PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 30 October 2008

(Extract from book 15)

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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 Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Roads and Ports	The Hon. T. H. Pallas, MP
Minister for Education	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects	The Hon. T. C. Theophanous, MLC
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

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

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

Select Committee on 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

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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, 30 OCTOBER 2008

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Thursday, 30 October 2008

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

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

Department and agency performance

The PRESIDENT — Order! I have received a letter dated 28 October from the chairman of the Standing Orders Committee headed 'Standing Committee on Finance and Public Administration', which reads:

> Pursuant to sessional order no. 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 28 October 2008, the committee resolved to inquire into and report on Victorian departmental and agency performance and operations for the previous financial year. It is the committee's intention for this inquiry to be conducted annually during the term of the standing committee.
>
> 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.

Mr VINEY (Eastern Victoria) — I move:

> That the letter dated 28 October from the chairman of the Standing Orders Committee be taken into consideration on the next day of meeting.

Motion agreed to.

PETITION

Following petition presented to house:

Old Princes Highway–Princes Highway, Beaconsfield: upgrade

> To the Legislative Council of Victoria:
>
> The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the urgent need to improve the intersection of the Old Princes Highway and Princes Highway, Beaconsfield, to allow motorists to easily access the Monash Freeway.
>
> The petitioners therefore respectfully request that the Legislative Council of Victoria demand the Brumby Labor government improve the intersection of the Old Princes Highway at Beaconsfield to allow motorists to make a right-hand turn in order to access the Monash Freeway.

By Mr O'DONOHUE (Eastern Victoria) (48 signatures)

Laid on table.

MAGISTRATES COURT OF VICTORIA

Report 2007–08

Hon. J. M. MADDEN (Minister for Planning) presented report by command of the Governor.

Laid on table.

OFFICE OF THE PUBLIC ADVOCATE

Report 2007–08

Hon. J. M. MADDEN (Minister for Planning), by leave, presented report.

Laid on table.

VICTORIAN COMPETITION AND EFFICIENCY COMMISSION

Report 2007–08

Mr LENDERS (Treasurer), by leave, presented report.

Laid on table.

PAPERS

Laid on table by Clerk:

Accident Compensation Conciliation Service — Report, 2007–08.

Adult Community and Further Education Board — Report, 2007–08.

Adult Parole Board of Victoria — Report, 2007–08.

Alexandra District Ambulance Service — Minister's report of receipt of 2007–08 report.

Alexandra District Hospital — Report, 2007–08 (three papers).

Alpine Health — Report, 2007–08.

Altona Memorial Park Trustees — Report, 2007–08.

Ambulance Service Victoria — Metropolitan Region — Report, 2007–08.

Architects Registration Board — Minister's report of receipt of 2007–08 report.

Austin Health — Report, 2007–08.

Australian Grand Prix Corporation — Report, 2007–08.

Bairnsdale Regional Health Service — Report, 2007–08 (two papers).

Ballarat Health Services — Report, 2007–08.

Barwon Health — Report, 2007–08 (two papers).

Barwon Region Water Corporation — Report, 2007–08.

Bass Coast Regional Health — Report, 2007–08 (three papers).

Bayside Health — Report, 2007–08 (two papers).

Beaufort and Skipton Health Service — Report, 2007–08 (three papers).

Beechworth Health Service — Report, 2007–08 (two papers).

Benalla and District Memorial Hospital — Report, 2007–08 (two papers).

Bendigo Cemeteries Trust — Minister's report of receipt of 2007–08 report.

Bendigo Health Care Group — Report, 2007–08.

Boort District Hospital — Report, 2007–08 (two papers).

Casterton Memorial Hospital — Report, 2007–08 (two papers).

Central Gippsland Health Service — Report, 2007–08 (two papers).

Central Highlands Region Water Corporation — Report, 2007–08.

Cheltenham and Regional Cemeteries Trust — Report, 2007–08.

Child Safety Commissioner — Report, 2007–08.

Chinese Medicine Registration Board of Victoria — Minister's report of receipt of 2007–08 report.

City West Water Limited — Report, 2007–08.

Cobram District Hospital — Report, 2007–08 (two papers).

Cohuna District Hospital — Report, 2007–08 (two papers).

Colac Area Health — Report, 2007–08.

Coliban Region Water Corporation — Report, 2007–08 (two papers).

Commissioner for Law Enforcement Data Security — Report, 2007–08.

Community Visitors — Report, 2007–08.

Confiscation Act 1997 — Asset Confiscation Operations, Report to the Attorney-General, 2007–08.

Consumer Affairs — Report, 2007–08.

Corangamite Catchment Management Authority — Report, 2007–08.

Country Fire Authority — Report, 2007–08.

Dandenong Development Board — Minister's report of receipt of 2007–08 report.

Dental Health Services Victoria — Report, 2007–08.

Dental Practice Board of Victoria — Minister's report of receipt of 2007–08 report.

Disability Services Commissioner — Minister's report of receipt of 2007–08 report.

Djerriwah Health Services — Report, 2007–08 (two papers).

Dunmunkle Health Services — Report, 2007–08.

East Gippsland Region Water Corporation — Report, 2007–08.

East Grampians Health Service — Report, 2007–08.

East Wimmera Health Service — Report, 2007–08.

Eastern Health — Report, 2007–08.

Echuca Regional Health — Report, 2007–08 (two papers).

Edenhope and District Memorial Hospital — Report, 2007–08.

Education and Early Childhood Development Department — Report, 2007–08.

Emerald Tourist Railway Board — Report, 2007–08.

Emergency Services Superannuation Board — Report, 2007–08.

Emergency Services Telecommunications Authority — Report, 2007–08.

Environment Protection Authority — Report, 2007–08.

Essential Services Commission — Report, 2007–08.

Fawkner Crematorium and Memorial Park Trust — Report, 2007–08 (two papers).

Fed Square Pty Ltd — Report, 2007–08.

Geelong Cemeteries Trust — Minister's report of receipt of 2007–08 report.

Gippsland and Southern Rural Water Corporation — Report, 2007–08.

Gippsland Southern Health Service — Report, 2007–08 (two papers).

Goulburn Valley Health — Report, 2007–08.

Goulburn Valley Region Water Corporation — Report, 2007–08.

Goulburn–Murray Rural Water Corporation — Report, 2007–08.

Grampians Wimmera Mallee Water Corporation — Report, 2007–08.

Health Purchasing Victoria — Minister's report of receipt of 2007–08 report.

Health Services Commissioner — Report, 2007–08 (two papers).

Hepburn Health Service — Report, 2007–08.

Heritage Council — Minister's report of receipt of 2007–08 report.

Hesse Rural Health Service — Report, 2007–08.

Heywood Rural Health — Report, 2007–08.

Human Services Department — Report, 2007–08.

Infertility Treatment Authority — Minister's report of receipt of 2007–08 report.

Inglewood and Districts Health Service — Report, 2007–08 (two papers).

Innovation, Industry and Regional Development Department — Report, 2007–08.

Judicial College of Victoria — Report, 2007–08.

Justice Department — Report, 2007–08.

Keilor Cemetery Trust — Report, 2007–08.

Kerang District Health — Report, 2007–08 (two papers).

Kilmore and District Hospital — Report, 2007–08 (two papers).

Kooweerup Regional Health Service — Report, 2007–08 (two papers).

Kyabram and District Health Service — Report, 2007–08.

Kyneton District Health Service — Report, 2007–08 (two papers).

Latrobe Regional Hospital — Report, 2007–08.

Legal Practitioners Liability Committee — Report, 2007–08.

Legal Services Board — Report, 2007–08.

Legal Services Commissioner — Report, 2007–08.

Lorne Community Hospital — Report, 2007–08.

Lower Murray Urban and Rural Water Corporation — Report, 2007–08.

Maldon Hospital — Minister's report of receipt of 2007–08 report.

Mallee Catchment Management Authority — Report, 2007–08.

Mallee Track Health and Community Services — Report, 2007–08 (two papers).

Manangatang and District Hospital — Minister's report of receipt of 2007–08 report.

Mansfield District Hospital — Report, 2007–08.

Maryborough District Health Service — Report, 2007–08 (two papers).

McIvor Health and Community Services — Report, 2007–08 (two papers).

Medical Radiation Practitioners Board — Minister's report of receipt of 2007–08 report.

Melbourne and Olympic Parks Trust — Report, 2007–08.

Melbourne Convention and Exhibition Trust — Report, 2007–08.

Melbourne Health — Report, 2007–08.

Melbourne Water Corporation — Report, 2007–08.

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns, 30 September 2008.

Metropolitan Fire and Emergency Services Board — Report, 2007–08.

Metropolitan Waste Management Group — Report, 2007–08.

Mildura Cemetery Trust — Minister's report of receipt of 2007–08 report.

Moyne Health Services — Report, 2007–08 (two papers).

Mt Alexander Hospital — Report, 2007–08 (two papers).

Nathalia District Hospital — Report, 2007–08 (two papers).

Necropolis Springvale Trustees — Report, 2007–08.

North Central Catchment Management Authority — Report, 2007–08 (two papers).

North East Region Water Corporation — Report, 2007–08.

Northeast Health Wangaratta — Report, 2007–08.

Northern Health — Report, 2007–08 (two papers).

Numurkah District Health Service — Report, 2007–08.

Nurses Board of Victoria — Report, 2007–08.

Office of Police Integrity —

Report on the Armed Offenders Squad — a case study.

Report under section 30L of the Surveillance Devices Act 1999, 2007–08.

Omeo District Health — Minister's report of receipt of 2007–08 report.

Orbost Regional Health — Report, 2007–08.

Optometrists Registration Board of Victoria — Minister's report of receipt of 2007–08 report.

Osteopaths Registration Board of Victoria — Minister's report of receipt of 2007–08 report.

Otway Health and Community Services — Report, 2007–08 (two papers).

Parks Victoria — Report, 2007–08 (two papers).

Parliamentary Contributory Superannuation Fund — Report, 2007–08.

Peninsula Health — Report, 2007–08 (two papers).

Peter MacCallum Cancer Centre — Report, 2007–08.

Pharmacy Board of Victoria — Minister's report of receipt of 2007–08 report.

Physiotherapists Registration Board of Victoria — Minister's report of receipt of 2007–08 report.

Planning and Community Development Department — Report, 2007–08.

Podiatrists Registration Board of Victoria — Minister's report of receipt of 2007–08 report.

Police Appeals Board — Report, 2007–08.

Police — Office of the Chief Commissioner — Report, 2007–08.

Port of Melbourne Corporation — Report, 2007–08.

Port Phillip and Westernport Catchment Management Authority — Report, 2007–08.

Portland District Health — Report, 2007–08 (two papers).

Premier and Cabinet Department — Report, 2007–08.

Preston Cemetery Trust — Report, 2007–08.

Prince Henry's Institute of Medical Research — Report, 2007–08 (two papers).

Public Prosecutions Office — Report, 2007–08.

Public Transport Ticketing Body — Report, 2007–08.

Queen Elizabeth Centre — Report, 2007–08 (two papers).

Queen Victoria Women's Centre Trust — Report, 2007–08.

Radiation Advisory Committee — Report, 2007–08.

Regional Development Victoria — Report, 2007–08.

Roads Corporation (VicRoads) — Report, 2007–08.

Robinvale District Health Services — Report, 2007–08 (two papers).

Rochester and Elmore District Health Service — Report, 2007–08 (two papers).

Rolling Stock (VL-1) Pty Ltd — Report, 2007–08.

Rolling Stock (VL-2) Pty Ltd — Report, 2007–08.

Rolling Stock (VL-3) Pty Ltd — Report, 2007–08.

Rolling Stock Holdings (Victoria) Pty Ltd — Report, 2007–08.

Rolling Stock Holdings (Victoria–VL) Pty Ltd — Report, 2007–08.

Royal Botanic Gardens Board — Report, 2007–08.

Royal Children's Hospital — Report, 2007–08.

Royal Victorian Eye and Ear Hospital — Report, 2007–08 (two papers).

Royal Women's Hospital — Report, 2007–08.

Rural Ambulance Victoria — Report, 2007–08.

Rural Finance Corporation of Victoria — Report, 2007–08.

Rural Northwest Health — Report, 2007–08.

Seymour District Memorial Hospital — Report, 2007–08.

Shrine of Remembrance Trustees — Minister's report of receipt of 2007–08 report.

Small Business Commissioner's Office — Report, 2007–08.

South East Water Limited — Report, 2007–08.

South Gippsland Hospital — Report, 2007–08.

South Gippsland Region Water Corporation — Report, 2007–08.

South West Healthcare — Report, 2007–08.

Southern and Eastern Integrated Transport Authority — Report, 2007–08.

Southern Cross Station Authority — Report, 2007–08.

Southern Health — Report, 2007–08.

Special Investigations Monitor's Office — Report, 2007–08.

St Vincent's Health [incorporating the financial statements of Caritas Christi Hospice Limited, St. George's Health Service Limited and St. Vincent's Hospital (Melbourne) Limited] — Report, 2007–08 (four papers).

State Electricity Commission of Victoria — Report, 2007–08.

State Owned Enterprise for Irrigation Modernisation in Northern Victoria — Report, 2007–08.

State Services Authority — Report, 2007–08.

State Sport Centres Trust — Report 2007–08.

State Trustees Limited — Report, 2007–08.

Stawell Regional Health — Report, 2007–08.

Surveyors Registration Board of Victoria — Minister's report of receipt of 2007–08 report.

Sustainability and Environment Department — Report, 2007–08.

Swan Hill District Hospital — Report, 2007–08.

Tallangatta Health Service — Report, 2007–08 (two papers).

Templestowe Cemetery Trust — Minister's report of receipt of 2007–08 report.

Terang and Mortlake Health Service — Report, 2007–08.

Timboon and District Healthcare Service — Report, 2007–08 (two papers).

Tourism Victoria — Report, 2007–08.

Transport Accident Commission — Report, 2007–08.

Transport Department — Report, 2007–08.

Treasury and Finance Department — Report, 2007–08.

Treasury Corporation of Victoria — Report, 2007–08.

Tweddle Child and Family Health Service — Report, 2007–08 (two papers).

Upper Murray Health and Community Services — Report, 2007–08 (two papers).

V/Line Passenger Corporation — Report, 2007–08.

V/Line Passenger Pty Ltd — Report, 2007–08.

VicForests — Report, 2007–08.

Victoria Law Foundation — Report, 2007–08.

Victoria Legal Aid — Report, 2007–08.

Victoria State Emergency Service Authority — Report, 2007–08.

Victoria Trade and Investment Office Pty Ltd — Report, 2007–08.

Victorian Civil and Administrative Tribunal — Report, 2007–08.

Victorian Electoral Commission — Report, 2007–08.

Victorian Equal Opportunity and Human Rights Commission — Report, 2007–08.

Victorian Funds Management Corporation — Report, 2007–08.

Victorian Government Purchasing Board — Report, 2007–08.

Victorian Health Promotion Foundation — Report, 2007–08 (two papers).

Victorian Institute of Forensic Medicine — Report, 2007–08.

Victorian Institute of Forensic Mental Health — Report, 2007–08.

Victorian Institute of Sport Trust — Report, 2007–08 (two papers).

Victorian Institute of Teaching Council — Report, 2007–08.

Victorian Managed Insurance Authority — Report, 2007–08, together with 2007–08 Financial Statements for Housing Guarantee Claims Fund and Domestic Buildings (HIH) Indemnity Fund.

Victorian Rail Heritage operations Pty. Limited — Report, 2007–08.

Victorian Rail Track — Report, 2007–08.

Victorian Skills Commission — Report, 2007–08.

Victorian Veterans Council — Minister's report of receipt of 2007–08 report.

Victorian WorkCover Authority — Report, 2007–08.

VITS LanguageLink — Report, 2007–08.

Wannon Region Water Corporation — Report, 2007–08.

Water Industry Act 1994 — Report on major water users, 2007–08, for City West Water Limited, South East Water Limited and Yarra Valley Water Limited, pursuant to section 77A of the Act.

West Gippsland Healthcare Group — Report, 2007–08.

West Wimmera Health Service — Report, 2007–08.

Western District Health Service — Report, 2007–08.

Western Health — Report, 2007–08 (two papers).

Western Region Water Corporation — Report, 2007–08.

Westernport Region Water Corporation — Report, 2007–08 (two papers).

Wimmera Catchment Management Authority — Report, 2007–08.

Wimmera Health Care Group — Report, 2007–08.

Wodonga Regional Health Service — Report, 2007–08 (two papers).

Workplace Rights Advocate — Report for the year ended 30 June 2008.

Wyndham Cemeteries Trust — Minister's report of receipt of 2007–08 report.

Yarra Bend Park Trust — Report, 2007–08.

Yarra Valley Water Limited — Report, 2007–08 (three papers).

Yarram and District Health Service — Report, 2007–08 (two papers).

Yarrawonga District Health Service — Report, 2007–08 (two papers).

Yea and District Memorial Hospital — Report, 2007–08.

Young Farmers' Finance Council — Report, 2007–08.

Youth Parole and Youth Residential Board — Report, 2007–08.

Zoological Parks and Gardens Board — Report, 2007–08 (three papers).

MEMBERS STATEMENTS

Member for Mordialloc: correspondence

Mrs PEULICH (South Eastern Metropolitan) — I wish again to draw to the attention of the house a matter that I attempted to bring to its attention last night in an attempt to get a reasonable answer from the government about the practice that I mentioned in my notice of motion. The matter was signalled by a mail-out from Janice Munt, MP, the member for Mordialloc in the Assembly, using her parliamentary letterhead and stationery as well as political promotional material, including a party political poster in the party colours with a photograph of the former Premier Steve Bracks as well as her Muntmobile, and on the reverse a flyer with the South East Water logo and material one could legitimately expect to find on South East Water information for consumers.

I express concern that this has been done at the same time that very controversial reforms are being considered by the government as an option to the implementation of stage 4 water restrictions. That would include capping for individual users of water and differential tariff application as well as a very expensive advertising campaign that is going to be paid for by water users and taxpayers. I believe this is a serious conflict of interest. It is a serious matter. It deserves the immediate condemnation of the relevant government ministers and a response from the Treasurer on the cost of these reforms, whether he approves of the arrangement that is reflected in Ms Munt's letter and what sort of arrangement will be put in place.

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

Transport: east–west link needs assessment

Ms HARTLAND (Western Metropolitan) — On Sunday I attended a rally organised by a number of groups concerned about the effects on their communities of Kensington, West Footscray, Sunshine and Brunswick of a road tunnel or an elevated freeway. At the rally they made certain demands which they have asked me to read today:

> This rally demands the state government immediately abandons the Eddington report and reallocates the $18 billion on sustainable public transport and rail freight.
>
> Specifically we seek:
>
> > the rapid transit rail to Doncaster along the Eastern Freeway,
> >
> > the electrification of the Deer Park to Bacchus Marsh line,
> >
> > the urgent upgrade of the Sydenham rail line,
> >
> > construction of the Rowville line,
> >
> > upgrade of the Belgrave-Lilydale lines, and
> >
> > the development of the South Morang line.

They demand that the state government negotiate with the federal government for funds to standardise the gauge to enable rail freight transport in Victoria. They have also circulated a petition which so far has been signed by 841 people, and this petition will be presented in the lower house.

Ambulance services: regional and rural Victoria

Mr HALL (Eastern Victoria) — Ambulance officers in Victoria provide the major front-line services in cases of accident and mishap, and the quality and timeliness of their service often means the difference between life and death. So it concerned me greatly that when the Parliament was in Lakes Entrance two weeks ago and I took the opportunity to meet with local paramedics they informed me that Ambulance Victoria is struggling to fill many positions in rural and regional Victoria. In fact they advised me that since January, when Ambulance Victoria announced it was about to recruit 100 new paramedics, only 22 of those 100 positions have been filled.

The issue of pay also reflects on the difficulty Ambulance Victoria is having in recruiting staff. I am told that a paramedic earns considerably less than other health service providers like bush nurses, for example, despite the fact that their training is just as rigorous. Indeed I understand Rural Ambulance Victoria also has a contract to educate bush nurses. At the end of that process of education the bush nurses who have been taught will earn more than the ambulance officers who have been teaching them. We have serious concern about this issue. Today I call on the Brumby government to engage in direct negotiation with ambulance officers and offer them a wage comparable with that of other medical officers and so maintain the excellent service that ambulance officers provide.

Fitzroy Stars Football Club: grant

Ms MIKAKOS (Northern Metropolitan) — On 23 September I had the pleasure of attending the announcement by Attorney-General Rob Hulls of $200 000 for a new program designed to engage Koori men through the Fitzroy Stars Football Club. Also present at the launch were the member for Northcote in the other place, Fiona Richardson; indigenous football player Nathan Lovett-Murray, from the Essendon

Football Club; Fitzroy Stars players; and members of the Aborigines Advancement League.

This important program will provide opportunities and encouragement for Koori men to adopt healthy lifestyles through their involvement with the Fitzroy Stars Football Club and by participating in activities on fitness, nutrition, career pathways and help with drug and alcohol management. Family members and the wider community will also be encouraged to be involved in the program and to contribute to the running of a community football club through an agreement with the Aborigines Advancement League to use the Sir Douglas Nicholls Oval as their new home ground.

This program is being funded under the Aboriginal justice agreement's front-line youth initiatives program. I take this opportunity to congratulate members of the north-west metropolitan Regional Aboriginal Justice Advisory Committee and the Aborigines Advancement League on their success. With the revival of the Fitzroy Stars footy club the enormous talent of indigenous players can also be further advanced to produce future champions.

Victoria Police: Darebin community day

Ms MIKAKOS — On 25 October I had the opportunity to join other local members and the Minister for Police and Emergency Services in attending Victoria Police's Darebin community day at Preston police station. This was a family day which featured music, a barbecue and the participation of many members of the local multicultural groups. There were also many stalls from the local emergency services, Neighbourhood Watch, the migrant resource centre and other local agencies — —

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

Economy: investment initiatives

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The global financial crisis is manifestly a crisis of both stability in global financial institutions and confidence in the global economy. The plunge of the Australian dollar over the last three months highlights the challenge for Australia and the states in promoting the often overlooked relative strength of our domestic economy to a spooked global market. The Queensland government has recognised this challenge and its Treasurer, Andrew Fraser, is currently leading an investment roadshow to London, New York, Zurich and Dubai. In the Queensland Treasurer's words, 'Never before has it been so important for Queensland to foster these relationships with the investors who help finance the massive infrastructure requirements of our growing economy'.

The Victorian government, which also seeks investment for infrastructure, is ignoring the need to promote Victoria as a relatively safe haven for foreign capital. The Treasurer relies on his international roadshow of 10 months ago as a sign that the government has done enough, while ignoring the upheaval to the global economy which has since occurred. The Treasurer's suggestion that it is inconsistent for the coalition to call on the government to promote the state as a destination for foreign investment while criticising lavish ministerial travel completely misses the point. There is a big difference between necessary and frugal overseas ministerial travel and the lavish junkets enjoyed by some of the Treasurer's colleagues. In addition to acting as industry minister the Treasurer has an even more important role as chief advocate for Victoria as an investment destination. Victoria cannot afford to play second fiddle to Queensland in securing foreign investment.

Zak Dempster

Mr DRUM (Northern Victoria) — I would like to take this opportunity to congratulate a young Bendigo cyclist, Zak Dempster, who blitzed the competition on the weekend to win the 299-kilometre Melbourne to Warrnambool Cycling Classic. Zak, a 21-year-old, won the gruelling event after just three weeks of preparation, and he was able to get over the line ahead of Hilton Clark and another young Bendigo rider, David Pell. Zak only entered the race because his dad had entered the race and was able to talk him into competing in the whole of the Melbourne to Warrnambool race as opposed to a smaller section.

The Melbourne to Warrnambool Cycling Classic is the world's longest one-day race, and Zak's winning time of 7 hours 18 minutes and 15 seconds is certainly an amazing effort. The longest race he had contested before the weekend's Melbourne to Warrnambool had been a 230-kilometre one-day stage of the Tour of Ireland.

Zak has now set his sights on the 2012 London Olympics, and I am sure that with his determination, talent and hard work he will get there without any worries whatsoever. Congratulations to Zak, to his dad, Darren, who won the D-grade event, and also to his coach, who is from Bendigo, Tim Decker, who won the Melbourne to Warrnambool race in 2007.

Members: clay shooting

Mr ELASMAR (Northern Metropolitan) — Last Friday I was part of an all-party parliamentary team that meets annually to compete in clay target shooting. I have to say it was not my day, but we all had a good time together. This all-party activity promotes good relations between us all in a non-adversarial atmosphere.

Darebin: graffiti strategy

Mr ELASMAR — I was informed recently that the City of Darebin has adopted a new graffiti management strategy. This strategy differentiates graffiti done without the property owner's consent and community art. The council will work with traders and youth to develop partnerships to reduce the amount of graffiti.

Buses: Nillumbik

Mr ELASMAR — Several bus routes in Nillumbik will be upgraded after a state government review of services. Bus route 582 from Eltham will now run every 20 minutes seven days a week, while the 578 and 579 routes will run until 9.00 p.m. The revised bus services will benefit residents in Eltham, Research, Kangaroo Ground and North Warrandyte.

Lake Mokoan: wetlands management

Ms BROAD (Northern Victoria) — I welcome the announcement by the environment minister, Gavin Jennings, that the Brumby Labor government will form a committee of management for the Lake Mokoan wetlands. This will ensure that the local community will play a key role in Labor's $20 million restoration of Lake Mokoan to natural wetlands. Lake Mokoan is Victoria's most inefficient water storage, losing 3 out of every 4 litres of water released into the irrigation system — losses that all Victorians understand can no longer be afforded.

I call on the opposition and The Nationals to move on from their opposition to decommissioning of Lake Mokoan and support the restoration of the Winton wetlands and the new committee of management.

According to the Goulburn Broken Catchment Management Authority the Mokoan Return to Wetlands project will deliver on average 44 000 megalitres per year to Victoria's rivers, return the flow regime for the Broken River to 92 per cent of natural flows and improve water quality.

Wangaratta: regional produce summit

Ms DARVENIZA (Northern Victoria) — I was pleased on Monday, 20 October, to officially open the Victorian regional produce summit in Wangaratta, and at that summit I also announced a government grant of $18 000 to assist with the staging of the summit.

The summit is a premier annual event for regional growers, producers and suppliers of food, wine and beverages and those involved in the culinary tourism industry. It is organised through a partnership between North Eastern Valley Food and Wine, the Rural City of Wangaratta and Regional Development Victoria.

Water: Eskdale supply

Ms DARVENIZA — I was also able to visit Towong on Tuesday, 21 October, to announce a $250 000 grant for the Eskdale water supply project. This project involves the replacement of the existing ad hoc, untreated water supply from the Little Snowy Creek with a bore water supply which will be filtered, disinfected and distributed via a reticulated system to every property in the township. The project will encourage new residential growth in Eskdale, greatly improve the town's livability and significantly reduce public health risks. The improved water supply will also help to enhance tourism opportunities for the town as well as reducing demand on the Little Snowy Creek.

Portland: Vida Goldstein seat

Ms TIERNEY (Western Victoria) — At last there is a very special seat for that dangerous and persuasive woman, the pioneering suffragist Vida Goldstein, in Portland, the town where she was born nearly 140 years ago. At last Vida Goldstein has been recognised for the significant role she played in helping Victorian women win the right to vote 100 years ago in 1908. It was a very special honour for me to unveil this very fitting tribute to Vida, who was one of Australia's leading suffragists, as part of our centenary of Victorian Women Vote celebrations.

I say congratulations and thank you to Portland's Historic Buildings Restoration Committee, which commissioned Vida's seat and secured funding for this fantastic project. The Victorian government is pleased to have funded the construction of Vida's seat through its Centenary of Women's Suffrage grants program and Regional Arts Victoria. At the unveiling last Friday night I was joined by Lesley Jackson, the project officer; Rebecca Fleming, the president of the Historic Building Restorations Committee; Dr Janette Bomford, the author of Vida's biography, *That Dangerous and Persuasive*

Woman; Mary Crooks, the executive officer of the Victorian Women's Trust; Dr Carmel Wallace, the artist who created Vida's seat; and a number of local Portland community members. It is an absolute tribute to have such a fantastic seat looking over the Portland harbour, and I hope many young women in Portland sit on it and are inspired to leave a similar footprint to Vida in local and international communities.

Breast cancer: research

Mr EIDEH (Western Metropolitan) — I praise the doctors and medical scientists whose research is helping us to determine the causes of, and discover cures for, breast cancer. I praise the doctors and nurses who treat the victims and whose hearts are amazingly big. I praise the carers and families who do so very much to help their dear family members and friends through their suffering, and I strongly praise the wonderful and caring people behind such major activities as the Pink Ribbon Day and, of course, those who support this critical project.

I am pleased to say that together with my two female staff members, Ms Sarah Tawil and Ms Mouna Abdulrahman, I attended the parliamentary Pink Ribbon Day breakfast last Friday, and I might add that we found the experience very informative indeed. The Minister for Health, Daniel Andrews, last week announced a $12 million dollar funding boost to aid researchers in their quest to diagnose and treat breast cancer. The Brumby Labor government is committed to the fight against this terrible disease. We have some of the very best medical and scientific brains in the entire world in our state. These talented people have made many amazing and lifesaving discoveries that are benefiting victims of cancer and other diseases.

Liberal Party: slogans

Mr LEANE (Eastern Metropolitan) — I note that in recent times opposition members seem to be a bit irked by the Brumby Labor government's principle of making Victoria a better place to live, work and raise a family. They say it is sloganistic. I believe the opposition parties might have a bit of slogan envy, so I would like to help them in this area. How about: 'The Victorian Liberal Party — we stand for nothing, just ask us'; 'The Victorian Liberal Party — we have at least earnt your sympathy'; 'The Victorian Liberal Party — we oppose everything'; or 'The Victorian Liberal Party — buddy, can you spare a dime?'. I would like to offer more help, and if anyone from the opposition would like to speak to me personally, I can work on some other slogans. It might assist them to get over their slogan envy.

The PRESIDENT — Order! Clearly I allow a great deal of licence in 90-second statements.

STATEMENTS ON REPORTS AND PAPERS

Victoria Police: report 2006–07

Mrs COOTE (Southern Metropolitan) — I was actually going to say nice things about Mr Leane, but I do not think I will — —

Ms Darveniza — Keep yourself nice!

Mrs COOTE — I will. I was going to be quite praiseworthy, but I am certainly not going to say anything like that now. Today I am going to speak on the annual report of Victoria Police for the year 2006–07. Before I start my contribution I would like to acknowledge the wonderful work the police do in this — —

Mr Finn — At the grassroots level.

Mrs COOTE — Yes, Mr Finn, particularly at the grassroots level the police do an extraordinary job. I think all of us in this chamber and across the state acknowledge that and are pleased to know that they do a fabulous job. I work with the police in my own electorate on a consistent basis, and I know they do some fabulous local police work.

The aspects of the report I am most interested in are on the community initiatives. The community initiatives are extremely interesting. It is important to see the police working at a grassroots level in a preventive way. Recently my friend Mr Leane and several others of us who are on the joint parliamentary crime prevention committee were invited to look at the excellent Ropes program at Altona, which is about the police working with young first-time offenders, and they do excellent work. These young offenders work with the police who have charged them on a system of trust and communication for a whole day. The outcomes are quite remarkable, and the incidence of repeat offences is very limited. The program has been rolled out right across Victoria and has been highly successful.

When I look at the report I see a number of other initiatives that are particularly pleasing. For example, particularly for youth there are several programs. One is called Getting Dirty, which is in Bacchus Marsh. The six-week program is run in conjunction with the Moorabool shire parks and garden unit and involves 12 at-risk young people from schools in the Bacchus Marsh area. They develop skills and work together with

the police. Other initiatives are the Christmas African Youth Program in Flemington; the Youth Forum — Good Life Choices, which is in the Frankston area; Goal Kick, in Flemington; and Don't Go There, in Brimbank — an interesting title. That involves more than 500 young people aged between 15 and 19 being surveyed in relation to their perceptions, fears and ideas on crime and related issues. Others are Boot Camp, in Bacchus Marsh; and Retail Melbourne, a 16-week program to provide young people with accredited training in retail, literacy and numeracy, communication, conflict resolution, time management and self-esteem skills. I congratulate the police on these initiatives; they are very good.

Having read the report, though, I have some serious concerns about transport and the fears many people within the community have with public transport. They feel there are safety issues and fear for their lives. This is not just at night-time; it is during the daytime as well. Recently I conducted a public transport forum in Bentleigh. Many of the participants at that meeting were concerned about safety on the overcrowded trains. An interesting thing is that the women were particularly concerned because they had people crushing against them. There are not sufficient seats or handrails to hang onto. The women had been thrown against male passengers and felt most uncomfortable, and the male passengers felt equally embarrassed by the situation. This is not good enough. But what is most worrying of all is that young people — decent young people, working or going to school or university — are particularly concerned.

I have been calling for the implementation of a program along the lines of what has been introduced in the United Kingdom — that is, a police booth at all railway stations and 24-hour monitoring by closed circuit television cameras for stations in all areas of the state, including the car parks.

Most concerning of all was an announcement from Connex I read recently, which says that it might be worth considering a personal alarm for added security at stations and also on the journey home from the station. This bring-your-own-alarm comment is absolutely and utterly an indictment. It is an admission of failure. It is an admission that the government is not providing sufficient police to monitor these places, because it is encouraging people to have their very own personal alarms on public transport. Bring-your-own alarm is not on in this state. The government should be looking into other, more advanced programs and increasing the number of police present on the trains, at the stations and in the car parks.

Since 2005 train patronage has increased by 33 per cent, yet the number of transit police on the train network has decreased — from 230 to 200. This is just not appropriate.

Goulburn Broken Catchment Management Authority: report 2007–08

Ms BROAD (Northern Victoria) — Today I wish to make a statement on the Goulburn Broken Catchment Management Authority (CMA) annual report for 2007–08. I begin by thanking and acknowledging the work of the chairperson, Dr Huw Davies, the chief executive officer, Bill O'Kane, members of the board and staff for their contributions to sustainable natural resource management in the Goulburn and Broken rivers catchment areas. In addition, I would like to acknowledge the work of all the committee members, volunteers and land-holders.

The Goulburn and Broken catchments are of national significance. According to the annual report they generated some $9.5 billion of economic activity in 2005 alone. I have previously referred to the Brumby Labor government's drought employment program, an initiative delivered through CMAs, including the Goulburn Broken CMA. This initiative is designed to assist rural families affected by the drought and to deliver catchment protection works. As outlined in the annual report, the Goulburn Broken CMA employed 80 people affected by the drought to work on high-priority environmental projects between January and June. That was assisted by the investment of $2.9 million in the program by the Brumby Labor government. In addition, funds generated from the sale of environmental water by Goulburn Broken CMA were used to extend the program between July and December, and that employed 30 people.

Because the drought is still with us I was pleased that the Brumby Labor government was able to provide a further $10 million for the CMA drought employment program in the $115 million drought relief package announced recently by the Premier. This package again demonstrates that the Brumby government is continuing to take action to stand by farmers and deliver much-needed assistance during this unprecedented dry period.

In addition to that program, which is highlighted in the CMA's annual report, I would also like to refer to a number of other matters highlighted in the report. The chairperson of the board, Dr Huw Davies, on behalf of the board, welcomed the announcement of the investment of $2 billion of Victorian and commonwealth money in the food bowl modernisation

project. As the annual report points out, this project will see a total of 175 gigalitres of water being made available to the environment as well as providing additional water for agriculture and urban users. The CMA expresses the view that this is probably the most significant investment in the Goulburn Broken catchment since the soldier settlement schemes, which is ranking it very highly indeed. The report also draws attention to the Mokoan — Return to Wetland project, which I referred to earlier in a members statement. The CMA expects to play a significant role in implementation of that project.

In conclusion, I congratulate the management team at the Goulburn Broken CMA for its award. It won the prestigious Banksia award — a very significant award for the management team at Goulburn Broken CMA.

Victorian Environmental Assessment Council: report 2007–08

Mrs KRONBERG (Eastern Metropolitan) — The Victorian Environmental Assessment Council opens up its annual report with a statement of purpose. It tells us that it was established to provide independent and strategic advice to the Victorian government on matters involving the protection and ecologically sustainable management of the environment and natural resources of Victoria's public land.

The council is charged with the responsibility of conducting investigations on behalf of the minister. With these investigations the council takes into account the principles of ecologically sustainable development and the need to conserve and protect biological diversity. It also factors in the need to conserve and protect areas which have ecological and natural landscapes, cultural interest, recreational value or geological significance.

The council further considers factors such as the existence of international treaties, and national and interstate or local government agreements. It must also report after taking into consideration the potential environmental, social and economic consequences of implementing the proposed recommendations. The council has the power to appoint committees and access any departmental employee from the Department of Sustainability and Environment.

The council is made up of five members. Looking at the attendance record of those meetings, one notes that only the chairman attended 14 out of the 14 meetings and 3 others only attended on 12 occasions. This raises the question as to what transpired at the meeting with only two council members in attendance. What happened at the meeting which was only attended by the chair? What constitutes a quorum at meetings of the VEAC?

By way of explanation, we are informed that the council met on 14 occasions and the councillors attended two River Red Gum Forests Investigation community reference group meetings. These group meetings were comprised of 24 members representing a variety of stakeholder interests. The annual report provides us with a synopsis of the river red gum forests investigation which began in April 2005. Expenditure, including salaries and on-costs, for the investigation for the year 2007–08 came to $931 185. The operating funds were provided as a part of recurrent funds appropriated to the Department of Sustainability and Environment. We are told that the financial operations are not separately audited but rather are incorporated into the overall financial statements of the Department of Sustainability and Environment. I question how independent such a body can be in light of such basic restrictions being placed on it.

We note that the VEAC investigation was seemingly overwhelmed by the volume of submissions received in response to the *River Red Gum Forests Investigation* draft proposal paper. The original 80-day period for written submissions ushered in 6800 submissions from both individuals and organisations. For me this proves that this issue created lots of concern, consternation, anxiety and worry obviously for the people in that area.

The minister needed to grant two extensions of time. We saw the final report presented on 18 July this year. Clearly the submissions contained many erudite, technical, detailed and compelling arguments relating to the elements of the draft as consultants were needed to be engaged to conduct an assessment of the social and economic impact of the final recommendations. In regard to the impact of these recommendations, in a media release of 25 July, the chairman of the Victorian Environmental Assessment Council, Mr Duncan Malcolm, says:

> VEAC is very conscious of the consequences of its recommendations for the timber industry and dependent communities and families … We have recommended that government examine a restructure of the industry that could provide assistance for affected businesses and communities, as previously provided in the Otways, East Gippsland and Bendigo state forests.

I think, in terms of the consternation that was raised, it is probably worthwhile putting into *Hansard* some comments by the Victorian Farmers Federation regarding the final report of VEAC. These comments

were made on 28 July and can be found on its website — —

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

Queen Victoria Women's Centre Trust: report 2006–07

Ms TIERNEY (Western Victoria) — I rise to speak on the Queen Victoria Women's Centre Trust annual report 2006–07. It gives me great satisfaction in the year that we celebrate women's suffrage in Victoria to speak on this report. The trust has a dual role which is essentially to manage the heritage building which houses women's organisations and to develop capacity-building programs for young women and women generally throughout our community, whether they be in Melbourne or regional Victoria.

The reporting period of 2006–07 was marked by the 110th anniversary of the concept of getting a dedicated women's hospital up and running for Victorian women. This was celebrated by an open day that included a display of the works of the centre, its services and a photographic exhibition and also a cocktail evening. The open day also included the unveiling of the Shilling Wall design by the then Minister for Women's Affairs, Mary Delahunty, and also the Shilling garden within that site. I take this opportunity to encourage regional Victorian women in particular when they are in Melbourne to take the opportunity to visit the centre and take time out to enjoy the surrounds of the Shilling garden. It is important to reiterate the history of the Shilling Wall.

In 1896, along with a number of other women, Annette Bear-Crawford, a social worker in Melbourne, formed a committee to get a fundraising activity under way. Its purpose was to ensure that there was a dedicated health resource in Melbourne for women. It was called the Shilling Fund because it was thought that even the most disadvantaged women in Melbourne and greater Victoria would have the opportunity to contribute and help other women who were disadvantaged in our community.

The trust runs many programs that centre mainly around capacity building to enable young women to gain the resources and skills to go out into their communities to empower themselves and other young women to provide services and make further contributions in our wider community. The particular program I mention today is the project on body image. It was launched in 2006 and has continued in various centres in regional Victoria. As I move around western Victoria, I am often approached at different functions by teachers, women leaders and young women who have attended the forums and who express their gratitude for the existence of such a program. The program essentially raises the awareness of the way women's bodies are used in advertising in particular, and then goes on to educate the participants on good habits that will keep women's bodies healthy and on how to be mindful of the very narrow stereotypes used in advertising.

