later;

the complaints handling process will take longer, have an adverse impact on efficiency and will be more costly;

the process will not add value to the system, as practitioners are already given the right to make full submissions as part of the investigation of a complaint.

Accordingly, the bill provides for two amendments to the Legal Profession Act to clarify the original intentions of the provisions:

an amendment to section 4.2.8 to clarify that, at the time of notifying a practitioner of a complaint, the commissioner is not required to give a practitioner an opportunity to make a submission as to whether to treat a complaint as a disciplinary complaint, civil complaint or both;

an amendment to section 4.2.10 to clarify that the commissioner is not required to give a complainant or practitioner an opportunity to make a submission before exercising his/her powers to summarily dismiss a complaint.

These amendments will not be retrospective. Thus the *Byrne v. Marles and Anor* decision will stand with respect to that case and to any other complaint lodged prior to the commencement of these amendments.

I commend the bill to the house.

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

Debate adjourned until Thursday, 20 November.

ASSISTED REPRODUCTIVE TREATMENT BILL, RESEARCH INVOLVING HUMAN EMBRYOS BILL and PROHIBITION OF HUMAN CLONING FOR REPRODUCTION BILL

Second reading

Debate resumed from 12 November; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Ms PULFORD (Western Victoria) — It gives me much pleasure to rise and speak on these matters before us today, although I will limit my comments to the Assisted Reproductive Treatment Bill.

I will start by commenting on the consideration by the Scrutiny of Acts and Regulations Committee of this important legislation, specifically the *Alert Digest* tabled earlier in the week and its comments on the Assisted Reproductive Treatment Bill. On 7 October, in *Alert Digest* No. 12, SARC commented on these bills in some detail and referred a number of questions to the Parliament for its consideration. The *Alert Digest* indicated that, given the level of interest and the complexity of the issues at hand, SARC would call for public submissions and comments. As is SARC's practice, consideration was then to be given to whether there was a need for public hearings or not. As a result of that action, SARC received some 20 written submissions, and I would like to place on record my thanks to those organisations and individuals who went to some effort in considering these issues and preparing their submissions.

Submissions were invited to comment specifically on whether the provisions in these bills unduly trespass on rights and freedoms or are incompatible with the human rights set out in the Charter of Human Rights and Responsibilities Act of 2008. The advertisements placed in the *Age* and the *Herald Sun* and the direct mail campaign conducted by SARC indicated that was the scope of the committee's inquiry and consideration and asked that people restrict their considerations to those specific questions. Having had the opportunity to consider the submissions, it was the view of the majority of members of the committee that the submissions did not raise any new issues that could be characterised as an undue trespass on rights and freedoms within the meaning of the Parliamentary Committees Act.

With respect to the charter, members will note that the SARC report indicates the limitations to the relevant charter rights, and some of these are discussed in SARC's *Alert Digest* tabled this week. Section 8 of the charter deals with equality rights, and in the report there is some discussion about the right to not be discriminated against. The Victorian charter limits the right to not be discriminated against on the grounds of the attributes that are listed in the Equal Opportunity Act — that act being an important piece of Victorian legislation that we frequently discuss in this place.

Members will be familiar with those attributes and will not be surprised to hear that the charter does not specifically provide a right to not be discriminated against based on such things as the timing of a donation of gametes or a right for donor-conceived people to be treated in the same way as adopted people, as has been submitted to SARC in some of the submissions that people have raised. The charter specifically defines rights to not be discriminated against as relating to those attributes with which we are familiar in the Equal Opportunity Act.

Under the charter, section 17(1), dealing with the rights of families, and section 17(2), dealing with the rights of children, were also the subject of views expressed by a number of those making submissions. The notion of what constitutes 'family' was considered in the drafting and development of the charter. In the development of the charter, the decision to make reference to 'families' was quite deliberate, and in the explanatory memorandum of the charter there was a clearly stated desire to recognise a diversity of family types. The Victorian government is committed to recognising the many diverse types of families we have in Victoria, and there are no special rights provided by the charter for traditional families — for mum-and-dad-and-kids families — at the exclusion of non-traditional families.

On the question of the rights of children, the charter review that is to occur in 2011 will consider rights detailed in the United Nations Convention on the Rights of the Child. However, in the charter as it stands the rights provided for children ensure that the best interests of children are protected. The charter does not provide for the rights of children to supersede the rights of parents, and there is no explicit right under the charter for children to know their parents' identity. There has been a great deal of conjecture about the best interests of a child during the debate on this bill, but I would contend that these are very much a matter for the consideration of the Parliament rather than something that relates specifically to the Victorian Charter of Human Rights and Responsibilities.

It was the majority view of SARC that Parliament ought to consider these matters and that the submissions received had provided no new evidence that engaged SARC's very specific terms of reference. The submissions are placed on SARC's website, and I would encourage members to consider these matters in determining how they will vote on these very important issues.

Having a much-wanted and loved baby is one of the most beautiful things in the world. Since 1980 Victorians have had access to IVF in circumstances where they have been unable to become pregnant. Like other members of this house I have many friends and family members who have spent months or even years undergoing fertility treatments. This legislation deals with some of the complexities involved in having children; it is a substantial body of work that will modernise complex family arrangements and complex fertility treatment arrangements.

The Victorian Law Reform Commission received some 1000 submissions over a four-and-a-half-year period of investigation and made recommendations to the government about how best to modernise reproductive technologies.

My personal experience this year is that I have a child at kindergarten, who also attends a long day care centre, and another child in primary school, so my life constantly involves signing permission slips for excursions, medical consents and other things. It is an ongoing paper shuffle on the kitchen bench. This is just one instance where it seems terribly unjust that some children in Victoria have a different deal to my children. I will be reminded of that every time I sign a consent form in the future. There are of course more important rights — rights to inheritance and other benefits — that these laws will clarify.

Finally, in the last sitting week when I was about to speak on this legislation I had in the one day an opportunity to cuddle a couple of lovely three-month-old babies. I had a friend visit for lunch with Anastasia, and I met Maude, who has been sitting in the gallery for much of this debate. I was struck by their likeness in so many ways — their big, beautiful eyes, their lovely flawless skin and their big cheeks — and it struck me that we have a duty to Maude and her family to ensure that she grows up in a legal setting that is consistent with the legal setting Anastasia grows up in. With those words, I commend the bill to the house.

Mr SMITH (South Eastern Metropolitan) — This is only the second occasion in my time as President when I have risen to speak on any matter before the house, and as with the previous case, I do so only because of the serious feelings I have on the bill before us. This is without question the most contentious bill I have dealt with in my time in Parliament. We have talked about emotions and how emotive debates are on these sorts of things. We witnessed some extraordinary emotions that were exposed in the other place during the course of debate on this bill, and I think that is indicative of the feelings people have on this subject matter.

I want to start by congratulating all those who have contributed to the debate. I think it is important that everyone contribute in one way or another on these matters. Despite the fact that we have a conscience vote, I think it is incumbent upon us to explain exactly why we are voting the way we are, and to those who took that opportunity I say thank you. In particular — this might be a little unusual — I would also strongly congratulate the Deputy Leader of the House for his contribution yesterday, which I thought was extraordinarily heartfelt and, I have to say, courageous.

There are three bills in this cognate debate; two of them I think are highly likely to go through without too many problems, and I do not intend to go into detail on them. The Assisted Reproductive Treatment (ART) Bill, of course, is the one that is causing most of the contention. I am not going to hash over the technical aspects of the bill. That has been done over and over, and I think by now everyone understands exactly what it is all about. It is about this: should IVF (in-vitro fertilisation) be available to everyone, or should it be restricted only to those whom we consider to be normal — that is, married couples and de facto couples?

I have to say that this issue has troubled me greatly. I appreciate the fact that my party has given me a conscience vote, and the reason I appreciate it is that it has made me think very hard about what I am about to say and do — which is obviously the intent of a conscience vote. I started out thinking about this bill as a typical middle-aged, white, Anglo-Saxon male, whom most people would consider to be a traditional social conservative. I am not sure whether that is a fair handle for me, because if people want to have a look at my record in the union movement, they will see I was quite radical, particularly in workplace reform. If they look at my voting record on social issues over the last eight or nine years — there have been four to date — they will see there was only one that I voted against, and that was the Abortion Law Reform Bill, and there were parts of that that I agreed with. I agreed that abortion should be decriminalised, but I disagreed with the extension from 20 weeks to 24 weeks and I disagreed with the

compulsory aspects of a doctor who is conscientiously opposed to abortion being forced to refer a patient to someone who is not opposed to it. I supported those amendments. They went down, and my view was that the bill would go down; it did not, but my view was that abortion should be decriminalised. The other social issue bills we have dealt with, including the transgender bill and the bill conferring more equitable arrangements and recognition on gay and lesbian people, I voted for.

I am questioning myself as to how hard I should go in this particular debate. I will put on record that I was surprised to hear the comment, 'Don't worry. Bob supports part of this bill, but he will not do anything for the lezzos'. That was a quote. I was very disappointed to hear that, I have to tell you. I thought to myself, 'Is that what people really think about me, that I would do nothing for "the lezzos"?'. I thought that was probably indicative of the fact that anyone who assesses me will find I am a bit of a contradiction — I say one thing and I do another — and people may struggle to understand me or what I am really all about. But I will tell you what I am about: I am about doing what is right by people wherever I can, about being fair and about supporting social justice issues and human rights — and I have got a track record to prove that. They are the sorts of things you deal with in the workplace as a union official, and they are the sorts of thing I have dealt with and voted for here. That is why, as I say, I was particularly disappointed. I can understand how someone may have thought that of me, but it is a long way from where my heart is.

Does it matter who has access to assisted reproductive treatment or, more importantly, should some sections of the community be excluded from having it? Some people have said in their contributions that this is all about the best interests of the child. As a father of daughters I would have to agree that we should always be pursuing the best interests of the child. The general consensus — we do not all think this, obviously — is that the best interests of the child are served by having Mum and Dad. When it comes to the crunch I would probably agree with that, but the real world is a little different. As another member of Parliament said to me, 'It is not always the case, Bob. If you gave me the option of having Mum and Dad or Mum and Mum, I am telling you I would have had Mum and Mum all my life because of the way my father treated my mother and us'. I thought that was quite extraordinary, but it drove home to me the fact that we all have different make-ups in our family structures in some way, shape or form.

As I say, we talk about the interests of the child, and we hear from people that it is not necessarily good for the child to be brought up in a rainbow family, a different family and so on. I have not seen any evidence of that. I deal in fact; I deal in what I know to be the case, not in hypotheticals or theories.

I want to make mention of one of the things that, I have to be honest, changed my mind on this whole debate. On the day the lesbian lobbyists came into the Parliament with their children, I ran into them in the vestibule and took the opportunity to introduce myself and welcome them to the Parliament. I said a stupid thing to them: 'Go and enjoy the debate'. How could anyone enjoy this debate? I thought, 'You fool!', but unfortunately I could not take back the statement. The impact it had on me — not confronting, but meeting these women and their children face to face — was profound. It drove home to me the fact that we are dealing with real people and real children, here and now. They exist. Are they treated fairly and equally in society through birth certificate registration et cetera? The answer is no. Should they be? My view is yes, they should. To those women who took the opportunity to come here, I have to say you have at least one convert.

The other strong influence on my changing my mind was a little girl called Isabella. Isabella is the two-year-old daughter of a very dear friend of mine, federal Senator Stephen Conroy, and his lovely wife, Paula Benson. I will not go into too much detail on this because I am convinced I will lose it, but the fact is Isabella is here and she was born in extraordinary circumstances. Unfortunately she was not able to be conceived and delivered in Victoria because of the current laws here. Also, she was unable to be registered as Isabella Conroy and have Stephen Conroy and Paula Benson listed as her father and mother, even though for all intents and purposes they are her parents — so Isabella had to be adopted. Can you imagine a father having to adopt his own daughter? For goodness sake! I do not think anyone could possibly say that should remain the case. As I said, that had an extraordinarily powerful influence on my view of the world — putting aside the fact that the good senator did everything in his power to pressure me, even to the extent of suggesting I would be voting against Isabella.

He also struck me with a very hard-hitting example of the sort of hypocrisy that exists in society. As most people who have done any research would know, I am a Catholic — not a particularly strong Catholic, but a Catholic nonetheless — and deep inside there is that Catholicism, the church's teachings and the like, that I generally like to think I adhere to. I do not want to

engage in a Catholic-bashing exercise, because I have a lot of respect for Dr Pell, Archbishop Hart and the Catholic Church. However, how can it be that the Catholic Church would publicly oppose someone like Isabella or the system or mechanisms used to create her, then accept her into the church by baptism and extend all rites under canon law to her — that is, first holy communion, confirmation, marriage in the church et cetera — but at the same time want to deny Isabella her civil rights? There is only one word for that position, and I think we know what it is.

The other quite contentious issue that has caused me a great deal of concern — I had thought to myself, 'There is no way I am accepting this or agreeing to this' — was the issue of police checks. I thought, 'How and why should only some part of society be subjected to this?'. I made this clear to the Attorney-General, who is a zealot in terms of social reform. We know that, and some have even suggested he is dangerously so. Over the years I have had my concerns about the Attorney-General, but one thing I am sure of is that he is a driven man. I saw him in Strangers Corridor stand on a chair in front of a large group of gay people celebrating the first bill that brought in legislation reflecting the changes that would give them more recognition and protection and say, 'I will not stop until I have removed every bit of discrimination against everyone in this state'.

I thought to myself, 'We will see Rob. We will see.'. I would like to think we have reached the limit now, just by the way. Having said that, I have nothing but admiration for the Attorney-General. His determination to do what he believes to be right by everyone is a credit to himself and, more importantly, a credit to the Labor Party. I said to him, 'Rob, where are we going with this stuff? Police checks? For God's sake, you are a zealot for human rights and civil liberties.'. He gave me an explanation I intend to read into the record, because I do not think it has been explained in the detail that the government would want it to be. It reads as follows:

> Why do people who want to access ART have to provide a criminal record check when people who conceive children naturally do not have to provide such a check?
>
> The Victorian government regulates ART in Victoria. The government considers that it has a responsibility to identify cases where there is an unacceptable risk of harm to children born through ART.
>
> The Victorian government's primary concern is the welfare and interests of children born through ART.
>
> The ART bill 2008 establishes a transparent and fair way to screen the background of applicants for ART. All applicants for ART and their partners will have to provide the ART clinic where they are seeking treatment with a criminal record check.
>
> If the check reveals that the person has had charges proven against them for a sexual offence or been convicted of a violent offence, the clinic will not be able to offer treatment to the person. Not all offences will be relevant — only the most serious.
>
> These matters are included on the basis of research by the VLRC. The research shows that:
>
> > Some people convicted of serious sexual offences are subsequently convicted of further sexual offences.
> >
> > Children brought up in a household with a violent parent are at risk of emotional and psychological harm, even if they were not assaulted themselves.
>
> If the check does disclose a relevant sexual or violent offence, a presumption against treatment will apply and the matter will be referred to the expert patient review panel. The patient review panel will look at all the circumstances of the case, including the welfare and interests of the child who would be born as a result of the treatment procedure.
>
> If the patient review panel decides that treatment should not be offered, the person can ask VCAT to review that decision.
>
> The government considers that these measures minimise the risk of harm to a child conceived through ART, whilst ensuring the rights and privacy of applicants for treatment.

Having received that explanation I again changed my mind on the issue of police checks, because I think there is some merit in the argument that it can protect the interests of the child.

In summary, should children born in these circumstances be protected via a birth certificate that includes their details? I say yes. Should couples be able to access ART in Victoria? I say yes. Should we have police checks? I say yes. Should children be able to access their identity by agreement? We know the issues for children who later in life somehow find out or may have known all along that there are different circumstances, and it is troubling for them if they cannot find out about their identity because the system does not allow for it. Should it? I say yes.

I thought long and hard about the way I will vote on this bill. Some supporters will be disappointed and some colleagues will be surprised, but at my core I am, as I said, a Labor man, and I pursue fairness, social justice and human rights for all. That is why I am here. I support the bill, and good luck.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

Second reading

House divided on motion:

Ayes, 26

Atkinson, Mr	Lovell, Ms
Barber, Mr	Madden, Mr
Broad, Ms	Pakula, Mr
Coote, Mrs (*Teller*)	Pennicuik, Ms
Darveniza, Ms	Petrovich, Mrs
Davis, Mr D.	Pulford, Ms
Davis, Mr P.	Rich-Phillips, Mr
Eideh, Mr	Scheffer, Mr
Hartland, Ms	Smith, Mr
Jennings, Mr	Tee, Mr
Koch, Mr	Thornley, Mr
Leane, Mr	Tierney, Ms (*Teller*)
Lenders, Mr	Viney, Mr

Noes, 12

Dalla-Riva, Mr	Kavanagh, Mr
Drum, Mr	Kronberg, Mrs
Elasmar, Mr (*Teller*)	Mikakos, Ms
Finn, Mr (*Teller*)	Peulich, Mrs
Guy, Mr	Somyurek, Mr
Hall, Mr	Vogels, Mr

Motion agreed to.

Read second time.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Budget: surplus

Mr D. DAVIS (Southern Metropolitan) — My question is for the Treasurer. Today's quarterly financial report reveals that stamp duty revenues have dropped by $140 million in the first quarter alone of the 2008–09 financial year. Does the Treasurer stand by his May budget projections for stamp duty revenues and total budget revenues for 2008–09?

Mr LENDERS (Treasurer) — I thank the Leader of the Opposition for his question on the quarterly financial report. This report shows the budget had an operating surplus of $96 million for the first quarter of the year — in excess of 1 per cent of operating activity, which was the government's commitment — which puts the government well on track for that.

Mr David Davis asked about revenue from stamp duty. I say two things to him: firstly, the government forecast a budget with lower revenue from stamp duty. We forecast that at budget time because, as Mr Davis and other members will recall, we reduced stamp duty rates in the budget. As Mr Davis and the house will recall, we upped the threshold levels on every level of stamp duty on land payable in Victoria by 10 per cent, which meant cuts across the board. In addition to that there were targeted cuts for first home buyers. Of course the revenue is down, because rates were cut.

Mr Davis accurately said there has been a slowing down of the economy, which was predicted in the budget, but revenue has slowed down at a more rapid rate than was predicted in the budget. The budget updates report things as they are. The revenue received for the first three months of this year is reported and the expenditure for the first three months of the year is reported. Mr Davis has seen a report on what has happened. In mid-December I will present the midyear budget update, which will contain forecasts for the rest of the financial year.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — The Treasurer implicitly indicates that he does not stand by the projections. Yesterday, in response to my question on the state budget surplus, the Treasurer refused to recommit to the government's promise to keep the budget in surplus at 1 per cent of budget revenues, instead indicating that the government would only maintain a simple budget surplus. Given that GST revenues will fall at least $300 million to $400 million short in 2008–09 and stamp duty revenues could be at least $700 million under the budget estimates, will the Treasurer come clean and tell the people of Victoria whether we have a surplus at all, and if so, how large is Treasury telling him that surplus will be?

Mr LENDERS (Treasurer) — I find Mr David Davis's indignation on this issue amusing. He asks me, 'Will you come clean and tell the Victorian people?'. Under the legislation of the government of which he was a member, I as Treasurer would not have been required to report on the midyear budget update this year. Yet in mid-December, because of legislation put in place by this Labor government, I as Treasurer will present a report to Parliament that not only shows the figures he is asking for but also shows forward economic projections for the rest of the financial year. Under the Alan Stockdale-Jeff Kennett regime, I would have gone through to Christmas without reporting. Mr Davis talks about coming clean, but he must have been a mute voice in the Liberal Party room during the Kennett-Stockdale years, because it did seem to bother him then.

This is the most open, transparent and accountable government in the history of this state. Last month I reported on the annual financial report, including revenue figures; this month I am reporting on the quarterly financial report, including revenue figures; and next month I will give a midyear budget update. It is no wonder then that on 15 January 2003 the *Australian Financial Review* accused us of being too transparent, because it appears we are dropping reports on people and giving them information every second day! We have the information, and Mr Davis knows it.

What Mr Davis does not like is the fact that the budget is in the black, because year after year this government has invested in sound economic management with decent buffers to deal with changing economic circumstances. He clearly did not listen to the budget speech, which I — for the first time for any Treasurer in Victoria's history — gave not once but twice, once in each house. In that speech I referred to the fact that the economy would grow but that it would do so at a slower rate. He did not seem to notice that stamp duty was cut, and if he did, he certainly did not acknowledge it.

Planning: native vegetation

Ms DARVENIZA (Northern Victoria) — My question is for the Minister for Planning. Can the minister advise the house how the Brumby Labor government's native vegetation framework protects native vegetation while enabling farmers and land managers to get on with the business of tackling weeds and pest animal burrows?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Darveniza's interest in this matter because I know she has a large rural constituency. This is an issue of great importance to our rural communities, particularly farmers. I also remind members of the house of a disallowance motion yesterday which put this framework at risk. It was a motion that threatened to undermine the robustness and certainty provided by our native vegetation provisions. It was a motion that sought to obstruct farmers and land managers alike from performing activities that are crucial for good land management and the future viability of farming.

A very strong framework has been put in place by the Brumby Labor government for native vegetation protection in this state. Our government's approach to managing native vegetation is about maintaining a balance between ecological security and the minimisation of economic costs. Victoria's *Native Vegetation Management — A Framework for Action* and the native vegetation provisions of planning schemes provide the basis for achieving this balance. This framework has been successful in stopping broadscale clearing, which is still occurring in other states.

However, there will always be circumstances where controls are not necessarily appropriate. We do have strong controls but there are strong reasons for not necessarily having them all the time. This might be because there is an immediate risk of injury or the costs outweigh the benefits of retention. As a result a series of exemptions are included in the native vegetation provisions. Two of those exemptions which particularly relate to weeds and pest animal burrows were under attack yesterday. Both of these exemptions have been in place for a long time and have operated effectively. The exemptions have been slightly reworded as the result of an advisory committee review. That advisory committee was established to review the exemptions in 2005 to make sure that they remain relevant and are appropriate to current thinking about native vegetation management.

The weed exemption provides for incidental clearing of native vegetation associated with listed noxious weeds, and I remind the chamber that at present there are no weed species listed and the exemption has at this point in time no effect. To remove the ability — and this is the point for those in the Greens party — for weed species to be listed in the schedule would cause significant delay in responding to significant weed outbreaks; and sometimes this just does not make sense to the Greens.

The pest animal burrow exemption was reworded to provide a real exemption for a limited amount of incidental clearing associated with the removal of pest animal burrows. The advisory committee commented that the previous wording was too restrictive to be called an exemption. Removing the ability for farmers and land managers to quickly and effectively deal with weeds and pest animal burrows potentially would create — and again this is lost on the Greens — a long-term land management issue and present an unreasonably high cost to the community.

Both of these exemptions were put in place to enable farmers and land managers to get on with business and play their vital role in careful and considered land management. But yesterday the framework was under threat, and when it is under threat on the basis of what was proposed yesterday that provides more uncertainty when what we need is more certainty in the planning system.

Manufacturing: government strategy

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is directed to the Acting Minister for Industry and Trade. I refer to the Australian Industry Group's (AIG) June 2008 submission on the development of a new Victorian industry and manufacturing strategy, and in particular its submission on government procurement, in which it states:

> The current state government procurement guidelines simply do not place sufficient importance on locally manufactured goods. They fail to provide the tangible government support which industry seeks …

I ask the minister why his government continues to ignore local manufacturers, as identified in this important AIG report.

Mr LENDERS (Acting Minister for Industry and Trade) — I will be very brief. As I have said in the house before, the road to Damascus syndrome is back again. To have the party that thought the VIPP (Victorian industry participation policy) was a joke and that it was unnecessary to bring it into the house now say the policy does not go far enough is an amazing backflip. As Paul Austin said, we have gone from swan dive to belly flop once again, in 1½ nanoseconds. There has been a total transformation. The policy that was criticised as being unnecessary is now being criticised for not going far enough.

I say to Mr Dalla-Riva that we work with industry and we brought forward VIPP. We will enhance VIPP and work with the industry in dealing with what is effective in Victoria for the short and the long term. Bring on the debate! We talk to the Australian Industry Group, and we will deal with these issues. Mr Dalla-Riva should not come into this place saying that the policy he criticised as unnecessary has now not gone far enough.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — I thank the minister for his answer — I think — and I note his continual avoidance of this issue, as usual. While his government is dithering on this important issue, other states, in particular Queensland and Western Australia, have very clear procurement policies that support and encourage local manufacturers. The minister should speak to some of the local manufacturers in Victoria. If these states can do something and move forward, what is holding this government up from doing something to help the manufacturing sector, a sector it continually ignores, in this important area?

Mr LENDERS (Acting Minister for Industry and Trade) — I stand by my substantive answer and say to Mr Dalla-Riva that if the Liberal Party, when we brought forward our first procurement policy, VIPP, thought it did not go far enough, it might have told us so rather than saying it went too far and was unnecessary.

We deal with industry; in fact I met with the Australian Industry Group yesterday. We have an ongoing dialogue with industry. We are working with it on the manufacturing statement, and I urge Mr Dalla-Riva to go back to the answer I originally gave in Lakes Entrance if he wants something more comprehensive.

Planning: native vegetation

Ms PULFORD (Western Victoria) — My question is directed to the Minister for Planning. Will the minister advise the house how the Brumby Labor government's native vegetation framework facilitates the maintenance and improvement of Victoria's road and rail network and saves lives?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Pulford's interest in this matter. I know Ms Pulford has a large regional constituency, so she will be interested in these matters because they are pertinent to her electorate. I compliment her on the work that she does in her electorate, particularly in dealing with matters that are of interest not only to farmers but to the broader community.

I have already referred to the motion in this chamber by the Greens to revoke the VC49 amendment. The Greens did not quite get it yesterday and they still do not get it today. There is one thing about revoking amendments relating to weeds and pest animal burrows — maybe we can understand they might be interested in that — but the critical component of the exemption in terms of the safety of the road and rail network is that we place human safety high on the agenda. It is the most important thing we can do in terms of the planning scheme.

I refer to the 2005 parliamentary committee inquiry into crashes involving roadside objects, which found that vehicles colliding with roadside objects account for one-fifth of all crashes resulting in a fatality or serious injury. Examining the fatality statistics shows that the proportion of crashes with trees resulting in fatality rises to 50 per cent and that 40 per cent of crashes with roadside objects occur in regional and rural Victoria. The inquiry gave the highest priority to the preservation of human life over the conservation of native

vegetation, and the government would always endorse that.

We believe we have the right balance. Our controls are appropriate and provide for vital safety concerns as well as quick and efficient maintenance and improvements to our roads and railways, whereas the view of the Greens does not. We will continue to do what we need to do to reduce red tape and regulatory burdens and improve safety and amenity for all the citizens of Victoria to make sure we continue to make Victoria the best place to live, work and raise a family.

Public sector: debt

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Treasurer. Given that the state budget sector overall net result last year was a deficit of $1.9 billion and that for the September quarter this year a further deficit of $3.8 billion has been incurred, will the Treasurer inform the house what income or expenditure policy adjustments he will make to ensure the sustainability of the budget position?

Mr LENDERS (Treasurer) — I thank Mr Rich-Phillips for his question. I am disappointed, because he has been part of the Public Accounts and Estimates Committee over the last several years and he knows the measure that was agreed to by the Liberal Party, The Nationals, the Labor Party, the accounting profession and the Auditor-General for this area is actually the net result of state transactions, which is in the black.

Mr Rich-Phillips knows that. What he is referring to fundamentally is a change to the long-term bond rate from 6.5 per cent to 5.5 per cent and what that actually does to below-the-line figures in relation to ongoing liabilities in superannuation, the Transport Accident Commission and WorkCover. He knows that it is an accounting treatment that was put there for the very reason that governments control things they are accountable for — the net result of transactions that are above the line — while things that result from long-term bond rate changes by the commonwealth government and things that result from international changes are below the line and treated as other economic flows.

Mr Rich-Phillips knows that. He is being mischievous by raising this issue and he well knows that what he is proposing in his course of action is not what the solution is. He knows, as does his former colleague Mr Forwood, who was the deputy chair of the Public Accounts and Estimates Committee, as does Mr Baxter, a former member of The Nationals in this place, and as does the Auditor-General and the three parts of the accounting profession, who all signed up to it, that you need to separate those two things.

My answer to Mr Rich-Phillips is that it is a clever attempt to try to do a bit of scaremongering in the state of Victoria, but we are about showing the true financial figures. They are in there. We are about building up some confidence in the state, and we need that. People who want to trash the reputation of the state ought to reflect long and hard on it before they seek to be part of it.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the Treasurer for his answer. As the Treasurer said in his response to David Davis earlier, 'We report things as they are'. The Treasurer well knows that the Auditor-General has commented on the net result in his report today, and although the government does not control it, it does not mean it is irrelevant. The Auditor-General in his conclusions in his annual financial report noted that budget sector income may be at risk, that growth in expenditure will be difficult to reverse and that the state's exposure to financial markets may put longer term financial sustainability at risk. Can the Treasurer assure the house that the multibillion-dollar deficit in the budget sector net result is sustainable?

Mr LENDERS (Treasurer) — It is fascinating that last year when the long-term bond rate went up and these figures went higher and the returns on superannuation funds were high, Mr Rich-Phillips came in here and said there was a hidden surplus and asked what we were going to spend it all on. There was a duo: Mr Wells in the Assembly and Mr Rich-Phillips, and others, were going about one part of the community saying, 'They have a hidden surplus, and they have $10 billion worth of projects to spend it on'. That was smoke and mirrors. This year they are coming in and saying there is a hidden deficit and asking how will we fix that deficit, which is also smoke and mirrors.

Mr Rich-Phillips cannot have it both ways. As he knows well and truly, there is a separation of net result from transactions from net result for good reasons that all three accounting bodies understand, that the Auditor-General understands and that Mr Baxter from The Nationals, Mr Rich-Phillips from the Liberal Party and Mr Forwood from the Liberal Party signed up to when these new accounting systems were adopted by the Public Accounts and Estimates Committee two or three years ago.

Economy: performance

Ms MIKAKOS (Northern Metropolitan) — My question is to the Treasurer. Will the Treasurer update the house on recent figures relating to employment and consumer confidence in Victoria?

Mr LENDERS (Treasurer) — I thank Ms Mikakos for her question. On the employment issue, I have referred in the house previously to how the employment figures are up for the month and over the year, so I will not go back into that debate. But on consumer confidence — and the two are very strongly related — we have seen for several months now a decline in consumer confidence. That has been one of the greatest concerns, because confidence is such an important part of a buoyant economy.

Mr D. Davis — That's not what you said the other day.

Mr LENDERS — Mr David Davis said that was not what I said the other day. Either I mispronounced or he heard me wrongly. My objection to him trashing the reputation of companies like Members Equity and Victoria Teachers Credit Union, trashing the reputation of good companies, is that it affects consumer confidence and starts runs on banks, and that is exactly what we do not want in this state.

What Ms Mikakos is asking is: how is consumer confidence going? Despite the fearmongering and despite the trashing of the show by opposition members, gleefully rubbing their hands at any bad economic figure, we saw yesterday for the first time in a while that there was a boost coming through in consumer confidence figures. We saw that for the first time yesterday, and we saw in the measure reported yesterday that the figure has increased by 3 points to 85.

A few things are happening, and it is worth noting that since the start of July there have been four cuts to interest rates from our largest bank. If you are a Victorian with an average mortgage, you are $301 better off than you were in mid-July. Consumer confidence is going up because, despite the fearmongering, we are now seeing the commonwealth government's tax cuts coming through, we have seen petrol go down in price and we have seen a stimulus package from the commonwealth government, and this state is continuing to invest in people and continuing to invest in infrastructure.

I am gratified to see consumer confidence going up — it is a critical ingredient. I thank Ms Mikakos for her question, and I wish the whole house would have a bit more confidence in the state of Victoria, because the more confident we are, the more jobs we have, and that is the critical thing for working families in this state.

Greater Geelong: development assessment committee

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. I refer to a letter sent to the minister from the mayor of the City of Greater Geelong and received in October 2008, which states:

> … in relation to the development assessment committee we have not been able to truly see the long-term advantages …
>
> …
>
> On behalf of the City of Greater Geelong … I formally decline your government's offer to have the development assessment committee form part of our current planning decision-making process.

I ask: given that the second largest council in Victoria has now rejected his DAC proposal out of hand, will the minister now abandon his intention to remove its planning powers or will he overrule the council and the community and force through his unwanted body of planning appointees for Geelong?

Hon. J. M. MADDEN (Minister for Planning) — Again Mr Guy shows he does not understand the model we are proposing here. That does a great disservice not only to him but to the development industry in this state. It also does a great disservice to his knowledge of how the planning system works. What I have continued to say to the City of Greater Geelong — and as I have continued to offer to the City of Greater Geelong — is that the controls it has will remain with the City of Greater Geelong.

Mr Guy — No they won't.

Hon. J. M. MADDEN — Development assessment committees are about the decision-making process. It will be a shared decision-making process.

Mr Guy — You will appoint!

Hon. J. M. MADDEN — Mr Guy, if you understand anything about planning, the controls — —

The PRESIDENT — Order! This is not a debate. Mr Guy has asked his question and should allow the minister to answer. He may not want to hear the answer, but I do. If he continues to interrupt, I will remove him.

Hon. J. M. MADDEN — If Mr Guy understood anything about planning controls and planning regulations, he would know the controls sit with the

council; the council determines the controls. The decision making in this case will be a completely different matter, because it will be shared.

I know that the City of Greater Geelong has said to us that it does not want to opt into this. I can state clearly, as I did when I announced it, that this is not an option. It is not an option, because business as usual in this state is different from the way it used to be. It is different from the way Maclellan handled planning; it is different from the way the Liberals will ever handle planning, because they do not have any policy; and it is different under a Labor government.

As I have offered to the City of Greater Geelong, we will continue to work with it, continue to consult it and continue to collaborate with it, which stands in absolute and start contrast to the Liberals and anything they stand for when it comes to planning. The model of the opposition, when it comes to planning, is more like a totalitarian regime — ham-fisted — whereas we are content and prepared to work collaboratively with local government.

Honourable members interjecting.

Hon. J. M. MADDEN — This is an opposition — —

Mr Finn — You are just a fool.

The PRESIDENT — Order! The comment that the minister is 'just a fool' is unacceptable. Mr Finn is experienced; he has been in this Parliament a long time. He knows the standards. I will not ask him to withdraw. I will ask him to remove himself in accordance with the standing orders for — —

Mr Finn interjected.

The PRESIDENT — Order! Does Mr Finn have something to say? Nothing?

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! I ask Mr Finn to vacate the chamber for 30 minutes.

Mr Finn withdrew from chamber.

Questions resumed.

Hon. J. M. MADDEN — When it comes to planning, when it comes to development, when it comes to the holding cost — when it comes to any of these things — you have got to know the fundamentals; you have got to know the basics. You have got to understand what controls are, what regulations are and how decisions are made. You have got to know the difference between profit and revenue, and we know the opposition does not do that — just look at the VicUrban press release it sent out recently in terms of its financial figures. The opposition did not understand the difference then.

Mr Atkinson — On a point of order, President, I refer you to previous rulings and the standing orders in regard both to ministers debating matters in their responses and to ministers reflecting on the opposition. The minister is giving a prolonged answer, which is just getting stuck into the opposition or comparing opposition policy — —

The PRESIDENT — Order! The Deputy President is not allowed to debate the question either, but I understand his point of order. The point of order raised by the Deputy President is correct on both points, and I ask the minister to refrain. I am not sure if it was overt criticism, but it was quite close to the mark; it was borderline. Certainly the debating of the answer is unnecessary.