I thank all trust members who give up so much of their time to be heavily involved, particularly the volunteers at the centre. I applaud members and volunteers for giving so generously of their energy in support of the cause of advancing women's health and wellbeing.

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

Melbourne Market Authority: report 2007–08

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased to make a statement firstly on the Melbourne Market Authority report. If I get time, I will also comment on the Plumbing Industry Commission report.

The Melbourne Market Authority report, tabled yesterday, reveals quite a few issues which the opposition has already raised concerns about. I welcome the introductory remarks by the chairman, Neil Lowe, which at page 4 state:

> The market relocation project moved a step closer to reality with the signing of a memorandum of understanding between the Victorian government and the directors of the Victoria Fresh Markets Pty Ltd (VFM). The government, VFM and VFM's consultants are developing plans that will result in the market moving from its current site in Footscray Road to the new greenfield site at Epping in 2011 —

and it is a greenfield site.

At page 34 the report states:

> The market is relocating to a larger site in Epping.
>
> …
>
> The principles under which the new market will be developed are part of a memorandum of understanding (MOU), which was agreed to and signed by the Victorian government and … VFM on 20 December 2007.

A lot of things have changed since then. Only recently a report was tabled by the Treasurer. It refers to the supposed PPP (public-private partnership) as part of the relocation. The government was caught flat-footed in this chamber — although the event was elsewhere — when it was clearly not able to be specific. At page 220

the *Financial Report for the State of Victoria 2007–08* states:

> It was expected that a contract would be signed in 2007–08 in relation to the Melbourne wholesale markets relocation project, however this project is not currently proceeding as a Partnerships Victoria project and no contract has been signed.

So we get to the economic management of this particular project. Like most of the economic situations that this government has fallen into, it cannot manage this. If you go on just the raw figures on the project, the government is going to put forward a relocation that it estimates will cost about $300 million and the project cost is anticipated to be around $1 billion, which leaves a substantial shortfall of $700 million. Where will the money come from? Nobody has committed to a PPP. No contracts have been put forward. The government has been left sleeping. The Melbourne Market Authority is looking for some guidance and direction; none is forthcoming.

If you look on page 42 at its revenue base, you see that its income for 2008 is $21.9 million and its expenses from ordinary activities are $17.4 million, leaving a net result for the 2008 period of $4.5 million. If the market is moved to a greenfield site and is expected to come up with the difference of $300 million from the $1 billion, being $700 million, it will probably take the Melbourne Market Authority 40 or 50 years to pay off any loan. In fact it probably would not be able to pay it off — —

Mr Vogels — In 100 years!

Mr DALLA-RIVA — Indeed, Mr Vogels, in 100 years! We will have the Melbourne Market Authority moving to a location that it will have to fund. The government is putting in a measly amount, which it expects to get through the PPPs. It has failed in that particular area. What we have is a debacle, not only in terms of Melbourne's wholesale fruit and vegetable and flower markets but also the fish market, as the government made a statement during the last sitting week of Parliament that it is going to move the fish market there as well. I spoke to the fish market stallholders after that announcement by two of the members opposite, and they were equally surprised. What it indicates is that this is yet another example of major projects undertaken by this government in this state continually failing. What people need to understand is that the government's handling of major projects and the way the Melbourne Market Authority is having to deal with the memorandum of understanding — —

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

Victorian Multicultural Commission: report 2007–08

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Victorian Multicultural Commission's 2007–08 report on Victoria's cultural and linguistic diversity. We are a nation of migrants. Our communities are filled with ethnically diverse cultures and nationalities. As a migrant I truly understand the worth of the acceptance of new arrivals by the community in general.

This is a land of opportunity. Today it is no longer necessary for migrants to live in ghettos or other isolation from the mainstream. Successive governments have embraced multiculturalism not simply by saying 'Welcome' but by putting together realistic strategies to ensure that every resident born outside this country has access to education, housing and all the opportunities this wonderful country has to offer.

It is a two-way street. Migrants have enriched our society in many ways, and I am sure they will continue to do so. The sheer diversity of cultures and religions is truly amazing. We have 200 different nationalities and more than 200 languages. More than 1500 community organisations have been funded to provide over 2000 projects and community events over the year. His Excellency the Governor of Victoria, Professor David de Kretser, AC, hosts the annual multicultural awards for excellence. What a marvellous example of how the sky is the limit! He is a wonderful person and a shining light for all migrants, and I include myself when I say that.

Refugees who have fled persecution in their own lands and who congregate together for companionship have many government agencies to turn to for help. I commend the Victorian Multicultural Commission, but without support for infrastructure in housing, health and education from the Department of Human Services we would not be nearly as successful as we have been in establishing a harmonious and accepting community. I have always encouraged my fellow migrants to reach out and take advantage of the services that we, the government, offer, especially to those of the younger generation because, as members already know, they are our future. My advice to the younger generation is: do not only take what is offered but give something back to the community, be responsible and tolerant, be respectful of the Australian way of life but never forget where you came from, and take an active role and help others when you can. If we all behave that way in relation to each other, we will truly have a harmonious and flourishing nation, one that will continue to grow and prosper. We officially recognise cultural diversity via the Department of Planning and Community

Development and the Victorian Multicultural Commission. I commend the report to the house.

Environment and Natural Resources Committee: impact of public land management practices on bushfires in Victoria

Mr P. DAVIS (Eastern Victoria) — It is with some pleasure that I rise to make a contribution on the report of the Environment and Natural Resources Committee into the impact of public land management practices on bushfires in Victoria, which was presented to this house in June. Once again I can say that I found it to be an excellent report and I commend the work done by members of that committee. Whilst it is dominated by members of the government, the committee received major contributions from my colleagues in the opposition: Donna Petrovich in this place and Christine Fyffe in the other place.

Although it is a good report, it could have gone further. I am sure that members of the committee would say that the findings and recommendations of a parliamentary committee report inevitably involve finding a compromise. Regrettably that compromise was less adventurous than I would have liked to have seen. Recently in correspondence with the East Gippsland wildfire task force, which hosted a visit by the committee in the Cann River area during the course of the inquiry — a visit which I was able to participate in — there was some criticism of the report and the practices of public land management, particularly the recommendations on prescribed burning.

The recommendation that the area of prescribed burning should be trebled was welcomed, but the East Gippsland Wildfire Task Force said it did not go far enough. In fact it says that the recommended 385 000 hectares of burns could be accommodated in Gippsland alone, and I agree. The government is working on the basis of a culture of firefighting instead of fire prevention. Consequently the way into the future has not been adequately addressed. As I have said before, the government should have provided an immediate response so we could be in a better state of preparedness and protection for the forthcoming summer. It is disappointing that the Minister for Environment and Climate Change in his response to the task force comments says that his department and Parks Victoria are demonstrating their commitment to burning with a program totalling 'more than 155 000 hectares' in 2007–08. That is contradicted by a statement made here on Tuesday in response to a question without notice, when the minister said that the burn involved 160 000 hectares.

It is of concern that no target has been announced for the current year. Rather than dealing with the matter urgently, the minister says he will provide the government's response to the report within six months. I find that incredibly depressing. It is highly inadequate, because these are urgent matters. Frankly, we have let the spring burning period go by without a significantly enhanced effort, notwithstanding the committee's recommendations, which we universally applauded. Clearly they were informed by the secretary of the department himself, who in evidence to the committee indicated that the area of prescribed burning should be significantly increased and therefore provided a basis for the credibility of the committee's report and recommendations.

On the issue of urgency, I refer again to the minister's remarks in answer to a question without notice last on Tuesday, 28 October. He said:

> … this is going to be a very daunting summer in terms of its potential to be one of the worst seasons on record for the risk of fire confronting our community.

What is the government's answer? It is more funding for the Department of Sustainability and Environment firefighting effort and enlistment of a battalion of project fire officers, which is precisely the point that the East Gippsland wildfire task force says is the problem. We are operating in a culture of firefighting, not fire prevention and preparedness. We are in fact ill prepared for a high-risk summer despite the recent experience of the disasters of 2003 and 2007 and the Grampians fires in 2005. The government stands accountable for its inaction.

Victorian Multicultural Commission: report 2007–08

Ms DARVENIZA (Northern Victoria) — I am pleased to rise and make a few comments about the annual report by the Victorian Multicultural Commission. The Victorian Multicultural Commission does a fantastic job. It is a great report, as it is every year. I always look forward to getting the VMC's report because it is very informative and contains many photographs that really capture the diversity and enthusiasm of our multicultural community here in Victoria. It also gives you a real taste of some of the activities, festivals and celebrations right around our state, not just here in metropolitan Melbourne but in rural and regional areas as well, where there is a lot of cultural diversity.

In my region of Northern Victoria we have areas that are particularly diverse. The area where I live and where my electorate office is, in Shepparton in the

Goulburn Valley, is probably one of the most culturally diverse areas outside of the metropolitan area, as are the areas around Mildura, Swan Hill and Robinvale. I see my parliamentary colleague Ms Broad is nodding her head, because she, like me, has worked closely with these communities and has attended a number of their events and celebrations. In Wangaratta we have a very enthusiastic newer organisation, NEMA (North East Multicultural Association), which is doing a great job. The places I mentioned are some of the areas in Ms Broad's electorate and my electorate that are particularly culturally diverse.

I start by congratulating George Lekakis and the VMC commissioners on another excellent report. I congratulate George and the 10 commissioners on the excellent job they have done over the reporting period. I also acknowledge the staff. I think there are some 27 to 30 staff members who are part of the team that works in supporting George, and Hakan Akyol, the deputy chairperson, as well as the commissioners. They have always been very helpful to me and my office when I have had issues around cultural diversity.

I will just quickly run through some of the highlights. You can see if you look through this report that during the past financial year the commission has supported more than 1500 Victorian communities and groups from culturally and linguistically diverse backgrounds with funding through its very successful community grants program. The commission works hard to meet the needs of our ethnic communities and helps them work to promote community cohesion as well as assisting them in sustaining their organisation and the programs they provide as well as events that they are interested in running.

The community grants program covers a range of categories — organisational support, senior citizens grants, building and facility structure improvement grants and educational programs as well as festival and events grants. The Victorian Multicultural Commission also meets regularly with community groups and organisations or individuals who are interested in making an application for a grant. It runs sessions about how to fill in the application form and what the various categories mean. Its staff are very open and generous with the time they spend with organisations as well as individuals in assisting them to make applications and access the funding that is available through that grants program. I am very proud to be part of a government that has very significantly increased the funding to the VMC for this community grants program, which has allowed even more communities to access it.

The VMC consults widely with our culturally and linguistically diverse communities. It listens very carefully to their issues right across Melbourne and in rural and regional Victoria. It has been another great year for the awards in excellence for multicultural affairs. In closing I again say well done to the VMC.

Melbourne Market Authority: report 2007–08

Mr VOGELS (Western Victoria) — I would also like to make some comments on the Melbourne Market Authority annual report for 2007–08. On the front page of the report there is a beautiful photo of the Melbourne market at Footscray showing the wonderful array of fruit and vegetables on sale. The average consumer would not know of the blood, sweat and tears that the farmers who produce the fruit, vegetables and flowers experience to get their produce there so that these wonderful products can go out to the restaurants, supermarkets et cetera in and around Melbourne.

The fruit and vegie market trades five days a week, and it usually starts at 3.00 a.m. — I think it is three days at 3.00 a.m. and 4.30 a.m. on the other two days — so it is a very early start for those involved. For the farmers to get that produce there they would probably have left their homes the night before, so you can see that it is hard work. The flower market opens six days a week and it starts at about 4.00 a.m. every day.

We all know that the Dynon Road rail link project has taken over about 10 per cent of the area that is currently occupied by the market, and that is one of the reasons that the Bracks government and now the Brumby government decided to move the market to Epping. The vision of the authority is:

> To be the preferred market and distribution centre for horticultural products and to provide industry support.

And its mission is:

> To provide a commercially viable wholesale market.

That is a good vision and a good mission, but I am really concerned about how that vision is going. As we know, Epping is a long way from the centre of Melbourne. We know that the people who are using the market have been told that there will be a new market at Epping in 2011. At this stage, as far as I know, very little if anything has happened. We know it was originally supposed to be a $1 billion project under a public-private partnership, but that has now been scaled down to a $300 million project because the private funding for the development has not been realised. It is of huge concern.

At Leongatha last week we heard that the fish market, which is to be kicked off its site in March next year — which is only about four or five months away — has got absolutely nowhere to go. The fish market has been told by the government that if it wants a market it needs to move to the new wholesale fruit, vegetable and flower market at Epping. It is all right to tell people to go out to Epping, but there is nothing to go out to. I am absolutely gobsmacked as to how the market is going to survive and where it is going to go. I do not think anybody has any idea where the fish market is supposed to be heading after March 2009.

The Melbourne wholesale fruit, vegetable and flower market is the largest fresh produce complex in Victoria and one of the biggest of its kind in the world. On a busy day up to 4000 people enter the market to buy and sell fresh fruit, vegetables and flowers. Sellers include wholesalers, growers and provedores operating from warehouses, stores and trading stands. Buyers include independent greengrocers, supermarkets, restaurants, food processors and florists. Many more businesses receive deliveries and consignments from other markets.

There are also over 700 people employed by the market, related businesses, transport operators and unloaders who enter the market daily. Currently the market is located on a 33-hectare site — a great site — on Footscray Road close to the city. The market is scheduled to move to Epping by 2011. I do not think anybody who uses that market at the moment believes they will be out at Epping in 2011, because nothing is happening out there. The issue is that the market did not need to be moved at all. It is in a great spot. Yes, the Dynon Road rail link needed to use some of that space — I think about 10 per cent of it — but the rest of the market could have stayed happily where it was. That is where it wanted to stay. However, it will be forced to relocate to Epping if and when that site is finished.

HEALTH PROFESSIONS REGISTRATION AMENDMENT BILL

Statement of compatibility

For Mr JENNINGS (Minister for Environment and Climate Change), 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 Health Professions Registration Amendment Bill 2008.

In my opinion, the Health Professions Registration 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 bill is to amend the Health Professions Registration Act 2005 ('the act') in relation to a number of procedural matters relating to fees, registration, and transitional provisions. The bill's amendments facilitate, expand and clarify appropriate procedures and powers in respect of those matters. The bill also modifies provisions under which the growth of pharmacy ownership for friendly society-type companies is limited.

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

Right to a fair hearing

Section 24 of the charter guarantees the right to a fair and public hearing. The right to a fair hearing applies in civil and criminal proceedings before courts and tribunals.

Clause 8 of the bill will extend the board's current capacity to meet via alternative means of communication (e.g. teleconference or videoconference) to decisions under section 40. Section 40 of the act provides for the board to accept undertakings from practitioners or students in relation to addressing serious risks to public health and safety, or in the alternative to suspend the registration of the practitioner or student pending an urgent investigation or hearing. The clause 8 amendment is a change of procedure rather than substance, to avoid undue delays in assembling the board for the interim and urgent decision making provided for by section 40. The amendment does not affect the matters to be taken into account by a board when making the decision, or the requirement of the board to meet in person in relation to other meetings conducted for the purposes of part 3 of the act (investigations and panel hearings).

The decision under section 40 is not a criminal or civil proceeding before a court or tribunal, and therefore does not engage the right under section 24 of the charter. However, it is noted that the board's decision must be based on reasonable grounds as specified in section 40, and made in accordance with the obligations on public authorities under the charter.

It is also noted that if a board decides to suspend registration rather than accept an undertaking, an investigation or hearing under the act must proceed as soon as possible. Section 69 of the act provides for the conduct of hearings, including provision for legal representation and for the practitioner or student to make submissions, and binds the panel with the rules of natural justice.

In summary, clause 8 of the bill does not limit any right under the charter.

Right not to be subject to retrospective criminal laws

Section 27 of the charter provides that a person must not be found guilty of a criminal offence because of conduct that was not a criminal offence when it was engaged in.

The proposed amendment in clause 9 of the bill substitutes the existing section 169(1) of the act to provide that the act applies to activities of any person which occurred before the act's commencement, to the extent that there was power in

relation to those activities under the previous health practitioner legislation. For example, if a board had power under the previous legislation to bring proceedings in relation to conduct that was a criminal offence at that time, the act clarifies that the board's power continues if the proceedings have not yet been taken. This is consistent with section 14 of the Interpretation of Legislation Act 1984 which has the effect that the repeal of the previous health practitioner legislation did not affect the operation of that legislation or the continuing power to bring legal proceedings in relation to offences committed under that legislation. Clause 9 therefore does not create retrospective liability for criminal offences, and does not limit any right under the charter.

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit any right under the charter.

GAVIN JENNINGS, MLC
Minister for Environment and Climate Change
Minister for Innovation

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 seeks to amend the Health Professions Registration Act 2005 ('the act') in relation to a number of procedural matters relating to fees, registration, and transitional provisions, to facilitate, expand and clarify appropriate procedures and powers in respect of those matters. The bill also extends the period under which the growth of pharmacy ownership for friendly society type companies is limited.

The main purpose of the act is to protect the public by providing for the registration of health practitioners and a common system of investigations into the professional conduct, performance and ability to practise of registered practitioners. The act provides the legislative framework under which 12 registration boards, including the Medical Practitioners Board of Victoria and the Nurses Board of Victoria, regulate their respective professions and protect the public. The act came into operation on 1 July 2007.

Since the act came into operation, the Council of Australian Governments (COAG) has now agreed the intergovernmental agreement (IGA) to establish a national registration and accreditation scheme for health professionals. The IGA was signed on 26 March 2008 by the commonwealth, state and territory governments and a commitment made to have the national scheme operational by 1 July 2010. The New South Wales Minister for Health and I are leading this process.

It is important that the act remains responsive to ensure that Victorian registration boards continue to have the most up-to-date powers necessary to provide for the best possible protection of the public in the lead-up to the commencement of the national scheme. It is also important that government ensure that Victoria is well placed to make a smooth transition to the new national scheme.

The amendments contained in this bill are minor, designed to enable the continued smooth operation of the act so that boards can carry out their public protection role effectively.

As a result of its tightening of the administration of the GST legislation, the commonwealth now requires that a registration board must have an explicit, statutory, fee-charging power stated in legislation if a fee charged by such a board is to be GST free. Explicit, legislative, fee-charging powers are already included in the act in relation to most of the current fees charged by registration boards — for example, fees for registration, renewal, endorsement of registration, all of which are required to be published annually in the *Government Gazette*. However, in relation to two types of fees, those charged to individuals to sit examinations for registration and those charged to tertiary providers for approval of their courses — for the purposes of eligibility of graduates for general registration or endorsement under the act — there is no explicit fee-charging power.

The Department of Human Services reached agreement with the commonwealth in late 2007 that these fees could remain GST free for 2008 on condition that the act is amended to make the fee-charging powers explicit. If the amendments to section 5(1)(c) and section 29(4)(c) of the act are not made then registration boards will be required to add GST to examination and course accreditation fees. Given the relevance of qualification examinations to international practitioners, this could create a particular disincentive for these practitioners when seeking to work in Australia, and further exacerbate workforce shortages.

The bill addresses a limitation in section 9(4) of the act that allows a grant of provisional registration for a period not exceeding 12 months. Under the repealed Medical Practice Act 1994, a grant of provisional registration continued in force 'for the period specified by the board'. This gave the Medical Practitioners Board of Victoria the flexibility to register interns on graduation in December, and allow them to complete an intern year commencing in March the following year, a period of registration of approximately 15 months. The Psychologists Registration Board of Victoria has a pathway to general registration that involves two years of provisional registration. The amendment to section 9(4) will reduce the administrative burden on boards when renewing registration and increase the flexibility of the provisional registration provisions.

The bill addresses an omission when the act was framed that prevents the Nurses Board of Victoria granting renewal of registration to direct-entry qualified midwives who are registered under section 7(2) of the act, that is, midwives who are qualified in midwifery but do not have a general nursing qualification and are not eligible for general registration under section 6 of the act. At present the power to renew registration only applies to certain categories of specific registrant and this does not include section 7(2) registrants. Midwives who are not registered nurses have to make a fresh application each year. To date, the Nurses Board of Victoria has dealt with this difficulty administratively although it is desirable to bring the registration renewal arrangements for all midwives into line, regardless of whether they have general registration or specific registration.

The bill addresses a limitation in the application of section 130 of the act, which may inhibit boards from responding quickly to threats to public health and safety. The amendment to section 130 will allow a board to use alternative methods of communication for board meetings, for example videoconference or teleconference, in relation to decisions to suspend a health practitioner under section 40 where there is a serious risk to public health and safety.

The bill also addresses an omission in the transition provisions of the act with respect to powers of the boards to:

> clarify that boards may prosecute unregistered persons for offences that occurred under the previous health practitioner legislation, prior to commencement of the act on 1 July 2007; and
>
> investigate and discipline persons who were not registered on 30 June 2007 in relation to conduct that occurred prior to 1 July 2007, to the extent the previous legislation applied to that conduct. The current section fails to capture, for example, persons that were previously registered but whose registration had lapsed.

As an example, this provision would allow a board to investigate a complaint made in 2008 against a registered health practitioner that committed an offence in 2005 then let their registration lapse before the new act commenced on 1 July 2007.

The bill extends the pharmacy ownership restrictions for friendly society-type companies under section 174 of the act. In effect, the bill also provides for the 30 per cent growth restriction on friendly society-type companies that owned six or more pharmacy businesses before 16 November 2004 to be 'reset' from 17 November 2008. That is, the same group of companies may grow by 30 per cent based on their ownership immediately before 17 November 2008. If one of these friendly society type companies meets this 'reset' 30 per cent cap the government will provide an opportunity for all stakeholders with an interest in pharmacy ownership to provide comment on the appropriateness of ownership regulatory arrangements.

The bill provides for a revised calculation of the maximum ownership permitted where two or more friendly society-type companies amalgamate after 16 November 2008. The maximum is calculated by reference to the 'largest' level of ownership that would have been permitted for any one of the companies involved in the amalgamation. The bill inserts a penalty for non-compliance with the maximum ownership levels, based on the current penalty for companies that breach the other ownership restrictions in the act. Finally, the bill makes growth cap arrangements for friendly society-type companies ongoing.

In summary, the bill in the main clarifies procedural matters governing health professions. The Victorian Government is committed to implementing the COAG decisions to establish a national registration and accreditation scheme for health professionals. The act is designed to protect both consumers and practitioners and provide the best possible regulatory framework to support the delivery of high-quality health services in Victoria.

I commend the bill to the house.

Debate adjourned for Mr D. DAVIS (Southern Metropolitan) on motion of Mr Guy.

Debate adjourned until Thursday, 6 November.

COMPENSATION AND SUPERANNUATION LEGISLATION AMENDMENT BILL

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 Compensation and Superannuation Legislation Amendment Bill 2008.

In my opinion, the Compensation and Superannuation Legislation 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 proposed bill:

> removes a sunset on provisions that allow impairment benefits to be paid to workers with certain injuries whose whole person impairment rating is less than 10 per cent and 5 per cent more;
>
> reinstates the application of common-law rules to the assessment of the amount of damages negligent third parties must pay by way of indemnity to the WorkSafe and TAC schemes;
>
> restores the previously understood position that an accepted claim for compensation by the TAC is a necessary prerequisite for entitlement to statutory compensation benefits, including the carrying out of an impairment assessment;
>
> clarifies that damages in respect of death or serious injury as a result of a transport accident can only be brought by a natural person; and
>
> enable members of the Victoria Police to purchase death and disability insurance, limited to part of a period leave without pay.

Human rights issues

1. Reinstatement of the application of common law rules — right to property

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

Clause 8 has the effect of reinstating the application of common-law rules to the assessment of damages that

negligent third parties must pay by way of indemnity to the WorkSafe and TAC schemes. Although the amendment may result in a person paying increased damages, any deprivation of property occurs in accordance with law. Accordingly, I consider the provision is compatible with the property right in s 20 of the charter.

2. Assessment of spinal injuries — right to equality

Section 8(3) of the charter provides that 'every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination'. Discrimination is defined in s 3 of the charter by reference to the Equal Opportunity Act 1995. Direct discrimination occurs where a person treats, or proposes to treat, someone with an attribute less favourably than the person treats or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances. One of the prohibited attributes under the Equal Opportunity Act 1995 is impairment.

Clause 10 repeals a sunset provision connected with a benefit available to workers with certain injuries whose whole person impairment rating is assessed at 5 per cent or more and less than 10 per cent.

A lump sum statutory impairment benefit was first introduced into the Accident Compensation Act 1985 (the act) in December 1997 and replaced the old table of maims. For physical injuries, the amount payable to a worker is determined by the level of his or her permanent impairment as assessed in accordance with the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 4th edition (the AMA 4 guides).

In response to concerns about a change in the level of statutory lump sum benefits paid to injured workers because of the transition to the AMA 4 guides, the government established a review of assessment methods for spinal injuries. The review confirmed, amongst other things, that workers with spinal impairments were disadvantaged under the AMA 4 guides. In response to this the government changed the way impairment benefits were calculated for workers with certain injuries through the introduction of the modified impairment rating scale. This means, for example, that while a person with another physical injury, such as a shoulder injury, might be assessed under the AMA 4 guides as having a permanent impairment of 5 per cent and therefore receive no compensation for non-economic loss, a person with a spinal injury assessed under the AMA 4 guides at 5 per cent will have that assessment modified up to 10 per cent and thereby be eligible for compensation for non-economic loss.

The different treatment of persons depending upon the nature of their injury raises a question as to whether persons with injuries other than spinal injuries are being treated less favourably in the same or similar circumstances so as to amount to discrimination.

There is no Australian jurisprudence on the issue of whether different treatment of different injuries can amount to discrimination. While some care should be taken in directly applying overseas jurisprudence in the area of discrimination, some assistance can be obtained from jurisprudence from Canada and the United States. This jurisprudence makes it clear that discrimination can arise where different types of disabilities are treated differently. The Canadian Supreme Court has found that the exclusion of chronic pain sufferers from almost all benefits under a statutory compensation scheme was a breach of the right. On the other hand, the United States courts have rejected claims of breach of the equal protection right in respect of workers compensation schemes that provide different methods of assessment for different injuries, or which schedule certain physical injuries as assessable and not others: see, for example, *Duran v. Industrial Claim Appeals Office* 833 P.2d 477 (Colo.1994); *Petition of Abbott* 653 1.2d 1113 (N.H. 1995); *Barton v. Ducci Elec. Contractors Inc*. 730 A.2d 1149 (Conn. 1999).

As already noted, the purpose of the provisions is to address what was seen as an inequity in the way that different physical impairments are treated under the AMA 4 guides. For this reason, I consider the provisions do not result in less favourable treatment of persons in the same or similar circumstances so as to amount to discrimination.

Accordingly, I consider that the provisions are compatible with the right to equality in the charter.

3. The necessity to have an accepted claim — the right to a fair hearing

Section 24 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.

Clause 3 and 4 will require that an impairment determination can only be made by the TAC if a claim for compensation has been made by a person injured in a transport accident within the prescribed time and accepted by the TAC.

The provisions of the Transport Accident Act 1986 (TA act) have until the recent decision of *Byrne v. Transport Accident Commission* always been understood to require the making of a claim for no-fault benefits under part 3 as a necessary precondition for the TAC to make an impairment determination and the subsequent making of a damages claim. The TA act requires a claim to be lodged with the commission within one year of the transport accident or within one year after any injury first manifests itself. The commission may accept a late claim up to three years after the injury or death or after the injury first manifests itself.

In *Transport Accident Commission v. Locastro* [1995] 1 VR 289 the Supreme Court of Victoria held that there is no discretion to accept a claim after three years.

Section 24 of the charter does not create a general right of access to the courts. The charter speaks of 'a party to a proceeding' as distinct from a determination of civil rights and obligations in article 6(1) of the European Convention and 'the determination of …' right and

obligations in a suit at law in article 14(1) of the International Convention of Civil and Political Rights.

Section 24 of the charter is concerned with enshrining procedural rights or natural justice and not substantive legal rights. The High Court in *John Pfeiffer Pty Ltd v. Rogerson* (2000) 203 CLR 503 held that limitation provisions barring either rights or remedies are substantive not procedural. It follows that the imposition of a statutory limitation period is a matter of substantive law that does not engage the right to a fair hearing under section 24 of the charter.

Even if section 24 of the charter was engaged the proposed amendment would be a reasonable limitation and demonstrably justified 'in a free and democratic society based on human dignity, equality and freedom, taking into account all relevant factors' including those set out in section 7(2) of the charter.

The one-year time limit in the TA act is a reasonably long one, and may be extended up to three years if there are reasonable grounds for a delay. The act provides benefits irrespective of fault or ability to find a negligent party to sue. Time is measured from the date of first manifestation of injury, so that allowance is made for those with latent injuries. In addition to the standard reasons for the imposition of time limits of finality and certainty, there are particular policy reasons for the imposition of time limits on claims under the TA act, namely the ability of the commission to fulfil the objectives of the TA act in maximising health outcomes for survivors of transport accidents, management of risk by the TAC and the overall viability of the transport accident compensation scheme. There is a rational relationship between the imposition of the time limit and the achievement of these policy objectives.

Accordingly, I consider that the provisions are compatible with the right to a fair hearing in the charter.

4. The necessity to have an accepted claim — property rights

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

The amendments preserve the entitlement of Ms Byrne, and the TAC intends to proceed with dealing with the applications it has received requesting an impairment determination in accordance with section 46A(1A) of the TA act from persons who have failed to lodge a claim within the prescribed time.

The amendments will prevent future claims for common-law damages being commenced out of time by means of a request for an impairment assessment under s 46A(1A). However, a person injured as a result of a transport accident does not have a cause of action for damages at common law unless and until the person satisfies the requirements of s 93 of the TA act, of obtaining a determination by the TAC of the person's degree of impairment, and if less than 30 per cent of satisfying either the TAC or a court that the person has a serious injury: *Swannell v. Farmer* [1999] 1 VR 299. The amendments therefore will not have the effect of extinguishing any existing cause of action at common law and will not engage section 20 of the charter.

Accordingly, I consider the provision is compatible with the property right in s 20 of the charter.

5. Only natural persons can recover damages

Clause 5 clarifies the present understanding, that only a natural person can bring proceedings in accordance with section 93 of the TA act.

Section 6 (1) provides that only persons have human rights. 'Persons' is defined in s 3 of the charter to mean a human being. The human rights set out in the charter therefore have no application to corporations.

The effect of clause 5 is to exclude corporations from bringing proceedings in accordance with s 93. The amendment will have no effect on the rights of natural persons to bring proceedings in accordance with s 93. It follows that the amendment of s 93 of the TA act by clause 5 of the bill has no charter implications.

Accordingly, I consider the provision is compatible with the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, although it may raise human rights issues, it does not limit any human rights.

Mr John Lenders, MLC
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 main purposes of the bill are to address issues affecting the transport accident and workers compensation schemes as a result of recent court proceedings and decisions and to ensure that injured workers continue to receive the benefit of changes to the assessment of impairment introduced by the government in 2003.

Modified impairment assessment scale

In 2003 the government responded to the concerns of workers about the assessment of impairment for spinal, leg and arm injuries under the fourth edition of the AMA *Guides to the Evaluation of Permanent Impairment* by introducing a modified assessment scale. The effect of the modified assessment scale is to provide workers with these injuries access to compensation where they are assessed as having a whole person impairment of between 5 and 9 per cent. Without a modified impairment assessment scale, workers with a whole person impairment rating of less than 10 per

cent would be unable to access any lump sum benefit under the WorkSafe scheme because they would fail to meet the minimum impairment threshold of 10 per cent or more.

To ensure that this benefit was affordable for the WorkSafe scheme, a five-year sunset provision was included in the legislation to enable a full assessment of the cost of the benefit to the scheme. At the time the benefit was introduced, the estimated cost of this change was expected to be of the order of $30 million per annum. A recent actuarial review has indicated that the cost to the scheme is within the original actuarial estimates and that the continuing success of the scheme means that the additional compensation can be confidently included in the scheme for the future. The bill therefore repeals the sunset provision incorporated in the Accident Compensation and Transport Accident Acts (Amendment) Act 2003. This is a good outcome for Victorian workers.

Byrne v. TAC

The bill also addresses the consequences of the Supreme Court decision in the case of *Byrne v. TAC*. This case was the first judicial interpretation of section 46A(1A) of the Transport Accident Act 1986 (the TA act). This subsection was introduced in 2000 with the objective of bringing about greater efficiency in the determination of impairment by including a time limit in which to apply for a determination of the entitlement under the TA act. The imposition of the time limit in which to apply for an impairment assessment was still predicated on a claimant having made a valid claim for compensation with the TAC.

However, in the case of *Byrne v. TAC (VSC92/2008)* the court ordered the TAC to conduct an impairment assessment for Ms Byrne, taking the view that it was not necessary to have made a claim for compensation on the TAC as a precondition for carrying out an impairment assessment under section 46A(1A).

The bill restores the previously understood position that an accepted claim for compensation is a necessary prerequisite for entitlement to statutory compensation benefits, including the carrying out of an impairment assessment. An impairment benefit lump sum cannot be paid without an impairment assessment. To avoid any doubt, this requirement is also extended to include section 47 of the TA act as well.

The bill preserves the entitlements of Ms Byrne and any other applicants for an assessment of impairment received by the TAC to date, in accordance with the Supreme Court's decision.

Action for damages by a corporation

The bill also clarifies that proceedings for damages under the TA act may only be brought by a natural person and not a corporation.

The TAC has recently received two claims for damages by corporations seeking damages in respect of the loss of services of employees and directors. A third has been threatened. The first action issued by Martino Developments Pty Ltd in the Supreme Court is in respect of a director and shareholder of the company who was injured in a transport accident in 2000. The recent Martino Developments action is in addition to damages for pain and suffering and pecuniary loss damages, which have already been paid by the TAC to the individual director of the company who was injured in the transport accident.

This bill contains an amendment to section 93 of the TA act to clarify that damages in respect of death or serious injury as a result of a transport accident can only be brought by a natural person. The TA act was always intended to provide compensation and support to natural persons who suffer personal injury in transport accidents.

The bill preserves the right of Martino Developments Pty Ltd and any other applicant who has issued proceedings to recover damages for loss of services before the commencement of clause 5 (which will be the day after the day on which this act receives the royal assent) to have their matters heard by the court.

Indemnities from negligent third parties

The bill clarifies provisions in relation to the recovery rights of both the WorkSafe and the TAC against third parties whose negligence contributes to workplace and transport accident injuries. Under the two schemes, negligent third parties who cause injury must indemnify either scheme for compensation paid out in respect of that injury. Until recently, the amount of compensation was calculated by reference to the Accident Compensation and Transport Accident Acts, as well as common law.

In *Alcoa Portland Aluminium Pty Ltd v. Victorian WorkCover Authority*, the Court of Appeal held that where a third party has negligently contributed to the injury of a worker, the amount of damages it must pay to WorkSafe or the TAC is assessed according to the provisions of part VB of the Wrongs Act 1958 and not, as had hitherto been the case, according to common-law rules.

The effect of applying provisions of the Wrongs Act to the calculation of damages that negligent third parties must pay to indemnify WorkSafe for compensation paid to injured workers is that these damages are reduced. This ultimately penalises the two schemes with the cost ultimately being borne by employers whose workers have been negligently injured by third parties.

It was never the intention for the provisions of the Wrongs Act to apply to indemnity actions taken by WorkSafe or the TAC. The amendment therefore reinstates the law as it was applied prior to the Court of Appeal's decision and clarifies that none of the provisions of the Wrongs Act apply to indemnity actions taken against negligent third parties.

Amendments to ESSA

The bill also contains an amendment to the Emergency Services Superannuation Act 1986 (ESSA). The amendment is designed to facilitate one of the new flexible work arrangements that was introduced in the Victoria Police Workplace Agreement 2007.

That agreement introduced the concept of supplementary duties whereby employees on leave without pay (LWOP) are able to work shifts during their period of LWOP.

One condition of performing supplementary duties is that the individual obtains insurance through the defined benefit section of Emergency Services and State Super (ESSSuper). The act currently allows insurance to continue while on LWOP provided a premium of 2 per cent of salary is paid.

However, insurance must be obtained for the entire period of LWOP.

The amendment to the act will allow a member to purchase insurance for just part of a period of LWOP and will thus make supplementary duties a far more attractive proposition for many officers.

I commend the bill to the house.

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

Debate adjourned until 6 November.

DANGEROUS GOODS AMENDMENT (TRANSPORT) BILL

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 Dangerous Goods Amendment (Transport) Bill 2008 (the bill).

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

Overview of bill

Under the auspices of the Australian Transport Council a new commonwealth legislative package covering the transport of dangerous goods by road and rail has been developed (the model law). States and territories are implementing this legislation in their jurisdictions, hence Victoria is amending its principal dangerous goods legislation, the Dangerous Goods Act 1985 (the DGA). The DGA is administered by the Victorian WorkCover Authority (WorkSafe).

Human rights issues

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

The bill engages three of the human rights protected by the charter.

Section 13: privacy and reputation

Clause 9 of the bill engages the rights contained in section 13 of the charter dealing with privacy and reputation. Under section 13, a person has the right 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.

The bill proposes to translate sections 10 and 11 from the Occupational Health and Safety Act 2004 (the OHSA) to the DGA and to make them specific to the administration of the DGA.

Section 11 of the OHSA allows for disclosure of information or producing a document to a court or tribunal, commonwealth, state or territory authorities administering law corresponding with law administered by WorkSafe, and local agencies which have functions in relation to particular OHS matters under the OHSA or another act.

Section 10 of the OHSA restricts disclosure of information to that gained through the performance of official duties, functions or exercise of powers of, or on behalf of, WorkSafe.

The model law recognises the importance of sharing information across jurisdictions to achieve better safety outcomes in relation to transport of dangerous goods.

The proposed amendment will follow what is already in the OHSA and the Accident Compensation Act 1985. Both provide for disclosure of information under certain circumstances to a range of agencies, including those administering the DGA.

A person's right to information privacy is engaged by the proposal, however, it is unlikely that the proposed interference would be arbitrary or unlawful. As the power to disclose information is circumscribed and in the context of a regulatory regime, it does not constitute a limitation on the charter right.

Section 26: right not to be tried or punished more than once

The bill engages the rights contained in section 26 of the charter, under which 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.

The bill proposes courts be given power to amend, suspend or revoke a licence held by a driver of a vehicle transporting dangerous goods if that person is found guilty of an offence.

In addition, the DGA regulation-making powers will be amended to enable the proposed regulations to make it explicit that the finding of guilt may be grounds for the authority to likewise amend, suspend or revoke a licence.

The proposed amendments engage the right not to be punished more than once, but they do not limit that charter right, because amending, suspending or revoking a licence following a finding of guilt does not amount to trying or punishing a person for an offence — rather it is merely the application of a civil penalty.

The bill further engages the rights contained in section 26 of the charter, by providing in clause 22 (together with consequential changes in clauses 23–24) for a court to order the forfeiture of a container containing seized dangerous goods by a person guilty of an offence. Sections 47A–D of the DGA allow for the forfeiture and disposal of high-consequence dangerous goods as well as containers. Equivalent provisions dealing with dangerous goods generally do not refer to forfeiture of the containers. The bill clarifies that when dangerous goods are forfeited the relevant containers may also be forfeited.

The proposed amendments engage the right not to be punished more than once, but they do not limit that charter right because forfeiting a container which contains seized dangerous goods which have themselves been forfeited merely gives necessary effect to the forfeiture of the

dangerous goods, and does not amount to trying or punishing a person for an offence.

Section 20: right not to be deprived of property other than in accordance with law

The bill engages the rights contained in section 20 of the charter by providing in clause 22 (together with consequential changes in clauses 23–24) for a court to order the forfeiture of a container containing seized dangerous goods by a person guilty of an offence.

The proposed amendments engage the right not to be deprived of property other than in accordance with law but they do not limit that charter right because forfeiting a container is a result of a lawful process, and to give necessary effect to the lawful forfeiture of the dangerous goods does not amount to a deprivation of property other than in accordance with the law.

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

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

Conclusion

I consider that the bill is compatible with the charter, because although it does engage sections 13, 20 and 26 of the charter, it does not limit any human rights.

Mr John Lenders, MLC
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:

In 1995, Victoria adopted commonwealth laws governing the road transport of dangerous goods by template. The laws referred to the *Australian Code for the Transport of Dangerous Goods by Road and Rail* sixth edition (ADG 6 code). This was the first attempt to achieve national uniformity in the transport of dangerous goods through technical provisions, supported by a regulatory framework. Currently, dangerous goods laws in Victoria are a combination of Victorian and commonwealth laws, administered by WorkSafe Victoria.

Significant reforms of dangerous goods legislation in Victoria have occurred recently, bringing improved consistency in the approach of WorkSafe's inspectorate and more certainty for workplace parties on how they can expect their issues to be dealt with. The reforms continue with this bill to implement the new national framework.

The National Transport Commission (NTC) is responsible for the national dangerous goods legislative framework. The NTC has updated the framework for the transport of dangerous goods by road and rail, and has developed a model law package including principal and subordinate legislation (not intended to be templated), and a revised version of the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (the ADG 7 code).

The ADG 7 code was developed to update technical requirements to ensure uniformity for land transport of dangerous goods and to harmonise with international air and sea requirements by addressing intermodal inconsistencies. It aligns with the UN revision cycle of their model regulations which are the principal source of policy for the safe transport of dangerous goods internationally. The model subordinate law will ensure the seamless movement of dangerous goods between road and rail.

Industry will welcome the introduction of the ADG 7 code because of the alignment with the UN model regulations and the expected reduction in the cost and complexity of compliance for business. The expected costs to both industry and government of updating the ADG code and legislation should be offset by the anticipated benefit from an improvement in safety levels for the transport of dangerous goods and a subsequent drop in incident rates.

The bill

The primary purpose of this bill is to enable the take-up of the national model laws and consolidate the different pieces of dangerous goods principal legislation under the one Victorian act — that is, the Dangerous Goods Act. In order to do this, Victoria is amending its principal dangerous goods legislation (the Dangerous Goods Act 1985), and drafting new regulations. Those regulations will also replace existing regulations made under the Dangerous Goods Act that adopt national rail rules in the ADG 6 code.

The implementation of the model law will achieve the same outcomes as in other jurisdictions and maintain the integrity of the national scheme. It will ensure that industry can work to the technical instructions of the ADG 7 code, while also improving operating efficiencies and reducing red tape.

As the model act is largely 'enabling' in nature, it is not necessary to make significant changes to the overall structure, principles, duties or inspector powers of the Dangerous Goods Act although some changes are needed.

The bill will amend the Dangerous Goods Act to the extent necessary to let industry work to the new national framework for the transport of dangerous goods by road and rail. In particular the bill adopts the new ADG 7 code and makes provision for new dangerous goods transport regulations to be made and administered under the Dangerous Goods Act. It will repeal the current template law, the Road Transport (Dangerous Goods) Act 1995. The Road Transport Reform (Dangerous Goods) Act 1995 of the commonwealth and associated regulations will no longer apply in Victoria, nor will the ADG 6 Code after a 12-month transition period.

I will now outline the key provisions of the bill.

Adoption of the ADG 7 code

The bill amends the definition of the ADG code in the Dangerous Goods Act to mean the seventh edition or subsequent edition. The new ADG 7 code aligns requirements for documentation, packaging specification, labelling and

marking with those of the United Nations model regulations for the transport of dangerous goods. Moving to the updated ADG 7 code will be welcomed by industry as the current sixth edition is about five editions behind the UN.

Companies operating internationally and across interstate borders will benefit from a national scheme with greater alignment with international requirements for transporting and storing dangerous goods. There will be less need for re-labelling and re-packaging imports and exports. Most dangerous goods classifications, packing instructions, package specifications, package markings and operating rules will not change. Administrative procedures will be streamlined, resulting in reduced compliance costs for firms operating across state borders.

Updated labelling, marking and emergency codes will also enable emergency services to deal with emergencies effectively.

For many duty holders, complying with the ADG 7 code will not be significantly different from complying with the ADG 6 code.

Application of the Dangerous Goods Act/definitions

The ADG 7 code contains requirements in relation to infectious substances, including those infectious to animals or plants, as well as genetically modified organisms. Although the Dangerous Goods Act does not exclude genetically modified organisms or substances infectious to animals or plants from its application, it was not envisaged that they should be in scope. Victoria has other more suitable instruments which exercise control over these substances. The bill therefore explicitly excludes them from the application of the Dangerous Goods Act.

The bill also provides that the Dangerous Goods Act does not apply to the transport of prescribed wastes covered by environment protection law. This maintains an exclusion under the current road transport laws for dangerous goods.

As far as possible, the government wishes to rely on the definitions already contained in the Dangerous Goods Act with regulation-specific definitions from the model law package to be inserted into the regulations rather than the act. However, some additions are required in the act and the bill makes provision for this.

General duties and licence related offences

The bill will insert into the Dangerous Goods Act general duties in relation to goods too dangerous to be transported and in relation to the transport of dangerous goods by road and rail.

The general duties being added are based in part on the template and in part on the model law, retaining the qualifier 'so far as is practicable' from the existing general duties in the template law applying to road transport. The priority here is to ensure consistency with Victoria's view on the framing of general duty provisions in safety legislation. In other respects, the approach follows the model law.

Introducing these separate general duties will highlight there are some differences between the general duties for different areas covered by the act. The decision was made to maintain separate general duties for road and rail transport rather than relying on the broad existing general duty in the Dangerous Goods Act for all aspects of dealing with dangerous goods. The status quo is maintained in keeping with the largely enabling nature of this amendment. The general duties being adopted from the template/model law have a particular meaning and apply specifically to persons involved in the transport of dangerous goods.

The bill also adds to the licence related offences in the Dangerous Goods Act by translating specific road transport offences from the model law.

Provision of information and restrictions on disclosure

The model law envisages a national system where information can be shared as necessary between corresponding authorities (that is, health and safety authorities) to help in administering the act and regulations. The Occupational Health and Safety Act 2004 (the OHS act) has restrictions on disclosure of information and the circumstances in which information may be disclosed. Consistent with the OHS act these are largely mirrored in the bill. The provisions are set down with absolute clarity and transparency for duty holders, and others from whom information is obtained, who have the authority to provide and receive information and the limitations placed on them.

Inspector powers

The existing powers conferred on inspectors by the Dangerous Goods Act are considered suitable for administering the requirements for transport of dangerous goods as proposed by the model laws.

While inspectors can only use their powers in places used for residential purposes once they have consent or a search warrant, the bill makes it clear that temporary or casual sleeping or other accommodation (for example, the rear of a truck's cabin) is not a place used for residential purposes.

Internal review

In his review of the OHS act undertaken for the government last year, Mr Bob Stensholt, MP, found the internal review process has been successful in providing a robust, consistent and independent review mechanism. Similar internal review processes are already covered by the Dangerous Goods Act. The bill provides for the regulations to prescribe other decisions of the authority as reviewable decisions subject to internal review, such as decisions in relation to licences or other approvals.

Offences/penalties

The national model law contains recommended sanctions and penalties, but recognises the setting of penalties is a matter for jurisdictions.

As the current national review of occupational health and safety legislation may have an effect on dangerous goods, the changes to penalties at this stage are limited; however, there is one key area where penalties will be amended.

Penalty levels for breaches of general duty provisions in the Dangerous Goods Act have not kept pace with those in all other jurisdictions, nor with community expectations. They are also substantially lower than the existing penalties for similar offences under the template law and the model law. As with custodial sentencing provisions, that I will move to

shortly, it is imperative that penalty levels reflect the serious nature of these offences.

The government is committed to ensuring there is no lowering of safety standards in Victoria; that current offences and penalties set out in the template law are maintained in similar terms; that there is alignment with offence and penalty structures adopted by other states; and so far as possible that the offence and the penalty do not change for persons who operate across state borders.

The government has therefore concluded there is justification to increase penalties for the existing general duty offence in the Dangerous Goods Act so as to bring them into line with those for similar offences for dangerous goods transport.

The bill also includes penalties from the model law for specific road transport licence related offences where the penalties are higher or equal to the penalties for similar offences in the Dangerous Goods Act.

The bill provides for courts to have an option to amend, suspend or revoke a licence held by a driver of a vehicle transporting dangerous goods found guilty of an offence.

In addition, the Dangerous Goods Act regulation-making powers will be amended to enable the proposed regulations to make explicit that a finding of guilt may be grounds for the Authority to amend, suspend or revoke a licence.

Custodial sentences

In considering the appropriateness of custodial sentences being included in the proposed dangerous goods regime, proper consideration was given to Victoria's position with the OHS act, which was not to propose a specific custodial sentence for breach of a general duty offence.

Custodial sentences for general duty crimes under dangerous goods law is commonplace in Australia. For example, dangerous goods laws in all states and territories make provision for imprisonment for terms of up to seven years for individuals who breach general duty and related provisions under specified circumstances. Imprisonment is also currently available under the existing Victorian template law and the existing Dangerous Goods Act in relation to 'dangerous offences'.

Following the approach in the template/model laws this bill provides for courts to impose custodial sentences for a general duty breach involving either serious injury, death or a mental element (aggravated offence), and for transport related licence offences involving serious injury or death. However, within the spirit of the approach taken in the OHS act the bill removes the existing ability under the template law to impose custodial sentences for less serious breaches of the general duty not involving serious injury or death.

Adopting this position means Victoria's laws will strike an appropriate balance between strong deterrence and fair and reasonable application of penalties, without introducing new and potentially impractical provisions which would be inconsistent with Victoria's other safety laws.

Regulation-making powers

Some additions will enable the making of regulations based on the model subordinate law where most of the duties for the transport of dangerous goods will lie, including a number of duties formerly in the ADG 6 code. This leaves the ADG 7 code as the primary technical reference for the classification and safe transport of dangerous goods.

The proposed regulations will continue the current licensing regime, which will remain largely unchanged. However, the life of a licence issued under the regulations will be extended to five years duration rather than the current three years.

WorkSafe is currently preparing regulations and will consult key stakeholders during the process.

Consultation

Nationally, there was extensive consultation on the development of the model laws package. WorkSafe also briefed local key stakeholders on the Victorian approach to adopting the national legislation and conducted further consultation on the penalties approach being considered.

Transition and implementation

The government fully supports the Australian Transport Council agreement to a 12-month transition period to commence on 1 January 2009. This gives industry and WorkSafe 12 months to fully implement the ADG 7 code.

The bill includes arrangements to enable smooth transition to the ADG 7 code by enabling compliance with existing laws for the road and rail transport of dangerous goods during the period. This means in practice that compliance with either the ADG 6 code or the ADG 7 code will be acceptable during this period.

The government recognises the difficulties industry is confronted with in updating its systems and procedures to meet changing legislative requirements. As the main cost impacts will be in retraining and labelling requirements, WorkSafe is working with industry groups, transport associations, unions and key training providers to provide assistance through a variety of means. Plans include an ongoing communications strategy; revised guidance and web information; summary information on the legislative changes; and seminars and workshops.

Implementation of the national package will also necessitate some consequential amendments to other dangerous goods subordinate law to ensure consistency.

In summary, these amendments facilitate the continuation of a nationally consistent approach to the transport of dangerous goods by road and rail. They complement the broader health and safety legislative reforms being progressed under the auspices of COAG and the Workplace Relations Ministers Council and in which Victoria has played a key leadership role. They will make it easier for affected industries to do business without compromising safety outcomes.

I commend the bill to the house.

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

Debate adjourned until 6 November.

EDUCATION AND TRAINING REFORM FURTHER AMENDMENT BILL

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 Education and Training Reform Further Amendment Bill 2008.

In my opinion, the Education and Training Reform 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 bill will make a number of amendments to the Education and Training Reform Act 2006, as follows:

it establishes a more streamlined process for dealing with unsatisfactory performance by government teaching employees;

it broadens and clarifies the orders that may be made by the disciplinary appeals board following a successful appeal from a termination of employment decision of the secretary;

it creates an executive class of employees within the government teaching service;

it allows the Victorian Registration and Qualifications Authority to delegate certain powers and functions that relate to registered training organisations to Vocational Education and Training Australia Ltd; and

clarifies that the current ministers administering the act can deal with all titles to education land, registered in various names, relevant to their portfolios.

Human rights issues

1. Right to privacy — section 13

Section 13 of the charter provides that a person has the right:

(a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and,

(b) not to have his or her reputation unlawfully attacked.

The right is based upon article 17 of the International Covenant on Civil and Political Rights. The United Nations Human Rights Committee has referred to the notion of privacy as revolving around protection of 'those aspects of a person's life, or relationships with others, which one chooses to keep from the public eye, or from outside intrusion'.

Clause 31 of the bill provides that the Victorian Registration and Qualifications Authority (VRQA) may share information it has about the performance of a Registered Training Organisation (RTO) with Technical and Vocational Education and Training Australia Limited (TVET) where the VRQA delegates its functions to TVET pursuant to clause 4.2.7A of the bill. Generally, the information shared would not be personal information and accordingly would not interfere with a person's private life. However, in some situations, an RTO is an individual, and accordingly, in these circumstances, the information shared between the VRQA and TVET will pertain to a person. However, the information shared will be in relation to that individual's professional performance and not information about that individual's private life. Further, this information will only be provided to TVET to enable TVET to monitor the professional performance of that individual, as an RTO, and make appropriate decisions about the individual's registration as an RTO and the education services that the individual, as an RTO, provides. To the extent that this information relates to a person's reputation, it does not amount to an unlawful attack. This information sharing is necessary so that TVET and the VRQA can carry out their important function of assuring quality in the services provided by RTOs, and accordingly would not be arbitrary.

Accordingly, any limitation to this right is reasonable.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that clause 31 raises human rights issues those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. John Lenders, MLC
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 will make a number of amendments to the Education and Training Reform Act 2006 so as to implement government policy and to further improve its operation.

The main purposes of the bill are:

to create an executive class within the teaching service;

to establish a more streamlined process for managing the unsatisfactory performance of school based employees;

to broaden and clarify the type of orders concerning salary reimbursement that may be made by the disciplinary appeals board following a successful appeal to that board against termination of employment;

to authorise the Victorian Registration and Qualifications Authority to delegate functions to

Technical and Vocational Education and Training Australia Ltd in respect of registered training organisations that operate in more than one state or territory, and

to ensure that the current ministers administering the Education and Training Reform Act 2006 can deal with all government education land relevant to their portfolios.

The bill also corrects minor inaccuracies and technical errors to improve the operation of the act.

As the provisions of the bill are grouped under these main purposes, the following further details are also given in that same order.

The Victorian government believes that all Victorian children deserve the best possible start in life and that the greatest gift we can give our young people is a high quality education.

With this in mind, the *Blueprint for Education and Early Childhood Development*, released on 2 September 2008, sets out the government's vision for education and early childhood development for the next five years. It outlines an integrated reform agenda designed to improve performance and promote excellence across Victoria's schools and early childhood services.

The bill implements an important aspect of the blueprint by creating an executive class within the Victorian government teaching service, and will deliver on the Victorian government's commitment to legislate to allow executive contracts for school principals.

The establishment of the executive class is consistent with the government's expressed commitment to develop, attract and reward the best people. It may be obvious, but it needs to be acknowledged, that 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. This is particularly true of leaders in schools, with effective school leadership being critical to school improvement. Within this context, executive class contracts will be used to attract high-performing principals to areas where they are needed most.

The executive class scheme in the bill is modelled partly on the provisions in the Public Administration Act 2004 dealing with 'executives' and the provisions in the Education and Training Reform Act 2006 dealing with the 'principal class'.

Consistent with those other provisions, executives will be appointed on contracts which are to be fixed-term not exceeding five years. Importantly, a member of the principal class who becomes a member of the executive class is an ongoing employee within the teaching service, and has a right of return to another position in the teaching service at the end of the contract period, or may have the contract renewed for a further period of up to five years.

The secretary of the department will determine the remuneration of a member of the executive class within a remuneration range set by ministerial order.

Consequential amendments are also being made to the State Superannuation Act 1988. This act currently provides that the salary of principals for superannuation purposes is to be assessed at a higher level than other employees. This arrangement will be continued for principal class members who join the executive class. In all other cases, salary for superannuation purposes is to be modelled on an executive under the Public Administration Act 2004.

The next main matter the bill deals with is to establish a more streamlined process for managing the unsatisfactory performance of government school-based employees, once the process has been completed at the local school level. The employees include teachers, principals and other school-based staff.

Division 10 of part 2.4 of the Education and Training Reform Act 2006 is currently used for inquiries concerning both misconduct and unsatisfactory performance.

School-based employees who engage in unsatisfactory performance are currently supported, monitored and issued with warnings about their performance by their school principal, in accordance with departmental guidelines. The act currently prescribes a procedure that includes the nomination of an 'investigator', and the conduct of an 'investigation' followed by a hearing and determination by the secretary. This is the same process for inquiries concerning misconduct.

The current requirements can cause repetition and delay, given the comprehensive process already undertaken at the local school level. Also the term 'investigator' is inappropriate in the context of unsatisfactory performance, especially for employees who have not engaged in misconduct.

The bill inserts a new division dealing specifically with unsatisfactory performance, and will provide a streamlined, fair and balanced process for managing unsatisfactory performance, once a report has been received by the employer. The new 'unsatisfactory performance' definition in division 9A will replace the term 'negligence, inefficiency and incompetence' in division 10.

The new process will provide the secretary with a range of options upon receiving an unsatisfactory performance report. Prior to making a determination the secretary will give the employee an opportunity to make a submission about the matters in the report. The employee's submission must be made within 14 days (or any longer period permitted by the secretary), following which the secretary may then make a determination, taking into account the report and any submission from the employee. Actions may include issuing a reprimand, reducing the employee's classification or terminating the employee's employment.

Consistent with other similar procedures, the bill provides the employee concerned with the right to lodge an appeal with the disciplinary appeals board.

Division 10 will continue to operate in the same way as before, except that an employee's unsatisfactory performance will now be dealt with under the new division. The reference to 'inefficiency' in division 10 will be removed and that division will deal mainly with misconduct. It is possible that some reports to the secretary might contain matters of a disciplinary nature, and the bill provides the secretary with the option of dealing with these other disciplinary matters under other current provisions of the act.

The bill will make it clear that any conduct amounting to unsatisfactory performance and dealt with under the new

division cannot subsequently be dealt with under division 10. However, the secretary may take action under division 10 for conduct that is related to the conduct dealt with under the new division, provided it is not expressly stated or referred to in the report provided to the secretary.

A separate but related matter involves an amendment to the powers of the disciplinary appeals board to order reimbursement of salary where it upholds an appeal to it against termination of employment. The current section 2.4.69 permits the board to order either reinstatement or some reimbursement of salary, but not both.

The bill will amend the operation of section 2.4.69 to give the board a wider power where the employee is reinstated. The board may order that the employee is to be paid an amount that it considers appropriate in the circumstances to cover the employee's loss of salary, provided that the amount is not more than the employee would have earnt had the termination not taken place.

The next matter dealt with by the bill involves changes to chapter 4 of the act. These changes will enable the Victorian Registration and Qualifications Authority to delegate some of its functions to Technical and Vocational Education and Training Australia Ltd (or more commonly shortened to TVET Australia) in respect of registered training organisations that operate, or will operate, in more than one Australian state or territory, and that have their principal place of business in Victoria or conduct all or most of their operations in Victoria.

This amendment will give effect to the decision of the Ministerial Council for Vocational and Technical Education to establish the National Audit and Regulation Authority to provide for the registration and regulation of multi-jurisdictional registered training organisations in order to reduce the audit burden on such organisations.

Members will probably be aware that the council comprises commonwealth, state and territory ministers who are responsible for vocational education and training. The council decides national policy, and at its November 2006 meeting it agreed to establish a national registration, audit and approval function in TVET Australia Ltd, in order to reduce the audit burden on registered training organisations that operate in more than one state or territory.

The main elements of the bill which implement the council's decision involve enabling the Victorian Registration and Qualifications Authority to delegate its relevant registration functions to TVET, and enabling registered training organisations to apply to the Victorian Registration and Qualifications Authority for approval to have their registration managed by TVET, and enabling for the Victorian Registration and Qualifications Authority to issue criteria which registered training organisations must satisfy in order to get that approval from the Victorian Registration and Qualifications Authority.

The bill contains a note before clause 25 on the type of criteria that the Victorian Registration and Qualifications Authority is expected to publish. These criteria are expected to mirror those contained in a charter issued by TVET, which contain such criteria as requiring the registered training organisation to operate in more than one jurisdiction, or to show that it will be doing so within six months.

The final main matter which the bill deals with is an amendment to the provisions in chapter 5 of the act, which vest all real property acquired for the purposes of the act in the minister. The reason why changes are needed is because the titles to government land in the education portfolios have been registered in various names since the 1862 act, called 'An Act for the Better Maintenance and Establishment of Common Schools in Victoria'. Some of these names cannot be traced to the current ministers administering the Education and Training Reform Act and do not reflect the current ministers' portfolio responsibilities.

The amendments will ensure that the current ministers administering the act can deal with all titles to government education land, registered in various names since the 1862 act, relevant to their portfolios.

The bill will also make a number of amendments to correct minor inaccuracies, statute law revisions and other changes to improve the operation of the act. The most significant of these is clause 35, which repeals section 5.4.12(3) of the act, so that work experience arrangements conducted interstate will, in the future, have to satisfy the safety and other requirements of section 5.4.3(2). Otherwise, the rest of these changes are not considered to change existing policies or procedures or remove existing rights.

The Victorian government is committed to making a difference to the lives of young people in Victoria through investment in schools and early childhood services. Within this context, it is important that the Victorian education system is constantly improving. The amendments proposed in this bill will serve to further strengthen the already significant reforms to the education sector.

I commend the bill to the house.

Debate adjourned for Mr HALL (Eastern Victoria) on motion of Ms Lovell.

Debate adjourned until 6 November.

RACING AND GAMBLING LEGISLATION AMENDMENT BILL

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 Racing and Gambling Legislation Amendment Bill 2008.

In my opinion, the Racing and Gambling Legislation 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 bill is to amend:

1. the Racing Act 1958, Gambling Regulation Act 2003 and Instruments Act 1958 to:

   a. allow bookmakers to carry out internet and telephone betting operations at any time from approved racecourses;

   b. permit corporations to act as bookmakers; and

   c. transfer responsibility for the registration of bookmakers to the Victorian Commission for Gambling Regulation.

Human rights issues

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

Section 26: right not to be tried or 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 the law'. The protection in section 26 of the charter means that a person who has been tried in proceedings cannot be tried again on a charge that is substantially the same as the original charge. Section 26 protects a person against what is commonly referred to as 'double jeopardy'.

Proposed section 4.5A.14(1)(d)(ii) in clause 23 provides that if a registration holder has been found guilty of a relevant offence, this can be a ground for disciplinary action. However, this does not amount to 'double jeopardy' and there is no limitation on the right in section 26 of the charter, for the following reasons. Judgements of foreign courts have held that the cancellation, suspension, variation of a licence or registration due to a consideration of the individual's guilt cannot be interpreted as a punishment deriving from the offences for which he or she has been found guilty. Rather, the disciplinary action is for the separate purpose of proper regulation of the occupation and the protection of the public (see for example *Swain v. Department of Infrastructure* (General) [2008] VCAT 848). Accordingly, disciplinary action under the new section 4.5A.14 does not amount to punishment for the same offence, and there is no limitation on the right in section 26 of the charter.

Section 8: recognition and equality before the law

Section 8 of the charter establishes a series of equality rights. The right to recognition as a person before the law means that the law must recognise that all people have legal rights. The right of every person to equality before the law and to the equal protection of the law without discrimination means that the government ought not discriminate against any person, and the content of all legislation ought not be discriminatory.

Proposed sections 4.5A.2 and 4.5A.3 in clause 23 provide that a person must be aged 18 years or more to apply for registration as a bookmaker or a bookmaker's key employee. This amounts to prima facie discrimination on the attribute of age. However, the discrimination is a reasonable limitation on the right for the reasons set out below.

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

(a) the nature of the right being limited

The prohibition of discrimination is one of the cornerstones of human rights instruments and this is reflected in the preamble to the charter. However, the right is not absolute and can be subject to reasonable limitations in section 7(2) of the charter.

(b) the importance of the purpose of the limitation

The purpose of the limitation is to ensure that a person who is registered as a bookmaker or bookmaker's key employee have the necessary maturity to responsibly perform the requirements of the position of bookmaker or bookmaker's key employee.

(c) the nature and extent of the limitation

The right is limited only to the extent that a person aged under 18 years of age cannot be registered as a bookmaker or a bookmaker's key employee until that person turns 18.

(d) the relationship between the limitation and its purpose

Age limits necessarily involve a degree of generalisation, without regard for the particular abilities, maturity or other qualities of individuals within that age group. In these clauses, age is being used as a proxy measure of the maturity and capacity of an individual to act responsibly, which is necessary in this situation. It is reasonable for Parliament to set an age limit reflecting its assessment of when most persons will have sufficient maturity to ensure responsible decisions are made in these particular contexts.

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

There is no less restrictive means to achieve the purpose of this provision.

Conclusion

I consider that the bill is compatible with the charter 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. 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 Racing and Gambling Legislation Amendment Bill has as its genesis the government strategic policy statement released in October 2006, titled *Racing in Victoria — Leading the Field*. This statement provided a strategy by which government support for the Victorian racing industry could ensure it built on its strengths, effectively manage its many challenges and maintain its leadership position nationally into the future.

A fundamental component of this strategy to support the continued growth, viability and sustainability of the Victorian racing industry was a commitment to the bookmaking sector in this state. This government commitment to the Victorian bookmaking sector has already been illustrated through the introduction of a range of reforms to ensure bookmakers maintain a valuable presence on our racetracks.

Since taking office in 1999, this government abolished the bookmakers turnover tax and introduced a bookmakers levy, which provides a direct return to clubs and to the bookmaking sector and has approved the extension of hours for Victoria's sports bookmakers to operate 24/7 via the internet.

In 2002, in recognition of the financial pressures associated with the sole trading model, the government amended legislation to allow individual bookmakers to form proprietary corporations (as distinct from public companies) and partnerships.

However, the introduction of a betting exchange into Australia, coupled with the evolution of internet and telephone betting has provided a means for interstate wagering service providers to gain a significant business presence in Victoria. The emergence of a national wagering market has contributed to a marked decline in the Victorian bookmakers' share of fixed odds betting with Northern Territory corporate bookmakers having doubled their market share in the last five years to a dominant 58 per cent of the market.

In May last year, in acknowledgement of the changed market conditions for wagering service providers, the government reconvened the Bookmaking Reforms Working Party, comprised of key racing industry stakeholders to consider identified policy proposals relevant to the future of Victorian bookmakers. These included representatives of the controlling body for each racing code, the Victorian Bookmakers Association and Tabcorp.

In its final report, the working party provided a number of recommendations that form the basis of the legislation before Parliament today. The proposals in the bill will provide a contemporary framework for the operation and regulation of Victoria's registered bookmakers. This will enable them to compete more effectively with interstate competitors and ensure the continuation of bookmakers as a presence at Victorian racecourses.

The Racing and Gambling Legislation Amendment Bill will amend the Racing Act 1958 (RA) and the Gambling Regulation Act 2003 (GRA) and has three principal components. The first of these will allow bookmakers to conduct internet and telephone betting operations at any time from approved racecourse locations. In an age of '24/7 racing' the current restrictions on Victorian bookmakers to only conduct betting at a licensed racecourse while a race meeting is in progress is antiquated and no longer appropriate. Corporate bookmakers located in other jurisdictions are not subject to the same restrictions and may accept bets via the internet or telephone at any time, putting Victorian bookmakers at a competitive disadvantage.

Some stakeholders have expressed disappointment that this proposal has been limited to approved racecourse locations rather than any premises on or off-course as the Working Party recommended. However, the requirement for bookmakers to only operate from racecourse locations reflects the government's commitment to preserve the historical separation of on-course bookmaking and off-course totalisator wagering. This is particularly relevant in the context of the exclusivity of the wagering licence for all off-course retail services. The restriction also allows for greater supervisory access for integrity assurance purposes. Allowing Victorian bookmakers to conduct internet and telephone betting on a 24/7 basis only from approved racecourse locations is considered an appropriate response to improve the competitive position of Victorian bookmakers without diminishing the integrity of the racing industry.

The second component of this legislation will allow corporations to act as bookmakers. While the 2002 amendments have improved the position of Victorian bookmakers, the current limitations on corporate and partnership arrangements to bookmakers has restricted their ability to raise capital from other sources, a restriction not imposed upon corporate bookmakers operating in other jurisdictions. This has placed Victorian bookmakers at a disadvantage. Interstate wagering service providers have been able to put in place superior capital structures through access to public and private capital enabling them to carry extensive marketing and advertising campaigns, maintain protracted and aggressive betting strategies, and sustain infrastructure and staffing resources to meet associated customer demand.

The government has accepted that such an option is essential for Victorian bookmakers to be able to compete on a level playing field as part of a national wagering market.

Finally, the Racing and Gambling Legislation Amendment Bill 2008 will transfer responsibility for bookmaking registrations to the Victorian Commission for Gambling Regulation. Currently the responsibility for registration rests with the Bookmakers and Bookmakers Clerks Registration Committee. However, the shift to allow public companies to be registered as bookmakers necessitates a registration authority that is better equipped to consider and assess the complex commercial, financial and probity issues that are associated with corporate entities. The transfer to the commission as the responsible authority for bookmaker registration is also consistent with the regulation of all other gambling activities, including its regulation of the wagering licence-holder.

The bill will not only better position Victorian bookmakers but will also reduce the administrative burden they face. Currently bookmakers are required to register, not only themselves but also all of their staff, who are currently registered as bookmakers clerks. Under the new legislation, only those employees who will be responsible for the wagering operation in the absence of the bookmaker are required to be registered. It is anticipated that this change will remove the requirement to register approximately 600 clerks. This regulatory change will also make the temporary certificate of registration redundant. At present, an application

for a temporary certificate is required every time the registered bookmaker is absent from their stand. However, with the provision of a new 'key employee' category, no temporary certificate is required, saving another 300 registrations annually.

In short, this legislation is vital to ensuring the long-term viability of the bookmaking profession. Without these reforms, the market share and competitive position of Victorian bookmakers relative to interstate and overseas wagering service providers will continue to be eroded. Such a situation would adversely affect not just bookmakers but the racing industry as a whole. This legislation will ensure that Victorian bookmakers can compete and grow. It will also help to stem the current diversion of wagering turnover away from Victoria in favour of interstate corporate bookmakers and in so doing will improve the commercial position of not only Victorian bookmakers, but the broader Victorian racing industry as well.

I commend the bill to the house.

Debate adjourned for Mr KOCH (Western Victoria) on motion of Ms Lovell.

Debate adjourned until 6 November.

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

Second reading

Debate resumed from 29 October; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr TEE (Eastern Metropolitan) — Last night when the debate commenced I identified a number of concerns with the current Infertility Treatment Act — concerns which had led to the Federal Court declaring invalid provisions which discriminate against single women and lesbian women who were seeking treatment. Today as a result of that Federal Court decision single women and lesbians who are infertile can and do access treatment. Whether this bill passes or not, that practice will not change. The bill then is effectively a tidy-up of the current Victorian legislation by removing those invalid provisions.

Secondly, the bill provides for a number of protections that do not apply today for children who may be conceived as a result of infertility treatment. The bill provides a degree of protection to ensure that people who should not have children — whether they are in heterosexual relationships, married, single or in lesbian relationships — are unable to use the infertility treatment services. Today as the law stands there is nothing stopping people who are unfit to be parents — people with violent criminal records, people who have previously had children removed from them — from accessing IVF (in-vitro fertilisation). This bill fixes that. Currently counsellors or doctors who are concerned that a prospective child might be at risk of harm from their parents have nowhere to go. In this sense the law as it stands today is negligent and deficient; it does not go far enough to vet prospective parents who are seeking access to IVF.

This bill changes that. The bill makes it harder to get treatment if a woman or her partner have been convicted of a sexual offence, have convictions for a violent offence or a child protection order which has previously removed a child from their care. Under this bill if a doctor or a counsellor is concerned or worried that a future child will be abused or neglected, the application for access to infertility treatment can be referred to a panel that has been set up called the patient review panel — a panel of experts, a panel which has skills and expertise in child protection matters. For the first time the welfare of the child will be considered in the context of their parents.

Concerns have been raised in today's newspaper and the other day in the media about these provisions — that prospective parents will have to undergo police checks. When you consider what is at stake I do not think we should make any apology for this additional requirement. Checks to ensure that parents will not harm their children is not a burden or an excessive requirement. It is a common-sense protection for very vulnerable children; it is a common-sense requirement which I hope members of this house will support by supporting this bill.

More fundamentally and importantly, this bill deals with the current reality that single women and women in lesbian relationships are having children. There are some in the community, and some I believe in this house, who are concerned about that and oppose that reality. We heard last night from Gordon Rich-Phillips who believes that every child deserves a mother and a father. I think that ideological position should not, I hope, prevent members from supporting the bill, because ultimately the bill is not about the rights of heterosexual parents or same-sex parents, it is at its core about the rights of those children who were born today and who will continue to be born irrespective of the outcomes of today's deliberations.

We know that excluding certain categories of women from treatment does not stop them having children. Women who are ineligible for treatment in clinics we know make private arrangements to self inseminate with sperm from donors who may or may not be known to them. We know that this causes a number of complexities, difficulties and unfairness. It exposes the woman and her child to unacceptable health risks, because there is no guarantee that the donor will be screened for communicable or genetic diseases that can be inherited.

Under the clinical regime that is set up in Victoria the relationship between the woman and her donor are legally clear. The donor and the woman have access to safeguards, of working through that licensed clinic. The woman and the donor have medical checks, there is a registration of donor information and there is mandatory counselling so that all parties know exactly what they are getting into, so we can all be confident that all parties are consenting to that outcome.

With private arrangements there is no clarity or certainty. There can be conflict later because important issues, such as access and the relationship between the child and the donor, are not clarified up-front. Obviously this is not an ideal situation for the parents but it can be a tragedy for the children who become the victims of the stress caused by conflict. The children become the meat in the sandwich in a battle over who their parents are and the rights those parents have over them.

We also know that some women travel interstate or overseas to access treatment. That is the reality and is happening today. That poses difficulties and disadvantages on the child who may or may not be able to access information about their biological parents.

For the sake of the children we must make the arrangements clearer, and we must make the process that is occurring today safer. This bill tackles and overcomes all of those issues. It provides clarity and certainty for the children involved.

The other important aspect addressed by this legislation is the surrogacy laws. Currently in Victoria surrogacy is legal, but there is a gap in the legislation because today not only must the couple wanting to have a child be infertile but the surrogate woman must be infertile. This is an absurd situation, one which does not accord with current with the reality in a number of other Australian and overseas jurisdictions. What we have today is a situation where women go overseas or interstate, which increases the potential for negative outcomes for all involved, particularly the child.

Clearly getting the issues right around access to reproductive technology is important, but again what is equally — or perhaps even more — important is ensuring that, once born, children have legal rights. They have a right to be cared for, a right to be provided for financially, a right for someone to ensure they are educated, and a right to be protected from harm. These are clear rights that all children should access. I have two children who have two parents who are legally obligated to look after them. They have two parents who are legally obligated to make sure they are cared for, they are fed, they are taken to school and educated, and they are looked after. But today children born as a result of surrogacy arrangements or brought up by a same-sex couple do not have those same rights. They do not have the same right to have two parents to provide and look after them. I do not understand that distinction. I do not understand on what basis of principle, logic or morality we would deny children those rights. This bill goes a long way to fixing that anomaly.

Along with amendments to federal legislation that are moving through the federal Parliament that will complement these arrangements this bill will ensure that children have the same protection under the law regardless of their family structure. The amendments in the federal Parliament have bipartisan support. As a result of those amendments, and irrespective of their family structure, children will have the same right to child support, to inheritance, and to compensation. I cannot see any justification for denying these fundamentally important reforms.

I want to go back to the issue raised by Mr Rich-Phillips, by members in the other place and by others in this house about the assertion that they will oppose the bill because every child deserves a mother and a father. When you pare back the reasoning you find the underlying assumption is that somehow children brought up in a same-sex relationship are disadvantaged. That is really the undercurrent of the message being brought by that objection.

The Victorian Law Reform Commission, to which I referred last night, looked at the issue. It had a look at the 20 years of social research into outcomes for children born into diverse families and as a result of ART (assisted reproductive technology). The research indicates overwhelmingly that the marital status or sexuality of parents are not determinants of a child's best interests. What matters is the quality of the relationships within the family. Clearly if this were not the case we would have a problem, but that is the reality based on the 20 years of research. I will quote some of

the findings of the law reform commission in its report on assisted reproductive technology and adoption. I will quote some of the findings in terms of the research on children who are brought up in same-sex relationships. The report says:

> This research provides strong evidence that it is the quality of family processes and relationships which determines emotional, social and psychological outcomes for children, rather than the structure of the family into which they are born. Relevant processes are such things as the quality of parenting, the quality of relationships within the family, including the level of cooperation and harmony between parents, the family's social support and level of connection with others, and the family's access to resources. Family structure, such as the gender of parents and the number of parents, is not shown to be a significant factor in child outcomes.
>
> The research indicates that children with lesbian and gay parents do not differ at all, or significantly, from children with heterosexual parents when assessed according to a range of standard criteria measuring parent-child relationships, socio-emotional development, psychiatric ratings and gender development.

As I said, fundamentally this bill is not about the rights of those same-sex parents. It is about the reality of providing legal rights to their children. But I do not think we can pretend for a moment that we can throw up a smokescreen showing that there is some harm or disadvantage for these children. The bottom line is that when you read the literature and the law reform commission report you realise that for children to reach their full potential as human beings the critical factors are that they need love and they need committed parents who love them and who have the social, emotional and financial resources to care for them.

The bill does not ask members to support the rights of parents or same-sex couples or indeed heterosexual couples or parents: it is about the rights of the children. It is about ensuring that all children have the same opportunities, the same start and the same rights. On that basis I urge the house to support the bill.

Mr D. DAVIS (Southern Metropolitan) — I am pleased to rise to make a contribution to this debate that is looking at three bills: the Assisted Reproductive Treatment Bill 2008, the Research Involving Human Embryos Bill 2008, and the Prohibition of Human Cloning for Reproduction Bill 2008.

Last night my colleague Gordon Rich-Phillips laid out the general provisions of the Assisted Reproductive Treatment Bill, and I need not go through all of those provisions again. However, I will make some comments about the general provisions of the Research Involving Human Embryos Bill and the Prohibition of Human Cloning for Reproduction Bill.

The Research Involving Human Embryos Bill re-enacts the provisions contained in Part 2A of the Infertility Treatment Act 1995, as amended. The purpose of the bill as outlined in those provisions is to provide a suitable, or satisfactory, regulatory framework to address concerns about scientific developments in relation to human reproduction and the use of certain human embryos created through assisted reproductive technology or by other means. The bill excises part 2A of the Infertility Treatment Act — the regulation of certain uses of ART embryos, other embryos and human eggs — and re-enacts these provisions in a stand-alone piece of legislation.

There is a background to this, and this chamber has dealt with a number of these aspects in previous bills going back to the 2002 Council of Australian Governments agreement to have nationally consistent legislation in this way and the passing of the commonwealth legislation. The debate in the commonwealth Parliament, and indeed in this Parliament, was significant at the time. As part of the debate it was suggested that there was a belief that these two elements should be separated into different components, and that has occurred here.

At the time of the previous debate in this chamber I moved an amendment which sought to split that bill. The infertility treatment legislation passed by the Victorian Parliament in March 2007 amended part 2A of the Infertility Treatment Act 1995 to mirror the commonwealth situation. The Minister for Health at the time provided an undertaking that once a review of the Infertility Treatment Act had been completed by the Victorian Law Reform Commission, part 2A of the act would be excised. That review was completed, and the report was tabled in Parliament in June this year. That has been referred to during this debate.

In summary, the provisions of the bill detail the offences and associated penalties for particular uses of human embryos; set out the functions and powers of the National Health and Medical Research Council Licensing Committee and describe the licensing system for embryo research, which is administered by the National Health and Medical Research Council Licensing Committee; and set out the powers available to inspectors who monitor compliance with the bill. Part 3 of the bill sets out the functions and powers of the National Health and Medical Research Council Licensing Committee and describes the review provisions.

The Prohibition of Human Cloning for Reproduction Bill re-enacts part 4A of the Infertility Treatment Act to prohibit human cloning for reproduction and other unacceptable practices associated with reproductive technology. The bill excises part 4A of the Infertility Treatment Act 1995 on prohibited practices, including human cloning for reproduction, and re-enacts these provisions in a stand-alone piece of legislation.

By way of background, on the undertaking of the Council of Australian Governments ministers the provisions of part 2 detail the practices that are prohibited and for which indictable offences apply, and part 3 includes clauses that identify practices that are prohibited unless authorised by the National Health and Medical Research Council. I will support both of the bills.

I want to make some general points before I go to some other areas of this conjoint debate. They are difficult issues, but they are also not difficult issues. There is a series of very supportable provisions in the Assisted Reproductive Treatment Bill, and there is, in my view, a need to provide an outcome for many in the community in this area. It is important to recognise that there is a need to regulate and provide certainty for individuals and families where children are in existence. A key aspect of this is that children need to be at the forefront and their futures need to be at the forefront.