Hon. J. M. MADDEN — I have met with the City of Greater Geelong on a number of occasions to explain to councillors that the development assessment committee will only be used in a very few circumstances. For the vast majority of the time they will retain their decision-making powers. When it comes to controls, they still have the controls in that they will still be the relevant planning authority that determines the controls around the relevant sites. We will work collaboratively with them. We will consult with them. Our commitment is significantly different to that of other parties. We will continue to offer to work with local governments to make sure that between us we deliver not only the best for the local community but the best for Victoria as well.

Supplementary question

Mr GUY (Northern Metropolitan) — I thank the minister for his answer, but I note in my supplementary question that he is clearly out of touch with the wishes of the people of Geelong, as expressed through the council. I further ask if the minister can give some certainty to the people of Geelong and advise the house of the date he intends his DAC to commence operation in Geelong, or after six months has he still not worked out this most crucial detail?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's supplementary question. I take it

that, if I were to bring such legislation into this Parliament, he would not be supporting it. If that is his signal, why does he not put that out now and tell the rest of the development community that he is prepared to provide — as he was yesterday, along with the Greens — more uncertainty than ever? What we need in this state when it comes to planning is more certainty and the ability to deliver jobs, prosperity and everything that goes with that, but we know what the alternative is when it comes to this chamber — —

Mr Atkinson — On a point of order, President, you have already given a ruling on this matter in this question time, and yet the minister is again debating his answer.

The PRESIDENT — Order! Mr Atkinson is correct. I indicated to the minister that he was not to debate. I ask him to refrain from debating the question and to stick to the actual answer.

Hon. J. M. MADDEN — I look forward to Mr Guy's support when the legislation comes into this place.

Budget: quarterly financial report

Mr EIDEH (Western Metropolitan) — My question is to the Treasurer, John Lenders. Can the Treasurer inform the house how today's quarterly financial report compares to the budget and to the reporting of other states?

Mr LENDERS (Treasurer) — I thank Mr Eideh for his question and his interest in how the Victorian annual financial report compares to other states. While I am reluctant to talk state by state, what I am happy to say to Mr Eideh and the house is that this update is quite unusual, because it shows that we have a state in surplus. It shows that the slowdown we predicted earlier this year has happened but that the fundamental structures of the budget are sound. We know that in other jurisdictions governments have had to take fairly drastic action to get their budgets in place, and we know some other countries in the world are in far more severe situations — for example, the United States, where some states cannot even pay their public sector wages, or Iceland, where the cash rate is now 18 per cent.

This report shows that our budget is in the black. It shows that the provision we have made going forward has been reported in the year to date. Despite the challenges we face, it is moving forward solidly, allowing the government to deliver on the critical services that it committed to in the budget — services in education and health, community safety and investment in infrastructure and all those things Victorians expect of their state government.

Manufacturing: regional and rural Victoria

Mr KAVANAGH (Western Victoria) — My question without notice is for the Treasurer in his capacity as Acting Minister for Industry and Trade, and it relates to manufacturing policy. Recent closures, including partial closures, in Ballarat and Geelong indicate that, partially due to the current global economic climate, regional manufacturers in Victoria are under unprecedented stress. I ask: while we await the government's manufacturing strategy, what actions, such as innovations or changes to policy, has the government taken in recent weeks to ensure the survival of manufacturing in regional Victoria?

Mr LENDERS (Acting Minister for Industry and Trade) — I thank Mr Kavanagh for his question and his interest in regional manufacturing. Mr Kavanagh's question was: while awaiting a manufacturing statement, what is the government doing in the short term, in the interim, in regional areas? The actions we have been taking in manufacturing for a period of time — what we have done and what will be put into place — have been specifically directed towards regional Victoria. I will be very brief on this.

Victoria was the first state to bring in a Regional Infrastructure Development Fund (RIDF), and it was brought in by this Labor government. It was opposed in this house by the Liberals and The Nationals in the first instance, and it was only passed when it was introduced a second time. The significance of the fund is that in Mr Kavanagh's electorate and in all other regional electorates there is now the capacity for the state government to work with local government and with industry to build on infrastructure to assist in manufacturing. I could give numerous examples across the state of where that sort of infrastructure has been the key for new manufacturing to be able to come into an area.

Secondly, the Victorian industry participation policy that we were discussing before in this house was brought in by this government to assist manufacturing. There are ongoing examples of this: reductions in payroll tax which came into effect on 1 July, helping manufacturing; reductions in land tax which came in on 1 July, helping manufacturing; and the cut to WorkCover premiums which came in on 1 July, helping manufacturers. In addition to that — and this is obviously nothing to do with the government — for those manufacturers relying on exports the Australian dollar has gone from around US98 cents, I think the

figure was, in late May down to the high 60s now. That is obviously assisting regional manufacturers.

More immediate than that is the investment the government has made in infrastructure in some industries in regional Victoria. This is not in Mr Kavanagh's electorate, but as an example, investment in infrastructure has meant that concrete castings for some road projects are being built in the Latrobe Valley. It is a $4 billion infrastructure project, and much of that money goes into manufactured products. That is happening now.

Mr Koch interjected.

Mr LENDERS — Mr Koch interjects about John Valves in Ballarat. Yesterday the head of Regional Development Victoria was there. We are in ongoing dialogue in the area to find a buyer for that company and work it through. These are not easy times, and Mr Kavanagh is certainly not implying they are. What he is saying is: what are we doing in the interim? In the interim we are working with companies and we are working with their workforces. Those policies relating to RIDF, WorkCover, policies land tax, stamp duties and payroll tax are all assisting manufacturing. Many of these things are only kicking in now; these policy initiatives are just coming into place. There is a lot more to be done. The manufacturing statement will articulate a lot of the things we are doing and the things we will do. Mr Kavanagh and I both share a great regard for manufacturing, particularly in regional Victoria. This state has a great future, and this government will work with manufacturing to deliver on that.

Supplementary question

Mr KAVANAGH (Western Victoria) — Of the changes the minister just outlined, I ask: which of them represent responses to the new international environment in finance and the economy that has developed in the last couple of months?

Mr LENDERS (Acting Minister for Industry and Trade) — All of them. There is not a single item that alone assists an individual manufacturer — it is a collection. All the things I mentioned in relation to the budget — land tax, stamp duty, payroll tax and WorkCover premiums — assist in reducing the burden on manufacturers. The single largest issue for a manufacturer who relies on exports is the fluctuating dollar, and the government can claim no credit for that — that is obviously an international factor.

The other thing I did not mention which is making a significant difference to manufacturers now is the intervention of the national government along with most other G20 governments in stabilising the banking system. Banks are now lending to banks again, and banks are lending to customers again. We are seeing the effects of that guarantee flowing through. Similarly share markets are partly stabilising. The share market has gone down a long, long way, but we are seeing governments attempting to address that volatility at a national and international level with the freeze on short selling and a range of other things.

Together, all these are necessary for business confidence and consumer confidence, which will assist manufacturing. There is no single answer, as Mr Kavanagh well knows, and he is not implying there is. All of these measures come together to assist manufacturing. I think anybody who believes a single manufacturing statement or a single action by a government will make a difference is ignoring the fact that there are multiple factors coming together. We have strategies and they are all coming together, but we are working with individual manufacturers in what are, particularly for those who do not export, trying times in the current environment.

Bionic eye: research and development

Mr ELASMAR (Northern Metropolitan) — My question is to the Acting Minister for Information and Communication Technology, Mr Jennings. Could the minister outline to the house how the Brumby Labor government is supporting a nation-leading collaboration to drive progress towards the creation of a bionic eye?

Mr JENNINGS (Acting Minister for Information and Communication Technology) — I thank Mr Elasmar for his question and the opportunity to talk about something that is very moving and will be extremely beneficial to countless thousands of citizens across Australia and around the globe — those who suffer blindness or face the degeneration of their retinal capacity. In Australia 48 per cent of blindness is due to degenerative disease of the retinal area of the eye.

It is an exciting piece of work that has been brought together through a consortium in Victoria and backed by the Victorian government through funding support, in this case through the ICT (information and communications technology) part of the Department of Innovation, Industry and Regional Development, which will support a business case that will see that consortium compete for national and international funding to develop the capability to deliver a bionic eye.

I am sure many of us have been moved to tears when we have seen and heard of the experience of those who have heard for the first time through a bionic ear. This

technology and capability builds upon but goes beyond the bionic capability we have had through the Bionic Ear Institute. We are now collaborating with others, including the Centre for Eye Research Australia, the University of Melbourne and the University of New South Wales. They are developing this capability together.

The bionic eye is on the cusp of being delivered. A lot of work will be needed to deliver on this. It will bring together this capability that will straddle ophthalmology, neuroscience, nanoelectronics and ICT technology in making all of these connections work. It will deal with the biochemistry and bioengineering of people's brains. This is exciting, complex and very detailed work, but our scientific community is as capable as any scientific community in any part of the globe of delivering this.

The Victorian government is confident that the money it has provided to develop that business case to build a foundation for that consortium will lead to this exciting work taking off in Victoria, bringing that great collaboration together and ultimately bringing tears to the eyes not only of the beneficiaries of this technology but of all of us who will witness the joy of this technology being successful.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

Third reading

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

That the bill be now read a third time.

The PRESIDENT — Order! The question is:

That the bill be now read a third time and that the bill do pass.

House divided on question:

Ayes, 26

Atkinson, Mr	Lovell, Ms
Barber, Mr	Madden, Mr
Broad, Ms	Pakula, Mr
Coote, Mrs	Pennicuik, Ms
Darveniza, Ms	Petrovich, Mrs
Davis, Mr D.	Pulford, Ms (*Teller*)
Davis, Mr P.	Rich-Phillips, Mr
Eideh, Mr	Scheffer, Mr
Hartland, Ms	Smith, Mr
Jennings, Mr	Tee, Mr
Koch, Mr	Thornley, Mr
Leane, Mr	Tierney, Ms
Lenders, Mr	Viney, Mr (*Teller)*

Noes, 12

Dalla-Riva, Mr	Kavanagh, Mr
Drum, Mr (*Teller*)	Kronberg, Mrs
Elasmar, Mr	Mikakos, Ms
Finn, Mr	Peulich, Mrs
Guy, Mr (*Teller*)	Somyurek, Mr
Hall, Mr	Vogels, Mr

Question agreed to.

Read third time.

PROHIBITION OF HUMAN CLONING FOR REPRODUCTION BILL

Second reading

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

ASSISTED REPRODUCTIVE TREATMENT BILL

Second reading

House divided on motion:

Ayes, 20

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

Noes, 18

Coote, Mrs	Kavanagh, Mr
Dalla-Riva, Mr	Koch, Mr
Davis, Mr D.	Kronberg, Mrs
Davis, Mr P.	Lovell, Ms
Drum, Mr	Petrovich, Mrs
Elasmar, Mr	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr (*Teller*)
Guy, Mr	Somyurek, Mr (*Teller*)
Hall, Mr	Vogels, Mr

Motion agreed to.

Read second time.

Legislation Committee

Mr TEE (Eastern Metropolitan) — I move:

That the Assisted Reproductive Treatment Bill 2008 be referred to the Legislation Committee to report by Tuesday, 2 December 2008.

I will briefly speak to the motion. I think we have all recognised the importance of this debate. We have all recognised that this Parliament and its members are at the service of the men and women of Victoria. Our job is to listen to their concerns and their aspirations, and to act in their best interests while staying true to the state's democratic and pluralistic principles. We represent a diverse community of more than 5 million people, and of course within that community and within this chamber people hold a diversity of views and beliefs.

But those beliefs and views must always be tempered by a commitment to democracy and equality. Our job therefore is not only to argue the merits of each and every issue and stand up for our individual principles, but to act to ensure that all Victorians are treated equally before the law, and this means staying true to that collective principle of equality. As we know, that is what this chamber did on 18 November 1908, when it passed the adult suffrage bill, giving women the right to vote, and that is what the chamber has done today.

What has been gleaned from this debate is that a number of important issues have been raised, and those issues warrant clarification. The Legislation Committee is ideally positioned to consider provisions of the bill. The Legislation Committee is ideally placed to explore them and, I hope, alleviate some misunderstandings that have been raised during the debate. The intent and effect of the legislation will become clear through that process, and as it does so I have no doubt that members will increasingly recognise and appreciate that this legislation promotes the best interests of the child.

Removed from the heat that is sometimes generated by this chamber, I think a careful and considered examination of this bill by the committee will demonstrate that the bill promotes the best interests of the child, and where children are concerned the stakes are too high to allow any risk of misunderstanding of the nature or the intent of this legislation in seeking its ultimate passage. For these reasons I ask the house to support this motion.

Mr D. DAVIS (Southern Metropolitan) — I want to make a very short contribution to Mr Tee's motion that this bill be referred to the Legislation Committee. My views on the Legislation Committee are well known, and my concerns with the way that committee can operate are also well known. Notwithstanding that, and notwithstanding the fact that more often than not things are better dealt with in this chamber, unless there is a need to have external witnesses, I make the point that it may be an opportunity on this occasion for the discussion of matters surrounding police checks in this bill which, as I flagged in my contribution to the second-reading debate, are being linked with health procedures, which is a particularly unusual innovation.

My concern as expressed in the debate — about the linking of police checks with health procedures as a principle, in the first instance, and the specific impacts that will have on the steps that women seeking assistance will face — is a point I hope that the Legislation Committee, if this motion is carried, will examine. That measure would create hardships for women, and the comments from Ron Merkel, QC, and others indicate that women with cancer and other issues may be required to undertake police checks under the legislation proposed in such a way that it may compromise their capacity to have medical procedures.

Ms PENNICUIK (Southern Metropolitan) — I rise to say that the Greens will be supporting the motion of Mr Tee to refer this bill to the Legislation Committee. As members and people who are here today will have noticed, it has been a very close vote. I want to take the opportunity to say that the Greens are supportive of the removal of discrimination regarding access to assisted reproductive technology that is in this bill.

However, the bill is not perfect, and I criticise the government for not allowing enough time for consultation and consideration on this bill. As Mr Atkinson mentioned in his contribution yesterday, there have been years of public discussion around the Victorian Law Reform Commission inquiry into this issue. It has been some time since that report was released, but the bill itself has not been around very long. I know that other members have had the same representations we have had from lots of groups and individuals in the community about other flaws in the bill.

The bill is not just about removing discrimination regarding access to assisted reproductive technology; there are other aspects of the bill about which the Greens have some concerns. Members would know that I have sent every member in this house an email outlining the amendments to the bill the Greens wish to propose. One of those amendments goes to the removal of the police checks that are provided for in the bill, and there is also an alternative amendment if that amendment is not carried. I draw attention to the fact that no other similar legislation in any Australian

jurisdiction provides for police checks. The only other jurisdiction that has anything like this is South Australia, which requires a statutory declaration to attach to consent.

The PRESIDENT — Order! I advise Ms Pennicuik that she is pushing this too far. I ask her to stick to why this bill should or should not go to the committee; that is it.

Ms PENNICUIK — The reasons the bill should go to the Legislation Committee definitely include the clauses in the bill regarding police checks. Clause 59 allows for discrimination against donor-conceived people seeking full access to information about their genetic origins. That clause needs to be looked at seriously, which can be done in the Legislation Committee. The clause that allows for the creation of 10 families by donor gametes also needs to be looked at; that can be done in the Legislation Committee, as can the examination of issue of surrogacy and the regulation of surrogacy.

We are concerned about how all these aspects of the bill are dealt with. Members of the community have made representations to everyone in this house about those areas of the bill, and that is why the Greens will support the referral of the bill to the Legislation Committee so that the Legislation Committee can go through it clause by clause and identify where it can be improved.

Mr FINN (Western Metropolitan) — I oppose the motion moved by Mr Tee. We have before us this afternoon a piece of legislation that has already been through the lower house of this Parliament, it has been approved at the second-reading stage in this chamber and it has been through the Scrutiny of Acts and Regulations Committee.

Mrs Peulich — Rolled by government!

Mr FINN — It has been rolled by government, as Mrs Peulich says, through SARC. It has been through the party processes, no doubt, and it has been through the mill, as it were, in terms of what it should have in it and what it should not have in it. After the second reading has been approved, we have the government getting up and saying, 'We have got it wrong'. That is just not good enough. If the government has got it wrong, it should withdraw the bill and it should get it right. What it should be doing is having a public process that enables members of the public to make a contribution to this bill, because I have no doubt in my mind that the overwhelming majority of Victorians have absolutely no idea what the bill is about. They certainly had no input into its being put together, and they will have no input if this motion is passed. If this bill is duckshoved off to the Legislation Committee, the public of Victoria will again have no say in what it should be.

I say to the government that it is not good enough for it to come in here today and say, 'We've got this bill wrong'. I know it has got the bill wrong. We all know it has got the bill wrong. Let us withdraw the bill, and let us get it right. The Legislation Committee will not do that. The government should withdraw the bill and let the public have its say and then come back when it has got its act together.

Mr DALLA-RIVA (Eastern Metropolitan) — I also join in opposing this motion moved by Mr Tee. I think, as Mr Finn has outlined, there has been enough time for this matter to be dealt with. I do not know what the purpose of the government is in moving the bill to the Legislation Committee. It opposes lots of government bills going to the Legislation Committee, but it is proceeding with this one. Is it a delaying tactic because the government is waiting for somebody to come back into the chamber, or are there other reasons why it wants to have it deferred until 2 December? We do not know, and as Mr Finn and others have outlined, there seems to be no logical reason to delay it any further, given that it has been through an extensive process.

We have already passed the second-reading stage. If there are some concerns, we can debate those at the committee stage and we can make amendments at that stage, because members of this chamber have been lobbied hard and fast by many people in the community. If people do not understand the issues now, referring the bill to the Legislation Committee — with all due respect to the mover of the motion — is illogical and nonsensical. We can move amendments at the committee stage if we need to. We can make changes to the bill at the committee stage, and then people can vote on it. Otherwise, let us just get on with it.

Mrs PEULICH (South Eastern Metropolitan) — I would also like to oppose the referral of this bill to the Legislation Committee for the obvious reason that I am a member of the Scrutiny of Acts and Regulations Committee, which was rolled predominantly by government members and the government-supported deputy chair, who prevented public hearings from taking place where some of this work could have been done to inform the debate in this chamber. I think that showed a lack of will.

I agree with Mr Finn that the vast number of people out there in the Victorian community have no idea about the substance of this bill. There has been no public

engagement. This forum — the Legislation Committee — offers no public engagement, and I would urge the government to make sure that there is an opportunity for the public to have an input. The Legislation Committee will not do that, and therefore I oppose the motion.

Mr P. DAVIS (Eastern Victoria) — I will limit my comments to saying that as a matter of principle I support the processes of the Legislation Committee to examine legislation in some detail and therefore I will be supporting this motion, but I make the point that that does not end the matter. The report of the Legislation Committee will come back to this house for further consideration, and indeed it will be a matter for the house to consider the bill further in the committee of the whole as well, so the opportunities are there for a fairly thorough examination of this legislation before it goes to the third reading.

House divided on motion:

Ayes, 23

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

Noes, 14

Coote, Mrs	Kavanagh, Mr (*Teller*)
Dalla-Riva, Mr	Koch, Mr
Davis, Mr D.	Kronberg, Mrs (*Teller*)
Drum, Mr	Lovell, Ms
Finn, Mr	Petrovich, Mrs
Guy, Mr	Peulich, Mrs
Hall, Mr	Vogels, Mr

Motion agreed to.

Sitting suspended 1.13 p.m. to 2.24 p.m.

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

Water and hospitals

The PRESIDENT — Order! I have received a letter dated 13 November from the chairman of the Standing Committee on Finance and Public Administration, which reads:

> Pursuant to sessional order 22, the Standing Committee on Finance and Public Administration may inquire into any proposal, matter or thing that is relevant to its functions which is referred to it by resolution of the Council or determined by the committee.
>
> At its meeting on 13 November 2008, the committee resolved to undertake the following references:
>
> > To inquire into and report on the estimated benefits and costs arising from the north–south pipeline, the Wonthaggi desalination plant, and the modernisation of irrigation infrastructure.
> >
> > To inquire into and report on the capacity of hospitals to meet demand, standards and quality of care, resourcing and access levels, and the accuracy and completeness of performance data for Victorian public hospitals.
>
> Sessional order 22(11) stipulates that within seven days of deciding to inquire into any proposal, matter or thing, the committee will inform the Council of its terms of reference. It would be appreciated if you could inform the Council accordingly.

Ordered that letter be taken into consideration next day on motion of Mr VINEY (Eastern Victoria).

COMPENSATION AND SUPERANNUATION LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 30 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I rise to make a few comments on the Compensation and Superannuation Legislation Amendment Bill 2008. The coalition parties will not oppose the legislation. The purpose of the bill is to amend the Transport Accident Act 1986, which is the act that governs the operation of the Transport Accident Commission, no fault, third-party accident compensation scheme; to amend the Accident Compensation Act 1985, which establishes the WorkCover compensation scheme; and to make unrelated amendments to the Emergency Services Superannuation Act 1986, which governs the emergency services and state superannuation defined benefits scheme.

One of the key purposes of the bill is to provide that only a natural person is able to claim benefits under the Transport Accident Commission scheme resulting from a transport accident. The need for this provision has arisen from an attempt on three separate occasions by bodies corporate to claim compensation under the TAC scheme because they had been of the view that as a

consequence of a transport accident, which has injured most likely a director or a key person in their organisation, that they have a compensable claim against the Transport Accident Commission.

It is the view of this side of the house that the Transport Accident Commission scheme was established to compensate accident victims for their injuries, loss of earnings et cetera, but it is not appropriate for it to be used to compensate bodies corporate. We will therefore fully support that provision of the bill. I note that we have received some correspondence from the Law Institute of Victoria and the Australian Lawyers Alliance that is somewhat critical of that provision's restriction of access to accident compensation to natural persons, but it is the view of this side of the house that it is entirely appropriate that the TAC scheme be so restricted.

The second provision is more controversial. It relates to the making of a valid claim for compensation where a person is seeking to take a common-law action. The need for this provision arose as a consequence of the decision of the Supreme Court in *Byrne v. Transport Accident Commission*. The capacity to make such a claim was upheld by the court. It was opposed by the TAC on the grounds that the person making the claim had not first obtained an impairment assessment in accordance with the requirements laid down in the Transport Accident Act. Under the act, before a person can attain an impairment assessment they are required to make an application for compensation.

The TAC's view is that the process that should be followed, and should have been followed in the Byrne case, is for an accident victim to formally apply for compensation under the TAC scheme and receive an impairment assessment, which would then entitle the person to proceed with a common-law claim. The matter of contention arose with regard to whether there was a need for the person to have made a formal application for compensation prior to obtaining the impairment assessment.

In the particular case that was before the Supreme Court the issue arose because the nature of the injury related to a pregnancy that was lost as a result of the transport accident, and it was not a matter of injury to or impairment of the accident victim as such but of the loss of the child that was being carried as a result of the accident. This gave rise to the question of whether an impairment assessment was a necessary step, given that the person who was ultimately seeking compensation was not themselves injured.

The court decision was that it was not necessary to make a formal application for compensation under the TAC scheme before proceeding with a common-law claim. The purpose of this provision of the bill is to clarify that that formal claim for compensation is required before an accident victim can proceed to the impairment assessment and ultimately, if eligible, make a common-law claim for damages — which is the view of the TAC.

This side of the house has some concern about this provision requiring a person to complete that formal application, because statutory time frames are laid down within the TAC. Basically a claim should be lodged within 12 months of an accident or, with the agreement of the TAC, within three years. This provision will therefore in effect limit the capacity of people to bring common-law claims against the TAC scheme. It is an issue that has not attracted a lot of attention or criticism more broadly in the sector, and the coalition parties will not oppose it, but we do have a degree of concern about it.

The third provision removes the sunset provision in the Accident Compensation Act. In 2003 the Parliament amended the Accident Compensation Act in respect of the eligibility of injured workers who have a whole-person impairment of between 5 per cent and 9 per cent to receive accident compensation in respect of a non-economic loss. Prior to this provision being introduced, the threshold — assessed against the American Medical Association guides — was 10 per cent; the 2003 amendment lowered the threshold to 5 per cent. This was done on the basis that its effect on the scheme would be assessed after a five-year period.

At the time the provision was introduced, the cost was estimated at something of the order of $30 million per annum. The advice from the department is that the actual cost of the provision has been consistent with that estimate, and therefore it is the intention of this provision to remove that sunset provision, which was to come into effect in December, so that the entitlement will be an ongoing provision of the accident compensation legislation.

The other contentious part of the bill relates to the provision that in effect exempts the TAC and the Victorian WorkCover Authority (VWA) from certain provisions of the Wrongs Act as they apply in respect of personal injury, non-economic loss and negligence. Members of the house will recall that in 2001, following the public liability insurance crisis, this Parliament made a number of amendments to the Wrongs Act that restricted the capability or capacity of parties to bring common-law claims with regard to

negligence and other torts in order to ensure that public liability insurance, in particular, remained broadly available in the community, especially to community groups and others who sought access to that product. The reality is that in 2001 access to public liability insurance had largely dried up, so the Wrongs Act was amended to in effect restrict open-ended claims for damages so that insurers would re-enter the market and offer public liability insurance in Victoria.

This bill now seeks to exempt the TAC and the VWA from some of the restrictions in the Wrongs Act that apply to third-party recoveries. If the TAC or WorkCover pays out a claim with respect to a workplace accident or a transport accident and a third party was negligent in some way in that accident, the TAC or the WorkCover authority are indemnified by the third party that was negligent, and therefore the agencies are entitled to seek to recover damages from the third party. The provision in the bill will lift the cap that applies to every other organisation or agency that seeks to bring damages. Those restrictions will be lifted from the TAC and the VWA, so we will have an open-slather scenario if either of those agencies seeks to recover from a third party.

This side of the house is concerned at the impact this will potentially have, particularly on community organisations because we will in effect see a winding back of the provisions that were introduced in 2001. One of the big issues in 2001 was the lack of available public liability insurance for community organisations, show societies and other groups operating in the community. There is a risk — particularly with respect to the entitlement for the VWA because of the risk of workplace injuries at shows, fairs, field days and so forth — that as a consequence of this exemption from those provisions of the Wrongs Act the cost of public liability insurance to those community organisations will go up, effectively undoing the reforms of 2001, given that one of the most likely sources of exposure for community groups and those running community events is exposure to a workplace accident. That is one area of the legislation with which this side of the house has a concern.

The final provision in the bill on which I will comment is unrelated to the TAC and the WorkCover authority. It is an amendment to the Emergency Services Superannuation Act which will allow the ESSS (Emergency Services Superannuation Scheme) board to offer insurance under its defined benefit scheme to Victoria Police members who are on leave without pay but undertaking shifts as Victoria Police officers under the EBA (enterprise bargaining agreement) which was negotiated prior to the last election. The situation that currently exists is that, if those members who are on leave without pay are seeking insurance under the current provisions for the shifts they are working while on leave without pay, the board is required to provide insurance for the duration of their period of leave without pay. This amendment to the bill will allow the ESSS board to offer insurance only for the periods in which it is actually required while these officers are working shifts during their period of leave without pay. To the extent that this is a sensible reform and consistent with the EBA negotiations of 2006, this side of the house will not oppose it.

Overall, the bill does not raise significant concerns for this side of the house. We welcome the restriction of the TAC scheme to natural persons rather than bodies corporate and accordingly will not oppose the bill.

Mr BARBER (Northern Metropolitan) — As a result of that very good summary by Mr Rich-Phillips, I will not have to say anything other than that the Greens will support the bill.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

DANGEROUS GOODS AMENDMENT (TRANSPORT) BILL

Second reading

Debate resumed from 30 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition parties will support the Dangerous Goods Amendment (Transport) Bill. The primary purpose of this bill is to introduce the latest iteration of the Australian dangerous goods code, ADG7. The current framework for the administration and handling of dangerous goods in Australia is ADG6, and the primary purpose of this bill is to introduce ADG7 and allow for subsequent amendments to the dangerous goods code to be automatically incorporated into the Victorian regime. This side of the house considers this a sensible proposal and accordingly will support this legislation.

The bill also makes a couple of other changes to the way in which the dangerous goods regime operates in Victoria. This is a regime that is primarily enforced by WorkSafe as an occupational health and safety issue. The bill before the house this afternoon will exclude certain wastes which are covered by environmental protection laws. It will change the length of the life of a licence issued under the regulations from the current three-year duration to five years. It will also allow for the sharing of information across jurisdictions.

As indicated earlier, the purpose of this framework is to adopt the latest iteration of the national code, and it is important for enforcement purposes that the sharing of information across jurisdictions and state boundaries is facilitated by this legislation. It will also extend the penalty provisions with respect to a number of dangerous goods offences, including allowing for the imposition of custodial offences under the act. In addition to adopting the latest iteration of the code, the bill makes some procedural changes to the way in which the dangerous goods code is enforced here in Victoria.

One of the concerns the coalition parties has with the operation or adoption of the latest code is the changeover period. Under this legislation there will be a 12-month period between the changeover from ADG6 to ADG7. While I understand the intent is that transport operators in Victoria will at some point in the 12-month period shift from the existing regime to the new regime, there is potential for cherry picking between the two codes, ADG6 and ADG7, and for confusion with respect to enforcement as to which aspects of which code a particular operator is adhering to at any given time during the 12-month window. That is obviously an issue that will resolve itself at the expiration of the 12-month changeover period.

The adoption of the new code will also change certain provisions with respect to the labelling of dangerous goods. This is an area where WorkSafe will have a role to play in ensuring that industry and dangerous goods transport operators are appropriately informed as to their new obligations with respect to code 7.

As I said, this is a relatively straightforward piece of legislation to bring Victoria's dangerous goods regime up to date with the latest iteration of the dangerous goods code. It is obviously a sensible piece of legislation and sensible with respect to adopting the latest and then subsequent updates of the code without a further need for legislative change. As such, the coalition parties will support this bill.

Ms HARTLAND (Western Metropolitan) — This bill incorporates provisions of the national model laws into the current Dangerous Goods Act 1985. The development of a nationally consistent framework is plainly a good thing. As is the normal practice of the Greens, we have consulted other groups and spoken with the Victorian Trades Hall Council. Adopting the Australian dangerous goods code ADG7 will bring clarity to the regulation and enforcement of the transportation of dangerous goods across state and territory borders.

While this bill seems fairly straightforward on the surface, I do have some concerns about the implications of the wording of some clauses. Even though I clearly understand it is not within the scope of this bill, I also think the government has yet again failed to deal with the issue of dangerous goods transport through residential areas. As someone who lives in the inner west, I see a number of trucks going up Francis Street and Somerville Road, which are residential areas. I have spoken of this issue many times. Many of those trucks regularly carry loads of dangerous goods, and yet the safety of residents who live in close proximity to these truck routes is being compromised by the government. The scope of this bill unfortunately does not address these concerns.

We have to look at the issue of what would happen if a truck were to crash or roll in Francis Street, Yarraville, and it was carrying a highly toxic load of petrol from the Mobil tank farm on Hyde Street. Such an incident would obviously cause major problems for residents, and yet there is no way of alerting them to potential health impacts. The government basically refuses to acknowledge that it allows dangerous goods to be transported and stored in residential areas. This bill represented an opportunity for the government to address these issues of community safety.

It is interesting to look at some of the regulations. Dangerous goods and gas products are not permitted in tunnels and they are not permitted in some parts of the central business district of Melbourne, but they are perfectly okay on the streets of Footscray and in other residential areas.

It was quite clear during the Tottenham chlorine fire last year that there is a completely inadequate community alerting system — there is actually a lack of a community alerting system. Again, I reiterate my concern about what would happen if there was a major truck accident. There is no way that the local community, which lives close to industry, would actually know what was going on. I presented a report on the Tottenham fire to the Parliament, and there were

two recommendations in it: install an emergency telephone alerting system for people living near industrial zones, to commence within the next year; and close the information loop with a freecall number for residents to give and receive information during an emergency. Unfortunately the government has not seen that that is absolutely necessary.

One of the other concerns that I have with this bill relates to proposed section 31B(1), which is set out on page 21 of the bill. It reads:

> A person involved in the transport of dangerous goods (other than HCDG which do not have a UN number or explosives) by road or rail must, as far as is practicable, ensure that the dangerous goods are transported in a safe manner.

I have serious concerns about the content and the use of that legal phrase 'as far as is practicable'. In my mind that basically says, 'Within reason you have to be good, but if you are not you can get away with anything'. I think that undermines the intention of the bill. I am well aware that it exists right throughout the occupational health and safety bills but it is something the government should seriously look at.

I always say in this house — and I know members may think that I am obsessed, and I probably am — that having lived in Footscray for over 20 years I have seen the growing problem of trucks carting dangerous goods. Unfortunately Mr Pakula is not here, but if he were he would interject and say that I just want jobs lost. But I want to see industry being of the highest standard so that workers and communities will be safe. While I think this is a reasonable bill, once again the government has forgotten to take the bold step to make the community safe.

Ms BROAD (Northern Victoria) — The main purpose of the Dangerous Goods Amendment (Transport) Bill 2008 is to amend the Dangerous Goods Act 1985, also known as the DGA, to adopt the new commonwealth framework for road and rail transport of dangerous goods within Australia in accordance with what is referred to as the ADG7 package. Accordingly the bill incorporates key primary law provisions of the commonwealth National Transport Commission model legislation regulations into the DGA, and regulations based on the key subordinate law provisions of the commonwealth package will also be made. The bill repeals the Road Transport (Dangerous Goods) Act, the template law, which was legislation enacted to adopt the current commonwealth law by reference in Victoria. Finally, the bill also makes technical and machinery amendments.

The ADG7 package is a national framework for the regulation of dangerous goods by road and rail. The National Transport Commission is the body responsible for establishing the framework. That body reports to the Australian Transport Council (ATC), which is a ministerial council, and Victoria's representative on the council is the Minister for Roads and Ports.

The ADG7 package is comprised of the model primary and subordinate law that prescribes key duties, penalties and the like, as well as what is now the 7th edition of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*. That includes technical instructions, which are important for operators, such as labelling, packing and placarding. It is important that Victoria gives effect to the package because it ensures we are in alignment with the national requirements for transport of dangerous goods by road and rail. This also brings Australia into greater alignment internationally, which is important for businesses that operate internationally where they are transporting dangerous goods manufactured in other countries.

Because this is largely enabling legislation, it can readily be incorporated into the Dangerous Goods Act without changing the overall content or structure of the DGA, and that fortunately avoids creating an extra piece of legislation and means that duty-holders can find all dangerous goods duties in one place, which is an advantage for operators as well.

The timing of the bill is important. It is driven by the need for Victoria to meet the commitments made through its participation in the ATC, where it was agreed that national model law would be adopted by all the jurisdictions by the same deadline. That deadline is no later than December this year. In addition to the commitments made through the ATC, the Council of Australian Governments has directed that all the jurisdictions adopt the commonwealth legislative package by December and the ATC has been asked to report to COAG on progress when it meets in December. So it is very timely that we are dealing with the bill today.

Reference has been made to the transition period and there is a 12 month transition period assuming that the house passes the bill today. During that 12 month period compliance with either the current 6th edition of the ADG code or the new 7th edition will be accepted. There is a commitment to provide support and assistance to stakeholders and operators through this period. WorkSafe will ensure that it assists stakeholders in the greatest extent possible through this transition phase, working with relevant industry groups, transport associations, unions and key training providers to

implement the changes through a number of initiatives that are planned. They include a communication strategy, revised guidance and Web information and practical information on the legislative changes and workshops to assist through this process.

That transition period which has been referred will be one where a great deal of assistance and support will be offered and provided to stakeholders to mitigate any concerns or practical support that is required. For those reasons, in the interests of meeting this important national deadline and ensuring that we have the best possible framework in place for managing the transport of dangerous goods, I commend the bill to the house.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

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 members of the chamber for their contributions.

Motion agreed to.

Read third time.

CORONERS BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 (charter), I make this statement of compatibility with respect to the Coroners Bill 2008 (bill).

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

Overview of the bill

The bill will amend the Coroners Act 1985, establish the Coroners Court of Victoria and the Coronial Council of Victoria and provide for the state's coronial system and investigative procedure.

Human rights issues

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

1. Right to life

The right to life is protected by section 9 of the charter. In other jurisdictions this right has been interpreted to include an obligation on government to ensure an effective investigation into certain deaths. As the most significant investigative mechanism into reportable and reviewable deaths, the coronial system gives effect to this right. The operation of an effective investigation process raises other relevant rights. Limitations on these rights have been found to be reasonable when balancing and giving effect to this aspect of the right to life.

2. The general application of the charter to the Coroners Court

The bill amends the definition of 'court' in the charter to include the Coroners Court which is specified in the bill to be an inquisitorial court. When acting in an administrative capacity, the Coroners Court will be a public authority and will be bound by section 38 of the charter. Further, statutory provisions and discretions in the bill will need to be interpreted, where possible, compatibly with the human rights set out in the charter.

3. Reporting obligations

Part 3 of the bill includes obligations to report reportable and reviewable deaths. Except under clause 12, these obligations arise within the context of professional duties. Clause 12 applies to a person who has reasonable grounds to believe that a reportable death has not been reported. Clause 49 provides that the principal registrar must notify certain persons of specified information.

Free expression

The right to freedom of expression in section 15 of the charter has been interpreted in some jurisdictions to include a right not to impart information. To the extent that these provisions impose any restriction on free expression, they come within section 15(3) of the charter, as they are reasonably necessary for public health and/or the maintenance of public order. Accordingly these provisions are compatible with the right to freedom of expression in section 15 of the charter.

4. Powers relating to the body of the deceased person

Clause 22 of the bill provides that the coroner controls the body of the deceased person until released under clause 47. Under clauses 23 and 24 a coroner may provide a body for the performance of preliminary examinations and direct the performance of procedures for the purpose of identification. Clause 25 sets out the situations in which a coroner must direct the performance of an autopsy. The state coroner may also authorise the exhumation of a body under clause 46. Decisions in relation to the release of a body, autopsies and

exhumations are subject to the appeal rights set out in part 7 of the bill.

The nature of the rights being limited

The exercise of these functions will sometimes conflict with or impinge the ability to adhere with or carry out religious and cultural practices and beliefs surrounding death. Consequently these provisions engage and potentially limit the right to freedom of religion and cultural rights protected by sections 14 and 19 of the charter respectively. The freedom to have or adopt a religion or belief in worship, observance, practice or teaching and enjoy culture is also protected by the right to equality and the freedom of expression included in the charter at sections 8 and 15. The United Nations Human Rights Committee has interpreted the rights to privacy and family life broadly to include a person's relationship with their ancestors. Section 13 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.

These provisions in the bill do not constitute an unlawful and arbitrary interference with private family life, as they occur under the authority of, and in the precise and prescribed circumstances set out in, the bill incorporating the safeguards discussed below. However, to the extent that rights are limited, I consider that the limits are reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors.

The importance of the purpose of the limitation

Any restriction of these rights will occur in circumstances where it is necessary to give effect to the wider public interest in effectively investigating deaths and protecting the right to life.

The nature and extent of the limitation

When exercising these functions, directions and authorisations under the bill, clause 8 of the bill, which operates in conjunction with section 38 of the charter, requires that, when these functions are exercised, regard must be had, where practicable and appropriate, to the specified needs or interests of family members, including of the different cultural beliefs and practices surrounding death.

Clause 21 of the bill ensures that the senior next of kin to the deceased person, and any other person who has advised the court that they are a person interested in the investigation of the death, is notified of the coronial process as soon as practicable.

In relation to autopsies, a direction can only be given where a coroner believes it is necessary and appropriate. The coroner is able to impose conditions on the way the procedures are to be conducted so the autopsy can be carried out in a manner that is as sympathetic to religious and cultural beliefs as is reasonably practicable and appropriate. The senior next of kin must be notified of a direction and can object to the conduct of an autopsy, and can appeal the direction and any conditions imposed on an autopsy.

Clause 45 of the bill generally requires that the senior next of kin must be notified of an intention to authorise an exhumation and of their rights both to suggest how the exhumation should be conducted and to oppose the proposed exhumation. A coroner must have regard to any suggestions made by the senior next of kin or any other person who provides written suggestions in respect of the exhumation and may impose conditions on the authorisation.

The only family member who has a right to appeal these decisions is the senior next of kin.

The relationship between the limitation and the purpose

The ability to control the body of the deceased person and perform the necessary examinations and procedures is directly and rationally related to the investigative purpose of the bill. Restricting the appeal rights to the senior next of kin is necessary to ensure the efficiency of the investigatory process. Clause 8(b) of the bill requires that regard should be had to the distress of those affected by the death, which can be exacerbated by unnecessarily protracted coronial investigations.

Less restrictive means reasonably available to achieve the purpose

I consider there are no less restrictive means reasonably available to achieve the purpose of the provisions and that the bill balances the need to recognise and accommodate religious and cultural beliefs with the importance of investigating and identifying the causes of death in a timely fashion.

Accordingly, I consider that these provisions are compatible with sections 13, 14 and 19 of the charter.

5. Powers relating to investigation

Restriction of access to place of death or fire

Clauses 37 and 38 permit a coroner or the Chief Commissioner of Police to take reasonable steps to restrict access to the place, or a place reasonably connected to where a death or fire occurred. Clause 37 also permits the Chief Commissioner of Police to restrict access to the place, or a place reasonably connected to where an incident has occurred which is reasonably expected to result in the death of a person. These provisions engage the right to privacy and limit the freedom of movement. Cultural and religious rights may also be limited.

Privacy

Although these provisions may restrict access to a person's residence, any interference is lawful, occurring under the authority of the bill. Clauses 37 and 38 provide that a notice outlining the restriction may be put up at the place. Any interference is not arbitrary because it will occur in the precise and prescribed circumstances set out in the bill for the purpose of conducting effective investigations of reportable and reviewable deaths and fires.

Religious and cultural rights and freedom of movement

I consider that the limits upon the freedom of movement and right to freedom of religion and cultural rights are reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter, having regard to the following factors.

The nature of the rights being limited

Under section 12 of the charter every person lawfully within Victoria has the right to move freely within the state; to enter and leave it; and the freedom to choose where to live. It extends to the right not to be forced to move to or from a particular location.

The right to freedom of religion and cultural rights have been referred to above. A restriction on access to the place of death may interfere with various religious and cultural practices surrounding death.

The importance of the purpose of the limitation

Unrestricted access to the place of death, incident or fire is of vital importance to ensure that: the necessary examinations can occur; the integrity of the place is maintained; and evidence is uncontaminated. This power is an integral aspect of having the ability to carry out a thorough investigation into a death or fire.

The nature and extent of the limitation

In coming to the decision to restrict access to a place the factors set out in clause 8 are relevant. Further, the steps taken to restrict access must be reasonable. Therefore, the circumstances of each case, including religious and cultural rights and the freedom of movement, will be relevant to the decision and the extent to which access is reasonably restricted.

The relationship between the limitation and the purpose

Any resulting restriction on these rights is directly and rationally related to the purpose of the bill.

Less restrictive means reasonably available to achieve the purpose

I consider there are no less restrictive means reasonably available.

Accordingly, I consider that these provisions are compatible with sections 12, 14 and 19 of the charter.

Search and seizure powers

Clause 39 of the bill permits a coroner to authorise a member of the police force to search premises and seize relevant information. Clause 40 provides that a person at premises subject to a search under clause 39 must produce documents if directed. Under clause 41 a coroner or officer conducting a search may do anything reasonably necessary to investigate a fire or death including securing the premises to restrict access under clauses 37 and 38.

Privacy

To the extent that the exercise of this authority relates to private information or permits access to residences, the right to privacy is engaged. However, these powers arise in the controlled and prescribed circumstances set out in the bill and are lawful. The authorisation must specify the hours of the day and period within which the powers may be exercised and a copy must be provided to the occupier where practicable. Clause 8(b) is a relevant factor when issuing the authorisation and conducting the search. Consequently, I do not consider that these provisions can be described as arbitrary. Accordingly, these provisions are compatible with the right to privacy under the charter.

Production of information

The obligations on certain persons to assist a coroner under clauses 32 to 36 of the bill include a requirement to provide information. Apart from clauses 32 and 34, these obligations arise within the context of professional duties. These provisions apply to the person who reported the death or fire. Clause 40 provides that a person at premises subject to a search under clause 39 must produce documents if directed. A person must also produce documents or a statement requested by the coroner under clause 42.

Free expression

To the extent that these provisions engage the right to freedom of expression which may include the right not to impart information, they come within section 15(3) of the charter because they are reasonably necessary for public health and/or the maintenance of public order. Accordingly, the bill is compatible with the right to freedom of expression in section 15 of the charter.

6. Powers relating to inquests into deaths and fires

Compelled evidence and attendance

Clause 55 provides that a coroner may: summon a person to attend the inquest as a witness; order a witness to answer questions; and order a person to produce documents or material. This provision engages the right to freedom of expression and the right not to be compelled to testify against oneself, and limits the freedom of movement.

Free expression

In relation to the freedom of expression, the obligation imposed by this provision to provide the required information and answer questions comes within the express limitation in section 15(3) of the charter described above. Accordingly, the provision is compatible with the right to freedom of expression in section 15 of the charter.

Self-incrimination

Section 25(2)(k) of the charter provides that a person charged with a criminal offence is entitled 'not to be compelled to testify against himself or herself or to confess guilt'. The right to a fair hearing in section 24(1) of the charter has also been interpreted in the United Kingdom and European Court of Human Rights to incorporate a privilege against self-incrimination. Where compulsory questioning powers are used to require a person who has been charged with an offence to answer questions, section 25(2)(k) of the charter is engaged. The right does not apply to the production of documents. However the right does not preclude the use of compulsory questioning powers for legitimate purposes in separate proceedings where a direct-use immunity is provided.

Clause 57 provides that a witness can be exempted from giving evidence (including documents) when there are reasonable grounds to believe that the provision of evidence may incriminate the witness. In instances where grounds for this exemption exist but a coroner determines that it is in the interests of justice for the witness to give the evidence, the bill provides that the evidence cannot be used directly or indirectly against the person except in respect of the falsity of

the evidence. Accordingly, I am of the view that this provision is compatible with section 25(2)(k) of the charter.

Freedom of movement

To the extent that a person is required to appear at the inquest that person's freedom of movement is limited. I consider that the limits upon the freedom of movement are reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter, having regard to the following factors.

The nature of the right being limited

The right to freely move within the state has been described above.

The importance of the purpose of the limitation

The limitation is important because it allows a coroner to obtain the information necessary to effectively investigate the relevant death or fire.

The nature and extent of the limitation

The limitation on the freedom to move freely is restricted only to the extent and time that the person is compelled to be physically present before the coroner to provide information. Before the coroner can compel the attendance and answering of questions by a witness, they must believe that the exercise of these powers is necessary for the inquest or to determine whether an inquest is necessary.

The relationship between the limitation and the purpose

The limitation is directly and rationally related to its purpose: to enable the coroner to acquire the information relevant to the death or fire that is the subject of the inquest.

Less restrictive means reasonably available to achieve the purpose

I consider there are no less restrictive means reasonably available.

Accordingly, I consider that this provision is compatible with section 12 of the charter.

7. Disclosure, or restriction on disclosure, of information

Restriction on the disclosure of information

Clause 73 provides that a coroner must prohibit the publication of any documents, material or evidence provided to the court as part of an investigation or inquest where the coroner reasonably believes that it would be likely to prejudice the fair trial of a person or be contrary to the public interest. Breach of such an order is an offence.

Free expression

In the event that an order is made regarding the publication of this information, the right to free expression is engaged which includes the freedom to seek, receive and impart information and ideas of all kinds. However, the ability to make such an order on the basis that publication would be likely to prejudice the fair trial of a person comes within section 15(3) of the charter, as it is reasonably necessary to protect the rights and reputation of other persons. Further, the scope of the public interest giving rise to an obligation to prohibit publication on that basis would be construed in a manner compatible with the rights in the charter.

Accordingly, I do not consider that clause 73 can be regarded as arbitrary and I am of the view that it is compatible with section 15 of the charter.

Disclosure of information

Clause 115 enables a coroner to release documents to various persons. Clause 73 provides for the publication of findings, comments and recommendations made following an inquest.

Privacy

To the extent that this information contains private information it engages the right to privacy and reputation. However, disclosures under the clauses are not unlawful. Under clause 115, certain information must be provided unless otherwise ordered by a coroner, to the senior next of kin and an interested person. The requirement that inquest findings, comments and recommendations must be published under clause 73 is an aspect of an effective investigation. Disclosures under these clauses are subject to discretion and subject to clause 8 of the bill and section 38 of the charter. Further, the release of all documents can be the subject of conditions. It is an offence to breach the conditions.

Free expression

In the event that conditions are imposed on the release of documents, the right to free expression, as described above, is engaged. However, the ability to impose these conditions comes within section 15(3) of the charter, as they are reasonably necessary to respect the rights and reputation of other persons, for public health and the maintenance of public order.

Accordingly, I do not consider that these clauses can be regarded as arbitrary and I am of the view that they are compatible with sections 13 and 15 of the charter.

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; or

to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Justin Madden, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

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

That the bill be now read a second time.

Incorporated speech as follows:

The Coroners Bill 2008 coincides with our celebration of 20 years of the Coronial Services Centre of Victoria and its significant contribution to public health and safety during this time. The bill forms part of this government's broad coronial reform strategy with objectives to:

> develop integrated governance, legislative and service delivery frameworks to support a modern and responsive coronial system;
>
> improve communication with and services to families who interact with the coronial process;
>
> strengthen the coroner's prevention role;
>
> improve the delivery of coronial services across the system, including rural service delivery;
>
> upgrade facilities at the Coronial Services Centre and in regional areas;
>
> improve education and training across the coronial system; and
>
> enhance and strengthen the coronial system by developing clearer death reporting and certification processes, establishing improved case management and records management systems and strengthening relationships amongst key stakeholders in the sector.

The coronial system plays an important role in Victorian society. It must endeavour to provide independent answers to those grieving families affected by the investigation of sudden, unexpected and tragic deaths by the coroner. Those deaths can often involve vulnerable members of our community, such as those who are placed in the care or custody of the state. Our coronial system must take a broad public health approach to investigation to clarify on the public record the causes and circumstances of death, to provide public hearings into those matters where it is appropriate and to draw lessons from deaths so as to minimise the risks of recurrence, where possible, in the future.

Victoria's coronial system has been regarded as a leader in its field and has previously drawn praise in international circles. The Coroners Act 1985 was recognised as an innovative piece of legislation when it was introduced and the physical co-location of coronial services at that time allowed for a close working relationship between the state coroner and the Victorian Institute of Forensic Medicine. The National Coroners Information System was also established in 1998 and developed a world-first national database of coroners' information which has facilitated the monitoring of deaths, prevention research and the development of prevention measures in relation to certain deaths. It is timely therefore to renew Victoria's place as a leader in coronial practice and modernise the jurisdiction.

The development of the bill draws extensively from the work of the Victorian Parliamentary Law Reform Committee, which released its final report on the Coroners Act 1985 in September 2006 with 138 recommendations for legislative and operational reform across the coronial system. The government welcomed the committee's report and established a steering committee comprising of representatives across the coronial sector to consider the committee's recommendations and their implications for different agencies. This process resulted in the government response which was tabled in Parliament in March 2007.

The government response accepted the majority of the committee's recommendations, noted that many recommendations had already been implemented and highlighted that the release of the report coincided with a period of significant change at the State Coroner's Office. Where the government response departed from the committee's recommendations, alternative and more appropriate measures were developed in consultation with key stakeholders to address the underlying issues identified by the committee. Following the release of the government response, further engagement took place with the coronial sector under the leadership of the new state coroner, Her Honour Judge Jennifer Coate, which refined the development of the bill and the final package of coronial reforms.

As a result, the bill is complemented and supported by a number of key projects, including the delivery of a training package through the Judicial College of Victoria specifically developed for coroners and the development of a Coroners Court bench book. The bench book will be presented online and improve the operation of regional coronial services. The coroners' training will be designed to take into account issues raised by the committee including cultural and family issues, the conduct of inquests, the implications of the bill and the development of prevention recommendations. There will also be new roles introduced at the registry of births, deaths and marriages to audit the death certification process and monitor trends in the reporting of deaths to the coroner.

The bill also coincides with a significant refurbishment project to modernise the Coronial Services Centre which is currently under way. This redevelopment is designed to suit the Coroners Court and the Victorian Institute of Forensic Medicine's future growth requirements, and ultimately provide improved integration and efficiency across both sites.

The bill is consistent with the government's 2006 access to justice policy statement, the 2004 justice statement, the Growing Victoria Together goal to build friendly, confident and safe communities and A Fairer Victoria which outlines a commitment to improving access to justice. It also implements recommendations of the 1991 final report of the Royal Commission into Aboriginal Deaths in Custody and of the subsequent 2005 review under the Victorian Aboriginal justice agreement mark 1.

Two key themes emerged in the Victorian Parliamentary Law Reform Committee's final report. Firstly, the need for the coronial system to improve services to families. Families reported to the committee that they needed to have increased access to information about the coronial process, including the need for families to be involved in the process and to be informed about their rights and key events. There was also a need for coronial law to accommodate, where practicable, spiritual, cultural and other considerations. Families required sensitive contact from staff and better information on the availability of counselling and services. The bill addresses these issues and introduces objectives which acknowledge and strengthen the position of families and accommodate cultural needs. These enshrine the most extensive principles and objectives of any coronial jurisdiction in Australia. Further, a set of family principles is currently being developed with families who have experienced the coronial system. These principles outline appropriate service standards and expectations in the coronial sector.

Secondly, there was a need to strengthen the prevention role of the coroner. Whilst the Victorian coronial system has an impressive history in the area of prevention, including recommendations regarding tractor rollover protection structures, safety barriers for swimming pools, suicide prevention in prison cell design, and Mistral fans, the committee recognised that the role could be further supported. The bill addresses this issue and is supported by the establishment of the first coroner's prevention unit, which will assist the coroner in relation to the formulation of appropriate prevention recommendations as well as help monitor and evaluate the effectiveness of those recommendations.

The bill will also establish the Coroners Court of Victoria as a specialist inquisitorial court and create the first coronial council in Australia to provide advice to the Attorney-General regarding the operation of the coronial system.

I will now highlight significant features of the bill.

Objectives

The bill introduces objectives which give guidance in the administration and interpretation of the bill.

Those objectives acknowledge the need to avoid unnecessary duplication and expedite investigations, where appropriate. They also encourage practices which acknowledge:

> that a death is distressing and may require referral for professional support, such as grief counselling;
>
> the effect of unnecessarily lengthy or protracted investigations or procedures may exacerbate the distress of those affected by the death;
>
> that different cultures have different beliefs and practices surrounding death that should, where appropriate, be respected;
>
> the need for families to be informed of the particulars and the progress of the investigation;
>
> the need to balance the public interest in protecting a living or deceased person's personal or health information with the public interest in the legitimate use of that information; and
>
> the desirability of promoting public health and safety and the administration of justice.

The objectives also note that the coronial system should operate in a fair and efficient manner.

These objectives directly respond to those issues raised by families and embed these principles into the underlying philosophy and operations of the Victorian coronial system.

The jurisdiction of the coroner

Victoria's coronial system is responsible for investigating deaths that are 'reportable' or 'reviewable' and for investigating some fires. The boundaries of the coroner's jurisdiction are defined by public interest, which ensures that coroners are able to investigate only those deaths which require independent and public oversight. It also recognises that coronial investigations represent state intervention into a private experience of families and should be limited to appropriate cases.

The bill clarifies the types of deaths that are reportable to the coroner. For instance, there is some concern regarding which unexpected medical deaths need to be reported to the coroner. The bill clarifies that the test for unexpected medical deaths involves assessing whether the death was reasonably expected by a doctor immediately before the procedure was conducted.

The bill also expands the definition of who is a 'person who is placed in care or custody' to include people who are escaping custody or whom the police are seeking to apprehend. This is consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

Further, the bill clarifies that a 'still birth' is not within the jurisdiction of the coroner. This approach is consistent with the committee's recommendations and it reflects the current law in Victoria.

The bill also provides that the coroners will retain their existing jurisdiction to investigate non-fatal fires.

Reviewable deaths

The bill improves the reviewable death system which was introduced in 2004 to deal with multiple child deaths to a particular parent. The purpose of the reviewable death system is to ensure that children at risk of death or injury caused by a parent can be identified and protected and that families receive appropriate medical and social support.

Since 2004 it has, however, been noted that many reviewable deaths have involved children who were born in an intensive care unit and were not expected to survive. These deaths often occur in IVF pregnancies, where there are premature births involving twins or triplets, or situations where there are congenital malformations. These deaths are traumatic for the parents and are not a risk indicator for child protection concerns. Capturing these deaths was an unintended consequence of the system and causes additional grief for families. The bill addresses this situation and also clarifies that the Victorian Institute of Forensic Medicine has no ongoing responsibility to monitor or investigate families once a case has been closed.

Streamlining the coroner's investigation process

The bill creates a streamlined process for dealing with deaths which were only reportable because they were unexpected or where there was no medical certificate of cause of death. This is a discretionary process and the coroner can determine that, in a particular case, it would be appropriate to conduct a full investigation of the death. The requirement to conduct an investigation into the circumstances of deaths that were due to natural causes is a major reason for delays in the coronial system, which causes unnecessary stress for the families of the deceased. These investigations also divert resources away from investigations that need to be made.

This new process will allow the coronial system to target its resources more effectively and end a prolonged process for grieving families, where possible.

The coroner's investigation power

The bill thoroughly outlines the investigation powers of the coroner which helps to provide certainty for the operation of the coronial jurisdiction and guidance to those associated with the jurisdiction, including families. This includes a clarification that the coroner has the power to investigate whether a death referred to it is a reportable death.

Further, the bill provides that the coroner may only investigate deaths which are less than 100 years old and it will not be obligatory for the coroner to investigate deaths that occurred between 50 and 100 years before the death was reported to the coroner. This again allows the coronial system to target its resources more efficiently.

The bill for the first time comprehensively clarifies the coroners' powers with regard to the physical procedures performed on a deceased person, which are required for an effective investigation of a death. They are the preliminary examination, the identification procedure and the autopsy.

The bill defines the process of a preliminary examination, the results of which allow the coroner to perform his or her functions. It also clearly outlines for family members what is included in this procedure.

The bill outlines the process for an identification procedure, which is a more intrusive procedure, such as the taking of bone, to enable a person to be identified. An identification procedure may only be performed on the direction of the coroner.

The bill strengthens the provisions in relation to the conduct of autopsies, including for the first time that the coroner can impose conditions on the way an autopsy is to be conducted. For example, the coroner could impose a condition that only certain body cavities be explored. This can occur after the coroner has consulted with the person performing or overseeing the autopsy and can address cultural considerations raised by a family, where appropriate.

The bill also reinforces the coroner's powers relating to investigation, including a new section which permits coroners to require a person to prepare a statement within a specified time for the purposes of the investigation. This will assist the coroners in carrying out their investigations in a timely manner.

Families in the coronial process

The bill seeks to reinforce the position of families and, in addition to those guiding principles and objectives which I have already outlined above, provides further legislative measures to assist families in relation to the coronial system.

The bill provides that the senior next of kin and other persons with a sufficient interest in the investigation of a death must be provided with certain information regarding their rights and the coronial process.

The bill creates a right for the senior next of kin to provide suggestions in respect of how an exhumation should be conducted and provides that the state coroner must have regard to those suggestions.

The bill expands the current appeal and review rights to the Supreme Court, including an appeal against a decision of a coroner that a death is not a reportable death, the findings of a coroner made in respect of a death or a fire after an investigation or an inquest as well as an order to release a body and the terms of that release. The bill also allows a person to apply to the Coroners Court for the reopening of an investigation regardless of whether an inquest has been held.

Further, the bill provides that the coroner must conduct an inquest with as little formality and technicality as the interests of justice permit and take steps to ensure that the inquest is conducted in a way which he or she considers will make it comprehensible to interested parties and members of the family who are present at the inquest. This is consistent with the approach adopted in other jurisdictions such as the Children's Court of Victoria.

The prevention role of the coroner

The bill highlights, for the first time, that the preventive work of the coroner is an important function of the Coroners Court. The bill contains, as one of its purposes, to reduce the number of preventable deaths and fires through the findings of investigation of deaths and fires.

In addition, the bill provides that the coroner will now be able to make recommendations to any entity rather than being restricted to ministers and public statutory authorities.

The privilege against self-incrimination

Consistent with Victoria's new approach in relation to evidence, the bill will limit the privilege against self-incrimination in circumstances where the interests of justice would be served. The witness will be provided with a certificate so that the evidence cannot be used against them in other Victorian proceedings.

This will allow the coroner to more thoroughly conduct an investigation and may provide more answers for the families about what happened to their loved ones.

The establishment of a Coroners Court

The bill establishes the Coroners Court of Victoria as an inquisitorial court. This is the first Victorian court to be legislated as an inquisitorial jurisdiction. Creating an inquisitorial court will ensure that the coroners operate independently of the executive and can effectively investigate deaths without the coronial investigation becoming too adversarial.

The bill requires that the head of the Coroners Court must be a judge of the County Court, recognising the importance of the role and allowing for the status of the jurisdiction to be strengthened and enhanced.

The bill provides that the person who assigns a magistrate to be a coroner must have regard to the experience and knowledge of the magistrate in relation to coronial investigations, investigations into injury and death and the identification of preventive measures following such investigations. This will ensure that only those with the requisite skills will be assigned to be a coroner. In addition to this, the bill provides that the state coroner is responsible for directing the professional development and continuing education and training of coroners and registrars of the Coroners Court.

The bill also clearly outlines what powers cannot be delegated by a coroner to a registrar, including the power to order an autopsy.

The bill requires that the state coroner must provide an annual report to the Attorney-General for tabling in Parliament. The report must contain a review of the operations of the Coroners Court, which will provide public accountability and transparency of the jurisdiction.

To further facilitate the proper operation and administration of the coronial jurisdiction and support the creation of the Coroners Court, the bill provides the power to make rules and practice notes.

Access to documents

The government was mindful of the concerns raised in evidence before the Victorian Parliamentary Law Reform Committee in relation to the critical issue of access to documents in the coronial system. The bill therefore introduces a new access-to-documents regime. This regime establishes a framework which will provide both protection and guidance regarding access to coronial documents.

The bill seeks to balance the open justice principle against considerations of individual privacy, corporate confidence and the public interest. It also takes into consideration the need for participants, including families, to be provided with information.

The bill removes the presumption of public access to closed coronial investigations which is currently permitted under section 51(2) of the Coroners Act 1985 and provides that unless otherwise directed by the coroner:

> a senior next of kin must be provided with the report of the preliminary examination, the identification procedure and the autopsy;
>
> people who have been given leave to be an interested party will be provided with the inquest brief.

The definition of inquest brief will clarify that it does not include parts of a medical file that are irrelevant to the coroner's investigation.

The coroner has an important role in preventing deaths in our community and it is important that findings which contain prevention recommendations are widely available. The bill provides that, unless otherwise ordered by the coroner, findings, comments and recommendations will be published on the internet. The publication would be in accordance with any requirements in the rules.

In all other circumstances, the bill provides that documents may only be released by a coroner:

> to an interested party who has a sufficient interest in the document;
>
> to assist a statutory body with the performance of a statutory function;
>
> to a member of the police for law enforcement purposes;
>
> for research that has been approved by an appropriate human research ethics committee;
>
> to a person if the release of the document is in the public interest;
>
> to a person specified in the court rules; or
>
> in accordance with the bill or any other law.

The bill allows the coroner to grant access to a document subject to any conditions and it will be an offence to breach a condition which has been imposed.

This provides the necessary balance of protections as well as appropriate access for all parties.

Coronial council

The bill will create the first coronial council in Australia to provide advice to the Attorney-General, of its own motion or at the Attorney-General's request, regarding the operation of the coronial system. The council will ensure that the coronial system will continue to be effective and responsive to the needs of people who interact with the coronial system in the future.

The council will consider emerging issues of importance to the Victorian coronial system, matters relating to the prevention role of the Coroners Court, the way the coronial system engages with families and respects the cultural diversity of families and any other matters referred by the Attorney-General.

The council will be required to provide an annual report and membership will include the state coroner, the director of the Victorian Institute of Forensic Medicine and the Chief Commissioner of Police. Other members will be appointed based on their experience and the requirements of the council.

Conclusions

The development of the bill has been assisted by the work of many bodies, including the Victorian Parliamentary Law Reform Committee, the State Coroner's Office, the Victorian Institute of Forensic Medicine, Victoria Police, the registry of births, deaths and marriages and the Department of Human Services. I take this opportunity to thank those participants and, in particular, the former state coroner, Mr Graeme Johnstone, the director of the Victorian Institute of Forensic Medicine, Professor Stephen Cordner, and Her Honour Judge Jennifer Coate, who have participated in this long process allowing us to once again reinvigorate Victoria's coronial system.

I commend the bill to the house.

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

Debate adjourned until Thursday, 20 November.

PROSTITUTION CONTROL AND OTHER MATTERS AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. J. M. MADDEN (Minister For Planning) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Prostitution Control and Other Matters Amendment Bill 2008 (the bill).

In my opinion, the Prostitution Control and Other Matters Amendment Bill 2008, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will amend the Prostitution Control Act 1994 (the act) to ensure that the regulation of prostitution in Victoria meets its harm minimisation objectives.

The provisions introduced by the bill will strengthen enforcement against brothels operating without permits and licences, and strengthen the administration and enforcement of the licensing framework for prostitution service providers.

Human rights issues

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

Section 25(2) of the charter provides:

> A person charged with a criminal offence is entitled … not to be compelled to testify against himself or herself or to confess guilt.

The right provides a limited right to pretrial silence, but only once the person has been charged. However, the section does not provide a general privilege against self-incrimination that the common law provides.

Section 24 of the charter provides:

> A person charged with a criminal offence … has the right to have the charge … decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Based upon the jurisprudence of other jurisdictions, particularly the United Kingdom and Europe, I consider that section 24 of the charter is likely to protect the privilege against self-incrimination where a compulsory requirement to provide information to authorities elicits incriminating statements; and either those incriminating statements are used as evidence against a person in criminal proceedings[1] or the person is subjected to prosecution for failing to comply.[2]

The bill introduces a new offence of failing to notify the Business Licensing Authority (BLA) of any matter that occurs to the licensee, that is referred to in section 47(1) of the act. All matters referred to in section 47(1) are court findings (for example a conviction or finding of guilt under the Drugs, Poisons and Controlled Substances Act 1981) that result in automatic cancellation of a licence.

I have considered whether a licensee who is the subject of a court order that results in automatic cancellation of his or her licence and notifies the BLA of that fact, is potentially incriminating himself or herself by doing so. However, this is not the case, as any of the court findings referred to in section 47(1) would be matters of public record, and are taken, therefore, to be within the knowledge of the BLA already. Therefore, these rights are not engaged.

Accordingly, the bill is compatible with the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because none of the clauses of the bill raises human rights issues.

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill will amend the Prostitution Control Act 1994. The introduction of that act represented an important advance in the regulation of prostitution, to minimise the risk of harm that can arise in this industry by promoting public health and protecting sex workers from violence and exploitation.

The Prostitution Control Act requires prostitution service providers to be licensed, and to comply with a range of

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[1] See, eg, *Saunders v. United Kingdom* [1996] 23 EHRR 313, *R v. Hertfordshire County Council, ex p Green Environmental Industries Ltd* [2000] 2 AC 412, *IJL, GMR and AKP v. United Kingdom* [2001] Crim LR 133 (relating to the use of information compulsorily obtained in subsequent criminal proceedings).

[2] See *Heaney and McGuinness v. Ireland* [2000] ECHR 34720/97 at paras 43–46, *Funke v. France* [1993] ECHR 10828/84 at paras 39–40. See also *Shannon v. United Kingdom* [2005] ECHR 6563/03.

harm-minimisation and best practice obligations. In addition, premises used as brothels must have a permit from the relevant local council. There is one exception to the licensing requirements, for small owner-operated businesses where a maximum of two people are working from one premises. These businesses are not required to be licensed but are still required to register with Consumer Affairs Victoria and to obtain a planning permit.

However, the agencies responsible for enforcing the act and its regulations — Consumer Affairs Victoria, local councils and Victoria Police — have found it increasingly difficult to enforce the law in relation to brothel owners and operators who fail to obtain the necessary licences and permits.

In particular, councils have been concerned in the past that the only way to prove that a brothel was operating without a permit was to retain private investigators to go into suspected illegal brothel premises and obtain sexual services. The obstacles to constructing a sound legal case without resort to this practice, which many councils and ratepayers found unacceptable, will now be cleared.

This bill amends the definition of brothel and escort agency to include premises that offer (rather than provide) sexual services. Councils will no longer have to prove that sexual services took place on premises to establish that the premises is a brothel. Rather, they will only have to prove that the services were offered.

The bill further amends the law to clarify the kinds of evidence that agencies can use to show that sexual services were on offer, when seeking an order declaring premises an illegal brothel. Much of this evidence would not require attendance on the premises (for example, evidence of people entering and leaving the premises, appointments made for prostitution services at the premises, and advertising). Other types of evidence would require attendance, but that attendance would stop far short of the need to purchase services. This includes evidence about the layout and fit-out of premises, and documentation (like books of account) containing information that is consistent with the use of premises as a brothel.

The bill also widens the range of police members who may apply for a warrant to search suspected illegal brothel premises, from members of the rank of inspector, to the rank of senior sergeant. This will enable police to take quick and efficient action against suspected illegal brothel premises. It is especially important that police are able to obtain search warrants quickly, because illegal brothel operators are quick to relocate if they become aware that enforcement action is being taken against them. The restriction on the rank of officer who could bring an application for a search warrant for suspected illegal brothel premises has made it difficult in the past for police to get warrants and gather evidence before operators shut up shop and move elsewhere. Enabling officers of the rank of senior sergeant and above to seek warrants will speed up the process so police can gain access to premises before they move on.

Besides making it easier for local councils and police to close down illegal brothels, the bill will strengthen the existing arrangements for administration and enforcement of the licensing regime by government agencies. For example, the introduction of an effective control test for licensees will ensure (as is already the case for the majority of operators) that the person who has met the requirements for obtaining a prostitution service provider licence is the person effectively controlling the business.

The bill will also make a minor technical amendment to the Second-Hand Dealers and Pawnbrokers Act 1989 to clarify police powers to require hard copy records from electronic record-keeping systems. This amendment will ensure that police can require a record which is contained in a computerised record-keeping system to be provided either electronically or in a hard copy.

I commend the bill to the house.

Debate adjourned for Mr GUY (Northern Metropolitan) on motion of Mr Rich-Phillips.