Having said that, there are issues with the Assisted Reproductive Treatment Bill. One of my concerns is that with this bill the Attorney-General has sought to wrap up a series of measures that are connected in some ways but are different matters. In a sense there is a series of different — related, yes, but different — points in this bill. There is contention about a number of these areas, including assisted reproductive treatment; surrogacy; the regulation and administration of the procedures; the issues related to a female partner being deemed to be a parent of a child; the issues surrounding commissioning parents becoming legal parents; the children produced from gametes of deceased persons or partners; and the naming of commissioning parents on birth certificates as parents.

I want to put on record in strong terms my concerns about the Attorney-General's decision to impose a criminal records check or a child protection check on certain procedures. There is a requirement that before those procedures can proceed a records check be carried out. This is an unfortunate decision because it colours the decisions MPs must make about this bill. There are a few good reasons for introducing this concept. I understand that over time one or two cases where a better outcome for children may be provided might be detected. But it would also put a barrier in the way of people accessing assisted reproductive technology and assisted reproductive treatments of various types.

It is concerning to me to see that medical and health procedures have been linked in this way with checks on criminality or on other matters. Medical procedures, as a matter of general principle, should be available to people in the community and should not be subject to checks on a person's background as such. A very unfortunate principle is being established by the Attorney-General's inclusion of the criminal records check or child protection check as a procedure limiting access to assisted reproductive treatment. Children are born to parents every day in a range of ways, and it is a strange idea that criminal checks should be required before that can occur. I am not sure why the Attorney-General felt it necessary to include that in this piece of legislation. Frankly, it concerns me greatly.

I have had discussions with those involved with IVF (in-vitro fertilisation) centres around the country, including centre directors. This is clearly seen by a number of the IVF centres as a significant barrier in terms of their activities and, arguably, as a significant human rights issue as well. There are a few layers in this, and there needs to be a great deal of thought given to how the set of provisions relating to criminal records checks is handled. I am concerned about establishing this point.

In today's *Herald Sun* a spokeswoman for the Attorney-General is reported as saying:

> … the initial fertility assistant procedures, such as harvesting a woman's eggs, would be exempt from checks —

and further that:

> The point at which a criminal check applies is after the treating clinician has determined that ART or assisted insemination is required to produce a pregnancy and in the context of the mandatory counselling that patients undergo before receiving treatment.

That is not my reading of the bill. That concerns me, and I will seek discussion with the government as this proceeds. I put on the record that the government has indicated this debate will not be brought to a conclusion today, so there will be an opportunity for further discussions with the government on this matter. I think it is a mistake, and I am not sure the Attorney-General has fully thought it through.

I go to the broader points in the Assisted Reproductive Treatment Bill. There is much that I wish to support,

while there are sections I have some concerns about. I will focus carefully and judiciously on the debate as we progress. There are some other issues I want to put on record about the way this process is being conducted. I accept the law reform process as a helpful one, but I believe it is an insufficient process. The Victorian Law Reform Commission is a body that might do fine academic work, and I put on record my views about that body and the solutions the community seeks legitimately in this and other areas.

Whilst the law reform commission may in a technical sense review an area well and may take public submissions, in my view these are essentially political processes that require a background of information and detail. The law reform commission has been very good in providing that background and detail. Generally, in my view, these solutions are better arrived at through processes that involve parliamentary committees with the ability to search for points of community consensus. That is in a sense a partially political process.

This is a general point I am making, but it is also a specific point. I am concerned that the law reform commission, an organisation very close to government, produces a report with, in my view, a process that is not complete. Then the Attorney-General puts down a series of bills with no broad consultation in the Parliament. I think that is a flawed process for handling many of these important social issues.

As I said, I will observe this debate very closely. I am yet to be persuaded on a number of points in this debate. There is a genuine need to think through a number of the provisions. I take as a given the principle that the interests of the children involved, who are produced through the various mechanisms of assisted reproductive treatment and outside as it were the official mechanisms, are the primary concern and the primary interest. I also think those individuals and couples who legitimately seek to have children should have assistance from the community, and that assistance should involve many of the steps outlined in this bill. However, as I said, we will observe this debate very closely.

Mr VINEY (Eastern Victoria) — I have to say that it has been an absolute joy to be in this chamber today and listen to some of the sounds coming from the gallery — the sounds of very happy children. I think this chamber ought to focus absolutely on the fact that they are the sounds that this legislation is about. The sounds of those children are those of happy children in loving families, and this legislation is about ensuring that those children's rights are protected not only now but into the future.

This legislation is about the rights of people. I find it difficult, but I am sure that over the course of this debate in this chamber, people who only a few weeks ago were arguing for the rights of an unborn child are going to say that the rights of some born children are not the same as the rights of some other children in this society.

Interjections from gallery.

The PRESIDENT — Order! I am not sure but I think I heard someone from the gallery say, 'Hear, hear'. I hope I am wrong, but I remind people in the gallery that it is not appropriate for them to contribute in any way to the debate. I know this debate is very important to these people and their children, but I ask them to abide by the protocols of the house and respect the fact that it is not appropriate for them to engage in the debate or pressure a member in any way, for or against.

Mr VINEY — In reflecting on this legislation I thought about the social changes that have occurred in my lifetime. When I was a child I read a book which my 15-year-old son is currently reading, a book called *Black Like Me*. That book details how, in the time when I was a child, black Americans had to sit at the back of the bus. It appears that next week America will elect a black person to be president of that country. That change has occurred in less than one lifetime. That change did not occur because people thought it was a good idea to create that change; that change occurred because people stood up. That change occurred because legislators had the courage to make change. That change occurred because in state and federal legislatures in the United States changes to the law were put forward that provided rights to black Americans and other minorities — the same rights that anyone else in the United States would have.

When I was a child my parents campaigned for the right of Aboriginals in this community to have a vote. These were major and significant social changes. In the case of Aboriginals, they were fighting in wars but were not able to vote. These changes occurred because people stood up and said, 'We are guided by what is right. We are guided by ensuring that our society is a fair and reasonable place'.

What disappoints me about what is about to occur in this chamber in this debate is that while this side of the house has been prepared to have a conscience vote, and there may be a couple of members or more on this side who will not find themselves able to support this

legislation, there has been a clear indication that, whilst proclaiming that they have a conscience vote, all of the members of the Liberal Party will vote against this legislation.

Mr Guy interjected.

Ms Lovell — On a point of order, President, we are at the beginning of the second-reading debate — people have not even made up their minds which way they are voting. The Liberal Party members have a free vote, unlike the Socialist Left of the Labor Party, whose members have been instructed — —

The PRESIDENT — Order! Ms Lovell is debating and does not have a point of order. There is none.

Mr VINEY — We will see what happens. You cannot tell me that every single member of the Liberal Party would have the view that this legislation is not to be supported.

Mr Guy interjected.

Debate interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! I am going to use standing orders to remove Mr Guy from the chamber for 10 minutes.

Mr Guy withdrew from chamber.

Debate resumed.

Mr VINEY (Eastern Victoria) — If it is a conscience vote, I cannot believe — —

Mr Finn interjected.

The PRESIDENT — Order! If Mr Finn continues, he will join Mr Guy.

Ms Lovell — On a point of order, President, I draw your attention to the fact that the member is reflecting on the opposition. He is speculating on how members of the opposition will vote. My point of order is to do with relevance to the bill.

The PRESIDENT — Order! There is no point of order. Whether the member is reflecting on the opposition is irrelevant. Ms Lovell cannot seriously be suggesting that the opposition is offended — you cannot offend the opposition and you cannot offend the government, it has to be an individual. No individual was named, therefore there is no point of order.

Mr VINEY — My point is simply this: if there is a genuine conscience vote in both parties, I would expect that there would be some members of each party who would vote different ways. I will be very interested to see how this goes.

What I say is that in the debate on abortion members of the opposition said that members who did not support their view lacked a moral compass. Let me say what sort of compass drives me. The compass that drives me is what is right. The compass that drives me is the compass that says what is fair and reasonable and appropriate. I would say it is right to pass legislation that establishes a new principle that the welfare and interests of persons born as a result of treatment procedures are paramount. I would say that my compass about what is right and fair says that it is appropriate to support legislation that removes the current invalid statutory requirement that women be married or in a de facto relationship with a male to access ART (assisted reproductive treatment) in Victoria.

To me, it is absolutely right. My compass says that it is right to provide that a woman may access ART even if she is not clinically infertile. My compass says it is right to strengthen the protections of children born through ART through implementing enhanced screening provisions. I will pick up the point that Mr David Davis made in this chamber. He said he objected to those provisions, yet he would well understand that the advice from the Victorian Law Reform Commission is that any state system that provides ART services through state regulation has an obligation to ensure that children born from that process are safe. That is the basis of that piece of legislation. I would be extremely disappointed if Mr Davis and others used that as the ruse to vote this legislation down — that is what troubled me about Mr Davis's contribution. He said he would take note of the debate regarding this matter. I have not heard him say that before regarding legislation. He is a well experienced member of this Parliament, and I think he did a disservice to the position that he is able to take on these matters by not being prepared to express more clearly his view in relation to the legislation.

I maintain that, as a legislator, it is my job to be guided by what is right and by the compass of what is right, not by the moral compass that other people wish to bring into this place to suggest that others have an inappropriate moral position because it is different from theirs. It is, in my view, right to expand the

opportunities for donor-conceived children to access information about their genetic history.

It is, in my view, absolutely right to clarify and update parentage laws to recognise as legal parents the female partner of a woman who gives birth and the commissioning parents in a surrogacy arrangement. It is, in my view, absolutely right to provide that the decisions about more complex applications of ART are to be made by an independent expert patient review panel with provisions for a review by the Victorian Civil and Administrative Tribunal. It is right to expand opportunities for altruistic surrogacy and the posthumous use of gametes in treatment procedures. It is right to provide that the prescribed ART records are also held by the registrar of births, deaths and marriages. These are the things that are right.

As I said at the outset of my contribution, this legislation provides this chamber with an opportunity to do what is correct, to do what is right and to focus on the interests of children that we heard making those sounds of happiness in the gallery at the beginning of this debate today, because this legislation is about their rights. This legislation is about ensuring that their rights are the same as those of every other Victorian child. It is no more complex than that.

This legislation is not about the moral compass of members of this place on whether or not they think same-sex relationships are appropriate. This issue is not about that. This legislation is about recognising the fact that there is a complex range of family structures in our society and that no matter what the family structure is, the children in those relationships have the same rights as every other Victorian. I commend the bill to the house.

Mr FINN (Western Metropolitan) — I have absolutely no intention of speaking for an extended period in this debate day. I think the expression of my views will be relatively concise, in fact — —

Mr Barber — An hour and a half?

Mr FINN — I might keep it down to an hour and a half. My views on cloning and embryo experimentation are well known, and I can inform the house that they have not changed since the last time we debated this bill. I think they have been strengthened by a letter that I received just yesterday. Mr Kavanagh made reference to this particular letter in question time yesterday. It is from Professor T. J. Martin, who is an emeritus professor of medicine at the University of Melbourne. I want to quote one paragraph from his letter, which is the conclusion. He has put together a paper on embryo experimentation and the benefits or otherwise thereof. He says:

> As it stands now, there is no basis for any further efforts to achieve therapeutic cloning using the transfer of adult cell nuclei to human eggs. Indeed it would be irresponsible to attempt this. There is no reason for any parliament to consider or maintain legislative approval of therapeutic cloning.

I think that pretty much backs up the argument that a number of us made when this matter was raised in the Parliament last year, which is that cloning and human embryo experimentation are largely a waste of time. Putting aside moral arguments, which I also believe are very strong, and the waste of and attack on human life that this issue creates, I point out that the resources that go into cloning and human embryo experimentation are wasted when we should be putting our energies and money into finding real cures for diseases. As it turns out, embryo experimentation — I said this last year and I am saying it again this year — has yet to come up with a cure for one disease: not one has it come up with. Adult stem cells, on the other hand, have produced myriad cures for many diseases. You do not have to be a genius to work out where our energies and efforts should be put. I make this point on stem cell embryo experimentation: embryo experimentation is largely a waste of time and resources.

It is creating a situation where people who are suffering from various diseases — as I have mentioned in this house before, unfortunately I have had far too much exposure to diseases over many years, as people in my family have suffered from them — are, sadly, taken in. They are led — by people who, you would have to say, are making a decent quid out of embryo experimentation — to believe a cure is imminent. It is an industry; there is a lot of money involved, and when you have a lot of money involved there are inevitably people who are very keen to protect their income. The only thing that has been achieved by embryo experimentation to this point in time is that a number of scientists have become very rich. Over the last week or so in Melbourne we have seen events that indicate that perhaps the public has had enough of the false promises of the scientific embryo experimentation community, if I can call it that, and is finally waking up to the realities of what we face here.

I say to the government that when we talk about embryo experimentation or cloning we are not talking about something that will solve the ills of the world. By the indications we have had so far, it will not ease the fate of the many people who have dreadful diseases. I know from personal experience that it is dreadful to have a disease that there is no cure for. The sense of

hopelessness — that feeling that nobody can help you, that your fate is sealed and it is only a matter of time, although I suppose it is only a matter of time for all of us — is quite often all-encroaching and is sometimes worse than the disease. False hope has been put forward by people with a vested interest in embryo experimentation.

As I explained to the house today, and Mr Kavanagh did in question time yesterday, the paper by Professor Martin, the emeritus professor of medicine at the University of Melbourne, is quite conclusive. As he says:

> There is no reason for any parliament to consider or maintain legislative approval of therapeutic cloning.

I do not think he could be any clearer than that. From my non-scientific point of view, I concur with that conclusion. Professor Martin, a man of considerable experience and knowledge, has developed that view out of that experience. I would hope that we in Parliament would take note of such an opinion.

I listened with interest — to use that word very loosely — to Mr Viney's contribution to this debate. It is regrettable that he spent a fair section of his speech trying to bait the opposition rather than debating the bill. I thought that was a little bit rude, to put it very mildly. Just as Mr Viney found it odd to hear people who opposed the abortion bill voting against this bill, I personally found it very strange to hear people such as Mr Viney speaking about the importance of children's rights when just two or three weeks ago they voted to deny children the most basic right of all. That seems incongruous. One would hope that Mr Viney would have a think about what he had to say, reconsider the logic, such as it was, of what he was putting forward to the house and come to a very different conclusion.

My view of the Attorney-General is a very clear one — that is, that he is a very dangerous man. I have put this view to the house before. The social agenda that has been advanced by the Attorney-General of this state is one that we will all come to regret. It is a very dangerous social agenda, and I wonder where it will end. I know a lot of people are asking exactly the same question. Many of those people live in his electorate of Niddrie, which I also represent as part of my electorate of Western Metropolitan Region. If he does not believe me, I invite him to come out with me, visit the schools and community centres, walk down Keilor Road, talk with some of the people of Niddrie and listen to what they have to say about some of his more extreme views and some of the extreme social experiments he has been promoting ever since Steve Bracks left the premiership of the state. I invite him to find out from the people he represents what they think about the sort of legislation we have here today.

He would get the very clear message that they do not approve of what he is doing. They would put it in very frank and forthright terms that even he would understand. It would be very clear that they do not approve, and the overwhelming majority of the people of Niddrie would not approve, of the sort of legislation that this Attorney-General has been promoting through the Parliament over the last 12 to 14 months or so.

I regard the Attorney-General as a very dangerous man; in the past I have referred to him as the most dangerous politician in Australia, but I would also add to that, having read his comments in the *Herald Sun* this morning, that he is also a very crass individual. Given the emotion involved in this debate — and I agree with Mr Viney on this occasion that to hear the sounds of the children in the public gallery is indeed a delight and is certainly a far more encouraging sound than often comes from the government benches; I would prefer the sounds of children any day of the week — to read the comments of the Attorney-General trying to politicise this debate and to make it into a partisan scenario just shows what sort of an individual he is.

I make it very clear to the Attorney-General, to Mr Viney, to members of the government or to anyone else who is listening — even journalists from the *Herald Sun* who may be listening — that nobody tells members of the Liberal Party how to vote on matters of conscience. I challenge anyone to tell me or to try to tell me how to vote on a matter of conscience. Let them try; they do so at their own risk. I make that perfectly clear.

We on this side of the house, in the Liberal Party, will have a conscience vote. If we all come to the same conclusion — and I do not know whether we will — and vote the same way, it will be because we as individuals have thought the issues through and have come to the same view. That is not an extraordinary scenario, it is something that is a pretty regular event.

To hear Mr Viney in the house today trying to do the same thing as the Attorney-General has done in the paper this morning — to politicise this debate, to bring it into the gutter, to bring it down to the same level at which they constantly play their politics — was pretty pathetic. I thought it was particularly weak given that during the debate on the abortion bill just a few weeks ago, the Socialist Left faction of the ALP told its members that they could not vote against that bill, or if they did they would no longer be in the Parliament.

That was the bottom line for the Socialist Left; it was a case of 'You vote against the abortion bill and you are out of the Parliament', and I know there was at least one member of the Socialist Left who did not want to support that bill and did not want to vote for the abortion bill, but its members were bullied into it by the Socialist Left faction. For the Attorney-General or Mr Viney to lecture the Liberal Party about the conscience vote is the height of hypocrisy, and you wonder how far some of these people will go in promoting hypocrisy as an art form. In fact for them hypocrisy may well be a sport.

I am not somebody who believes in change for change's sake. I have made that clear very many times in the past. My view is that for change to occur or to be warranted, there has to be a very good reason, particularly a change of the nature that we are talking about today. This is a momentous change, this is overturning the norms of millennia, this is overturning what we understand to be parenthood, this is overturning what our society is based on. For us to go down this path, we had better be pretty sure about what we are doing; we need a very good reason to do it. I do not see answers to either of those aspects.

My views are that children's rights come first. I said that during the abortion debate, I have said it previously during other debates, I have said it when we talked about adoption, community services and a whole range of other areas. Children's rights always must come first; that is my belief, and that is why I will be voting against the ART bill on this occasion.

As the Leader of the Opposition in the other place, Ted Baillieu, said when this bill was first mooted, children deserve a mum and a dad. And I believe that. That is not to say that will always happen, because we know it will not always happen. It will not always be possible that there will be a mum and dad, but to put a child in a situation where we know that that child will not have both a mum and a dad is to put that child at a serious disadvantage. That is not putting the rights of the child first; that is putting the child at a very serious disadvantage — and I cannot support that.

This legislation is social experimentation using children as guinea pigs. We have absolutely no idea where this experiment will lead. We are opening Pandora's box, and our children, the children we are talking about, are the ones who may well suffer as a result. I am not suggesting in any way, shape or form that at the current time there are some lesbian or homosexual parents who are not great parents. I know some who are, and I have absolutely no doubt about their parenting, but I am suggesting if this is something that is a universally accepted fact of life in our society, it is something that we may well regret. I have yet to see any evidence at all that that is something we can accept. We do not know where it will lead, and largely for that reason, I oppose the bill.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Budget: surplus

Mr D. DAVIS (Southern Metropolitan) — My question is for the Treasurer. Given the Premier's evasive answer to a question asked of him in the other place yesterday, will the Treasurer answer the question that the Premier did not answer and guarantee that the Brumby government will meet its election promise to maintain the budget surplus at 1 per cent of revenue?

Mr LENDERS (Treasurer) — I thank the Leader of the Opposition for his question. I always enjoy reading question time in the Legislative Assembly because of the very succinct answers given by my ministerial colleagues, and I completely support the answer given by the Premier.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — I am not sure that that was a full and complete answer, but it was an answer. Therefore I say to the Treasurer that a key component of state revenues and maintaining a budget surplus is stamp duty receipts. The Real Estate Institute of Victoria (REIV) will be releasing its latest data on property prices in the September quarter this weekend. We already know that property clearance rates have dropped alarmingly over the last two months despite a sharp fall in interest rates. I therefore ask: will the Treasurer provide the house with the most recent estimates of monthly stamp duty receipts that he has received?

Mr LENDERS (Treasurer) — At the risk of offending Mr Rich-Phillips I will refer to the *Australian Financial Review* of 15 January 2003, which accuses the government of being too transparent because we report five times a year on these particular figures.

Mr P. Davis — Tedious repetition.

Mr LENDERS — Mr Philip Davis supports me by saying it is tedious repetition and that we should not report our figures so often. I disagree with Mr Philip Davis. He is showing his spots as a former member of the Kennett government. We believe reporting figures

is a good thing. What I will say to Mr David Davis is that we will report our figures in the midyear budget update in December, as we have done in this house on many occasions.

In responding to this supplementary question I will address the two things I presume Mr David Davis asked for. He asked whether we will report these figures. Of course we will, but I also say to Mr David Davis — this is a genuine issue when we are reporting figures, and part of this also goes to why Mr David Davis wants these figures and what he will do with them — we have seen the opposition start a run on a bank in this state. It started a run on Members Equity, a bank in this state which was required to take out full-page advertisements in a number of newspapers because the opposition was trashing it and trashing the state. It was talking down the state.

This is an interesting issue, because in this state at the moment — —

Mr Koch interjected.

Mr LENDERS — Mr Koch says, 'Precious'. I am precious about Victorians losing jobs, because the reputation of this state is being trashed by an irresponsible opposition. I will not resile from that particular picture.

If we look at where the stock market, the all ordinaries, was on 30 June and compare it to where it was two days ago, we see a 30 per cent decline. If we look at where the Dow Jones in New York went yesterday, we see it went up 10 per cent. This morning I was coming back from the swimming pool as the stock market was closing in New York; 10 minutes before it closed it was up 2 per cent, and as the commentator was reporting it the gap was narrowing and narrowing until the increase was almost zero. I got home 4 minutes before it closed, and I shudder to think what happened in that time. The point I make is that these are volatile figures. I am not going to comment on a daily basis on whether those figures are up or down, given that last year in this house Mr David Davis accused the government of hiding high figures and wanted a report. This year he is accusing us of hiding low figures and wants a report.

In mid-December we will report on the figures as we have them. We will again report on the figures at budget time when we are required to, and we will report on revenue on four other occasions during the year. We will report as we are required to. Mr David Davis, like everybody else, will be interested in what the REIV, the Housing Industry Association, the Master Builders Association and the four banks have to say. They are all sources of data, and they will all come to a head.

No matter what I say in my answers in this place, Mr David Davis will misrepresent it. At a time of uncertainty — as we have seen with the opposition's attacks on Members Equity and the Victorian Teachers Credit Union — confidence is unequivocally the single most important issue affecting jobs in the state of Victoria today. If Mr Davis wishes to trash it, that is his call, but his hands will make Pontius Pilate's look clean.

Mrs Peulich interjected.

The PRESIDENT — Order! Mrs Peulich has indicated to this house on numerous occasions that she is a stickler for the rules and the protocols et cetera. I expect her to observe them. Any further outbursts along those lines from her will be dealt with in accordance with the rules.

Innovation: government initiatives

Mr THORNLEY (Southern Metropolitan) — My question is for the Minister for Innovation, Gavin Jennings. Can the minister inform the house of how the Brumby Labor government is supporting science and innovation?

Mr JENNINGS (Minister for Innovation) — I thank Mr Thornley for the opportunity to talk about the fact that the government's commitment to science and the best application of science to support the Victorian community has produced another example which I can call on today. Last week I attended a great event in Rupanyup South, and I was there thanks to the Weidermann family hosting us. They are a great example to other parts of the farming community in showing the ways in which technology can be used to enhance the productive capacity of Victorian land and to ensure that our farmers are using this technology in a way that enhances their livelihoods, leads to sustainable farming practices, reduces environmental loads and contributes to a productive Victorian economy.

An honourable member interjected.

Mr JENNINGS — There are many streets in Rupanyup that are of note. Whilst I was with Andrew Weidermann travelling down the rows that had been cultivated to grow chickpeas on the Weidermann farm, we talked about the virtues of satellite navigational systems — global positioning systems (GPSs) — that enable his tractor to go down those rows with a high degree of accuracy to ensure the very accurate application of herbicide and fertiliser. Tilling the soil and planting seeds can also be done with great accuracy

by using satellite equipment primed with GPS and navigational aids, providing a high degree of enhanced productivity.

This technology is already being used at the Weidermann farm, but fortunately that will not be the only application across the Victorian community in the years to come, thanks to the $7 million investment by the government in installing this GPS capability right across the Victorian landscape. Through this $7 million program the government is establishing 102 base stations to transmit information to local communities.

Mr Koch interjected.

Mr JENNINGS — Mr Koch invites me to comment on the fact that this is not necessarily new technology. That may be true, but the application of it — the geographic spread and the availability of it across the Victorian landscape — is the element that is new. The element that is new is the $7 million that the Victorian government has allocated to support this program. It effectively creates a wholesale pricing network across the state, provided by the taxpayer and the people of Victoria, to support the agricultural community and other parts of the Victorian community and to enhance their productive capacity. This is a very tangible way of our providing that support. If farmers had been called upon to buy these base stations individually on a retail basis, something of the order of $140 million would have had to be attributed. If in fact you disaggregated this network provided by the public of Victoria, it would lead to a very high cost structure for the utilisation of this technology.

Our government recognises the value of public expenditure supporting private activities and the productive capacity of private Victorian land and assisting our agricultural community to use the best technology available to increase its productivity, thereby reducing fuel costs and increasing the effectiveness of fertiliser or herbicides that may be used within that landscape, which reduces the environmental load. It is all of these issues — a combination of economic efficiency and better environmental outcomes. It is lessening the compaction of the soil. The harvesting equipment goes down the same rows with a 2-centimetre degree of accuracy — something which would be almost impossible to do by hand. This is very exciting technology in terms of its application. The agricultural community is very excited about it. The Brumby government is committed to supporting the effective application of technology. This is one of the instances where our commitment is showing tangible and real results to agricultural communities in Victoria.

Budget: surplus

Mr HALL (Eastern Victoria) — My question without notice today is directed to the Leader of the Government in his capacity as the Victorian Treasurer. I refer the Treasurer to the government's financial report for 2007–08, recently tabled in this chamber. In particular I refer to commentary on page 3 of that report which discusses the operating surplus outcome of $1.482 billion against a revised estimate of $996 million. I quote from the report, which says:

> In particular, higher than anticipated third party revenue was received from health services … TAFE institutes and VicRoads construction activity.

I therefore ask the Treasurer if he would explain to the house how TAFE institutes and VicRoads construction activity contributed to increased state revenue.

Mr LENDERS (Treasurer) — I sincerely thank Mr Hall for his question. Not that I should wish the opposition well, but I suggest Mr Baillieu should perhaps appoint him as shadow Treasurer, because he clearly reads this information and actually asks pertinent questions.

The two questions he asks are very good questions, and I thank him for them. Firstly, on the issue of VicRoads, what we have is expenditure — this is one of those quirks of an accounting system — that comes on to the government account, which we acquit. Those organisations then in the end have the option of spending it. It is reported on our accounts, but the government actually does not have a lot of control over how it is spent or not spent.

For those members of the Public Accounts and Estimates Committee who have spent a lot of time on this, it is one of those ironies of the accounts. The specific issue Mr Hall asks about is: how does VicRoads, for example, get revenue or make a profit from outsourcing? Part of that is as simple as, say, having a joint project for a bridge over the Murray River and actually getting money from New South Wales paid to the Victorian instrumentality to do it. In the end VicRoads will acquit that, and we know VicRoads will acquit it on Victorian roads or road safety programs. That is how VicRoads can sometimes outsource revenue that it would otherwise not expect to get. That is one of the more obvious examples.

TAFEs will get some of the outsourced money by, for example, having private students. TAFEs will actually receive revenue from private students, but they may not have spent it on their own purposes. That is how TAFEs make larger surpluses than expected.

We would expect all these bodies with their private revenue sources to makes some money. They will obviously aim for surpluses, but in a normal year you would expect them to invest that money back into their own services and not show these sorts of balance sheet figures in the black. It is a nice problem to have — your instrumentalities operating in the black rather than the red. That is what would normally happen.

In these particular cases, I would expect with both the TAFE institutes — while they are not my portfolio responsibility, I would expect that to be the case — and VicRoads that you would see a corresponding adjustment over time when those private income or revenue sources get put back into the core purposes.

In essence that is my short answer to Mr Hall. We could spend more time on accounting treatments privately, if he wished to do that, or at a Public Accounts and Estimates Committee hearing. That is the short answer. Unexpectedly there have been larger surpluses in those areas than we had budgeted for. That is essentially the reason for them.

Supplementary question

Mr HALL (Eastern Victoria) — While it surprises me that those three mentioned areas were the significant contributors to that additional surplus, I ask the minister by way of a supplementary question: given that TAFE institutes' record on raising revenue was beyond what was expected by government, why has the government chosen to slug diploma and advanced diploma students with increased fees from July of next year?

Mr LENDERS (Treasurer) — I remove my endorsement for Mr Hall to be shadow Treasurer. He has reverted to opposition form with the word 'slug'. The bipartisanship has gone.

Mr D. Davis — You don't like hard questions!

Mr LENDERS — Mr Davis says I do not like hard questions. I love question time. Let's bring it on. Let's come back tomorrow, Saturday and Sunday if we need to; I love question time.

I say a couple of things to Mr Hall about the skills statement. He is talking here about a cash flow situation. I am sure Mr Hall is not being a Peronist and being dodgy with accounts, because that is not the sort of guy he is. This is an abnormally high, unpredicted amount. Of course you can contra that off other years where the institutes spent more money. Talking on a single surplus of one year is like basing long-term planning on a bonanza year on the share market or a bad year on the share market. I am sure Mr Hall is not suggesting that.

But what I will say to him on the serious issue of TAFE funding is that the plan is for almost $300 million extra over four years, which guarantees every Victorian of the right age group the right to progress through certificates 1, 2, 3 et cetera — the right to go through in those earlier levels — and guarantees a place in a TAFE institute for the certificates 1 and 2 et cetera for those areas. That is one thing it guarantees.

Secondly, what it does at those higher levels of certificates 5 and 6 — as my colleague Minister Allan has explained — where there is a choice between a TAFE or a university degree is treat them the same. But most significantly, it brings 172 000 more people through the TAFE system than the status quo will allow.

When we have the situation where business says to me — and I am sure it says it to every other member of this house — that the two big issues for the future are skills and infrastructure, this is the government's way of responding. It is legitimate to have a debate across the chamber about whether there other ways or better ways — I am not belittling the argument — but Mr Hall says, 'Why is this package in place?'. The package is in place because the message to us is that we need more people with skills. That is the long-term answer. This is the government's measured and considered response to getting those 172 000 more people into skills in the next four years. None of these things is easy, but I think Jacinta Allan has brought forward a great package and it is one that is delivering skills for young people for the future, and that is what makes this state a better place to live, work and raise a family.

Wind energy: Oaklands Hill

Ms PULFORD (Western Victoria) — My question is for the Minister for Planning, Justin Madden. The Brumby Labor government is committed to increasing Victoria's energy capacity and transition from a carbon-reliant to a carbon-constrained economy. Can the minister update the house on any recent planning approvals that support Victoria's renewable energy industry?

Hon. J. M. MADDEN (Minister for Planning) — I thank Ms Pulford for her interest in renewable energies, and it is pertinent because the response to the question really has a particular prominence in her region. We know that the Brumby Labor government is committed to renewable energies and that the most cost-effective mechanism for delivering renewable energy is through

wind energy. Given the global circumstances at this point in time, the most critical issue is to bring to a region jobs in this field as well as the economic activity that accompanies them. The more we can encourage investment as a government and the more we can streamline the process, the better it is going to be for everybody at the end of the day.

I am delighted to announce and to inform the house that I have granted a planning permit, with conditions, for the Oaklands Hill Wind Farm in the Southern Grampians shire. The permit paves the way for the developer, Investec (Australia) Pty Ltd, to build 43 wind turbines on a site of some 2300 hectares. The great thing about this is that the wind farm will have a capacity of 85 megawatts, and more than 52 000 homes will benefit from the power generated by these turbines.

Often these proposals are contentious, but one of the great commitments of this government is to have an independent panel consider the merits of any of these proposals and then provide advice after a consultation process, which I understand in this case was extensive and was conducted with landowners and occupiers within a 5-kilometre radius of the proposed site.

The estimated value of the Oaklands Hill Wind Farm is $210 million. Up to 60 people will be employed during the two-year construction period and another five ongoing maintenance positions will be required after construction. As well as that, this gives other options to a community that has traditionally relied on agriculture over the past 100 years.

I would also like to advise the house that I have today called in a permit application involving the Lal Lal Wind Farm in the Moorabool shire. The planning permit application I have called in seeks the removal of vegetation which is associated with the proposed construction of 64 wind turbines in Elaine and Yendon. Because of these issues, and to have a consistent and streamlined approach, both these matters will be investigated and considered by the same independent panel. This will ensure that the policy objectives of both will be balanced in achieving an orderly and fair consideration.

The renewable energy sector offers plenty of opportunity for Victoria going into the future, but as well as that it offers great opportunities for jobs in all sorts of areas and diversity of economic activity and influence, particularly in rural and regional areas. In that way we are contributing on all fronts to continuing to make Victoria the best place to live, work and raise a family.

Exports: performance

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Acting Minister for Industry and Trade. The Victorian percentage of exports has declined from 20 per cent of national goods exports when the Labor government came to power to just 10.8 per cent according to the most recent figures. I therefore ask: what share of responsibility does the Brumby government accept for the decline in Victoria's trade performance comparative to other states, and does the acting minister accept that urgent action must now be taken to reverse this ongoing decline?

Mr LENDERS (Acting Minister for Industry and Trade) — I thank Mr Dalla-Riva for his question. It is interesting that he talks of responsibility in these areas. This government will take responsibility for its actions and will be judged by the Victorian community in November 2010.

It is interesting, talking of plans and action, that just this morning I was reading a media release from the Victorian Employers Chamber of Commerce and Industry in January this year in which Wayne Kayler-Thomson, the chief executive officer of VECCI, was commenting on the channel deepening in Port Phillip Bay. Mr Kayler-Thomson made the point that:

> The deepening of the Rip will enable larger ships to access the bay and will secure our international trading future, as we will now be able to connect with overseas ports that are using the larger ships.

It is interesting to consider what are the things that are impediments to export and trade. One example is the port of Melbourne. Mr Dalla-Riva has asked a legitimate question. Firstly, in response to his question about what we are doing, the government has taken hard decisions to deepen the channel — and there was no support opposite. If we are talking about responsibility for growth and jobs, perhaps Mr Dalla-Riva should reflect on that.

If we talk about the other things in a time of drought and climate change that are impediments for industry in the state of Victoria to go forward, reliability of water supply is a critical issue for industry in the state of Victoria. Has there been any support from the opposition for reliable water sources? Every step of the way, whether it be the desalination plant, the north–south pipeline or any other proposal, there are objections and opposition. I can go through industry sector after industry sector on any planning issue with my colleague Mr Madden and see where the government is seeking to expedite a project, to create jobs or to create exports in this state — and the opposition opposes it.

I look forward to Mr Dalla-Riva's supplementary question, but I make the point that we as a government will take responsibility — as we should and as we do — for the important things. That is a good segue back to Mr Hall. I will quote a VECCI press release of 26 August which refers to the skills package:

> 'Skills and labour shortages remain a major issue for business', says VECCI chief executive officer Mr Wayne Kayler-Thomson.

The press release also states:

> The Victorian government's skills reforms are a significant microeconomic reform that will help address the skills shortages that are holding back the state economy, says VECCI.

Industry bodies say we need to work on skills, and Mr Hall was today sniping away at our skills package.

Mr Koch interjected.

Mr LENDERS — Mr Koch says, 'One industry group'. I would suggest to Mr Koch that if he wants a view about whether anyone thinks our skills package or channel deepening is any good, perhaps he should talk not just to VECCI but to the Australian Industry Group. Perhaps he could stroll through his electorate and find the Victorian Farmers Federation. Perhaps he could find the property council. I could go through all the industry bodies who believe we need action in this area.

I look forward to Mr Dalla-Riva's supplementary question, but I will say to the opposition that this government has action, this government has plans and this government is delivering, but every time the going gets tough and you have got to put your shoulder to the wheel, the opposition in unanimity criticises it — except for Mr Rich-Phillips, who thinks our minister should go overseas and get a bit more trade.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — That answer went everywhere, but I thank the Treasurer for it. Of course we would expect that this government would blame something. I am pleased that he blamed the skills shortage and the lack of water, because he could have chosen a thousand other things that are usually blamed. How does the Treasurer explain the excellent performances of other non-resource states, like New South Wales and Tasmania, which are growing exports by 35 per cent and 46 per cent respectively, compared with a fall of 11 per cent in Victoria over the same period — between 2001 and 2008?

Mr LENDERS (Acting Minister for Industry and Trade) — I will open by saying that if we are into the blame game, then I will point out that Jeff Kennett did not have a skills minister and Jeff Kennett did not have a water minister. We are trying to talk about dealing with these issues.

What did this Labor government do? It put in place a skills minister and a water minister, so let us give credit where credit is due. Mr Dalla-Riva can quote statistics, and I can quote statistics; we can go backwards and forwards over this. I can talk about GSP (gross state product) growth, GSP minus resources; I can talk about a range of areas. What I will say, though, to Mr Dalla-Riva and the house is: jobs are created because, firstly, you have got a good, vibrant business community that will take advantage of opportunities, and secondly, that community will take advantage of opportunities where governments facilitate the arrangements for its members to do business in that particular place.

That applies to exports, the area Mr Dalla-Riva raises, and to the 12 overseas missions — Mr Rich-Phillips is on message here; there are 12 overseas missions that we have set up around the world to facilitate economic growth — I must go and visit them all! If Mr Dalla-Riva wants to talk about New South Wales, I point out that it has zero. If we are talking about manufacturing jobs we have brought into the state, if we are talking of investment facilitation in this state, this government acts and that opposition criticises.

What we have seen in the state of Victoria is strong growth in exports. If we want to talk about specific exports, I can go through the dairy industry, I can go through the auto industry — I can go through a number of industries. In the interests of brevity, though, I will not, because I am sure there will be even more questions on this.

I say to Mr Dalla-Riva: if you want jobs, you need to build infrastructure. A bit of support from the opposition will speed it up. If you want to develop jobs, you need to develop skills. A bit of support from the opposition will help. If you want to develop jobs, you need to make tough decisions in the planning portfolio. A bit of support from the opposition might help. Fundamentally if you want to create jobs in this state, you need the economic fundamentals in place that this government is delivering, and you need some confidence in the state. Trashing the state at every possible juncture will not actually assist, and I do not resile from the fact that responsible government and responsible opposition mean that in times of international difficulty you put your shoulder to the wheel and help create some Victorian jobs.

Planning: activity centres

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. Can the minister update the house on recent action the Brumby Labor government has taken in planning for economic growth in activity centres across Melbourne?

Hon. J. M. MADDEN (Minister for Planning) — I welcome the question from Mr Tee. This is no doubt particularly pertinent to the community he represents. The Darebin City Council has announced just recently that it is seeking a developer to assist in creating a mixed-use precinct to create what will no doubt be a better amenity in its area, particularly in the High Street precinct, in and around the Preston community.

I would recommend to members opposite that if they have not been to the Preston market, to go. It is probably one of Melbourne's great secrets. Unless you are a local, you probably have not been there, but it is one of Melbourne's great secrets. I encourage members opposite to go down to the Preston market and get a good feed — a bowl of noodles and some fruit. There are all sorts of things they could purchase at the market. One of the great things is that it is a key feature of the activity centre in High Street, Preston. One of the great things about working in partnership with this local government, particularly in this instance, is that the Preston civic precinct redevelopment is not only in line with Melbourne 2030 but will provide enormous opportunities and economic prosperity for that region.

I note the scepticism of the opposition, and I can understand it. If you do not have much to say on anything, if you do not have much policy, scepticism is the only thing you are entitled to have.

This site offers enormous opportunity and potential. It covers 20 000 square metres — it is very large. It will comprise a community hub, an intercultural centre, commercial office space for the holders of more than 460 jobs, a residential development with affordable housing, provision for future council and civic offices, a civic plaza, car parking and a range of other initiatives right.

It is being advertised through a register for expressions of interest with the council for this new precinct. I would encourage all members in this chamber to encourage the development industry to show interest in this project. The request for qualification closes in December 2008. It is anticipated that a preferred development partner will be announced late in 2009, and a four-year construction phase is expected to commence in early 2010.

This is a great opportunity. Land values in the area have also lifted, so developers will be able to build in the housing opportunities. This is part of our plan going into the future to concentrate housing, jobs, retail and services in these transit cities and invest in and work with councils.

One of the ways we have done that is to provide $240 000 through the expert assistance program to assist the Darebin council in finalising the implementation of the Preston civic centre master plan. It is a marvellous opportunity that will see tremendous outcomes. Regardless of the scepticism and the rhetoric that come from the opposition — the noises that come from the empty vessels on the other side of the chamber — this will no doubt help Mr Tee's community, and it will grow and enhance across Victoria the opportunity for development.