Debate adjourned until Thursday, 20 November.

EDUCATION AND TRAINING REFORM FURTHER AMENDMENT BILL

Second reading

Debate resumed from 30 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr HALL (Eastern Victoria) — The Education and Training Reform Further Amendment Bill 2008 lists five matters as its purposes. The first of those is the creation of an executive class of teachers — positions that will attract a greater salary than those currently paid to the principals of this state's biggest schools. The second means that it will be easier for the government to sack teachers who are performing unsatisfactorily. Thirdly the bill will increase the powers of the disciplinary appeals board in respect of salary reimbursement. It will also enable registered training organisations, who are delivering in more than one state, to have their programs audited by the National Audit and Registration Agency. Finally the bill will make a number of changes to a number of matters of both a minor and a technical nature that are contained within the principal act.

While I can report to the house that the opposition will be supporting this bill, we do so with something of a wry smile, particularly considering some of the provisions in this bill and some of the accusations made against previous governments in respect of education. I suggest the first reason for that wry smile: how often do we hear from government members making claims against 'the previous government that sacked 8000 teachers'? I think I heard it from Ms Darveniza again this week; I hear it every week from Ms Darveniza and others.

The fact of the matter is: we did not sack one teacher when we were in government. We used a voluntary

redundancy program to reduce the number of teachers in the system, but not one of them was ever sacked. Yet one of the main provisions in this bill will enable the government to do exactly that — that is, remove teachers who the government believes are not performing satisfactorily.

My wryness is compounded by some of the cute language used in the government's blueprint, which it claims provides much of the reasoning behind the amendments contained in this bill. Page 34–35 of the *Blueprint for Education and Early Childhood Development* states:

> We will assist a small number of government school teachers who have become disengaged to exit and commence new careers.

That comment suggests that the government is merely helping those who would like to have a career change.

Ironically I have not found the terms 'assist' or 'teachers who have become disengaged' in this legislation. Clause 12 on page 10 of the bill inserts new division 9A entitled 'Unsatisfactory performance'. If members would care to have a look at this new provision that is being inserted, they will see that it never uses the term 'disengagement'. In its definition of 'unsatisfactory performance' it uses terms such as 'repeated failure'; being 'negligent', 'inefficient' or 'incompetent'; 'failure'; 'unsatisfactory conduct'; and 'contravening or failing to comply with a lawful direction'. Never does it use 'disengagement'. What the government says in its soft, cute words in the blueprint is far different to what is being proposed in this legislation. Let us make it very clear that this is talking about setting in place a process to sack teachers whom the government deems to be unsatisfactory in their performance.

I want to repeat again and emphasise to Ms Darveniza and others who continue to make the accusation that the previous government sacked schoolteachers that not one of those 8000 teachers was sacked. They accepted voluntary redundancies, but not one of them was sacked. Yet this government now proposes to streamline the process in which teachers can be sacked. It is not that I believe underperforming teachers should not be assessed and, if necessary, replaced. There is a need for that in any profession. But let us cut the rhetoric about this and be honest and up-front about this. These provisions are about sacking teachers. That is something which the previous government did not employ in this state.

Yes, we used voluntary redundancies, and I would be the first to agree that voluntary redundancy is not always a perfect instrument. Some very good people accepted voluntary redundancies to move to a requested career change. It was not a perfect instrument, but it was pretty good in terms of achieving what needed to be achieved. People who are not good at their job invariably do not enjoy their job as well as those who are good at it. Perhaps those who were not enjoying their job were not so well suited to it, and they were more likely to take advantage of one of those voluntary redundancy packages than teachers who were very good at their job.

I want to comment on the new executive class contained in part 2, clauses 4 to 11 of this legislation. It is important to look at what 'executive class' means. The new provisions to be inserted in part 2.4 of the principal act state:

> executive means a person employed in the teaching service as an executive;
>
> member of the Executive Class means a member of the teaching service who holds a position which has been classified to be a position in the Executive Class by the Secretary …

The bill goes on in clause 5 to state:

> executives to perform duties in or outside a school …

It then goes on to the remuneration range for executives and a whole range of matters associated with their employment, particularly the contract of employment, which is detailed on page 6 of the legislation. What is most interesting about this aspect of the legislation is not what it says but what it does not say. What it does not say is — this is how I interpreted and read it — this executive class could be used for a broader range of purposes other than purely as principal leader in a school. The second-reading speech gives the only indication that this executive class is intended to apply to a school principal. But if you look at the legislation itself, particularly where it says that a person in an executive class position can perform duties in or outside a school, it seems to me that it may be possible under this legislation for the government to extend the executive class to beyond strictly principal of a school.

It also does not say what criteria the government will use to select people to occupy executive class positions. It does not say what role local communities will play in the selection of executive class staff who go on to become school principals, and I think communities would want to have some say in that. It has long been the practice that when advertising for a new principal, schools have a significant say in who will fill that position, and so it should be. But the bill is completely silent on how these executive class positions will be

identified and what role local communities will have in the appointment of executive class positions to their local schools.

This bill also does not say whether people who hold a privileged contract of employment with the government, which is what this bill details, will be gagged by the government or whether they will be free to express views, to lobby and the like. We in the coalition have some serious concerns as to what limitations in terms of their contract conditions might be imposed upon those people expressing their views.

Because of the confidentiality claimed around such contracts it will not be automatic that those contracts will be open for public inspection, so we wonder what will go into those employment contracts. I agree with the comments made in the second-reading speech in respect of the importance of the quality of staff, where the minister says:

> … the quality of the workforce is a major factor driving the quality of education in schools. High-quality education provision can only occur when the right people are attracted, recruited and supported to perform their roles as effectively as possible.

That is true, but the implementation of that principle is not precise in this legislation. As I said before, there seem to be no criteria according to which executive class positions will be allocated and again no local input. While not objecting in principle, some of the details around those provisions are of concern to the coalition.

There are amendments in this piece of legislation contained in clauses 18 to 31 relating to the auditing of programs delivered by registered training organisations. As I said in my introduction, this means that a registered training provider delivering programs in more than one state in Australia can apply to the Victorian Registration and Qualifications Authority to have the National Audit and Registration Agency, a federal body, undertake an audit of their programs. That is a sensible measure. It is one of the Australia-wide issues on which it has been decided that it makes sense that we have some commonality across state borders. Requiring state-based authorities to audit what is essentially the same program being delivered in a number of states is a duplication of effort, and we welcome the change.

In respect of that, it is important that Victoria remains diligent about the quality of programs, both in higher education and vocational programs offered by providers operating out of Victoria, because it is true that Victoria now attracts a great deal of money from the provision of education services in this state, and a lot of that comes from overseas students. It has been estimated — and these comments have been supported and indeed come from government documents — that international education in Victoria now contributes $3.9 billion to the state's economy. That is a significant amount of money.

I have seen figures which demonstrate that we have many tens of thousands of international students coming to undertake both higher education and vocational studies in Victoria. According to information contained in the government VET (vocational education and training) pocket guide, there were 23 600 international students from 126 countries studying VET in Victoria in 2006, and many more would have been studying higher education programs.

I noticed on Thursday, 9 October, that the Minister for Regional and Rural Development, Jacinta Allan, announced that there would be an international student task force established to inquire into a range of matters relating to programs for international students. That is what I thought, and that is what the press release indicated, but unfortunately the terms of reference of that task force have not been published to date.

A press release issued on 9 October gives a list of the people who would comprise the international students task force, including Marsha Thomson, a former minister in this house and the member for Footscray in the Assembly, who is the chair of the task force, and others such as George Lekakis and Wesa Chau, who is Victorian president of the Australian Federation of International Students and a member of Victorian International Students.

There are also people from a number of providers in Victoria, like Professor Simon Marginson from the University of Melbourne, Julie Moss, who is with an organisation representing some private VET providers, John Maddock from Box Hill Institute of TAFE, Professor Margaret Gardner from RMIT University and Professor Elizabeth Harman from Victoria University. I am sure they are a well-meaning group of people who are well positioned to consider matters related to international students in Victoria, but in terms of what they were actually looking into, the only reference we can find to what they might be considering is in Minister Allan's press release of 9 October, which states:

> Key issues to be examined by the task force include access to information, coordination of services, safety and accommodation …

These are all important issues in their own right, but perhaps what is blatantly absent from that list is quality

of programs in Victoria, and to make sure that what is proposed to be delivered is being delivered and is of benefit to overseas students. I will not cite examples, but I am sure we are aware that there are occasional rogue providers which do not deliver value for money. Many overseas students in such instances have felt that they have been ripped off, so to speak.

Quality of programs is important. I am not suggesting that this is picking on private providers, but if an international task force is to be established, I would have thought that, given the importance of this particular matter to the Victorian economy, some more rigour would have been applied — at least publication of the terms of reference.

Interestingly in trying to find out about this matter, the only document that I was able to find on the proposed terms of reference was a document marked 'Confidential — Task force members only', which I have with me. It lists some of the people who were proposed to be on this body and suggests a scope broadly along the limited terms that I have just explained. Also interestingly, the proposed terms of reference lists the task force meetings as being on 3 October, 17 October, 31 October and 14 November — four meetings. It all wraps up tomorrow, if that is still the timetable, on 14 November; yet I have seen precious little publicity about this task force, its work and its invitation for people to submit. I hope it is not just a cover-up job presented by the government because of the importance of this particular sector of education in Victoria.

This relates to the particular provision in the bill to which I was referring — that is, we need to be vigilant about the auditing of programs to ensure that what is delivered in Victoria by Victorian-based providers continues to be of the quality that is going to protect the integrity of programs delivered in the state.

The last issue I want to comment on relates to schools and school facilities in Victoria. While there are only some very minor amendments, which in some way we could relate to that particular topic, it is true that the minister in the second-reading speech speaks about the blueprint for school education, which refers to facilities. Indeed in the final paragraph of the second-reading speech the minister talks about investment in schools. I suggest that it is relevant and allowable for members to make at least some passing comment on facilities for education in Victoria.

Yesterday the Auditor-General's report on the planning, maintenance and renewal of school buildings was tabled in this chamber. It is an important document that verified a lot of the suspicions that I have about maintenance of school buildings and facilities. Clearly the government's own audit in 2006 identified that there was a $200 million backlog in school maintenance. This government would respond to that issue by claiming to have a 10-year program to rebuild or renew every school in Victoria over the period of time, and government members will talk about the $1.9 billion that they have planned to invest in such refurbishments. But that is in complete ignorance of the day-to-day maintenance needs of schools. The Auditor-General identified that we are not only $200 million behind in that program, but that schools were chipping in themselves to cover a lot of their own maintenance issues. I think that reflects poorly on this government, particularly as it is a government that claims education is its no. 1 priority.

The reason this government ignores the maintenance of school buildings is that it is not a big, iconic project like the ones this government is so fond of. The government likes doing the big things to attract attention, but fails to do the basic, less sexy things that might not hit the front page of the *Herald Sun* or the *Age* every day. It is like this government's reaction to water shortages in Melbourne, for example. It builds the big iconic projects — the desalination plant and the north–south pipeline — but refuses to consider the many other measures that are not as big and as attractive to people but would achieve the same result.

It is the same with schools, I am afraid. Government members seem intent on saying that they will rebuild every school in Victoria over a period of 10 years. I hate to think what the condition of the existing facility would be in 10 years time, when it is time for a new school in my electorate, if it were left to deteriorate for another 10 years. With respect to this piece of legislation and the comment made by the minister in the second-reading speech about investment in schools, let the government commit to doing the nuts and bolts stuff in terms of maintaining our schools and not just the big-ticket icons. The little things in life are important and go on to make a good system.

The Nationals have always been very supportive of trends in the area of education and training, and continue to be. We recognise the importance of this particular provision not only in the economy but also in the social structure that we have here in Victoria. We are not opposing these amendments, in fact we are supporting them, but it is with a bit of a wry smile that I repeat that when people in this government claim that we were the bad boys of the past and sacked 8000 teachers — we did not — but at least a provision

in this bill will allow this government to sack teachers, and I bet you it will do so.

Mr ELASMAR (Northern Metropolitan) — I have no doubt that Mr Hall has always supported the education system, and so do I. It gives me great pleasure to speak on the Education and Training Reform Further Amendment Bill. The Victorian government believes all Victorian children deserve the best possible start in life. The great gift we can give our young people is a high-quality education. It is necessary to make some housekeeping amendments to ensure that our educators have the required tools to do the job of educating future generations of children.

A more streamlined process has been identified to deal with the management of unsatisfactory performance of school-based employees. We all need to simplify and expand the definitions of the types of orders issued by the disciplinary appeals board following a successful appeal to that board against termination of employment. This is in the interest of fair play and natural justice. These matters need to be settled, and settled quickly.

The bill also seeks to create an executive class within the teaching service. The reason is obvious. Not only do we need to attract top-quality educators but we need to keep them, too. The rewards must be attainable and prescribed. This way we can rest assured that a proper career path is a good way to ensure that a teaching career is equal to any employment in any professional field. To maintain high standards of excellence we need to reward excellence, and this bill gives the secretary of the department the authority to determine the remuneration of a member of the executive class within a remuneration range set by ministerial order.

There are other aspects of this bill that take into account the school holdings, land and property that were initially registered under an 1862 act of Parliament. This amendment brings all school holdings and properties into the 21st century.

My personal commitment to the Victorian education system and the revitalisation of the process is well known, through my close involvement both on the parliamentary Education and Training Committee and as a parent of children who are still undertaking their education. I support this amendment totally, and I call on all members of this house to vote in support of these much-needed reforms and to vote yes to these amendments.

Mrs PEULICH (South Eastern Metropolitan) — I wish to make a brief contribution on the Education and Training Reform Further Amendment Bill. In speaking to the four major provisions in the bill I will try to link them to some of the broader comments made in the government's recently released *Blueprint for Education and Early Childhood Development*, because clearly one is related to the other.

The first of the main provisions will provide for the employment of some principals as executives in the teaching service, which is part of Labor's new education blueprint, and specifically action 18 at page 30 of the blueprint in relation to leadership development. There the government outlines a number of initiatives intended to lift the performance of our government schools, in particular those that have been chronically underperforming — although obviously there is some dispute as to what constitutes an underperforming school.

That dispute has proven a stubborn one for the Labor Party, with it being unable and ineffective in trying to deal with it. It has now, most interestingly, resorted to Big Dubya country — George Bush's American Solutions in New York. Clearly someone from the department, or a federal or state minister, has gone to New York and picked up a whole bundle of policies and programs that have been working there for some time under the Bloomberg administration, and they have been plopped into the Victorian education system after nine years of failed administration and failed ministerial oversight.

Dare I say that that is not to criticise the efforts that some of our schools and no doubt even the efforts our education bureaucrats have been making in trying to do the best they can within the limitations. They have limited funding, especially in the area of facilities and capital works, as Mr Hall has said; and there is a lack of vision and a lack of dealing effectively with curriculum, facilities, and school leadership and teacher effectiveness — those three crucial areas.

Interestingly, there is little said in the blueprint about classroom sizes any more, and how effective or otherwise they have been in lifting school performance. Clearly this was a policy derived out of some discontent at the time, but little has been done to lift the performance of our schools. Those areas where schools have improved have largely been derived from the fact that when the Kennett government introduced mandatory school reviews, internal annual reviews and external triennial reviews, an important process was put in place — the process of planning and reflecting on your performance, putting in place measures that seek to address areas where concerns exist and strengthen those areas where obviously people have been delivering good outcomes. That simple mechanism has

enabled some of those schools to click over and do some good things, and continue to do so. They need to be commended for the work they do, as do many of the school councils associated with those schools.

In relation to the creation of the principal executives or super-principals, I note the first appointment was Glen Proctor. Glen was a former colleague of mine at the old Cleeland Secondary College, where I was the English faculty head. It was just around the corner from where Mr Somyurek's office is, but unfortunately is one of the schools that has now been scheduled for closure as part of the government's renewal or reinvigoration program. I am not sure exactly what R words they are using, but I know what R words those school communities have been using in terms of where their future is.

Many of the re-amalgamations and reinvigorations have been forced onto schools that have been badly neglected because there has been no maintenance set aside, and that was confirmed by the Auditor-General's report, which was released yesterday, in relation to school facilities. There is such a fragmentation of funding of school facilities and school upgrades, where now there is the routine maintenance, the emergency maintenance and then this physical resource management system or PRMS.

Dare I say I had a significant input when the PRMS system was developed back in the Kennett years. It was intended to set up a system where school maintenance could be objectively graded on a five-point scale, from urgent to obviously whatever is the least urgent, and where the pie, or whatever it might be, that is set aside by the government for schools maintenance could be equitably and fairly and predictably apportioned to schools so they could plan what they were doing and decide on how to use their locally raised funds and have some understanding of how they could develop their own local school plans.

I was not surprised to hear that that is now only a one-in-five-years program allocation, and that is clearly a debacle. Those three programs of funding school maintenance need to be integrated and streamlined into a single process. It needs to be objective; it needs to be above politicisation. The Auditor-General was adamant and categorical in his criticism of the allocation of capital works, that there is no paper trail and they cannot find out how these things are prioritised.

We know how they are prioritised. If you are in a marginal, Labor-held seat, you get looked after. If you are in the Labor heartland, you are part of the Rs — it starts with an R and ends up being rejuvenated! Basically what they do is they contrive a cluster, and they say it is all driven by what sort of curriculum and educational experience you want to deliver. Depending on that, then they design the facilities. To have some hope of honouring the government's commitment that a number of these schools will be rebuilt over time, the focus is all about closing some sites, freeing some funds and making it possible for the department to flog them off to pay for the reinvigoration that should have happened anyway.

Basically it is just mergers and amalgamations, and it started in the Labor heartland, the reason being that they are the most desperate so the carrot is easy to dangle. Principals know the importance of good facilities for teacher morale, for being able to deliver effective programs, to attract enrolments, so they go along. But not only that, school councils in many of those Labor heartland seats are struggling. They often do not have enough people that they can recruit to school councils. Many parents are not activists in the political or community sense. They are much more compliant, so there will be less opposition and these programs can be unrolled with the least amount of opposition. That is being done around the Labor heartlands, presumably with the intention of ultimately taking it everywhere across the state; but we expect that that will only happen after the 2010 elections.

This minor amendment to the act involves streamlining of titles and being able to more expeditiously flog off land, and it is obviously linked to the minister. We all know where those parcels of land are, where there are schools that should be built and that have not been built, and where schools have been closed.

I was having a look at the details and documentation of the process of school renewal, and I found some interesting figures — and it would be interesting to see whether this is system wide or just in that particular area. It was predicated on the ideal or optimum primary school size of around 477 or 455, or whatever it was, and an optimum secondary school size of 877 or thereabouts. The question that needs to be asked is: how many schools is the government planning to close in order to ensure that those optimum sizes are achieved? The government should tell us how many schools it is going to close, how much money it will generate and whether this money from the closure of schools and the flogging off of school sites will be used for rebuilds. Looking at the achievements of the first blueprint, we see we had the lowest funded system, falling numbers, teacher losses and appalling physical conditions. As Mr Hall rightly pointed out, the growth of the school maintenance backlog to $200 million is evidence of that level of neglect.

The blueprint also talks about identifying unsatisfactory performance and separating the process by which that is dealt with from misconduct, and I think that is appropriate and long overdue. The hope is that this will somehow halve the length of time it takes to deal with unsatisfactory performance. I am not holding my breath. In reading through the blueprint it is clear that there is definitely going to be — especially with the appointment of the new super-principals or the executive-class principals — a centralisation. I am looking at page 30, which I have had a bit of a read of on a few occasions. The blueprint talks about the establishment of the Victorian Institute of Educational Leadership. One such institute exists in New York. It was interesting that initially the minister claimed that this proposed institute would be at the leading edge — a world leader — in the development of school leaders. Of course it is not; it is just a copy of what exists in the United States. Do it, but be honest about it. It is worthwhile starting, but do not reinvent the wheel if you do not need to.

The whole concept of establishing networks also occurs in New York, and it can work very well in lifting underperforming schools. I have visited quite a few, and I have seen that the system has some merit. My concern, of course, is that unfortunately the Victorian situation has a tendency towards heavy bureaucratisation. The emphasis in New York is very much on coaching and individualised learning. I visited several schools with the most diverse school communities — ranging from children who have fairly dramatic special needs to gifted children — where the principal running the school knew the weekly program of virtually every kid and was able to interact with the classroom teacher to find out where they were at and what the progress was. It was quite amazing. I hope one day we can get to that stage in Victoria; I do not believe that will be the case. I certainly hope that this new institute in leadership will deliver that, that we will end up with more super-principals and that this will not necessarily be a special case but that they will all be exceptional education leaders. The blueprint also states:

> As part of strengthening school leadership, we will legislate to allow executive contracts for school principals.

That is completely consistent with what the government has said.

On page 29 of the blueprint is the section relating to high-performing school workforces. Obviously the government is cognisant of the fact that it needs to recruit better, it needs to provide teachers with continuing development and keep them engaged, and it needs to outplace those who really should not be in education. We have long believed this should have been done more efficiently and effectively, because we know how important effective teaching is to effective learning. There are a lot of things mentioned here that really should be quite routine, including providing information and sharing innovations. One would expect that that would happen in the profession anyway.

The blueprint talks, for example, about the use of flexible learning spaces and technology. Yesterday we had a debate about information and communications technology (ICT), and we looked at the appalling performance of education in Victoria in that area. Certainly when you compare the present situation with where we were at under the Kennett regime when we unrolled ICT to schools, it seems to have really fallen apart. That area, I think, is an area that has suffered from neglect, and we linked that yesterday to the fact that we had an ineffective Minister for Information and Communication Technology who did not give sufficient oversight to that technology across a number of portfolios, including education. There is not a lot to quibble with there. There is, I think, general agreement that leadership is a major contributor to excellence in schools.

Another point I wanted to make relates to action 16 on page 28 of the blueprint and the commitment to attract the best people to teaching. I believe that ought to be the focus, and I took the opportunity of meeting with Teach for America in the United States on a recent visit. I note that that concept has been imported here and rebranded as Teach First or something of that nature. I am not sure exactly what it is called here. Some of these things are interesting to pilot. My question is this: how are high-performing graduates, who will presumably help to lift underperforming schools and go into difficult-to-staff schools, going to get Victorian Institute of Teaching registration? It takes at least a year to get a diploma of education. There can be some grounds for looking at making that process a bit more efficient; I think VIT's loops are difficult to navigate even for experienced teachers who have left the system and want to go back and remain available to the teaching service. I think VIT needs to be reformed in that regard. I do not think it functions well.

I make the further point that I am not sure how these people are actually going to be able to meet their duty of care obligations under the Education Act. It is a legal obligation to have VIT registration. The blueprint is silent about how we are going to meet the commitment to lift the performance of schools, outplace underperforming teachers, have a more streamlined system for dealing with them and make full use of these new executive-class principals.

I note in closing, as I know people are pressed for time, that on page 27 of the blueprint there is also the following comment:

> The government can have most impact on those workforces it employs directly, notably teachers and other staff in government schools.

That clearly indicates that the government is actually in favour of centralisation and not in favour of providing schools with the flexibility to be able to hire people and provide a core staff with the new skills they need to respond to their short-term and medium-term goals and to respond to student needs. A move to centralisation of all appointments is going to make it less possible for those schools to respond to the changing needs of our schools.

But of even greater concern is what this document flags about the appointment of school councils. Of course school councils are very important instruments for giving some oversight to the performance of schools. What this blueprint signals is that perhaps school councils will no longer be elected. That would be a great concern, because that would be the ultimate reversal of the reforms the former coalition government introduced, which gave schools greater autonomy.

Obviously we are supporting these measures, but there are many areas where there is little information. The blueprint is just that — a blueprint. It is very sketchy and very faint; there is not a lot of detail in the actions and there is not a lot of consistency in the actions, but I guess it has to be an improvement on the first one, which was such a failure.

I am waiting with bated breath. I am looking closely at how the government will deal with the disposal of land. When we in the Kennett government were disposing of land through school amalgamations a lot of the land ended up in the hands of local government and added to the holdings of open space and facilities available to the community. This government wants the dollars, and often which school is to be closed is decided by which school site is going to generate the greatest amount of money.

Another point I want to make relates to the provision for training organisations to work in more than one state or territory. I presume this is related to the TAFE reforms that were announced and the government's plans to open up a greater portion of TAFE funding and make it contestable. My concerns are that much of that money will go away from our TAFE institutes, which service school leavers who have been diddled out of a technical education or a non-academic education since the closure of technical schools by the former Kirner Labor government, and that much of that money will end up in the hands of unions that are forming alliances with registered training organisations. It is money that is going to be available to them to build greater networks offering training in the workplace. If that will be as an add-on, then that will be okay, but if it will be at the expense of school leavers and, say, women who are retraining perhaps in a different certificate, not just getting a higher level certificate in a single stream, then that will not be a good thing for improving access to education for Victorians.

In closing, we support the bill; however, there are so many question marks and lost opportunities that it is a very sad thing for state education in Victoria.

Ms PENNICUIK (Southern Metropolitan) — The Education and Training Reform Further Amendment Bill, which is before us, creates four suites of changes to the Education and Training Reform Act 2006. They include creating a form of executive-class contract employment for state school principals to allow for remuneration and benefits at higher rates of pay than currently apply to principals based on similar arrangements in the public service; a new division to deal with proceedings against teachers regarding unsatisfactory performance or misconduct; provisions that allow the Victorian Registration and Qualifications Authority to delegate functions to Technical and Vocational Education and Training (TVET) Australia, which is a national organisation set up under the ministerial council, for registered training organisations (RTOs) that are operating in more than one jurisdiction; and allowing the minister with the existing range of portfolio responsibilities to address all land and title issues irrespective of the actual proprietor that is listed on the title at present. Department staff advise me that some of the old titles that apply to educational properties refer to particular ministers or departments. That will be streamlined by using a term that does not actually specify the minister other than to refer to the minister responsible rather than the Minister for Education or, for example, the minister for vocational training. I would like to thank the department staff for the two briefings they gave me. I appreciate their time and effort in answering several questions I had with regard to the bill.

We also went to some trouble to consult with stakeholders about the amendments to the Education and Training Reform Act. The Australian Education Union told us that it was generally happy with the provisions in the bill, in particular those that apply to teachers in terms of the separation of unsatisfactory performance matters from misconduct matters and the provisions that allow for teachers who may have lost

their position in an unfair way and gone to the appeals board where it was found to have been unfair to be reinstated and reimbursed for any lost salary, which is of course a good and fair thing, and everyone would support that.

We contacted the Victorian Association of State Secondary School Principals. Obviously that group has some stake in the amendments to create the executive class. The association said it was not opposed to the amendments, but it was concerned about the lack of detail as to how they will work. I will talk a little bit about that presently. It also made the comment that it had not had a briefing from the department or the minister, and it had a few questions on the intention, use of and resourcing of these positions, which I found surprising given that this will create another class — contract principals — a different thing from what exists in the employment of principals in the government sector. The association told us it had not been consulted. That was an issue.

I queried the department about what will happen to executive contract principals once their contracts expire. The answer from the department staff was that they revert to being employees of the department. However, on further examination — and this was a concern raised in our discussions with stakeholders — they do not return to a position they held before, as is the case with someone who, for example, has gone on maternity and comes back to the position they had before. What would happen is that they would be able to apply for another position within the service, and if they do not get another position or they awaited another position, they could be transferred or directed anywhere by the secretary. I am not sure that the association is totally across that or what its view is about the issue, but that issue was certainly one of its queries to us. Perhaps the department could enlighten the association further. The Victorian TAFE Association seems quite relaxed regarding the delegation of functions to TVET for RTOs that operate in different jurisdictions.

I want to make some comments on the appointment of an executive class of principals and the philosophy behind that. We will not be opposing the bill or opposing that provision. The rationale being put forward by the government for this is that there would be reviews and recommendations, et cetera, so that those executive principals could be appointed to schools where reinvigoration is needed and performance needs to be lifted, and school leadership is an important aspect in that. While to some degree I can accept that, the physical environment of schools is also important, as Mr Hall said in his contribution. From the Greens point of view, and to a large extent the community's point of view, what is going to lift the school's performance is support across all aspects of a school's operations in terms of staff.

Mrs Peulich raised the point about attracting staff to the teaching service, and that has to do with remuneration and terms and conditions. We know there was a large campaign on that this year and that the government resisted for as long as it possibly could. That to me was sending the wrong message to existing and potential teachers. It was telling them they were not worth a pay rise and better conditions. I fail to see how that can attract people to the teaching profession. Being a former teacher I can say it is a wonderful job and one that I enjoyed. In many ways I regret leaving it. I recommend the teaching service to anybody who has an interest in education, because it is a rewarding and worthwhile job — but it should be rewarded appropriately. Victorian teachers were way below other states in that regard.

As Mr Hall said, the resourcing of schools is important. Schools can be underperforming for lot of reasons, such as a shortage of staff, a shortage of resources and many may have substandard facilities. All of those things are important. I am not sure that the creation of an executive class in and of itself will go very far down the road to changing that. It may be a tool in the toolbox, but it is not the main one.

Mr Hall said that $1.9 billion has been allocated by the government for rebuilding or regenerating schools, but often maintenance is overlooked. Yesterday there was debate in the house about information and communications technology. I calculated that most of the projects that had been the subject of review by the Auditor-General were over budget, some excessively over budget and many had not gone anywhere near completing their aims and targets and what they were supposed to be doing, and that added up to $1.7 billion. Approximately half of that has not achieved what it was meant to achieve. We need to look at how budgets are being allocated for schools. Creating an executive class of principals who are paid over and above other principals as a way of lifting performance in schools will not work, but that remains to be seen.

I had a couple of questions regarding the bill to which I have received answers from the department. There seemed to be little information about TVET. It is a company owned by the ministers of the Ministerial Council for Vocational and Technical Education. It is basically owned by all of the ministers and run by a board of seven people with varying levels of expertise and backgrounds. That is worth noting.

There is criteria in the bill by which an RTO can apply to TVET. I understand there are guidelines to be worked out in terms of auditing. As Mr Hall said, that is an important issue, because we know some RTOs have not been performing, and international students in particular, some of whom I have personally met, have been let down. In transferring that across we must ensure that auditing is kept up to speed and that underperforming RTOs are pulled into line or deregistered.

We asked the department what would form the basis of proceedings against a teacher with regard to unsatisfactory performance, particularly whether there would be a reference to student progress or test performance in the definition of an unsatisfactory performance. The concern is that student progress, while obviously influenced by the performance of a teacher, is dependent on a lot of other things besides what a teacher has or has not done.

We were pleased to be assured that the only basis for commencing an unsatisfactory performance process on an employee will be where the employee has repeatedly failed to discharge his or her duties in a manner expected of the employee at his or her level or in his or her position as evidenced by either a negligent, inefficient or incompetent discharge of their duties or engaging in unsatisfactory conduct. There is no reference in the bill, but I am assured by the department that the progress of students is not part of that proceeding.

We were concerned how far advanced the procedures under proposed division 9A, in particular section 2.4.59B(1) where the secretary would establish procedures, were. We are pleased to learn that consultation has commenced with the union on that issue, so that is pleasing.

We were also concerned whether compulsory additional training should be included as an option for remedial action that might be determined by the secretary, because that is not specifically listed in the bill. The advice to us is that once a monitoring period commences, a principal or a manager must provide the appropriate support to the employee, which would include additional training to the teacher. If at the end of the process the employment is not terminated, it is open to the secretary or the employee's line manager to recommend or even direct participation in further professional training and development. Again that is good to hear.

It is worth putting on the record that I raised a concern in a briefing and the department was kind enough to come back to me with a response — that is, that new division 9A would not create a double jeopardy whereby a teacher could go through a process for unsatisfactory performance as well as a process for misconduct when they were the same thing. New section 2.4.59H prevents the secretary from taking action against an employee under division 10 in respect of conduct that has already been dealt with by determination under new division 9A. There is a bit more detail to that, but that is it in a nutshell. With those comments, the Greens will support the bill.

Ms PULFORD (Western Victoria) — I will make a few brief comments on the Education and Training Reform Further Amendment Bill. The bill seeks to fulfil our commitment to create an executive class within the teaching profession in Victoria. The bill will also correct some minor inaccuracies and technical errors to improve the operation of the Education and Training Reform Act and address some new matters that have arisen since the act was passed.

I will briefly expand on those points. The creation of an executive class is part of the government's commitment to excellence in education. It seeks to attract high-performing principals and school leaders into areas of need, including areas with underperforming schools. This is one of the key outcomes of the workforce reform agenda that is expressed in the education blueprint.

The bill makes changes to the way in which the unsatisfactory performance of employees in schools will be dealt with. It inserts a new division to deal with unsatisfactory performance. This will streamline performance management procedures in schools and remove some existing requirements that have caused repetition and delay, requiring multiple levels of investigation into allegations of poor performance against people working in schools.

The bill also provides the Victorian Registration and Qualifications Authority with the power to delegate to Technical and Vocational Education and Training Australia some functions in respect of registered training organisations that operate across state boundaries.

Finally, the bill deals with the management of education and training land. Since 1862 titles have been registered in a variety of different names, and some of them do not reflect current ministerial responsibilities and are not easily traceable to the ministers who currently administer the Education Act. This amendment therefore seeks to vest land in the name of the minister administering the act to ensure that there is

flexibility as ministers and titles of ministerial appointments change from time to time, as has occurred over the years since 1962. With those few comments, I conclude my contribution and commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In doing so, I thank members for their contributions to the debate.

Motion agreed to.

Read third time.

RACING AND GAMBLING LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 30 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr KOCH (Western Victoria) — It is a pleasure to make a contribution to the debate on the Racing and Gambling Legislation Amendment Bill 2008. For starters, I want to say that racing is a great industry. It needs more support than it is currently getting. There is no doubt that racing makes a large and valuable contribution to the Victorian economy and the social fabric of Victoria right across the board, whether it be in the country or in the metropolitan area. Bookmakers are a necessary and valuable part of the racing industry; they certainly add character and colour. It is important that Victorian bookmakers get a far better trot than they have had in the recent past.

The purpose of the bill is to amend the Racing Act 1958 and the Gambling Regulation Act 2003. The main provisions of the bill allow bookmakers to conduct internet and telephone betting operations on a 24-hour, seven-day-a-week basis, but only from approved racecourse locations — and I will refer to that later. It also allows corporations to act as bookmakers and transfers responsibility for bookmaker registrations from the Bookmakers and Bookmakers Clerks Registration Committee to the Victorian Commission for Gambling Regulation.

Although this amendment to the legislation is way overdue and from our point of view is far too little, far too late for our bookmakers, the Liberal Party and its coalition partners, The Nationals, will certainly be supporting this legislation. There is little doubt that these measures will not stem the flow of licensed bookmakers out of Victoria, and we will continue to see Victorian revenues move interstate where common sense and more competitive legislation exists for the racing industry.

For reasons best known to this government, the racing industry — one of the state's best cash cows — has become a whipping horse that continues to be under siege as the Brumby government further attempts to plunder every possible dollar it can to cover its own mismanagement and to prop up state revenue. Since 2003 we have seen licence fees for electronic gaming machines go from $303 per machine to $4500 per machine and industry participants supporting greater statutory fees. An international corporate betting organisation is competing with our major industry underwriter, and it makes little or no contribution to the industry.

More recently in the racing industry we see that another $100 million will be pulled by the government from the racing funding stream at Tabcorp after 2012 when the present funding arrangements are unwound. Many are observing what is taking place with great suspicion, and I should say with some doubt and fear about where Victorian racing is going. As leading trainer Rick Hore-Lacy was recently quoted as saying, 'If the TAB is crippled, then it follows that the racing industry will be crippled'.