As well it will form part of a range of these transit cities, these principal activity centres, that will continue to enhance the things we love about Victoria. I recommend to opposition members that when they are looking for a good feed or a bargain — maybe even tomorrow, because I know tomorrow will be a good market day — they should get down to the Preston Market and have a good bowl of noodles. They could have a second bowl of noodles and probably even more food on top of that! I would recommend that because it is all good. It is a great community that has a great vibrancy, and it is a great multicultural community. I recommend not only that the development community invest in this opportunity but that the opposition get on board and support it to continue to make Victoria the best place to live, work and raise a family.

Economy: performance

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Treasurer. Given, as the Treasurer indicated earlier, that equity markets have slumped 35 per cent since 30 June, having a direct impact on agencies like the Victorian Funds Management Corporation and the Treasury Corporation of Victoria, can the Treasurer explain why none of the agencies for which he is responsible has reported the impact of this as a subsequent event in their annual reports?

Mr LENDERS (Treasurer) — I thank Mr Rich-Phillips for his question.

Mrs Peulich — He would make a good Treasurer.

Mr LENDERS — Mrs Peulich says he would make a good Treasurer. He and Mr Hall are competing at the

moment for that shadow position. There are a couple of things I want to say. Firstly, the Victorian Funds Management Corporation (VFMC) has reported its returns on 30 June, which this house has discussed, and will report its returns again shortly.

If we are talking of transparency, we have the annual report coming out now, in the last week of October, and the figures Mr Rich-Phillips is asking for — and I do not want to misquote him — were released some months ago. It is not as if we are trying to hide anything; we actually bring the figures out.

I would also say to Mr Rich-Phillips that we have had a vigorous debate on the VFMC performance and both sides of the house will disagree on a range of issues, but it is not as if the issue is not there. Certainly his point about whether these matters are mentioned in the annual reports or not is a point for a debate we can have about where they should be.

Firstly, I make the point that the VFMC performance on returns for 30 June is out there. We launched it before the annual report. Secondly, I would say, if we are talking about what the big parts of government exposure to this situation are, that the Victorian WorkCover Authority, as I have reported to this house before — and again it comes within the portfolio of my colleague the Minister for Finance, WorkCover and the Transport Accident Commission, Mr Holding, but I am happy to report on it here, representing him — not once but twice a year releases a report. Elana Rubin, the chair of the Victorian WorkCover Authority, went out there — I cannot give an exact date, but I think it was about four weeks ago — and reported warts and all.

What she said was that performance from insurance operations was strong, and then she reported that the return on equities was not strong and that there was a loss of return from equities. It is a legitimate discussion to have: should these figures be in the annual report? Should they be reported twice? I am not scoring points here, because we can have a disagreement about articles in the *Australian Financial Review*, but there is a legitimate point as to how often you put material out and in what form you put it out.

What I would say to Mr Rich-Phillips is that the Victorian WorkCover Authority is not required by law to report twice a year; it is required to report once a year. The Victorian WorkCover Authority reports twice a year not because it is required to do so but because that is what transparency is about. If Mr Rich-Phillips wishes through the Public Accounts and Estimates Committee process to have a discussion on whether it is worth printing again the 30 June reports that are coming in here for these authorities and are reported already — I would argue that it is not because the material is already out there, so why slaughter a few dozen more trees to print it? That is a legitimate discussion to have at the PAEC.

I am sure Mr Rich-Phillips has been busily going through the 200-odd reports out there, and he will undoubtedly come to the house, as is his absolute right, when he has had a chance to do more of these reports, but if he goes through them all, he will find that my colleague the finance minister has put a new requirement into the reports this year: it is a carry-on from the new accounting standards but it is the first time it has appeared in government reports. We are meant to report on difficult issues such as risky credit arrangements and other things. We are actually reporting on them for the first time in the annual reports.

What I would say to Mr Rich-Phillips is that we are more transparent than before. The finance minister, Tim Holding, has required a greater level of reporting than ever before dealing with the issue of the day, which is credit risk. That has not been in annual reports before. It was not required under this government and it was not required under the Kennett government. It has never been there before. We are requiring it to be in there. I am happy to have a discussion, but I stick by my point that we are more open, transparent and accountable than any government in the history of this state. That is not hyperbole; it is fact. If we can improve that further, I am happy to have the dialogue.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the Treasurer for his answer. The issue is not the number of times these agencies report their results to 30 June: the issue is the reporting of subsequent events. As the Treasurer would be aware, the financial reporting directions, FRD 22, and the model financial report require the disclosure in annual reports of any subsequent events — that is, any material impact that has occurred since the 30 June balance date up to the time the report is released. I ask the Treasurer: why have the agencies for which he is responsible not complied with the requirement of FRD 22 to report subsequent events that have obviously happened in world markets since 30 June?

Mr LENDERS (Treasurer) — It is lucky I have that sort of information with me! I will not read direction 22 to the house. Perhaps Mr Rich-Phillips and I should have a private conversation on something that probably very few members of the house are as interested in as

he and I. To cut to the chase of what he is asking about transparency — —

Mrs Kronberg interjected.

Mr LENDERS — I suggest that Mrs Kronberg should listen to this. She might learn something about her inane interjections.

This is the annual report of the Victorian Funds Management Corporation, which shows 90 per cent of government investments. It is a report which includes figures, data and graphs to 30 June. But what I say to Mr Rich-Phillips — and he knows this, and I am disappointed that he is not alluding to this in the house — is that we publish these figures on the internet quarterly. The figures for 30 June are out there, and we will have the figures for 30 September out shortly.

I would like Mr Rich-Phillips to tell me about any other government in the history of the state that has put these figures on the internet quarterly. David Davis was asking about transparency. You cannot be more transparent than putting on the internet the report of a body which is the most exposed to international markets of any body we have in the state. We put the 30 June figures on the web.

Mr Koch interjected.

Mr LENDERS — I will assist Mr Koch, who says it is not on the web. Mr Koch knows better than that; he has obviously been badly advised by someone else. We make annual reports. The fact is that annual reports are now coming out in October, which I might say for the record is early by Victorian government standards. Rather than what previous governments would have done, which was to report the September quarter in the October of the next year, we will have it out in the next few weeks.

We are not afraid of a debate on any of these figures. They are out there and on the public record. I can say to Mr Rich-Phillips that we can always do better. We can always have a dialogue with the Public Accounts and Estimates Committee, but I challenge him to tell me which past Liberal government ever put quarterly figures onto the internet — in this case almost a year earlier than traditionally.

Mr Koch interjected.

Mr LENDERS — Mr Koch is quibbling about the fact that the 30 September figures are not out at this stage in October. I say to Mr Koch that if he had been a Labor member sitting in this house during the time of the Bolte or Hamer governments or others, he would have been waiting another 11 months before he saw the figures. We are open, transparent and accountable. The member should bring on the debate. The figures are on the internet. They cannot be more accessible.

Innovation: government initiatives

Ms BROAD (Northern Victoria) — My question is for the Minister for Innovation. Can the minister outline to the house how the Brumby Labor government is supporting the translation of Victorian ideas and research into new commercial outcomes?

Mr JENNINGS (Minister for Innovation) — I thank Ms Broad for her question and for the opportunity to talk about a chance that the Victorian government has taken to support great research and development in our community. It has tried to enhance the potential for it to be commercialised and applied in clinical practice, if it relates to medical treatment, and it is consistent with the approach we have taken through the continuing science, technology and innovation funding arrangements which were repeated in this year's innovation strategy through the auspices of the Victorian Science Agenda.

They include an innovation fund to support the commercialisation and the progression of our great research and development capability in Victoria. This program has been extremely successful in the past. The previous allocations of this fund have leveraged terrific results in terms of bringing some of our talented scientists to full potential and deriving valuable economic development. Through an appraisal of the success of the program we estimate that $3.9 billion of economic activity has previously been added to the Victorian economy through this fund. It has led to the creation of 1700 very high-value, highly skilled jobs that would not have otherwise been located in Victoria.

Last week I launched the latest iteration of the investment fund at a well-attended function that brought together great scientists and great institutions across Victoria, including our medical research institutions, our university sectors, start-up companies, and people who are interested in building on the funds and leveraging great outcomes. An amount of $41 million has been allocated in the first round of funding. We are currently seeking expressions of interest for people to receive grant funding to kick off the new round of scientific endeavour in Victoria.

That funding round will be completed on 13 February next year, so we are looking forward to our scientists inspiring us yet again in terms of their superb talent base, their knowledge base and their contribution not

only to the economy but to dealing with many of the scientific challenges our community confronts, whether it be in climate change or through ageing issues or by rising up and meeting some of the chronic illness issues and underpinning the greater productive capacity of the Victorian community, the Australian community and indeed the international community. The innovation fund is designed to do just that.

Water: environmental flows

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Environment and Climate Change. It is in relation to the volume of environmental water which is supplied to the government through various bulk entitlements. I am thinking specifically of the River Murray flora and fauna bulk entitlement, incorporating as it does various Living Murray initiative waters. Is the minister able to tell us how much environmental water was delivered last year through those mechanisms — that is, delivered to the environment? Given that the plans for this coming year's deliveries will have been worked out and agreed to by the minister by 1 July, how much might we expect for the coming financial year?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Barber for his question. Indeed, the question he asks — —

Mr Lenders — Two questions.

Mr JENNINGS — He did ask me a couple of questions. I am a bit disappointed that I am not going to be able to give him the answer immediately, because at this point I do not have the number to hand. That is not to discount the fact that it is a significant issue and that we work assiduously to try to make sure that we meet our Living Murray obligations and have strategic watering in place to address the environmental concerns along the Murray. He asks me the question at a time when I do not instantly have the number in my head.

Within a very short period after question time I will be very happy to give him the answer, because it is an important question. It is not to diminish either its importance or the fact that we have taken many actions, as he presumably knows, to support strategic watering and the availability of water allocations across the Murray, but in terms of the quantum, I am going to get some additional information on that.

Supplementary question

Mr BARBER (Northern Metropolitan) — I am glad the minister has taken many actions, and I would not want to see them hidden under a bushel. Can the minister tell me whether an updated state water report will be published imminently, which in the past has contained this information, or is it necessary for me to go to every single catchment management authority and hope there is some information on their websites, as there is in some cases? Or is there any place where some kind of consolidated statement of environmental water flows under the minister's responsibility is to be found?

Mr JENNINGS (Minister for Environment and Climate Change) — The good news for Mr Barber is that there will be a consolidation of that material. I can assure him that in fact the cumulative evidence he would have found through those sources will be collated, and I will be able to furnish him with that advice in the near future.

Economy: performance

Mr LEANE (Eastern Metropolitan) — My question is to the Treasurer, John Lenders. Can the Treasurer advise the house how the fiscal management of the Brumby Labor government has positioned Victoria for the current economic climate?

Mr LENDERS (Treasurer) — I thank Mr Leane for his question — again I think it is a very good segue from a couple of the questions we have had earlier today.

Mr Leane asked what the financial management of the state is and how it has positioned us. The question really is: how has it positioned us for these troubling times that some members of the opposition like to focus on? The budget in May was certainly structured with the view that the economy would be slowing down and stimulus would be critical at times. The obvious part of that was the additional assistance for first home buyers plus the largest capital works program in the history of the state. The phasing of that not only assists with the future growth of the state — whether it be assisting with exports, manufacturing, primary industry — but also creates jobs in the process of doing so.

Also, nine years of economic stewardship positioned the state to now invest in capital works. When we got into government — —

Mrs Peulich interjected.

Mr LENDERS — When we had the privilege of being elected to government, the government of which Mrs Peulich was part was dismissed by the Victorian people. We had a capital works program that was less than one-quarter of the size of the present program. The capital works program has increased fourfold and is delivering jobs around the state and positioning the state to do the great works that Ms Darveniza loves in her

electorate and those that give Minister Madden work. Mr Madden puts a lot of work on his table in trying to manage and plan the massive infrastructure works that are coming forward into the state. It is a nice problem for a minister to have, to have to manage growth and capital works to take us forward into the future.

The fiscal program has also allocated money for projects, often even when the projects have not been ready. Those in this house have taken issue, for example, on the matter of the Melbourne wholesale markets, asking why the project is not already in place. The fiscal program allocates the money for the markets so that you can go forward with certainty and build the markets.

Mr Dalla-Riva interjected.

Mr LENDERS — Mr Dalla-Riva cannot help himself. It was Mr Dalla-Riva who described the market site as the windswept wasteland of Epping. Mr Dalla-Riva clearly does not go there. I suggest he talk to his friend Mr Guy, who presumably does visit that part of his electorate occasionally, and that he talk to the 20 000 residents of Epping who do not like their suburb being described as a windswept wasteland.

What we have sought to do and what we have done is in the good years use surpluses to roll into the next year's capital works program, and we are seeing results. As we see an economic global downturn we now have investment in major works — whether it be transport, whether it be water, whether it be hospitals, whether it be schools — —

Mrs Peulich — Nine years too late with schools.

Mr LENDERS — Mrs Peulich says, 'Nine years too late with schools'. We are building schools, and the Victorian schools plan is investing $1.8 billion in rebuilding, modernising or renovating every single school in the state of Victoria.

Mrs Peulich interjected.

Ms Lovell interjected.

Mr LENDERS — Ms Lovell and Mrs Peulich are talking about closing schools. They are obviously talking of the 300 schools they closed during the Kennett years. It is very good of them to remind me of the 300 schools they closed and the 8000 teachers they sacked, whereas this government has put 8000 teachers and teaching support back into — —

Mr Viney interjected.

Mr LENDERS — In fact Mr Viney is wrong; it was more than 8000 teachers. Mr Viney is too generous. This government has put back more than 8000 teachers and staff into schools, more than 8000 nurses and medical staff into hospitals, more than 1800 doctors — not counted in that 8000 nurses and medical staff — more than 1400 police, while building on capital works — —

Mr D. Davis interjected.

Mr LENDERS — Mr David Davis mentions outpatients. We are treating nearly 400 000 more people in our hospitals every year.

The fiscal strategy is this. It has delivered the services that Victorians need and want — whether they be education, health or community safety. But there is more. The fiscal strategy also means putting money aside in the good years for an infrastructure program which this state needs — whether it be for projects like water, ports, roads, wind farms that the opposition opposes, or projects for the future — and there is more. There is also the money in that budget for the development of skills and for science, to grow the state.

We are in difficult international economic times, but what this government has sought to do in the good years and the difficult years is put the money aside for skills, infrastructure and service delivery. They are the things that make this state a better place to live, work and raise a family.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 1065, 1208, 1546, 1570, 1572, 1889, 2197, 2264, 2845, 2925, 2970, 3069, 3132, 3183, 3277, 3328, 3344–53, 3360, 3365, 3366, 3371, 3380, 3451–3, 3469, 3505, 3507, 3509–18, 3565, 3566, 3589, 3590, 3598, 3601, 3602, 3605–7, 3610, 3635–76, 3684–90, 3692–7, 3705–9, 3712–5, 3717–22, 3725, 4381–4.

The PRESIDENT — Order! Before we break for lunch I will make one point. Members may have been surprised at the degree of tolerance I demonstrated during this question time. Obviously I have had some tolerance tablets today, or I am a little tired — maybe a bit of both. I want to remind members that I will be conducting a briefing during lunchtime in the Legislative Council committee room on the proposed upgrade for this chamber and will be providing a light lunch. All members are welcome.

Sitting suspended 12.57 p.m. until 2.05 p.m.

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

Second reading

Debate resumed.

Ms HARTLAND (Western Metropolitan) — I will speak only briefly on these bills, as my colleague Ms Pennicuik will deal with the substance of the Assisted Reproductive Treatment Bill. I will concentrate on the Prohibition of Human Cloning for Reproduction Bill and the Research Involving Human Embryos Bill.

When I spoke last year on the stem cell research amendments to the Infertility Treatment Act I spoke on behalf of the Greens, and we will be consistent with what we said then. We said at that time we oppose reproductive cloning, as do many people in the community. As this bill prohibits it, we will support the Prohibition of Human Cloning for Reproduction Bill. It is the same with the Research Involving Human Embryos Bill. It is a technical bill, and we will support it.

I want to make a couple of comments in relation to the rest of the legislation. Over the last few weeks we have all received emails from families whose children have been conceived through these technologies. I want to read out one of the emails that really struck me. I have sought the permission of the sender, Elaine, to do this. It states:

> Our twin daughters are the joy of our lives.
>
> At 34 neither is married but Naomi has found the love of her life in Michaela.
>
> These two intelligent, hardworking and loving young women who have formed a stable relationship, now look forward to starting their own family, and we and Michaela's parents look forward to becoming grandparents.
>
> However, if the ART legislation doesn't pass the upper house, this will make life very difficult for them to conceive, bear and raise children with the same legal rights as other parents in our society.
>
> As Christian/Jewish parents, we believe that all life is sacred and that God creates us all as unique human beings who deserve equal opportunities — to be legally recognised as the children, the parents and the grandparents in the type of families we choose.

This email struck me because I was raised in a fairly dysfunctional heterosexual family. I do not know that my parents did all that good a job, and yet I see a number of friends in same-sex relationships — long-term relationships — who are doing the most fantastic job of raising their children.

I think Mr Viney summed it up in his contribution: the most important thing is that children are loved. It does not really matter whether it is a mother, a father, an auntie, an uncle or whatever the structure is — as long as those children are being well brought up and are loved. They are the most important things.

Mr HALL (Eastern Victoria) — I want to say a couple of words in relation to the three pieces of legislation before us and particularly to make some comments about the Assisted Reproductive Treatment Bill. As has already been said, these three bills are related to the extent that the Infertility Treatment Act 1995 is being repealed and the government has decided it will be replaced by the three new bills which are on the table and are the subject of this debate.

I have to say at the outset I think it is unfortunate that this debate comes on top of the recent massive community and parliamentary debate on abortion law reform. It is unfortunate to the extent that I do not think these bills have been given the same consideration by the community as the Abortion Law Reform Bill was. I think it would have been more appropriate to have some time separation between these bills, so more community discussion in particular could have taken place in respect of this legislation.

In the contact I have had with my constituents in the Eastern Victoria Region, some have commented particularly on the Assisted Reproductive Treatment Bill but few have commented on the other two bills. I think if there had been a more lengthy period between the end of debate on the Abortion Law Reform Bill and the start of this cognate debate, we would have been better informed in making our contributions to this debate. I readily admit that that time restriction has had some impact on the consideration I have been able to give these pieces of legislation. Again, I think I would have benefited personally had I more time to read and consider the available material and consult with my constituents on these matters.

The community is also somewhat in the dark about some of these provisions. There is probably no clearer example than the issue of police checks which has emerged during the course of this week. Despite the bills being formally in the public arena some weeks

ago, it appears that the issue of in-vitro fertilisation and of people who want to enter IVF programs having to have police checks is only now starting to be debated in the community. There are probably other matters in these pieces of legislation that may eventually fall into the same category.

If these bills fail to be passed by the Parliament this afternoon, the government needs to accept some responsibility for that. Because of the complex and important nature of the proposed legislation the government should have allowed far more time for community discussion about these matters.

That said, I just want to comment about the key change among the suite of bills, which is to alter the criteria for access to IVF programs. Infertility will no longer be the key criterion for eligibility to enter these programs. The test is whether because of an individual woman's circumstances she is unlikely to become pregnant or give birth or is at risk of transmitting a genetic abnormality or disease without a treatment procedure. That gives rise to the main talking point: whether same-sex couples should be given access to IVF programs in the same way as heterosexual couples are given access to it.

I noted with interest a comment made by the minister in the second-reading speech:

> The VLRC reviewed relevant research and was satisfied that parents' sexuality or marital status are not key determinants of children's best interests. Rather, it is the quality of relationships and processes within families that determine outcomes for children.

I pretty much agree with that statement. While I think that the quality of love and nurturing is what really matters in terms of bringing up a child, that can be done in the absence of a dedicated male parent and a female parent. We see that all over. We see that with single-parent families. We see children in families where one biological parent is not a part of the coupling of parents. So, as I said before, I think the love and nurturing that adults give to children is the key criterion in determining the quality of life those children have. There are plenty of examples where a non-biological parent is one of the child's parents.

It is my view that the traditional male and female partnership is the ideal partnership for children. I guess we are made that way. The art of reproduction is the coupling of a male and female. Surely there must be reasons for that. I firmly believe that a male and female parentage gives the best opportunities and is the ideal situation for children to be raised, but by no means does it guarantee that.

The vote this afternoon on these bills is what has been described as a conscience vote for MPs. I repeat what I said about the Abortion Law Reform Bill in respect of my interpretation of a conscience vote: it is not just about what I think. I also need to give regard to the people in my electorate and their views. In the absence of opportunity for many of my constituents to express views about these bills I have to make a subjective judgement. Quite frankly, the changes proposed here, unlike those in the Abortion Law Reform Bill, are not desperately advocated for by the people I represent. So despite having some sympathy for the many issues associated with the Assisted Reproductive Treatment Bill and some concepts of the other bills, I am not of the view that my electorate would want me to support those at this stage, and I will not be doing so.

Mr LEANE (Eastern Metropolitan) — I am also pleased to speak on the Assisted Reproductive Treatment Bill. I would like to thank the many people who have emailed me their views about this bill, irrespective of whether they are for or against the bill. When I get a great deal of correspondence — as we do as members of the Legislative Council when there is a conscience vote — I cannot justify taking the time to respond individually to every person who has contacted me. I do not like sending out template responses because I do not think it is justified given that they have contacted me. In respect of the constituents who have contacted me, I wish to put on the record my thoughts about what they see as the contentious issues regarding this cognate debate and also the thought process that brings me to support the Assisted Reproductive Treatment Bill.

Most of the concerns that people contacted me about concerned specific parts of this bill and what effects they would have on society depending on whether or not this bill is passed. I said in my speech about the abortion bill that our society has changed. Mr Finn, in his contribution, said that he agreed with me that society has changed but, in his view, it has changed for the worse. Whether our society is better or worse than other generations I do not know — that is a debate for another place. It seems to be a good topic for talkback radio. The thing I find funny about those discussions on the radio is that the good old days seem to be transient; each generation has its good old days, and they continually move. But something we can state that has changed over the past decades is our access to information.

Today we have at our fingertips access to an amazing amount of information through our computers and on the internet. A hundred years ago all we had for information or alternative views around the world were

a couple of newspapers. That progressed to a few radio stations, and thereafter a few television stations were added. Today we have a great advantage in that we have access to not only the internet but also satellite television that beams views and news to us from all around the world.

Access to information improves our understanding of the world we live in, and understanding leads to acceptance. In the context of these bills the form of acceptance that I am referring to is acceptance of the different forms of family units that have been around in our community for a very long time. If we accept those different forms of family units, how could we, as legislators, exclude potentially different family units from access to something other family units have access to, including assisted reproductive treatment? And that is one objective of one of the bills we are debating: to remove from a 1995 act the current statutory requirement — which, if it were tested, may be found to be invalid anyway — that requires a woman to be married and living with her husband or living with a man in a de facto relationship in order to access assisted reproductive treatment in a Victorian clinic. The bill would repeal that provision and open up the possibility for women in same-sex relationships and potential single mothers to have access to this technology in this state. I support that, because people should not be discriminated against either because of personal elements as a human being or whether they desire to be in a permanent relationship.

To clarify further, in regard to women in same-sex relationships having access to assisted reproductive treatment, I am proud to be a member of an ALP government that has brought the Assisted Reproductive Treatment Bill to the Parliament because this bill removes the exclusion from services for people with a different biological make-up to the majority. In saying that, our party and our community have come a long way in their approach to these issues. Going back 100 years the White Australia policy was a centrepiece of national policy for three-quarters of the last century. Trade unions and the ALP — to both of which I have a great affiliation — were major forces in getting the White Australia policy implemented as a protection for the Australian worker and manufacturing. But when you look at the original debate on that policy in the federal Parliament you find it went further than worker protection. Chris Watson was a Labor Prime Minister. During his career as a federal MP from 1901 to 1906 he made a statement in Parliament which, when looked at today, appears pretty ugly. I put that down to the lack of access to information, understanding and acceptance at that time. I will read what Chris Watson said:

> We object to them, not alone on the ground of competition with our own workmen — though I admit that is one of the grounds — but also, and more particularly, on the grounds of racial contamination.
>
> …
>
> The question is whether we would desire that our sisters or our brothers should be married into any of these races to which we object …
>
> The racial aspect of the question, in my opinion, is the larger and more important one; but the industrial also has to be considered.

As I said, listening to that now it seems to us to be a pretty ugly statement, but I strongly believe Chris Watson was not an ugly person at all. He was the leader of the first Labor government in the world, and he played a significant role in achieving important legislation for all workers by the advancement of the bill leading to the commonwealth Conciliation and Arbitration Act 1904, which was passed by the government of George Reid. That was the first step towards dealing with wage earners in the legal system. Chris Watson is an important figure in the history of the advancement of workers. Unfortunately his statement on the White Australia policy was in line with community sentiment at the time and was based on the information — and therefore the understanding and acceptance — that was available at that time.

It took a long time for the ALP and the community to overturn this policy. We now believe there should not be discrimination against people based on the colour of their skin, which is purely part of their genetic make-up as a human being. I see an element of what we are debating today being in tune with that historical debate 100 years ago. It took quite a while to overturn that ugly policy. In the most recent conscience debate in this chamber a member stated that scientists believe they may in the future isolate and identify a gene that influences sexuality in humans at a very young age. I have not done an enormous amount of study in biology, but I understand there is a scientific acceptance that someone's sexuality is determined by their genetics and it is something we should all accept.

In accepting the position that someone's sexuality is part of their genetic make-up, I cannot see how we cannot change legislation that excludes someone on the basis of their sexuality any more than we could support legislation that excludes someone whose genetic make-up determines that their skin is not white. Just as alarmingly, how can we support regulations and regimes that treat the child of same-sex parents differently from any other child?

We can say to homosexual women who have strong aspirations, 'If you wanted to have kids, maybe you should have thought of that before you decided to be a lesbian'. I am sure people have heard that before. If we accept that genetics are what determine someone's sexuality rather than a conscious decision, then a person's genetic make-up, which makes them different from others, needs to be understood and when it is understood it needs to be accepted by us as legislators and the community at large. In saying that it needs to be accepted, I do not mean that it needs to be just tolerated — you can tolerate a toothache for a period of time before you see a dentist in the hope you may not need to see one — but with this legislation we need to accept the right of lesbians to access assisted reproductive treatment and we must not treat them any better or any worse than we treat anyone else. I am sure the majority of our community would accept the fairness of that.

As far as two women in a relationship wanting to be legally acknowledged as the parents of a child goes, I just see that as two people making a commitment to that child. They are making a legal commitment. Same-sex relationships, heterosexual relationships, all sorts of relationships break down, and under this bill both people are able to say legally that they will look after the child's welfare until the day they are no longer on this earth.

I will move on to consider the removal of the requirement under the 1995 act that a woman must be married and living with her husband or with a man in a de facto relationship before she can access assisted reproductive treatment in a Victorian clinic. This treatment will now be available to single women if they so desire. This is something I do not have an issue with. When these bills were debated in the other house I received emails that contained statements such as 'A child's best chance in life involves having both a male and female parent'. Some said the absence of a male parent can be very detrimental. I have to say that, as a product of a single mother who had that status thrust upon her when her husband passed away and most of her kids were very young, I find that sort of sentiment very insulting. I am sure the hundreds of thousands of people who are the products of single parents in our society would join me in that.

I defy someone to identify data that proves that the children of single parents have been less productive or less important in our society than the children of other relationships. If they can, I would like to see it. It is not there. Single women should not be excluded from accessing reproductive treatment if that is what they seek. They should not be denied just because they have not met a man with whom they are prepared to spend the rest of their life and wake up next to every day. In previous times people had less understanding and acceptance and were known to be cruel to single women when they reached a certain age, were not married and had no kids. They made statements like 'Tick, tick, tick — that is the sound of your biological clock ticking away. If you want to have kids, you had better find yourself a bloke very quick smart. Get out there and find a bloke'. If women have a desire to have children and have not got a man, they should have that right. I am sure they will give as much love and care to the child as they can. I do not have an issue with that part of the bill.

In closing, in doing my job and deciding which way I will exercise my conscience vote on this bill, I have to say that I do not see any issues with what some people have pointed out to me as being detrimental to society. The provisions are common sense and fair to everyone. I commend the bill to the house.

Mr DRUM (Northern Victoria) — In relation to the three bills we are debating concurrently, I share the thoughts of Mr Hall and the majority, if not all, of the other members on the coalition side of the house. We have been inundated with emails from proponents of this bill which say that this bill is effectively about children's rights. Those people say, 'Please vote yes for my children's sake'. It is as if, somehow or other, the supporters of this bill are trying to throw a sense of guilt at those people who may have other thoughts on this particular legislation.

There is absolutely no doubt that there are many examples of single parents doing an absolutely brilliant job in raising their children. They have done so for many years and will continue to do so into the future. They should be congratulated. Men who are raising children on their own should also be congratulated and given every support and every ounce of assistance they need. But it is also worth acknowledging that the vast majority of single parenting situations have come about from some tragic circumstances, such as an unwanted pregnancy causing a young girl an enormous amount of grief and resulting in her making a very courageous decision to go ahead and have that child on her own because she abhors the alternative. I do not want to touch on it again too much, but for people to come into this house and start talking about children's rights after the way they voted two weeks ago is a bit tough for many of us to handle — but I will let that slide.

In my opinion this is not about children's rights; this is about adults making cool and calculated decisions to have children. Many single parenting situations arise from tragic circumstances. Whether it be from an unwanted pregnancy, the breakdown of a relationship between a male and a female or the death of a partner, they are the usual circumstances that lead to a single-parent situation.

We live in an amazingly understanding society and whenever those circumstances arise we offer all the support and love that any community in any society can give to people who are caught in that sort of situation. We make sure they are given every opportunity to do the very best job they can in raising those children in the circumstances that have been thrown at them, without apportioning blame and without looking down our noses at these people who have been put in a situation where they are forced to bring up a child without either a mother or a father. We do that in a very understanding and loving manner. But this bill is not about that; this bill is about people who are going to say, 'I want to mainstream that behaviour. I want to be able to choose to bring up my children in an environment where they are never ever going to have the opportunity to have a mum and a dad living together in a family environment'.

Mr Leane wants to know if there is scientific data out there. I am convinced that there would be. I do not have it, but would he change his vote if there were? No, he would not. I could go to the courts tomorrow and ask the judges whether they had an overrepresentation of children appearing before the juvenile justice system who come from single-parent families. I would be surprised if the numbers did not show that there is an overrepresentation of juveniles from single-parent families coming before the justice system.

Mr Scheffer — Is that the cause?

Mr DRUM — Who knows? That is exactly right: is that the cause? My argument is: if there were a raft of indicators that suggested that we are not giving our children the best start in life by having same-sex parents or single parents, then are we acting in a responsible manner by trying to mainstream that behaviour and those actions? I do not believe we are.

I do not cast disparaging views towards those people who choose to do otherwise. All I am saying is that I do not believe it to be in the best interests of our community and I do not believe it to be in the best interests of our society. That is how I see it. I simply believe that if you make the decision, it is a very selfish decision. It is about women, predominantly, whilst living in a lesbian relationship — and good on them for that; that is entirely their business — who make a decision about having children who will never live with their dad and will never have an opportunity to do so.

You take away what I believe to be the best opportunity for the very best start in life. To take that opportunity away forever is not the way I would like to vote. That is how I arrive at my decisions. As I say, I understand where the arguments are coming from. I understand the arguments put up by the proponents of the bill. I do not agree with them. I hope people understand where I am coming from. I am full of support, full of love and full of understanding for people who are in the situation, but I do not agree that people should take this decision in a cold and calculated manner and effectively deprive these children of what I would call a standard loving relationship with either their mother or their father on an ongoing basis.

Ms DARVENIZA (Northern Victoria) — I am pleased to rise and speak in favour of all of these three bills — the Assisted Reproductive Treatment Bill 2008, the Research Involving Human Embryos Bill 2008 and the Prohibition of Human Cloning for Reproduction Bill 2008.

Can I first of all thank the many people who have taken the time to contact me to make their views known to me. There have been many emails and letters. The majority of them, it is true to say, were supporting the bills and encouraging me to support the bills with my conscience vote, but there were also some urging me not to support the bills. It is always good to receive these emails and letters so that people can make their thoughts and views known to me. With these bills I received the largest number of photographs of little babies and children. I have an array of very cute photos along with people's views about how these bills should be handled.

They will ensure that our state meets the requirements under the federal discrimination law and will bring Victoria into line with other states, which will much better reflect the reality of modern families today. The overarching objective of the reforms we have in the bills before us today is to protect the very best interests of children born using ART (assisted reproductive treatment). This is an area of rapid technological change, dealing with issues that are very important to all Victorian families. It does not matter whether you are in a heterosexual family relationship or whether yours is a same-sex family relationship, more and more women are waiting longer to have children and to

decide if they want to have children. This means that as a society we are relying more on ART to be able to have our children. Some would say it is a good thing that women wait until they are a bit older and have done things in their lives and achieved the things they wanted to achieve before they decide to have their children. Others would say that you are much better getting on with it when you are younger.

I had my children when I was quite young. I was in my very early 20s, and I think there are a lot of advantages to having your children when you are young; you are much more able to cope with the demands that small children and babies require of you as a parent. I also think that when you are a younger parent you pass on to your children a sense of — how should I describe it? — less fear and less apprehension about what might happen. From my observation, there are a lot more anxieties associated with having your children when you are older. I think you worry a lot more about what might happen to your children and worry generally about your children a whole lot more than you do when you have them when young. But you are probably far more relaxed in your parenting style and with yourself, and you are probably a lot more patient with your babies and your children when you have children a bit later than when you are younger.

Hon. J. M. Madden interjected.

Ms DARVENIZA — I have a parliamentary colleague asking whether I am sure about that. No, I am not actually sure about that, but in my experience that is the case.

I have two daughters who are in their 30s, and I went to my youngest daughter's 30th birthday the other day. They can clearly remember being at my 30th birthday, so that is pretty scary. They have shown no inclination thus far to produce a grandchild for me. I have always been a big supporter of ART; I might be an even bigger supporter of it in the future for purely personal reasons.

As I said, this bill is important to all Victorian families, and the reforms will better protect children and provide certainties for our families. Families come in all shapes and sizes, which is nothing new; they always have. We want to ensure that, regardless of the family structure, a child born through a surrogacy arrangement to a single mother or a same-sex couple receives the same legal protections as other children.

It is in this way that this bill protects children. It is not just about the need. I do not think anybody in this chamber would disagree with the view that we would like to see children have two parents who love them, who care for them and who are in a stable relationship — whether they are a same-sex or heterosexual couple. Hopefully you would also have an extended family in an ideal world, whose members would also love and care for your children and support your family.

In the real world that does not always happen. We know that families do break down. What we want to do is afford the children born to a family the best protection that they can possibly have. I do not think I can say it any better than Mr Lim, my parliamentary colleague, who said that we want to have parents, if they are in a same-sex relationship, make a commitment to that child legally not just for today but for tomorrow, next year and the years to come, regardless of what happens within that relationship. Hopefully those relationships will endure, but that is not always the case.

There has been a history in Victoria of our government leading the way. In 1984 Victoria was the first state in Australia, and the first jurisdiction in the world, to enact legislation regulating assisted reproduction. That was through the Infertility (Medical Procedures) Act 1984, which took effect from July 1988. We have blazed the trail in that regard. We were certainly ahead of the pack within Australia and internationally. Now we are behind many other states that have regulated and kept up with ART. Couples from this state have had to seek treatment in other states because our regulations, our legislation and our laws have not kept pace with the changes that have been made not only in technology but with people wanting and seeking to have ART.

The original legislation was replaced with the Infertility Treatment Act 1995, which came into effect in 1998 and continues to regulate ART in Victoria today. In July 2000 the Federal Court of Australia found that marital status requirements were inconsistent with the provisions of the federal Sex Discrimination Act 1984 and were legally invalid. The 1995 act requires that a woman be married or living with a man in a de facto relationship in order to access ART in a Victorian clinic. The current legislation has not kept up with recent developments in reproductive technology, and as I said, the restrictions in the legislation have prevented people from pursuing surrogacy in Victoria and forced them to make arrangements in other states.

In 2002 the Attorney-General and the then Minister for Health asked the Victorian Law Reform Commission to conduct an inquiry and report on the laws that govern the use of assisted reproductive technology in Victoria and in particular on the desirability and feasibility of

expanding the eligibility criteria for access to assisted reproductive technology and adoption. The VLRC undertook an extensive process of consultation. It carried out a lot of research over four and a half years and produced a comprehensive review.

The commission found that Victoria's regulations around ART had failed to keep pace with emerging new families and developments in reproductive technology. It made 130 recommendations for reforms that it said were designed to meet the needs of all children born through ART and to provide a robust framework capable of accommodating future social and technological changes. The recommendations proposed a more inclusive approach, which the VLRC stated was intended to protect the best interests of all Victorian children, regardless of how they were conceived or of their family structure.

In December 2007 the Victorian government made a public announcement that it would update our Victorian laws on ART and surrogacy based on the Victorian Law Reform Commission's recommendations, and that is what we have before us today — a bill that has been very much informed by that comprehensive work undertaken by the Victorian Law Reform Commission.

I will quickly run through some of the changes the bill provides for. It introduces new principles to guide the administration of ART in Victoria, including that the welfare and interests of persons born as a result of the treatment are paramount. It removes the current invalid statutory requirement that women be married or in a de facto relationship with a male in order to access ART in Victoria. It also provides that a woman may access ART if she is unlikely to become pregnant without a treatment procedure in the circumstances in which she finds herself. This will enable women without a male partner to access ART even if they are not clinically infertile. That goes to the fact that there are women — probably more women now than ever before — who are not in a relationship, have perhaps been involved in a career for many years, and very much desire to have a child. What do you do? Do you rush out and find the best you can get and have a child and hope for the best to fulfil that dream? Do you not do anything about it but just say, 'Well, I left my run too late', or do you utilise the technology that is there? We have the capacity to enable a woman who is single and who is not infertile, if she desires, to fulfil that desire and have a child. I think as time goes by — and women are leaving it later and later — this will be something that increasingly women will want. We know this is what women want, and I think they deserve to have access to ART.

The bill expands the opportunities for donor-conceived children to access information about their generic history; that is very important. It strengthens the protections for children born through ART by implementing enhanced screening provisions. It clarifies and updates the parentage laws to recognise as legal parents the female partner of a woman who gives birth and the commissioning parent in a surrogacy arrangement. Again, that is very important; it goes to the protection and the best interests of the child. It goes to the issues of parents being able to make that commitment and being legally responsible for that child — today, tomorrow and for the rest of their lives — and having a responsibility for that child. This is very important and is something that people who are in same-sex relationships have been asking for. It is something they have desired very much — that the woman who is not having the child but is in a same-sex relationship be recognised as a parent and be able to have not only the legal status but the obligations that go with that legal status. This is not unreasonable.

With regard to surrogacy arrangements, we know that there are couples who are in a situation where perhaps the woman is infertile and the husband is fertile and they would like to have a child. There are a range of processes that can be gone through in other states to achieve that — through a donor egg, through using the male partner's sperm, or by finding a surrogate to carry the child. The wife of the father of the child — the woman who is going to be the mother of the child, who is going to mother that child, who is going to raise that child and who is going to love that child and care for the child — wants to have that legal status. They have made a commitment to the wellbeing and care of the child. They should have that legal status, that recognition and, of course, the obligations that go with that. That happens now. There are families in our society like that now. There are same-sex couples in our community who have those arrangements in place, who have made that commitment and who are caring, loving families, and they should be given the legal status and ability to call themselves and be recognised as parents.

This bill also provides that decisions about more complex applications of ART are made by an independent expert patient review panel, with provision for review by the Victorian Civil and Administrative Tribunal. There is an expansion of altruistic surrogacy and posthumous use of gametes in treatment procedures, with the approval of a patient review panel, and it also provides that prescribed ART records, including the donor register currently held by the Infertility Treatment Authority, are held by the registrar

of births, deaths and marriages. This is about children being able to know who their biological parents are and being able to get information if they want it at some stage in the future.

In conclusion, the three bills are good bills. The Assisted Reproductive Treatment Bill as set out expands access to ART and recognises same-sex couples as parents. This is part of the vision for Victoria that the government has set out in a number of documents and positions that it already has on the record and out there. It is in *Growing Victoria Together* and aligns closely with the goals of creating a fairer society, reducing disadvantage and respecting diversity. It also allows for access to high-quality health and community service.

The bill is compatible with the government's initiatives aimed at encouraging a socially just and cohesive society, and we see that in *A Fairer Victoria*, the Charter of Human Rights and Responsibilities and the justice statement. This is a good bill, and I am pleased to be supporting it today.

Mr VOGELS (Western Victoria) — In order to save people sending me an enormous amount of correspondence over the next two weeks — because I have been told this legislation will not be voted on today and that it will be coming back in a fortnight's time for further discussion and debate and then going into committee — I want everybody to know that I will not be supporting the Assisted Reproductive Treatment Bill.

It is my belief that babies should have the opportunity to start life with a father and a mother. That is what I have always believed. I also understand there are some wonderful single parents out there. My sister-in-law became one when my brother was killed in an accident and she was left with three beautiful children who she reared mostly on her own. She has now remarried and has a wonderful husband, but she did a fantastic job. I am not arguing that there are not wonderful single parents out there — of course there are; we all know that. I want to make it clear that I will not be supporting the bill.

Ms PENNICUIK (Southern Metropolitan) — It is a great privilege to stand here today and speak on the Assisted Reproductive Treatment Bill in particular. I will not be referring to the other two bills in my contribution because Ms Hartland has already covered those. I will restrict my comments to the Assisted Reproductive Treatment Bill.

I would like to start by thanking the many people who have contacted me by email — mostly in support of the bill but some not in support of the bill. I have spoken to a lot of those people and have met many of them on the steps of Parliament House today. As Ms Darveniza said, a lot of photographs accompanied these emails. It is always great to receive correspondence when we have important bills like this before us, as it brings home very clearly the aims of the bill, which are not about hypothetical situations — we are talking about real people and real families in the community.

While some speakers may have said things like, 'I prefer families were not like that', the fact, as Ms Darveniza said, is that families come in all shapes and sizes, and they always have. Those families are there, and it is our job as legislators to make sure the law reflects and facilitates their rights and responsibilities.

I thank the parliamentary library for its excellent issues brief, which is up to its usual good standard. At the outset, I indicate that the Greens will be supporting the bill and will not be doing anything to prevent its passage through this chamber. The bill is generally very good, and, as Mr Viney said, it brings in overdue and welcome changes in removing discrimination regarding access to assisted reproductive technology.

We welcome this. It reflects Greens policy, and obviously ALP policy, to provide equitable access to assisted reproductive technology — including donor insemination, IVF (in-vitro fertilisation) and related procedures, surrogacy and adoption, as regulated under the Infertility Treatment Act and the Adoption Act — and to ensure that legal recognition is given to the relationship between non-biological parents in same-sex parent families and their children and that same-sex partners of biological parents are able to adopt their own children born into the family.

I make passing reference to the fact that Greens policy is to remove all laws that prevent adoption on the basis of sexual orientation. I mention that in passing because that is one of the words from the Victorian Law Reform Commission's report titled *Assisted Reproductive Technology and Adoption*. Unfortunately the word 'adoption' is missing from the bill. There is no reason why same-sex couples should not be able to adopt children. They are certainly allowed to foster children. It is a discrimination that should also be removed from the law. I understand the matter has been hived off to a federal inquiry, but there is no reason why the Victorian adoption laws could not be changed to accommodate same-sex adoptive parents.

Generally it is a good bill. At the outset I refer to and quote from clause 5 of the Assisted Reproductive Treatment Bill. The clause outlines the bill's guiding principles, including:

> (a) the welfare and interests of persons born or to be born as a result of treatment procedures are paramount ...

That was also one of the main recommendations and guiding principles of the Victorian Law Reform Commission's report. Another guiding principle in the bill is that:

> (b) at no time should the use of treatment procedures be for the purpose of exploiting, in trade or otherwise —
>
> (i) the reproductive capabilities of men and women; or
>
> (ii) children born as a result of treatment procedures ...

Guiding principle (c) of clause 5 is that:

> children born as the result of the use of donated gametes have a right to information about their genetic parents ...

I mention these principles because I fully support them, as do the Greens, but I am not sure the bill necessarily advances every principle to the extent it could. Guiding principle (d) is that:

> the health and wellbeing of persons undergoing treatment procedures must be protected at all times.

Guiding principle (e) is that:

> persons seeking to undergo treatment procedures must not be discriminated against on the basis of their sexual orientation, marital status, race or religion.

They are all excellent principles, and I do not think anybody could oppose them.

As welcome as many of the major principles of the bill are, and as supportive as both I am and the Greens are of them, as I said, it is not the case that every clause advances the guiding principles to the extent it could. Clause 11 sets out the requirements for valid consent, including the requirement for a counsellor to have sighted a police check. I am sure members have had lots of submissions for and against the inclusion in the bill of police checks. Indeed, in its report the Victorian Law Reform Commission recommended that a licensee of an assisted reproductive treatment facility:

> … should not treat a person without the approval of the Infertility Treatment Authority review panel if the licensee is aware that the person seeking treatment and/or his/her spouse or partner (if any):
>
> (a) has had charges proven against them for a sexual offence as defined in clause 1 of schedule 2 to the Sentencing Act 1991 or
>
> (b) has been convicted of a violent offence as defined in clause 2, schedule 1 to the Sentencing Act 1991 or
>
> (c) has had a child protection order (but not an interim order) made in respect of one or more children in their care under a child welfare law of Victoria or any equivalent law of the commonwealth, or any place outside Victoria …

That was a strong recommendation in the report. It appears from what people have written that they consider that if you have had a minor conviction of any sort that would be a presumption against treatment. In fact, it is confined to those three areas, which are very serious offences of a sexual or violent nature. The requirements of the bill will not necessarily result in those people being denied treatment. That would be something taken into further account by the patient review panel, which would look at it and make a judgement. That judgement can also be appealed at the Victorian Civil and Administrative Tribunal. People have said it is discriminatory, but on the other hand we have a situation where the state is setting out a legislative framework whereby people will have access to assisted reproductive technology and they will be bringing children into the world. The state also has a responsibility for the welfare and protection of the best interests of a child in that regard. It is not too dissimilar from what already happens with regard to adoption for which there are procedures to establish whether people wishing to adopt a child are fit and proper persons to do so.

However, one part of clause 11 which has been brought to our attention concerns us. A counsellor who is counselling people wishing to undergo assisted reproductive treatment (ART) has a special role with those people. It concerns us that a counsellor will be put in a position of having to seek a police check of those people. I do not believe that is an appropriate role for a counsellor. The Greens have prepared an amendment which we will move when the house goes into committee. I foreshadow a couple of amendments to the bill. I do not wish to have them circulated until the house is in committee, but I want to explain what they are so that members listening who may have similar concerns about some of these issues — which may be preventing them from supporting the bill when they might otherwise support it — might support the amendments and therefore support the bill.

One of the amendments will result in people undergoing ART and having to fill in a consent form with all their particulars et cetera being able simply to

attach a police check to that form. That form would go to the ART provider and not to the counsellor. It takes away from counsellors the role of being involved with obtaining a police check.

I want to make some comments about other aspects of the bill because a lot of the public discussion, and even the discussion in here, has centred around access for single women and same-sex couples to ART. There is more in the bill than those two issues, which we support. Clause 29 creates a ban on using donated gametes to create more than 10 families. The Donor Conception Support Group and others in the community recommended to the Victorian Law Reform Commission that 10 families are too many, and that donor-conceived persons have trouble knowing about people who could be related to them because that information is not readily available. The more families that are able to be created the more complicated the web we weave can be. Ten is an arbitrary number — and is the number in the bill — but five is the number that has been put forward by other community groups. We will be moving an amendment to reduce the number from 10 to 5. We believe that is in the best interests of all children who are donor-conceived in order to keep them in the loop as to how many siblings or half-siblings they may have in the community. It pre-empts whether they will be able to get access to that information, which I will come to later in my contribution when I talk about access to the genetic identities of donor-conceived children.

Part 4 of the bill relates to surrogacy. The main point is that surrogacy will only be allowed if it is approved by the patient review panel. As I am sure other members have had, I have had many representations about surrogacy — both for and against.

I again refer to the Victorian Law Reform Commission report, which was very cautious on the issue of surrogacy. It says, at page 168:

> The commission's view is that if the government decides the law should continue to permit altruistic surrogacy, it should be regulated with great care. The outcomes for children and surrogate mothers have not been researched in enough detail to justify allowing surrogacy arrangements to occur without careful scrutiny. Safeguards are necessary to protect surrogates, commissioning parents and children.

It goes on to say at page 172:

> The commission's assessment of surrogacy is that it is sufficiently different from other forms of ART to warrant a cautious regulatory approach, with an additional set of requirements for access to treatment services … In particular, surrogacy involves another party (the surrogate mother) who carries the child throughout pregnancy but will be asked to relinquish that child upon birth.
>
> Because surrogacy involves the relinquishment of a baby by the woman who gives birth to it, the commission views it as having important similarities to adoption. As a community, we have learnt in the past that the adoption of children has caused significant grief and distress, both for the women who have relinquished their babies and for the children who have struggled with the emotional consequences of adoption.
>
> …
>
> Our cautious approach is also informed by the lack of detailed and longitudinal research into the potential impact of surrogacy on children and surrogate mothers. Although recent research conducted in Australia and the … (UK) suggests the outcomes are generally positive, we do not … have any data on the long-term consequences for children.
>
> In addition, the commission has been reminded that surrogacy arrangements can and do go wrong, and that this can be painful and damaging for all involved. The commission recognises this and notes that although only 4–5 per cent of surrogates refuse to relinquish the child in countries where altruistic surrogacy is permitted, the pain caused in these cases could be profound.

I am not sure whether the arrangements put in place by this bill are necessarily for the best interests of the child. While the whole surrogacy arrangement is basically motivated by the desires of parties to have children — and that is understandable — we need to keep in mind the impacts on the children born of those arrangements, and, as the commission so eloquently pointed out, they are not necessarily known. With the freeing up of surrogacy that would occur under this bill, that needs to be watched very closely.

The particular issue that has been raised with us by many people is that of what is called partial surrogacy, where an ovum of the surrogate mother is artificially inseminated. For all intents and purposes that child is her child; it is no different from any other child she would have. It is different from a child from an implanted embryo, for example, where there is no genetic connection.

I am certainly not saying I have the wisdom of Solomon in this regard, but I have looked very closely at a lot of the literature and found there are heart-warming stories about how surrogacy has worked well. However, there are also tragic stories about how it has not worked well and how families have been distressed and broken by surrogacy and by all the impacts that can occur to the surrogate mother, to the commissioning parents, to the child that is born, to the siblings of the child, who are the children of the surrogate mother, and so on.

I raise these issues because the provisions in the bill free up the situation and allow for partial surrogacy. I have prepared some amendments about this issue. Given that we have two weeks to further consider these issues, I will further consider them. I am not entirely sure what I will do with the amendments. I raise this issue because nobody else has really spoken about it and we have been concentrating on other issues. It rolls off the tongue easily, but as I have said, there are happy stories and there are sad stories. We need to be careful when we bring in legislation that we are not setting up a system that will not be for the best interests of the children. As many children born through the use of assisted reproductive treatment and some as the result of surrogacy have said, no-one consulted them; they are consulted when they are growing up. This is something we always need to keep very much in mind.

Part 5 of the bill relates to posthumous use of gametes. The bill allows the use of gametes of deceased persons in restricted circumstances, and only with the approval of the patient review panel. Again I understand that this is an emotional issue and that every circumstance will be very difficult. But this issue needs further consideration. Certainly it needs to be reviewed and closely watched because of the possible impact on the child, and I raise this again because it sets up the deliberate creation of a child without a parent; that parent is already deceased. While I understand the emotional issues of the other parent involved and why people want to do that, I believe it needs to be watched very closely. The commission said the same thing in terms of the impact on a child who is a result of the use of posthumous gametes.

The law reform commission stated in its report that the patient review panel must consider any outcomes of research. It is basically implying that there is not enough known about the impact on such children and that, in allowing the use of posthumous gametes, as it goes along the patient review panel needs to look at the most up-to-date research on that issue.

I turn to part 6 of the bill, which is concerned with registers and access to information. This is a very important issue which has not been talked about much, either. Clause 59 of the bill covers the release of information to donor-conceived persons. It will be allowed if they are adults aged over 18 years and they have parental consent, or they have had counselling and the result is that they are considered mature enough to receive that information. Hopefully donor-conceived persons will have received this information a long time before they have turned 18. It is certainly my view that the earlier they are told, the better. Children are quite resilient, and if they are given the information when they are old enough to understand it they pretty well accept it. It is best not to keep these sorts of things secret. However, clause 59(b) retains the existing prohibition on the release of this information to donor-conceived persons born between 1 July 1988 and 31 December 1997. Those persons can only receive information about their genetic origins if the donor has given consent.

I do not believe we should legislate to allow that situation to continue. It is an issue that has concerned me ever since IVF was introduced. I can remember hearing about it when I was young, when men were able to donate their sperm but were allowed to remain anonymous. To me that seemed unacceptable.

I immediately thought, ‘What about the children? Who is thinking about them and what they want to know?’. There was only thought for the donor and the donor’s interests, and not the child’s interests. This bill is about the interests of the child being paramount. The provisions in clause 59(b) are not about the interests of the child being paramount at all. There is a precedent with the Adoption Act. Previously adoptees were not able to find information about their birth parents. That provision was revoked, and that information is now available. There are a lot of organisations that facilitate the reunification of adopted children and birth parents.

To allow this window of discrimination to continue in this bill is a big mistake. Whatever the rights of donors were between 1988 and 1997, they cannot be more important than the rights of the child. While we have had lovely groups of people out on the steps of Parliament House with their families, whom I fully support, we have also had people such as Narelle Grech and Myfanwy Walker out on the same steps. They have told us how their inability to access information about their genetic origins has caused much grief and suffering in their lives.

In a statement she released, Narelle said retrospective access is very important. She said information about her true birth origins exists, and some people are allowed to access it — but she is not. She says the lack of knowledge has been dehumanising. I am sure she was talking about clause 59, when she said:

> Many key aspects of the proposed legislation will not improve the situation for DC people born today.

They will be in a situation similar to hers. She goes on:

> All DC people need to be considered, especially those not yet born.

She says formal recognition of the injustices that have already been allowed is needed, and it is important that action is taken to rectify them, and that there must be equality for all parties involved — adults and children alike.

Myfanwy Walker makes the same point, that retrospective access to identifying information and truthful birth certification are critical. She says the interests of the parents are important, as are the interests of the child. I think we should be hearing what these donor-conceived people are telling us. Therefore I have drawn up an amendment which I will seek to move in the committee stage. This amendment will seek to remove clause 59(b). The effect of that would be to remove the nine-year gap whereby some donor-conceived children are not able to access information. They are the only group of donor-conceived children who are not able to access information.

Part 7 of the bill details the provisions regarding the voluntary register to which donors, donor-conceived persons, relatives, and women who have undergone ART can have their names and addresses added. This is very helpful, but it is not a sufficient means of ensuring that donor-conceived persons can have access to their genetic identity and that of any siblings and half-siblings.

Clause 153 of the bill covers the addition of details of partners and mothers as parents on birth certificates. A Greens amendment would add a further provision, that if the child was conceived by a donor procedure, an addendum would be added to the certificate. The birth certificate itself would not be marked. It would list the parents as the people who are looking after the child, but there would be an addendum stating that further information about the entry was available.

That information would include information about donor-conceived siblings or other siblings. That information is available. Given that we are centralising the registers, that should not be too hard to achieve. This would mean that donor-conceived people would have access to full information about themselves should they want it. We know that most of them want it, and that denial of access to that information has caused people much grief. We should not be putting in place legislation to perpetuate that situation. The same would apply to clause 154 with respect to surrogate birth registrations.

While I am very supportive of this bill in the way it removes discrimination in access to assisted reproductive technology, I believe it does not go far enough in removing discrimination against donor-conceived persons who do not have access to information due to past mistakes which could be rectified by this bill. With those remarks, the Greens will be supporting the Assisted Reproductive Treatment Bill.

Mr SCHEFFER (Eastern Victoria) — The Assisted Reproductive Treatment Bill is a substantial piece of legislation. It covers a wide range of matters that relate to relatively new technologies that enhance the ability of people to have children. The bill deals with who will be eligible to undergo the treatment procedures, the requirements governing the use of human gametes and embryos in treatment procedures, and the associated consents. It also sets out a range of prohibited treatment procedures, matters relating to surrogacy arrangements, and the use of gametes and embryos in treatment after the person who produced the gamete has died.

The bill deals with the establishment and operation of registers and access to information, and with the establishment and operation of patient review panels and the Victorian Assisted Reproductive Treatment Authority. Importantly the bill also deals with a series of amendments to the Status of Children Act 1974 relating to women who have women partners and who undergo procedures to have a child where the child is born as a result of a surrogacy arrangement.

The bill is premised on a number of guiding principles that are explicitly stated in the early provisions of the legislation. I believe these principles are unexceptionable and that they would be supported by every member of this house. They include the welfare and the interests of the children involved, and the protection of the reproductive capabilities and health of the adults and children involved in the treatment procedures. The bill also protects people against discrimination on the basis of their sexual orientation, marital status or religion.

As speakers before me have indicated, the provisions in this bill have a history of successive legislative reforms that go back to the 1984 Infertility (Medical Procedures) Act.

It is important to point out that one of the weaknesses of previous versions of the legislation is that reproductive treatment was restricted to married women living with their husbands or in de facto relationships. As members know, this was found to be discriminatory and legally invalid. The Victorian Law Reform Commission reported last year that the regulation of assisted reproductive treatments had failed to address the variety of ways in which people live in loving relationships. To restrict access to reproductive

treatments to one type of living arrangement — a man and a woman — seems to me to fly in the face of the reality of many citizens who are part of our community. This bill steps up to meet this challenge, and I am honoured to be able to speak in support of its passage.

The bill removes the current invalid legal requirement that a woman who accesses the treatment must be in a relationship with a man. Under this legislation a woman will be able to access assisted reproductive treatment if she is unlikely to become pregnant because of her circumstances — that is, if she has no male partner and even if she is not clinically infertile.

The bill also clarifies and updates parentage laws to recognise as a legal parent the female partner of a woman who gives birth and the commissioning parent in a surrogacy arrangement. Judging from the emails I have received, it is this point that has most exercised people's minds. Those who have written to me opposing the bill have based their objection on the belief that all children should be raised by a mother and a father and that other options are less beneficial to a child. This was the point that was made at some length by Mr Drum.

There is no evidence that children raised by a man and a woman are, on the basis of that alone, any better off than the millions of children raised by a single parent, aunts and uncles, grandparents, cousins, foster parents, neighbours, family friends and even appropriate institutions. What the evidence tells us is that the way children are raised makes the difference: whether they are nourished, loved, cherished, protected and sheltered makes the difference. This is what is important, and to focus on the formal structures rather than the human interactions is a terrible error based on misinformation, sometimes prejudice and a fear of the unfamiliar.

The evidence tells us that children growing up in lesbian families, for example, compared with children growing up in heterosexual families show no difference in cognitive function, no difference in emotional function and no difference in psychological and behavioural development. They tend to play gender-typical games but some male and female children of lesbian parents show less traditionally gender-ascribed traits, they show more awareness and understanding of diversity more generally, and they have equal levels of competence when tested by teachers.

I found also — and this is something that I have always intuited, but it is interesting to see it has been researched as well — that being raised in a household run by women in which no men are present has particular advantages for children, including strikingly diminished figures for physical and sexual abuse. Given that we know that men are the primary perpetrators of physical and sexual abuse in families, that would almost seem to be self-evident, but it is interesting to have it confirmed in that way. As well as that, the evidence is that there are no major differences in child development in families headed by a lesbian or a single heterosexual mother compared with families with coupled heterosexual mothers and there is no evidence that the sexual orientation of the mother influences parent-child interaction or the socio-emotional development of the child.

Mr Drum said earlier in this debate that he was unaware of the evidence. That is fairly derelict in a debate like this when one of the premises of the legislation is that we protect the safety and wellbeing of children. I think any couple, whether they are of the same sex or in a heterosexual relationship, that is thinking about having children — and it is a decision that people need to consider deeply and I guess they usually do — would take into consideration factors like whether either partner or the donor had a heritable disease. That might weigh fairly heavily on your responsibility over the life of that future person.

In relation to people in a same-sex relationship deciding to have a child, the evidence — contrary to what Mr Drum argued previously — is very clearly that at minimum no harm is done and maybe optimally there are some advantages. That is worth placing on the record.

The findings I have just alluded to are also supported by a literature review prepared in August last year by the Australian Psychological Society. The review found that family studies literature indicates that family processes rather than family structures contribute to determining children's wellbeing and outcomes, which is a point I made earlier. The research indicates also that parenting practices and children's outcomes in families parented by lesbian and gay parents are likely to be at least as favourable as those in families of heterosexual parents, despite the reality that considerable legal discrimination and inequity remain significant challenges for those families.

I ask members to consider the circumstances of a family where only one parent, the birth mother, has a legal relationship with her children. I ask members to consider that the children in that family equally love parents who have nurtured and cared for them since they were babies. Without qualification the relationship is everything that any of us could wish for in a good

family, yet these children come to know very quickly that only one of their parents can speak to the teachers about how their child is doing at school, only one of the parents can collect their child from school if they are ill, only one of them can sign notes giving permission for them to go on excursions or camps, and only one of them can take them to a doctor or hospital. Kids pick up on that quickly.

In reality, of course, non-legal parents step up to play their part as full parents, as most people they deal with, including school staff and medical practitioners, treat them exactly the same as they would a legal parent. So there are two things going on. In the real world, they are probably getting by okay because they learn to be pushy and to run their argument, but in the legal world there is a difference. As a consequence, there is always an underlying uncertainty and doubt that the favour — and it is a favour — could be disallowed at the very time it is most needed. Imagine yourself living in that uncertainty day after day.

Besides that, there are also the informal interpersonal relations with the families of school friends, for example, where the relationship with the non-legal parent can be awkward and difficult to explain and navigate. Children feel all this keenly. This is where community leadership comes to the fore. Everyone has a responsibility to speak up for same-sex parents and against any discrimination that hampers the confident development of children and their parents.

It is critically important that the law give same-sex parent families validation and certainty that will rub off on their children, so that they can feel as confident about their families as children in families with heterosexual parents do. Children with parents in same-sex relationships need the blessing of the law as much as anyone else. It is derelict of us as legislators to fail to step up and help enlarge every child's sense of their own worth and value.

Some of the emails I have received have asserted or implied that by enlarging the rights of parents in same-sex parent families we would in some way be diminishing the validity of the family arrangements of heterosexual couples who have children. For the life of me, I cannot see how that could possibly follow. It beggars belief that anyone could think that, because you accord a right and a value to people living in a same-sex relationship and their cherished relationship with their children, you could in some way diminish what other people are doing with their families. It seems that the aggregate would be to enlarge the community benefit, not to reduce it.

I believe this is important legislation. I believe it will benefit all Victorians by making our society more just, and it will of course be of special benefit to the members of same-sex parent families.

Before I resume my seat I thank the many people who took the time to write to me setting out their views and also providing me with considerable documentation, which I looked at as carefully as I could. I also thank the people who came to see me, and especially those who talked to me about their lives and how they experience their lives. I commend this legislation. I think it is important, and I hope it passes.

Mr KOCH (Western Victoria) — As with my colleague Mr Vogels, I think it is important that I indicate my stance on the bills before the house, being the Assisted Reproductive Treatment Bill, the Research Involving Human Embryos Bill and the Prohibition of Human Cloning for Reproduction Bill. I will not be supporting these bills, and think it is only fair to indicate my position to those who have started and will continue to contact me and my office in relation to these matters over the next couple of weeks.

Mr THORNLEY (Southern Metropolitan) — I rise to speak in favour of the Assisted Reproductive Treatment Bill. In doing so I firstly acknowledge the many constituents who have contacted me and my office during this period, as was the case with a number of other important bills we have debated in recent times. I have had the opportunity for lengthy discussions with colleagues, faith leaders, community leaders and others who have helped me to give the bill the serious consideration it unquestionably deserves.

I must say I have also benefited significantly from the opportunity to listen to the contributions of a number of colleagues in this house, including those who spoke earlier today. I particularly want to associate myself with the comments of my friend Mr Leane. He recollected the dark history our party has unfortunately had of discriminating against people on the basis of their race and spoke of the more enlightened approach we now have, I am very happy to say. I am even more happy to say that it is a bipartisan or tripartisan approach — in fact, it is a virtually universal approach. I thought that analogy was important when we are talking about people's understanding of people unfamiliar to them. In particular I also appreciated the fairly brief but very important summary — and I think it is something we could do with more depth on — that my colleague Mr Scheffer provided in respect of the empirical evidence. That is a matter to which I will return and spend some time on. I also found very

valuable your own thoughts, Acting President, on a wide range of matters, but particularly the detailed concerns you raised in respect of the surrogacy provisions and other issues, also referring to the empirical data.

I am happy to say that I will be supporting the second reading of this bill. In the event that it gets to the committee stage, I will be undertaking a detailed review of any additional empirical data I can find on a number of matters if amendments are moved that have as a motivational force such empirical data. I place an emphasis on that issue. Over the time I have been considering this bill I have had a lot of discussions with friends and colleagues — including some of my many friends who are leaders of various faiths in our community — and a lot of that discussion has been about moral issues. As members would know, I have never been one to shy away from moral discussions regarding these issues. I believe morality is central to politics and public policy. There has been a lot of discussion about the morality of sexuality, the morality of discrimination and the interplay between the diversity of moral views held within our constituency, the role of government to legislate or otherwise around those moral issues and, in particular, the role of individual MPs in a free vote. However, when I came to make a decision about this bill, I found that there was a simpler question to ask — that is, as a matter of public policy, will this bill help people or hurt people, or if it does some combination of both, does it on balance overwhelmingly do one or the other?

It is very clear to me that the bill will help people. We have had a lot of correspondence from a lot of constituents and others who have identified the fairly obvious and manifest failings of the status quo in enabling them to lead the fullest and most rewarding lives with their families. These issues may at one level seem trivial, but they are deeply demeaning to the dignity of their situation and their relationships with their children. Think of the things that most of us, as parents, take for granted, such as being able to give a child permission to go on a school excursion, take them to the doctor or make medical decisions on their behalf, let alone the far more significant issues that can arise later on around inheritance and a whole range of other matters.

It is pretty clear there are a large number of people who would be helped by the passage of this bill. The only possible reason for voting against such a bill, given it is going to help a large number of people, is whether it will hurt anybody, and I could not find any evidence that it would. Given a bill that is clearly crafted in ways that will help a large number of people and because I could not find any evidence that it would hurt anybody, it was a simple matter for me to therefore conclude that I would support the bill. Whilst I recognise and have engaged in the complexity of moral discussions around some of the issues that I have outlined already, and some others, the acid test of the morality of this particular piece of legislation was pretty simply reduced to that.

I do not mean that in a utilitarian sense. If I thought there was an issue where a significant number of people would be hurt by the passage of a bill, even if a larger number of people may be helped, that would be very troubling. I am not one who favours that sort of utilitarian calculus as a way of determining how to vote on a bill. If you have got that sort of situation, then you probably need to find a better bill. I could not see any empirical evidence that anyone would be hurt by this bill, with the possible exception of some of the matters that Ms Pennicuik raised, and which I will certainly be considering in more detail — I confess I have not reviewed some of that evidence — if those matters are discussed in the committee stage.

There have been arguments that a lot of people will be hurt by this bill, but I have struggled to find the evidence to support those arguments. As I tried to work through the arguments I have roughly classified three. The first argument is one which, as they say in crime novels, goes to motive. People have talked about what an ideal family structure would be versus non-ideal family structures. I have some experience of that because I was brought up in a sole-parent family, and we did it pretty tough. It is not a circumstance I would prefer to visit upon others. In my particular case I am blessed by the fact that I am currently partnered in a traditional heterosexual family with three wonderful children and my wonderful wife Tracey, and I hope and pray that continues as it has thus far.

I can understand why people, at face value, might believe there is something inferior or hurtful about, for example, being in a sole-parent family, having been in one myself. But then everyone freely concedes there are plenty of people who are in these families, and they also concede there are successful sole-parent families and less successful sole-parent families. There are successful traditional heterosexual couple families and there are ones that plainly are not successful.

Mr Scheffer has referred to the tragedy of domestic violence, and sexual and physical abuse are unfortunately an ever-present reminder of that fact. Clearly there are successful families in homosexual

couple relationships, both lesbian women and gay men. Indeed among some of my oldest friends I know people who are in that situation, and I regard them as fine parents. They have lovely children and as much as anyone can ever make any judgements about anyone else's family from the outside, they seem to be doing a fantastic job of bringing up their kids. On the many occasions when they come to visit, when their kids play with our kids and we are together, it is a great and joyful experience.

Everyone in this debate seems to concede there are a range of family arrangements which derive from a variety of circumstances and have a variety of outcomes, but there seems to be an argument that there is a difference in the outcome for a child depending on whether or not the arrangement was arrived at deliberately, which is my point: it seems to go to motive. There is the argument put forward, for example, that whilst people have a view that they do not regard sole-parent families as the ideal structure — a view I can certainly understand — there was something different about the outcome depending on whether it was arrived at deliberately or not. That is a strange argument if we are focused on the interests of the child. A moment's contemplation would suggest that seems unlikely.

If you have one circumstance where someone arrives in that family situation as a result of a deliberate desire and considerable forward planning, all other things being equal, that is less likely to be troubled than someone unfortunately arriving in that situation with no desire to be in it and in many cases with no forward planning as a result. It seems strange that people argue the motive question at all but even so, one could argue that the class of families that are arrived at through a deliberate desire and forward planning are likely to end up in a worse situation than the folks who arrive in that situation, in many cases not wishing to be there at all — and in many cases, not having the opportunity to make forward plans accordingly. The argument for motive is not particularly convincing.

Again, I would be open to empirical evidence to the contrary if somebody could demonstrate some set of rigorous studies that showed the children of deliberately created sole-parent families had, on average, worse outcomes than the children of non-deliberately created sole-parent families. I would be very open to hearing that evidence, although I am not quite sure what you would do with it — and I will come to that question in a second — but nobody presented any such evidence; and the empirical basis for that assertion seems to be lacking.

The basic logic would suggest, if anything, all other things being equal, you would expect the opposite result. The motive argument is not particularly convincing that anybody would get hurt whereas a lot of people are going to be helped by this legislation.

The second question went more broadly to empirical evidence and Mr Scheffer outlined at some length some of the empirical evidence. Again, particularly with respect to lesbian couples, their parenting capacity and the outcome for the children in those families, there does not seem to be any evidence at all to believe that leads, on average, to worse outcomes for their children. For some obvious reasons, it certainly reduces the instances of some of the worst types of outcomes children can suffer, and that at least is very encouraging.

Mr Drum said, 'You would not change your mind if you heard any evidence', but I am not sure that is true — actually, I would, but I have not heard any. The evidence I have seen suggests items to the contrary. We have got another couple of weeks so if anyone has a body of evidence the Parliament should be acquainted with, they should take the opportunity to bring it forward. Certainly I for one will review it in detail. Being an old McKinsey guy I also review evidence with a degree of rigour. It is very important if you are going to take an empirical approach that you do so with some rigour, as a good social scientist does. Mr Drum, for example, contended that children of sole-parent families may be disproportionately represented in the juvenile justice system. I do not know if that is true. It may well be true. Even if that were true, I am not sure it is probative of this question. In the case of sole parents the question is based around my earlier distinction between children of deliberately created sole-parent families through the use of this technology — that is, the class of people we are talking about enabling here — and others. I would be very surprised if Mr Drum could show any empirical evidence to suggest that children in those family structures are any worse off than those in others.

Further I go to the danger in trying to do any of these things on a statistical basis and the question of what statistics can tell you about what you should do, which was most poignantly pointed out by Mr Leane. We can, of course, produce data on the social outcomes of people based on a whole range of reasons. At Pluto Press we published a book by the current federal Treasurer, Wayne Swan, called *Postcard — The Splintering of a Nation*. The book dealt in some detail with the statistical reality that if you are born in a particular postcode area, the likelihood of your life

outcome being relatively poor is unfortunately very strong, and if you are born in another postcode area, the likelihood of your life outcome being poor is very low. I do not think anyone would suggest we should stop the people who live in those postcode areas from having children. We would certainly want to address the issues that may, on average, have an impact on the life outcomes of those children, but we would never go to the individual family level and say, 'Because you live in this postcode area you should not have children'.

I am sure people can bring forward statistics — I am sure there would be some people who would willingly do this — that show that children who come from certain racial or ethnic backgrounds have lesser life chances or worse outcomes in the criminal justice system or elsewhere. Unfortunately that data probably exists. The question again, though, is: so what? What does that tell you? It does not tell you that any individual family is in a position where anyone could argue, I would hope, that they should not have children. The problem with that whole approach is that the decision as to who should have children is based on which group they belong to. That is a pretty dumb way of thinking about it.

What we know is that the life outcomes of children are determined not by the group they belong to but by the family they belong to, the parents they have, the way that family interacts, works and supports, the external support it has, and a whole range of other factors which are individual to that family. The argument that people who belong to a certain group of people are more or less likely to be successful as parents and their children are more or less likely to be successful, firstly, cannot even be evidenced by those opposing this bill and, secondly, even if it could be, it is unclear to me that that is an argument for denying any individual access to this technology.

I went back to the simple question and considered that clearly some people will derive considerable benefit from this bill being passed for the reasons many other speakers have outlined. Then when I tried to find reasonable evidence that there are people who will be disadvantaged by this bill, I did not find any. On that basis I have no difficulty in supporting the bill, and I will do so when voting on the second-reading motion. I remain open to hearing empirical evidence if it is probative of any change in public policy and of particular amendments. I am happy to hear that empirical evidence, but it would have to clearly satisfy the test that it provides a concrete reason to prevent a group of people from gaining access to this technology. Thus far I have seen no such evidence. This bill will certainly help a lot of people. I see no evidence that it is going to hurt anyone. I support the bill.

Mr DALLA-RIVA (Eastern Metropolitan) — I am also pleased to make a contribution to debate on the three bills. I turn to the two bills that relate to the re-enactment of certain parts of the Infertility Treatment Act 1995. I said when that bill was debated in this chamber in 2003 that I had to give due consideration to the legislation. A range of issues concerning the Research Involving Human Embryos Bill in particular was brought to my attention after I had given my speech. It was on that basis that I opposed it. I note the provisions are a direct take from that bill.

There is no change in terms of the areas I had concerns with. There is one that I still find very difficult to comprehend. It is in relation to the joining of a human sperm with an animal egg. I for one still find that difficult to support, and I said at the time that I found it difficult to support. Nothing has changed other than that the bill has been split into two. On that basis I will be opposing those two bills.

In respect of the Assisted Reproductive Treatment Bill, I want to say from the outset that I listened to the outline of the amendments proposed by Ms Pennicuik. My view in relation to retrospective legislation or legislation that changes a well-established position is that unless there are significant issues indicating the need for changes to be made I will not support it. I understand the Greens' amendments are to section 59 and in respect of the period between 1988 and 1997. People have gone into this believing the legislation would be as it stood, and I do not believe it is appropriate to make those amendments. I will therefore be opposing the amendments proposed by the Greens.

In relation to the bill itself, I have met with a range of people who have come to speak to me, and I genuinely appreciate that. It is important to acknowledge that people have come to see me, sat down with their children and expressed their view that this bill is important for the rights of the child. I understand that. Likewise I met a father whose daughter is now in a same-sex relationship. He and his wife discovered this about six years ago. I do not want to put words into his mouth, but basically he said that at the time he found it difficult to accept that his daughter had been in that relationship for six years. The relationship had moved forward, and his daughter and her partner were at the stage where they wished to have a child. He came to express his support for this. I asked him how he could comprehend his daughter having a child with another woman. He said, 'I can probably understand your

concerns, because it took a long time for my wife and me to come to grips with it'. I said to him, 'I guess that is where I am at this stage'. I asked the women who attended my office what would occur if this bill did not go through, and they said they would still be able to conceive interstate and come back here and have their children, which raises the issue of the rights of the children at that stage.

I can understand the components of the bill that relate to that. Where I have trouble with the bill is on the issue of surrogacy, the issue of where we are going in terms of moving forward on a range of other issues. I guess I am at the stage that father was at six years ago when he discovered his daughter was happier in a same-sex relationship. I understand it, I accept it, but I just cannot agree with it.

When we start to legislate at this level, where it becomes part of the expectancy of our life, I find it difficult. I do not disregard the views of those who have come to see me. As I said, I appreciate them. I hope they are not disappointed. They probably will be, but in the end, the conscience vote leads me to that decision.

It is genuinely a conscience vote on the three bills. I voted against the infertility treatment bill. I was in the minority back then, and I still stand by that vote. I will vote in conscience in relation to this Assisted Reproductive Treatment Bill. I hope that maybe in six years time I, like that father, will be able to accept it better than I can currently.

Debate adjourned on motion of Ms PULFORD (Western Victoria).

Debate adjourned until next day.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 11 November.

Motion agreed to.

COURTS LEGISLATION AMENDMENT (COSTS COURT AND OTHER MATTERS) BILL

Committed.

Committee

Clauses 1 to 14 agreed to.

Clause 15

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Clause 15 is the clause in the bill that provides the Attorney-General with the capacity to direct funds to be paid out of the Public Purpose Fund to either the Costs Court or the Legal Costs Committee. As outlined in the second-reading debate yesterday, it is the view of the coalition parties in this place that it is inappropriate for the Attorney-General to have the capacity to direct sums to be paid out of the Public Purpose Fund for the purpose of the Costs Court and the Legal Costs Committee. It is our view that the functions that are to be assumed by the Costs Court and the functions that will be performed by the Legal Costs Committee are ordinary functions of the courts. They are functions that have been performed before the establishment of the Costs Court — functions that have been performed and funded by the courts in the ordinary course of their business. Therefore it is not appropriate that funds be taken out of the Public Purpose Fund under this regime to fund those functions.

Accordingly it is the intention of the coalition parties to vote against clause 15 — that is, to delete the clause that gives the Attorney-General the capacity to direct funds to be paid out of the Public Purpose Fund for those reasons. As outlined in the second-reading debate, if that clause is deleted, the coalition parties will support the bill. If, however, that clause is not deleted it will be our position to oppose the bill.

Ms PENNICUIK (Southern Metropolitan) — I just want to make some remarks in support of Mr Rich-Phillips's suggestion that clause 15 be omitted. As I outlined in my contribution to the second-reading debate, I went to a lot of trouble to look at this amendment and its ramifications and to ascertain exactly what clause 15(2) was referring to in terms of an amount that the Attorney-General may direct the board to pay out of the Public Purpose Fund to the Legal Costs Committee for the purpose of carrying out its functions under section 3.4.25A(3) of the Legal Professions Act. I am not convinced that they are functions that should be paid for from the Public Purpose Fund, but I did indicate in my second-reading speech that perhaps part 3 of that new section that is being added to the act may be about the committee inquiring into and reporting on alternative structures for costs et cetera and may fall into the category of activities for which the Public Purpose Fund could be used.

I would like to thank the government adviser who helped me with this matter. We had quite a long discussion about it. Unfortunately for the government, I was not able to be convinced that that was a proper purpose for use of the funds in the Public Purpose Fund. I had subsequent discussions with other people who have been looking at this for me as well, and with Mr Rich-Phillips, and I am persuaded that it is not a proper use of the Public Purpose Fund.

I would like to briefly repeat a comment I made in my second-reading speech that there is nothing to prevent the Legal Costs Committee from applying to the fund if they have a research project that is looking into the structure of costs et cetera. They can do that. There is nothing to stop a body like the Victoria Law Foundation, for example, doing research into that issue. But others were of the view that it is a function of the Legal Costs Committee anyway.

I have not been persuaded by clause 15(2A), which provides that the Attorney-General would be able to direct the board to pay an amount out of the fund to the Costs Court for the purpose of carrying out functions under division 7, which is basically the determination of costs, and which provides that the taxing master, who is now going to be called an associate judge, would be able to refer what are called excessive costs to the legal services commissioner. The point there is that the legal services commissioner is actually funded out of the Public Purpose Fund, and so that function referred to in Division 7, which is about excessive costs, actually goes to the legal services commissioner. But in my view the other functions are just everyday, run-of-the-mill functions of the Costs Court. For those reasons, I am persuaded to vote against this clause as suggested by Mr Rich-Phillips.

Hon. J. M. MADDEN (Minister for Planning) — I thank the members for their comments. It will come as no surprise that we will not be supporting the omission suggested by the opposition. Basically the Public Purpose Fund will deal with matters relating to the discipline of the profession. It is really the solicitors fund. I am informed that because of that, solicitors should be accountable for the discipline of their own profession in terms of the financing of discipline procedures. We believe this is an appropriate mechanism and will not be supporting the suggestions of the opposition.

Committee divided on clause:

Ayes, 17

Broad, Ms	Pulford, Ms
Darveniza, Ms	Scheffer, Mr
Eideh, Mr	Smith, Mr
Elasmar, Mr	Somyurek, Mr
Jennings, Mr	Tee, Mr *(Teller)*
Leane, Mr	Thornley, Mr
Lenders, Mr	Tierney, Ms
Madden, Mr	Viney, Mr *(Teller)*
Mikakos, Ms	

Noes, 20

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

Pair

Pakula, Mr	Atkinson, Mr

Clause negatived.