Most Victorians do not appreciate the impact racing has, not only on state revenue but also on jobs across the board. This great industry employs over 65 000 people, and, more importantly, 65 per cent of those jobs are in regional Victoria. This industry has a significant impact on many small rural economies and is the mainstay for both Victorian and national breeding enterprises. But what else would you expect from a government that has little feel for, firsthand knowledge of or experience in running a business, and the Minister for Racing, Rob Hulls, is certainly no exception.

Bookmakers, like owners and trainers, are the lifeblood of the racing industry. Like all businessmen bookmakers must make a profit or they will slip off the map, and slip off the map they will in Victoria as this government has made it uncompetitive for many of them to remain. Bookmaker turnover in Victoria, for example, has fallen over 30 per cent from $600 million to $400 million annually in recent times. If we look at

what is happening across our state borders, particularly in the Northern Territory where bookmakers have been very well received and rewarded in the recent past, we see that bookmaker turnover has gone from $400 million to $5 billion in recent years. Is it any wonder that our bookmakers continue to be frustrated? What a dreamer our racing minister is if he believes these amendments will provide a level playing field for our bookmaking community.

This legislation only goes a small way towards healing the damage already inflicted on the racing industry and does all it can to ensure that our bookmakers continue to operate with one arm in a sling. Not to be able to field on a 24/7 basis on both the telephone and the internet at a registered office away from the three stipulated racing tracks — and I refer to Flemington, Moonee Valley and Warrnambool only — is an imposition that is very demanding on bookmakers. Those racecourses are the only opportunities they have for these registered offices and outlets to operate. I think that anyone in business would consider this situation not only draconian but in many ways plain dumb. Technology today allows for remote monitoring across the state, and as long as registered offices are accessible to regulatory authorities, bookmakers should be able to go about their legitimate business at various points statewide. I might add that this was also the recommendation of the Bookmaking Reforms Working Party, and, as it rightly suggests, there is no logical reason that this should not be the case.

This bill also denies bookmakers the flexibility of hedging their bets with betting exchanges such as Betfair. Everyone else on a racetrack is able to use betting exchanges, including the minister, and yet he thinks this is a level playing field. Is it any wonder that we believe, and the industry supports us, that this legislation is regrettably too little, too late?

The other main area of concern for Victorian bookmakers to contend with is the inequity of taxes levied against them in comparison with their interstate rivals. They have to cough up a 1 per cent levy, whereas their interstate competitors only have to find 0.3 per cent in their respective states. It is well known that interstate bookies and Betfair do not have to make a contribution to our racing industry, although they are free to derive their livelihoods from our racing product.

It will be interesting to see where the racing minister goes when he floats the new Victorian racing licences in 2012. People from the top to the bottom who are involved in racing are wary about what this government is up to and repeatedly indicate that these licences will be valueless on the open market after our racing product has been so well pirated outside Victoria. One wonders about its commercial worth.

As mentioned in my opening remarks, the period beyond 2012 appears pretty risky for this great industry as we see Tabcorp's current 25 per cent profit contribution that underwrites the industry, especially prize money, evaporate. This will be replaced by some mickey mouse arrangement that will see the industry having to match a $46 million government infrastructure grant — in combination with the lowering of parimutuel and fixed betting taxes that at best will see the industry across the three codes having to pick up a further shortfall of more than $20 million annually.

The government's hand-picked, flag-waving chairmen of the three codes — Michael Duffy, Neil Busse and Jan Wilson — have sought guarantees about future funding arrangements in a joint statement, as even they doubt this latest round of spin from the spin kings at Spring Street. On the other hand, Michael Caveney, chairman of Country Racing Victoria, has expressed his concerns about this latest outburst from the government, as he rightly knows and acknowledges that the axe will fall first in country Victoria when shortfalls in revenue occur — and occur they will under this ill-conceived arrangement that will see our renowned racing product and revenue streams being put back decades.

I have said before in this house that racing is part of rural Victoria's social fabric, but this government is now led by a make-believe country Victorian who appears to have forgotten all his country roots, as reinforced by his lame and misleading attempts to reverse Harness Racing Victoria's tearing apart of seven country racing venues under the cover of darkness in 2004. We all remember them — they were at Wedderburn, Boort, Ouyen, Wangaratta, St Arnaud and Gunbower, while the worst of all was at Hamilton, which serviced the catchment from South Australia but was torn to bits. Is it any wonder that Country Racing Victoria chairman, Michael Caveney — who has plenty of supporters around regional Victoria and is doing fantastic work for racing in regional Victoria and the racing industry generally — is sceptical about what this government is doing to what is rightly recognised as racing's nursery and to the viability of small communities where racing continues to make such a contribution, not only to local economies but also to the social fabric in regional Victoria.

Unfortunately this government is comfortable cutting rural Victoria adrift, as evidenced in many other areas, such as its taking water away from those above the

Great Dividing Range before they have found the so-called savings; its failing to find the required number of police and paramedics to offer security for country people equivalent to that offered to people in the city; and its failing to provide enough public dentists, public housing, health professionals, transport and road infrastructure — the list goes on.

There is little doubt that Victoria's racing industry has suffered a fall from grace in funding over the last nine years, and that continues unabated. I, like many others in this place — especially those from country Victoria — enjoy a day at the races. I often see my colleagues Dennis Napthine, Terry Mulder, John Vogels and Hugh Delahunty, along with their families and other people, at western Victorian tracks, all enjoying a great day out. It is a great opportunity to catch up with community members, especially leaders in the community from all walks of life. I can count on one hand the number of times I have seen a government member, let alone a minister, at any of these occasions in country Victoria, which is a pity.

Ms Tierney interjected.

Mr KOCH — Ms Tierney, fantastic! She is looking at me as if to say she is at every meeting. I have to say that Ms Tierney — —

Ms Pulford interjected.

Mr KOCH — No, Ms Pulford, I was at the Geelong Cup — don't make any error about that. You do not need a marquee to go to the races, Ms Tierney. If that is the best you can do, we will have one there every year, but you will be there on your own.

There was a contingent of government members who took the opportunity to go to the May racing carnival, and I congratulate them for that. It was a great occasion, as it is every year. I caught up with Mr Pakula and a few others who made the effort to be there and enjoy the entertainment the day offered. Not even our government members in regional Victoria go to these fantastic days that the racing industry puts on for its communities.

In saying that, is it any wonder that this government does not appreciate the importance of racing to rural Victoria and that country racing people shudder when it continues to remove the very essence of our racing industry — that is, the prize money coming from our racing pool? It takes the opportunity away from those who want to have a go, put a horse together, get it into training and have it represented on these great occasions.

In closing, I inform the house that the coalition parties support the bill. We recognise that if we are to retain our bookmakers in Victoria, these measures, as I said earlier in the debate, are far too little and far too late. This segment of our racing industry needs to be further opened up by offering our bookmakers and the Victorian racing community the same opportunities they would experience anywhere else in Australia.

I close where I opened: Victoria's bookmakers make a marvellous contribution to our racing industry. If this government does not loosen its reins on them and give them greater opportunities, we will not stem the tide of bookmakers leaving Victoria, and the biggest loser will be our racing communities and state revenues. Although it plunders our product, none of that revenue comes back to us.

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

Mr PAKULA (Western Metropolitan) — I almost took great offence at Mr Koch's original suggestion that government members do not go to country races. He is right: we did see each other at the May races in Warrnambool. I have to say it was not the first time I have been there, and it will not be the last. While there has been a lot of action at the track, there is just as much action at the Whalers, Cally's and Seanchai after the event. I concur with Mr Koch's comments that it is one of the great days not just on the Victorian racing calendar but also on the Victorian social calendar.

I take issue with most of the rest of Mr Koch's contribution, because this government has a longstanding commitment to Victorian bookmakers. It is not just a commitment to their survival, but a commitment to their survival and prosperity. I have to say in recent times they have thrived and prospered too much at my expense! Notwithstanding that, the facts are indisputable. The product provided by our racing industry, of which the bookmakers are an integral part, has never been better. It has never been better, and we demonstrated amply last year, as it navigated its way through the equine influenza crisis, just how robust and resilient the industry is. In the past we have legislated to allow bookmakers to continue to thrive as times and circumstances change, and this legislation is just another step in that direction.

It is true that in 2001–02 Victorian bookmakers had something like 22.5 per cent of the national fixed odds betting market and that by 2006–07 that had dropped to around 15 per cent. Over the same time, as anybody who closely follows the racing industry would know, the proportion of the fixed odds betting market that has

flowed to corporate bookmakers in the Northern Territory has doubled. It has jumped from around 29 per cent to close to 60 per cent. There has been significant growth not just in the size but in the number of corporate bookmakers based in Darwin and elsewhere in the Northern Territory. There is Mark Read's International All Sports, CentreRacing, Centrebet, Sportingbet Australia, Betezy and others. Followers of the industry would know that in recent times Tabcorp has started up its own corporate bookmaking operation, Luxbet, in the Northern Territory in order to help Tabcorp compete with the Northern Territory corporate bookmakers.

It is also true that those Northern Territory corporate bookmakers do not contribute to the Victorian industry in the same way as Victorian bookmakers or the Victorian tote do. It is a matter of concern. It allows them to offer punters juicier odds — for instance, tote odds plus — and that is legitimately a matter of concern for wagering operators in Victoria.

I do not agree with Mr Koch when he says this legislation is too little too late. This legislation is a good, appropriate and balanced response to the situation that Victorian wagering operators find themselves in. It is important to help ensure that Victorian bookmakers do not continue to suffer turnover reductions. As I said, throughout the Spring Racing Carnival I do not think they suffered any turnover reductions; in fact I think their win ratio was extremely good, given some of the long shots that got up in feature races.

The proposals in the bill come out of the recommendations of the bookmaking reforms working party, and as was gone into in some detail in the second-reading speech, there are three key features. The first and most important one is that the bill allows bookmakers to conduct both internet and phone betting operations at any time from approved racecourse locations rather than simply from the commencement of the race meeting until its conclusion. One of the features of corporate and internet bookmaking interstate is that it has had the effect of making racing a 24/7 industry. It is outdated — and that is the reason the government has introduced this reform — to stipulate that bookmakers can only take bets for the duration of the race meeting given what their interstate competitors are able to do.

However, as Mr Koch indicated — and I have to disagree with his take on this — bookmakers are still required to base their operations at approved racecourse locations, and that is exactly as it should be. It is important. I know, as does Mr Koch, that some bookmakers, particularly some high-profile bookmakers, are agitating for open slather in this regard — agitating to be able to run their operations from any location rather than from a racecourse. There are a couple of problems with that.

First of all from an oversight or racing integrity point of view, the government takes the view that it is still important that bookmakers be located at racecourses. It is not the total answer to racing integrity issues, but it is an important aspect of the racing integrity regime that bookmakers be located at racecourses where their operations can be properly oversighted. Beyond that, it is true that some bookmakers would like to separate themselves from the racecourse location and open up operations anywhere else, perhaps in the high streets of the city or perhaps in the main streets of country towns, and run bookmaking operations there — an office with a phone and internet operation. However, I would say to any member that supports that point of view, 'Be very careful that we do not go down the path of either legislating for or creating an atmosphere where bookmakers start to have a mindset where they are no longer integrally connected to a racetrack'.

Bookmakers — both rails bookies and ring bookmakers — are an integral part of the colour and movement of a racetrack. We do not want a situation where bookmaking operations start springing up on street corners, in country towns, in the middle of the central business district or in Melbourne suburbs. That ought to be a particular concern for a regional MP, given that the location of bookmakers on course is an absolutely fundamental element of the survival and strength of regional racing. I think for a government or opposition to go down the path of creating a regime which takes bookmakers away from racetracks and allows them to base their operations in other locations is a step we should be very loath to take merely because a number of bookmakers think it would be either more convenient or more economically advantageous to them to do that.

Other changes provided by the bill are, firstly, to allow publicly listed companies to register as bookmakers. A number of years ago there were some amendments that allowed bookmakers to corporatise and to operate as partnerships, but given the strength of the competition that Victorian bookmakers now face, the opportunity for them to raise capital on the market gives them a better opportunity to compete with interstate corporate bookmakers. As I say, that is an advance on the reforms that were introduced by this government in 2002.

The third change flows from the second change, and that is moving the power over bookies from the

Bookmakers and Bookmakers Clerks Registration Committee to the Victorian Commission for Gambling Regulation. That is consistent with the regulation of other gambling activities but is also a reform that is necessitated by the change which allows public companies to act as bookmakers.

This bill is not about extending gambling opportunities. The gambling opportunities provided by this bill are opportunities that already exist for punters. They can now bet in this way with corporate bookmakers both over the phone and over the internet. These are reforms which are designed to ensure that Victoria retains its position as the premier racing state in a nation with a strong and financially solvent bookmaking fraternity. They build on previous changes that this government has made to assist bookmakers and their competitiveness. They build on the changes that we made in 2002 and beyond when we extended telephone and internet betting and abolished the bookmakers turnover tax. They build on the announcement made by the Minister for Racing last week about reductions in taxation on the racing industry for the wagering licence, which will mean more than $1 billion of revenue forgone from the industry after 2012, along with a commitment by the government to ensure that the industry is no worse off and a $45 million commitment for a capital injection.

This is a bill which helps to ensure the ongoing competitiveness of Victorian bookmakers and, consequent to that, to ensure the competitiveness of the Victorian racing industry and the retention of its mantle as the no. 1 racing state in the nation.

Mr GUY (Northern Metropolitan) — I do not wish to make a long contribution on this bill. I do not profess to have the knowledge of country racing of Mr Koch or my colleague the member for South-West Coast in the Assembly, Dr Napthine, who are regular racegoers at country Victorian venues, or for that matter even the knowledge of Mr Pakula, who is obviously not shy of attending a country race meet here and there, which is to be commended as well.

As stated by my colleague Mr Koch, the coalition will be supporting this bill. I want to make a couple of comments, because as a city punter I see this bill as being all about competition. It is imperative that the Victorian government does not leave any part of our racing industry at a disadvantage compared to where we stand on the national or international scenes today.

I am sure the effect the internet is having is not lost on any of us, with electronic gaming being the unstoppable force in this industry. We cannot be left behind. Betfair, Centrebet and Sportsbet are new methods of gaming which have come on predominantly in the last couple of years. Centrebet particularly makes gaming very easy and puts our industry in Victoria under a lot of pressure. It is under a lot of pressure from places like the Northern Territory. This bill is about competition, and we have to respond to where our industry is at the moment and the challenges we are facing from interstate competitors.

I believe the reforms contained in this bill are, as Mr Koch said, too little too late. The bill does not allow the bookmakers to hedge bets with betting exchanges such as Betfair. We have the situation where everyone else at the racecourse can do that; the only people who cannot are the bookmakers. It is a completely unfair disadvantage, and I find it quite astounding. The bill does not provide a competitive taxation turnover payment rate for Victorian bookmakers. The Northern Territory's corporate bookies have competitive tax rates around 0.3 per cent compared to 1 per cent for Victorians. Our industry is uncompetitive.

There was some discussion before around the approved racecourse locations where bookies would be able to run a 24/7 betting operation. I understand the only approved racecourse locations in Victoria are Flemington, Moonee Valley and Warrnambool. That does not do much for a bookie based in Mildura or a bookie based in the valley or someone based in the eastern suburbs of Melbourne. We have to remain competitive, and what we have here is a situation in which we are grossly uncompetitive. If a bookie gets a call late at night from a client who wants to place a bet on a London race, they have to drive from their home, say at St Albans, to the track to place the bet — simply in order to be on site, where no race meet is occurring at the time.

As Mr Koch explained earlier, it would be much more advantageous if the bill allowed for an approved office or location, operating under the same strict guidelines put down by the government to make sure that the venue is appropriate. We would no doubt support those methods to make sure that venues were approved properly, but to say that bookies have to attend a racecourse where there is no meeting taking place, or that they have to attend the three approved at the moment, is to place our bookies at a huge disadvantage in the international and national markets as they stand today. There is no logical reason why bookies using internet or phone booking must have their betting located on an empty racecourse. That still has not been answered by the government.

As stated at the start, the bill allows Victorian bookmakers to be more competitive with interstate competitors, although only in a minor way, and that is a disappointment. But on this side of the house we support any efforts to make Victorian industries more competitive. Whether we are advancing a millimetre or a mile, it does not matter; we support greater efficiencies in Victorian industries and making them more competitive with interstate industries, and that is why we will be supporting 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 wish to thank members of the chamber for their respective contributions.

Motion agreed to.

Read third time.

LIQUOR CONTROL REFORM AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Liquor Control Reform Amendment Bill 2008.

In my opinion, the Liquor Control Reform Amendment Bill 2008, 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 will amend the Liquor Control Reform Act 1998 in relation to late-hour entry declarations. The bill enhances the existing provisions in relation to ongoing and temporary late-hour entry declarations. The amendments modify the declaration process and enable licensees to apply for an exemption from the application of the late-hour entry declaration. The director of liquor licensing will determine the exemption application and the refusal of the director to grant an exemption will be reviewable in the Victorian Civil and Administrative Tribunal.

Human rights issues

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

1. Freedom of movement — section 12

Section 12 of the charter provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The new section 58C as inserted by clause 5 of the bill provides that the director, by notice published in the *Government Gazette*, may make a temporary late-hour entry declaration for an area or a locality. The new section 58D as inserted by clause 5 of the bill provides that the director, by notice published in the *Government Gazette*, may make an ongoing late-hour entry declaration for an area or a locality. The new section 58B(3) as inserted by clause 5 of the bill provides that, subject to any conditions specified in a late-hour entry declaration, the licensee of licensed premises to which the declaration applies must not permit any patrons to enter premises during the hours during which the declaration applies.

As the late-hour entry declarations prevent individuals from entering private licensed premises rather than public spaces, and only restrict the time at which individuals can enter licensed premises, it is unlikely that these clauses engage section 12 of the charter. However, even if the issuing of late-hour entry declarations by the director did impose limitations upon an individual's right to move freely within Victoria, the limitation is reasonable and justifiable under section 7(2) of the charter.

The nature of the right being limited

The right to move freely within Victoria is one that can be subject to restrictions. The International Covenant on Civil and Political Rights expressly recognises that the right may be subject to restrictions that are necessary to protect public order, public health or morals or the rights and freedoms of others.

The importance of the purpose of the limitation

The purposes of the late-hour entry declarations are to reduce alcohol-related violence and disorder. They are aimed at protecting public order and the rights and freedoms of others, including the right to life in section 9, the rights in respect of property in section 20 and the right to liberty and security of the person in section 21 of the charter.

The nature and extent of the limitation

Late-hour entry declarations impose restrictions upon individuals who are patrons of licensed premises, in that, under the new section 58B(3) as inserted by clause 5 of the bill, licensees subject to late-hour entry declarations must not permit patrons to enter the premises during the hours during which the declaration applies.

Under the new sections 58C and 58D as inserted by clause 5 of the bill, the director may make a late-hour entry declaration for an area or locality. Patrons will be restricted from entering licensed premises which are subject to a late-hour entry declaration after a specified time.

The relationship between the limitation and its purpose

The late-hour entry declarations prevent patrons from entering licensed premises subject to such declarations after a specified time. Patrons are prevented from entering premises in order to lessen the risk of alcohol-related violence and disorder occurring. Therefore, any limitation imposed on the freedom of movement of individuals is directly and rationally connected with the purpose of the clauses.

Less restrictive means reasonably available to achieve the purpose

Any less restrictive means would not achieve the purposes of the provisions as effectively.

2. Property rights — section 20

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

Under the new sections 58C and 58D as inserted by clause 5 of the bill, licensees can be subject to late-hour entry declarations. Under the new section 58B(3) as inserted by clause 5 of the bill, licensees of licensed premises to which such declarations apply must not permit any patrons to enter the premises during the hours to which the declaration applies.

As a result of not permitting patrons to enter licensed premises during the hours to which a declaration applies, licensees subject to such declarations may suffer a loss of revenue.

Section 20 of the charter would not apply to licensees which are corporations rather than natural persons. Further, as an inherently defeasible right, it is likely that, where a liquor licence is affected or divested in the manner provided for in a statutory scheme that creates or sustains it, no deprivation of property will occur. However, even if a deprivation of property did occur, the deprivation would occur in accordance with law and would not be arbitrary.

Accordingly, the new sections 58C and 58D as inserted by clause 5 of the bill are compatible with section 20 of the charter.

3. Fair hearing right — section 24

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Section 24(1) of the charter would not apply to licensees that are corporations rather than natural persons. Further, as licensees which are subject to late-hour entry declarations are not either charged with criminal offences or parties to a civil proceeding at the time when the director makes such a declaration, section 24(1) of the charter does not apply in relation to the making of late-hour entry declarations by the director. Decisions of the director to impose late-hour entry declarations under new sections 58C and 58D as inserted by clause 5 of the bill are administrative decisions and, accordingly, the new sections 58C and 58D are compatible with section 24 of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

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

That the bill be now read a second time.

Incorporated speech as follows:

The Brumby government has said that alcohol abuse is the biggest social issue facing Victoria and decisive action is needed to restore the balance between our vibrant nightlife and dealing with alcohol-related health and community safety issues.

The Brumby government is committed to working with the community licensees, patrons, police and other emergency services, and all other levels of government to reduce alcohol related harm, violence and disorder.

The Ministerial Task Force on Alcohol and Public Safety developed the Victorian alcohol action plan 'Restoring the Balance', which set out the Brumby government's comprehensive plan for addressing alcohol related problems in our community from 2008 right through to 2013.

The Victorian alcohol action plan commits the government to implementing a number of measures designed to address alcohol-related problems in our community. The trial 2.00 a.m. late-hour entry declaration, or 'lockout', was one of a number of measures undertaken as part of this commitment, and many of these measures are now well progressed.

New regulations that establish minimum standards for security cameras used in licensed premises have just come into effect. This will ensure that quality CCTV footage is available to assist police with investigations undertaken in or around licensed premises and will greatly increase the safety of patrons.

The Liquor Control Advisory Council has recently been asked to assist the Director of Liquor Licensing with the development of new guidelines on drinks and venue promotions and advertising. The guidelines will assist the director to exercise her power to ban promotions that encourage the irresponsible consumption of alcohol and also

assist licensees to run promotions and events that attract patrons without compromising their safety.

A fee review is being conducted as a first step before we undertake a more extensive review of liquor licence categories and fees to make sure they provide appropriate controls and to ensure we get the right balance.

The increase in Victoria Police's focus on alcohol-related violence and disorder will also continue through the work of two dedicated task forces. These are Operation Razon, a statewide task force which was established to tackle liquor licensing issues, and the Safe Streets Task force, which was established to focus on alcohol-related violence and public order offences.

The trial 2.00 a.m. lockout ended recently on 2 September 2008. It was aimed at reducing the number of people moving between venues late at night and thereby reducing incidents of alcohol fuelled violence and disorder.

The Brumby government was disappointed that some licensees avoided responsibility for these problems by challenging the director's decision to trial a lockout in the Victorian Civil and Administrative Tribunal. As a consequence of this it has become necessary to clarify the intent of the lockout provisions to enable a proper application if required. The director, with the assistance of KPMG, is undertaking a thorough evaluation of the effectiveness of the Melbourne trial. In considering any future application of a lockout it is important to understand the outcomes of the trial but also to have a clear and effective process in place.

We know lockouts can work in some circumstances. In regional areas such as Ballarat, Bendigo and Warrnambool, significant reductions in violence have been achieved. The aim of the evaluation of the Melbourne trial is to determine the outcomes where there is the unique situation of a very high concentration of diverse licensed premises in a small geographical area. The evaluation report will assist decision making on any future use of a lockout. I stress that there is no intention to implement a further lockout prior to completion of the evaluation of the trial. Nor is there a commitment to a lockout in the future.

However, we want to make sure that the director is able to use this tool as effectively as possible if the director decides that such measures are necessary. The intent of the 2007 amendments to the act was to allow the director to use this tool in situations of urgency, where alcohol-related violence in an area requires a speedy response. The ability of some licensees to use legal manoeuvring to avoid the lockout has highlighted a need to tighten the legislation to give effect to the intent of the 2007 amendments and to ensure that this is no longer able to occur. The lockout power must be available to the director to use effectively, should the director decide that such action is needed in the future.

Therefore, this bill will implement changes to the power of the director to make late-hour entry declarations or 'lockouts'.

The process of making a declaration has proven to be overly cumbersome and can be streamlined in a way that gives the director sufficient capacity to make a declaration whilst still giving affected licensees the right to seek a review of a declaration's application to their premises.

The bill will clarify that the director, when defining the area or locality that a declaration will apply to, can decide on the best method of formulating that definition. It is not intended that the director would, for example, use that power to declare the whole state as being subject to a declaration. Clearly, the government would expect that only those areas or localities with violence or disorder problems would be the subject of a declaration.

A declaration is intended to address violence and disorder in an area or locality not in any particular venue. This bill will clarify that a declaration cannot be challenged on the basis of the financial impact of the declaration on any particular venue or the compliance or safety record of any particular venue.

The streamlined process of making an ongoing late-hour entry declaration will require the director to publish a notice in the *Government Gazette* containing details of the declaration. An ongoing declaration will commence at the end of the 21-day period following publication of the notice. The amendments give licensees 30 days from the date of the notice to apply to the director to be exempted from the declaration. The director then has a maximum of 60 days to make a decision in relation to the application for exemption. If the licensee is not satisfied with the director's decision, they will have the right to seek review in the Victorian Civil and Administrative Tribunal.

Similarly, a temporary declaration must be advertised in the *Government Gazette* but will take effect from the date specified in the declaration itself. In making a temporary declaration, the director is required to consult with the Chief Commissioner of Police with regard to the level of alcohol-related violence in the area or locality. Licensees will also be able to apply to the director for an exemption from the application of a temporary declaration. In the case of a temporary declaration, licensees will have 30 days to lodge an application for exemption and the director will have a maximum of 30 days to determine the application.

A declaration will remain in force unless or until an exemption is granted (either by the director or by the tribunal) or until it is revoked by the director. The Victorian Civil and Administrative Tribunal will no longer be able to order a stay of a declaration.

In considering an application for an exemption, the bill will require the director to be satisfied that the application of the declaration to the licensee is not reasonably likely to be an effective means of reducing or preventing the occurrence of alcohol-related violence or disorder in the relevant area or locality. In coming to that decision, the director must have regard to:

> the effective enforcement of compliance with the declaration in the area or locality if the exemption were granted;
>
> the effectiveness of the declaration in the area or locality if the exemption were granted; and
>
> whether the imposition of licence conditions, rather than the application or continued application of the declaration to the premises, would more effectively address alcohol-related violence or disorder in the relevant area or locality.

The bill will therefore strengthen the director's ability to use declarations (or lockouts) in responding to violent and antisocial behaviour associated with alcohol consumption in or around licensed premises.

The bill streamlines the process for implementing a lockout and gives licensees the opportunity to seek review in the Victorian Civil and Administrative Tribunal of any decision by the director to refuse an exemption. Of course, a licensee will still have judicial review options available to them if they choose and the jurisdiction of the Supreme Court will remain unaffected by this bill.

I commend the bill to the house.

Debate adjourned on motion of Mr GUY (Northern Metropolitan).

Debate adjourned until Thursday, 20 November.

STATE TAXATION ACTS FURTHER AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr LENDERS (Treasurer) on motion of Hon. J. M. Madden.

Statement of compatibility

For Mr LENDERS (Treasurer), Hon. J. M. Madden tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the State Taxation Acts Further Amendment Bill 2008.

In my opinion, the State Taxation Acts Further Amendment Bill 2008, 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 purpose of the State Taxation Acts Further Amendment Bill 2008 is to amend the Duties Act 2000 (the Duties Act), the Livestock Disease Control Act 1994 (the livestock act), the Taxation Administration Act 1997 (the TAA), and the First Home Owner Grant Act 2000 (the FHOG act).

In particular the bill will clarify the application of an existing stamp duty concession for 'bare trusts', modernise the administration of livestock duty, clarify the application of stamp duty on sub-sales of land, and reduce the age of homeowners who can benefit from the duty exemption for equity relief programs. The bill will also allow for the disclosure of information obtained under a taxation law to the secretary to the Department of Primary Industries (DPI), the Roads Corporation and the Business Licensing Authority.

In addition, the bill amends the FHOG act to provide additional assistance for first home buyers, and makes a number of administrative changes to that act. These include removing the time limit for the commissioner to reverse or vary a decision to pay the grant where an applicant has provided false or misleading information, providing applicants with a right to object in relation to a decision to impose a penalty, and prohibiting the secondary disclosure of information obtained under the act.

Human rights issues

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

Right to privacy

The right to privacy is protected by section 13 of the charter. In accordance with this right a person must not have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

An interference with privacy will be unlawful if it is not permitted by law, or it is not certain and appropriately circumscribed. An interference will be arbitrary if the restrictions on privacy are unreasonable in the circumstances and not in accordance with the provisions, aims, and objectives of the charter.

Clause 12 of the bill raises the right to privacy because it establishes a public register. The purpose of the register is to identify approved agents for buying and selling livestock. It is important that purchasers have a means of identifying approved agents because compensation is not payable for stock loss caused by disease unless duty has been paid and the purchase is made from an approved agent. The information on the public register is limited to an individual agent's name and registration number, and does not include other information which would engage the right to privacy. Accordingly, the public register does not limit the right to privacy, because it does not constitute an unlawful or arbitrary interference with that right.

Clauses 26 and 35 of the bill require an approved agent to lodge a return with the commissioner each month, which includes the agent's name, address and telephone number. In addition, these clauses require an approved agent to issue an invoice to a purchaser, or a statement to a seller, which contains their registration number and the particulars of the duty paid on the sale of livestock. These requirements raise the right to privacy to the extent they require an approved agent to report or disclose personal information.

These clauses do not, however, limit the right to privacy under the charter. The returns are necessary so the commissioner can verify that the correct amount of duty has been paid. The DPI uses the invoices and statements issued on sale to confirm duty has been paid before allowing any claim for compensation in relation to stock loss caused by disease. This is important because compensation is only available where duty has been paid by an approved agent. Further, the information provided on returns, invoices and statements is primarily business information, rather than personal information that engages the right to privacy. Accordingly, the disclosures required by the bill are not arbitrary or unlawful.

Clause 37 of the bill permits the commissioner to disclose information contained under or in relation to a taxation law to the Business Licensing Authority (BLA), the Roads Corporation and the secretary to the DPI. In each instance disclosure may engage the right to privacy, but does not limit that right because the disclosures permitted are not unlawful or arbitrary.

The disclosures are not unlawful because they will be permitted by law and are appropriately circumscribed. That is, in each instance, disclosure is limited to purposes related to the acts administered by the recipient. In addition, the secondary disclosure of any information disclosed under this clause is prohibited by existing provisions in the TAA.

The permitted disclosures are not arbitrary for the reasons set out below.

Clause 37(a) permits disclosure to the BLA for the purposes of administrating the Motor Car Traders Act 1986 and regulations made under that act. The BLA administers the licensing, registration and permission provisions of the Motor Car Traders Act 1986. The purpose of these provisions is to protect consumers by regulating how motor car traders conduct their business. Therefore, disclosure of this information is not arbitrary, because it may allow the BLA to take action to protect consumers against loss.

Clause 37(b) permits disclosure to the Roads Corporation for the purpose of administering the Road Safety Act 1986 and regulations made under that act. The commissioner may identify that a person has avoided the payment of motor vehicle duty by failing to register, or register the transfer of, a motor vehicle. In these circumstances, disclosure is not arbitrary because it is in the public interest that the Roads Corporation has the opportunity to investigate unlawful activity, and apply the appropriate penalty or sanction.

Clause 37(b) also permits disclosure to the secretary to the DPI for the purpose of administering the livestock act, the Duties Act and regulations made under those acts. The livestock act and Duties Act contain a number of interdependent provisions for the administration of livestock duty. To assist in the administration of these provisions, the commissioner may need to disclose information to the secretary to the DPI. Disclosure in these circumstances is not arbitrary.

Therefore, clause 37 raises the right to privacy but does not limit that right because the disclosures permitted are neither unlawful nor arbitrary.

Clause 21 of the bill amends the FHOG act to allow the secondary disclosure of information obtained under that act where disclosure is to enable that person to exercise a function conferred by law for the purposes of law enforcement or protecting the revenue, and the commissioner consents to disclosure. This may engage the right to privacy, but does not limit that right. The disclosure will not be unlawful as it will be permitted by law and will be subject to the consent of the commissioner. The disclosure will not be arbitrary because disclosure for the purposes of law enforcement or revenue protection is in the public interest.

Clause 21 also permits a person to disclose information about an applicant or an applicant's partner obtained under or in relation to the administration of the act for the purposes of legal proceedings under the FHOG act, a corresponding law, or a taxation act. It also allows disclosure for the purposes of a report arising out of those proceedings. This part of clause 21 also engages, but does not limit the right to privacy because disclosure in the circumstances is not unlawful or arbitrary.

The disclosure of information will be permitted by law, and is limited to disclosures, which relate to the FHOG act, a corresponding law or a taxation law. Disclosure of information in the conduct of legal proceedings is not arbitrary because it is for the purpose of protecting public revenue through the administration or enforcement of those acts. In the interests of openness and transparency it is important that the decision, and reasons, can be disclosed in a legal report. Accordingly, the disclosures permitted by clause 21 are not unlawful or arbitrary.

Freedom of expression

Section 15(2) of the charter gives a person the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside of Victoria in a variety of forms. The right to freedom of expression encompasses a freedom not to be compelled to say certain things or provide certain information.

Clause 21 of the bill may engage the right to freedom of expression so far as it prohibits a recipient from disclosing information, which has been lawfully disclosed to them under the FHOG act. In particular, clause 21 prohibits the secondary disclosure of this information unless the disclosure relates to the enforcement of a law or the protection of revenue and the commissioner consents. In addition, clause 21 confirms that a person is not required to disclose information obtained in accordance with the FHOG act to a court, unless it is necessary to do so for the administration or enforcement of the act, or is necessary to exercise a function conferred or imposed on that person by law.

However, there are special responsibilities attached to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputations of others as outlined in section 15(3)(a) of the charter. The limitation on disclosure outlined in clause 21 of the bill is a lawful restriction under section 15(3)(a) because the purpose of the restriction is to respect the rights and reputations of other persons.

Clauses 26 and 35 of the bill limit the right to freedom of expression, because they compel an approved agent to provide information about sales and returns of stock in a monthly return to the commissioner. In addition, these clauses require an approved agent to issue an invoice to a purchaser, or a statement to a seller, which contains particulars of the duty paid on the sale of livestock. The limitation is reasonable for the reasons set out below.

Recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law and is entitled to equal protection of the law without discrimination. However, under section 8(4) of the charter measures taken for the purpose of assisting groups of persons disadvantaged because of discrimination do not constitute discrimination. Discrimination, in relation to a person, means discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of the act.

Clause 9 of the bill deals with the stamp duty exemption for equity release programs. To be eligible for the exemption a financial institution must enter into an arrangement with a homeowner who is 65 years of age or over to purchase a part interest in their principal place of residence. Clause 9 expands the availability of duty relief, by reducing the age of eligible homeowners from 65 years and over, to 60 years and over.

Therefore, the clause does not constitute discrimination because it assists those aged 60 or over to stay in their homes, when it may not otherwise be possible, due to a lack of access to finance.

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

Freedom of expression

The right to freedom of expression under section 15 of the charter may be limited by the operation of clauses 26 and 35 of the bill.

(a) What is the nature of the right being limited?

The freedom of expression is a right of fundamental importance in our society and is an essential foundation of a democratic society. It encompasses the right not to be compelled to express information of all kinds, including in documents.

(b) What is the importance of the purpose of the limitation?

To the extent that clauses 26 and 35 require an approved agent to provide information on a return, invoice or statement, they may limit the right to freedom of expression.

The purpose of requiring approved agents to provide information about the sale and return of stock on a monthly return is to ensure that the correct amount of livestock duty has been paid. The commissioner can maintain the integrity of this system, by periodically reviewing the information on the return and confirming that the correct amount of duty has been paid. Accordingly, the limitation plays an important role in protecting public revenue.

The purpose of requiring approved agents to provide invoices and statements with particulars of the duty paid on sale of livestock is to ensure that the DPI can confirm a person's eligibility for compensation for stock loss caused by disease. Livestock duty funds the compensation payments and therefore compensation is only available where duty has been paid in relation to the deceased stock. In view of that, the limitation is an important measure for upholding the integrity of the compensation regime.

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

The extent of the limitation compelling agents to provide information is restricted to approved agents who are involved in the buying and selling of livestock. In addition, the nature of the information imparted is limited to details about the return and sale of livestock, and the particulars of duty paid on any sale.

(d) What is the relationship between the limitation and the purpose?

The limitation is directly related to the purpose which is to verify the correctness of livestock duty payments, and confirm a person's eligibility for a compensation payment on stock loss caused by disease.

(e) Are there any less restrictive means available to achieve its purpose?

No other means are reasonably available to achieve the purpose.

(f) Conclusion

The limitation is reasonable and necessary so that the commissioner and the DPI can effectively administer livestock duty, and that compensation for stock loss caused by disease is only paid to eligible persons.

The right to freedom of expression under section 15(2) of the charter may also be limited by clause 21 of the bill; however as discussed, this is a lawful restriction in accordance with section 15(3)(a) of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because even though it does limit a human right this limitation is reasonable.

JOHN LENDERS, MP
Treasurer

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill amends the Duties Act 2000, the Livestock Disease Control Act 1994, the First Home Owner Grant Act 2000 and the Taxation Administration Act 1997.

Changes to the Duties Act 2000 include amendments following a review of the current sub-sale provisions. In its simplest form, a sub-sale occurs when a vendor who has entered into a contract for the sale of land with a purchaser transfers the land to a third party at settlement and certain other criteria are present e.g. additional consideration is paid by the third party to the first purchaser.

The current provisions were introduced in 2005 and the government believes that the policy behind this area of the law is sound. However, a review of the provisions has identified areas of complexity that both practitioners and the State Revenue Office believe should be clarified. The changes will provide clarification for practitioners and taxpayers by removing unintended outcomes and better aligning the provisions with the underlying policy objectives.

The changes clarify that:

(a) where additional consideration is paid and land development occurs, stamp duty is to be determined based on the additional consideration;

(b) exclusions from stamp duty on sub-sale transfers are only available where there is more than one subsequent transaction and no exclusion is available on the final subsequent transaction;

(c) an exemption is available where a purchaser nominates a relative, but the relative is liable for any stamp duty payable on the subsequent transaction;

(d) where a party to the sale contract increases its entitlement under the contract prior to settlement, stamp duty is payable to the extent of the change in entitlement; and

(e) the amendments also consolidate some definitions, which allows a number of lengthy subsections to be deleted and makes these complex provisions easier to navigate.

The State Revenue Office has discussed the review with the Law Institute of Victoria. There is broad agreement as to the need to clarify the provisions, and importantly, what the underlying rationale is behind the sub-sale provisions. Specific concerns expressed have been taken into account where appropriate in the drafting of the changes. There are numerous variations in circumstance that are difficult to cover in drafting these provisions in a readable, cogent style. The commissioner of state revenue will continue to engage with stakeholders to ensure matters are dealt with according to the policy rationale and will continue to assist stakeholders to understand how the provisions will operate.

While industry and practitioners can be expected to welcome many of these changes, the government also has a duty to all Victorians to remove opportunities for manipulation and avoidance of stamp duty in circumstances where the policy is that duty should be payable.

Stamp duty is properly charged in most cases where property is transferred into a trust, or a trust over property is declared. However, there is a limited exemption allowed where there is no change in beneficial ownership of the property. The State Revenue Office receives regular queries about the scope of this exemption. The bill amends the Duties Act 2000 to clarify that this exemption is available where:

(a) declarations of trust are made for the benefit of the transferor where there is no change in beneficial ownership; and

(b) where the property is transferred by the transferor to a trustee or nominee pursuant to a bare trust arrangement; and

(c) on a retransfer where there has been no change in beneficial ownership.

The amendments will reduce the risk of the exemption being misused and will provide certainty for practitioners and taxpayers. In many other jurisdictions stamp duty will be charged in these circumstances and the taxpayer must subsequently go to the effort of applying for a refund.

Many older Victorians are able to consider accessing equity in their homes without moving out of them through certain financial products now available. The Duties Act 2000 provides for an exemption from stamp duty where a homeowner enters into an equity release program which results in a change in beneficial ownership of land — i.e., their home. In order to claim the exemption the homeowner must be of pension age — i.e., 65 or over. The bill reduces this age to 60 or over, broadening the range of potential applicants. This is in alignment with the equivalent New South Wales exemption and should be welcomed by those looking to access some of the significant value often tied up in the family home without being forced to sell and move.

The remainder of the Duties Act 2000 amendments and those found in the Livestock Disease Control Act 1994 are designed to improve the administration of livestock duties — i.e., the stamp duty charged on the sale of cattle, sheep, goats and pigs. The Department of Treasury and Finance in consultation with the Department of Primary Industries has reviewed the somewhat antiquated operation of these provisions. I note and thank my colleague the Minister for Agriculture and his department for their cooperation in this review and for their part in bringing these reforms to the Parliament.

The changes in the bill will reduce red tape for both livestock owners and agents and remove duplication of certain activities between the State Revenue Office and the Department of Primary Industries.

Specific improvements include abolishing the impractical requirement of having to deal in adhesive stamps, shortening the waiting time for the registration and revocation of agents and modernising duty payment facilities.

It is important to note that the livestock duties collected are paid into compensation funds administered under the Livestock Disease Control Act 1994. These funds are used to provide necessary compensation for damage caused by the outbreak of livestock diseases.

The bill includes amendments to the First Home Owner Grant Act 2000 to allow for the administration of the recently announced first home owners boost (the boost). The boost consists of federally funded additional payments to eligible first home buyers. The commonwealth government has committed to funding payments of either $7000 or $14 000 depending upon whether the applicant is purchasing an established or a new home. Eligible contracts are those entered into on or after 14 October 2008 — the date of announcement by the Prime Minister — up until 30 June 2009.

The boost is in addition to existing grants and concessions. This now means that Victorians who enter into a newly constructed home contract in the relevant period will be eligible for grants of up to $29 000 for regional areas or $26 000 for metropolitan areas.

The State Revenue Office will administer the boost alongside of the existing grants and concessions. The amendments are important as they ensure clear statutory authority for eligibility criteria, they allow applicants objection and appeal rights and provide appropriate privacy and secrecy protection for applicants. It is also essential that the commissioner of state revenue has clear authority to conduct compliance activity around the boost. The amendments ensure disputes can be resolved, penalties can be imposed if justified and debts can be recovered.

The remaining changes to the First Home Owner Grant Act 2000 are largely administrative and include:

(a) confirming applicants are able to object to any penalty imposed when a grant is reversed, making Victoria's provisions consistent with other jurisdictions;

(b) restricting disclosure of information obtained from first home owner grant applicants to legal proceedings arising out of the First Home Owner Grant Act 2000 or from taxation laws; and

(c) allowing the commissioner to vary or reverse a decision to pay the grant at any time, where an applicant has not made full and true disclosure of all relevant facts and circumstances. Currently the commissioner must do so within five years; the removal of this limit adopts the approach used in other taxation laws.

The amendments promote the integrity of the first home owner grant scheme by entrenching the fundamental rights of privacy and right to a fair hearing. Importantly, they also protect the public revenue from fraudulent applicants.

The amendments to the Taxation Administration Act 1997 will allow the State Revenue Office to provide information to VicRoads, the Business Licensing Authority and to the Department of Primary Industries for the purposes of administering relevant laws and where it is in the public interest to do so. An example of this would be where a State Revenue Office motor vehicle duty audit discovers that vehicle ownership records are incorrect.

The bill demonstrates the Victorian government's commitment to the first home buyer through the enactment of measures to pay the boost. These changes are also reflective of our willingness to cooperate as fully as possible with the commonwealth and other jurisdictions in acting to best protect Australians from the global financial crisis.

The remaining measures in the bill are designed to provide clarity. They are fair and are consistent with the government's obligation to protect the revenue base for the benefit of all Victorians.

The bill seeks to update antiquated measures and to respond appropriately in circumstances where the commissioner, taxpayers or their advisers have demonstrated that the law is unclear.

I commend the bill to the house.

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

Debate adjourned until Thursday, 20 November.

PUBLIC ADMINISTRATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr LENDERS (Treasurer) on motion of Hon. J. M. Madden.

Statement of compatibility

For Mr LENDERS (Treasurer), Hon. J. M. Madden 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 Public Administration Amendment Bill 2008.

In my opinion, the Public Administration Amendment Bill 2008, as introduced to the Legislative Council, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purpose of the Public Administration Amendment Bill 2008 is to make changes in relation to public sector workforce management through amendments to the Public Administration Act 2004; to ensure the validity of Ombudsman investigations into the conduct of the Office of Police Integrity and director, police integrity through minor amendments to the Ombudsman Act 1973; and create the new body corporate known as the secretary to the Department of Innovation, Industry and Regional Development through amendments to the Project Development and Construction Management Act No. 101/1994.

Human rights issues

In amending the Public Administration Act in relation to employer powers and employee mobility and misconduct, the bill is careful not to infringe upon employees' rights to equal protection of the law and effective protection against discrimination. The bill is consistent with the charter and the Equal Opportunity Act.

Section 11(2) of the charter protects persons in Victoria from forced and compulsory labour. Clause 15 of the bill allows the Premier to declare a situation of emergency for the purposes of the Public Administration Act, thereby providing public sector body heads with powers to assign any duties to an employee and allocate employees to another public sector body. Clause 15 does not limit the rights protected by section 11 of the charter as 'forced labour' requires an element of injustice, oppression or avoidable hardship. The powers provided by clause 15 do not authorise forced labour of this kind. The bill also provides that an employee remains otherwise entitled to terms and conditions of employment no less favourable than those which applied prior to the declaration of an emergency. Furthermore, s 11(3)(b) of the charter provides that forced or compulsory labour does not include work or service required because of an emergency threatening the Victorian community.

Clauses 8, 9 and 10 of the bill regarding employee mobility and giving employers more flexibility to reassign employees to different workplaces and duties do not engage any of the rights in the charter. Nor do the new provisions engage the right to freedom of movement as they do not restrict any persons' capacity to travel freely, by chosen means, or their ability to choose where to live.

Section 38 of the charter requires that all new powers prescribed in the bill must be exercised compatibly with human rights and the bill does nothing to limit this

compliance. Because the bill does not limit human rights, it is not necessary to consider s 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 limit any human rights in the charter.

JOHN LENDERS, MP
Treasurer

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

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

That the bill be now read a second time.

Incorporated speech as follows:

This government is committed to modernising government, and to improving its efficiency. Ensuring that the legislation that supports the performance of Victorian government functions is up to date plays a key role in delivering on this promise.

The bill before the house, namely, the Public Administration Amendment Bill 2008, will continue Victoria's progress in this important field. This bill will introduce improvements in three areas by:

making changes to the Public Administration Act 2004 to assist public sector employers to better manage the public sector workforce, and to strengthen the accountability mechanisms that ensure fairness in public sector workplaces;

making changes to the Ombudsman Act 1973 to put it beyond doubt that the state Ombudsman can investigate the Office of Police Integrity and the director of police integrity; and

making changes to the Project Development and Construction Management Act 1994 to enable the Department of Innovation, Industry and Regional Development to implement major projects through Major Projects Victoria by establishing the secretary to the Department of Innovation, Industry and Regional Development as a body corporate under the act, in place of the secretary to the Department of Transport, and a consequential amendment to the Planning and Environment Act 1987.

I will deal with each of these areas in turn.

Amendments to the Public Administration Act

The changes that this bill will make to the Public Administration Act 2004 cover the following topics:

1. Employer powers

The bill will amend the principal act to ensure that the heads of public service bodies have clear and adequate powers to assign work to employees that is different to the work that they were hired to do, to transfer employees from one position to another both within and between departments and agencies, and to determine the appropriate remuneration to be paid to employees. These changes will simplify the description of the powers of public service body heads, and the government will ensure that such heads have adequate guidance on how to craft delegations of their powers.

In relation to the movement of employees in the public sector, the bill will modernise the way in which that movement is managed by giving the heads of public service bodies, and the employees, more flexibility in initiating such movements.

In relation to the assignment of new or different duties, it is necessary, particularly in emergency situations, for the heads of public services bodies to have clear powers to assign employees to new or different duties, or to perform their normal duties at a different location. The changes to be introduced by the bill in this area are intended to increase the capacity of public sector managers to respond to disasters and public emergencies, but without putting public sector employees at risk. Normal occupational health and safety legal principles will continue to apply to all assignments of new or different tasks under the amended provisions of the principal act.

In relation to the setting of appropriate remuneration, it is currently not clear whether public sector employers can suspend employees without pay, or can reduce their pay. It is appropriate for the heads of public sector bodies to have the capacity to do these things where necessary, and the bill will amend the principal act to make it clear that public sector employers do have these powers. In practice, in the majority of cases these powers will be exercised in the manner set out in the relevant enterprise bargaining agreements.

2. Misconduct procedures

The provisions of the principal act that deal with the misconduct of employees stand alongside common-law principles and the federal legislation that controls the enterprise bargaining agreements under which most public sector employees are employed. Over time, inconsistencies have arisen between the language of the principal act, on one hand, and the language of these other sources of law, on the other. This bill will amend the misconduct provisions of the principal act to restore consistency between these provisions and the other sources of employment law, so that the principal act can be interpreted and applied in a more rational manner.

3. Powers of the public sector standards commissioner

The office of the public sector standards commissioner, which is established under the principal act, is a vital part of Victoria's overall scheme of public sector management. The commissioner plays an important role as the employment standards monitor and educator of the employers of a workforce spread over a large variety of different-sized business units, performing a large variety of tasks. It is important to ensure that the commissioner has appropriate powers to perform that job well. This bill will give the commissioner additional powers to recommend procedural improvements to public sector managers, and to request

explanations if any such recommendations are not implemented.

4. Status of probationary employees

The Public Administration Act provides for a maximum probationary employment period of three months, which can be extended to six months. In practice, public sector managers experience this time limitation as too short and inflexible. It prevents them from giving probationary employees who show promise but are not yet performing well an extended time frame in which to reach a satisfactory level of performance. This bill will repeal the time limitation that applies to probationary employment, which will allow public sector employers to manage their probationary employees better.

Amendments to the Ombudsman Act

Since its establishment in 2004, the Office of Police Integrity (OPI) has been overseen by both the Victorian Ombudsman and the special investigations monitor. The Victorian Ombudsman has jurisdiction in relation to administrative actions by the OPI and the director, police integrity. The special investigations monitor has jurisdiction to investigate complaints about the OPI's use of coercive powers.

These oversight arrangements have been effective. This bill will amend the Ombudsman Act 1973 to clarify that the Ombudsman's jurisdiction over the OPI continues, and will be deemed to have existed at all times.

Amendments to the Project Development and Construction Management Act

The bill amends the Project Development and Construction Management Act 1994 to:

1. abolish the secretary to the Department of Infrastructure (now Transport) as a body corporate and establish the secretary to the Department of Innovation, Industry and Regional Development as a body corporate under the act; and

2. provide for the transfer of certain nominated projects to the secretary to the Department of Innovation, Industry and Regional Development.

In April 2008, machinery of government changes created the Department of Transport and established Major Projects Victoria in the Department of Innovation, Industry and Regional Development. The secretary to the Department of Transport automatically assumed certain responsibilities of the former secretary to the Department of Infrastructure, including body corporate responsibilities under the Project Development and Construction Management Act.

The amendments proposed in the bill are largely machinery in nature. The bill repeals the provisions of the Project Development and Construction Management Act which relate to the establishment and functions of the secretary to the Department of Transport as a body corporate. The Department of Transport no longer has a role in major project management under this act, as these functions are carried out by the Department of Innovation, Industry and Regional Development.

As a consequence of the proposed amendments to the Project Development and Construction Management Act, the definition of 'secretary' in part 9A of the Planning and Environment Act 1987 will refer to the Secretary, Department of Innovation, Industry and Regional Development once the body corporate status of the Secretary, Department of Transport is dissolved.

I commend the bill to the house.

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

Debate adjourned until Thursday, 20 November.

MULTICULTURAL VICTORIA AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Multicultural Victoria Amendment Bill 2008.

In my opinion, the Multicultural Victoria Amendment Bill 2008, 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 purpose of the Multicultural Victoria Amendment Bill 2008 (the bill) is to amend the Multicultural Victoria Act 2004 to:

(a) enhance the functions of the Victorian Multicultural Commission (VMC);

(b) provide for the appointment of a director of the VMC;

(c) amend the reporting requirements of government departments in the area of multicultural affairs;

(d) make other minor amendments.

Human rights issues

The bill will enhance the functions of the VMC and provide for additional reporting requirements for government departments to report on:

the department's progress under its cultural diversity plan and any initiatives developed by the department to meet the needs of culturally and linguistically diverse communities, with an enhanced focus on how departments are responding to acknowledged needs within these communities;

any measures taken to promote human rights in accordance with the charter for multicultural communities.

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

are essential in a democratic and inclusive society that respects the rule of law, human dignity and equality and freedom;

belong to all people without discrimination, and the diversity of the people of Victoria enhances our community.

In particular, the bill promotes the cultural rights provided for in section 19 of the charter, which provides that 'all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religions and to use his or her language'.

The bill will improve protection of cultural rights and the right to equality by enhancing the ability of the VMC to promote these rights. The bill will also improve the accountability and transparency of government departments in relation to progress in promoting the rights of multicultural communities in service delivery and other initiatives.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

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

That the bill be now read a second time.

Incorporated speech as follows:

In this year's annual statement of government intentions we signalled our intention to amend the Multicultural Victoria Act 2004.

The purpose of the Multicultural Victoria Amendment Bill 2008 is to formalise the structural and administrative changes to the Victorian Multicultural Commission following its merger with the Victorian Office of Multicultural Affairs.

The bill also enhances the whole-of-government approach to multicultural affairs, improving the accountability of government departments in this area; allows for greater community input and participation; and ensures compatibility with the Charter of Human Rights and Responsibilities.

Specifically the bill amends the Multicultural Victoria Act to:

augment the functions of the Victorian Multicultural Commission,

provide for the appointment of the director and staff of the commission, and

increase the reporting requirements of government departments in the area of multicultural affairs.

The new functions for the commission will require it to facilitate community input with respect to meeting its stated objectives and to provide information and advice in the area of multicultural affairs to departments and other relevant bodies.

In order to formalise the structural and administrative changes to the commission following the merger with the Victorian Office of Multicultural Affairs, an order in council will be sought separately to this bill to establish the commission as an administrative office in relation to the Department of Premier and Cabinet. Under this arrangement, the commission's chairperson will have in relation to the commission the same functions as a department head has in relation to a department. The chairperson will be responsible to the secretary of DPC for the general conduct and the effective, efficient and economical management of the functions and activities of the commission.

This proposal aligns with the current arrangements, under which the VMC is administratively linked to and works through the Department of Planning and Community Development in relation to a range of matters.

The additional reporting for government departments introduced in the bill will improve their accountability in multicultural affairs and build on the existing reporting requirements for departments in the act.

This new reporting will cover four areas:

reporting on initiatives to meet the identified needs of youth, older persons and women within Victoria's culturally and linguistically diverse communities;

reporting on departments' progress under their cultural diversity plans to address provision for culturally sensitive service delivery to Victoria's communities;

reporting on initiatives in rural and regional Victoria; and

reporting on the measures taken by departments to promote human rights in accordance with the Charter of Human Rights and Responsibilities for multicultural communities.

The bill also makes a number of other amendments of a minor or technical nature.

Victoria's social, cultural and economic life has been invigorated by successive waves of immigration, providing an

outstanding example of the positive effects of cultural diversity.

This has made Victoria an open and inclusive society that readily embraces the rest of the world, delivering many benefits for our community.

The Multicultural Victoria Act 2004 was enacted to formally recognise and support the principles of cultural, racial, religious and linguistic diversity in Victoria.

The legislation introduced:

principles of multiculturalism;

reporting requirements for government departments in relation to multicultural affairs; and

re-established the Victorian Multicultural Commission.

The Multicultural Victoria Amendment Bill is an opportunity for Parliament to reiterate to Victorian communities our commitment to support cultural, racial, religious and linguistic diversity in this state.

Stating this commitment in legislation sends an incredibly important message.

It provides a framework which both reflects existing commitments and strategies but also engenders greater effort across government and the community.

I commend the bill to the house.

Debated adjourned on motion of Mr GUY (Northern Metropolitan).

Debate adjourned until Thursday, 20 November.

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr LENDERS (Treasurer) on motion of Hon. J. M. Madden.

Statement of compatibility

For Mr LENDERS (Treasurer), Hon. J. M. Madden 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 Primary Industries Legislation Amendment Bill 2008.

In my opinion, the Primary Industries Legislation Amendment Bill 2008, as introduced to the Legislative Council, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill will amend the Agricultural and Veterinary Chemicals (Control of Use) Act 1992 (the Agvet act), the Catchment and Land Protection Act 1994 (the CaLP act), the Domestic (Feral and Nuisance) Animals Act 1994 (the DFNA act), the Fisheries Act 1995 (the Fisheries act), the Livestock Disease Control Act 1994 (the livestock act), the Prevention of Cruelty to Animals Act 1986 (the POCTA act), the Veterinary Practice Act 1997 (the Veterinary Practice act) and the Impounding of Livestock Act 1994.

The bill will amend the Agvet act to make changes to the definitions relating to the maximum residue limits for certain substances, to remove the requirement for aerial sprayers to hold approved insurance policies, to insert offences for selling contaminated produce and for breaching authority conditions. The bill will amend the CaLP act to expand and clarify enforcement powers under that act. The bill will amend the DFNA act to amend provisions relating to dog attacks and to amend the requirements relating to domestic animal management plans. The bill will amend the Fisheries Act 1995 to replace consultative arrangements, improve the administration of the act and provide for more effective management and protection of fish and protected aquatic biota. The bill will amend the livestock act to increase penalties for various offences, to amend and clarify provisions relating to disease control, to insert strict liability offences relating to the control of exotic diseases, to remove the requirement for chicken hatcheries to be licensed, to provide for additional offences that may be subject to infringement notices, to increase the maximum penalty for offences prescribed under the regulations and to make other miscellaneous amendments relating to enforcement. The bill will amend the POCTA act to clarify the powers of specialist inspectors and make minor amendments to that act. The bill will amend the Veterinary Practice act to allow veterinary practitioners who hold a right to carry on or engage in veterinary practice in another state or a territory to practise as a veterinary practitioner in Victoria without the need for separate registration in Victoria by deeming them to be registered in Victoria. The bill also makes a statute law revision amendment to the Impounding of Livestock Act 1994.

Human rights issues

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

1. Section 12: freedom of movement

Section 12 establishes the right of every person lawfully within Victoria to move freely within Victoria and to enter and leave it and the right to choose where to live.

Clauses 83, 84, 85, 86 and 87 of the bill provide strict liability offences for non-compliance with livestock disease control measures. These measures restrict the movement of livestock and livestock products into and out of declared infected places, restricted areas, control areas as well as the importation of livestock and livestock products into Victoria. To the extent that the measures may restrict an individual's ability to move freely within Victoria, the right may be limited.

However, I consider that the limits upon the right are reasonable and justifiable in a free and democratic society for

the purposes of section 7(2) of the charter having regard to the following factors:

(i) the nature of the right being limited

The right to freedom of movement is an important right in international law. It includes the right to move freely within Victoria, including freedom from physical barriers and procedural impediments.

(ii) the importance of the purpose of the limitation

The purposes of the limitations are of critical importance to the control of livestock diseases within Victoria and the prevention of livestock diseases from entering Victoria.

(iii) the nature and extent of the limitation

In order to comply with the livestock disease control measures in the bill, a person's ability to move freely into and out of areas declared to be infected places, restricted areas or control areas or into Victoria, may be limited. The restrictions on movement imposed by disease control measures are usually not total. In most cases, movement is allowed where certain conditions are satisfied or with a permit issued by an inspector. Any limitations on movement will remain in place for as long as is necessary for disease control purposes.

(iv) the relationship between the limitation and its purpose

There is a rational and proportionate relationship between the limitations on the right to freedom of movement and to the important purpose of controlling livestock diseases.

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

There are no less restrictive means available that would reasonably achieve the purpose of the limitations.

(vi) any other relevant factors

The long-term profitability and competitiveness of livestock industries depends on maintaining high standards of animal health to ensure the provision of high-quality food and fibre products, greater employment and increased income.

The outbreak of a disease can have devastating economic effects on farm income and Victoria's domestic and export markets. A disease outbreak also carries a substantial social impact that extends to farming families and their communities.

Animal health is essentially a matter of ensuring the absence of disease. This is partly achieved through good farming practices and partly through disease surveillance and control. Achieving the highest possible compliance with disease control measures is essential if the measures are to be effective. The amendments to introduce new strict liability offences promote that objective.

2. Section 13: privacy and reputation

Section 13 establishes the right for an individual not to have his or her privacy, family home or correspondence unlawfully or arbitrarily interfered with and the right not to have his or her reputation unlawfully attacked.

An interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter.

In the bill, the following provisions engage the right to privacy:

Clause 6 of the bill repeals section 54A of the Agvet act. Section 54A provides an authorised officer with a power of entry to any premises at any time, with the consent of the occupier where the officer believes on reasonable grounds that the occupier is contravening or has contravened the act, regulations or an order under the act. Section 54A is not relied upon as the requirement for authorised officers to obtain the consent of the occupier simply gives the occupier the opportunity to refuse consent and then remove or destroy evidence of contravention. In practice, if an authorised officer believes on reasonable grounds that there is on premises evidence that a person has contravened the act or the regulations or an order under the act, he or she will seek the chief administrator's approval to apply to a magistrate for the issue of a search warrant. Accordingly, the repeal of section 54A does not interfere with the right to privacy.

Clause 12 of the bill amends section 81 of the CaLP act to extend the circumstances in which an authorised officer may enter and search land with notice. The circumstances are where the authorised officer believes on reasonable grounds that regionally prohibited weeds, regionally controlled weeds or established pest animals occur or are likely to occur in the vicinity of the land. In these circumstances the occupier must be given at least seven days written notice of entry and has the right to refuse entry. Also section 81 specifically provides that the power to enter with notice does not apply to a dwelling. The right to privacy is not limited because the interference with privacy is not arbitrary or unlawful, as it is circumscribed. There is a notice requirement and the entry is for an important land management purpose.

Clauses 11 and 12 of the bill amend the entry powers in sections 80 and 81 of the CaLP act to provide that an authorised officer who enters land may take photographs, including videorecordings, of a thing or things of a particular kind. However, in each case the officer must inform the occupier that the occupier may refuse to give consent to the taking of photographs. As no photographs may be taken if the occupier refuses to give consent, there is no interference with the right to privacy.

Clause 13 of the bill amends the entry power in section 82 of the CaLP act to provide that an authorised officer who enters land may take photographs, including videorecordings, of a thing or things of a particular kind. However, such photographs may only be taken if the officer believes that it is necessary for the purposes of section 82(1) or (2). There is, therefore, no arbitrary or unlawful interference with the right to privacy as the power to take photographs is circumscribed and is reasonable in the circumstances.

Clause 116 of the bill enables the Veterinary Practitioners' Registration Board (the board) to provide veterinary registration authorities in other states and territories with access to information from the register of veterinary practitioners maintained by the board.

Veterinary registration authorities in other states and territories will have access to the information on the register concerning veterinary practitioners registered in Victoria. This clause does not limit the right to privacy. The authorities' access to information on this register is neither unlawful nor arbitrary as it is permitted by law, is certain, and is appropriately circumscribed. It is important for authorities to have easy access to information relating to practising veterinarians to protect consumers of veterinary services. Access to information from the register is restricted to veterinary registration authorities only.

Clause 117 of the bill is a consequential amendment to section 19 of the Veterinary Practice act. Section 19 requires a veterinary practitioner granted registration under part 2 of the Veterinary Practice act to notify the board if the practitioner changes his or her address. Clause 117 clarifies that the requirement to notify the board of a change of address continues to apply only to a veterinary practitioner whose name appears on the register and does not extend to a veterinary practitioner who is deemed to be registered in Victoria by operation of new section 3A.

Provision of personal information to a government authority will engage the right to privacy. However, clause 117 does not limit the right to privacy because the board requires a current name and address for all practitioners listed on the register in order to be able to contact them in matters of national animal emergencies, to promulgate information relevant to registration and veterinary practice, including disciplinary matters, and for the animal-owning public to be able to properly locate the practitioner of their choice.

Clause 119(2) of the bill requires the board to advise the veterinary registration authority in each state or territory of any finding of unprofessional conduct by a registered veterinarian and the nature of any sanction applied. This provision will enable authorities to easily access this information about any Australian veterinary practitioner at any time. Clause 119 extends an existing notice obligation under the act in relation to more serious determinations under section 45 of the Veterinary Practice act (such as suspension or cancellation of registration as a veterinary practitioner). Clause 119(3) provides that the veterinary registration authority in each state and territory must be notified as soon as practicable of all determinations of unprofessional conduct, not just the more serious determinations of unprofessional conduct already required to be notified under section 52(1) of the Veterinary Practice Act. With regard to the more serious determinations listed under section 52(1), the board must give notice in the *Government Gazette*; to the veterinary registration authorities in all other states and territories and in New Zealand; if the veterinary practitioner is an employee, to his or her employer; and to an overseas authority if the board has received a request for information about that practitioner.

The interference with privacy under clause 119 of the bill is certain and well circumscribed, and is neither unlawful nor arbitrary. With regard to the less serious determinations, notification is only provided to the veterinary registration authorities in other states and territories. This information only relates to veterinarians' performance in a professional capacity. The restricted notification to authorities allows for better regulation of Australia's veterinary practitioners.

With regard to the more serious determinations under section 45 of the Veterinary Practice act, it is reasonable to require that notification is given by publication in the *Government Gazette*; to the veterinary registration authorities in all other states or territories and in New Zealand; if the veterinary practitioner is an employee, to his or her employer; and to an overseas authority if the board has received a request for information about that practitioner. This is because where a practitioner's practice has been restricted, the practitioner's employer and clients are entitled to know how that may affect the services provided by the practitioner and, where the right to practise is withdrawn, the practitioner will be prohibited from providing any veterinary services to an employer or to clients. The practitioner will also no longer be entitled to act on the privileges accorded by registration with respect to animal welfare, certification for export, drugs and poisons and other legislation affecting veterinary practice. Employers, clients, drug companies and government authorities are entitled to know about those matters.

3. Section 15: freedom of expression

Section 15 establishes a right for an individual to have freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds. However, there are special responsibilities attached to this right and the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputations of others or the protection of public order.

Clause 15 of the bill amends the offence for obstructing an authorised officer under section 84 of the CaLP act and clause 103 of the bill amends the offence for obstructing an inspector under section 137 of the livestock act. In each case the amendment criminalises insulting, threatening or abusive language directed at the authorised officer or inspector. The right to freedom of expression includes the right to impart information and ideas and extends to protecting offensive speech. The amendments restrict the right to freedom of expression but the restrictions on speech are for the purposes of public order and the protection of the rights of others and are, therefore, lawful restrictions under section 15(3) of the charter.

4. Section 19(2)(d): distinct cultural rights of Aboriginal persons

Section 19(2)(d) provides that Aboriginal persons hold distinct cultural rights and must not be denied the right to maintain their distinctive spiritual, material and economic relationship to the land, waters and other resources with which they have a connection under traditional laws and customs.

Clause 50(5) of the bill extends the coverage of indictable offences of taking, possessing or trafficking a commercial quantity of a priority species to include the Murray cod. This potentially affects Aboriginal traditional owners who fish for the Murray cod based on traditional laws and customs, and accordingly is a limitation on the rights of Aboriginal persons under section 19(2).

However, I consider that the limits upon the right are reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(i) the nature of the right being limited

This right is designed to protect the distinctive relationship between Aboriginal persons and traditional lands, waters and other resources.

(ii) the importance of the purpose of the limitations

The purpose of including the coverage of offences to Murray cod is to protect Murray cod from overfishing and to ensure the sustainability of this resource.

(iii) the nature and extent of the limitation

The amendments in the bill will restrict Aboriginal persons from taking, possessing and trafficking a commercial quantity of Murray cod.

(iv) the relationship between the limitation and its purpose

The limitation is directly related to the purpose of protecting Murray cod from overfishing.

(v) less restrictive means reasonably available to achieve the purpose

Aboriginal persons will only be prevented from taking Murray cod in 'commercial quantities' without a permit. It is necessary to restrict commercial quantities of the Murray cod from being fished in order to adequately protect the species. Aboriginal persons will not be prevented from taking a commercial quantity of Murray cod for cultural or other purposes where they hold a general permit under section 49 of the Fisheries act. The secretary can, under section 49(h), authorise Aboriginal persons to take or possess fish (in areas where recreational fishing is authorised under this act) for a specified indigenous cultural ceremony or event.

The limitation is reasonably justified under section 7(2) of the charter. Accordingly, I consider that the bill is compatible with section 25(1) of the charter.

5. Section 20: property rights

Section 20 establishes a right for an individual not to be deprived of his or her property other than in accordance with law. The 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. The right in section 20 of the charter only prohibits a deprivation of property that is carried out other than in accordance with law. This requires that the powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than arbitrary or unclear, and are accessible to the public and formulated precisely.

Clauses 83, 84, 85, 86 and 87 of the bill provide strict liability offences for non-compliance with livestock disease control measures. These measures restrict the movement of livestock and livestock products into and out of declared infected places, restricted areas, control areas as well as the importation of livestock and livestock products into Victoria. These offences may operate to restrict how a person may use their property or interfere with a person's ability to derive a profit from their property. However, there is no limitation on the right to property in section 20 of the charter because there is no permanent deprivation of a person's property. Also, the interference is in accordance with law as it is for an important public purpose and will occur pursuant to circumscribed powers conferred by legislation.

Clause 19 of the bill inserts replacement section 29 into the DFNA act. Section 29 provides a range of offences in relation to dog attacks. Section 29(12) enables the court to order that a dog be destroyed by an authorised officer of a council if a person, whether or not the owner, has been found guilty of an offence under new section 29. If a dog is ordered to be destroyed, the owner of the dog is deprived of his or her property. However, the ability of the court to order the destruction of a dog is necessary for the safety of the public and animals. Since a dog may only be destroyed by an authorised officer on the order of the court, clause 19 is in accordance with the law and does not limit the right to property.