Clauses 16 to 29 agreed to.

Reported to house with amendment.

Third reading

Motion agreed to.

Read third time.

ASBESTOS DISEASES COMPENSATION BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Treasurer).

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Asbestos Diseases Compensation Bill 2008 (the bill).

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

Overview of bill

The bill will allow for the awarding of provisional damages. This will enable a person to make an initial claim for an asbestos-related condition and a subsequent claim if they develop a further asbestos-related condition. This bill will ensure that the Victorian position is consistent with most other states and territories and that there is interjurisdictional equity in the treatment of asbestos claimants.

The bill will insert a new section 135BB into the Accident Compensation Act 1985 (AC act) so that a worker who has an asbestos-related condition can have their serious injury application as well as their claim for damages heard at the one time. This provision will also allow a worker with an asbestos-related condition who is at imminent risk of death to have their hearing brought on quickly. The bill also provides that the serious injury threshold is satisfied if a person's death results from the asbestos-related condition that is the subject of the proceedings.

The bill will also amend part III of the Wrongs Act 1958 to ensure that where a person has died from a dust-related condition, general damages recovered by a deceased's estate are not taken into account in assessing damages to be paid to the deceased's dependants in their own claims under part III of the Wrongs Act.

Human rights issues

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

The human rights relevant to the bill are discussed below.

Section 8: recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. Discrimination in relation to a person, means discrimination within the meaning of the Equal Opportunity Act 1995, on the basis of an attribute set out in section 6 of that act. A number of the provisions of the bill draw distinctions between different types of injuries or disabilities. Whether these distinctions have the potential to amount to discrimination depends upon whether the distinctions are drawn between persons who can properly be regarded as in the 'same or similar circumstances'.

It is questionable whether persons who suffer from non-asbestos-related diseases are not in the same or similar circumstances as those who suffer from asbestos-related diseases, so as to amount to discrimination.

Further, section 8(4) provides that measures taken for the purpose of assisting or advancing persons or groups of persons who are disadvantaged because of prior discrimination, do not themselves constitute discrimination.

People making claims for asbestos-related conditions might be disadvantaged as a result of the 'once-and-for-all' approach to awarding damages. It can take many years for a person exposed to asbestos to know the full extent of their injuries and the initial award of damages may not provide adequate compensation for a fatal condition. The existing limitation periods may also disproportionately affect a person suffering from an asbestos-related condition. As the bill addresses that disadvantage, it could be regarded as a special measure within section 8(4) of the charter and therefore there is no limitation of the right under section 8 of the charter.

In any event, to the extent there may be a limitation on the right to equality, such limitation is reasonable and justifiable for the reasons set out below.

Clause 3: definition of an asbestos-related condition

Clause 3 of the bill defines an asbestos-related condition as asbestosis, asbestos-induced carcinoma, asbestos-related pleural diseases or mesothelioma. The definition will not include pleural plaques, psychiatric impairments or non-asbestos-related conditions. The definition will engage the right not to be subject to discrimination on the basis of impairment.

Pleural plaques

The exclusion of pleural plaques from the definition of an asbestos-related condition in clause 3 is based on medical advice that pleural plaques alone do not constitute a compensable injury. Rather, it is a marker of prior asbestos exposure. This has been accepted by the House of Lords in *Johnston v. NEI International Combustion and Others* [2007] UKHL 39. In light of the current law and medical evidence, there is no limit on the equality right and there is no prima facie discrimination, as a person with pleural plaques does not have a compensable injury and is not in the same or similar circumstances as a person with an asbestos-related condition covered by the bill.

Non-asbestos-related claims

The definition of an asbestos-related condition will also mean that persons with non-asbestos-related injuries are not covered by provisional damages. This exclusion does not amount to prima facie discrimination. Persons who suffer from disabilities other than those listed in clause 3 are not in the same or similar circumstances as persons with an asbestos-related condition, so as to amount to discrimination. In particular, the latency periods and consequences of asbestos-related diseases are sufficiently different so that individuals suffering from them cannot be compared fairly to those suffering from other diseases.

Psychiatric impairments

The exclusion of psychiatric impairments from the definition of an asbestos-related condition in clause 3 means that:

> a person who suffers from a psychiatric impairment would not be able to obtain provisional damages for that impairment and would not be able to make a subsequent claim for an asbestos-related condition; and
>
> a person who has asbestosis and develops a subsequent psychiatric impairment would not be able to make a claim for the subsequent condition.

It is questionable whether persons with psychiatric impairments are in the same or similar circumstances to those who suffer from an asbestos-related disease and go on to develop mesothelioma or another serious disease many years after their exposure to asbestos. However, if and to the extent it constitutes prima facie discrimination on the basis of impairment, the limitation is justified under section 7 of the charter for the reasons set out in section 2 of this statement.

Clause 9: actions by workers with asbestos-related conditions

Clause 9 of the bill provides for the insertion of a new 135BB into the AC act. Section 135BB will allow a worker with an asbestos-related condition to have their serious injury application as well as their claim for damages heard at the one time. This provision will also allow a worker with an asbestos-related condition who is at imminent risk of death to have their hearing brought on quickly. The serious injury threshold will also be satisfied if a person's death results from an asbestos-related condition that is the subject of the proceedings.

These provisions will not be extended to other injuries and to the extent that some of those persons may be said to be in the same or similar circumstances, the provisions may limit the right to equality because the provisions constitute prima facie discrimination on the basis of the attribute of impairment. However, the limitation is justified under section 7 of the charter for the reasons set out in section 2 of this statement.

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

Limitations on section 8: clauses 3 and 9 of the bill

(a) the nature of the right being limited

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

(b) the importance of the purpose of the limitation

The purpose of the limitation regarding the definition of an asbestos-related condition is to redress the disadvantage experienced by a significant number of persons who suffer from conditions that are directly caused by asbestos exposure.

The purpose of the limitation regarding section 135BB of the AC act is to produce greater consistency in the processes and procedures governing asbestos-related claims. The amendments also recognise the fact that the requirement to establish entitlements under existing thresholds and ceilings can be a time-consuming process that could unfairly affect workers with asbestos-related conditions.

Further reasons for the limitations contained in clauses 3 and 9 of the bill are that other injuries do not have the latency periods or the uncertainty of a subsequent and potentially fatal disease developing in the future.

(c) the nature and extent of the limitation

The bill limits the right to equality only to the extent that a person who does not meet the definition of an asbestos-related condition is not entitled to provisional damages.

The insertion of section 135BB into the AC act limits the right to equality only to the extent that the section will not apply to a person who does not have an asbestos-related condition or meet the terminal illness requirement. Persons with latent diseases in the same or similar circumstances as asbestos-related diseases would still be entitled to common-law damages or statutory compensation in the same way as all other impairments.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose of addressing the disadvantage suffered by persons who have asbestos-related conditions.

There is a direct relationship between the limitation and the purpose of ensuring that the amendments to the AC act only apply to people with asbestos-related conditions, which may be fatal and have considerable latency periods. The purpose of the limitation is to ensure that there is equality between workers with different asbestos-related conditions.

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

In relation to the definition of an asbestos-related condition, there are no less restrictive means reasonably available to achieve the purpose of providing provisional damages for people exposed to asbestos. Provisional damages are being provided to people with asbestos-related conditions due to the long latency periods combined with the potentially fatal nature of the conditions arising from asbestos exposure. While it is theoretically possible to set up a scheme that inquires into the individual circumstances of each case, to determine whether provisional damages are necessary to address any disadvantage, such a scheme would be costly to administer and result in considerable uncertainty for employers, insurers and other businesses, which would ultimately translate to increased insurance premiums with flow-on effects for all Victorians.

By restricting the provisional damages in the manner proposed, the economic impact is also more readily identifiable, quantifiable and limited for asbestos-related conditions. Given the fact that the use of asbestos has been banned, claims are limited in number.

Any person with injuries or latent diseases, in the same or similar circumstances as a person with an asbestos-related condition, will continue to be entitled to compensation in the same way as all other impairments.

In relation to the insertion of a new section 135BB into the AC act, there are no less restrictive means reasonably available to achieve the purpose of providing a simplified, consistent and more expedient process for people with asbestos-related conditions. The amendments will also provide that the serious injury threshold is satisfied if a person's death results from the asbestos-related condition that is the subject of the proceedings. A section is being inserted as existing provisions under the AC act may unfairly affect workers with asbestos-related conditions. It is not considered appropriate to extend these provisions to other conditions that do not have as long a latency period combined with a potentially fatal condition. The proposed amendments are also being made to streamline the processes and procedures for making asbestos-related claims under all three pieces of legislation covering asbestos exposure.

(f) any other relevant factors

Similar provisions allowing for the awarding of provisional damages exist in the South Australian Dust Diseases Act 2005. The definition of an asbestos-related condition in the Victorian bill almost mirrors the definition of a dust disease in the South Australian legislation. The only difference is the inclusion in the South Australian legislation

of a disease or pathological condition resulting from exposure to asbestos dust.

(g) conclusion

Accordingly, the definition of an asbestos-related condition and the amendments to the AC act are reasonable and justifiable limitations under section 7 of the charter.

Conclusion

I consider that the bill is compatible with the charter because to the extent that some amendments do raise such issues, these amendments do not limit human rights or amount to reasonable limits upon human rights.

JOHN LENDERS, MP
Treasurer

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Asbestos Diseases Compensation Bill 2008 is a stand-alone piece of legislation that:

provides provisional damages for people suffering from asbestos-related conditions;

amends the Accident Compensation Act 1985 to provide expedient processes and procedures for workers with asbestos-related conditions; and

amends the Wrongs Act 1958 to ensure that where a person has died from a dust-related condition, no account is taken of the benefit a dependant received from general damages paid to the deceased's estate in a subsequent dependant's claim.

In May this year, the government announced that it would introduce legislation allowing Victorians suffering from asbestos-related conditions, to obtain damages on a provisional basis. This means that a person can make an initial claim for an asbestos-related condition and a subsequent claim if they develop a further asbestos-related condition. The government's commitment to introduce provisional damages is being met today with the introduction of this bill.

There is no known cure for asbestos-related carcinomas or mesothelioma and people who suffer from these conditions have no recourse to surgical or medical intervention. What is frightening is that there is no safe exposure level and asbestos disease sufferers may not experience any signs or symptoms for many years. In some cases, it is 20 to 40 years until symptoms are evident and people who suffer from malignant diseases, such as mesothelioma or lung cancer, invariably die within 12 months of diagnosis.

The nature of asbestos-related conditions means that the traditional awarding of damages is inappropriate. Under common law, the principle of finality means that damages are assessed on a once-and-for-all basis. Once a cause of action is finalised, a further claim cannot be made if the injury worsens or a subsequent injury occurs.

Until now, Victorians with asbestos-related conditions have faced a difficult legal choice. They could either make a claim at an early stage of the disease and be prevented from receiving compensation if a fatal injury later developed or wait and risk the possibility of not being compensated for the original injury.

Victoria and Tasmania are the only states where provisional damages, or an administrative equivalent, are not available for asbestos-related conditions. This bill will bring Victoria in line with other states and provide greater equality and fairness in the treatment and compensation of asbestos-related claims.

During his lifetime, Bernie Banton and his wife Karen fought unceasingly to bring about justice for asbestos sufferers. Bernie's well-publicised mesothelioma case has increased community awareness and understanding of asbestos-related conditions. Bernie's story not only demonstrates the terrible suffering people experience as a result of asbestos-related conditions but also the importance of introducing provisional damages here in Victoria. Without provisional damages, Bernie would not have been able to receive compensation for his mesothelioma claim. These amendments will be of significant benefit to all workers exposed to asbestos, who like Bernie Banton were simply doing their jobs and they will also greatly benefit other members of the Victorian community who suffer from asbestos-related conditions.

Provisional damages

Currently, the Workers Compensation Act 1958, the Accident Compensation Act 1985 and the Wrongs Act 1958 govern asbestos-related claims. The existing legislation governing asbestos exposure will continue to apply after the passage of this bill.

This bill allows damages for asbestos-related conditions to be settled on a provisional basis. This means that a person can be awarded damages for an asbestos-related condition on the assumption that they will not develop another condition. A further award of damages can then be sought, if a person develops a subsequent condition from asbestos exposure. For example, if a person suffering from asbestosis is awarded damages, they can seek further damages if they develop mesothelioma.

The bill will provide that a court may award provisional damages, which means that the plaintiff has the option of either obtaining provisional damages or settling their claim on a once-and-for-all basis.

Provisional damages will only be available for people who have asbestos-related conditions. These conditions are defined as asbestosis, asbestos-induced carcinoma, asbestos-related pleural diseases or mesothelioma. Pleural plaques have not been included within the definition of an asbestos-related condition, as the generally accepted medical position is that without evidence of a further asbestos-related condition, it does not constitute an injury.

Whilst provisional damages will only be available for the defined conditions, statutory and common-law rights will still exist for all other physical and psychiatric injuries.

Only one subsequent claim can be made for an asbestos-related condition. This means that if a person makes an initial claim, they can only make one more claim for any other condition.

The bill provides that a court may have regard to an initial award of damages for an asbestos-related condition, when assessing the amount of damages to be awarded in a subsequent claim for an asbestos-related condition.

The court or a registrar must also have regard to the legal costs incurred in an initial claim when assessing the amount to be awarded in a subsequent claim for an asbestos-related condition. This means that the court or a registrar should consider any work undertaken in the initial proceeding to identify defendants, the circumstances of the exposure, liability and causation issues and any other relevant factors. This provision will prevent the potential for the duplication of legal costs. If necessary, issues from the initial claim can be reconsidered and re-examined without a duplication of costs occurring.

Accident Compensation Act 1985 amendments

The bill contains beneficial amendments that will be made to the Accident Compensation Act 1985. A new section 135BB will be inserted into the Accident Compensation Act 1985 so that a worker who has an asbestos-related condition can have their serious injury application as well as their claim for damages heard at the one time. The serious injury test under this section will still need to be established but this will only have to occur before settlement or as part of a common-law judgement.

Section 135BB will also allow a worker with an asbestos-related condition who is at imminent risk of death to have their hearing brought on quickly, as is currently provided for terminally ill workers under section 135BA. It is envisaged that workers who are dying from an asbestos-related condition will use the new provision in section 135BB. This is because, unlike section 135BA, the new section also makes further provision for this group of worker, by providing that the serious injury threshold is deemed to be satisfied if the worker dies from the asbestos-related condition before the serious injury issue is resolved. This will allow damages to then be recovered by the deceased worker's estate and is a good outcome for families of workers who have died from an asbestos-related condition before their common-law claim could be resolved.

Wrongs Act amendments

I now turn to the Wrongs Act amendments.

Generally, if a person seeking damages for pain and suffering dies before their claim is resolved, these damages cannot be recovered by the deceased's estate. However, in 2000 the government amended the Administration and Probate Act 1958 to alter this position in relation to people suffering from dust-related conditions such as asbestosis or mesothelioma. This legislation passed with bipartisan support.

The amendments ensure that a person with a dust-related condition, who commences a claim for damages and dies before that claim is finalised, can recover damages for their pain and suffering, their bodily and mental harm and for the curtailment of their expectation of life. A person's claim for these damages survives the person's death for the benefit of his or her estate.

The changes were made to recognise that liability for dust-related conditions, such as asbestosis or mesothelioma, often involves complex litigation. In many cases, there is a high risk that a person may die before their action is finalised.

If the person who brings an action dies, his or her dependants are also entitled to damages, in their own right, for their economic loss. A dependant's damages will usually include amounts for the loss of the deceased's expected earnings. This claim is made under part III of the Wrongs Act.

In the case of Strikwerda, the New South Wales Court of Appeal reduced the amount of damages awarded to the widow of a man who died from mesothelioma by the amount of general damages she was entitled to recover as the sole beneficiary of his estate.

This means that a widow who is the sole beneficiary of her husband's estate could have her damages for the loss of her husband's earning capacity reduced by the amount she inherits from his estate for his pain and suffering.

It is undesirable to take into account damages for pain and suffering awarded to a person with a dust-related condition in order to reduce the compensation paid to their dependants. This unfair deduction is inconsistent with the beneficial intention of the 2000 amendments. This bill addresses this anomaly by amending part III of the Wrongs Act.

Conclusion

In summary, the amendments will provide provisional damages for asbestos-related conditions; insert a new section 135BB into the Accident Compensation Act 1985 and ensure that where a person has died from a dust-related condition, the benefit a dependant receives from the deceased's estate, which was awarded for the deceased's pain and suffering, is not taken into account in a subsequent dependant's claim.

People who have asbestos-related conditions, particularly mesothelioma and asbestos-induced carcinoma, suffer from invidious and fatal diseases. This bill will ensure that people going about their daily business or those exposed to asbestos by simply doing their job can obtain damages on a provisional basis. It will also ensure that the Victorian position regarding the treatment of asbestos-related claims is consistent with most other states and territories and that just and fair compensation is available for people suffering from asbestos-related conditions.

I commend the bill to the house.

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

Debate adjourned until 6 November.

STALKING INTERVENTION ORDERS 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 Stalking Intervention Orders Bill 2008.

In my opinion, the Stalking Intervention Orders 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 main purpose of the bill is to provide for a system of intervention order in cases involving stalking, as this term is defined in the bill.

The bill achieves this by providing an effective and accessible system of stalking intervention orders and creating offences for contraventions of these orders.

Human rights issues

Section 8 — right to recognition and equality before the law

Section 8 of the charter establishes a series of equality rights. The right to recognition as a person before the law means that the law must recognise that all people have legal rights. The right of every person to equality before the law and to the equal protection of the law without discrimination means that the government ought not discriminate against any person, and the content of all legislation ought not be discriminatory.

However, formal equality may cause unequal outcomes, so to achieve substantive equality, differences of treatment may be necessary. To this end, section 8(4) of the charter provides that certain differential measures do not constitute discrimination, namely, measures 'taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination'.

Restriction on the ability of children to apply for intervention orders

Clause 11 of the bill engages and limits the right contained in section 8(3) of the charter as, under clause 11(1)(c)(iv), only a child above the age of 14 may make an application for a stalking intervention order.

Importance of the purpose of the limitation

The limitation is designed to enable children who are of an appropriate age and maturity to make their own application to the court where protection is required. The limitation recognises that children under 14 are generally less mature and therefore less capable of making such an application. In this respect, the provision is likely to be protective and consistent with the interests of children and hence consistent with section 17(2) of the charter.

Nature and extent of the limitation

The nature and extent of the limitation is such that children under 14 years of age cannot make applications on their own behalf. Nevertheless, a parent of a child, a police officer or any other person (with a parent's consent) may apply on behalf of a child, and a child may also be included in an application in respect of a parent (clause 11(4) of the bill). Accordingly, the nature and extent of the limitation is confined.

Relationship between the limitation and its purpose

The limitation is rational because it recognises the differing capabilities of children and maturity levels of children of different ages. The limitation is proportionate because it applies only to children under 14 and, in any event, others may apply on behalf of children if necessary.

Any less restrictive means reasonably available

None apparent.

On balance, the limitation is reasonable and demonstrably justified in a free and democratic society.

Restriction on children giving evidence

Clause 21 also engages, and limits, section 8(3) of the charter. This is because a child is restricted from being present at, or giving evidence in, a proceeding in respect of an application for a stalking intervention order, unless they are a respondent in a proceeding under the bill.

The importance of the purpose of the limitation

The purpose of the limitation is to protect the best interests of a child, as provided for under section 17(2) of the charter. The clause achieves this by protecting a child, as far as is possible, from court proceedings.

The nature and extent of the limitation

The restriction on the giving of evidence only applies to persons under the age of 18. Further, the clause does not restrict a child who is a respondent to proceedings under the bill from being present at, or giving evidence in, those proceedings. Finally, the court retains a discretion to make an order allowing a child to be present or give evidence in proceedings under the bill.

The relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose of protecting the best interests of the child, by shielding them, as much as possible, from court proceedings.

Any less restrictive means available

None apparent.

On balance, the limitation is reasonable and demonstrably justified in a free and democratic society.

Section 12 — freedom of movement

Section 14 — freedom of religion

Section 21 — right to liberty and security

This section of the statement discusses clauses which engage the right to freedom of movement in section 12. Certain clauses also engage the rights in section 14 and section 21, which are also discussed where relevant.

Section 12 of the charter protects various rights in relation to freedom of movement. These rights include the right to move freely within Victoria, the right to choose where to live in Victoria, and the right to be free to enter and leave Victoria.

Restricting where a person may be and who they may contact

Insofar as a respondent may be excluded from an affected person's residence, or may be prohibited from being within a particular distance of a person, prohibited from approaching a person (by telephone or otherwise) or prohibited from being in a specific locality pursuant to clause 8(1)(a), the right to freedom of movement is engaged and limited.

Further, clause 8(1)(b) engages, and limits, the right to freedom of movement provided for in section 12 of the charter. This is because a person may be prohibited from going within a certain distance of the affected person, the affected person's home or other places, such as the protected person's workplace.

It is possible that, in certain circumstances, clause 8 could engage and limit section 14 of the charter (freedom of thought, conscience, religion and belief). This is because the clause could result in a person being prohibited from being within a specified distance of a particular spiritual leader or religious centre.

The importance of the purpose of the limitation

In each case, the reason for the limitation is highly important, as it operates to protect an affected person from further harassment and threatening behaviour. In this sense, the limit on the rights is balanced against the right of the affected person to privacy and security of the person.

The nature and extent of the limitation

Although a respondent may be excluded from certain areas or places, a respondent does have the right, under clauses 25 and 26 of the bill, to apply for the variation or revocation of a stalking intervention order if there is a change in the circumstances in which the order was made.

The relationship between the limitation and its purpose

The relationship between the limitation and its purpose is both rational and proportionate, given that the legitimate objective of the provisions is to protect an affected person, by imposing conditions which restrict a respondent from coming within a certain distance of an affected person and from accessing certain places, including an affected person's residence.

Any less restrictive means available

None apparent.

On balance, the limitation in each clause is reasonable and demonstrably justified in a free and democratic society.

Arrest and detention of a person

Clauses 15 and 33 of the bill engage and limit section 12 of the charter, as a respondent may be arrested by a police officer and detained or held in custody, or bailed in accordance with the provisions of the Bail Act 1977.

The importance of the purpose of the limitation

The limitations that these clauses create are important because they are each designed to protect people from behaviour which constitutes stalking, prior to a hearing for a stalking intervention order or charges for contraventions of intervention orders being determined by the court.

The nature and extent of the limitation

The limitation created by clause 15 is confined to empowering a police officer to arrest and detain a respondent, hold them in custody, or bail them in accordance with the provisions of the Bail Act 1977. This may only occur subsequent to the issuing of a warrant by a registrar or magistrate in situations of urgency.

In the case of clause 33, when a police officer believes on reasonable grounds that a person has breached a stalking intervention order, they can arrest and detain that person without a warrant.

The relationship between the limitation and its purpose

The limitation that each of the clauses imposes is rational and proportionate, given that the legitimate objective of the provisions is to protect a person from further stalking incidents. Furthermore, rights to bail remain available to a respondent. Thus, the limitation strikes a fair balance between the rights of a respondent and the rights of an affected person.

Any less restrictive means reasonably available

None apparent.

On balance, the limitation is reasonable and demonstrably justified in a free and democratic society.

Clauses 15 and 33 also engage the right to liberty in section 21 of the charter, which provides that a person must not be subjected to arbitrary arrest or detention, and must not be deprived of his or her liberty except on grounds and in accordance with procedures established by law. However, neither of these clauses limit the right to liberty because the arrest or detention is not arbitrary and the deprivation of liberty is on grounds and in accordance with procedures established by law. In light of these reasonable and carefully supervised limits, the detention is not arbitrary.

Section 13 — privacy

Section 13 confers a number of rights regarding privacy. Specifically, a person has a right not to have their privacy, family or home unlawfully or arbitrarily interfered with or their reputation unlawfully attacked.

Privacy encapsulates concepts of personal autonomy and human dignity. It encompasses the idea that individuals should have an area of autonomous development, interaction and liberty — a 'private sphere' free from government

intervention and from excessive unsolicited intervention by other individuals. Privacy comprises bodily, territorial, communications and information privacy.

Privacy of the home

Clause 36 of the bill engages the right to privacy of the home because it provides in certain circumstances for a search for firearms, firearms authority and ammunition without warrant, of a person's home or former home, or certain other premises. Clause 34 engages the right because it allows a premises to be searched for a person without warrant, in certain circumstances. Clause 37 engages the right because it allows for a search of third parties' premises for firearms, firearms authority and ammunition under warrant.

Additionally, the exclusion of a respondent from an affected person's residence may have the effect of interfering with a respondent's right to privacy of the home. Such exclusion is provided for in clause 8(1)(b) of the bill.

However, in each instance, the right to privacy of the home is not limited, as the interference is lawful and not arbitrary. The interference is not arbitrary because it is in accordance with the provisions, aims and objectives of the charter (particularly section 17, which provides for the protection of children and families) and is reasonable in the circumstances (where the intent is to protect a person from further stalking incidents).

Section 15 — freedom of expression

Section 15 establishes a number of rights relating to freedom of expression. It protects the right to hold an opinion without interference and the right to seek, receive and impart both information and 'ideas of all kinds' anywhere and in any form. Section 15(3) of the charter, however, contains a specific limitation on the right to freedom of expression. However, such limitation can be justified.

The application of section 15(3) involves satisfying a number of conditions. First, the relevant restriction proposed on the right to freedom of expression must be 'lawful'. Second, the relevant restriction must be imposed for a particular purpose, either to respect the rights and reputation of other persons, or in order to protect national security, public order, public health, or public morality. Third, the relevant restriction must be 'reasonably necessary' for one of these purposes.

Clause 8(1)(d) (prohibiting contact with affected person), and clause 49 (limiting publication of identifying information from proceedings) are both clauses which engage the right to freedom of expression under section 15(2) of the charter. However, the clauses both constitute lawful restrictions on the right to freedom of expression because each restriction is for the purpose of public order and the effective operation of the justice system. Further, the restriction in clause 49 is also a lawful restriction to respect the rights of other persons, namely, the right of other persons to privacy, as protected in section 13 of the charter.

Restriction on children giving evidence

Clause 21 also engages, and limits, section 15(2) of the charter. This is because a child is restricted from being present at, or giving evidence in, a proceeding in respect of an application for a stalking intervention order, unless they are a respondent in a proceeding under the bill.

The importance of the purpose of the limitation

The purpose of the limitation is to protect the best interests of a child, as provided for under section 17(2) of the charter.

The nature and extent of the limitation

The restriction on the giving of evidence only applies to persons under the age of 18. Further, the clause does not restrict a child who is a respondent to proceedings under the bill from being present at, or giving evidence in, those proceedings. Finally, the court retains a discretion to make an order allowing a child to be present or give evidence in proceedings under the bill.

The relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose of protecting the best interests of the child, by shielding them, as much as possible, from court proceedings.

Any less restrictive means available

None apparent.

On balance, the limitation is reasonable and demonstrably justified in a free and democratic society.

Section 16 — peaceful assembly and freedom of association

The right to peaceful assembly protects the right of individuals and groups to meet in order to exchange ideas and information, to express their views publicly and to hold a peaceful protest.

The right to freedom of association protects the right of all persons voluntarily to group together for a common goal and to form and join an association. It applies to all forms of associations including trade unions.

Clause 7 limits section 16 because a stalking intervention order may include conditions that restrict a respondent's ability to assemble or associate with others.

The importance of the purpose of the limitation

Clause 7(1) provides that a court may make a stalking intervention order in respect of a respondent if it is satisfied, on the balance of probabilities, that the respondent has stalked another person and is likely to continue to do so or to do so again.

It is important that the state protect citizens from harm as far as possible. The charter reflects this importance through the right to life (section 9), protection from torture and cruel, inhuman or degrading treatment (section 10), protection of families and children (section 17) and property rights (section 20). As such, protecting these rights is of primary importance.

The nature and extent of the limitation

Clause 7(2) provides that a court may impose any conditions on a person. This means that potentially broad limitations on a person's freedom of movement could be put in place. However, it is only where a person is likely to commit the acts set out in clause 7(1) and where a court considers the conditions are 'necessary or desirable in the circumstances'. A person may appeal against the making of an intervention order pursuant to clauses 30 and 31 of the bill.

The relationship between the limitation and its purpose

There is a rational connection between protecting people and restricting the movements of a person who is a threat to a person. It is also necessary to keep in mind the purpose behind the limitation compared to the purpose behind the right. The purpose of the limitation is to protect people (and their property) from harm; it is not to hinder or restrict social or political gatherings or protests. Such hindrance or restriction is merely a by-product of the primary aim of an intervention order to protect people from violence.

Any less restrictive means available

The bill gives a court scope to decide how restrictive the limitations on a person should be in the individual circumstances. Clause 8(2) of the bill spells out things that should be taken into account before restricting a person's access to any premises and gives primacy to the need to ensure that the affected person is protected from violence. Further, section 32 of the charter requires courts to interpret all statutory provisions in a way that is compatible with human rights, so far as that is possible to do so consistently with the provision's purpose. Having regard to the preconditions, procedures and safeguards in the bill there are no less restrictive means available.

On balance, the limitation is reasonable and demonstrably justified in a free and democratic society.

Section 20 — property rights

Section 20 establishes a right not to be deprived of property other than in accordance with law.

Clause 8 governs the conditions that may be made in respect of stalking intervention orders. Clause 8(1)(b) enables a stalking intervention order to include a condition which excludes a respondent from an affected person's residence, workplace or other premises that the affected person frequents. Depending on its practical operation in particular cases, this power could potentially affect a respondent's rights in relation to property.

Further, various provisions in part 4, which deal with the search and seizure of firearms, firearms authorities and ammunition, also engage the right to property contained in section 20 of the charter.

However, in each instance, any deprivation of property is not arbitrary because it has a legitimate objective, the protection of an affected person as well as others affected by the conduct of the respondent. Therefore, to the extent that these clauses allow for the deprivation of property, the deprivation is in accordance with law and there is no limitation on the right.

Section 24 — fair hearing

Section 24 guarantees the right to a fair and public hearing. The right to a fair hearing applies in both civil and criminal proceedings and in courts and tribunals. The requirement for a fair hearing applies to all stages in proceedings and applies in relation to proceedings in any Victorian court or tribunal.

The purpose of the right to a fair hearing is to ensure the proper administration of justice. This right is concerned with procedural fairness (that is, the right of a party to be heard and to respond to any allegations made against them, and the requirement that the court or tribunal be unbiased, independent and impartial) rather than the substantive fairness of a decision or judgement of a court or tribunal (that is, the merits of the decision).

Rules of evidence

This right is engaged, but not limited, by clause 20 which provides that the court is not bound by rules of evidence in certain proceedings for a stalking intervention order. The proceedings to which this clause applies are those where the affected person is a child or where the applicant is not the affected person. Clause 20 does not apply to proceedings for contraventions of stalking intervention orders, which are criminal in nature.

The rule in clause 20 operates in a context in which there are often no witnesses to the conduct which constitutes stalking and the content of statements made by a victim to family, friends or doctors may be the only available evidence. A court, even if not strictly bound by the rules of evidence, must act judicially and impartially. Thus, while the right is engaged, it is not limited, because a person will still have the proceeding decided by a competent, independent and impartial court after a fair and public hearing.

Differential appeal rights

Division 4 of part 3 of the bill sets out the appeal rights of applicants and respondents regarding stalking intervention orders. The appeal rights of the respondent are contained in clause 30, whilst those for the applicant are found in clause 31 of the bill. The appeal rights differ according to whether a person is an applicant or a respondent.

Whilst the appeal rights of the parties differ, it is unlikely that the right to a fair hearing is engaged because this right is not usually interpreted as including a right to appeal.

It is unlikely that clauses 30 and 31 of the bill would result in direct discrimination and therefore limit the right to equality before the law. However, there is the possibility that the operation of the provision could result in indirect discrimination because the limitation on appeal rights will affect applicants but not respondents and applicants are more likely to be women. Data from 2003 suggests that approximately 60 per cent of women are applicants compared to 40 per cent for men.

If the practical effect of the provisions is that indirect discrimination occurs, this is justifiable on the basis that it is the respondent who will have their rights and freedom of movement affected by an intervention order. Therefore, the right of a respondent to appeal to the Supreme Court should be retained.

Further, the policy basis for the distinction between the appeal rights of the respondent and those for the applicant was developed in 1987. This policy basis should remain until it can be fully examined in the imminent review of the stalking intervention order system, which has been announced by the government.

A public hearing

Clause 49 of the bill restricts the reporting of stalking intervention order proceedings. This clause is designed specifically to protect children from being identified. This clause engages the right to a fair hearing, which includes the right to a public hearing.

However, sections 24(2) and (3) of the charter enable a court or tribunal to exclude persons or the general public from a hearing and to prohibit the publication of judgements or decisions made by a court. Therefore, these provisions constitute a lawful restriction on the right to a public hearing and do not limit the right.

Further, to the extent that the identity of a child is protected by clause 49, the clause promotes section 17(2) of the charter, which provides that every child has the right to such protection as is in their best interests, and is needed by them because they are a child.

Applications for interim orders

Clause 13 of the bill engages and limits section 24 of the charter. This is because an application for an interim order may be determined by a court whether or not a respondent has been given notice of the application and whether or not the respondent is present at the time an order is granted.

Importance of the purpose of the limitation

The purpose of the limitation is to ensure the safety of an affected person from further stalking incidents (or to preserve property in those circumstances) as swiftly as possible. This is an important purpose in the context of stalking, and the limitation promotes the right to life (section 9 of the charter), which arguably imposes a positive obligation on public authorities, including Victoria Police, to protect the lives of Victorians in certain circumstances.

Nature and extent of the limitation

The nature and extent of the limitation is confined because the duration of an interim order is limited. The order ceases to have effect as soon as the application is finally determined, which is likely to occur within a short period of time. In addition, it is not an offence to contravene an interim intervention order if it has not been served on the respondent, or the respondent has not been given an explanation of its effect.

Further, there are safeguards in place. This includes that a court cannot make an interim order unless it is supported by oral evidence (clause 13(4)) (although it can if the application is made by telephone, fax or other electronic communication). In addition, the bill provides scope for an application to be made for the variation or revocation of an interim stalking intervention order (clauses 25 and 26).

Relationship between the limitation and its purpose

Given the importance of the context in which such orders are made, and the safeguards referred to above, the limitation is rational and proportionate to its purpose.

Any less restrictive means reasonably available

None apparent.

On balance, the limitation is reasonable and demonstrably justified in a free and democratic society.

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, except for statement under section 85(5) of the Constitution Act, 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 Crimes (Family Violence) Act 1987 provides for a system of family violence intervention orders. Section 21A of the Crimes Act 1958 provides that a court can make an intervention order to protect a victim of stalking as if the victim and the alleged stalker were family members under the Crimes (Family Violence) Act.

The Family Violence Protection Bill will replace the Crimes (Family Violence) Act for family violence intervention orders. It will also repeal the Crimes (Family Violence) Act.

However, clause 242 of the Family Violence Protection Bill proposes to insert a new section 21A(5A) in the Crimes Act to the effect that stalking intervention orders may continue to be made under the Crimes (Family Violence) Act as if the Crimes (Family Violence) Act had not been repealed. This was a stopgap measure which will be repealed by the Stalking Intervention Orders Bill 2008.

The Stalking Intervention Orders Bill 2008 will preserve the current system of stalking intervention orders, with minor changes, until it can be comprehensively reviewed.

The bill makes minor and technical changes to the current system of stalking intervention orders. The bill has been re-ordered and, in some parts, rephrased, in order to improve its clarity. The bill also brings the firearms, bail and, (apart from weapons governed by the Control of Weapons Act 1990), search and seizure provisions for stalking intervention orders into line with the equivalent provisions in the Family Violence Protection Bill 2008.

However, aside from the above provisions, the government does not intend that the Stalking Intervention Orders Bill 2008 will make substantive changes to the way that stalking intervention orders currently operate under the Crimes (Family Violence) Act and the Crimes Act.

Section 85(5) of the Constitution Act 1975

Hon. J. M. MADDEN — I wish to make a statement under section 85(5) of the Constitution Act 1975 on the reasons for altering or varying that section by this bill.

Section 31 of the bill provides that the applicant to an order may appeal to the County Court, or if the court that has made the order is the Children's Court, constituted by the President of that court, to the trial division of the Supreme Court, for a rehearing. This clause alters or varies the jurisdiction of the Supreme Court of Victoria because it does not provide for an appeal from the County Court. This is appropriate because the rights of the parties in such cases have been tested in a hearing by a magistrate and the County Court and further appeals could result in a proliferation of proceedings.

Incorporated speech continues:

As previously announced, the government intends to conduct a comprehensive review of the intervention order system for non-family members. The review will look at who should be able to obtain an intervention order against whom and in what circumstances. It will also examine the extent to which some matters currently subject to applications for a stalking intervention order could be resolved in conjunction with, or instead by, an alternative dispute resolution service.

A key part of the review will also involve examining the issue of violence in relationships between a person with a disability and their carer in circumstances where the relationship is not family-like and so falls outside the jurisdiction of the Family Violence Protection Bill.

I commend the bill to the house.

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

Debate adjourned until Thursday, 6 November.

GAMBLING LEGISLATION AMENDMENT (RESPONSIBLE GAMBLING AND OTHER MEASURES) 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 Gambling Legislation Amendment (Responsible Gambling and Other Measures) Bill 2008.

In my opinion, the Gambling Legislation Amendment (Responsible Gambling and Other Measures) 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 objectives of the Gambling Legislation Amendment (Responsible Gambling and Other Measures) Bill 2008 are:

(a) to amend the Gambling Regulation Act 2003 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 behalf of community or charitable organisations;

(iv) clarify the secretary's functions in relation to wagering and betting licensing and keno licensing;

(v) make other miscellaneous amendments;

(b) to make consequential amendments to the Casino Control Act 1991 and the Racing Act 1958.

Human rights issues

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

Section 25(1): rights in criminal proceedings

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. This right requires that the prosecution has the burden of proving that the accused committed all elements of the criminal offence.

Clause 31 of the bill inserts a new part 7 into chapter 10 of the Gambling Regulation Act 2003 (GRA), and sets out new criminal offences and related provisions prohibiting gambling by persons under 18 years of age (new sections 10.7.1 to 10.7.13).

Of these, proposed sections 10.7.3 and 10.7.4 include offences relating to allowing a minor to gamble, and assisting a minor to gamble.

Proposed section 10.7.6 includes offences relating to gambling employees in respect of minors in a gaming machine area of an approved venue or casino, while proposed section 10.7.7 deals with the offences by minors of entering or remaining in those areas.

These offences are not entirely strict liability offences; defences are set out at proposed section 10.7.12.

Firstly, a 'due diligence' type defence is available to a defendant in a prosecution under section 10.7.3, 10.7.4 or 10.7.6 if:

'(a) the minor was above the age of 14 years at the time the acts constituting the offence were committed; and

(b) immediately before the acts constituting the offence were committed, there was produced to the defendant acceptable proof of age for the minor.'.

In addition, proposed sections 10.7.4(2), 10.7.4(3), 10.7.6 and 10.7.7 (in respect of minors entering or remaining in a gaming machine area of an approved venue or casino) also have an apprentice defence. The apprentice defence may be used by the defendant if:

'(a) the minor concerned was an apprentice (within the meaning of part 5.5 of the Education and Training Reform Act 2006); and

(b) the minor's entry into the gaming machine area of the approved venue or casino on the occasion in question was for the purpose only of his or her receiving training or instruction as an apprentice.'.

These offences do not limit rights in criminal proceedings, because imposing an evidentiary burden on a defendant in relation to a defence generally does not limit the presumption of innocence. Where a defendant relies on one of the defences available under proposed section 10.7.12, the prosecution is not thereby relieved of having to prove the offence: the prosecution will have the burden of disproving the matters raised beyond reasonable doubt.

Further, clause 30 of the bill inserts a new section 10.5.32(1A) into the principal act which provides that where the prosecution asserts a person's age to be evidence of that fact, it will only be evidence to the fact asserted unless the defendant denies the allegation. If the defendant simply denies the allegation, the prosecution is required to resume its duty to prove the age of the person. This is a departure from the current provision of the GRA (section 10.5.32(1)(e)) which allows the prosecution's assertion of a person's age to be evidence of that fact, and which would have operated to relieve the prosecution from proving a key element of all of the offences relating to minors. Clause 30 of the bill therefore does not limit the right to be presumed innocent because the legal burden of proving that a person was under or over a specified age rests with the prosecution if the defendant denies the assertion.