Clause 22 of the bill extends the current powers of an authorised officer under section 81 of the DFNA act to permit them to seize a dog if a person has been found guilty of an offence under section 29 of the DFNA act or the authorised officer reasonably suspects that a person has committed an offence under section 29 with respect to the dog. Under the current law, an officer cannot seize a dog unless the person found guilty or suspected by an officer of an offence under section 29 is the owner of the dog. If a dog is seized by an authorised officer, the owner of the dog is deprived of his or her property. However, the deprivation of property is in accordance with the law as the seizure will only occur pursuant to the particular powers conferred by the legislation. Further, the deprivation of property will only be temporary if it is later found that an offence has not been committed. The ability to seize a dog is necessary for the safety of the public and animals. As the proposal is in accordance with the law, the right is not limited.

Clause 23 of the bill allows the council to destroy a dog which has been seized under part 7A of the DFNA act at any time after it has been seized if a person, other than the owner, has been found guilty of an offence under section 29 of the act in respect of the dog. A council can already destroy a dog if the owner of the dog has been convicted of an offence under section 29 in respect of the dog. If a dog is destroyed, the owner of the dog is deprived of his or her property. However, the ability to destroy a dog is necessary for the safety of the public and animals. As this clause is in accordance with the law it does not limit the property right.

Currently, the secretary may only cancel or suspend a non-transferable licence under section 58 of the Fisheries act. The bill will amend the Fisheries act to provide for the cancellation or suspension of a fishery licence, including transferable licences, by the secretary at any time.

Further, clauses 61 and 62 of the bill will amend the Fisheries act to provide that the secretary can cancel, suspend or refuse to renew a licence or permit under the act even if a court has not cancelled or suspended a licence under section 128 of the act.

Section 60 of the Fisheries act provides that the cancellation of a transferable licence by a court is stayed and that the licence is instead deemed to have been suspended. This enables the licence-holder to sell the licence. Clause 64 of the bill amends section 60 so that it extends to transferable licences cancelled or suspended by the secretary.

Rights created under legislation, such as a licence, may be property and thus covered by section 20 of the charter. It is questionable as to whether cancelling, suspending or refusing to renew a licence amounts to a deprivation of property. Where a licence-holder did not have a reasonable and legitimate expectation as to the lasting nature of the licence, no property right would arise. However, even if a deprivation

was found to have occurred, the cancellation and suspension of a licence, or the refusal to renew a licence, will occur in accordance with law. Further, the cancellation and suspension will also not be arbitrary, given that licence-holders have the opportunity to show cause to the secretary as to why a licence should not be cancelled or suspended, which provides licence-holders with an opportunity to be heard. Additionally, under section 137 of the Fisheries act, decisions by the secretary to cancel or suspend a licence are reviewable decisions, as are decisions refusing to renew a licence. Under section 136(4) a person who is aggrieved by a reviewable decision within the meaning of section 137 may within one month after receiving notice of the decision appeal to the Licensing Appeals Tribunal against the decision. Consequently, any deprivation of property will occur in accordance with law and will not be arbitrary.

Accordingly, clauses 61 and 62 are compatible with section 20 of the charter.

Clause 66 of the bill amends section 106 of the Fisheries act so that, in relation to any thing subject to a retention notice under section 108A of the act, a court finding any offence in respect of which the seizure of the thing was made proven, may order the forfeiture of the thing or order that it be returned to the defendant or its owner (as the case requires).

While this clause does potentially enable a defendant to be deprived of property (being the forfeiture of the thing seized), the deprivation will occur in accordance with the law. Further, as the deprivation will occur in a predictable manner and will be reasonable in the circumstances, given that the property most likely came into a defendant's possession as a result of the commission of an offence proven by a court, the deprivation will also not be arbitrary.

Therefore, clause 66 is also compatible with the charter.

6. Section 25(1): right to be presumed innocent

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

Clause 55 of the bill amends section 40(2) of the Fisheries act to substitute 'receiver's' (where twice occurring) for 'receiver'. Section 40(1) of the Fisheries act creates an offence of receiving or selling fish of a priority species unless authorised to do so under the act. Section 40(2) provides that a person may do any of the things referred to in subsection (1) if he or she is acting on behalf of a holder of a licence who is authorised to do that thing and is authorised by that fish receiver's licence to do that thing, and is not prohibited by the act from so acting. Section 40 places a legal onus on an accused to prove the elements in section 40(2) in order to defend a charge under section 40(1).

As clause 55 does not substantially amend section 40, clause 55 does not engage the right to be presumed innocent.

Clause 59 of the bill amends section 53 of the Fisheries act to ensure consistency throughout the provision by inserting 'or permit' and 'or a permit' after the word licence. Section 53(1) of the Fisheries act provides that the holder of a fishery licence or permit must comply with any condition to which the licence or permit is subject. Failing to comply with section 53(1) will result in the commission of an offence with a punishment of 100 penalty units or 6 months imprisonment or both (where the offence involves a priority species or a breach of a designated licence condition); or 5 penalty units (where the offence is committed by the holder of a recreational licence); or, in any other case, 50 penalty units.

As a result of clause 59, section 53(2) will deem that a holder of a fishery permit failed to comply with a condition of that permit where a person who acts on behalf of the permit-holder fails to comply with any condition of the permit. Section 53(3) provides that subsection (2) will not apply if the permit-holder can prove that he or she had a written agreement with the person that the person would comply with the conditions of the permit; that he or she did everything reasonably practicable to ensure the person would comply with the condition and that he or she did not aid, abet, counsel or procure the person to fail to comply with the condition. Section 53 of the Fisheries act places a legal onus on an accused to prove the elements in section 53(3) in order to defend a charge under section 53(1).

As the amendments to section 53 by clause 59 will only clarify that sections 52(2) and (3) apply to permit holders as well as licence-holders (since section 53(1) already applied to both licence and permit holders), clause 59 also does not engage the right to be presumed innocent.

Clause 65 of the bill amends section 68A(2)(b) of the Fisheries act to substitute 'sold' for 'consigned for sale'. Section 68A(2) of the Fisheries act will provide that a person must not possess fish that are less than the minimum size or more than the maximum size if the fish were (a) taken by the use of commercial fishing equipment or (b) (as a result of clause 65) the fish have been sold or are possessed for sale. Section 68A(4C) provides that it is a defence to a charge under section 68A(2)(b) if the person charged can prove that the fish were taken in accordance with the act. Section 68A of the Fisheries act places a legal onus on an accused to prove the fish were taken in accordance with the act in order to defend a charge under section 68A(2)(b).

As clause 65 does not substantially amend section 40, clause 65 does not engage the right to be presumed innocent.

Clause 68 of the bill amends section 116 of the Fisheries act to insert after 'taken' (where twice occurring) 'or otherwise dealt with', and to insert a definition of 'otherwise dealt with'. Section 116 of the Fisheries act provides that a person must not possess or sell any fish taken in contravention of this act or a law of the commonwealth or of another state or a territory that corresponds to this act. The penalty for failing to comply with section 116(1) is 100 penalty units or imprisonment for six months or both.

Section 116(2) provides that it is a defence in proceedings for an offence against subsection (1) if the person charged proves that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the fish had been taken in contravention of the act.

Clause 68 will extend the scope of section 116. Section 116 of the Fisheries act creates a reverse onus, as the holder of a fisheries licence will be guilty of an offence under section 116(1) unless he or she can prove the fish were taken in accordance with the act. Section 116 of the Fisheries act places a legal onus on an accused to prove that the fish were taken in accordance with the act in order to defend a charge under section 116(1).

By placing a burden of proof on the accused, section 116 limits the right to be presumed innocent in section 25(1) of the charter.

However, I consider that the limit upon the right is reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(i) the nature of the right being limited

The right to be presumed innocent is an important right that has long been recognised well before the enactment of the charter. However, the courts have held that it may be subject to limits particularly where the offence is of a regulatory nature.

(ii) the importance of the purpose of the limitations

Section 116 of the Fisheries act encourages compliance with the act. The purpose of the Fisheries act is to provide a modern legislative framework for the regulation, management and conservation of Victorian fisheries including aquatic habitats. The objective of imposing a legal burden in relation to the above offence is to ensure the effectiveness of the regulatory scheme which protects important environmental resources.

The purpose of the defence in section 116 is to enable an accused to escape liability where the accused is able to establish particular factors.

(iii) the nature and extent of the limitation

The burden of proof is imposed in respect of an affirmative defence only, and does not apply to essential elements of the offences. Further, before the defence could apply, the prosecution would have to establish that the accused has failed to comply with section 116.

The facts which an accused would need to prove in order to avail himself or herself of the defence are peculiarly in the knowledge of the accused and would be difficult for the prosecution to prove.

(iv) the relationship between the limitation and its purpose

The imposition of a burden of proof on the accused is directly related to the purpose of ensuring compliance with the important regulatory scheme created by the Fisheries Act 1995.

(v) less restrictive means reasonably available to achieve the purpose

Removing the defence altogether would not infringe the right to be presumed innocent. However, this would not achieve the purpose of enabling the accused to escape liability in appropriate circumstances. Although an evidential onus would be less restrictive upon the right to be presumed innocent, it would not be as effective in achieving the purpose of ensuring the effectiveness of the regulatory scheme created by the Fisheries Act.

Enabling an accused merely to point to or adduce sufficient evidence to raise the defence would undermine the effectiveness of the offences.

As stated, the defence relates to matters that are principally within the knowledge and/or control of the accused. It would be difficult and onerous for the Crown to investigate and prove the relevant matters beyond reasonable doubt. I consider the imposition of a legal burden on an accused to prove the defence is appropriate to ensure that all reasonable steps are taken to comply with the regulatory scheme imposed by the Fisheries Act, and represents an appropriate balance of all interests.

The limitation is reasonably justified under section 7(2) of the charter. Accordingly, I consider that the bill is compatible with section 25(1) of the charter.

7. Section 26: right to not be punished more than once

Section 26 provides that a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

This right only applies in respect of criminal offences and not civil trials that may result in a form of civil liability.

Clauses 61(4) and 62(5) of the bill amend sections 57 and 58 of the Fisheries act to provide that the secretary may cancel, suspend or refuse to renew a licence because of the commission of an offence of a type referred to in section 128(1) by the holder of the licence despite a court deciding not to suspend or cancel the licence under that section on convicting or finding the person guilty of that offence. Thus, a person may be convicted of an offence and punished accordingly by a court, and the secretary may then subsequently cancel, suspend or refuse to renew his or her licence. This amendment raises the issue of double jeopardy in relation to whether a person is being punished twice for the same offence.

The purpose of the secretary in cancelling, suspending or refusing to renew a person's licence in these circumstances would be to protect the sustainability of a resource by preventing an unsuitable operator from continuing to hold a licence rather than to punish the licence-holder for a second time. Accordingly, as the cancellation, suspension or refusal to renew a licence would be of a regulatory nature and would not be aimed at punishing the licence-holder, this amendment is compatible with the charter. Further, even if the cancellation, suspension or refusal to renew a licence did amount to a sanction, courts in other jurisdictions have consistently held that the right not to be punished more than once does not preclude the imposition of both criminal and civil sanctions for the same conduct.

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; or

to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Gavin Jennings, MLC

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

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

That the bill be now read a second time.

Incorporated speech as follows:

The Primary Industries Legislation Amendment Bill 2008 makes miscellaneous amendments to the Agricultural and Veterinary Chemicals (Control of Use) Act 1992, the Catchment and Land Protection Act 1994, the Domestic (Feral and Nuisance) Animals Act 1994, the Fisheries Act 1995, the Livestock Disease Control Act 1994, the Prevention of Cruelty to Animals Act 1986 and the Veterinary Practice Act 1997.

The bill amends the Agricultural and Veterinary Chemicals (Control of Use) Act 1992 to —

revise the definition of 'maximum residue limit' and 'contaminated' by reference to the maximum residue limits specified by the Australian Pesticides and Veterinary Medicines Authority;

remove the requirement for agricultural aircraft operators to have an approved insurance policy; and

create new offences for non-compliance with an authority and for a producer who sells contaminated produce.

Amendments to the Catchment and Land Protection Act 1994 will improve investigative and enforcement provisions and in particular will ensure that an authorised officer may on reasonable grounds enter and search land in order to determine whether the duties of a landowner are being complied with, in relation to regionally controlled weeds, regionally prohibited weeds and established pest animals.

Amendments to the Domestic (Feral and Nuisance) Animals Act 1994 will —

widen the class of persons who may be responsible for dog attack offences to include both the 'owner' and a person in apparent control of the dog;

provide for seizure and destruction of dogs where a person other than the owner is convicted of a dog attack offence; and

provide for councils to prepare domestic animal management plans every four years instead of every three.

The bill also amends the Fisheries Act 1995 to make a number of improvements to the management and operation of that act.

The Brumby Labor government has a strong record of engaging a wide range of stakeholders when making decisions about the use and sustainable management of Victoria's fisheries resources. This has been accomplished by working closely with the broad range of fisheries stakeholders and their representative bodies.

To ensure that fisheries consultative arrangements continue to best serve the interests of stakeholders and adequately inform fisheries management decisions, the government undertook a comprehensive review of the current consultative arrangements, particularly focusing on establishing principles for effective engagement. The review was undertaken in consultation with key fisheries stakeholders, and was timely given that the current legislated arrangements have been in place since 1995.

In general, the review found that the current arrangements are inflexible, inefficient and do not always provide for appropriate accountability to constituents of those supplying the advice.

To allow for new and more effective consultative arrangements to be developed, the current legislative amendments will clear away the existing highly prescribed and rigid engagement structures. This will allow the flexibility for fit-for-purpose consultative arrangements to be developed and put in place.

The legislation before the house retains the Labor government's commitment to effectively engage and consult with fisheries stakeholders, and introduces key principles to guide such engagement. New arrangements will centre on ensuring that all stakeholders have the ability to input into considerations by government about fisheries resources, and that scientific and other expert advice is made available to inform fisheries management decisions. This meets modern regulatory practices.

The Fisheries Co-management Council and the Fisheries Revenue Allocation Committee are the two principal statutory bodies that have been the focus of much of the review process. The members of these bodies have served well despite the limitations of the statutory arrangements. As we move forward with a new inclusive, strategic and accountable approach, these bodies will be wound up. This will occur at the end of this year. New consultative processes, the detail of which will be consolidated with fisheries stakeholders over the coming months, will be established. New arrangements will be evaluated over time to ensure their effectiveness, with a full review to occur after three years.

Through administrative means, a representative-based body will be established immediately to oversee the implementation of fit-for-purpose engagement and consultation with fisheries stakeholders.

In addition to these improvements to consultative arrangements, the bill will make Australia's iconic freshwater fish, the Murray cod, a priority species.

These impressive fish can reach weights in excess of 100 kilograms, and were once the mainstay of commercial fishing within the Murray Darling basin. In recognition of their vulnerable status, commercial fishing of Murray cod has ceased many years ago. Recent analysis by the Department of Primary Industries indicates a marked increase in illegal trade of the species, which, in turn, is threatening its sustainability.

Listing Murray cod as a priority species and defining a commercial quantity will trigger indictable offence provisions which will assist in deterring illegal activity involving Murray cod before it becomes entrenched. The introduction of similar

penalties for abalone offences has been effective in addressing illegal abalone harvesting.

Additionally, the bill will strengthen the sustainable management of our fisheries resources by addressing a number of procedural issues relating to commercial licensing and enforcement. The period for which the secretary may issue a fishery access licence will be extended to provide flexibility to change licensing periods for up to five years, in line with the needs of industry. Power will also be provided for the secretary to cancel or suspend licences at any time, thus ensuring that inappropriate persons are unable to continue operating until the licence expires or requires renewal.

By extending the period of the licence, the licence holder will be provided greater security over and value in their asset.

Currently, a transferable licence cannot be suspended or cancelled; it can only be not renewed. Therefore, the holder of a transferable licence that engages in serious misconduct can effectively continue to operate in a fishery until the expiry of the licence. The amendments will result in similar criteria being applied for suspension or cancellation of a licence as are now applied at renewal.

Currently, 14 Victorian rock lobster licence-holders have specific authority to land their catch at Port MacDonnell, South Australia. The reason for this is that the nearest Victorian port to their operations is about 40 nautical miles by boat from where they catch the rock lobster, whereas Port MacDonnell is only about 13 nautical miles by boat from the catch location.

While both the Victorian and South Australian Fisheries acts allow for extra-territorial application, there is no express power in the Victorian act that enables the enforceability of a licence condition on Victorian fishers landing in South Australia.

While the bill addresses offences occurring at Port MacDonnell, it will also potentially apply to an offence against the Fisheries Act 1995 occurring in another state. However, this will only apply where there is a substantial link with Victoria such as where the activity is occurring under a Victorian licence or where the fish were taken in Victorian waters.

The amendments will allow South Australian fisheries officers to have the same enforcement powers as authorised Victorian officers in relation to Victorian licence-holders. Thus, both Victorian and South Australian authorised officers, including where a person is both, will have the same enforcement powers in relation to Victorian fisheries access licence holders.

The bill also includes a number of housekeeping amendments to the Fisheries Act 1995, including removing land crustaceans from falling within the definition of 'fish'; allowing processors to possess priority species where they are entitled to do so; and improving grammatical consistency within the act.

The bill also amends the Livestock Disease Control Act 1994 to amend offences regarding exotic disease control to further enhance the ability of the Department of Primary Industries to rapidly respond to future disease outbreaks and threats.

In addition to other minor amendments to the Livestock Disease Control Act 1994, the bill will amend that act to strengthen and clarify inspectors' powers and increase the options for enforcement of disease control measures by creating new strict liability offences carrying lower penalties than the existing offences. In addition the bill repeals the requirements for chicken hatcheries to be licensed and for testing of chickens for Pullorum disease and suspends the requirement for the licensing of premises for the collection of semen and the approval of sires.

The bill also amends the Veterinary Practice Act 1997 further to the agreement reached by the Primary Industries Ministerial Council that a model be adopted for the National Recognition of Veterinary Registration, which is consistent with national competition policy.

Currently, veterinarians must register with the veterinary board in each state and territory in which they wish to practise, a process which is unnecessarily costly and cumbersome, and does not appropriately reflect the realities of modern day veterinary practice or the breadth of work undertaken.

The following are examples of types of veterinary employment requiring multi-jurisdiction registration: private veterinary practices located near borders; practices with arrangements with interstate facilities; companies with interstate branches; racetrack and feed lot veterinarians; veterinary consultants; national enterprises (including veterinary pathology enterprises); locum practices; and commonwealth government staff, particularly those with the Australian Quarantine Inspection Service.

Each state and territory has agreed to modify their respective legislation to allow veterinarians registered in their jurisdiction of residence to conduct veterinary practice over the whole of Australia. This is termed 'deemed' registration, which gives veterinarians the right to practice in all states and territories.

All veterinary boards will have access to the registration information of veterinary boards in other states and territories. Existing procedures will remain in place for the boards to monitor and investigate professional conduct and notification of findings of misconduct that will be provided to all boards.

The model has received support from the Australian Veterinary Boards Council Inc, which represents all boards, and the Australian Veterinary Association which represents a large portion of the veterinary profession. The model considered by the Primary Industries Ministerial Council underwent development with extensive public consultation. The Review of Rural Veterinary Services (the Frawley review) recommended the removal of statutory barriers to veterinary practice consolidation and efficiency, including the requirement for separate registration in each jurisdiction.

This bill reduces the regulatory burden on veterinary practitioners, increases the scope for Victorians to engage an enhanced array of veterinary services and recognises veterinary practice as it exists in the 21st century.

I commend the bill to the house.

Debated adjourned on motion of Ms LOVELL (Northern Victoria).

Debate adjourned until Thursday, 20 November.

ASBESTOS DISEASES COMPENSATION BILL

Second reading

Debate resumed from 30 October; motion of Mr LENDERS (Treasurer).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise to make some remarks on the Asbestos Diseases Compensation Bill. One of the principles that applies with common-law actions in Victoria is that where a matter is determined in a court and an award for damages is made, that disposes of the matter. There is finality to a matter once a court has made a judgement and determined damages. In most civil compensation matters that are determined by courts that is an acceptable process. There is, however, an exception to that process being an acceptable way to determine matters for damages in civil courts, and that relates to matters regarding asbestos-related illnesses. The reason asbestos-related illnesses are different and the reason this legislation is being brought forward today relate to the manner in which an asbestos-related illness can progress, from initial symptoms or illness to a subsequent illness which is detrimental and ultimately fatal to the person suffering it. This bill has been brought before the house to recognise that the current way of dealing with asbestos-related illnesses in civil proceedings has not adequately recognised the fact that the illness may become worse. It is not appropriate for such a matter to be dealt with by a court early in the illness and determining and finalising the matter at that early point in time.

This bill provides that when a court is dealing with a matter relating to an asbestos-related illness, it can make a provisional award for damages and, if a subsequent illness develops, to make a further award for damages. The bill relates to actions which are taken either under the Workers Compensation Act, which is the pre-1985 relating to workplace injuries, the Accident Compensation Act, which is the current legislation, or non-work-related asbestos illnesses under the Wrongs Act.

In clause 3 the bill defines an asbestos-related illness as:

(a) asbestosis; or

(b) asbestos induced carcinoma; or

(c) asbestos-related pleural diseases; or.

(d) mesothelioma.

I understand from the briefing from the department that that covers the range of illnesses that a person with an asbestos-related condition is likely to develop. The purpose of this legislation is to allow a person suffering one of those illnesses to bring an action for damages without having to have regard to the fact that their condition may become worse; because to date, when a person with an asbestos-related illness has sought to bring an action, their legal and medical teams have had to form a judgement as to when is the best time to bring an action, having regard to whether their condition may become worse. This has led to many people with asbestos-related illnesses delaying the bringing of an action, with the consequent effect that they can die before the action is determined.

The passage of this legislation would allow a person suffering from an asbestos-related illness to bring an action for damages, to receive a provisional award for damages from a court, and then to make a subsequent claim for damages if they develop a further asbestos-related illness after the provisional award of damages has been made.

This side of the house believes it is an appropriate mechanism by which the sufferers of asbestos-related illnesses can have their actions dealt with in the court that gets around the problems that have been encountered to date of having to pick the most opportune time to bring an action, having regard to the likely further deterioration of their medical condition.

The bill puts in place a number of provisions to manage the awarding of provisional and then final damages. It allows the court, in making an award for subsequent damages or final damages, to have regard to the provisional damages that were awarded in the first action. It requires the court to take into account legal costs that were considered in the first action so that those costs are not awarded again and only subsequent costs are considered in the subsequent action for damages.

It also introduces some changes to the Accident Compensation Act to allow, in short, people who are suffering asbestos-related illnesses to have their matters determined more quickly in the event that they are in imminent risk of death, so that those matters can be brought forward. It also allows people suffering from an asbestos-related illness to have their application for a serious illness determination heard at the same time as their claim for damages. This side of the house believes these are sensible amendments to the way in which asbestos-related illnesses will be determined here in Victoria.

There is a further unrelated amendment to the Wrongs Act. With respect to awards for damages for a person

suffering a dust-related condition — which is defined in the Wrongs Act as similar but not the same as the definition of an asbestos-related illness — where a person who has been suffering from a dust-related illness has brought an action but they die before that action is determined, and there is a subsequent award of damages paid to their estate, currently under the law a dependent of that person could also bring an action for damages in respect of the damage they have suffered as a consequence of the person on whom they are dependent dying from the illness.

There has been a case in the New South Wales Court of Appeal where a judgement in the subsequent case relating to the dependent was reduced by the amount of damages that had been awarded to the estate of the sufferer of the dust-related illness; and the purpose of this amendment to the Wrongs Act is to ensure that in Victoria that does not happen. Any award for damages made to the estate of a person suffering from a dust-related illness will not be taken into account if there is a subsequent action by one of the dependants of that person suffering the dust-related condition; so the actions are to be kept separate, and if any award for damages is made to a dependent, it is not reduced by the amount of the damages that were made to the sufferer's estate. Again this side of the house believes that is an appropriate provision to insert in the Wrongs Act, and accordingly we will support it.

In short the coalition parties are happy to support these provisions with respect to asbestos-related illnesses. We believe it will make it far easier and a far smoother passage for people suffering those conditions who wish to bring actions. It avoids some of the problems that have been experienced by people having to delay their actions with the consequence that they die before those actions are determined. It is a sensible reform and this side of the house is happy to support it.

Mr SCHEFFER (Eastern Victoria) — I will be speaking in support of the bill, and I am pleased that there will be unanimous support in the house for this important piece of legislation.

The bill makes three important changes to the law that will improve the lives of those who suffer from asbestos-related conditions, and also the lives of their families. The first change will allow a court to make a settlement for damages on a provisional basis so that an individual who suffers from an asbestos-related condition can pursue a further claim if their condition deteriorates.

The bill will enable workers who have an asbestos-related condition to have a serious injury application and a claim for damages heard at the same time and, if necessary, brought on quickly to court; and finally, the bill ensures that a claim for damages brought by a person who dies from a dust-related condition before the court has finalised the matter, survives the claimant's death to the benefit of their dependants.

These are important changes to the law that will materially benefit many people suffering from asbestos-related conditions. Asbestos-related diseases are especially significant to the people of the Latrobe Valley, where the impacts have been felt right across the community for many decades. This bill and the government's apology to former workers of the then State Electricity Commission of Victoria and their families are two recent examples of efforts by this government to give some restitution to the many who have so tragically and needlessly suffered and continue to suffer.

Members will know that asbestos is a mineral made of fibres that become dangerous and invisible during the manufacturing process, and if inhaled can cause debilitating diseases such as mesothelioma, asbestosis, asbestos-related lung cancer and pleural plaques. For nearly a century asbestos has been used as an insulator in commercial and domestic buildings, in pipe wrapping, roofing, wall insulation, and on the insides of boilers, high temperature seals and gaskets.

Mr Dalla-Riva — On a point of order, Acting President, I have been listening now for 2 minutes, and I know that Mr Scheffer has only been speaking for 2 minutes, but I point you to the fact that he has been slavishly reading his notes, and I ask you to ensure that he does not do that, in accordance with rulings in *May*.

The ACTING PRESIDENT (Mr Pakula) — Order! I thank Mr Dalla-Riva. My ruling is that Mr Scheffer has been referring to copious notes and he is well aware of the rules about reading.

Mr SCHEFFER — All this handling of asbestos has constituted a serious occupational health hazard to generations of workers and their families. The use of asbestos in the development of the energy industry in the Latrobe Valley has posed special and serious risks to thousands of people in the valley. It is therefore not surprising that the Latrobe Valley community has played a longstanding and critical role in raising public awareness and campaigning to change the law to help those already affected and to prevent the disease spreading more widely.

The present legislation has been introduced in the context of a complex of historical factors that continue to challenge the Latrobe Valley community, especially since the 1920s when the power stations there began operating. In the wake of the privatisation of the State Electricity Commission some 17 000 people lost their jobs in the Latrobe Valley. The impact of this sent a shock wave through the community and reduced people's income, security and wellbeing. In 1999 the Bracks government set up a ministerial task force that was led by former Treasurer, now Premier, John Brumby. In 2001 the government committed to major investments in a range of projects in the Latrobe Valley to assist residents to retain their jobs and develop their skills and to lift the economy and tackle social problems.

At the time the former member for Morwell and then mayor of the City of Latrobe, Brendan Jenkins, amongst others, drew attention to the increasing number of people with asbestos-related illnesses and called for the establishment of an asbestos care centre. Latrobe City Council and local governments that preceded it have played a long and active role in seeking to protect residents from the impacts of handling asbestos. We should not forget the important role played by Christian Zahra, then the federal member for McMillan, who pushed for bipartisan support in the Parliament for a package of measures that would help the sufferers of asbestos-related diseases make claims for damages and get better financial support. He called on the Howard government to remove the limits on damages claims and wanted to see families of sufferers who died before their legal claim was completed receive the benefit.

The trade union movement — the Australian Council of Trade Unions and the Gippsland Trades and Labour Council — along with the Victorian government and the Gippsland Asbestos Related Diseases Support group campaigned strongly to press the Howard government to ban asbestos imports and stop the use of white asbestos in local manufacturing in 2003. The Gippsland Asbestos Related Diseases Support group said that the Victorian government was underestimating the number of people affected and that workers' families and people who had visited the power stations in the Latrobe Valley also needed to be included in the figures of affected people. They also pressed the Victorian government to improve health services for people with asbestos-related conditions. The campaign was successful — —

Mr Dalla-Riva — On a point of order, President, I have undertaken to respect your ruling in respect of slavish reading, but given the time constraints it may be better for the member to table his speech and save everyone from having to listen to him reading it. He is slavishly reading it, and I ask you to make a ruling on this.

The ACTING PRESIDENT (Mr Pakula) — Order! My ruling remains unchanged. I have noticed that Mr Dalla-Riva has spent much of the last 4 minutes looking in my direction, so I am not sure how he could know whether Mr Scheffer is reading or not.
Mr Scheffer, I have noted, has had his eyes up more than he has had them down. He is referring to notes, and he is in order.

Mr SCHEFFER — The point is that the battle against the spread of asbestos-related disease is far from over. In 2004 the government released an important information booklet entitled *Asbestos in the Home — Health and Safety in the Home*. The booklet explains the various ways in which asbestos handling is dangerous and warns that people who are renovating their homes should handle asbestos on their properties in a safe way. The booklet also gives comprehensive advice to home renovators about the authorities that can assist them and the centres in the community that can provide advice to them.

In April this year members will know that Professor Julian Peto from the United Kingdom visited Melbourne and presented the results of an analysis he had been doing on international trends in mesothelioma mortality. Professor Peto said that Australia and the UK have amongst the highest rates worldwide of mesothelioma per year, with some 600 cases in Australia. He said also that 30 000 Australians will die of mesothelioma between 2000 and 2050 and that 1 in 10 carpenters born in 1950 will die of asbestos-related cancers. That is five times the rate of the United States.

For some decades the Latrobe City Council has provided for residents in the municipality and beyond landfill facilities for the disposal of asbestos. More recently, in response to the growing concern among a number of home renovators dealing with asbestos in their houses, the council, together with the Gippsland Trades and Labour Council, the Gippsland Asbestos Related Diseases Support (GARDS) group, WorkSafe, the Department of Human Services, the Environment Protection Authority and other authorities, has worked to develop the asbestos in the home removal kit.

GARDS and the Gippsland Trades and Labour Council have provided me with detailed information, including the instructional DVD that sets out the details of the kit, which was launched last year by Matt Viney. In November last year the Minister for Environment and

Climate Change, Minister Jennings, announced that the government would provide $1 million to encourage safe handling and disposal of asbestos and create up to 20 new disposal sites across Victoria. At the time he said that something like 30 000 to 40 000 tonnes of asbestos, both domestic and industrial, is disposed of each year. The money is to be used for councils and operators of local transfer stations to make sure that disposal standards are being met.

Moves are being made on a number of fronts to arrest the projected increase in the incidence of asbestos-related diseases, but of course the current legislation does not address the future epidemiology of asbestos-related diseases. It does go to improving the material circumstances of those who have already contracted the disease, and I commend the legislation to the house.

Ms PENNICUIK (Southern Metropolitan) — I would like to start my contribution by paying tribute to the thousands of Australians who have already died as a result of exposure to asbestos. Too many of those Australians have died without access to compensation and certainly the type of compensation that is to be provided under this bill when it is enacted. Those workers and their families were deprived of that compensation. I think it is best to start a contribution on this bill by remembering those people, because exposure to asbestos leads to asbestosis or mesothelioma, which are deadly diseases, and to terrible deaths.

I would like to pay tribute also to the thousands of people in the union movement in workplaces and in communities who fought for decades to see asbestos banned. Members might not realise that asbestos was declared a poison in the UK in 1901. Despite that, companies that mined asbestos and used it to manufacture products, especially building products, or used it in power stations and in shipping, for example, all knew that asbestos was a killer and they covered it up and denied it. They continued to expose their workers — and indirectly their workers' families — to asbestos. That is a very sorry saga of unconscionable conduct over decades by those companies and those employers in Australia. To this day some of them continue to deny it and to resist their legal and moral responsibility towards the workers who have died as a result of those actions.

I have quite a long history in working to ban asbestos. It was only at the end of 2003 that asbestos was finally banned in Australia. In 2001 the Australian Council of Trade Unions hosted the International Workers Memorial Day, the theme of which was to end the mining, manufacture and use of asbestos in Australia. While brown asbestos had been banned since the 1980s, white asbestos, or chrysotile, was still being imported from Canada, a country which still exports chrysotile to this day. It is used to make brake linings for cars. The ACTU and unions were committed to bringing an end to this, and governments, including the Bracks government, were dragging their heels. It was only following a concerted union community campaign that chrysotile was finally banned in 2003.

On 4 December 2007 I raised an adjournment matter for the Premier, asking him to expedite actions to raise community awareness of the existence of asbestos. We know that asbestos still exists in 500 000 buildings in Victoria, 325 000 of which are people's homes. I asked the Premier to take action to address this legacy, rightly called the asbestos time bomb in the book *The Asbestos Time Bomb* by George Wragg, who, as mentioned by Mr Scheffer, hailed from the Latrobe Valley. It is certainly a time bomb in Victoria and around Australia in regard to in situ asbestos still in buildings, workplaces and in people's homes.

There is an expected death rate from asbestos-related diseases in Australia of about 56 000 people by the peak, which is expected to occur around 2030. By any measure that is an absolutely shocking statistic, and not enough is being or has been done about it over the years. It has just been a struggle by unions, communities and workers to get enough done about asbestos. We still have the asbestos time bomb in our buildings, and governments are still not doing enough. Following the tragedy of the number of workers who were wilfully exposed by their employers and who have succumbed to asbestos-related diseases, we now have the situation where people who have had non-work-related exposure to asbestos — that is, people who have grown up around or been exposed to asbestos in their homes or in other buildings — are contracting asbestos-related diseases. Again, not enough is being done.

I raised this issue with the Premier last year, and I asked him to take some action — for example, requiring building audits when people are applying for planning or renovation permits or when they are selling properties, and requiring them to notify tradespeople of the presence of asbestos. All this is undertaken in the Australian Capital Territory. I asked the Premier to convene a task force to coordinate a whole-of-government approach to the eradication of asbestos in the community. The Premier responded to me in April, indicating that there was a document or something happening called 'a strategy for improving management of asbestos issues' and another called 'an

action plan for government on asbestos issues'. I have never seen those documents. I spoke to people at the Victorian Trades Hall Council, and they said they had not seen those documents either. I wonder where those documents are and what has been done in that respect, and I will be following that up with the Premier.

When we had the regional sitting in Gippsland the Premier apologised to those who had suffered from asbestos-related diseases, which I welcomed as it was a good thing. I also raised an adjournment matter at that regional sitting, again asking what the Premier was doing about the problems of asbestos. I again suggested to the Premier that there be a cross-government task force convened to administer the issue of domestic asbestos. I am pleased to inform the house that only yesterday I received a response from the Premier. The Premier thanked me for raising this issue, and he commented that it was a proposal worth considering and that he would ask his department to look into it further. I welcome that response from the Premier and I will follow up on that issue, because we have ongoing problems with asbestos in situ in Victoria.

I heard what Mr Scheffer said about the good efforts by the Gippsland Asbestos Related Diseases Support group. I am familiar with the efforts of members of that group, the Gippsland Trades and Labour Council and the government with regard to asbestos in situ and asbestos in the workplace in the occupational health and safety framework, but it is still not enough. It needs to be taken a lot more seriously, or we will continue to have people dying from asbestos-related diseases. That is not acceptable, because they are preventable deaths. We should be doing much more about preventing these deaths. Decades and decades have passed while we have known that exposure to asbestos is lethal, but we have continued to allow that exposure first of all for decades in the workplace, as I mentioned, and now we still have the inadvertent exposure of people in their homes and buildings, including public buildings.