Even if the new minors provisions were to engage the right, there would be sound justification. It is reasonable, having regard to the nature of the scheme and the potential harm to children of non-compliance, that persons should be convicted unless they are able to establish on the balance of probabilities that they have taken reasonable steps to ensure compliance. Allowing persons to escape liability where they have not established that they have taken reasonable steps could potentially undermine the scheme and would be insufficient to protect the interests of children. An objective of providing this defence is to encourage a culture of preventative diligence, by incentivising the checking for proof of age in circumstances where a person's age is questionable.

Section 8: recognition and equality before the law

Section 8 of the charter establishes a series of equality rights. The right to recognition as a person before the law means that the law must recognise that all people have legal rights. The right of every person to equality before the law and to the equal protection of the law without discrimination means that the government ought not discriminate against any person, and the content of all legislation ought not be discriminatory.

Clause 31 of the bill inserts a new part 7 into chapter 10 of the GRA, and sets out new offences and related provisions prohibiting gambling by persons under 18 years of age (new sections 10.7.1 to 10.7.13). These provisions amount to prima facie discrimination on the attribute of age. However, the discrimination is a reasonable limitation on the right, for the reasons set out below.

(a) the nature of the right being limited

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

(b) the importance of the purpose of the limitation

The purpose of the limitation is to ensure that persons who gamble have the necessary maturity to engage in the activity. Gambling is an area of conduct that has potentially serious, detrimental societal effects. The gambling products referred to in the proposed minors offences are all designed exclusively for adult use. The new minors offences are all aimed at the prevention of harm to children and therefore serve to give effect to the best interests of the child, a right protected by section 17 of the charter.

Less-developed life skills (in terms of risk assessment, impulse control, coping with stress, or understanding the value of money or mathematical probability, for example) make young people more vulnerable to the potential harm inherent in gambling products. International research has shown that gambling in young people, like gambling in adults, is associated with a range of other risky and abusive behaviours. Some studies have established links between adult problem gamblers and gambling behaviour during adolescence.

(c) the nature and extent of the limitation

The right is limited only to the extent a person aged under 18 years of age is prohibited from gambling, or entering a gaming machine area of an approved venue or casino.

(d) the relationship between the limitation and its purpose

Age limits necessarily involve a degree of generalisation, without regard for the particular abilities, maturity or other qualities of individuals within that age group. In these clauses, age is being used as a proxy measure of the maturity and capacity of an individual to act responsibly, which is necessary in this situation. It is reasonable for Parliament to set an age limit reflecting its assessment of when most persons will have sufficient maturity to ensure responsible decisions are made in these particular contexts.

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

There is no less restrictive means reasonably available to achieve the purpose of ensuring that minors are not allowed or assisted to gamble.

Section 20: property rights

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

The bill inserts a new part 5A into chapter 2 of the GRA, dealing with the banning of irresponsible gambling products and practices.

At clause 5 of the bill, new sections 2.5A.1 to 2.5A.14 propose a scheme whereby the minister has the capacity to issue an order banning a product or practice related to the provision of a gambling product. The ban order can only be made where the minister forms the view that the product or practice undermines either the extant objective of fostering responsible gambling, or the new objective (proposed in clause 3 of the bill) of ensuring that minors are neither encouraged to gamble, nor allowed to do so.

The proposed scheme provides the minister with the capacity to take pre-emptive action to prohibit a product or practice before it has been made available in Victoria, and no compensation will be payable by the state for any loss as a result of the ban order.

There are a number of reasons why this ban on products and practices does not limit the right not to be deprived of property otherwise than in accordance with law.

Firstly, it is unlikely that the right to a gambling product or practice can be regarded as a property right in the present context. This is due to the essentially unlawful nature of gambling: the right to a gambling product or practice arises only under the gambling legislation; it is therefore a statutory right and inherently voidable. Banning a product or practice is similar to withdrawing a licence in accordance with the provisions of law in force when the licence was issued.

Further, even if gambling products and practices can be regarded as property, then the ban is unlikely to amount to a deprivation of that property. Interference with, or restrictions on property are less likely to be construed as deprivation than the extinction of all the legal rights of the property owner. Although a ban could affect a person's ability to use or enjoy a possession or property, it is unlikely that use would be so restricted or controlled as to amount to deprivation.

Moreover, even if a ban on gambling products and practices does amount to a deprivation of property, then it is nevertheless in accordance with the law, because the bill itself will authorise the minister to take action to ban products and practices.

Importantly, the minister will only ban products and practices that undermine specified objectives set out in the GRA, and these objectives will generally be compatible with the public interest. Subjecting the power to ban products and practices to parliamentary disallowance will also prevent the power from being used arbitrarily.

The banning of products and practices does not undermine any other charter rights, but may in fact assist in upholding some charter rights; in particular the rights of children to protection.

I therefore consider that this proposed ban on products and practices does not limit the property right under section 20 of the charter.

Section 26: right not to be tried or punished more than once

Section 26 of the charter 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.

The proposed ban on products and practices in the new part 5A of chapter 2 of the GRA (outlined above) would operate independently of existing prohibitions.

As such, it is theoretically possible — though unlikely — that in addition to being subject to an interim or fixed-term ban order under proposed sections 2.5A.2 or 2.5A.9, a provider of an irresponsible gambling product or practice may be liable under a separate offence (such as existing section 2.2.1(1) of the GRA, which makes it an offence to conduct a lottery other than one permitted by the act).

While breach of an in-force ban order is an offence under new section 2.5A.13, the ban order per se is not a criminal offence and does not give rise to 'punishment'; it is therefore unlikely that the double jeopardy right is relevant.

In any event, the double jeopardy right expressed in the charter does not prevent charges being laid and tried together. Should this occur, existing common-law and statutory provisions would preserve the essence of the right not to be tried or punished more than once. Specifically, section 51 of the Interpretation of Legislation Act would operate so as to prevent any double punishment, and the pleas of autrefois convict (previously convicted) and autrefois acquit (previously acquitted) would operate so as to prevent any breach of the right through the laying and trial of subsequent charges.

I therefore consider that the proposed ban on products and practices does not limit the double jeopardy right under section 26 of the charter.

Section 13: privacy

Section 13 of the charter establishes a right for an individual not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked.

The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals. 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, there are provisions that engage the right to privacy. Proposed section 4.3.30A ensures that a licensee or an operator must notify the commission that a person is likely to become an associate. An associate is defined in section 1.4(1) and includes relatives, executive officers and persons who hold relevant financial interests or exercise any relevant power in the gambling business. As a licensee or operator is a corporation, associates can only be persons who have consented to become associates. Interference with the associate's privacy is not unlawful nor arbitrary. The associate would be aware that the licensee or the operator needs to provide the information.

Proposed section 4.3.30B deals with the Victorian Commission for Gambling Regulation's investigation of the associates of a wagering or betting licensee or operator. The

proposed section empowers the commission to investigate an associate, or a person likely to become an associate, of the licensee or operator. The commission is further empowered to investigate any person, body or association having a business association with such a person. This may involve the commission requiring such a person to consent to having a photograph, finger and palm prints taken and referred (with any supporting documents) to the police.

Interference with privacy in these circumstances is not unlawful or arbitrary. On the contrary, these investigatory powers are clear and limited, and a justifiable means for the commission to discharge its regulatory duties in relation to voluntary industry participants.

Existing section 4.3.6 provides that the commission must not recommend that a licence be granted unless satisfied that the applicant and each associate of the applicant is a 'suitable person' to be concerned in or associated with the management and operations of a wagering business and a gaming business. In particular, the commission must consider matters such as whether an associate is of good repute, having regard to character, honesty and integrity; is of sound and stable financial background; or is significantly affected in an unsatisfactory manner by an association with another person, body or association who is not of good repute. The commission's collection of fingerprints and other information allow it to investigate these matters thoroughly.

I therefore consider that the proposed powers to investigate associates and others do not limit the privacy right under section 13 of the charter.

Section 16: freedom of association

Section 16 of the charter provides that every person has the right to freedom of association with others. This right protects the right of all persons voluntarily to group together for a common goal.

Clause 10 of the bill substitutes a new section 4.3.30 and inserts new sections 4.3.30A to 4.3.30C into the GRA. The new sections deal with wagering licensee and operators' relationships with their associates. The new sections replicate the existing association provisions applicable to gaming venue operators and deliver consistency across gaming and wagering or betting.

The charter right to freedom of association is engaged because the proposed provisions impose a scheme whereby a wagering or betting licensee or operator must notify the Victorian Commission for Gambling Regulation of persons becoming associates or changes in associates and the commission is empowered to investigate associates and others and require associations to be terminated.

Specifically, proposed section 4.3.30C empowers the commission to, by notice in writing, require an associate to terminate the association with licensee or operator where the commission has determined that the associate is unsuitable to be concerned in or associated with the business of the licensee or operator.

To the extent that these provisions will restrict a licensee or operator's freedom to choose their business associates and restrict certain business associates and relatives becoming involved in that person's gambling business, the charter right to freedom of association may be limited. However, any limitation is reasonable for the reasons set out below.

(a) The nature of the right being limited

The right to free association is one benchmark of free society and often essential to the exercise of other human rights, such as freedoms of movement, expression, religion and belief. However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) The importance of the purpose of the limitation

The purpose of the limitation is to ensure that the gambling industry is not tainted by association with persons who may call to question the honesty, legality or stability of the industry.

There is no doubt that gambling can attract corrupt and criminal involvement. Historically, social and democratic institutions have tended to be damaged when illegal gambling takes root. For this reason, it is vital to maintain public confidence in the integrity of the lawful gambling industry, and this includes maintaining absolute standards of probity and financial stability for all industry participants and those with whom they associate.

(c) The nature and extent of the limitation

The right is only limited to the extent that those industry participants who wish to enter or remain in the gambling industry need to limit their association to suitable persons.

It is important to note that the commission need not necessarily require the termination of an association. Proposed section 4.3.30C provides that where the commission determines an associate is engaging in unacceptable conduct, it may issue a written warning to the associate or require the associate to give a written undertaking regarding future conduct.

(d) The relationship between the limitation and its purpose

In this case, the limitation on the right to freedom of association is essential to ensuring the ongoing integrity and financial stability of persons involved in the industry. Empowering the commission to require termination of association means that in extreme cases, unsuitable persons can be quickly and effectively quarantined from industry involvement.

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

There is no less restrictive means reasonably available to achieve this purpose.

Section 15: freedom of expression

Section 15 of the charter sets out the right to freedom of expression. It provides that people have the right to hold opinions without interference. People also have the right to freedom of expression which includes the right to seek, receive and impart information and ideas except when lawful restrictions are reasonably necessary to respect the rights and reputation of others or for the protection of national security, public order, public health or public morality.

Clauses 34 to 39 of the bill establish an enhanced scheme for the regulation of protected information.

Protected information is information that a person acquires in the performance of functions under the GRA. Protected information is defined at section 10.1.29 as:

> '(a) information with respect to the affairs of any person; or
>
> (b) information with respect to the establishment or development of a casino.'

The act provides a list of persons who are 'regulated persons', recognised by the act as being persons who acquire protected information in the course of performing functions under the act either in their own right (eg. the minister and the commission), or when assisting the minister or the commission (eg. departmental employees).

Currently, existing provisions place limitations on the disclosure of protected information. The bill extends the current limitations and applies them to additional persons, such as the Secretary of the Department of Justice.

(a) The nature of the right being limited

The right to freedom of expression is essential to the operation of a democracy. It enables people to participate in political debate, to share information and ideas which inform that debate, and to expose errors in governance and the administration of justice.

The respect of the rights and reputations of others is naturally a lawful limitation on this freedom. In addition, it is important to note that courts have afforded less protection to the freedom of commercial expression than to either political or artistic expression. The types of information that would generally be protected by the GRA could include both personal information that would be protected by the right to privacy (such as the personal details of licensees and associates) and commercial information (such as that collected in the course of licensing applications or regulatory monitoring of operations).

(b) The importance of the purpose of the limitation

The purpose of the limitation is to protect the personally and commercially sensitive information gleaned by regulated persons. Information legitimately collected by public officials and employees could include, for example, highly sensitive information about the private financial affairs of an individual associated with a gambling licensee, or information submitted in the course of a confidential licensing application or tender process.

This limitation is important for the purposes of protecting the human right to personal privacy, as well as for maintaining commercial confidentiality in a competitive market, and for integrity, effectiveness and fairness in the awarding of gambling licences and other regulatory activities.

(c) The nature and extent of the limitation

Both existing and proposed protected information provisions in the GRA limit individuals' rights to communicate information freely.

However, the right is limited to the extent that the individuals to whom the limitation applies are restricted to those set out in the new definition of regulated person (in new section 10.1.29(1)).

(d) The relationship between the limitation and its purpose

In this case, there is a reasonable and proportionate relationship between the limitations imposed by the bill and the purpose of the limitation.

Disclosure offences and other protected information provisions that protect the privacy of individuals and commercial industry participants are essential to maintaining individual privacy freedoms and public confidence in the viability of the gambling industry, as well as the integrity of Victorian public sector officials and licence awarding processes.

Moreover, there are a range of circumstances to which the duty of confidentiality does not apply. For example, the protection does not apply to a record or disclosure made in the performance of functions under a gaming act or regulations, or permitted or required to be made by or under another provision of division 6 of chapter 10.

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

There is no less restrictive means reasonably available to achieve the purpose of the protection of personal and commercial privacy interests and the integrity of the regulation and operation of the gambling industry.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, to the extent that it limits human rights, those limits are reasonable and proportionate.

Hon. Justin Madden, MLC
Minister for Planning

Second reading

Hon. J. M. MADDEN (Minister for Planning) — This bill has been amended with some minor technical adjustments made in the Legislative Assembly before being provided to the Legislative Council. I move:

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

Motion agreed to.

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

That the bill be now read a second time.

Incorporated speech as follows:

The objectives of this bill are:

> to consolidate offences relating to minors;
>
> to provide for the banning of irresponsible gambling products and practices;
>
> to reform the regulation of the conduct of bingo;

to clarify the secretary's functions in relation to wagering and betting licensing and keno licensing;

to make other miscellaneous amendments.

The government is currently undertaking the most substantial overhaul of the gambling industry in Victorian history. In April, the government announced a new direction for the gaming industry with gaming venue operators being able to own and operate their own gaming machines under new licensing arrangements post 2012. There will also be new licences for wagering and keno from that time.

These changes make it imperative that the gambling legislation reflects the changing environment and provides for the highest level of consumer protection and industry probity.

This bill includes a range of regulatory and responsible gambling measures and demonstrates this government's ongoing commitment to improving the way that gambling is regulated in Victoria.

Firstly, the bill implements a commitment in Taking Action on Problem Gambling, the government's five-year strategy to combat problem gambling, to provide a power to ban irresponsible products or practices. Implementing this commitment will enhance the government's capacity to ensure that gambling is conducted in a responsible manner.

The process in the bill enables the minister to make interim ban orders in the first instance. This will ensure that immediate action can be taken to ban irresponsible gambling products or practices — that is, a product or practice that the minister considers undermines a responsible gambling objective of the Gambling Regulation Act 2003.

Fixed-term ban orders for a period of up to 10 years can also be made. The Victorian Commission for Gambling Regulation will be required to investigate and report on a product or practice once an interim ban order has been made and before a fixed-term ban order can be put in place.

The bill makes it an offence with a maximum penalty of 1000 penalty units for a person to provide a product or undertake a practice in contravention of a ban order.

Secondly, the bill makes comprehensive changes to the law in relation to gambling by minors. Most importantly, the overall package:

meets a commitment made by this government in April 2008 to increase the penalties that apply to offences relating to minors;

consolidates a raft of offence provisions; and

establishes a new objective in the act 'to ensure that minors are neither encouraged to gamble nor allowed to do so'.

The new objective demonstrates the importance this government places on ensuring that gambling is provided in a responsible manner that does not encourage participation by minors. It will create a significant additional focus for the regulation of gambling in Victoria and will help inform the ongoing development of responsible gambling measures.

The consolidation of existing provisions relating to minors has resulted in the creation of a number of uniform offences that will prohibit:

allowing a minor to gamble;

assisting a minor to gamble;

gambling by a minor;

minors entering a gaming machine area or a casino;

using false evidence of age; and

that will require the display of notices in relation to gambling by minors.

These offences consolidate, and in some cases extend, offences currently found in the Gambling Regulation Act 2003, the Racing Act 1958 and the Casino Control Act 1991.

In addition, a new offence in relation to inadequate supervision of vending machines has been created.

A maximum penalty of 120 penalty units will apply to offences committed by gambling providers and a penalty of 20 penalty units will apply where an offence is committed by an employee or agent.

The bill significantly reforms the way bingo is regulated in Victoria. This will modernise how bingo is played, support industry growth, promote responsible gambling and reduce the regulatory burden borne by declared community and charitable organisations that choose to undertake bingo for fundraising purposes.

The proposals in the bill will:

modernise the game and support industry growth by requiring the Victorian Commission for Gambling Regulation to make a standard set of rules for the playing of bingo and enabling it to approve alternative rules which will allow more than one form of bingo;

reduce the regulatory burden on industry participants by:

removing the requirement for a declared community or charitable organisation to have a minor gaming permit to conduct bingo.

deregulating bingo where no fee is charged providing it is played as a private game, not advertised or open to the public. This will, for example, facilitate the playing of bingo in nursing homes for the entertainment of residents.

ensure consumers are protected by requiring the Victorian Commission for Gambling Regulation to be notified by declared community or charitable organisations of proposed bingo activity and large prizes; and

extend the disciplinary action that can be taken against a bingo centre operator to include imposing a fine not exceeding 60 penalty units.

An important aspect of these amendments is the removal of the current requirement to have a minor gaming permit to conduct bingo. Currently, a declared community or charitable

organisation is required to have a minor gaming permit which must be renewed every two years.

To offset any possible risk resulting from the removal of the minor gaming permit requirement, the bill limits the duration of a declaration as a community or charitable organisation to a period of 10 years — currently, declaration as a community or charitable organisation, once obtained, remains in force until revoked. This will have the additional benefit of enabling the Victorian Commission for Gambling Regulation to monitor more effectively organisations that are permitted to conduct a range of gambling activities for fundraising purposes.

The bill also makes a number of changes to the way the two gaming machine operators are regulated. In particular, it addresses some anomalies in the regulatory regimes that apply to them.

These amendments include:

varying the process for the taking of disciplinary action against the gaming operator under chapter 3 and the wagering operator or licensee under chapter 4 of the act;

requiring both gaming operators to ensure that all their gaming machines that are available for play are connected to its approved electronic monitoring system;

enabling disciplinary action to be taken for failure to comply with certain directions made by the Victorian Commission for Gambling Regulation or failure to have all available machines connected to its approved electronic monitoring system; and

applying the same ongoing monitoring provisions in relation to associates to both.

In addition, the bill includes a number of minor amendments that are largely technical in nature. These include a number of changes to facilitate the awarding of wagering and keno licences, clarifying the ongoing regulation of protected information that is acquired by various persons performing functions under the act, as well as amendments in relation to responsible gambling codes of conduct and self-exclusion programs, which will provide greater flexibility and consistency of approach.

I commend the bill to the house.

Debate adjourned on motion of Mr GUY (Northern Metropolitan).

Debate adjourned until Thursday, 6 November.

RULINGS BY THE CHAIR

Adjournment: responses

The PRESIDENT — During the adjournment debate last evening Mrs Peulich raised several points of order concerning the response of the Treasurer to a matter relating to the member for Mordialloc and South East Water. The essence of Mrs Peulich's complaint was that the Treasurer was not able to discharge the ministerial responsibility of another minister.

To assist the house I will firstly restate the basis of the daily adjournment. Standing order 4.10 provides that members may raise matters for consideration by ministers. The rules governing the daily adjournment are set out in standing order 4.11. Sessional orders 4 and 5 provide for a procedure for ministerial responses to matters raised. In short, a response to a matter raised by a member must either be given at the time the matter is raised or provided in writing within 30 days.

In his response last evening, the Treasurer indicated that he was discharging the matter and suggested that it could be a matter that could be raised with the Speaker of the Legislative Assembly. The key to this issue is what constitutes a response under sessional order 4 and is the discharging of a matter an appropriate response.

In considering this matter I must have regard only to the requirements of the authorities governing the daily adjournment and the long standing practice of the house. Differing interpretations of what constitutes proper ministerial responsibility are, in my view, not relevant in this instance. Sessional order 4 simply requires a response to be given either at the time or in writing within 30 days. There is nothing in the standing or sessional orders which obliges a minister to refer a matter on to the relevant minister. The issue of what constitutes a response has been dealt with many times in the house, including earlier this year.

The longstanding practice of the Council can be summed up in numerous rulings going back to at least 1996 as follows:

> The adjournment debate is similar to question time with ministers free to respond to matters raised in the manner they deem appropriate. The minister's response disposes of the matter.

Other rulings have suggested that a minister is not obliged to address every aspect of a matter raised nor do so in the manner that the member requires.

Because the standing and sessional orders governing the conduct of the daily adjournment are silent in relation to the discharge and/or referral to other ministers of matters raised, in my view I cannot direct a minister to either not discharge a matter or to refer a matter on. The response is entirely a matter for the minister, and the minister has to accept the consequences of that action. However, if a matter is being discharged, it would be reasonable for the minister to indicate why this action is being taken.

I therefore reiterate my earlier rulings that the discharging of a matter on behalf of another minister constitutes a proper response and is in my view not contrary to the house's rules, whether or not it is in accordance with the best principles of Westminster parliamentary accountability.

Whilst I have referred to the longstanding practice of the Council in relation to the daily adjournment, I acknowledge that the way it is conducted has changed significantly in recent years. For example, not all ministers attend each day as was previously the case and there are now specific rules relating to the provision of responses. It may therefore be timely for the house to further review its rules, but that is solely a matter for the house to determine.

The next matter to which I wish to refer is Mrs Peulich's request that I seek legal opinion in relation to this matter. I do not intend to accede to Mrs Peulich's request. The conduct of the daily adjournment debate is based on the Chair's interpretation of the house's rules and the practices of the house. I am satisfied that my rulings are soundly based, and seeking legal advice would be inappropriate.

Points of order

The PRESIDENT — I wish to refer to Mrs Peulich's comments regarding being heard on points of order. Under standing order 12.11, a member may at any time raise a point of order which takes precedence over other matters. However, I remind Mrs Peulich and the house in general that when raising a point of order a member must be succinct and relevant and not debate the matter. It is the Chair's responsibility to determine whether those boundaries have been breached or whether the point of order is frivolous. If this occurs, the Chair will direct the member to resume their seat.

I expect members to have regard to this ruling when raising adjournment matters in the future. I emphasise again that if the house wishes to change its rules, it has the capacity to do so.

ADJOURNMENT

Mr LENDERS (Treasurer) — I move:

That the house do now adjourn.

Bendigo: fire station upgrades

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the attention of the Minister for Police and Emergency Services in the other place and is in regard to the urgent upgrades needed at the Kangaroo Flat and Golden Square fire stations. My request is for the minister to provide funding to upgrade these two fire stations to ensure that they meet current standards so that the safest and best facilities are provided to these valued local Country Fire Authority volunteers in two of Bendigo's crucial CFA brigades.

The stations at Kangaroo Flat and Golden Square are victims of the minister's and the Brumby government's lack of support for volunteer emergency service organisations. The minister has neglected these two vitally important local brigades, whose loyal members are on call 24 hours a day to protect property in Bendigo, which is not only a significant growth area but is also in the minister's electorate.

As the population of Bendigo's southern suburbs continues to grow, volunteer firefighters have been left to operate from cramped and sometimes dangerous stations. Neither the Kangaroo Flat nor the Golden Square fire stations meet modern safety regulations for fire stations that allow rear access for returning trucks. Instead, volunteers in these suburbs have to back vehicles off busy streets into the stations. The situation is at its worst in Golden Square, where the century-old station faces onto busy High Street. The Kangaroo Flat station is over 50 years old. The brigade was promised a new station about two years ago, but has since been told that no funding is available.

The last new tanker that was received by the Kangaroo Flat brigade had to have modifications to its emergency lights to enable it to be parked in the station, as the station's roof was too low to accommodate this modern tanker. Unfortunately Bob Cameron, the local member and Minister for Police and Emergency Services, has neglected our valued CFA volunteers and refuses to support theses local brigades and the CFA in giving the region's highly trained volunteers the best facilities possible.

Earlier this week a press release issued by the Premier, the Minister for Police and Emergency Services and the Minister for Environment and Climate Change warned that:

> … Victoria is preparing for what is anticipated to be an intense fire season …

It also says:

> Our changed environment means that the risk of fire is heightened in residential areas as well.

As Victoria prepares for the coming intense fire season our valued CFA volunteers deserve the support of

government to provide them with the safest and best firefighting facilities and stations. They should not have to experience this ongoing neglect from the Brumby government.

I repeat that my request is for the minister to provide funding to upgrade these two fire stations to ensure they meet current standards so that the safest and best facilities are provided to these valued local CFA volunteers in two of Bendigo's crucial CFA brigades.

Victoria University: campus closures

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is for the Minister for Skills and Workforce Participation in the other house. It is in regard to the planned redundancies at Victoria University. Last week I attended a stop-work meeting of about 300 union members. The staff at the university are quite shocked by plans to close the campuses at Sunbury and Melton, and Mr Vogels spoke about this on Tuesday night. There is obviously a great deal of concern about what is happening at Victoria University, as was indicated by the member for Melton in the other place on that night also.

The action I seek of the minister is that next Thursday she attend a community meeting that has been organised by the union so the whole of the community can find out what is happening at Victoria University, and to see what the community and the union can do to stop the redundancies.

Hume: governance

Mr GUY (Northern Metropolitan) — My issue tonight is for the Minister for Local Government, Richard Wynne, and it concerns governance issues in the City of Hume, which has one of the largest local government areas in Victoria by way of population. As members would know, it sits at the north-western edge of the metropolitan area and encompasses the urban areas of Sunbury, Tullamarine, Broadmeadows and a fabulous little place called Bulla. Outlying areas of the city are on the green wedge side of the urban growth boundary.

Like many councils on the city's edge, Hume is facing issues relating to population pressures and the collapse in the implementation of the Melbourne 2030 metropolitan planning strategy. It is also facing some internal issues that warrant a closer examination.

I have been contacted by a number of Hume residents who are concerned about the manner in which their city is managing some contentious planning decisions. I am advised that the Hume City Council commits to public meetings for proposed developments in the city and then changes its mind. It ignores sensitive Aboriginal heritage issues and has ignored stream flows being cut and offsets required under council's own policy directives. Basically it manages planning issues in the city in a pretty haphazard manner, akin to that in places like Brimbank. Having said that, it is worth noting that Hume borders that somewhat infamous council area, Brimbank, so it is not surprising that they have some elements of their operations in common.

One such issue that has been raised with me is the proposal for subdivision of the Emu Bottom homestead property. A couple of residents have contacted me with concerns about the manner in which the council has managed the process, saying that the council's conduct has lacked transparency. This issue is not alone. In all contentious planning proposals the council must ensure that all members of its community are able to voice their concerns and have a fair and reasonable ability to do so in an open forum. Hiding planning decisions from the community will only continue to fuel the belief that there is something to hide and that correct processes are not being followed. The contact I have had with Hume residents indicates that on a number of planning issues in Hume the proper processes, as outlined in the council's own guidelines, are not being followed.

Tonight I ask the Minister for Local Government to take a hands-on approach to resolving the issues that are currently pitting the Hume council against many of its own constituents. I ask the minister to take time out of his schedule to visit the City of Hume and acquaint himself with the operational procedures of the council and some of those contentious planning issues that are causing so much community friction. If the minister wants to be a part of the resolution of many of the issues in this municipality, he should start with this step, and he should start straightaway.

Box Hill Hospital: patient services

Mr P. DAVIS (Eastern Victoria) — I raise for the attention of the Minister for Health a matter regarding Box Hill Hospital. Firstly, in relation to the admission procedures, a carer looking after her elderly mother was given only a weekend's notice of her mother being scheduled for an operation at Box Hill. She made work and transport arrangements at significant cost to herself to get her mother to Box Hill for the operation, only to be told when they arrived that the operation had been rescheduled for several weeks later. The minister has advised that Eastern Health is reviewing its waiting list processes and will introduce an improved service this financial year.

A second concern relates to poor catering and cleaning standards at Box Hill Hospital. A Gippsland patient has drawn my attention to the fact that people in the ward he occupied had to eat meals that were cold, half cooked or overcooked and served in foam bowls with plastic cutlery. The plastic cutlery invariably snapped, and they had to eat with their bare hands. 'Sorry, we have run out of cutlery', was the excuse patients were given. The patient also reported that the bathrooms were not properly cleaned. He has the utmost praise for the medical staff, but his concern is for the hygiene and sanitary standards that cause extreme discomfort for patients and pose a risk to the health of those patients.

I ask that the Minister for Health remedy these problems by directing his department to undertake an audit of Eastern Health to ensure that a system is put in place to improve the admissions service at Box Hill Hospital and to undertake an audit of the performance of catering, cleaning and maintenance contracts at the hospital.

Public transport: Bentleigh electorate

Mrs COOTE (Southern Metropolitan) — My adjournment matter is for the Minister for Public Transport and is in regard to peak-hour train services in the lower house electorate of Bentleigh. We are all pleased that the Brumby government has finally announced that there will be 328 new services weekly on the rail network throughout metropolitan Melbourne. That is fine, except when it relates to what is happening in and around Bentleigh.

Residents of Bentleigh are demanding to know why they received only one extra service in both the morning and afternoon peak hours each weekday. The number of Frankston line services travelling towards the CBD (central business district) and stopping at all stations in the Bentleigh electorate between 8.00 a.m. and 9.00 a.m. on weekdays has only increased from four to five services. The number of Frankston line services travelling away from the CBD and stopping at all stations in the Bentleigh electorate between 4.30 p.m. and 5.30 p.m. on weekdays has also only increased from five to six services.

I have recently conducted the first of a series of listening posts in the Bentleigh electorate. There is absolutely no doubt that the residents believe the Parliamentary Secretary for Public Transport and member for Bentleigh, Rob Hudson, has neglected them. Where has he been in this debate? They are outraged at the lack of peak-hour trains to and from the CBD and that the trains are so packed, making travellers feel unsafe. Residents say long waits and overcrowded trains are a daily reality.

The Brumby government's lack of investment in the public transport system led to 366 Frankston line cancellations in the first half of 2008. The lack of services being implemented on that line is scandalous and is certainly not good enough. Bentleigh residents want to know why the member for Bentleigh is ignoring these problems.

Mr Lenders interjected.

Mrs COOTE — I listened to the Treasurer here today; it is his electorate as well. He should know what is going on and he should talk to the parliamentary secretary. He should be ashamed of his performance and ashamed of the public transport system to which his constituents are subjected.

The action I am seeking is for the minister, as a matter of urgency, to provide adequate funding for a significant increase in the number of trains travelling to and from the CBD during peak times on weekdays, stopping at all stations in the Bentleigh electorate.

Environment: St Helena development

Mrs KRONBERG (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Environment and Climate Change. An examination of the Environment Protection Authority's (EPA's) priority sites register from data generated on 29 August 2008 reveals that the former landfill site located at 1 Evelyn Way, St Helena, within the boundaries of the City of Banyule, remains classified as a site where pollution of land and/or groundwater presents potential risk to human health or to the environment.

As a result of an environmental audit completed on 6 February 2008, a certificate of that audit was reported on 6 May 2008 as being current as of that date. We are in the dark as to the EPA's current assessment of this polluted site. Site works on this property, which originally operated as a quarry, then a piggery and latterly a landfill, unearthed much toxic waste. This waste emanated from dumped car bodies, paints, solvents and a malodorous form of putrescible waste, pig carcasses and waste from the former piggery. Excavation on the site on 16 May 2007 triggered a minor works pollution abatement notice to ensure that the community was not further impacted by odour from the site.

The residents of beautiful St Helena, particularly those living in the vicinity and residing in streets such as Evelyn Way, Crea Court and Tamboon Drive, are concerned that the site has the potential to emit methane, carbon dioxide, hydrogen sulphide and other

organic gases at a level worse than at the Stevensons Road, Cranbourne, landfill, which has caused the residents there to flee their homes in the Brookland Greens estate.

The challenge for the community now is whether these gases have moved off-site through cracks in this former unlined quarry site. Gases can travel through spaces in the soil structure for some distance.

I ask that the minister, after examining the current situation at this site, in reporting back to Parliament ensure that there are no leachates, methane or other dangerous gases now present in properties, electrical pits or the stormwater system emanating from this site at concentrations that pose a risk to the safety and ongoing wellbeing of the people of St Helena, and that there will be no risks in the future.

School buses: Dunkeld

Mr KOCH (Western Victoria) — My matter is for the Minister for Education and concerns access to the free school bus service for an isolated rural student starting school in 2009. The policy set by the Department of Education and Early Childhood Development states that, to be eligible to use the free school bus service, a student must attend the nearest government primary or secondary school or, if attending a non-government school, the student may be permitted to travel on an existing school bus service, provided there is space available on that bus.

On 1 August 2008 I wrote to the minister on behalf of an isolated rural family with two young children, the eldest commencing primary school next year. I am yet to receive a response from the minister.

The closest government school to this family is at Dunkeld, 30 kilometres from their home, with the nearest school bus service to Dunkeld being 10 kilometres from their home. After making inquiries about extending the school bus route to collect their child the family was told that due to department of education policy, the bus route could not be extended unless at least five children were to be collected. The family has access to a school bus service closer to Hamilton, but if they choose this more convenient option, they have been told that as their child would not be attending the nearest government school they would have to pay $217 per term, per child. Or if they did not want to pay that fee, they could enrol their child at a private school in Hamilton.

Over the nine years their two children will be attending primary school, and after taking into account the travelling costs, it works out cheaper for the family to send their children to a private school in Hamilton rather than to a government school in either Dunkeld or Hamilton. The family wants to support the local school at Dunkeld, which has only 60 students enrolled, but feels the system is forcing them to send their children to a private school in Hamilton.

Parents should always have the choice of where they want their children educated, and in this case the opportunity to send their eldest child to Dunkeld next year should not be denied simply because the rule says there must be five children collected before the bus route can be extended. My request is for the minister to address the issues raised in my letter to her and to find a suitable resolution for this family so they can send their child to their local government school at Dunkeld.

Melbourne to Warrnambool Cycling Classic: funding

Mr VOGELS (Western Victoria) — I raise a matter for the Minister for Sport, Recreation and Youth Affairs. It concerns the lack of state government support for the Melbourne to Warrnambool Cycling Classic, which was held last weekend. The Melbourne to Warrnambool classic is 113 years old and is the world's second-oldest bike race. It is 299 kilometres in distance — the longest one-day race in the world. It has a long and proud history and with the support of the state government would attract even greater attention in the cycling world.

Many of us watch in fascination the Tour de France and how teams work together to support a particular outcome. The fantastic countryside the riders traverse through rural France is wonderful to see. I am not suggesting for one minute that the Melbourne to Warrnambool Cycling Classic will match the Tour de France, but it is a fantastic opportunity to showcase the Western District of Victoria as the riders head for Warrnambool. What is needed, however, is real commitment from Regional Development Victoria, the Victorian tourism industry, the Victorian tourist authority and the Minister for Sport, Recreation and Youth Affairs to sponsor this race so it can reach its potential.

The action I seek from the minister is to work with the organisers of the Melbourne to Warrnambool Cycling Classic and provide an annual grant of at least $100 000 so this classic does not have to wonder on a yearly basis whether it will have sufficient funds to continue. This event should be on Victoria's calendar in October every year, with guaranteed support from the state government so that this 113-year-old event can look forward to its 150th birthday with confidence.

Clayton: pedestrian crossings

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I wish to raise a matter for the Minister for Roads and Ports. It relates to the provision of pedestrian crossings in Centre Road, Clayton. In April this year VicRoads installed a new pedestrian crossing on Centre Road adjacent to Cooke Street in Clayton. But in doing so it closed the existing crossing which was adjacent to Frank Avenue in Centre Road. The issue that arises is that, notwithstanding the closure of the old crossing and the opening of the new crossing, pedestrians are continuing to cross Centre Road at the location of the old crossing. So the new crossing is essentially not being used, or it is being used by relatively few pedestrians, and the old crossing site, which is no longer provides the protection of a pedestrian crossing, is continuing to used by pedestrians in Clayton.

Regrettably, in August this year a 79-year-old lady, Anna Tsavasilis, was killed while crossing Centre Road at the location of the old crossing on her way to the Greek Orthodox church. I understand many residents in the area who attend the Greek Orthodox church continue to use the old crossing location in Centre Road. As I said, this led to a fatality just five months after the closure of the old crossing.

Notwithstanding the opening of the new crossing, what I am seeking from the Minister for Roads and Ports is for VicRoads to reinstate the old crossing in Centre Road. The pedestrian traffic clearly indicates that that is where pedestrians in the area continue to cross. In the interests of pedestrian safety in Centre Road it stands to reason that the old pedestrian crossing should be reinstated, so the people who are continuing to cross there have the benefit of the safety offered by a pedestrian crossing.

Metropolitan Fire Brigade: Moonee Ponds station

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Police and Emergency Services. I am sure members of the house would be only too aware that a new fire station in a suburb is always very welcome. However, a number of residents in Moonee Ponds are concerned about their new station. They are very pleased that planning of a new station is under way but there is great concern about the exact location of this fire station.

The station is planned to be on the corner of Dean and McPherson streets in Moonee Ponds, which is directly opposite the Moonee Valley Racecourse. I am sure many members would be familiar with the racecourse. It is a magnificent venue not just for horseracing but for functions as well.

Mrs Coote — A fabulous facility.

Mr FINN — It is a fabulous facility, Mrs Coote. The siting of this station would cause enormous problems for a fire truck or fire trucks attempting to go to a fire during a major race meeting, such as last Saturday's Cox Plate, when there were many thousands of people at the racecourse. The traffic was in gridlock and one cannot begin to imagine the difficulty fire trucks would have had trying to get through traffic like that on a day such as last Saturday. Large gatherings are not uncommon at Moonee Valley. It is not inconceivable that fire trucks would have difficulty getting through traffic on a pretty regular basis.

The other major problem is that the fire station is planned to be built directly opposite the stables, the area where the horses arrive and depart. We could have a situation where we have a number of horses there for a race meeting — arriving, departing or preparing for their races — the fire alarm goes off, and all of a sudden we have sirens and lights. One could not begin to imagine what that would do to the horses and what sort of panic that would put them through. That is something that has not been taken into consideration in this regard; perhaps the Royal Society for the Prevention of Cruelty to Animals might like to have a say on it as well.

A number of legal battles have been fought in this area. I think now is the time seriously for common sense to prevail. I ask the minister to take this case and where this particular fire station is proposed to be built into consideration, realise that it is an inappropriate location and direct the Metropolitan Fire Brigade to find a more appropriate location for the new Moonee Ponds fire station and to build it at that location as soon as is humanly possible.

Goulburn Valley Water: former chair

Mr D. DAVIS (Southern Metropolitan) — My matter for the adjournment tonight is for the attention of the Minister for Environment and Climate Change; I think it should also be of interest to the Premier. It concerns the annual report of the Goulburn Broken Catchment Management Authority for 2007–08 and the position of Don Cummins. According to the report he was the chairman of the audit and compliance committee.

Mr Cummins resigned from the Goulburn Broken Catchment Management Authority yesterday. That resignation followed his earlier decision not to reapply for appointment to Goulburn Valley Water. An investigation is being undertaken by the Minister for Water and, I understand, the Minister for Environment and Climate Change concerning multiple expense claims lodged by Mr Cummins with a number of water and land management boards in northern Victoria of which he has been a member.

These include both the Goulburn Broken Catchment Management Authority and the Murray-Darling Basin Commission Ministerial Council Community Advisory Committee, of which he is a member. That is an appointment made by ministers in Victoria. There are national appointments to that body made by other states and by the Prime Minister, Kevin Rudd, no less. I understand an investigation has also begun at the Murray-Darling Basin Commission about these multiple expense claims that have been made by Mr Cummins, and I think it is important that we get to the bottom of this matter.

There is an investigation report on these multiple expense claims, even as I understand it in the case of Goulburn Valley Water, where Mr Cummins was pressured not to reapply for appointment. I understand there may even have been a call from the Premier involved in that matter, but I will seek to confirm that at a later point.

The specific action I request is for the Minister for Environment and Climate Change to ensure the release of the investigation reports surrounding the rorting and double-dipping by Mr Cummins on all the boards of which he is currently a member — and the boards he has been thrown off — and that would certainly include the Murray-Darling Basin Commission Ministerial Council Community Advisory Committee.

Responses

Mr LENDERS (Treasurer) — There were 11 adjournment matters from members for ministers, and I will refer those to the respective ministers. In doing so I suggest to Ms Lovell that, if she wishes to get a good response from a minister, then perhaps not attacking him in his own electorate might help in getting a better outcome.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 5.07 p.m. until Tuesday, 11 November.