The Greens are very supportive of the bill. The government has been behind other governments across the country in terms of compensation and in terms of setting up organisations such as the Dust Diseases Board in New South Wales, which has been in existence for many years, and the compensatory framework in New South Wales, which meant that exposed workers did not have to go through the trauma of proving their exposure in court. Under that framework, if a worker developed asbestosis or mesothelioma, they were deemed to have had a workplace exposure because that is how you get it. They were deemed to have been exposed to asbestos, because you do not contract asbestosis or mesothelioma without being exposed to asbestos; that is the only way you can get it. This state has dragged its heels on that.

I am happy to see the bill here today, because workers who contract asbestosis invariably get worse, they do not get better, and that is the tragedy of the situation. I am pleased to see this legislation that allows for provisional compensation and then for additional compensation further down the line if the condition worsens, which it invariably, very sadly, does.

However, I would say to the government that it is an unhappy fact that it has taken nine years to bring the legislation here. The people who have contracted asbestos-related diseases in that time have not had the benefit of this proposed compensation. For the life of me I cannot understand why a government that is committed to workers' rights and to social justice has waited so long to bring in this bill. Nine years has been wasted. I am very pleased to see it here today, but it has taken too long.

Mr HALL (Eastern Victoria) — I am probably revealing my age when I say to the house that I have fond memories of the township of Yallourn. Probably many people in here never had the opportunity to visit that town. Of course they will not be able to do so now, because there is no town of Yallourn as such.

My fond memories relate to the fact that my wife of some 30-odd years was born and grew up in Yallourn. I met my wife in 1971, and it was the first occasion that I visited the township of Yallourn. It was a rather unique township — at least unique in Victoria — in the sense that it was all owned by the then State Electricity Commission of Victoria. Nobody owned their own home; residents were tenants in homes owned by the SECV. Public infrastructure within the township of Yallourn was also provided by the SECV at that time. My wife's father worked for the SECV, as did the members of all the other families who resided in the township.

When I first visited Yallourn in 1971, plans were well developed towards the relocation of the town because it had been deemed that the coal underneath the town would be required for future electricity production. During the early 1970s a relocation of the total town was planned and, indeed, by the early 1980s the town was gone and every resident was shifted out of the town. Some of the buildings were demolished; some were bought and relocated to other parts of Gippsland. People who understand or have knowledge of the Yallourn-type houses could readily identify many homes, both in towns and country locations, as old Yallourn houses that had been shifted. Many people

owned their own homes and relocated them somewhere else in Gippsland at that time.

Yallourn was built between the 1920s and the 1950s. It also accommodated a lot of migrants who came to Australia to work at power stations. Towns like Yallourn, Newborough and Moe and those sorts of areas have a rich cultural heritage from the many people from different countries who came and settled there and worked for the SECV.

Yallourn was also famous for its fine sporting facilities. I can recall playing at the Yallourn no. 1 oval where some of the grand finals were staged because it was deemed to be the best footy ground in the Latrobe Valley Football League. It was in the grand final of 1978 that a team that I played in and coached, the Traralgon football club, defeated Yallourn. Not long after that the Yallourn club became Yallourn-Yallourn North. As the town was relocated, the footy club and all the other sporting organisations and community organisations tended to disappear. But there still is Yallourn North — —

Mr Drum interjected.

Mr HALL — They were pretty good.

Mr Drum interjected.

Mr HALL — It was coached by an old friend of mine, Ray Coleman, who played with Carlton. But my memories of Yallourn are fond for the reasons I have just outlined.

Unfortunately some people do not have such fond memories of Yallourn as a township in the sense that people who worked for the SECV in a number of occupations were exposed to asbestos. That occurred in particularly construction. Asbestos was used to protect various machinery parts in the Yallourn power stations. I might add for the record that although people nowadays are well aware that Yallourn W is a significant power station — it is next to the old town site — there also used to be Yallourn A, B, C and D power stations. They were the first power stations built in that area, but they have since been demolished. I am not sure what happened between 'D' and 'W', but Yallourn W power station is a significant power generator which still stands today.

As I said, some people's memories of working for the SECV are not always pleasant. I know personally some of those who have been afflicted with asbestos-related diseases. Some of those people have since passed away, but many remain impaired by the impact of their exposure to asbestos as a result of their occupations at Yallourn. My sincere condolences go to those who have lost family members from asbestos-related deaths and also to those who linger with an impairment because of that substance. Like Ms Pennicuik, I noted the comments by the Premier in expressing some sorrow about that on 15 October when the Legislative Assembly sat in Churchill. I readily add my sorrow to those sentiments which were expressed by the Premier at that time.

An organisation called Gippsland Asbestos Related Diseases Support has been mentioned. The organisation, which has been established in Gippsland, offers some support to those families and individuals who have been affected by asbestos-related diseases. It also plays an important advocacy role for those people. I would not be surprised if it were a fact that GARDS has had a significant influence in bringing forward this legislation today. I want to compliment the people at the GARDS organisation, particularly Vicki Hamilton, the long-time secretary, who has been proactive in supporting and providing advocacy for those people.

I note that the Gippsland Asbestos Related Diseases Support group has drawn the local community's attention to the annual Asbestos Awareness Day ceremony, which will be held this year in Morwell on Friday, 24 November, with a service to commemorate people who have been affected by the disease and their families. The group does a great job in helping those people and bringing to our attention those things of years past and ensuring that we learn from them and do not make the same mistakes.

As has been said, the intent of this legislation is described in the explanatory memorandum, which I will not look at. Others have mentioned exactly what the bill does. I welcome the opportunity for people who have been affected by asbestos-related substances to have the opportunity to seek the compensation they deserve. Asbestos-related diseases are insidious in nature and sadly people do not feel the full impact of the symptoms until later in their lives.

It is sensible, proper, responsible and fair legislation that will allow people to look at making a claim for ways in which they may be affected by asbestos in the future. I conclude by saying this is good legislation that I am proud to support, and I hope it brings some comfort to those families who have been affected in some way by an asbestos-related disease.

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

Motion agreed to.

Read third time.

GAMBLING LEGISLATION AMENDMENT (RESPONSIBLE GAMBLING AND OTHER MEASURES) BILL

Second reading

Debate resumed from 30 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr GUY (Northern Metropolitan) — I rise to speak on the Gambling Legislation Amendment (Responsible Gambling and Other Measures) Bill 2008. At the outset I state that the Liberal Party and The Nationals will not be opposing this bill. We support legislation that comes to this Parliament which beefs up responsible gambling measures, and there are elements of this bill that do that, which we are pleased to see. We support those measures, and we support responsible gambling in the state.

It should be noted that gaming in this state is a $1 billion-plus industry. We know we are facing an economic downturn at this time; however, it is interesting to note that this did not affect revenues from betting at the recent Melbourne Cup, principally because we have a large interest in gaming in the state — and it appears that is not going away. It is worth noting that this bill has a number of purposes, which are to:

(i) consolidate offences in relation to minors;

(ii) provide for the banning of irresponsible gambling products and practices;

(iii) reform the regulation of the conduct of bingo by or on the half of community or charitable organisations;

(iv) clarify the secretary's powers in relation to wagering and betting licensing and keno licensing;

(v) make other miscellaneous amendments.

In noting that I do not wish to speak for a long period on this Thursday afternoon, I want to touch on some of those elements I have mentioned. In relation to minors, everyone in this house would be of the view that encouraging minors to gamble is not a good thing to do and that it is worthwhile to encourage provisions that seek to deal with irresponsible gambling and bringing minors into it. Minors should also know what responsible gambling is about when they see their parents and guardians place bets. It is an important message to deliver to minors at an early stage: to treat gambling seriously and think about the effects of irresponsible gambling. It is important that we factor in minors and that the bill has provisions that relate to minors, which we support.

The bill sets out a number of offences for allowing or even assisting minors to gamble. Exemptions apply for raffles, sport-tipping contests, sweepstakes among people engaged by the same employer and where certain conditions have been met. The bill will make it a strict offence for a gambling provider, a bookmaker or a bookmaker's clerk to allow a minor to gamble, which we support. We support initiatives relating to responsible gambling. We certainly support the thrust of the bill. There are a number of points put forward in the bill relating to minors which are useful, and while there are some issues in relation to the minors element of the bill, clarification has been sought from the minister by my colleague Michael O'Brien, the member for Malvern in the other place. So there is in-principle support for the bill from the coalition.

In relation to banning irresponsible gambling products and practices, I understand the bill gives the Minister for Gaming the power to use an interim ban order against gambling products and practices that undermine the responsible gambling objective. Some of the powers that are being offered to the minister are quite wide ranging. Interim bans will last 12 months unless revoked by the minister. Matters that are reported to the VCGR (Victorian Commission for Gambling Regulation) for investigation are then reported to the minister. A minister can then determine whether to issue a fixed-term ban of up to 10 years, so it is a fairly severe offence. The minister certainly has been given wide-ranging powers in this bill. It is very important to note that there are provisions in this bill that beef up measures in relation to irresponsible gambling and the products and practices that come with them.

It should be noted there is no compensation clause here. If the VCGR does conduct an investigation and finds no problem, the gambling provider who has been banned in this case may find themselves out of pocket. While that is an element of concern or some element to note in this bill, it is certainly not one that will dictate

our thoughts on the bill in not opposing it. But it is another point that should be noted.

If an investigation is conducted into a company or a gambling provider and that investigation finds no fault, it is pretty unfair in some ways to leave that provider financially exposed and out of pocket, and they will be. We accept that the VCGR will not be conducting investigations until serious evidence has been presented to it.

There is one element of this bill that I find quite interesting, and I spent some time reading about it. It is in relation to bingo reforms. Bingo is a big business, although it has done it tough since pokies have come in and a lot of people, especially our senior citizens, stopped heading over the border to play the pokies and stayed in Victoria. Bingo is no longer just a Country Women's Association activity on a Friday; it is a big business around Victoria. It is no longer just one of those activities that you might have seen at a senior citizens club in a country town.

Dare I say that some Labor members in this Parliament have engaged in or have certainly had dealings with bingo activities in the past. While I will not go into those, no doubt this bill will certainly be noted by those people, and the impacts on and reforms to bingo have certainly been picked up by those people.

The bill deals with bingo in a number of ways. So long as certain conditions are met — that is, no fee is charged to participate, all receipts are distributed as prizes, it is not for commercial benefit and there is no advertising as such — then a non-licensed person may conduct a bingo session, and you have to say 'thankfully!'.

Mr Vogels — Bingo!

Mr GUY — 'Bingo!' indeed, Mr Vogels. That means that the Preston branch of the Liberal Party or indeed maybe the Keilor branch of the Labor Party can still conduct a bingo session without needing to apply for a licence. There will not be any people in nursing homes sweating on this bill over their necessity to gain a bingo licence, which is good, because no doubt all the proceeds go back to the residents. They will not need licences. The bill also permits the VCGR to make rules for bingo and to take action against a community or charitable organisation for breaches of the act or for supplying misleading information. Again that comes back to the responsible gambling measures which the coalition supports.

In proposed section 8.4.2C there is a requirement that community or charitable organisations or bingo centre operators that intend to have large bingo prizes must notify the commission in writing of that intention at least three business days before conducting the event. I wondered what the cut-off might be for what constitutes a large bingo prize. I was advised by my colleague Michael O'Brien in the other chamber that the estimated figure was around $20 000. I thought to myself, as no doubt he did, that if bingo in the state of Victoria was offering prizes of $20 000, I might be gatecrashing the Preston RSL on a Friday night! I thought bingo was more about chook lotto, and $20 000 is certainly not a prize that I would ever have expected to come out of a bingo competition. If they offer those prizes, then obviously they will need to write to the VCGR at least three business days before conducting that event.

As I said from the start, we support responsible bingo in Victoria. It was very interesting to read the details in the act in relation to bingo. There are some changes to disciplinary action. The bill provides for the VCGR to take action against a gaming or wagering licence holder. Fines are now up to 50 000 penalty units for a breach of the licensing conditions, the act or the regulations. The new provisions gives the VCGR the power to proceed even if the breach has been remedied. This replaces the seven-day clause under which, if a breach is remedied within a seven-day period, no further action could proceed. That is a change which we support. Having said that, it should be noted that 50 000 penalty units is quite a large fine. I am advised that the current penalty is around $110 or $112; I understand that the maximum under the new provision is around $5.6 million. It is not unreasonable for the government to have these wide-ranging powers, and it certainly provides it with more flexibility when it comes to fines. There are some questions as to why there is such an massive increase, but it might stem from the small size of the maximum fine in the act.

The last element I will touch on relates to the confidentiality clauses in the bill. The bill provides that the new confidentiality clauses apply to regulated persons even after they leave office. The Legislative Council Select Committee on Gaming Licensing already dealt with these issues when some people who appeared before the committee would not comment on some things that had occurred in their previous workplace. The bill contains provisions dealing with limitations on disclosure of protected information, as deemed by the act, and applies these limitations to people nominated by the departmental secretary. It sounds a bit like the *X-Files*, but that is what we are getting in the bill.

As I said before, I understand that there are a number of revisions in the bill that relate to responsible gambling. We have some concerns about this issue, which have been expressed by Mr O'Brien, the member for Malvern in the Assembly, and a number of our colleagues in that house. I understand that one or two of my colleagues in this place will speak on the bill after me. As I said, this side of the house supports responsible gambling. We will not be opposing the bill.

Mr DRUM (Northern Victoria) — I take the opportunity to briefly speak on the Gambling Legislation Amendment (Responsible Gambling and Other Measures) Bill. I commend Mr Guy along with the member for Malvern in the other place on going through the bill in the detail it deserves.

The bill will effectively give the Minister for Gaming the power to issue interim ban orders against anyone who undermines any of the responsible gambling objectives that will be inserted into the act. We need to address this. We need to set in place the objectives to make sure that we understand each of the provisions, and then give the minister the power to put in place these bans. The matter will then be referred to the Victorian Commission for Gambling Regulation (VCGR) for investigation and then it will be reported back to the minister, who will decide whether the interim ban has been sufficient and, if not, whether to issue a fixed-term ban of up to 10 years.

Some very significant fines have been introduced into this sector. Some of the fines for breaches of the gambling legislation can be for more than $5 million, so they are quite significant. The VCGR may take disciplinary action against anyone who breaches any of these provisions — I note the word 'may'; it is not forced to do that.

The bill makes things easier for the bingo sector. A whole range of small schools, parent groups and nursing homes run bingo nights for fun, not for profit, where all the proceeds are returned as prize money. They were concerned that they were running foul of the law by operating a bingo session without the appropriate licences. When the criteria I have already outlined are met, organisations will be able to operate bingo sessions without an official gaming licence.

The main purpose of the bill, as I see it, is to put some teeth in the provisions to deal with problem gambling in relation to minors, prohibiting them from going anywhere near gambling operations. It was interesting to hear on the radio this morning quite a lot of callers ringing in about minors gambling at the recent Spring Racing Carnival at Flemington Racecourse. I was at Flemington on Emirates Stakes Day. It was billed as the family day of the four-day carnival, and there were a lot of younger people there. The big story on the day was of a 16-year-old who was able to place a bet using a false ID card. He had a $5000 return for a $2 investment. The furore was not so much about a young person doing that, because I am sure young people are using fake IDs for a whole range of behaviours that they are not allowed to do, as it was about the ensuing action taken by the policeman or security guard — I am a bit unsure as to who it was but I think it might have been a policeman. He saw the young person celebrating, realised he was only 16 and tore up the $5000 ticket in front of him. That would have hurt the young person, and I am sure it would have hurt his old man, who would probably have been able to get the ticket and cash it in himself. The bill provides a framework to prevent that sort of thing happening and effectively creates a specific offence for anybody who lets a minor gamble.

This part of the bill contains a provision making it is an offence for a minor to be knowingly allowed to gamble. That clarification will come through, and I am sure the minister will outline how someone would knowingly let that happen.

I agree with what Mr Guy was saying earlier. As someone who enjoys a bit of a punt, I was unaware of the problem with minors gambling. You never see them in the casino, and you do not see them in gaming venues. If you go to the races, you very seldom see them on the track. However, the word is that the casino has an enormous job turning away young people. I have heard they turn away up to 30 minors a day, and I am shocked that there are so many kids trying to get into the casino to gamble before they are 18.

I take it on face value that it is a significant problem. I am glad to see that the government has drawn a line in the sand and has put in some significant provisions around minors. There are enough people in trouble with gambling as mature adults, making sound or unsound decisions. We cannot allow our youth to get involved in this industry until they are wise enough to realise that whilst a win comes along every now and again, generally people who have a bit of a gambling habit are on the wrong side of the ledger.

With those few words, I reiterate that the coalition will not be opposing this legislation. In fact many of the provisions have our support. We certainly hope that these new provisions enhance the gambling sector and go a short way to fixing up some of the potential problems associated with problem gambling in the future.

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

Ms MIKAKOS (Northern Metropolitan) — I am pleased to rise to make a brief contribution to the debate and indicate my support and the government's support for the Gambling Legislation Amendment (Responsible Gambling and Other Measures) Bill. The bill is part of a prolonged strategy that the Bracks and Brumby governments have had to address problem gambling in Victoria and provide an appropriate regulatory framework for gambling and the gambling industry in Victoria.

In terms of the responsible gambling measures in the bill, it contains two very important measures. One relates to the power to ban products and practices; the other relates to minors gambling. In relation to the power to ban products and practices, the bill implements a commitment in the Taking Action on Problem Gambling strategy to enable the minister to ban irresponsible gambling products and practices, and the process set out in the bill permits the making of interim and fixed-term ban orders and provides a penalty of 1000 penalty units, or approximately $110 000, for non-compliance.

The bill also enables the banning of a product or practice if it is designed to explicitly avoid or undermine the responsible gambling objectives of the Gambling Regulation Act 2003, and it enhances the government's capacity to ensure that gambling is conducted in a responsible manner.

The other aspect of the bill's approach to responsible gambling that I want to address are the provisions relating to minors. The bill makes a number of reforms to the current provisions relating to gambling by minors. It implements a government commitment to increase penalties and provides a new responsible gambling focus. The package of reforms relating to minors includes increasing to 120 penalty units or approximately $13 000 the penalty that applies to gambling providers that permit a minor to gamble, consolidating a range of offence provisions and establishing a new offence in relation to gambling products provided by vending machines, and establishing a new objective in the act to ensure that minors are neither encouraged to gamble nor allowed to do so. The combined effect of these amendments will ensure that the government has in place a cohesive and effective approach to the issue of gambling by minors.

Another aspect of the bill I want to touch on briefly relates to regulatory reform of bingo. Bingo is a very popular practice, as other contributors to the debate have commented. I would certainly be surprised if, as Mr Guy suggested, the Liberal Party was to use bingo sessions as a fundraising vehicle in the future.

Mr Guy interjected.

Ms MIKAKOS — I can see Mr Guy as the barrel girl, calling out those numbers in a bingo session!

Bingo is, as I said, very popular. It is a legitimate gambling practice that is very popular among senior citizens in our community. Beyond that it is used extensively by not-for-profit charitable community organisations to fundraise for their various activities and purposes. The bill seeks to provide significant reforms for the conduct of bingo and so reduce the regulatory burden on the bingo industry. The purpose of the proposals is to improve the viability of bingo to support its growth, to promote responsible gambling, and particularly to reduce the regulatory burden on community and charitable organisations that choose to conduct bingo sessions for fundraising purposes. The current requirement to have a minor gaming permit to conduct bingo is removed, and that will reduce the regulatory burden on community and charitable organisations.

The proposals will also enable no-fee and full-return bingo sessions to be played in nursing homes, provided they are not advertised or open to the public. This is a significant reform to offset any possible risk resulting from the removal of the minor gaming permit requirement. The bill also limits the duration of a declaration as a community or charitable organisation to a period of 10 years and requires the making of an application for renewal after that period.

Very briefly, the bill also contains some disciplinary procedures for gaming operators. It ensures that a consistent and appropriate approach can be adopted in any disciplinary action taken against either gaming operator in the important period leading up to the end of the gaming operators licences in 2012. The changes made by the bill include amendments to ensure that the same notification requirements for associates will apply to both operators. Some provisions in the bill ensure that the secretary has the necessary power to involve persons external to the Department of Justice to perform statutory functions in that post-2012 environment.

These provisions are necessary to ensure that the secretary of the department is able to be assisted by the Victorian casino and gaming regulator, contractors, and an interdepartmental steering committee. The bill provides a significant set of reforms to Victoria's

current gaming regulatory framework, and it is particularly important to strengthen our current problem gambling measures. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time

I thank members for their contributions.

Motion agreed to.

Read third time.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 2 December.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Patient transport assistance scheme: reimbursement

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the attention of the Minister for Health in the Assembly regarding the Victorian patient transport assistance scheme. My request is for the minister to initiate a review of the Victorian patient transport assistance scheme with a view to providing a better level of support to patients living in isolated regions. This should include increasing the reimbursement rate of 17 cents per kilometre and the accommodation reimbursement rate from $35 plus GST to a level that is more reflective of the current travel and accommodation costs, and taking action to ensure that claims are processed in a timely manner.

I was recently contacted by the Mount Beauty community and health advisory group which is frustrated that members of its community fall short of the eligibility criteria for the transport scheme. Mount Beauty is 98 kilometres from the regional centre of Wodonga, a mere 2 kilometres short of the scheme's 100 kilometres one-way distance criterion. Residents in Porepunkah also fall short of this criterion by just 2 kilometres.

Moreover, soaring petrol prices have made it even more difficult for rural residents already struggling with the costs and imposition of travel that are undoubtedly higher in isolated areas. The Mount Beauty community and health advisory group believes that this criterion again unfairly discriminates against rural patients seeking already limited services, and that the scheme provides grossly inadequate compensation for the expenses associated with travel for medical specialist services.

My electorate of Northern Victoria Region is vast, and many of its communities are isolated from the city, regional centres and their health services. As a consequence, I have been contacted by a number of constituents concerned about the Victorian patient transport assistance scheme. In May this year I raised the concerns of a constituent worried about the level of reimbursement for travel and accommodation costs for those accessing the scheme, and in August I raised the issue again.

I request the minister initiate a review of the Victorian patient transport assistance scheme with a view to providing a better level of support to patients living in isolated and rural parts of the state. This should include increasing the reimbursement rate of 17 cents per kilometre and the accommodation reimbursement rate from $35 plus GST to a level that is more reflective of the current travel and accommodation costs. It should also include taking action to ensure that claims are processed in a timely manner as well as reviewing the 100 kilometre criterion for qualifying for this when towns which are just 95 or 98 kilometres from a centre are restricted in applying for the Victorian patient transport assistance scheme.

Transport: east–west link needs assessment

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is for the Minister for Roads and Ports, Minister Pallas. Yesterday I presented a petition to Parliament, organised by the West Sunshine community campaign, with 2754 signatures of people opposing the new roads and tunnels proposed in the Eddington report. I was honoured to table the

petition on their behalf. The petition asks the government to reject the road tunnel and linked tollways because they will cause more congestion and pollution. It says that roadways are not the solution, especially with peak oil and climate change. Every one of the 2754 people opposes the compulsory acquisition of homes, schools, parks and facilities. They want the money spent on public transport instead, and I support them completely.

Last week the West Footscray residents' version of the same petition was tabled with 844 signatures. Today my colleague Greg Barber presented a petition opposing a new tollway with 2995 signatures. This is now a total of 6593 people opposing the tollways that are recommended by the Eddington report. The action I ask of the minister is to take notice of residents' concerns and organise to meet with the Brimbank Transport Action Group.

Ambulance services: regional and rural Victoria

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Health. The matter concerns the transport of non-emergency patients to specialist medical appointments.

I wrote to the minister in July about a constituent from the Castlemaine region who had experienced major problems trying to get appropriate transport to his specialist appointment at the Peter MacCallum Cancer Centre in Melbourne. This followed three operations in three months. That patient had previously been able to attend his specialist appointments using Rural Ambulance Victoria transport, but he has now been told he is no longer able to do that.

This week I have been contacted by another patient from Elphinstone, on the outskirts of Bendigo, who is required to attend chemotherapy in Bendigo. She previously used Rural Ambulance Victoria clinical transport, but she has now been told she will have to find alternative transport. She has since been able to find alternative transport with the Red Cross, but she is seriously concerned because she has a longstanding family history of cardiac problems and her condition is such that she could very easily have a cardiac arrest. She is quite concerned about this. If she were to have a cardiac arrest in a Red Cross van or in some other form of transport, she is seriously concerned that she would not survive such an attack.

My request to the minister is to conduct an investigation into why Rural Ambulance Victoria has begun this trend whereby people who have previously been able to obtain clinical transport — transfers from one hospital to another, from home to hospital or from home to specialist appointments — are now finding out that the previously accepted practice has all of a sudden changed and they now have to find their own way or an alternative way to get to their medical appointments. I request the minister to conduct that investigation and then release the response so that members of Parliament and members of the public are aware of why it is that this change is subtly taking place. It would seem that these people are now required to make arrangements other than those that have been in place, which is causing confusion and distress.

Tourism: Gippsland

Mr P. DAVIS (Eastern Victoria) — I direct a matter for the attention of the Minister for Public Transport relating to V/Line's recently announced regional tourism promotion, which is accompanied by the catchphrase 'See things differently'. I point out to the house that depending upon your perspective, this campaign can certainly be seen in different ways. The government's inflated expectations of this program aside, not all of them are necessarily beneficial, particularly for the large nature-based tourism industry in East Gippsland.

The minister is looking to capitalise on spare capacity on outbound and off-peak V/Line trains by encouraging people to take train outings to country areas. But the government's view of country Victoria is limited — in this case it only includes the centres of Ballarat, Bendigo, Geelong and Echuca. Somehow V/Line also sees things differently, because its website indicates this is part of the Discover Victoria program, which includes Melbourne in addition to the other four centres.

There is no focus in this campaign on Gippsland and East Gippsland. The reason could well be that the government and V/Line do not want people to find out that the Gippsland trains to Sale and Bairnsdale have the worst punctuality record of any long distance line in the state, with more than a quarter of them arriving at least 11 minutes late. This continuing underperformance follows the major service disruptions Gippsland travellers had to endure for months from last Christmas, when they had to change trains at Pakenham. But V/Line refuses to admit to the problem on the Gippsland line. Its annual report presents a glowing picture of punctuality targets and reliability rates being met. Any mention of delays is blamed on congestion on the suburban lines, not on V/Line's inability to perform.

To return to the question of the tourism campaign, I ask that the minister act to incorporate Sale and Bairnsdale in the campaign as gateway destinations to the Gippsland Lakes, the alps and the coastal landscapes of East Gippsland.

Rail: Bentleigh electorate

Mrs COOTE (Southern Metropolitan) — My adjournment matter tonight is for the Minister for Public Transport. It is in regard to the issue of ticketing prices in 2009 and is particularly focused on the concerns of constituents in the Bentleigh electorate.

I have been conducting listening posts at the train stations in the Bentleigh electorate and have had a very interesting response. As this chamber knows, I have presented a petition from certain citizens of Bentleigh, who are very concerned about crime and overcrowding on, and the lateness of, trains.

Currently the government is conducting a trial of the use of trains with a reduced amount of seating on the metropolitan rail network, with the plan of implementing the strategy throughout the network. As an aside can I say that seats have been taken out of the Geelong train, and people using the Geelong train have to take their own camp stools to be able to sit on a seat to travel to the city. We are not talking about Mumbai — this is Geelong! This is not good enough. However, the government wants to implement this on metropolitan trains starting in my electorate and on the Bentleigh line.

The proposal is a major admission of failure to provide an adequate public transport service. The reason the seats have had to be taken out is that the government cannot get enough trains on the lines to get people to work on time, the trains are late, and it has to jam people in the trains like sardines in the hope it can shift more people. This is a bandaid solution and an attempt to cover up the dire situation in the public transport system.

I remind the chamber that the Parliamentary Secretary for Public Transport is none other than the member for Bentleigh, Rob Hudson. Mr Hudson should take note of this and make certain that it does not happen. People are very disgruntled with Mr Hudson and they want less talk and more action.

Further to the indictment of jamming people in is that next year, in 2009, the government will raise the prices of the tickets. Not only will they not get a seat but they will be paying more for late and overcrowded trains.

The action I am seeking is for the minister, as a matter of urgency, to implement a moratorium on the increase in ticket prices for 2009 to assure Bentleigh electorate residents that they will not be victims of a fare increase next year — with no seats!

Disability services: supported accommodation

Mrs KRONBERG (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Community Services. Vulnerable Victorian adults become more so because of individual and systemic factors associated with age, health, mental health, disability or a combination of these factors. Many of these Victorians depend on government-funded supported accommodation. Therefore, their lives are fraught with the compromises inherent in their existence and for far too long sustained by this government.

Reports from community visitors stress the need for improved facilities. Currently many subsist in old, dirty, primitive and thoroughly outmoded facilities. They also share bedrooms and lack privacy, and this form of shared supported accommodation falls far short of an acceptable standard.

With regard to disability services in Eastern Metropolitan Region, which has the second-largest concentration of shared supported accommodation, some 137 facilities are managed directly by the Department of Human Services regional disability accommodation service.

The unrelenting stress on the families and carers of our disabled citizens is hideous. The restoration of hope and dignity for disabled Victorians is long overdue. The maintenance, updating or redevelopment of older housing that serves as shared supported accommodation is an ongoing issue and, frankly, a weeping sore. Such accommodation targeted for closure or significant renovation is missing out on maintenance and this becomes of greater concern because there seem to be no time frames for redevelopment or closure and thus people are in no-man's-land.

I call on the minister to review the current practices in order to introduce a new system, where decisions and actions on shared supported accommodation maintenance programs and redevelopments are expedited on an urgent and consistent basis. This should be approached with the strategic intent of reducing the disparity between Department of Human Services shared supported accommodation facilities

and those managed by community service organisations in this state.

Children: *Keeping Baby Safe — A Guide to Nursery Furniture*

Ms DARVENIZA (Northern Victoria) — I want to raise a matter for the attention of the Minister for Consumer Affairs, Tony Robinson, in the other place. The matter I wish to raise concerns the issue of baby and child safety. Data that has recently come from the Monash University Accident Research Centre shows that every year more than 400 children aged under 5 years in Victoria are treated in hospitals for injuries related to infant and nursery products. Most people when purchasing products for babies or for small children believe the products they are purchasing are safe.

I note the minister recently launched *Keeping Baby Safe — A Guide to Nursery Furniture*. This guide will be a valuable aid to parents and carers. I note also that the guide is a joint project undertaken by both the state and federal governments. The guide is geared to parents and carers so that people will know what to look for when they are shopping for such items as dummies, baby-walkers, playpens, toys for infants and babies, nightclothes and other products that we need to care for and entertain our children. Parents and carers need to be made fully aware of products that could be dangerous to their little ones and this guide also identifies hazards that relate to unsafe or misused nursery or child products.

My specific request to the minister is that he take action to ensure that this guide is widely distributed throughout Victoria but particularly in regional Victoria. The guide was tested in a regional and a metropolitan municipality. I want to see the guide out there in regional Victoria, but particularly in my electorate of Northern Victoria Region, which covers 48 per cent of this state. We have many small towns and there is a baby boom at the moment, so I ask the minister to make sure the guide is made available to all Victorians.

Hazardous waste: Tullamarine

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Environment and Climate Change, and I am delighted to see that he is present in the chamber. On previous occasions I have raised the Tullamarine toxic waste dump, as I am sure the minister will recall. I have received communication from the Tullamarine Landfill Rehabilitation Advisory Committee raising with me a most important issue of capping of this particular site. As the minister is very much aware, this site is closed — and we hope it is permanently closed. I hope the minister can give us an assurance he will take that on board. Even if the site is closed for business there remains under the ground a very dangerous cocktail of chemicals that could cause some significant damage to the airport, which is just across the road, to say nothing of what it will do to residents less than half a kilometre away. There is very real concern in the local Tullamarine community — Gladstone Park and surrounds — about the dangers presented by this toxic cocktail under the ground. I cannot emphasise to the minister enough how important it is that he take an active and involved role in providing a solution to this problem, because up to this point the Environment Protection Authority and his department have been less than cooperative with those in the local community who are very keen to see a solution. I have to say the EPA is living up to expectations and not coming up with the goods, but that is to be expected.

All parties involved in this situation regard the capping issue as being vitally important. If there was a mishap at this site at this point in time, we could quite possibly see a major incident at the Melbourne international airport. That could cause havoc and carnage, and I am sure that is not something anybody would want to see. I ask the minister, as a matter of urgency, to direct the EPA to involve itself in an active and interested manner, to work with the Tullamarine landfill rehabilitation advisory committee, and to adopt the recommendations the Tullamarine committee has put forward with regard to the capping of the toxic waste dump at Tullamarine.

Responses

Mr JENNINGS (Minister for Environment and Climate Change) — I have one written response, and that is to an adjournment matter that was raised by Philip Davis on 10 June. Beyond that, I will refer the following matters for consideration by my colleagues.

Wendy Lovell raised a matter for the attention of the Minister for Health seeking his review of the structure of the patient transport assistance scheme and how its current configuration and pricing may disadvantage some communities in her electorate.

Colleen Hartland raised a matter for the attention of the Minister for Roads and Ports seeking his consideration of views expressed in a petition and through community organisations in terms of opposition to certain road projects in the western region.

Damian Drum raised a matter for the attention of the Minister for Health seeking his review of the functioning of Rural Ambulance Victoria.

Philip Davis raised a matter for the attention of the Minister for Public Transport relating to a marketing regime which is designed to encourage people to travel to regional Victoria.

Andrea Coote also raised a matter for the attention of the Minister for Public Transport. She is seeking a delay of the introduction of increased ticketing prices in particular in relation to 2009.

Jan Kronberg raised a matter for the Minister for Community Services seeking her review of the quality and equity considerations of disability services.

Kaye Darveniza raised a matter for the Minister for Consumer Affairs seeking his assurances and action to make sure that guidelines that have been produced to enable parents to choose wisely the products their children will be using to keep them safe will be distributed to regional communities.

Bernie Finn raised a matter — as he indicated, not for the first time — for my attention. I can say to Mr Finn that I am very mindful of the circumstances of the Tullamarine landfill. I am very happy to assert and reaffirm that the operator of that landfill has no intention of reopening the site. In fact it is the intention of the Environment Protection Authority (EPA) that the site not receive any more material. That is a matter that Ms Hartland knows full well I am actively interested in; in fact she and I had a conversation about this as recently as yesterday. My colleague Liz Beattie, the member for Yuroke in the other place, and I talk about this quite often. I have the expectation that the EPA will not only be vigilant in relation to this matter but will cooperate with community processes.

Mr Finn — They haven't to date.

Mr JENNINGS — I was just about to go on to say that there have been some tensions, which underpin the passion expressed within the community. There is a heartfelt passion, and concerns have been held in the community for a very long time. There is a scepticism that continues to need to be recognised, to be acknowledged and to be worked through to make sure there are productive relationships that permeate the community liaison processes and the way in which this site will be remediated and confidence given. The member can be certain that I will have that expectation of the EPA and not lose sight of this matter until a satisfactory result is concluded.

The ACTING PRESIDENT (Mr Leane) — Order! As a reminder to members, on the next sitting week, being the final sitting week of the year, the Tuesday session will begin at 9.30 a.m. rather than 2.00 p.m. The house now stands adjourned.

House adjourned 6.16 p.m. until Tuesday, 2 December.